A comparative statutory analysis of the causes of bank failures in Zimbabwe

Tsaura O

orcid.org/0000-0002-8451-2278

Thesis accepted in fulfilment of the requirements for the degree *Doctor of Laws with Mercantile Law* at the North-West University

Promoter: Prof HT Chitimira

Graduation: June 2025

Student nr: 40110036

SOLEMN DECLARATION

I Oscar Tsaura hereby declare that the thesis entitled: **A Comparative Statutory Analysis of the Causes of Bank Failures in Zimbabwe**, is submitted in partial fulfilment of the requirements for the Doctor of Laws with Mercantile Law (LLD) degree is the product of my research and opinion with the exception of references and the sources acknowledged herein and that I have not at any prior time submitted it to any University or by any person for qualification.

Signature of Candidate:…….

University Number: 40110036

Signed at ……. on this …. day of November 2024

ACKNOWLEDGEMENTS

I would like first to express my deepest appreciation and honour to God Almighty for blessing me with life and good health throughout my studies. God gave me wisdom and surrounded me with remarkable individuals who played significant roles in making this journey the success it is today.

I am deeply indebted to the North West University (NWU) and the Faculty of Law management for allowing me to further my studies. The successful completion of this thesis depended hugely on the tuition and financial support I received from the NWU and the Faculty of Law.

I would like to express my deepest appreciation to my promoter and mentor Professor Howard Chitimira. This achievement is because of your unwavering support, mentorship, guidance, commitment, patience, kindness, diligence and thoroughness.

Many thanks to my co-promoter Dr Elfas Torerai, for your kindness, supportive spirit, patience, guidance, constructive criticism and efforts you made for this thesis to materialise.

To my beloved and cherished wife F.F Tsaura. Dear wife, your unwavering support, confidence in me, prayers and encouragement have been a pillar of my strength during the long painful journey of my studies. You are a blessing that I will cherish forever.

Thank you, my beloved children, for being my constant source of strength and inspiration. To my parents, my mother and my late father, thank you for instilling in me a lifelong respect for education and the courage to stand firm in my beliefs. Your guidance has been my foundation. Finally, I would like to thank colleagues who have been part of this journey, supporting and advising me all the way, may God bless you all.

"But with God everything is possible."

Mathew 19:26 NLT

DEDICATION

This thesis is dedicated to my wife, Mrs Francisca F Tsaura and my children, Anesu, Anenyasha and Anotida Tsaura.

ABSTRACT

Zimbabwean financial sector has experienced significant periods of financial distress as depicted by numerous bank failures since 1980. Bank failure occurs when a financial institution experiences significant financial distress, rendering it incapable of fulfilling its obligations to depositors, shareholders and other stakeholders. In other words, bank failure is when a financial institution undergoes substantial financial distress rendering it unable to meet its obligations as they become due. In this thesis, the researcher adopted the definition of bank failure which refers to a situation where a bank is in financial distress and is recapitalised either by the central bank or a strategic investor, acquired by another institution, surrenders its license or the license is suspended, or it closes its operations altogether. This thesis reveals that in Zimbabwe bank failures can be attributed to various factors including the failure of regulatory and supervisory systems to detect irregularities in the operations of banking institutions. In addition, poor corporate governance practices such as inadequate oversight, inexperienced management, undue influence by dominant shareholders, non-performing loans, excessive risk-taking, abusive related party transactions and non-compliance with laws are commonly cited as causes of bank failures in Zimbabwe. Bank failures often pose negative implications to the banking sector and banking stakeholders such as depositors and investors. This owes to the fact that banks serve as intermediaries that facilitate the avenues for deposits and extend credit services to individuals and the production sector of the economy. It is submitted that the proper functioning of banks requires effective and adequate regulatory supervision. Failure to provide robust and effective regulation of banks could lead to bank failures. This thesis presents a comparative analysis of the banking statutory framework of Zimbabwe and those of the UK and South Africa to determine if the banking laws in Zimbabwe are robust enough to prevent bank failures. The thesis reveals that the banking statutory framework in Zimbabwe is not robust enough to curb bank failures in times of stress because it lacks effective regulatory oversight. This thesis further reveals that poor banking regulation, inconsistent enforcement, weak regulatory insolvency procedures, and inadequate supervision framework are some of the weaknesses in the current banking statutory framework which needs to be rectified in order to combat bank failures effectively in Zimbabwe. The *Banking Act* does not fully incorporate the

international best standards on bank supervision to prevent bank failures. Consequently, the banking statutory framework in Zimbabwe does not comprehensively and effectively provide for the prevention of bank failures like those of the UK and South Africa. The robustness of the banking statutory framework is in providing adequate and effective regulatory provisions and enforcement mechanisms that curb bank failures in Zimbabwe. The researcher proposes the adoption of a new model, the Zimbabwean twin peaks model, comprising the Zimbabwean Prudential Regulatory Authority and the Zimbabwean Financial Sector Conduct Authority. It is argued that if the adoption of the twin peaks model is considered and robustly implemented, it can prevent the causes of bank failures in Zimbabwe.

Key Words: Banks, bank failure, banking statutory framework, money laundering, fraud, political instability, banking legislation, financial regulations, curatorship, financial stability.

TABLE OF CONTENTS

SOLEMN DECLARATION ..... ***i***

ACKNOWLEDGEMENTS ..... ***ii***

DEDICATION ..... ***iii***

ABSTRACT ..... ***iv***

CHAPTER ONE **1**

RESEARCH OUTLINE AND CONTEXT **1**

1.1 Introduction ***1***

1.2 Background to the Study ***7***

1.3 Problem Statement ***17***

1.4 Aims and Objectives ***21***

1.4.1 Aims *21*

1.4.2 Objectives *22*

1.5 Research Question ***22***

1.6 Rationale of the Study ***23***

1.7 Literature Review ***27***

1.8 Assumptions and Hypothesis ***36***

1.8.1 Assumptions *36*

1.8.2 Hypothesis *38*

1.9 Justification for Comparative Study ***39***

1.10 Scope and Limitations of the Study ***44***

1.11 Research Methodology 46

1.12 Statement Regarding Research Ethics 50

1.13 Relevance for the Research Unit Theme 51

1.14 Structure of the Thesis 51

CHAPTER TWO 54

HISTORICAL BACKGROUND OF REGULATION OF BANKS AND THE CAUSES OF BANK FAILURES IN ZIMBABWE 54

2.1 Introduction 54

2.2 Historical Background of Bank Failures in Zimbabwe 58

2.2.1 Bank Failures Before I980 58

2.2.2 Bank Failures in Zimbabwe from 1980 to 1990 61

2.2.3 Bank Failures in Zimbabwe between 1990 and 2000 63

2.2.4 Bank Failures in Zimbabwe from 2000 to 2010 71

2.2.5 Notable Events and Changes to the Bank Supervision to Prevent Bank Failures in Zimbabwe During the Period 2000 and 2010 81

2.2.6 Other Factors that Contributed to Bank Failures in Zimbabwe Between 2000 and 2010 86

2.2.7 Bank Failures in Zimbabwe Between 2011 and 2020 94

2.2.8 Bank Failures in Zimbabwe from 2020 to 2023 101

2.3 Concluding Remarks..... 103

CHAPTER THREE..... 105

THE CURRENT BANKING STATUTORY FRAMEWORK AND THE COMBATING OF BANK FAILURES IN ZIMBABWE 105

3.1 Introduction 105

3.2 The Banking Regulatory Statutory Framework in Zimbabwe 107

3.2.1 The Regulation and Combating of Bank Failures under the Banking Act..107

3.2.2 Mechanism to Address Troubled Banks under the Banking Act.....124

3.2.3 The Regulation and Combating of Bank Failures under the RBZ Act 131

3.2.5 The Regulation and Combating of Bank Failures under the Bank Use Promotion and Suppression of Money Laundering Act 138

3.2.6 The Regulation and Combating of Bank Failures under the National Payment System Act 140

3.3 Concluding Remarks..... 141

CHAPTER FOUR 142

SELECTED ROLE PLAYERS IN THE REGULATION OF BANKS IN ZIMBABWE 142

4.1 Introduction 142

4.2 Types of Banks in the Zimbabwean Banking Sector 143

4.2.1 Commercial Banks 145

4.2.2 Mutual banks 147

4.2.3 Savings Bank 148

4.3 Other Role players and Bank Failures in Zimbabwe 150

4.3.1 The Role of the Ministry of Finance and Investment Promotion in Bank Regulation.....150

4.3.2 The RBZ and the Regulation of Banks in Zimbabwe 154

4.3.3 The Role of the DPC in Bank Regulation.....161

4.3.4 The Role of the Securities and Exchange Commission in Bank Regulation 166

4.3.5 The IPEC and the Regulation of Banks in Zimbabwe 168

4.3.6 The Role of Courts 171

4.4 Concluding Remarks..... 173

CHAPTER FIVE..... 175

THE REGULATION OF BANKS TO PREVENT AND COMBAT BANK FAILURES IN SOUTH AFRICA..... 175

5.1 Introduction 175

5.2 The Current South African Banking Regulations 179

5.2.1 The Banks Act.....179

5.2.2 The SARB Act.....180

5.2.3 The Financial Sector Regulation Act 181

5.2.4 The Financial Markets Act 185

5.2.5 The Financial Intelligence Centre Act 185

5.2.6 The National Payment System Act 186

5.2.7 The Constitution of the Republic.....186

5.2.8 The Corporation for Public Deposits Act 187

5.3 Role players Dealing with the Regulation and Enforcement of Banking Laws 188

5.3.1 The Role of the SARB in Banking Regulation in South Africa.....189

5.3.2 The Role of the PA in Banking Regulation in South Africa.....191

5.3.3 The Role of the FSCA in Banking Regulation in South Africa.....193

5.3.4 The Role of the National Credit Regulator.....194

5.3.5 The Ombudsman for Banking Services.....195

5.3.6 The Courts.....196

5.4 Causes of Bank Failures in South Africa..... 197

5.4.1 Poor Credit Regulation.....197

5.4.2 Poor Bank Regulation.....198

5.5 Adopted Measures to Curb Bank Failures in South Africa 200

5.5.1 Bank Resolution.....200

5.5.2 Liquidation.....201

5.5.3 Recapitalisation, Restructuring and Bail-In.....201

5.5.4 Compliance with International Best Practices.....202

5.7 Conclusion..... 203

CHAPTER SIX 205

THE REGULATION OF BANKS TO PREVENT AND COMBAT BANK FAILURES IN THE UNITED KINGDOM..... 205

6.1 Introduction..... 205

6.2 Key Legislations that Regulate Banks to Combat Bank Failures.... 208

6.2.1 The Financial Services and Markets Act 2000.....208

6.2.2 The Banking (Special Provisions) Act 2008 209

6.2.3 The UK Banking Act 2009 and subsequent developments in the prevention of the causes of bank failures 211

6.3 Causes of Bank Failures in the UK..... 215

6.4 Examples of Bank Failures in the UK 219

6.4.1 The Failure of Bank of Credit and Commerce International (BCCI).....219

6.4.2 The Failure of Barings Bank.....220

6.4.3 The Failure of Northern Rock Bank 222

6.4.4 The Failure of HBOS 229

6.5 Adopted Measures and Mechanisms to Curb Bank Failures in the UK 230

6.5.1 The Special Resolution Regime 230

6.5.2 The Financial Service Compensation Scheme.....232

6.5.3 The Ring-Fencing 232

6.5.4 The European Union Bank Recovery and Resolution Directive.....233

6.5.5 The Twin Peaks Model 234

6.6 Main Role Players in the UK Banking Sector Dealing with Prevention of Banking Failures..... 235

6.7 Conclusion 238

CHAPTER SEVEN..... 241

INTERNATIONAL BEST PRACTICES ON BANKING REGULATION AND THE PREVENTION OF BANK FAILURES 241

7.1 Introduction 241

7.2 Key International Regulatory Bodies on Banking Regulation and Supervision 245

7.2.1 Basel Committee on Banking Supervision 247

7.2.2 The FSB in Effective Supervision of Financial Institutions to Mitigate Bank Failures 256

7.2.3 The IMF and the World Bank 259

7.3 Basel Committee on Banking and Supervision Guidelines for Identifying and Dealing with Weak Banks 262

7.3.1 Guiding principles for supervisors when dealing with weak banks 265

7.4 Concluding Remarks..... 271

CHAPTER EIGHT 274

OVERALL COMPARATIVE ANALYSIS OF BANKING REGULATION AND RELATED MEASURES TO PREVENT AND COMBAT BANK FAILURES 274

8.1 Introduction 274

8.2 Comparative Analysis of Key Terms..... 276

8.2.1 Bank.....276

8.2.2 Bank Failure 277

8.2.3 Prudential Standards.....279

8.2.4 Financial Stability.....280

8.2.5 Banking Regulation.....281

6.2.6 Bank Supervision 282

6.2.7 International Best Practices 282

8.3 Overall Analysis of the Causes of Bank Failures and the Regulation of Banks 283

8.3.1 Causes of Bank Failures in Zimbabwe, South Africa and the UK 283

8.3.2 Overall Analysis of the Banking Statutory Framework for Mitigating Bank Failures 288

8.3.3 Overall Analysis of the Financial Sector Regulators and International Best Practices Dealing with Mitigation of Bank Failures 294

8.4 Overall Analysis of the Role of Central Banks in the Regulation and Supervision of Banks to Mitigate Bank Failures in Zimbabwe, South Africa and the UK 300

8.5 Evaluation of the Banking Regulatory Frameworks and Models 304

8.5.1 Zimbabwe's Banking and Supervision Model 308

8.5.2 The South African Banking and Supervision Model 309

8.5.3 The UK's Banking and Supervision Model 310

8.6 Overall Analysis of the Theoretical Perspectives of Financial Regulation and Bank Supervision to Curb Bank Failures 312

8.6.1 The Public Interest Theory 312

8.6.2 Private Interest Theory 313

8.6.3 Institutional Theory 314

8.6.4 Behavioural Economics Theory 314

8.6.5 Macroprudential Regulation 315

8.7 Concluding Remarks..... 315

CHAPTER NINE..... 318

RECOMMENDATIONS AND CONCLUSION..... 318

9.1 Introduction..... 318

9.2 General Observations on Bank Failures in Zimbabwe..... 318

9.3 General Observations on the Banking Laws in Zimbabwe, South Africa and the UK..... 326

9.4 Conclusions..... 335

9.5 Recommendations..... 342

9.5.1 Zimbabwean Government and Legislators Should Consider Adopting a Twin Peaks Model of Financial Sector Regulation in Zimbabwe.....343

9.5.2 The Legislature in Zimbabwe Should Consider Enacting a Banking Sector Regulation Act in order to Expressly and Comprehensively Regulate Bank Failure and Establish New Banking Regulators.....347

9.5.3 Zimbabwe's Policymakers Should Consider Moving the Bank Supervision and Monitoring Functions from RBZ to an Independent Prudential Regulator for Effective Enforcement of Relevant Banking Laws.....351

9.5.4 Policymakers and Regulators Should Establish a Zimbabwean Financial Sector Conduct Authority as an Independent Financial Regulator to Ensure Effective Enforcement of Banking Laws and Curb Bank Failures.....352

9.5.5 The Legislature in Zimbabwe should Consider Developing a Crisis Management and Resolution Authority to Relieve the RBZ's Responsibilities of Dealing with Problem Banking Institutions.....353

9.5.6 Regulators Should Leverage Technology and Innovation to Integrate Effective Bank Supervision Mechanisms to Prevent Bank Failures.....355

9.5.7 Policymakers in Zimbabwe Should Incorporate Sustainable Finance Principles in Regulatory Objectives in the Banking Act to Curb Bank Failures ...355

9.5.8 The Banking Act should be amended to Regulate Enhanced Coordination and Communication Between the RBZ, the Two Independent Regulators (the ZPRA and the ZFSCA), and the Banks for Effective and Early Detection of Distressed Banks to Prevent Systemic Failures 356

9.6 Proposed Twin Peaks Model..... 357

9.6.1 Brief Explanation of the Roles and Duties of the Proposed Regulators, the ZPRA 359

9.6.2 Brief Explanation of the Roles and Duties of the Proposed Regulators, the ZFSCA 361

9.6.3 Advantages of the Proposed Zimbabwean Twin Peaks Model 370

9.6.4 Proposed Implementation Steps 371

9.7 Conclusion 372

Bibliography 375

Literature..... 375

Internet Sources 430

List of Abbreviations 434

List of Figures..... 436

List of Tables 436

CHAPTER ONE

RESEARCH OUTLINE AND CONTEXT

1.1 Introduction

Several incidents of bank failures have contributed to the erosion of public and investor confidence, disruption of the financial sector and negative economic growth in Zimbabwe's recent history.[1] Bank failures can be attributed to various factors including the failure of regulatory and supervisory systems to detect irregularities in the operations of banking institutions in Zimbabwe.[2] Furthermore, poor governance practices such as inadequate oversight, inexperienced management, undue influence by dominant shareholders, non-performing loans, excessive risk-taking, abusive related party transactions and non-compliance with laws are commonly cited as causes of bank failures in Zimbabwe.[3] However, poor enforcement of the banking statutory framework appears to be the leading contributor to bank failures in Zimbabwe. In this regard, this thesis seeks to investigate weaknesses within the banking statutory

---

1 Chokuda BT and Chokuda-Santu TV "The External Governance Architecture of Zimbabwe's Banking and Financial Services Sector" 2021 *Midlands State University Law Review* 1, 7; Tsaurai K "The Dynamics, Challenges and Transition of Banking Sector Development in Zimbabwe" 2018 *The Journal of Developing Areas* 85, 87 states that the fortunes of the Zimbabwe banking sector had nosedived as most of the local banks had either been placed under curatorship or liquidation; Dzomira S "Analysis of Bank Failures During Financial Tumult in Africa-Zimbabwe: A Historical Overview" 2014 *Journal of Governance and Regulation* 75, 77; Dzingirai C and Katuka B "Determinants of Bank Failures in Multiple-Currency Regime in Zimbabwe (2009-2012) " 2014 *International Journal of Economics and Finance* 229, 232.

2 Nyangara D, Nyangara MR and Mazviona BW "An Essay on the Ethical and Corporate Governance Issues in the 2003/4 Zimbabwe Banking Crisis" 2014 *International Journal of Economic Management Sciences* 1, 4; Nzaro R, Njanike K and Jaravani E "The Impact of Regulation Policy on Product and Service Delivery on Micro-Financial Institutions: A Case of Zimbabwe" 2013 *Research Journal of Management and Business Studies* 429, 433; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; see related in Dzingirai C and Katuka B "Micro and Macro Drivers of Credit Risk: The Case of Zimbabwe Banking Industry (2009-2013) 2015 *MEFMI Research and Policy Seminar Journal* 51, 56-57.

3 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 4; Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Sciences* 22, 24; Dzomira 2014 *Journal of Governance and Regulation* 78.

framework in order to propose measures that can be implemented to combat bank failures in Zimbabwe. In addition, this thesis aims to propose a shift from a single regulator to a dual bank regulator framework. Drawing from the UK and South Africa's implementation of the twin peaks model, this approach would separate the roles of prudential and market conduct regulation, ensuring each operates independently and is empowered with enforcement mechanisms to combat bank failures. Implementing such a model in Zimbabwe could restore confidence in the country's banking sector.

Since 2000, Zimbabwe has experienced numerous waves of bank failures and this potentially points to inherent weaknesses in banking sector regulation.[4] To this end, it is imperative to identify and address the weaknesses within the financial sector regulatory framework that provide a conducive environment for bank failures. This thesis is a comparative study wherein the researcher discusses the causes of bank failures in Zimbabwe in comparison to South Africa and the United Kingdom (UK) banking statutory frameworks. Generally, bank failures have not been as frequent in South Africa and the UK as they have been in Zimbabwe. Thus, the comparative analysis seeks to provide insights into how the South African and UK banking legislative frameworks effectively address the causes of bank failures. This can offer guidance and valuable lessons for policy makers to streamline Zimbabwe's banking statutory framework in order to combat bank failures.

---

[4] Abel S, Le Roux P and Mutandwa L "Competition and Bank Stability" 2018 *International Journal of Economics and Financial Issues* 86, 87-88; Muparuri A and Akinsola F Explaining Bank Stability Using Bank Specific Factors in Zimbabwe 2018 *Journal of Global Analysis* 45, 48; see related comments in Ndlamini B and Mbira L "The Current Zimbabwean Liquidity Crisis: A Review of its Precipitates" 2017 *Journal of Economics and Behavioral Studies* 212, 212-218; see related comments by Nyamunda T "'Open for Business' but Bankrupt: Currencies, the 'New Dispensation' and the Zimbabwean Economy" 2021 Journal of Asian and African Studies 204, 209.

Bank failures disrupt the economy by fomenting financial instability and negative growth.[5] Banks serve as intermediaries that primarily accept deposits, and extend credit services to individuals and the production sector of the economy which need money to function optimally.[6] The stability and proper functionality of the banking sector are vital for the seamless operation of financial transactions for all stakeholders, ranging from individual financial consumers to large-scale businesses and government entities.[7] These stakeholders depend on the services offered by banks to facilitate their day-to-day financial activities, which encompass transactions in both the domestic and

---

5 Bara A "Mobile Money for Financial Inclusion: Policy and Regulatory Perspective in Zimbabwe" 2013 *African Journal of Science, Technology, Innovation and Development* 345, 347; Dube ZL and Murahwe GR "An Analysis of Corporate Governance Practices in Government Controlled versus Private Banking Institutions in Zimbabwe" 2015 *International Journal of Development and Sustainability* 759, 761 are also of the view that banks play a vital role in the financial system; Bonga WG, Chikeya CK and Sithole R "The Need for Financial Stability in Zimbabwe: Use of Derivatives Securities" 2015 *IOSR Journal of Economics and Finance* 6, 7; Bonga WG "The Role of the Financial Sector in Zimbabwe, Central Banking and Economic Impacts. The Zimbabwe Coalition on Debt and Development" 2021 *Social Science Research Network* (SSRN) 01 available at https://ssrn.com/abstract=3917142 accessed 02 March 2024; Chinoda T, Chingombe C and Chawuruka P "The Impact of Minimum Capital Requirements on Performance of Commercial Banks in Zimbabwe" 2015 *IOSR Journal of Economics and Finance* 60, 63 reiterated that banks stand as the main player of the financial system as they play multi roles towards economic development.

6 Mwatetsera A, Sandada M, Chuchu T and Maziriri ET "An Empirical Assessment of Success Factors Boosting Zimbabwean Banking Consumer Confidence" 2022 *Journal of Economics, Business and Accountancy Ventura* 440, 441; Njanike K "The Impact of Effective Credit Risk Management on Bank Survival" 2009 *Annals of the University of Petrosani, Economics* 173, 174; see speech by Dhliwayo CL "Limiting the Risk of Failure in Financial Institutions" *on the occasion of the Public Accountants & Auditors Board Conference* (Rainbow Towers, Harare 2015) 4; see related in Ghosh A "Banking Sector Globalization and Bank Performance: A Comparative Analysis of Low Income Countries with Emerging Markets and Advanced Economies" 2016 *Review of Development Finance* 58, 59; Gianfrate G, Santangelo E and Zanetti L "Private Benefits of Control in the Banking Industry: A Cross-Country Analysis" 2012 *Corporate Ownership & Control* 487, 488; See also related in Chitimira H and Torerai E "The Nexus between Mobile Money Regulations, Innovative Technology and the Promotion of Financial Inclusion in Zimbabwe" 2021 *PER/PELJ* 1, 2.

7 See related in Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 63 who contend that a well viable financial sector transforms into a stable economy; see the functions of the bank in Bonga 2021 *Social Science Research Network* 3; see Hupkes E "Insolvency: Why a Special Regime for Banks?" 2002 *Current Developments in Monetary and Financial Law* 1, 2 states that banks perform financial services that are fundamental to the functioning of an economy, such as the extension of credit, the taking of deposits, and the processing of payments; Banks are special role players in the financial system as they perform essential functions which include issuing of transactions accounts, source of liquidity and intermediaries of exchange.

international realms. However, the banking sector is susceptible to failures in many countries, including Zimbabwe.[8]

Bank failure is a global phenomenon that can be defined in several ways. Generally, bank failure occurs when a financial institution experiences significant financial distress, rendering it incapable of fulfilling its obligations to depositors, shareholders and other stakeholders.[9] Munoangira and Kaja uphold the definition provided by Kaufman, who avers that bank is considered to fail when the worth of the its assets declines below the value of its obligations.[10] The researcher argues that Kaufman's definition is narrow as it is only limited to the economic and financial viability of the bank excluding other possible variables. In contrast, Sithole and Mtetwa agree with Heffernan who defines bank failure as a scenario where a bank is liquidated, merged with a healthy bank, put under central government supervision or rescued with state financial support.[11] The researcher agrees with Sithole and Mtetwa and contends that their definition of bank failure provides a broad set of circumstances as indicators of

---

8 Chinoda, Chingombe and Chawuruka 2015 *IOSR Journal of Economics and Finance* 60 provide that in Zimbabwe, during the period ranging from 2003 to 2004 faced serious operational challenges and at the end of 2004, ten banks had been placed under curatorship whilst two were under liquidation; Gumbo V and Zoromedza S "Bank failure Prediction Model for Zimbabwe" 2016 *Applied Economics and Finance* 222; 223 referred to the IMF Article IV consultation Report released in June 2014 which also highlighted that financial sector vulnerabilities continue to persist across banks.

9 Munoangira and Kaja 2016 *European Journal of Business and Management* 198 adopted the definition of bank failure by Kaufman (1996) who described bank failure as a situation when the market value of bank assets declines below the market value of its liabilities; Sithole and Mtetwa 2009 *UNISWA Research Journal* 44; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; see related Chipatiso and Kawadza 2018 *Journal of Corporate and Commercial Law & Practice* 38.

10 Munoangira and Kaja 2016 *European Journal of Business and Management* 198; see Dinesen C "Bank Failures Cause a Global Crisis: How the Complexities of United States Mortgage Securities Devastated Banks and Made the Banking Crisis Global" in *Absent Management in Banking How Banks Fail and Cause Financial Crisis* (Palgrave Macmillan Dinesen Associates Ltd London, UK 2020) 206; see related in Kanas A "Pure Contagion Effects in International Banking: The Case of BCCI's Failure" 2005 *Journal of Applied Economics* 101, 104; Hsiao 2010 *Journal of International Banking Law and Regulation* 231.

11 Sithole and Mtetwa 2009 *UNISWA Research Journal* 44; see related in Rose AK and WieladeK T "Too Big to Fail: Some Empirical Evidence on the Causes and Consequences of Public Banking Interventions in the UK" 2012 *Journal of International Money and Finance* 2038, 2042; Dinesen "Bank Failures Cause a Global Crisis: How the Complexities of United States Mortgage Securities Devastated Banks and Made the Banking Crisis Global" 206.

bank failure. This view locates bank failure beyond mere insolvency, but it is still limited in its scope.

According to Gumbo and Zoromedza, bank failure is when a financial institution is recapitalised by either the central bank or by a strategic investor, is acquired by another financial institution, has surrendered its banking licence, operations or license are temporarily suspended by the regulatory authority, and/or the regulatory authority closed the financial institution.[12] This is a comprehensive definition which covers situations such as recapitalisation of a struggling bank by the central bank or strategic investor, acquisition by another institution, surrender of banking licence, temporary suspension of operations or closure by the regulatory authority. Nonetheless, it falls short in its explanation of all possible aspects of bank failure.

In addition to the above-mentioned, bank failure can also refer to a situation where a bank or financial institution can no longer sustain itself without external support and is subject to recapitalisation, acquisition by another financial institution, or closure.[13] Gumbo and Zoromedza subscribe to Gonzalez-Hermosillo's definition which asserts that bank failure is when a financial institution is recapitalised either by the central bank (liquidity injection) or by a strategic investor, acquired by another institution,

---

12 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; Dinesen C "Bank Failures Cause a Global Crisis: How the Complexities of United States Mortgage Securities Devastated Banks and Made the Banking Crisis Global" 206; Kanas 2005 *Journal of Applied Economics* 104.

13 *Banking Act* [Chapter 24:20] 9 of 1999 as amended (*Banking Act*), see section 2(1) does not provide a definition of bank failure, however, a broader definition will be followed in this study as provided by Gumbo and Zoromedza, which states that bank failure is when a financial institution was recapitalised by either the central bank or by a strategic investor, was acquired by another financial institution, surrendered its banking license, suspended or closed by the regulatory authority; See Tefula M and Murinde V "Identifying Problem Banks in Sub-Sahara Africa: Problem Banks in Africa" 2002 *The African Financial Journal* 1, 3; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; see also Munoangira A and Kaja P "Strategies to Enhance Public Confidence in the Zimbabwean Banking Sector" 2016 *European Journal of Business and Management* 198 referenced Kaufman (1996) who described bank failure as a situation when the market value of the bank assets declines below the market value of its liabilities; Havemann R "The South African Small Banks' Crisis of 2002/3" 2021 *Economic History of Developing Regions* 313, 322.

surrenders its banking license, operation or the license is temporarily suspended by the regulatory authority or the financial institution closes its operations.[14] The researcher inclines to Gonzalez-Hermosillo's definition of bank failure as endorsed by Gumbo and Zoromedza. Therefore, for the purposes of this thesis, bank failure refers to a situation where a bank is in financial distress and is recapitalised either by the central bank of a strategic investor, acquired by another institution, surrenders its license or the license is suspended, or it closes its operations altogether.

Bank failures are discussed in the context of the banking statutory framework. In this regard, the banking statutory framework refers to Acts or legislation and other statutory instruments enacted to regulate banking operations. In this thesis, the term banking statutory framework is used interchangeably with terms such as relevant banking laws, banking legislative framework and banking regulatory framework.

Having settled the definitional aspects, the researcher agrees with Kondongwe's assertion that the financial sector in Zimbabwe has experienced significant periods of financial distress as depicted by numerous bank failures and a general decline of banking operations.[15] Bank failures have far-reaching consequences for the financial sector and the economy as a whole. Brownbridge notes that it is often difficult to estimate the cost of bank failures since much of the data is not in the public domain but the impact of most of bank failures to depositors and or taxpayers depends on the

---

[14] Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Munoangira and Kaja *2016 European Journal of Business and Management* 198; Tembo J "Bank Failures in Zimbabwe" *Economic Management in a Hyperinflationary Environment: The Political Economy of Zimbabwe* (Oxford University Press Ltd Cape Town 2015) 141-142.

[15] Kondogwe S "The Root Causes of Bank Failures in Zimbabwe Since the Year 2008 to 2015" 2018 *Social Science Research Network* (SSRN) 1, 3 available at http://hdl.handle.net/11159/355510 accessed on 02 March 2024; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; Dzomira 2014 *Journal of Governance and Regulation* 77; Makumbe C, Sunge R and Zivamoyo J "Zimbabwean Commercial Banks Performance under Multiple-Currency System: A Dynamic Panel Data Analysis" 2020 *African Finance Journal* 40, 41; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222.

extent to which a bank has failed.[16] To this end, it is imperative for policymakers, regulators and stakeholders to understand and detect the causes of bank failures in order to minimise the damage.

This thesis provides a comparative analysis of the causes of bank failures in Zimbabwe, South Africa and the UK. The researcher seeks to identify and discuss factors that contribute to bank failures in order to recommend suggestions that can be considered in addressing these challenges.[17] In addition, the choice of South Africa and the UK as comparators can assist policymakers to draw lessons on how to combat bank failures in Zimbabwe.

1.2 Background to the Study

Generally, Zimbabwe has been slow in developing and aligning its relevant banking laws with international best practices, leading to poor and inadequate regulation of the

---

16 Dube ZL and Murahwe GR "An Analysis of Corporate Governance Practices in Government Controlled versus Private Banking Institutions in Zimbabwe"2015 *International Journal of Development and Sustainability* 759, 761 states that bank depositors sometimes do not have much information on banks' modus operandi; Moyo J, Nandwa B, Odour J and Simpasa A "Financial Sector Reforms, Competition and Banking System Stability in Sub-Sahara Africa" *Paper presented at the IMF/DFID Conference on Macroeconomic Challenged Facing Low-Income Countries* (International Monetary Fund, Washington DC, January 30-31, 2014) 1, 9 states that lack of large dataset on the episodes of financial crisis and the level of bank concentration in developing countries has hampered research in understanding the financial institution's stability; Brownbridge M "The Causes of Financial Distress in Local Banks in Africa and Implications for Prudential Policy United Nations" *Conference on Trade and Development* (UNCTAD) UNCTAD/OSG/DP/132 March 1998/https://www.researchgate.net/profile/Martin-Brownbridge/publication/23694125_The_causes_of_financial_distress_in_local_banks_in_Africa_and_implications_for_prudential_policy/links/53f48bdd0cf2fceacc6e8bb0/The-causes-of-financial-distress-in-local-banks-in-Africa-and-implications-for-prudential-policy.pdf accessed 01 March 2024; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223 state that empirical evidence shows that bank failures are usually a cost burden to the economy as noted by International Monetary Fund (IMF) study that found that fiscal costs associated with bank failures.

17 Mwatetsera *et al* 2022 *Journal of Economics, Business and Accountancy Ventura* 441 state that public trust and confidence in the banking sector in Zimbabwe was low, and it was caused by insufficient bank regulation and supervision, poor deposit protection, poor corporate governance and management practices. Public trust and confidence in the banking sector are the causes of bank failures in Zimbabwe. People will turn to keep their funds at home and avoid the formal banking channels, which will render the banking system into gross disintermediation.

banking sector.[18] Consequently, bank failures in Zimbabwe can be attributed to factors such as regulatory failure, poor oversight and enforcement, weak corporate governance and ineffective supervision of financial institutions.[19] Zimbabwe has experienced significant bank failures, especially since the year 2000.[20] Bank failures often pose negative implications to the banking sector and banking stakeholders such as depositors and investors.[21] This owes to the fact that banks serve as intermediaries that facilitate the avenues for deposits and extend credit services to individuals and the production sector of the economy.[22] In other words, banks primarily exist to serve

---

18 Tepetepe G "A Concurrent Triangulation Mixed Methods Study on Basel II/III Capital Modeling Techniques Implementation in Zimbabwean Banks" 2022 *Journal of Economics, Finance and Accounting* 48, 49; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 5; see related in Matanda E "Threats and Opportunities Facing Banking Institutions in Emerging Economies in their Desire to Adopt and Implement the Basel II Capital Accord: A Case Study of the Zimbabwean Economy in Dollarization Era" 2015 *International Review of Research in Emerging Markets and the Global Economy* 441, 449; see related comments in Mutarindwa S, Schafer D and Stephan A "Central Banks' Supervisory Guidance on Corporate Governance and Bank Stability: Evidence from African Countries" 2020 *Emerging Markets Review* 1, 4; see related comments in Bara *2013 African Journal of Science, Technology, Innovation and Development* 347; Maune A "Corporate Governance in Zimbabwe: An Overview of Its Current State" 2015 Asian Economic and Financial Review 167, 168.

19 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 85; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 3; see related in Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 86; see related in Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235.

20 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229; see related in Chokuda, Nkomazana and Mawanza 2017 *Journal of Economic and Behavioral Studies* 208; see related in Nhavira 2017 *Journal of Strategic Studies* 58.

21 Havemann 2021 *Economic History of Developing Regions* 313; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229; Munoangira and Kaja 2016 *European Journal of Business and Management* 195; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223 states that empirical evidence shows that bank failures are usually a cost burden to the economy.

22 Njanike 2009 *Annals of the University of Petrosani, Economics* 174; Dhliwayo CL "Limiting the Risk of Failure in Financial Institutions" *on the occasion of the Public Accountants & Auditors Board Conference* (Rainbow Towers, Harare 2015) 4; Gianfrate, Santangelo and Zanetti 2012 *Corporate Ownership & Control* 488; See also related in Chitimira and Torerai 2021 *PER/PELJ* 2; Munoangira and Kaja 2016 *European Journal of Business and Management* 195; Bonga, Chirenje and Mugayi 2019 *Dynamic Research Journals (DRJ) Journals of Economics and Finance* 48.

as financial intermediaries and as channels of financial services for economic growth and development.[23] When a bank fails, the implications are far-reaching.

A bank is defined as a company that is registered or required to be registered under the *Banking Act* to conduct any class of banking business in Zimbabwe.[24] The banking business encompasses the act of accepting money deposits that are accessible for withdrawal or repayment either immediately, after a fixed duration, or with prior notice.[25] Furthermore, the banking business also involves the use of these deposits, either wholly or partly, through lending or other methods, on behalf of and at the risk of the person or entity that holds such deposits.[26] Specifically, banks accept deposits of money that would be readily available for withdrawal or repayment on either an immediate, fixed-term, or pre-arranged basis. There are various classes of banks which include commercial banks, merchant banks, building societies and savings banks. Zimbabwe has 18 banks which include 13 commercial banks, four building societies, and one savings bank.[27] It is submitted that the proper functioning of banks requires effective and adequate regulatory supervision. Failure to provide robust and effective regulation of banks could lead to bank failures.

---

23 Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 848; Munoangira and Kaja 2016 *European Journal of Business and Management* 195; Nyoka 2015 *Banks and Bank Systems* 9; Chipatiso and Kawadza 2018 *Journal of Corporate and Commercial Law & Practice* 37 states that banks play a crucial role in the economy by linking depositors and borrowers among the other critical functions.

24 Section 2(1) of the *Banking Act*; see related in section 2(1) of Chapter 1 of the *Banking Act* 2009 (*Banking Act* 2009); section 1 of the *Banks Act* 94 of 1990 (*Banks Act*); Hsiao M "Legitimised Interference with Private Properties – Banking Act 2009" 2010 *Journal of International Banking Law and Regulation* 227, 230 states that the bank in the Act is any UK institution falling under the FSMA 2000 with authorisation or exemption to carry on the regulated activities of accepting deposits, incorporated or formed under the law of the UK.

25 Section 2(1) of the *Banking Act*; section 1 of the *Banks Act*; section 2(1) of the *Banking Act* 2009.

26 Section 2(1) of the *Banking Act*; section 1 of the *Banks Act*; section 2(1) of the *Banking Act* 2009; Hsiao 2010 *Journal of International Banking Law and Regulation* 230.

27 See the RBZ Banking Supervision Division Banking Sector Report for Quarter ended 31 <arch 2022 2 available at https://www.rbz.co.zw/documents/BLSS/2022/Banking-Sector-Industry-Report----31-March-2022.pdf accessed 10 April 2024.

The researcher traces the history of bank failures in Zimbabwe from 1980 to 2023. Zimbabwe gained its political freedom in 1980, hence it is important to examine how the country has experienced bank failures since then.[28] It is noteworthy that between 1980 and 2023, there have been policy shifts that could have contributed towards bank failures in Zimbabwe.[29] The early years of political independence were characterised by policies that aimed at expanding indigenous people's participation in the financial sector.[30] Such policies influenced the emergence of new banks on one hand and yet on the other hand, they also brought about the collapse of banks.[31] From 1980 to 1990, there were no recorded bank failures in Zimbabwe and this could be due to the stability of the foreign banks that dominated the banking sector at the time in

---

28 Muranda Z "Financial Distress and Corporate Governance in Zimbabwean Banks" 2006 *Corporate Governance: The International Journal of Business Society* 643, 644; Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 8; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Tsaurai K "The Dynamics, Challenges and Transition of Banking Sector Development in Zimbabwe" 2018 *The Journal of Developing Areas* 85, 86.

29 The 1980s saw a change in the structure of the banking industry, with new indigenous banks being established. The new entrants of Indigenous participants into the financial sector marked the beginning of efforts to transform the banking sector to better reflect the demographic and socio-economic aspirations of the newly independent Zimbabwe; Pfumorodze J and Nzonzo JC "Some Reflections on Corporate Governance in the Banking Sector in Zimbabwe" 2010 *Indian Journal of Corporate Governance* 51, 53; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2; Nyakurukwa K and Seetharam Y "Corporate Governance in a Weak Legal Environment: A Systematic Review Focusing on Zimbabwe" 2022 *Qualitative Research in Financial Markets* 319; 323; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law Economics and Public Policy* 47; Nyamunda T "'Open for Business' but Bankrupt: Currencies, the 'New Dispensation' and the Zimbabwean Economy" 2021 *Journal of Asian and African Studies* 204, 207.

30 Chitimira H and Ncube M "The Regulatory Nexus Between Corporate and Financial Markets Law in Promoting Economic Growth and Viable Financial Markets in Zimbabwe" 2021 *Interdisciplinary Journal of Economics and Business Law* 91, 96-98; Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 8; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Svota, Wealth and Makanyaza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 363.

31 Svota, Wealth and Makanyaza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 363; Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 8 state that as a result of the liberalisation of the financial sector in 1991, as part of the Economic Structural Adjustment Programme (ESAP), the establishment of local banks has grown considerably; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 97; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; see related in Tyavambiza T and Nyangara D "Financial and Monetary Reforms and the Finance-Growth Relationship in Zimbabwe" 2015 *International Journal of Economics and Financial Issues* 590, 594; Coomer J and Gstraunthaler T "The Hyperinflation in Zimbabwe" 2011 *The Quarterly Journal of Australian Economics* 311, 318.

country.[32] Foreign owned banks such as the Standard Chartered Bank, Barclays Bank and Commercial Bank of Zimbabwe were well-established institutions with strong capital bases and international backing, which enforced stringent banking regulations and policies to ensure financial stability within these financial institutions.[33] The period between 1980 and 1990 was Zimbabwe's political transition and there were no recorded bank failures, at least to the researcher's knowledge. It follows that there was little that challenged the robustness of the *Banking Act* and other relevant banking legislation at the time. Significantly, Zimbabwe had a thriving economy and a more advanced financial sector than any other African nation, except South Africa during this period.[34] However, with the passage of time, a combination of internal and external factors strained the banking sector, leading to bank failures in Zimbabwe. The effects of such failures extended beyond the banks themselves, affecting depositors, shareholders, and the overall confidence in Zimbabwe's financial sector.[35]

Between 1990 and 2000, Zimbabwe's banking sector recorded the first wave of bank failures that had not been experienced since 1980. This could be attributed to the liberalisation and deregulation of the banking sector which was done as part of the

---

32 Sithole and Mtetwa 2009 *UNISWA Research Journal* 46; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; see related in Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 52.

33 Chikoko L "Potential Sources of Zimbabwe Commercial Banks Illiquidity After Dollarisation" 2014 *Journal of Contemporary Issues in Business Research* 41, 43; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 52; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222.

34 Sibindi and Bimha 2014 *Banks and Bank Systems* 51; Mlambo K and Mupunga N "Assessment of Competition in the Zimbabwean Banking Sector since Dollarization" 2018 *The African Finance Journal* 1, 3; see related in Simwayi and Haseed 2012 *Journal of Money Laundering Control* 119, they state that before independence the economy was flourishing but after 2000 the economy shrunk significantly resulting in a desperate situation,…; Gwande 2019 *The International Journal of African Historical Studies* 243; Tsaurai 2018 *The Journal of Developing Areas* 86.

35 Munoangira and Kaja 2016 *European Journal of Business and Management* 196; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Nyoni and Bonga 2017 *Dynamic Research Journals: Journal of Economics and Finance* 39; see Yeh A, Twaddle J and Frith M "Basel II: A New Capital Framework" date unknown *Reserve Bank on New Zealand: Bulletin* 4 states that bank failures can have negative impacts over and above losses for the creditors and shareholders of banks.

Economic Structural Adjustment Programme (ESAP).[36] After its inception, ESAP heralded the issuance of banking licenses to local banks owned, in the main, by politically connected individuals in Zimbabwe.[37] The liberalisation of the banking and financial services sector was aimed at reducing the dominance of foreign banks and it was driven under the auspices of black empowerment.[38] In 1996, the Universal Merchant Bank (UMB) became the first indigenous bank to receive an operating license in Zimbabwe.[39] Unfortunately, the UMB became the first bank to collapse in 1998 due to various challenges such as fraudulent activities, high insider loans, and poor corporate governance.[40] The UMB was eventually closed down in 2000, becoming the

---

36 Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2; Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 323; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law Economics and Public Policy* 47; Nyamunda 2021 *Journal of Asian and African Studies* 207; Harvey C "The Limited Impact of Financial Sector Reforms in Zimbabwe" in Brownnridge M and Harvey C *Banking in Africa: The Impact of Financial Sector Reform since Independence* (1998 Africa World Press Inc) 177.

37 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 12; Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 324; Nyamunda 2021 *Journal of Asian and African Studies* 207; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law Economics and Public Policy* 48; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 173.

38 Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 52; see related in Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 331 who contended that the legal environment in Zimbabwe had been often labelled as partisan and captured by the state; Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 11; see related in Ndlovu G "Financial Sector Development and Economic Growth: Evidence from Zimbabwe" 2013 *International Journal of Economics and Financial Issues* 435, 437; Svota, Wealth and Makanyaza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 363.

39 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Dzomira 2014 *Journal of Governance and Regulation* 77; Nyoka 2015 *Banks and Bank Systems* 9; see related in Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

40 Dzomira 2014 *Journal of Governance and Regulation* 77; Tembo J "Bank Failures in Zimbabwe" 142; Tadu R and Mukonya S "Challenges of Whistle Blowing as a Corporate Governance Control Tool in the Zimbabwean Banking Sector During 2000-2008" 2016 *Journal of Research in Business, Economics and Management* 954; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45.

first bank to fail in post-colonial Zimbabwe.[41] Around 1998, the Zimbabwe government embarked on an exercise to compensate combatants who fought in the war of liberation. These payouts, coupled with an expensive war engagement in the Democratic Republic of Condo (DRC) weighed heavily on the local economy and strained the value of the Zimbabwean dollar.[42]

During this period, the new *Banking Act* was enacted to remove stringent regulations, price controls and entry barriers as well as to issue new licenses and introduce prudential requirements such as minimum capital ratios and risk management practices.[43] The new *Banking Act* sought to promote the liberalisation and deregulation of financial services and to regulate commercial banks, merchant banks, and discount houses.[44] The enactment of the new *Banking Act* could also have been meant to adapt Zimbabwe's banking statutory framework to the demands of the time.[45]

---

41 Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Dzomira 2014 *Journal of Governance and Regulation* 77; Tembo "Banks in Zimbabwe" 139; Kandongwe 2015 *Available at SSRN 3120898* 1, 8; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

42 Rapanyane MB, Sethole FR and Tirivangani HM "Politics, Economy and Financial Prosperity beyond Repair: Is Mnangagwa, Zimbabwe's Renounced Savior of the Day in the Post Mugabe-Era?" 2020 *African Renaissance* 161, 170; Munangagwa 2009 *The Gettysburg Economic Review* 114; Coomer and Gstraunthaler 2011 *The Quarterly Journal of Australian Economics* 332; Nyamunda 2021 *Journal of Asian and African Studies* 207.

43 See the preamble of the *Banking Act*; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; Nyoka 2015 *Banks and Bank Systems* 8; see related comments on the improvements on the structural adjustments and inclusiveness regarding the policy making process by Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 99; Ndhlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 473, 474.

44 See section (6) (1) of the *Banking Act*; Nyoka 2015 *Banks and Bank System* 9 state that the banking sector started to be liberalised in 1991 which liberalisation resulted in the establishment of local banks and encouraged new players into the sector; Mlambo and Mupunga 2018 *The African Finance Journal* 3; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 99.

45 Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Tembo "Banks in Zimbabwe" 139; Kandongwe 2015 *Available at SSRN 3120898* 1, 8; Dzomira 2014 *Journal of Governance and Regulation* 77; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Nyoka 2015 *Banks and Bank Systems* 9.

From 2000 to 2010, Zimbabwe experienced its biggest wave of bank failures, reaching a peak between 2003 and 2004.[46] Some of the banks that failed during this period include Century Bank Limited, Metropolitan Bank, Time Bank, Rapid Discount House, NMB Bank, CFX Bank, Royal Bank, Trust Bank and Barbican Bank.[47] The primary reasons for these bank failures include mismanagement and fraud, poor corporate governance, inadequate capitalisation, high levels of loans in default or arreas and regulatory violations.[48]

The bank failures in the 2003 to 2004 period are attributable to the poor enforcement of the *Banking Act* which clearly provides the requirements for licensing, capital adequacy, risk management and corporate governance for banks in Zimbabwe.[49] In response to the bank failures, policymakers amended the *Banking Act* to provide for the creation of the Deposit Protection Scheme.[50] Furthermore, the *Deposit Protection Act* was enacted to improve public confidence in the banking sector by protecting

---

46 Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Dhlamini and Mbira 2017 *Journal of Economics and Behavioural Studies* 213; Dzomira 2014 *Journal of Governance and Regulation* 78; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 3; an update on closed banks: Deposit Protection Corporation available at http://www.dpcorp.co.zw accessed 18 March 2024; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42.

47 Chitimira and Ncube M "Towards Ingenious Technology and the Robust Enforcement of Financial Markets Laws to Curb Money Laundering in Zimbabwe" 2021 *Potchefstroom Electronic Law Journal* (*PER/PELJ*) 1, 7; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 324; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

48 Dlamini and Mbira 2017 *Journal of Economics and Behavioral Studies* 212; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Muranda 2006 *Corporate Governance* 650; see related in Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *PER/ PELJ* 7, see related in Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

49 See preamble of the *Banking Act*; section 4C of the *Banking Act*; Nhavira and Ocran 2012 *Journal of Strategic Studies* 19; Ndlovu, Bhiri, Mutambabadzo and Hlahla 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87.

50 The Deposit Protection Fund was established in 2003; under the repealed section 66 of the *Banking Act*.

depositors' funds and providing compensation in the event of bank failures.[51] Another statute, the *Troubled Financial Institutions Resolution Act* was also enacted to provide for the administration, formulation, and implementation of schemes for the resolution of troubled and failing banks in Zimbabwe.[52]

Despite the foregoing, between 2010 and 2023, Zimbabwe experienced another wave of bank failures. In 2012, several banks found themselves in operational difficulties.[53] The RBZ placed Renaissance Merchant Bank under curatorship citing the bank's failure due to gross irregularities.[54] In 2012, Renaissance Merchant Bank's curatorship was lifted, and the bank was rebranded to Capital Bank.[55] Three other banks failed in 2012. These include Interfin Merchant Bank, which was placed under provisional liquidation, Royal Bank which was closed due to inadequate capital, poor corporate governance, and violation of banking regulations, and Genesis Bank which surrendered its license after failing to raise the minimum capital required for its operations.[56]

---

51 Read together with section 4 of the *Deposit Corporation Act* [Chapter 24:29] of 2011; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11.

52 See the preamble of the *Troubled Financial Institutions* (*Resolution*) *Act* [Chapter 24:28] 31 of 2004 (*Troubled Financial Institution Act*); Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Chitimira and Ncube 2021 *PER/ PELJ* 7; Dzomira 2014 *Journal of Governance and Regulation* 78.

53 Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 214; Tsaurai 2012 *Corporate Ownership and Control* 515; Nyoni 2018 *International Journal of Marketing and Financial Management* 47; Dzomira 2014 *Journal of Governance and Regulation* 78; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

54 Dzomira 2014 *Journal of Governance and Regulation* 78; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 214; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 233.

55 Nyakurukwa K "The Zimbabwe Code on Corporate Governance (ZIMCODE) and Financial Performance" 2021 *Journal of African Business* 549, 550; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Tsaurai 2012 *Corporate Ownership and Control* 515; Ngara and Nhavira 2015 *Journal of Strategic Studies* 42.

56 Dzomira 2014 *Journal of Governance and Regulation* 78; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 212.

In 2015, AfriAsia Bank Zimbabwe, formerly known as Kingdom Bank, had its operating license cancelled by the RBZ due to, *inter alia*, liquidity challenges and non-compliance with regulatory requirements.[57] Moreover, another bank, Allied Bank Limited was also closed after its license was cancelled by the RBZ owing to gross undercapitalisation and chronic liquidity challenges.[58] Furthermore, Tetrad Investments Bank faced financial difficulties and was placed under provisional liquidation.[59] The bank failed to fulfill its financial obligations, leading to its deregistration.[60]

In response to bank failures during this period, the *Banking Amendment Act* (*BAA*)[61] was enacted to introduce several significant changes to the *Banking Act* such as strengthening financial stability, enhancing supervisory powers of the RBZ, improving corporate governance guidelines and aligning with international best practices.[62] In 2015, the *BAA* repealed the *Troubled Financial Institution Act (Resolution) Act*.[63] Nevertheless, the banking sector has remained under strain and one can safely argue that the sector continues to teeter on the brink of another wave of failures.

Given the above, it is important to examine the banking statutory framework to identify gaps that could be contributing to bank failures in Zimbabwe. The rationale is to offer

---

57 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 224; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Munoangira and Kaja 2016 *European Journal of Business and Management* 204.

58 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 240; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232; Dzomira 2014 *Journal of Governance and Regulation* 77-78; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 43; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 212.

59 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 240; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232; Dzomira 2014 *Journal of Governance and Regulation* 77-78; see related in Munoangira and Kaja 2016 *European Journal of Business and Management* 198.

60 Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232; Munoangira and Kaja 2016 *European Journal of Business and Management* 198.

61 See the preamble of the *Banking Amendment Act* 12 of 2015 (*Banking Amendment Act*);

62 Sections 4C, 20A-20B, 24(5), 28A-25C, 35, 45-48, 49(b)-(h), 52A-52C, 53, 56A, 57 and 58 of the *Banking Act*.

63 See the preamble and section 41 of the *Banking Amendment Act*.

recommendations that can strengthen the banking statutory framework and curb bank failures.

1.3 Problem Statement

Ideally, banks are supposed to serve as stable financial institutions that facilitate economic growth by safeguarding deposits, acting as intermediaries between savers and borrowers, and ensuring liquidity and financial stability while fostering trust in the financial sector. There have been two notable waves of bank failures in Zimbabwe. The first one happened between 2003 and 2004 while the second one was from 2012 to 2015. This thesis is premised on the argument that Zimbabwe's current relevant banking laws are inadequately enforced to the extent that there is a lack of effective and robust oversight of banking institutions, hence bank failures.[64] Although there are banking laws enacted to ensure banking sector stability, the lack of enforcement of these laws results in poor oversight of banks and banking operations. This has resulted in bank failures which concomitantly leads to the erosion of public trust in Zimbabwe's banking sector.[65]

---

64 Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 13 state that the supervisory gaps and opportunities for regulatory arbitrage that the RBZ decried in its 2005 Annual Report remained; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 47; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4 states that the recurrence of bank failures in Zimbabwe indicates that the measures were either inadequate or the implementation was selective; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 85; see related in Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 86; see related in Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235.

65 Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 12; Ndlovu 2013 *International Journal of Economics and Financial Issues* 437; Pfumorodze and Nzonzo *2010 Indian Journal of Corporate Governance* 53; Evgouleas E *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, The Law, the Economics, the Politics* (2012 Cambridge University Press Cape Town) 135; Mugwati MZ, Nkala D and Mukanganiki C "The Composition and Regulation of the Financial Services Sector in Zimbabwe" 2013 *Asian Economic and Financial Review* 483, 487 argue that the current legal framework is comprised of numerous legal instruments as well as various regulatory frameworks which see the country's financial services sector continuing to have disharmony due to weak policies, and the regulation and supervision of the sector has been difficult due to intervention from government.

The stability of the banking sector is essential for any country's economic growth and development.[66] In Zimbabwe, despite efforts by the government and the RBZ to stabilise the banking sector, there have been several notable bank failures over the past four decades.[67] The researcher argues that some of the bank failures could have been avoided if there had been effective enforcement of relevant banking laws and general adherence to international banking standards.[68] The researcher avers that the banking statutory framework in Zimbabwe is poorly enforced and this leads to insufficient oversight of banking institutions. Ultimately, this leads to bank failures.

Apart from the lack of enforcement of banking laws in Zimbabwe, bank failures can also stem from a multitude of micro and macro-economic factors, some of which cannot be remedied solely through legal analysis.[69] In this regard, this thesis focuses on the causes of bank failures in Zimbabwe resulting from inadequate enforcement of

---

66 Dzomira 2014 *Journal of Governance and Regulations* 80; Richard E "Factors that Cause Non-performing Loans in Commercial Banks in Tanzania and Strategies to Resolve them" 2010 *Moving Africa Toward Sustainable Growth and Technological Development Emmanuel Obuah* 16; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Chimucheka T and Rungani EC "The Impact of Inaccessibility to Bank Finance and Lack of Financial Management Knowledge to Small, Medium and Micro Enterprises in Buffalo City Municipality, South Africa" 2011 *African Journal of Business Management* 5509, 5516; see also Magweva R "Multiple Currency System and Commercial Bank Deposit Mobilisation in Zimbabwe" *2023 African Journal of Business and Economic Research* 35, 36.

67 Chitimira H and Mavhuru L "An Expository Overview of the Financial Integrity Risk Associated with the Relaxation of Financial Regulation to Promote Financial Innovation Through Mobile Money Services in Zimbabwe" 2024 *Acta Universitatis Danubius Economica* 70, 71; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Munoangira and Kaja 2016 *European Journal of Business and Management* 196; Dzomira 2014 *Journal of Governance and Regulations* 78; See related comments by Havemann 2021 *Economic History of Developing Regions* 327.

68 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Munoangira and Kaja 2016 *European Journal of Business and Management* 195; Foya D and Changunda G "An Investigation of Corporate Governance Challenges Facing Indigenous Banks in Zimbabwe" 2019 *International Journal of Research and Innovation in Social Sciences* (*IJRISS*) 100, 103; See related comments by Havemann 2021 *Economic History of Developing Regions* 327; Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 20 asserts that laws are only good as their enforcement.

69 Sithole and Mtetwa 2009 *UniSWA Research Journal* 54; see related in Munoangira and Kaja 2016 *European Journal of Business and Management* 197; Chokuda-Santu, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 208; Hupkes EHG "Insolvency – Why a Special Regime for Banks?" in *Forthcoming in Current Developments in Monetary and Financial Law* (International Monetary Fund, Washington DC 2002) 5.

relevant banking laws that may lead to insufficient oversight of banks, poor corporate governance and poor monitoring and supervision of banks.[70] The objective is to identify the causes of bank failures in Zimbabwe and propose solutions that can be adopted to mitigate them.[71] This is done by analysing the current banking statutory framework in Zimbabwe. Furthermore, the researcher also seeks to discuss global and international best practices designed to mitigate the causes of bank failures and evaluate the extent to which they are implemented in Zimbabwe.[72] More on the global and international best practices is dealt with in Chapter Seven.

The banking sector in Zimbabwe has suffered from numerous adverse effects of a faltering economy since the year 1980, resulting in banks failing to sustain their operations.[73] The lack of enforcement of relevant banking legislation and policies has contributed to the further shrinking of the banking sector, exposing consumers to unfair treatment by the faltering banks. Ineffective enforcement and oversight of banks may deter consumers from using formal banking services.[74] This can push many people to turn to unregulated informal financial services such as money lending clubs,

---

70 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 224; Dzomira 2014 *Journal of Governance and Regulation* 78; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Tsaurai 2012 *Corporate Ownership and Control* 515; Ngara and Nhavira 2015 *Journal of Strategic Studies* 42.

71 Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 4; Muparuri and Akinsola 2018 *Journal of Global Analysis* 50; Dzomira 2014 *Journal of Governance and Regulation* 78; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42.

72 Munoangira and Kaja 2016 *European Journal of Business and Management* 206; Hupkes "Insolvency – Why a Special Regime for Banks?" 33; Chokuda-Santu, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 211; see Cunningham RM and Friedrich C "The Role of Central Banks in Promoting Financial Stability: An International Perspective" *Bank of Canada Staff Discussion Paper*, (No.2016-15 Bank of Canada, Ottawa) 1, 4.

73 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229; Tsaurai K "An Analysis of the Sufficiency of Credit Risk Management Framework in the Banking Sector in Zimbabwe" 2012 *Corporate Ownership and Control* 515, 517; Mawaru NM and Kalani VM "Commercial Banking Crises in Kenya: Causes and Remedies *2009 Global Journal of Finance and Banking Issues* 23, 32; Mlambo K and Mupunga N "Assessment of Competition in the Zimbabwean Banking Sector since Dollarisation" 2018 *The African Finance Journal* 1, 2; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45.

74 Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law Economics and Public Policy* 55; see related in Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 331.

informal savings groups, money changers and pawnshops.[75] In addition, insufficient enforcement and oversight of banks lead to risky practices such as lack of accountability and increased systemic risks contributing to the fragility of banks in Zimbabwe.[76] The subsequent bank failures also cause stakeholders to lose trust in the banking sector and withdraw their investments, while some avoid keeping money in the banks.[77] In this regard, a considerable number of people in Zimbabwe have their investments outside the country while others keep their money under "mattresses".[78]

Various other factors such as severe economic downturns, political instability, depreciation of the local currency, high inflation, mismanagement, fraud, collusion with borrowers and insider trading can also be cited as causes of bank failures in

---

75 Nzaro, Njanike and Jaravani 2013 *Research Journal of Management and Business Studies* 432; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law Economics and Public Policy* 55; see related in Chitimira H and Torerai E "A Regulatory Analysis of Digital Financial Services and the Adoption of Central Bank Digital Currencies in Zimbabwe and South Africa" 2023 *Juridica Tribune* 384, 396; Chitimira and Ncube 2021 *PER/PELJ* 20.

76 Mhishi and Khumalo 2019 *Banks and Bank Systems* 125; Foya and Changunda 2019 *IJRISS* 103; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 40; see the comments by Chikoko L, Mutambanadzo T and Vhimisai T "Insights on Non-Performing Loans: Evidence from Zimbabwean Commercial Banks in a Dollarised Environment (2009-2012)" 2012 *Journal of Emerging Trends in Economics and Management Sciences* 882, 883, support the argument by Caprio who presented stylised evidence which concluded that inadequate regulation and lack of supervision caused a banking crisis.

77 Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21 argue that the financial instability experienced in 2003 in Zimbabwe resulted in the loss of public confidence in the banking sector which resulted in panic withdrawals that led to several banks going insolvent; Munoangira and Kaja 2016 *European Journal of Business and Management* 196 posit that public confidence in Zimbabwean banking system has dissolved and depositors pulled their funds out of the banking sector and hid them under proverbial mattress…; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 102; see related on Mhishi and Khumalo 2019 *Banks and bank Systems* 124; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 46.

78 Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law Economics and Public Policy* 56 stated that confidence in the banking sector evaporated and for many Zimbabweans, the reality is, as popularly put, *'Mari yangu, inorara nenI* (I keep my money with me); Munoangira and Kaja 2016 *European Journal of Business and Management* 196; Maweru and Kalani 2009 *Global Journal of Finance and Banking Issues* 25; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222 state that vulnerabilities in the banking sector eroded customer confidence…; Sanderson and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Chipatiso and Kawadza 2018 *Journal of Corporate and Commercial Law & Practice* (*JCCL&P*) 43; see Nhavira JDG "How Competitive is Zimbabwe's Financial Services Sector?" 2017 *Journal of Strategic Studies* 58, 68 states that whenever there is a crisis in Zimbabwe's banking system, clients migrate from local banks to foreign banks.

Zimbabwe.[79] As mentioned above, it could be impossible to use regulation alone in order to fully address the causes, let alone stop bank failures. However, the researcher focuses on the causes of bank failures that can be traced back to the failure of effective enforcement of the relevant banking laws in order to suggest recommendations that can strengthen the enforcement of such laws. This research underscores the necessity of conducting a comprehensive review of the banking statutory framework in Zimbabwe to ensure its effective enforcement. This can be done by moving away from a single regulator to dual bank regulators operating independently and empowered with enforcement mechanisms to combat bank failures and restore confidence in the Zimbabwean banking sector.

1.4 Aims and Objectives

1.4.1 Aims

The research study aims to:

(a) discuss whether the current relevant banking laws in Zimbabwe are robust enough to effectively mitigate and curb the root causes of bank failures in Zimbabwe.

(b) highlight the gaps and flaws in Zimbabwe's current relevant banking laws to recommend possible measures for strengthening the supervision of banks in order to effectively combat the causes of bank failures.

(c) compare Zimbabwe's relevant banking laws with South Africa and the UK's relevant banking legislation and discuss international best practices in order to

---

[79] See Sanderson, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Waweru and Kalani 2009 Global Journal of Finance and Banking Issues 23; Chipatiso 2018 *JCCL&P* 43; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 96; Sithole and Mtetwa 2009 *UniSWA Research Journal* 47.

recommend possible measures that Zimbabwean policymakers can adopt to combat bank failures.

(d) identify gaps, inconsistencies, and flaws in the banking regulatory framework in order to recommend possible measures to prevent future bank failures in Zimbabwe.

1.4.2 Objectives

The researcher seeks to:

(a) discuss the relevant banking laws and regulations to identify the causes of bank failures in Zimbabwe and recommend possible measures that could be adopted to mitigate such failures.

(b) explore possible ways to improve the supervision and enforcement of the relevant banking laws to combat bank failures in Zimbabwe, drawing lessons from South Africa and the UK's banking legislative framework.

(c) suggest proposals for the reform of Zimbabwe's relevant banking laws and/or recommend a model to enhance banking regulation in order to mitigate the causes of bank failures.

1.5 Research Question

Are the current relevant banking laws comprehensive and robust enough to combat bank failures in Zimbabwe?

The researcher seeks to explore whether the current banking statutory framework is robust enough to mitigate and curb the causes of bank failures in Zimbabwe. A banking statutory framework is deemed robust if it can effectively achieve its intended purpose such as protecting depositors, maintaining public confidence and combating bank

failures.[80] The robustness of the banking statutory framework refers to sufficient and effective relevant banking laws, policies, and procedures that are consistently enforced by regulatory authorities and financial institutions to ensure the safety, soundness and stability of the banking sector.[81] Inconsistent or poor enforcement of legislation disqualifies the robustness of such a law. The researcher also submits that a robust banking statutory framework should align with regional and international best practices by incorporating established standards on bank supervision to ensure a resilient and trustworthy banking sector. Therefore, this research analyses whether the current relevant banking laws are sufficiently comprehensive and effective in mitigating and curbing bank failures in Zimbabwe.

1.6 Rationale of the Study

The researcher seeks to analyse the relevant banking laws to identify possible weaknesses in the current banking legislation and potential causes of bank failures in Zimbabwe. The researcher argues that there is a general poor enforcement of relevant banking laws and this could be one of the leading factors causing bank failures.[82] Some of the causes of poor enforcement of relevant banking laws could be weak bank supervision capacity and the absence of effective supervisory structures within the

---

80 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 231; see Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 23; see related in Sakarombe 2018 *International Journal of Academic Research Economics and Management Sciences* 135; see related in Chitimira H "Theoretical Aspects of Insider Trading Regulation in Zimbabwe" 2022 *Journal of Financial Crime* 389, 397.

81 Basel Committee on Banking Supervision *Core Principles for Effective Banking Supervision* (Bank of International Settlements Basel 2011) 64; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 231; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 20; see related in Mhishi and Khumalo 2019 *Banks and Bank Systems* 123; see Nhavira 2017 *Journal of Strategic Studies* 64.

82 Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21; Magweva 2023 *African Journal of Business and Economic Research* 37; Dzomira 2014 *Journal of Governance and Regulation* 76; Dzingirai and Katuka 2014 *International Journal of Economics and Fina*nce 229.

banking regulatory framework.[83] Additionally, the banking sector in Zimbabwe has partially adopted the consolidated supervisory framework aligned to international best standards for banking regulation and supervision, which are designed to prevent bank failures.[84] Maintaining the safety and soundness of banks is crucial to mitigate the causes of bank failures. Incidents of bank failures in Zimbabwe have caused financial instability and systemic risks such as panic cash withdrawals by depositors.[85] The researcher argues that repeated bank failures in Zimbabwe have disrupted the economy and eroded public confidence in the banking sector. This thesis seeks to contribute valuable insights and recommendations towards better enforcement of the banking statutory framework in order to combat the causes of bank failures in Zimbabwe.[86]

---

[83] Chokuda and Chokuda -Santu 2021 *Midlands State University Law Review* 4 states that the external supervision and monitoring function failed to curb repeated manifestations of poor governance such as inadequate board oversight, inexperienced management, undue influence by dominant shareholders, non-performing insider loans and so on, which were cited as being chief causes of bank failures; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229 states Zimbabwean banks are identified as failing after they are already collapsed; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19 states that regulatory forbearance may be considered to be lax before crisis and only stringent afterwards; Njanike 2009 *Annals of the University of Petroşani, Economics* 176.

[84] See IMF eLIBRARY on Zimbabwe: *Technical Assistance Report- Financial Sector Stability Review Consolidated Supervision* (2022 International Monetary Fund. Monetary and Capital Markets Department) available at https://www.elibrary.imf.org/view/journals/002/2022/379/article-A001-en.xm accessed on 02 October 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Research Unit* 23; see related in Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Njanike 2009 *Annals of the University of Petroşani, Economics* 175.

[85] Chokuda and Chokuda -Santu 2021 *Midlands State University Law Review* 3 contend that financial problems in a banking institution can trigger a bank run, which can easily and usually spread to other banking institutions with dire consequences to the wider economy; Munoangira and Kaja 2016 *European Journal of Business and Management* 203; see related in the definition for financial regulation as provided in Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 71 which include establishment of institutional measures for the enforcement, monitoring and supervision of compliance with such rules and regulations.

[86] Tefula and Murinde 2002 *The African Finance Journal* 2 state that their research aims to empirically isolate the bank-specific determinants of banks risk in order to shed light on the possible use of these determinants as early warning indicators of bank failures; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 211; Magweva 2023 *African Journal of Business and Economic Research* 41; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223.

Promoting banking sector stability is crucial for overall economic growth and development.[87] Banking sector instability can result from frequent bank failures that lead to loss of foreign investor confidence, liquidity shortages and disruptions to business operations.[88] Therefore, the researcher asserts that the government of Zimbabwe and policymakers have the responsibility to promote and safeguard the banking sector stability by ensuring adequate and effective enforcement of relevant laws. The researcher provides recommendations to improve banking legislation on regulation and supervision of banks to effectively mitigate the causes of bank failures and promote financial stability in Zimbabwe.

Bank failures in Zimbabwe can be attributed to various weaknesses in the banking regulatory framework of the banking sector, including the inability of the supervision and monitoring system of the banks to reduce systemic risks and protect financial consumers.[89] In Zimbabwe, regulatory agencies have failed to detect irregularities in the operations of many banking institutions until the bank is on the verge of collapsing.[90] The researcher seeks to provide recommendations to curb bank failures.

---

87 Evgouleas *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, The Law, the Economics, the Politics* 135; Scott HS International Finance: Law and Regulation (2008 Sweet & Maxwell Limited London) 135; see related in Okeahalam 1998 *African Journal of Political Science* 40; Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 71; Munoangira and Kaja 2016 *European Journal of Business and Management* 195.

88 Munangagwa 2009 *The Gettysburg Economic Review* 122; see related in Coomer and Gstraunthaler 2011 *The Quarterly Journal of Austrian Economics* 321; Scott *International Finance: Law and Regulation* 131.

89 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Research Unit* 23; see related in Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Njanike 2009 *Annals of the University of Petroşani, Economics* 175.

90 Chokuda and Chokuda -Santu 2021 *Midlands State University Law Review* 4 states that the external supervision and monitoring function failed to curb repeated manifestations of poor governance such as inadequate board oversight, inexperienced management, undue influence by dominant shareholders, non-performing insider loans and so on, which were cited as being chief causes of bank failures; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229 states Zimbabwean banks are identified as failing after they are already collapsed; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19 states that regulatory forbearance may be considered to be lax before crisis and only stringent afterwards; Njanike 2009 *Annals of the University of Petroşani, Economics* 176.

These recommendations can help policymakers and regulators to identify areas within the RBZ and other role players that require improvement to better address the causes of bank failure in Zimbabwe.[91] These areas include the RBZ's bank monitoring and supervision division.

Banks and regulators often have conflicting perspectives on banking regulation and supervision and if these perspectives are not properly aligned, communicated, and understood by both parties, they can weaken the effectiveness of banking regulatory and supervisory functions, increasing the risks of bank failures.[92] Banks view and react to bank regulation from a perspective of maximising profit, growing lending and investment portfolios, outperforming their rivals and attracting more deposits which attracts systemic risks that may cause bank failures when inadequately monitored.[93] The researcher argues that banking regulation and supervision should be adequately aligned, clearly communicated and effectively enforced to reassure the general public of the safety of their deposits and prevent unnecessary panic and loss of trust in the banking sector.

---

91 Tefula and Murinde 2002 *The African Finance Journal* 11; See Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21 empirically analysed the banking behaviour by the macroeconomic performance in Zimbabwe; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 234 state that very few researchers empirically tested the influence of political influence on bank survival equation; see related by Gondwe S, Gwatidzo T and Mahonye N "Bank Regulation and Risk-Taking in Sub-Sahara Africa" 2022 *Journal of Financial Regulation and Compliance* 149, 153, Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Research Unit* 18.

92 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Research Unit* 12; Klomp J and de Haan J "Bank Regulation and Financial Fragility in Developing Countries: Does Bank Structure Matter?" 2015 *Review of Development Finance* 82, 86; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223 states that a country's authorities should safeguard the banking sector by providing banks with a sound macroeconomic environment, supervising and prudent risk management; Njanike 2009 *Annals of the University of Petroşani, Economics* 174; see related Mlambo and Masiyandima 2019 *Business and Management Research* 48.

93 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 225; see related in Nhavira and Ocrain 2012 *Journal of Strategic Studies* 10; related in Christophers B "Competition, Law and the Power of (Imagined) Geography: Market Definition and the Emergence of Too-Big-to-Fail Banking in the United States" 2015 *Economic Geography* 429, 431.

Effective bank oversight and enforcement of banking laws promote financial stability and mitigate the causes of bank failures.[94] An effective and robust banking statutory framework ensures that those banks that fail exit the market in an orderly manner without causing panic to the public and eroding confidence in the banking sector. Effective monitoring and supervision of banks, along with the effective enforcement of relevant banking laws can lead to the quick identification of a troubled bank and the necessary intervention either to rescue or orderly manage the exit of such a bank from the market.[95] The researcher adds to the existing body of literature on bank failures by providing a comparative analysis of the regulation of banks in South Africa and the UK. In addition, the thesis examines international standards on banking regulation and supervision to prevent bank failures in Zimbabwe.

1.7 Literature Review

Up to so far, Zimbabwe has yet a single bank regulator. This thesis examines the possibility or feasibility of dual regulators in the similitude of the twin peaks model. It is important to review what other scholars have yet to say in terms of bank regulation in Zimbabwe.

Dzomira argues that Zimbabwe's financial instability and the collapse of banks are caused by poor corporate governance and an insufficient regulatory framework.[96] The researcher agrees and asserts that these issues have not been adequately addressed, contributing to the continued rise in bank failures. Dzomira further identifies specific

---

94 Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 17; Njanike 2009 *Annals of the University of Petroşani, Economics* 176; Munoangira and Kaja 2016 *European Journal of Business and Management* 197.

95 Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Mlambo and Masiyandima 2019 *Business and Management Research* 48; see related in Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 213.

96 Dzomira 2014 *Journal of Governance and Regulations* 78; see related explanation by Tefula and Murinde 2002 *The African Finance Journal* 5 contended that management deficiencies or management related problems played a critical role in the problems faced by banks; Makoto, Rwaveya and Maphosa 2010 *Journal of strategic Studies* 34; see related in Ndlovu et al 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474; see related by Kabonga and Marime 2017 *Africanus Journal of Development Studies* 5.

causes of bank failures in Zimbabwe, such as inadequate risk management systems, misuse of the central bank's liquidity support, and rapid and poorly planned expansion of branch networks without thorough market research by banks.[97] However, the researcher contends that a deeper problem lies in the inadequacy and poor enforcement of the banking laws, which are the fundamental factors behind bank failures in Zimbabwe. Addressing these legal and regulatory weaknesses is crucial in stabilising the country's banking sector.

Gumbo and Zoromedza argue that the experiences of bank failures in Zimbabwe could have been avoided with a robust banking statutory framework that predicts early systemic risks that cause these challenges.[98] The researcher agrees and contends that enhanced enforcement and supervision of banks can effectively detect early warning systems in order to curb bank failures. Thus, the researcher advocates for policymakers and other relevant stakeholders to prioritise the strengthening of governance, statutory frameworks, political stability and anti-corruption measures to safeguard the stability of the banking sector.

Abel and Le Roux emphasise that risk management is central to the banking business, and banks must have a risk reduction strategy to navigate uncertainties effectively.[99] They also argue that effective risk management, sound financial management, funding management, banks' asset diversification, and control over inflation and interest rates

---

97 Dzomira 2014 *Journal of Governance and Regulations* 78; Njanike, Katsuro and Mudzura 2009 *Annals of the University of Petrosani, Economics* 180; Magweva 2023 *African Journal of Business and Economic Research* 50; Njanike 2009 *Annals of the University of Petrosani, Economics* 183.

98 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222; see related comments by Mlambo and Mupunga 2018 *The African Finance Journal* 3; see related comments by Havemann 2021 *Economic History of Developing Regions* 335; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Ofari-Sasu et al 2021 *Review of Development Finance* 77.

99 See Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 847; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235; see related assertion by Chikoko, Mutambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences* 885 that all locally owned Zimbabwean banks were caught unaware on the strength of their internal systems. Furthermore, they assert that all respondents pointed to inadequate supervision by the Reserve Bank of Zimbabwe which led to gross violation of prudential guidelines; Mlambo and Mupunga 2018 *The African Finance Journal* 5.

can enhance banking profitability.[100] In this regard, the researcher agrees and affirms that ensuring greater bank stability through these measures may not only improve survival rates for banks in the market as they generate profits, but may reduce the occurrence of bank failures in Zimbabwe.

Van Heerden, Van Niekerk and Huls provided a critical analysis of the twin peaks regulatory framework as implemented in South Africa and another jurisdiction.[101] They examined the structural and functional aspects of the model, highlighting the separation of prudential regulation, which focuses on prudential regulation, from market conduct regulation which ensures consumer protection and fair market prices.[102] Their study underscores the effectiveness of the twin peaks approach in addressing financial sector vulnerabilities, enhancing banking regulatory enforcement and mitigating systemic risks. The researcher opines that South Africa's adaptation of the model demonstrates its applicability in emerging markets, while the UK experience reflects a more mature regulatory framework. For that reason, the comparative insights from the UK and South Africa will provide a strong foundation for proposing the twin peaks model in Zimbabwe, showcasing its potential to strengthen and rebuild confidence in the Banking sector.[103]

Bernmanke postulates that financial stability could be enhanced by the central bank assuming the lender of last resort function and using its power to provide liquidity to

---

100 Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 847; Tsaurai 2012 *Corporate Ownership and Control* 516; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 92; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42.

101 Van Heerden CM, Van Niekerk GM and Huls NJH "Two Takes on Twin Peaks: A Comparative Appraisal of the Models of Financial Regulation in the Netherlands and South Africa" 2020 *Journal for Contemporary Roman-Dutch Law* 491, 494.

102 Sections 32-34 and 56-58 of the *FSR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505.

103 See the conclusion on Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 513.

ease market conditions during periods of panic or incipient panic.[104] Bernmanke further contends that putting out the fire is not enough, but it is important to foster a financial sector that is sufficiently resilient to withstand large financial shocks.[105] The researcher agrees with the assertion and submits that RBZ should at all times play the role of the lender of last resort and provide liquidity to ease market conditions in Zimbabwe. The primary role of the lender of last resort is to safeguard depositors' interests and prevent panic withdrawals from banks or bank runs, by providing emergency liquidity to financial institutions showing signs of distress. Zimbabwe's central bank withdrew its function as the lender of last resort in December 2003, during the financial pandemonium which saw the collapse of many banks.[106] The researcher further submits that the central bank should always safeguard the financial sector stability by actively engaging in monitoring and strengthening financial institutions, ensuring effective enforcement of banking laws and proactively identifying potential systemic risks.

Chikoko, Mutambanadzo and Vhimisai argue that inadequate supervision, weak internal systems and high lending rates in the banking sector are causes of bank failures in Zimbabwe.[107] The researcher concurs with this perspective and aims to conduct an in-depth exploration of these issues by undertaking a comparative study across three distinct jurisdictions namely South Africa, the UK and Zimbabwe.

---

104 Bernanke BS "A Century of US Central Banking: Goals, Frameworks, Accountability" 2013 *Journal of Economic Perspectives* 3, 11; see related in Golembe 1967 *Virginia Law Review* 1097; see related in Rose AK and Wieladek "Too Big to Fail: Some Empirical Evidence on the Causes and Consequences of Public Banking Interventions in the UK" 2012 *Journal of International Money and Finance* 2038, 2044.

105 Bernanke 2013 *Journal of Economic Perspectives* 11; see related in Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222.

106 Dzomira 2014 *Journal of Governance and Regulations* 78; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 44; Munoangira and Kaja 2016 *European Journal of Business and Management* 203; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230.

107 Chikoko, Mutambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences* 885; Ngalawa 2012 *J.Stud.Econometrics* 21; Munoangira and Kaja 2016 *European Journal of Business and Management* 195; see related comments by Waweru and Kalani 2009 *Global Journal of Finance and Banking Issues* 26.

Moreover, the researcher submits that policymakers and the government of Zimbabwe should adopt and incorporate mandatory stress testing as a contingency plan into the current *Banking Act* to prevent future bank failures.

Dzingirai and Katuka analysed the Zimbabwean financial sector and concluded that it is primarily characterised by repeated periods of economic distress, as evidenced by numerous bank failures.[108] The researcher concurs with this view and asserts that these economic challenges and bank failures point to deeper structural issues such as political instability, high inflation and inadequate regulatory measures within the banking statutory framework of Zimbabwe. The researcher further contends that frequent monetary policy revisions by the RBZ, despite their intention to stabilise the economy, have not successfully curbed bank failures.[109] Therefore, the researcher emphasises the need for comprehensive reforms in Zimbabwe's banking laws and the financial regulatory framework to address the weaknesses and mitigate systemic risks that cause bank failures.

In addition, Dzingirai and Katuka raised concerns regarding the effectiveness of the banking statutory framework and resolution policies in Zimbabwe, including the Troubled Bank Resolution Framework (TBRF) and the Enhanced Troubled and Insolvent Bank Resolution Policy (TIBP).[110] The researcher notes that Dzingirai and Katuka focused their research on the causes of bank failures in Zimbabwe under

---

108 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; see related by Chitimira and Ncube 2021 *PER/PELJ* 4; see related in Makumbe; Sunge and Zivanomoyo 2020 *African Finance Journal* 41, where they stated that Zimbabwe's banking sector was not spared from the economic troubles; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222.

109 See Basel Framework in Chinoda, Chingombe, and Chawuruka 2015 *Journal of Economics and Finance* 61; Nhavira 2017 *Journal of Strategic Studies* 77; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; see related in Nhavira and Ocran 2012 *Journal of Strategic Studies* 10.

110 See related comments on supervisory standard by selected countries in Nhavira 2017 *Journal of Strategic Studies* 75; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 40; Chitimira and Ncube 2021 *PER/PELJ* 8.

multiple-currency by testing banking-specific and macroeconomic variables.[111] However, the scholars acknowledged that bank-specific variables alone may be insufficient to explain determinants of bank failures as economic cycles may have an impact on bank operations.[112] Likewise, the researcher analyses the causes of bank failures in Zimbabwe to identify the gaps in the *Banking Act* and other relevant laws by comparing them with other jurisdictions namely South Africa, the UK and the international best practices. The researcher analyses bank-specific variables and non-bank-specific variables such as macroeconomic factors, regulatory environment, monetary policy and market competition that cause bank failures in Zimbabwe.

Petitjean argues that regulatory arbitrage is likely to keep generating costly negative spillover effects on the whole economy because of the complex set of future regulation constraints.[113] His point rests on the notion that as regulators create more intricate rules to close loopholes, financial institutions seek new ways to exploit these regulations in their quest for profit maximisation. Petitjean's concerns are valid and warrant careful consideration as the financial regulations evolve, banks also find new strategies to maximise their profit-making position. The researcher has a slightly different view of this proposition. The researcher submits that a robust regulatory framework in the banking sector can help with adequate enforcement of banking laws and adequate supervision of banks which prevents the intent to undermine financial regulations. In this regard, the researcher opines that while regulatory arbitrage

---

111 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 236; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; see related comments Gianfrate, Santangelo and Zanetti 2012 *Corporate Ownership and Control* 490; Dzomira 2014 *Journal of Governance and Regulation* 77.

112 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 236; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 852; Njanike 2009 *Annals of the University of Petrosani, Economics* 177; Munoangira and Kaja 2016 *European Journal of Business and Management* 198.

113 Petitjean M "Bank Failures and Regulation: A Critical Review" 2013 *Journal of Financial Regulation and Compliance* 16, 17; see related in Mbizi R "An Analysis of the Impact of Minimum Capital Requirements on Commercial Bank Performance in Zimbabwe" 2012 *International Journal of Independent Research and Studies* 124, 125; see Boyer PC and Kempf H "Regulatory Arbitrage and the Efficiency of Banking Regulation" 2020 *Journal of Financial Intermediaries* 1, 7.

presents a significant challenge, a multi-facetted approach combining agile regulation, international cooperation and a focus on financial institution culture could mitigate its adverse effects on the economy.

Chipatiso and Kawadza argue that when a bank is in distress or on the brink of insolvency, curatorship is used as a restructuring mechanism.[114] Similarly, Zimbabwean banking statutory laws only provide curatorship as the only restructuring mechanism available for distressed or insolvent banks and do not provide other mechanisms such as business rescue procedures. In addition, Chipatiso and Kawadza contend that curatorship has some fundamental shortcomings when applied to the banks to which business rescue is a panacea.[115] In this regard, the scholars highlighted that according to the history of bank failures in South Africa, fundamental regulatory framework reform is required to curb further bank collapse and enhance economic recovery.[116] To understand the causes of bank failures in Zimbabwe, the researcher traces the history of bank failures in Zimbabwe and compares it to the history of bank failures in South Africa, the UK and the international best practices. This comparative analysis leads to the proposal of robust and effective measures to mitigate the causes of bank failures in Zimbabwe.

Chipatiso and Kawadza are against the exclusive discretion of the South African Reserve Bank (SARB) in deciding whether or not a bank should be placed under

---

114 Chipatiso and Kawadza 2018 *JCCL&P* 40; Njanike 2009 *Annals of the University of Petrosani, Economics* 173; Sanderson, Mare and De Jongh 2017 *South African Journal of Sciences* 16; see related by Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207.

115 Chipatiso and Kawadza 2018 *JCCL&P* 50; see Lawa, Zogli and Dhlamini 2017 *Journal of Economics* 94; see related comments by Munoangira and Kaja 2016 *European Journal of Business and Management* 205.

116 See Havemann 2021 *Economic History of Developing Regions* 321; Chipatiso and Kawadza 2018 *JCCL&P* 42; Lawa, Zogli and Dhlamini 2017 *Journal of Economics* 105; see related comment by Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223.

curatorship.[117] Furthermore, the scholars emphasise the criticism against curatorship in the South African banking sector. Chipatiso and Kawadza contented that, unlike business rescue which allows affected individuals or directors to initiate corporate rescue proceedings, an affected person or director cannot approach the court to place the bank under curatorship. The statutory banking laws and regulatory framework have similar inadequacies of not incorporating business rescue mechanisms to allow individuals or directors of banks to initiate corporate rescue proceedings and try to bail out affected banks and prevent bank failures in Zimbabwe. Similarly, the researcher submits that it is imperative to consider incorporating business rescue to save distressed banks in Zimbabwe especially those that are not considered to be "too big to fail", which may not be afforded a chance for rescue under curatorship. Therefore, curatorship and business rescue should be integrated into the *Banking Act* to address fundamental shortcomings within the banking sector that lead to bank failures in Zimbabwe. In addition, the researcher submits that the exclusive discretion placed upon the RBZ for the curatorship of the Zimbabwean banks could be reduced.

Bonga is of the view that a sound financial sector is a vital component for faster economic development.[118] He further contends that if a financial sector is efficient, then it should show profitability improvements, increased funds intermediation, better prices for financial products and quality services for consumers.[119] Enhancing these

---

117 Chipatiso and Kawadza 2018 *JCCL&P* 42; Bradstreet R "The leak in the Chapter 6 Lifeboat: Inadequate Regulation of Business Rescue Practitioners May Adversely Affect Lenders' Willingness and the Growth of the Economy" 2010 *South African Mercantile Law Journal* 195, 197; Havemann 2021 *Economic History of Developing Regions* 321; see related comments by DE Jager 2013 *South African Mercantile Law Journal* 343.

118 Bonga 2021 *Social Science Research Network* 1 available at https://ssrn.com/abstract=3917142; Chinoda, Chingombe and Chawuruka 2015 *IOSR Journal of Economics and Finance* 62; Chipatiso and Kawadza 2018 *JCCL&P* 41; Dingirai and Katuka 2014 *International Journal of Economics and Finance* 245.

119 Bonga 2021 *Social Science Research Network* 8; Mwatetsera *et al* 2022 *Journal of Economics, Business and Accountancy Ventura* 441; Chinoda, Chingombe and Chawuruka 2015 *IOSR Journal of Economics and Finance* 62 agree with Akintoye and Somoye (2018) who provided factors necessary to inspire and sustain confidence in the banks, keep it open and operating enabling banking industry to take full advantage of its profitable growth; Sithole and Mtetwa 2009 *UNISWA Research Journal* 47.

key attributes within the financial sector fosters greater trust and confidence in banks, thereby motivating individuals to invest their funds rather than keeping cash at home or resorting to informal banking channels. This proactive approach prevents the risk of disintermediation, ensuring the resilience and efficacy of the banking sector. Furthermore, it reduces the chances of bank failures while stimulating savings and investments, thereby increasing economic growth and making increased profits from the banking business. The banks' performance and survival are highly interdependent such that an elevated degree of public confidence is of utmost importance in maintaining the profitability and liquidity of the financial institutions. The positive performance of the banking sector instils confidence in the public, leading to an increased use of bank accounts, higher deposits and expanded lending activities. This, in turn, enables banks to create more assets and generate more revenue.

Apart from trust and confidence in the banking sector, other factors that cause bank failures in Zimbabwe include legislative weaknesses, lack of supervisory capacity, liquidity crisis, weakness in the country's business environment, poor financial condition of several state-owned enterprises and weak governance.[120] In addition, non-performing loans, insider lending, and bank-wide liquidity crises are among the causes of bank failures in Zimbabwe.[121] Liquidity problems can lead to insolvency, underscoring the necessity for banks to maintain a consistently high level of liquidity to ensure sound operation. This ensures that banks can meet both current and future financial obligations effectively.

---

120 Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 1 states that a serious liquidity crisis ensured, leading to the failure of 13 indigenous banks in one year, and extreme chaos in the Zimbabwean banking industry; Nyoni and Bonga 2017 *Dynamic Research Journals* (*DRJ*) 45; Sithole and Mtetwa 2009 *UNISWA Research Journal* 47; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846.

121 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 225; Sithole and Mtetwa 2009 *UNISWA Research Journal* 47; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 3; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 848; Nyoni and Bonga 2017 *Dynamic Research Journals* (*DRJ*) 45; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 172.

1.8 Assumptions and Hypothesis

1.8.1 Assumptions

This research is based on the following assumption:

a) There is likely to be a significant correlation between poor enforcement of banking laws, weak supervisory structure and bank failures in Zimbabwe. Inadequate enforcement of banking laws weakens the regulatory and supervision processes and often fails to adequately monitor and enforce compliance with risk management standards, capital adequacy and liquidity requirements.[122] Lack of enforcement of banking laws can also lead to poor governance, unchecked risky behaviour and inadequate oversight of financial institutions, increasing the likelihood of bank failures. In addition, without effective enforcement of banking laws and supervisory mechanisms, early warning signals are missed and banks become more vulnerable to insolvency, triggering systemic risks and bank failures.[123] It is assumed that there is no effective enforcement of statutory provisions governing the banking sector to prevent bank failures in Zimbabwe.

b) Factors such as economic instability, inflation, weak governance and weak internal control mechanisms within banks play a significant role in causing bank failures

---

122 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222; see related comments by Mlambo and Mupunga 2018 *The African Finance Journal* 3; see related comments by Havemann 2021 *Economic History of Developing Regions* 335; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Ofari-Sasu *et al* 2021 *Review of Development Finance* 77.

123 Chokuda and Chokuda -Santu 2021 *Midlands State University Law Review* 4 states that the external supervision and monitoring function failed to curb repeated manifestations of poor governance such as inadequate board oversight, inexperienced management, undue influence by dominant shareholders, non-performing insider loans and so on, which were cited as being chief causes of bank failures; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 229 states Zimbabwean banks are identified as failing after they are already collapsed; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19 states that regulatory forbearance may be considered to be lax before crisis and only stringent afterwards; Njanike 2009 *Annals of the University of Petroşani, Economics* 176.

in Zimbabwe.[124] For instance, high inflation erodes the value of assets and destabilises lending and borrowing, making it challenging for banks to maintain liquidity.[125] Weak corporate governance within banks, such as poor decision-making and lack of oversight by boards and executives of the bank often results in risky lending practices and mismanagement.[126] Similarly, weak internal controls can lead to financial misconduct, misappropriation of funds and operational inefficiencies, all of which may contribute to financial distress and cause bank failures in Zimbabwe.[127]

In addition, the volatility of the economy, such as high inflation rates and currency instability, governance deficiencies and inadequate risk management practices can lead to financial distress and eventual bank failures in Zimbabwe.[128] A high inflation rate devalues local currency, complicates financial forecasting and increases the cost of operations, making it difficult for banks to sustain profitability. Currency instability also leads to loss of depositor confidence and may cause bank failures.

---

124 Tembo J "Bank Failures in Zimbabwe" 142; see also Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 845; see Chipatiso 2018 *JCCL&P* 38; Sanderson, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Waweru and Kalani 2009 *Global Journal of Finance and Banking Issues* 23.

125 Sanderson, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Waweru and Kalani 2009 *Global Journal of Finance and Banking Issues* 23; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 96.

126 Dzomira 2014 *Journal of Governance and Regulation* 77; Tembo "Bank Failures in Zimbabwe" 142; Tadu and Mukonya 2016 *Journal of Research in Business, Economics and Management* 954; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45

127 Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 330; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Science* 4; Chitimira and Ncube 2021 *PER/PELJ* 8; see related comments in Coomer and Gstraunthaler 2011 *The Quarterly Journal of Austrian Economics* 339.

128 Sithole and Mtetwa 2009 *UniSWA Research Journal* 54; Hupkes "Insolvency – Why a Special Regime for Banks?" 33; see related in Munoangira and Kaja 2016 *European Journal of Business and Management* 197; Chokuda-Santu, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 208.

c) Inadequate enforcement of banking laws, inadequate supervision and outdated banking laws may reduce the effective prevention and mitigation of risks that cause bank failures in Zimbabwe.

1.8.2 Hypothesis

A significant number of reported bank failures experienced in Zimbabwe could be an indication that the current relevant banking laws are inadequate or poorly enforced to effectively combat bank failures.[129] Banks such as Century Bank Limited, Metropolitan Bank, Time Bank, NMB Bank, CFX Bank, Royal Bank, Barbican Bank, Renaissance Bank, Interfin Merchant Bank, Genesis Investment Bank, ZABG and AfriAsia Bank, among others, collapsed.[130] Zimbabwe's banking statutory framework appears outdated and tends to be outpaced by the changing financial landscape, thereby failing to address emerging risks. The increase in technological advancements has led to the introduction of new financial products. The shift towards digitisation could pose threats to the viability of banks in Zimbabwe as customers may bypass traditional banking services. The disintermediation of banking services such as peer-to-peer (P2P) lending platforms and decentralised finance solutions can offer alternatives to conventional lending. However, it reduces the banks' profitability and relevance, thereby causing bank failures in Zimbabwe. The banking regulatory framework in Zimbabwe may not be fully equipped to handle the complexities of digital banking such as compliance risks around data protection and anti-money laundering compliance. Banks in Zimbabwe may face challenges in effectively controlling and managing risks posed by high inflation and

---

129 Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Dzomira 2014 *Journal of Governance and Regulation* 77; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 5; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Chitimira and Ncube 2021 *PER/PELJ* 8; Muranda 2006 *Corporate Governance* 650.

130 Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232; Chitimira and Ncube 2021 *PER/PELJ* 8; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 240; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 4; Dzomira 2014 *Journal of Governance and Regulation* 77.

currency instability. This may be partially due to weaknesses in the existing banking laws and regulations, such as the lack of detailed guidelines for identifying and managing certain financial risks. As a result, the inability to cope with such factors leads to insolvency and closure of banks in Zimbabwe.

1.9 Justification for Comparative Study

The researcher analyses Zimbabwe's banking statutory framework and compares it to those of South Africa, the UK and international best practices on banking regulation. The two mentioned countries offer a comprehensive set of banking regulations and practices that enable the identification of key areas that may be improved in Zimbabwe's regulatory framework. South Africa and the UK's banking laws are robust and effectively enforced due to advanced risk management standards and comprehensive oversight mechanisms, which have proven effective in maintaining financial stability.

South Africa and the UK represent different regions. In this regard, the two countries offer different insights from regional and global economic contexts that can be adapted to improve Zimbabwe's banking law enforcement. South Africa and the UK have distinct banking laws that can assist in providing a broader perspective on the various approaches and frameworks that can prevent bank failures in Zimbabwe.[131] South Africa and the UK employ the Twin Peaks model with strong capital adequacy and resolution frameworks. In addition, both countries have successfully adopted international best practices on bank regulation and supervision to prevent bank failures.

---

[131] Culp CL "OTC-Cleared Derivatives: Benefits, Costs, and Implications of the "Dodd-Frank Wall Street Reform and Consumer Protection Act" " 2010 *Journal of Applied Finance* 1, 3; Stephens DO "The *Sarbanes-Oxley Act*: Records Management Implications" 2005 *Records Management Journal* 98; See related in Kaur B, Sood K and Grima S "A Systematic Review on Forensic Accounting and Its Contribution Towards Fraud Detection and Prevention" 2022 *Journal of Financial Regulation and Compliance* 60, 63; see related on Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19.

South Africa and the UK are also major players in the global financial markets. The two countries are considered major players in the global financial markets due to their well-established financial sector, robust regulatory frameworks and active participation in international financial institutions.[132] On the one hand, South Africa has the most developed banking sector in Africa, it serves as a financial gateway to the continent and is a key member of global organisations such as the Financial Stability Board and the G20.[133] On the other hand, the UK is a leading centre for banking, insurance and asset management, playing a crucial role in international finance with the global financial hub in London.[134] Analysing the banking laws of South Africa and the UK and the international best practices on bank regulation and supervision can provide valuable lessons for Zimbabwe policymakers to develop legislation addressing challenges causing bank failures.

South Africa shares certain similarities with Zimbabwe in socioeconomic factors such as historical legacies, geographical proximity and developmental challenges. South Africa has the most developed and diverse banking sector on the African continent, with a wide range of banks, including large multinational banks, regional banks and

---

132 See related in Nyakurukwa 2021 *Journal of African Business* 553; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 485; Mora N and Logan A "Shocks to Bank Capital: Evidence from UK Banks at Home and Away" 2012 *Applied Economics* 1103, 1106; Hupkes E "Insolvency – Why a Special Regime for Banks?" 2002 *Current Development in Monetary and Financial Law* 1, 30; Evemy J "The Bank of England, Operational Independence and the Financial Crisis" 2019 *British Politics* 347, 349; Chambers C "Banking on Reform in 2010: Is Regulatory Change Ever Enough and Will the General Election Hold the Answers for the Financial Services Industry" 2010 *The Law Teacher* 218, 221.

133 Muyambiri B and Odhiambo NM "A Chronological Analysis of Monetary Policy and the Financial System in South Africa" 2014 *Public and Municipal Finance* 19, 20; Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1184; Okeahalam 1998 *African Journal of Political Sciences* 30; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 191.

134 Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 485; Mora and Logan 2012 *Applied Economics* 1103, 1106; Hupkes E "Insolvency – Why a Special Regime for Banks?" 2002 *Current Development in Monetary and Financial Law* 1, 30; Evemy J "The Bank of England, Operational Independence and the Financial Crisis" 2019 *British Politics* 347, 349; Chambers 2010 *The Law Teacher* 221.

smaller local banks.[135] In addition, it has a relatively well-established banking statutory framework overseen by institutions such as PRA and the FSCA.[136] South Africa has adopted the Twin Peaks model, which creates two regulators in the financial services industry and related structures, and these include the prudential regulator in the PRA and the market conduct regulator in the FSCA.[137] Comparing Zimbabwe's banking sector to South Africa's would provide insights into varying scales and highlight differences in governance structures, regulatory compliance, and their impact on banking supervision and stability.

The UK has a developed banking statutory framework that extensively provides for robust bank supervision and promotes mitigation of the causes of bank failures. Both Zimbabwe and the UK share historical ties due to Zimbabwe's colonial past as a British territory.[138] This historical connection can provide insights into how colonial legacies

---

135 Muyambiri and Odhiambo 2014 *Public and Municipal Finance* 20; Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1184; Okeahalam 1998 *African Journal of Political Sciences* 30; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 191 who contend that the South African financial system is well functioning and well regulated, encompassing a developed banking sector as well as a developed stock market; Botha and 2011 *International Business & Economics Research Journal* 35; Moyo 2018 *South African Journal of Economic and Management Sciences* 3 affirms that the South African banking system is well developed and effectively regulated, comprising of a central bank, the SARB, a few large banks and investment institutions, and a number of smaller banks, as well as lending and savings organisations.

136 See section 56 of the *FSR Act* which established the FRSA, while the PA was established in terms of section 32 of the *FSR Act*; see Prudential Authority Regulatory Strategy 2021-2024 2; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; See Godwin A, Howse T and Ramsay I "Twin Peaks: South Africa's Financial Sector Regulatory Framework" 2017 *South African Law Journal* 665, 666; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see related comments by Okeahalam 1998 *African Journal of Political Science* 29 states that South African banks are subjected to two types of regulations -economic and prudential; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

137 See sections 32 and 56 of the *FSR Act*; see Prudential Authority Regulatory Strategy 2021-2024 2; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Mishi and Khumalo 2019 *Banks and Bank Systems* 123; Botha and Makina *2011 International Business & Economic Research Journal* 34.

138 Munangagwa 2009 *Gettysburg Economic Review* 111; Nhavira and Ocran 2012 *Journal of Strategic Studies* 11; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Simwayi and Haseed 2012 *Journal of Money Laundering Control* 119.

have influenced the development and regulation of banking sectors, regulatory frameworks and financial institutions. The UK's banking laws are overseen by institutions such as the Bank of England, the FCA and the PRA.[139] The UK adopted the Twin Peaks model supervision mechanisms which is a comprehensive approach to banking supervision that seeks to share the powers to supervise financial institutions and ensure adequate enforcement of the banking laws.[140] Arguably, the Twin Peaks model could potentially enhance the enforcement of relevant banking laws and supervision of banks by creating a more effective supervision structure to enforce such laws in Zimbabwe. The Twin Peaks model could enhance Zimbabwe's banking statutory framework by dividing responsibilities between two separate regulators.

The Twin Peaks model separates prudential regulation from conduct supervision, which may lead to a more focused and effective approach to bank oversight improving regulatory compliance and reducing systemic risks. In other words, the separation allows for more focused oversight as the prudential regulator would concentrate on maintaining financial stability and monitoring bank insolvency. In contrast, the conduct regulator ensures fair treatment of consumers and enforces compliance with banking laws. This dual approach reduces regulatory gaps, minimises conflicts of interest and strengthens the enforcement of the relevant banking laws, ultimately contributing to

---

139 Schoenmaker D and Veron N "A Twin Peaks Vision for Europe" in Godwin A and Schmulow A *The Cambridge Handbook of Twin Peaks Financial Regulation* (Cambridge University Press 2018) 4; Godwin A, Kourabas S and Ramsay I "Twin Peaks and Financial Regulation" 2016 *The International Lawyer* 273, 295; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Forbes WP, Donohoe SO and Prokop J "Financial Regulation, Collective Cognition, and Nation State Crisis Management: A Multiple Case Study of Bank Failures in Germany, Ireland and the UK" 2015 *The Journal of Risk Finance* 284, 298; Avgouleas E "Banking Supervision and the Special Resolution Regime of the Banking Act 2009: the Unfinished Reform" 2009 *Capital Markets Law Journal* 201, 233 contend that the Twin Peaks approach to financial supervision seems superior.

140 Avgouleas 2009 *Capital Markets Law Journal* 233 states that under the Twin Peaks structure the FSA would remain responsible for the supervision of business conduct, market conduct and market integrity (Insider dealing, market manipulation) and consumer protection; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5; see the Prudential Regulation Authority's approach to banking supervision, October 2018, at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors 4 accessed 9 October 2024.

a more stable and transparent banking environment which minimises the chances of bank failures.

The UK's banking sector has undergone significant reforms following the global financial crisis of 2008 to enhance stability, resilience and consumer protection, which can shed light on factors such as macroeconomic stability, regulatory oversight and risk management to ensure financial sector resilience.

Furthermore, the banking statutory frameworks in South Africa and the UK often serve as reference points for regulatory reforms in Zimbabwe.[141] A comparative analysis can draw lessons from the two countries in order to mitigate the causes of bank failures. A comparative analysis of the relevant banking laws of the selected countries also helps to identify how other countries have aligned their banking laws with international best practices in bank regulation and supervision in order to prevent bank failures.[142] International best practices are designed to ensure sound risk management, enhance financial stability and maintain the integrity of the banking system.[143] Analysis of the alignment to international best practices reveals how global standards, such as the Basel Accords, are being implemented locally and adapted to specific economic and legal environments, promoting consistency and robustness in bank regulation and

---

141 Kaur, Sood and Grima 2022 *Journal of Financial Regulation and Compliance* 64; see related in Chitimira and Ncube 2021 *PER/PELJ* 22; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19.

142 Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 3; Nyakurukwa 2021 *Journal of African Business* 550; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 485; see related comments in Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Special Issue* 99.

143 Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 3 avers that international best practices aim not only to enhance the stability of banks and the entire financial system but also to protect investors from expropriation by stakeholders with a controlling block; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Special Issue* 98 state that the BCBS seeks to enhance and promote financial stability through robust supervisory oversight of banking and other related financial institutions globally; see related in Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230-231; see related comments in Maune 2015 *Asian Economic and Financial Review* 175.

supervision to curb bank failures.[144] A comparative analysis gives the researcher some insights from banking laws of both developed and developing countries on the extent to which alignment with international practices has helped in curbing bank failures.

In addition, there is a wealth of literature available for analysis from South Africa and the UK, which makes it easier to gather relevant information that can be used for comparative purposes and enhance the current banking laws in Zimbabwe. Considering the above, Zimbabwe's policymakers can draw important regulatory lessons from South Africa and the UK in bank regulation and supervision to mitigate the causes of bank failures.

1.10 Scope and Limitations of the Study

The research primarily focuses on examining the causes of bank failures in Zimbabwe. It comparatively explores the banking laws in Zimbabwe, South Africa, the UK and the international best practices on regulation, supervision and practices of banks. The comparative exploration of the selected countries is essential to identify regulatory strengths and weaknesses across different countries. This comparative analysis helps to benchmark standards, understand diverse regulatory approaches and recommend reforms for enhancing financial stability, legal harmonisation and resilience in the banking sector.

The researcher acknowledges that banking laws are not the universal cure for addressing bank failures in Zimbabwe. Other variables that fall under economics, political studies and other disciplines also cause bank failures in Zimbabwe. However, this research focuses on examining the relevant banking laws in order to expose flaws and weaknesses that possibly contribute to bank failures in Zimbabwe. The researcher

---

[144] Nyakurukwa 2021 *Journal of African Business* 553; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3; RBZ 2019 Bank Supervision Annual Report available at https://www.rbz.co.zw/documents/BLSS/2019/Bank-Supervision-Annual-Report-2019-.pdf 19-20.

compares Zimbabwe's relevant banking laws to those of South Africa and the UK to assess their similarities and differences. The researcher pays attention to the laws that govern banks and provisions that seek to reduce the causes of bank failures. The analysis focuses on the robustness of the banking laws in mitigating the causes of failures of banks in Zimbabwe.

The researcher discusses relevant statutes such as the *Banking Act*,[145] the *Reserve Bank of Zimbabwe Act*,[146] the *Trouble Financial Institution (Resolution) Act* and the *Deposit Protection Corporation Act*.[147] Zimbabwe's banking sector has various statutes, but the researcher only discusses those relevant to address the causes of bank failures in Zimbabwe.[148] Relevant statutes addressing the causes of bank failures in Zimbabwe allow the research to offer specific recommendations for improving the banking laws

---

145 Section 3 the *Banking Act*; see related on Makena P "Banking Industry Competition and Stability in Zimbabwe" 2021 *African Economic Research Consortium* 1, 5; Ndlovu MW, Bhiri T, Mutambanadzo T and Hlahla BP "A Comparative Analysis of the Corporate Governance Practices in Multinational and Domestic Banks in Zimbabwe" 2013 *Journal of Emerging Trends in Economics and Management Sciences* 473; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 5 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4.

146 Section 3 the *RBZ Act*, Njanike K "Central Bank Independency on the Development of the Financial Sector. A Case of Reserve Bank of Zimbabwe (1998-2008)" 2010 *Annals of the University of Petrosani, Economics* 251, 253; Moyo IL, Gumbo V, Chikodza E and Jones B "An Empirical Study on the Factors Influencing the Performance of Financial Institutions Zimbabwe" 2019 *International Journal of Finance and Banking Studies* 1, 2; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 6 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024; Makena 2021 *African Economic Research Consortium* 4; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

147 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Research Unit* 09; Nyoka 2015 *Banks and Bank System* 9; see related comments by Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; De Jager 2013 *South African Mercantile Law Journal* 355; also see Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19.

148 Section 4(1) of the *Bank Use Promotion and Suppression of Money Laundering Act* [Chapter 24:24] 2of 2004 (*Money Laundering Act*); Chitimira and Ncube 2021 *PER/PELJ* 11; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; Sanderson, Mare, De Jongh 2017 *South African Journal of Science* 15; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioural Studies* 207; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Chitimira and Ncube 2021 *PER/PELJ* 8.

where gaps or deficiencies are identified, directly addressing the issues contributing to bank failures. Furthermore, the researcher seeks to determine whether the banking laws adequately protect banks against the factors that cause bank failures in Zimbabwe. This is achieved by reviewing banking laws and analysing the enforceability of such laws, how they have evolved in response to past bank failures, and whether these changes are sufficient to prevent future bank collapses.

This study explores the external factors contributing to bank failures in Zimbabwe such as weak governance of banks, excess credit, market or operational risks, over-trading, chronic liquidity, corporate governance and political instability.[149] Exploring these external factors forms the broader context within which banks operate, and how relevant banking statutes are enforced, which gives insights into systemic vulnerabilities and the causes of bank failures in Zimbabwe. Other aspects explored in this research include the internal factors contributing to the causes of bank failures in Zimbabwe such as poor asset quality, inadequate capitalisation, mismanagement and overreliance on single products. By exploring these internal factors, the research aims to provide a holistic understanding of the root causes of bank failures in Zimbabwe. The research does not rely on empirical data to investigate the causes of bank failures in Zimbabwe. It focuses on analysing the banking statutory framework, enforcement and compliance with banking legislation, and supervision and monitoring of banks in order to mitigate and curb bank failures in Zimbabwe. These perspectives typically rely more on qualitative data such as statutory analysis, regulatory guidelines or policy reviews rather than empirical evidence.

1.11 Research Methodology

This thesis makes use of a comparative legal analysis and doctrinal studies research methodology. In this regard, the researcher makes a comparison of relevant banking

---

[149] Chikoko 2013 *Journal of Applied Finance and Banking* 102; Chinoda 2014 *Journal of Economics and Finance* 70; Dzomira 2014 *Journal of Governance and Regulation* 75; Munoangira and Kaja 2016 *European Journal of Business and Management* 200.

laws dealing with the mitigation of the causes of bank failures in Zimbabwe, South Africa and the UK. A comparative approach allows for a comprehensive understanding of the regulatory landscape of different countries that help identify improvements and best practices that can be adapted to the banking sector in Zimbabwe. Moreover, the doctrinal research approach[150] assists the researcher in analysing the position of the existing banking laws, journal articles, books, and relevant case laws on the causes of bank failures in Zimbabwe. By comparing and examining the banking statutory frameworks of these countries, the researcher can identify similarities, differences, strengths and weaknesses that may lead to bank failures. The findings can assist policymakers in developing robust banking laws to prevent bank failures in Zimbabwe. Accordingly, the researcher does not use interviews, questionnaires, or any other empirical research methods in conducting this research. Furthermore, the researcher does not adopt a multi-disciplinary approach, but a legal analysis approach.

The researcher uses the following research methods:

a) Primary and secondary sources

The researcher analyses the pertinent information in the existing primary sources consisting of relevant legislation in Zimbabwe, such as the *Banking Act*, the *Reserve Bank of Zimbabwe Act*, the *Trouble Financial Institution (Resolution) Act* and the *Deposit Protection Corporation Act*. Furthermore, relevant banking laws in South Africa and the UK are discussed to compare with the Zimbabwean banking legislation to gain insight into the statutory frameworks of the two countries. Policy documents and case

---

[150] Dixon M "A Doctrinal Approach to Property Law Scholarship: Who Cares and Why?" 2015 *Researching Property Law* 1, 6 states that a doctrinal approach is initially the search for what the law is, not what it should be; Kelso R "Statutory Interpretation Doctrine on the Modern Supreme Court and Four Doctrinal Approaches to Judicial Decision-Making" 1997 *Pepperdine Law Review* 37, 38 states that doctrinal approach focuses on the statutory interpretation and focuses almost exclusively on the plain meaning of the statute's text, augmented by consideration of the text of related statutes and by consideration of the traditional canons of statutory construction; Vranken JBM "Methodology of Legal Doctrinal Research: A Comment on Westerman" 2010 *Methodologies of Legal Research* 112, 118; Krishnakumar A S "Statutory Interpretation in the Roberts Court's First Era: An Empirical and doctrinal Analysis" 2010 *Hastings Law Journal* 221, 224.

laws with authoritative evidence are also discussed. The secondary sources include journal articles, books, and other internet sources that give insight into the definitive proof of primary sources. For purposes of this research, the North-West University *Potchefstroom Electronic Law Journal* referencing style is used.

b) Library

A library is a collection of sources of information such as books and periodicals. The library provides the researcher with hard copy or digital access to relevant material on the laws regulating banks in the selected jurisdictions. The researcher used relevant materials, such as books, case law, journal articles, legislation, and other relevant materials to gather information from authoritative and reliable sources that contribute to in-depth and valid scholarly perspectives on bank failures.

c) Comparative Research Method

The researcher compares the banking statutory frameworks of Zimbabwe to those of South Africa and the UK to explore if they adequately and robustly mitigate the causes of bank failures. South Africa has successfully developed its banking sector, by enacting relatively good banking laws that are adequate to mitigate bank failures.[151] Also, South Africa serves as a good comparator given that it is up to date with prudential requirements, something Zimbabwe could be struggling with.[152] South Africa's experience in developing statutes provides relevant and appropriate lessons that Zimbabwe can use to mitigate the factors that cause bank failures.

---

151 Muyambiri and Odhiambo 2014 *Public and Municipal Finance* 20; Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1184; Okeahalam 1998 *African Journal of Political Sciences* 30; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 191.

152 Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Mabwe and Robert 2010 *African Review of Economics and Finance* 31; Hawkins 2004 *Development Southern Africa* 183; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; see Businesstech Banking "The Biggest Banks in South Africa in 2023" (5 October 2024) available at https://businesstech.co.za/news/banking/701565/the-biggest-banks-in-south-africa-in-2023/ accessed 24 March 2024; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304.

The UK's banking statutory framework is also robust in mitigating the causes of bank failures. The UK's financial sector consists of multiple regulatory agencies responsible for overseeing different aspects of the banking sector and ensuring the soundness and stability of banks. Like the UK's financial sector, South Africa has adopted the Twin Peaks model to give proper effect to the financial soundness, market integrity and consumer protection objectives.[153] While it is yet unproven whether the Twin Peaks model can effectively prevent bank failures, the researcher uses comparative jurisdictions that have adopted it in order to gain insight into how best the model can help in the effective enforcement of banking laws and supervision of banks to mitigate causes of bank failures in Zimbabwe. Therefore, the UK's approach to fortification of the banking laws and regulations may also provide insights into the development of Zimbabwe's banking laws and regulations[154]. The UK may provide essential guidelines to developing countries on legislating the banking sector to mitigate the causes of bank failures amid disruptive factors such as high inflation, interest rate volatility, and political instability. During the global financial crisis, the UK experienced several bank failures and developed measures to mitigate such failures.[155] These measures could potentially provide valuable insights for developing countries like Zimbabwe to strengthen their banking framework.

---

153 Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112; Mishi and Khumalo 2019 *Banks and Bank Systems* 123; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Botha and Makina *2011 International Business & Economic Research Journal* 34.

154 Haentjens M "Bank Recovery and Resolution: An Overview of International Initiatives" 2014 *International Insolvency Law Review* 255, 269; Forbes WP, Donohoe SO and Prokop J "Financial Regulation, Collective Cognition, and Nation State Crisis Management: A Multiple Case Study of Bank Failures in Germany, Ireland and the UK" 2015 *The Journal of Risk Finance* 284, 292; Chambers 2010 *The Law Teacher* 223; Avgouleas E "Banking Supervision and the Special Resolution Regime of the Banking Act 2009: the Unfinished Reform" 2009 *Capital Markets Law Journal* 201, 212.

155 Godwin A, Kourabas S and Ramsay I "Twin Peaks and Financial Regulation" 2016 *The International Lawyer* 273, 295; Hall MJB "The Sub-prime Crisis, the Credit Crunch and Bank Failure: An Assessment of the UK Authorities' Response" 2009 *Journal of Financial Regulations and Compliance* 427, 444; Kanas 2005 *Journal of Applied Economics* 119; Lastra 2008 *Journal of Banking Regulation* 169.

International best practices on banking regulation intend to curb the causes of bank failures by providing international prudential standards guided by ongoing advancement in the banking sector.[156] International bodies such as the Basel Committee on Banking Supervision (BCBS) and the International Monetary Fund (IMF) provide key regulatory approaches, supervisory mechanisms and financial safeguards to curb bank failures.[157] International best practices on banking regulations include prudential standards that aim to enhance bank resilience during periods of stress and address system-wide risks that may lead to bank failures.[158]

d) Historical Analysis

This method is used in Chapter Two. The historical overview of the banking legislation in Zimbabwe is discussed in Chapter Two. Moreover, other measures and legal amendments made to prevent bank failures are explored to gain insight into how far they go in addressing the challenges of bank failure in Zimbabwe.

1.12 Statement Regarding Research Ethics

The research employs a qualitative research methodology which is a type of research that collects and uses non-numerical data to understand concepts, opinions, or personal experiences by scholars in the selected jurisdictions. All the primary and secondary sources used are referenced fully. The research is based on primary and

---

156 Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 3; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Special Issue* 98; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230-231; see related comments in Maune 2015 *Asian Economic and Financial Review* 175.

157 Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 3; Nyakurukwa 2021 *Journal of African Business* 550; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 485; see related comments in Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Special Issue* 99; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3.

158 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230-231; Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 3; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Special Issue*; Maune 2015 *Asian Economic and Financial Review* 175.

secondary sources. The primary sources include the banking statutes and relevant case law in Zimbabwe, South Africa, the UK and the international best practices on banking regulation. Secondary sources include books, journal articles, and Internet sources that are relevant to the regulation of the bank sector to curb the causes of bank failures in Zimbabwe. No individual or group interviews and questionnaires are used as research instruments to hold any discussions concerning topics or issues that might be sensitive, embarrassing, or upsetting to anyone. No criminal and /or other disclosures requiring legal action or that have potential adverse effects, risks, or hazards for research participants are made during this study. The research does not directly or indirectly affect any person's rights.

1.13 Relevance for the Research Unit Theme

The study focuses on the relevant banking laws regulating the supervision and monitoring of banks to prevent the causes of bank failures in Zimbabwe. The research falls under the Law, Justice, and Sustainability Research Unit, specifically in the Finance, Trade and Innovation sub-project of the Faculty of Law at the North-West University. The study compares the relevant banking regulatory framework in Zimbabwe, South Africa, the UK and the international best practices on banking regulation. This is done to identify weaknesses and strengths in the Zimbabwean banking regulatory framework so as to recommend possible law reforms to prevent and curb future bank failures in Zimbabwe. In addition, some parts of the study are expected to be published as book chapters or journal articles.

1.14 Structure of the Thesis

This thesis has nine chapters, as outlined below:

Chapter One provides the research outline and context. The chapter contains the problem statement, research question, scope and limitations of the study, rationale and justifications of the research, aims and objectives of the study, research methodology, and literature review. It also outlines the structure of the study.

Chapter Two traces the history of bank failures in Zimbabwe and the adequacy of the relevant banking laws and regulations enacted to address such failures from 1980 to

2023. The period 1980 to 2023 covers a comprehensive historical timeline that captures the evolution of Zimbabwe's banking sector post-independence including regulatory changes, the establishment and growth of indigenous banks, periods of hyperinflation and multi-currency and economic reforms in Zimbabwe. Extending the study to 2023 allows for the analysis of recent banking law amendments and policy interventions aimed at addressing lingering issues that may lead to bank failures in Zimbabwe, providing a holistic view of the current banking regulatory environment.

Chapter Three discusses the current banking statutory regulatory framework in Zimbabwe. Statutes such as the *Banking Act*, the *Reserve Bank of Zimbabwe Act*, the *Bank Use Promotion and Suppression of Money Laundering Act*, and the *Deposit Protection Corporation Act* are discussed. This is done to critically evaluate and analyse their effectiveness in mitigating the occurrence of bank failures in Zimbabwe.

Chapter Four discusses the selected role players in the regulation of banks in Zimbabwe. These role players involved in the banking sector activities play a vital role in ensuring the sustainability and stability of the banks. These include the Reserve Bank of Zimbabwe, banking institutions, the Ministry of Finance, the regulatory bodies and Economic Development and the Zimbabwe Stock Exchange.

Chapter Five discusses the regulation of banks in a bid to prevent bank failures in South Africa. This is done to draw relevant lessons that could be incorporated into the Zimbabwean banking laws to mitigate the causes of bank failures in Zimbabwe.

Chapter Six discusses the United Kingdom's banking laws in a bid to learn from its experiences and practices regarding bank failures. Zimbabwe's banking sector could benefit from the experiences and practices drawn from the UK banking laws. Some recommendations are made to assist in developing Zimbabwean banking laws in order to effectively reduce the causes of bank failures.

Chapter Seven discusses the international best practices dealing with bank regulation and supervision on the prevention of bank failures and considers the attributes of international standards that the selected countries have adopted to benchmark the effectiveness of their approach to curb bank failures.

Chapter Eight provides the overall comparative analysis of the banking legislation and related regulatory measures adopted to prevent bank failures in Zimbabwe, South Africa and the United Kingdom.

Chapter Nine provides the conclusions and recommendations that can be adopted to curb bank failures in Zimbabwe.

The following chapter is Chapter Two and it discusses the historical background of regulation of banks and the causes of bank failures in Zimbabwe.

CHAPTER TWO

HISTORICAL BACKGROUND OF REGULATION OF BANKS AND THE CAUSES OF BANK FAILURES IN ZIMBABWE

2.1 Introduction

The banking sector plays a critical role in any nation's economic stability and development. It acts as a facilitator for financial transactions and a source of credit for individuals, businesses and the government.[159] However, several challenges can affect the banking sector and lead to bank failures, especially in a country such as Zimbabwe. These factors include poor implementation and enforcement of banking laws, weak corporate governance practices, and political and economic instability. Bank failures are not a problem unique to Zimbabwe only, they affect many countries across the world and quite often, the causes appear the same.[160]

---

159 Bonga WG, Chirenje G and Mugayi P "Analysis of Credit Culture in the Zimbabwean Banking Sector" 2019 *Journal of Economics and Finance* 45, 47; See the Reserve Bank of Zimbabwe (RBZ) Financial Stability Report dated 30 June 2014, 7 which states that a strong financial system plays a critical role in enabling growth and reducing vulnerability crises, essential for economic prosperity as well as social welfare and national security; Chagwiza W "Rejuvenating the Zimbabwean Economy: The Role of Banks" 2012 *Journal of Sustainable Development in Africa* 183, 189 states that the banking sector is the linchpin of the economy and its roles determine the direction of the economy; Muvingi J and Hotera S "Zimbabwe Commercials Banks Efficiency and Productivity Analysis through DER Malmquist Approach: 2002-2012" 2015 *Journal of Data Envelopment Analysis and Decision Science* 32; Nkomo F, Mafuka A, Mafumbate J and Charumbira M "An Analysis of the Causes of Bank Fragility in Zimbabwe (2003-2005) " 2013 *International Journal of Marketing and Technology* 1, 3.

160 Gumbo V and Zoromedza S "Bank Failure Prediction Model for Zimbabwe" 2016 *Applied Economics and Finance* 221, 222 contend that bank failure is a matter of concern to bank regulators worldwide and they continue to occur despite tightening regulations imposed by regulators worldwide; see related in Cebula RJ, Gillis W, McCrary SC and Capener D "New Evidence on the Impact of Economic Conditions and Banking Legislation on the Bank Failure Rate in the US, 1970 to 2014" 2016 *Journal of Financial Economic Policy* 364, 365; Munoangira A and Kaja P "Strategies to Enhance Public Confidence in the Zimbabwean Banking Sector" 2016 *European Journal of Business and Management* 195 contend that bank failures is the subject that gathered much attention worldwide over the last years with the failures of European banks, American banks and Asian banking crisis; Harvey C "Banking Policy in Botswana: Orthodox but Untypical" in Brownbridge and Harvey C *Banking in Africa: The Impact of Financial Sector Reform since Independence* (1998 Africa World Press, Inc) 30.

For historical and contextual purposes, this thesis discusses bank failures in Zimbabwe from 1980 to 2023. However, the researcher seeks to focus more on two notable bank failure waves that hit the banking sector in Zimbabwe. The first one is the 2003 to 2004 period. The second period is from 2012 to 2015. During these two specific periods, several banks collapsed in Zimbabwe. For this reason, it is imperative for the researcher to provide a detailed analysis of the causes of bank failures in Zimbabwe.[161]

Zimbabwe is a developing country beset with political and economic challenges that have crippled the banking sector and the economy in the past two decades. Some of these challenges include hyperinflation, economic mismanagement, political instability, foreign sanctions and isolation, foreign currency shortages and corruption and weak banking institutions.[162] There has been a series of financial crises and bank failures that have resulted in the collapse of 18 banks between 2000 and 2015 in Zimbabwe.[163] The collapse of these banks could be attributed to poor regulatory oversight and weak

---

161 Dzingirai C and Katuka B "Determinants of Bank Failures in Multiple-Currency Regime in Zimbabwe (2009-2012)" 2014 *International Journal of Economics and Finance* 229, 232.

162 Dzapasi FD "The Impact of Liquidity Management on Bank Financial Performance in a Subdued Economic Environment: A Case of the Zimbabwean Banking Industry" 2020 *PM World Journal* 1, 3; Tsaurai K "An Analysis of the Sufficiency of Credit Risk Management Framework in the Banking Sector in Zimbabwe" 2012 *Corporate Ownership and Control* 515, 516; Nyamunda T "'Open for Business' but Bankrupt: Currencies, the 'New Dispensation' and the Zimbabwean Economy" 2021 *Journal of Asian and African Studies* 204, 208; Mawaru NM and Kalani VM "Commercial Banking Crises in Kenya: Causes and Remedies 2009 *Global Journal of Finance and Banking Issues* 23, 32; Mlambo K and Mupunga N "Assessment of Competition in the Zimbabwean Banking Sector since Dollarisation" 2018 *The African Finance Journal* 1, 2; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 230.

163 Kabonga I and Marime R "In Search of Development: Zimbabwe Exemplar from 2000 to 2015" 2017 *Africanus Journal of Development Studies* 1, 2; Chagwiza W "Zimbabwean Commercial Banks Liquidity and Its Determinants" 2014 *International Journal of Empirical Finance* 52, 54; Mabvure TJ, Gwangwava E, Faitira M, Mutibvu C and Kamoyo M "Non-performing Loans in Commercial Banks: A Case of CBZ Bank Limited in Zimbabwe" 2012 *Interdisciplinary Journal of Contemporary Research in Business* 467, 469; Pasara MT and Garidzirai R "The Boomerang Effects: An Analysis of the Pre and Post Dollarisation Era in Zimbabwe" 2020 *Economies* 1, 2; Banks that have collapsed in Zimbabwe include, Interfin Bank, Tetrad Investment Bank, First National Building Society, Renaissance Bank, Intermarket Banking Corporation Limited, Intermarket Building Society, National Discount House Limited, CFX Merchant Bank, CFX Bank Limited, Century Discount House, Trust Bank, Zimbabwe Building Society, Time Bank, Royal Bank Zimbabwe Ltd, Universal Merchant Bank, Barbican Bank Ltd and United Merchant Bank; Tsaurai K "The Dynamics, Challenges and Transition of Banking Sector Development in Zimbabwe" 2018 *The Journal of Developing Areas* 85, 86.

corporate governance practices, loss of confidence in the banking sector and inadequate statutory provisions on issues such as insider lending, prudential regulations and suitability of directors.[164] Notwithstanding the efforts by the government and policymakers to stabilise the banking sector in Zimbabwe, various statutes were passed to enhance the regulation of the banking sector to curb bank failures.[165] However, the Zimbabwean banks have consistently struggled to effectively implement the banking laws and align with the requirements of international best practices. This has left many depositors without confidence in the banks, leading to rapid withdrawal of funds and subsequent liquidity crises, causing many banks to eventually fail.[166] Understanding the historical background and underlying causes of the bank failures in Zimbabwe is crucial in comprehending the multi-faceted challenges such as lack of banking law enforcement, poor corporate governance, and poor regulatory oversight the banking sector faces in the country.

In the first decade after political independence, that is, from 1980 to 1990, no bank failures were recorded in Zimbabwe. It should also be noted that no bank failures were also recorded from 1970 to 1980. During this period, commercial banks operating in Zimbabwe were exclusively subsidiaries of large international banks and were

---

164 Chitimira H and Ncube M "Towards Ingenious Technology and the Robust Enforcement of Financial Markets Laws to Curb Money Laundering in Zimbabwe" 2021 *PER/PELJ* 1, 6-8; Harvey "Banking Policy in Botswana: Orthodox but Untypical" 30; Nyamunda 2021 *Journal of Asian and African Studies* 214; see related comments in Mashingaidze S "Corporate Governance: Effectiveness of Zimbabwean Hard Law on Blockholders' Protection" 2014 *Corporate Ownership and Control* 549; 555.

165 Munoangira and Kaja 2016 *European Journal of Business and Management* 196; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 222, 223; Dzomira S "Analysis of Bank Failures during Financial Tumult in Africa-Zimbabwe: A Historical Overview" 2014 *Journal of Governance and Regulations* 75, 80; See related comments by Havemann R "The South African Small Banks' Crisis of 2002/3" 2021 *Economic History of Developing Regions* 313, 327.

166 Chagwiza 2014 *International Journal of Empirical Finance* 53; Dzapasi 2020 *PM World Journal* 3; Chikoko L "Zimbabwean Commercial Banks Liquidity Risk Determinants after Dollarisation" 2013 *Journal of Applied Finance and Banking* 97, 99; Shambare R "Technology Readiness and EFTPoS Usage in Zimbabwe" 2013 *International Journal of Business and Economic Development* 13, 14; Nyoni T "Information Asymmetry in the Banking Sector: A Zimbabwean Scenario" 2018 *International Journal of Marketing and Financial Management* 45, 48, Njanike K "The Impact of Globalisation on Banking Service Quality in Zimbabwe (2003-2008)" 2010 *Annals of the University of Petrosani, Economics* 205, 206.

governed and run under strict legislative provisions and standards of the holding banks. After 1980, Zimbabwe experienced relative stability and moderate growth in the banking sector which unfortunately remained a preserve for a few.[167] From 1980 to 1990, the Zimbabwean financial sector inherited colonial banking laws with stringent capital requirements that did not allow the entrance of black people into the banking sector in Zimbabwe.[168] This triggered calls for the liberalisation of the banking sector in order to include new players in the banking sector.[169] In 1990, the Government of Zimbabwe opened up the banking sector to allow for the entry of indigenous banks into the market that was dominated by multinational and foreign banks.[170] The opening up of the financial sector allowed indigenous banks into the market that was previously dominated by foreign banks, increasing the diversification of services and products, as local banks sought to distinguish themselves and attract more clients. The liberalisation of the banking sector was part of a broader government policy to economically

---

167 Musikavanhu LK, Matandare MA and Zhou N "Ownership Structure and Bank Performance in Zimbabwe" 2018 *Research Journal of Finance and Accounting* 45 states that dating back to the period after independence (1980), the Zimbabwean banking sector was oligopolistic in nature, dominated by foreign-owned banks and characterised with minimum government interference; Tsaurai 2018 *The Journal of Developing Areas* 86; Ndlovu G "Financial Sector Development and Economic Growth: Evidence from Zimbabwe" 2013 *International Journal of Economics and Financial Issues* 435, 437 contend that the Zimbabwean financial sector had a sound history and financial sector reforms were not part of economic reforms soon after independence, as the government valued the financial sector and not dared to interfere with it; Harvey C "The Limited Impact of Financial Sector Reforms in Zimbabwe" in Brownbridge and Harvey C *Banking in Africa: The Impact of Financial Sector Reform since Independence* (1998 Africa World Press, Inc) 168.

168 Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe"169 states that controls inherited by the new government included stringent control over the allocation of foreign exchange;

169 Sakarombe U "Financial Inclusion and Bank Stability in Zimbabwe" 2018 *International Journal of Academic Research in Economics and Management Sciences* 121, 125; Nhavira JDG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 4; Makoni 2014 *Corporate Ownership and Control* 160; Njanike 2010 *Annals of the University of Petrosani, Economics* 209.

170 Njanike 2010 *Annals of the University of Petrosani, Economics* 209; Dzomira 2014 *Journal of Governance and Regulation* 78; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 52; Sakarombe 2018 *International Journal of Academic Research in Economics and Management Sciences* 125; Tsaurai 2018 *The Journal of Developing Areas* 86; see related in Chitimira and Ncube 2021 *PER/PELJ* 4.

empower indigenous Zimbabweans and increase their participation in key sectors of the economy.[171]

2.2 Historical Background of Bank Failures in Zimbabwe

2.2.1 Bank *Failures Before I980*

Prior to 1980, Zimbabwe was called Southern Rhodesia. It was a British colony, annexed by Cecil John Rhodes and his British South African Company (BSAC) in the 19th century.[172] Banks were regulated by the *Banking Act*, with stringent requirements to prevent indigenous new banks from entering the financial sector market.[173] The regulation of banks was robust and the enforcement of those stringent requirements of the law was effective. There are no recorded cases of bank failures during this period. Southern Rhodesia used the pound sterling as its legal tender until the cutting of imperial-colonial financial relations as part of the process of decolonising finance in

---

171 See discussion under par 2.2.3; Bara A "Diffusion and Adoption of Bank Financial Innovation in Zimbabwe: An External Factor Analysis" 2016 *African Journal of Science, Technology, Innovation and Development* 357, 360; Dzomira 2014 *Journal of Governance and Regulation* 78; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Munangagwa CL "The Economic Decline of Zimbabwe" 2009 *Gettysburg Economic Review* 108, 111-112; Nyakurukwa K and Seetharam Y "Corporate Governance in a Weak Legal Environment: A Systematic Review Focusing on Zimbabwe" 2023 *Qualitative Research in Financial Markets* 319, 323; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 177.

172 Munangagwa 2009 *Gettysburg Economic Review* 111; Nhavira JDG and Ocran MK "Did the Reserve Bank of Zimbabwe Charter Contribute to Hyperinflation? A Critical Review" 2012 *Journal of Strategic Studies* 9, 11; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Nyamunda T "Money, Banking and Rhodesia's Unilateral Ratio of Independence" 2017 *The Journal of Imperial and Commonwealth History* 746, 749; Simwayi M and Haseed M "The Role of Financial Intelligence Units in Combating Money Laundering: A Comparative Analysis of Zambia, Zimbabwe and Malawi" 2012 *Journal of Money Laundering Control* 112, 119; Gwande V "Federation, Factories, and Foreign Capital: Economic Growth in Southern Rhodesia, 1953-1956" 2019 *International Journal of African Historical Studies* 231, 233; Madimu T and Msindo E "Towards Banking Inclusion? The Post Office Savings Bank (POSB) in Southern Rhodesia, 1905-1945" 2019 *African Economic History* 54, 56.

173 Simwayi and Haseed 2012 *Journal of Money Laundering Control* 114; Nhavira and Ocran 2012 *Journal of Strategic Studies* 11, 1956 saw the establishment of the Reserve Bank of Rhodesia and Nyasaland; Chomba 2017 *Journal of Sustainable Development in Africa* 164; Gwande 2019 *International Journal of African Historical Studies* 233; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 169.

the 1960s.[174] The change in currency was a consequence, in part, of the Unilateral Declaration of Independence (UDI) of 1965.[175] Nyamunda asserts that cutting financial ties between Britain and Southern Rhodesia initiated a process of autonomous monetary development in the latter.[176] In 1964, Southern Rhodesia had a financial reconstitution of the colony, and serving of colonial pound sterling links shifted, and the Reserve Bank of Rhodesia was established.[177] The banking sector was regulated by the *Banking Act* of Rhodesia and Nyasaland.[178] The *Banking Act* was introduced in 1956 and applied to the British colonial federations, which are present-day Zimbabwe, Zambia, and Malawi. The *Banking Act* of Rhodesia and Nyasaland provided a regulatory framework for banking activities in the federation.[179] The main purpose of the *Banking Act* was to regularise the supervision and licensing of banks, including the minimum

---

174 Nyamunda T "British Sterling Imperialism, Settler Colonialism and the Political Economy of Money and Finance in Southern Rhodesia, 1945 to 1962" 2017 *African Economic History* 77, 81; Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 749; Dhliwayo CL and Garderner EPM "Supervision, Capital Adequacy and Banking Development: Some Evidence from Zimbabwe" 1996 *African Review of Money Finance and Banking* 5, 9; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165; see related in Sibanda M and Mhlanga R "Transformation of the Zimbabwean Banking Industry: Evidence from the Lifecycle Model" 2013 *Journal of Global Business and Technology* 44, 46.

175 Erbmann CA and Sheen JR "Some Reasons for the Low Rate of Inflation in Rhodesia Since the Unilateral Declaration of Independence" 1974 *The American Economist* 99; Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 750; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 166; Nyamunda 2017 *African Economic History* 83; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9.

176 Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 750; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165-166; Nyamunda 2017 *African Economic History* 80.

177 Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 760; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 8-9; Erbmann and Sheen 1974 *The American Economist* 103; Nyamunda 2017 *African Economic History* 97-98; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165.

178 Rossouw J *South African Reserve Bank: History, Functions, and Institutional Structure* (1st ed South African Reserve Bank Pretoria 2009) 3; Simwayi and Haseed 2012 *Journal of Money Laundering Control* 119; Gwande 2019 *International Journal of African Historical Studies* 233; Chomba C "Resurrecting and Modernizing the Federation of Rhodesia and Nyasaland 1953-1963: Challenges and Opportunities of Sustainable Development in Africa" 2017 *Journal of Sustainable Development in Africa* 163, 164; Nhavira and Ocran 2012 *Journal of Strategic Studies* 11.

179 Simwayi and Haseed 2012 *Journal of Money Laundering Control* 114; Nhavira and Ocran 2012 *Journal of Strategic Studies* 11, 1956 saw the establishment of the Reserve Bank of Rhodesia and Nyasaland; Chomba 2017 *Journal of Sustainable Development in Africa* 164; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165-166; Gwande 2019 *International Journal of African Historical Studies* 233.

levels of capital and reserves banks should maintain.[180] The Reserve Bank of Rhodesia was established to assume currency, banking and exchange responsibilities and take over after the central bank (Reserve Bank of Rhodesia and Nyasaland) was dissolved on 31st December 1965.[181]

Prior to the dissolution of the Reserve Bank of Rhodesia and Nyasaland, a liquidation agency was set to preside over the liquidation of assets and reallocate assets to the two Rhodesian and Nyasaland territories.[182] By December 1965, the liquidation agency had allocated gold, cash, securities, outstanding loans and other financial assets, including the responsibility for currency, banking and exchange control proportionately to the three territories.[183] Southern Rhodesia adapted supporting legislation for discretionary financial control into its monetary sector and the pound sterling links remained operational.[184] The *Banking Act* was not abolished after Zimbabwe gained independence. Rather, the government of Zimbabwe adopted the Rhodesia banking regulation. Chitimira and Ncube argue that the current RBZ appears to have its origins

---

180 See the preamble of the *Banking Act* as revised; Tsaurai 2018 *The Journal of Developing Areas* 86; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9.

181 See Part VI Currency and Bank of Rhodesia and Nyasaland, sections 66 and 70 of the UK Statutory Instruments 1963 No.2085 available at https://www.legislation.gov.uk/uksi/1963/2085/made accessed on the 15th of March 2024; Nyamunda 2017 *African Economic History* 96; Madimu and Msindo 2019 *African Economic History* 56; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165.

182 Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 759; see related in Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165; see related in Sibindi AB and Bimha A "Banking Sector Development and Economic Growth: Evidence from Zimbabwe" 2014 *Banks and Bank Systems* 51, 54.

183 Unitary territories were the result of the independence for Zambia (Northern Rhodesia) and Malawi (Nyasaland) leaving Southern Rhodesia with discretion to sustain its financial and economy independently of its neighbours; Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 759; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 94

184 Nyamunda 2017 *The Journal of Imperial and Commonwealth History* 759; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 94; see related in Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45.

traceable to the Central Bank of Rhodesia and Nyasaland.[185] This suggests that Zimbabwe's banking laws are deeply rooted in the Rhodesian financial legislation. However, further legislative developments have been incorporated to enhance the current banking and financial laws in order to align with the evolving financial sector.

2.2.2 Bank Failures in Zimbabwe from 1980 to 1990

Between 1980 and 1990, Zimbabwe's banking sector was regulated by the *Banking Act* which was adopted from the colonial period. The *Banking Act* was enacted in 1965 to regulate the banking sector.[186] The RBZ's regulatory role was extremely limited. It was assisted by the banking legislation enacted at a time when all commercial banks were foreign-owned and were subsidiaries of large international banks, therefore, prudential regulation appeared unnecessary.[187] In addition, the *Banking Act* at the time did not provide for restrictions on insider lending and the maximum ratio of shareholder funds that could be lent to any borrower. In addition, it did not have a definition of risk assets or capital requirement to support lending and had no consumer protection.[188]

There is no recorded case of a bank failure between 1980 and 1990. This is likely because Zimbabwe had a strong and stable economy and all the banks at the time were subsidiaries of large international banks operating under the regulations of the

---

185 Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 94; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9; Tsaurai 2018 *The Journal of Developing Areas* 86 states that after independence Zimbabwe had a very sophisticated banking and financial market in which commercial banks were mostly foreign-owned and a central bank which had been inherited from the Central Bank of Rhodesia and Nyasaland; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165.

186 Simwayi and Haseed 2012 *Journal of Money Laundering Control* 114; Nhavira and Ocran 2012 *Journal of Strategic Studies* 11, 1956 saw the establishment of the Reserve Bank of Rhodesia and Nyasaland; Chomba 2017 *Journal of Sustainable Development in Africa* 164; Gwande 2019 *International Journal of African Historical Studies* 233.

187 Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 174 see related comments in Nhavira JDG and Mudhunguyo C "A Minskyan Analysis of Zimbabwe's Deflationary Episode" 2015 *Journal of Strategic Studies* 43, 74.

188 Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 174.

main international banks.[189] These robust regulations and oversight mechanisms may explain the absence of bank failures during this period as the regulatory framework maintained financial discipline and mitigated risk exposure within these foreign-owned banks.[190] The financial sector had stringent capital requirements and supervision in place, which created a low-risk environment for banks to operate in and helped mitigate the risks of bank failures.[191]

In 1980, Zimbabwe gained independence and inherited a comparatively stronger banking sector from Rhodesia than other African countries at the time.[192] Sibindi and Bimha argue that Zimbabwe once had a vibrant economy and a more sophisticated financial sector than any other African country except South Africa.[193] The new government of Zimbabwe inherited the colonial financial banking laws without any reforms but only changed the names of the country and institutions such as Rhodesia to Zimbabwe and the Reserve Bank of Rhodesia (RBR) to the Reserve Bank of

---

189 Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 174.

190 Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45; Njanike 2010 *Annals of the University of Petrosani, Economics* 209; Dzomira 2014 *Journal of Governance and Regulation* 78; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 52; Sakarombe 2018 *International Journal of Academic Research in Economics and Management Sciences* 125; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 169; Tsaurai 2018 *The Journal of Developing Areas* 86; see related in Chitimira H and Ncube 2021 *PER/PELJ* 4.

191 Sibindi and Bimha 2014 *Banks and Bank Systems* 51; Mlambo K and Mupunga N "Assessment of Competition in the Zimbabwean Banking Sector since Dollarization" 2018 *The African Finance Journal* 1, 3; Gwande 2019 *The International Journal of African Historical Studies* 243; Tsaurai 2018 *The Journal of Developing Areas* 86; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 168 states that at independence in 1980, the Zimbabwean economy had a much more developed modern sector than nearly all African countries; Muranda Z "Financial Distress and Corporate Governance in Zimbabwean Banks" 2006 *Corporate Governance* 643, 644 noted that during 1980-1990 monetary policy and banking supervision were carried out in a low-key fashion as controls in place ensured that risks were kept at a very minimum, the central bank undertook minimal supervision of banks during this time and that there were no bank failures at all.

192 Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Munyanyi ME "The Dynamic Relationship Financial Development and Economic Growth: New Evidence from Zimbabwe" 2017 *Munich Personal RePEc Archive* 1, 3; Tsaurai 2018 *The Journal of Developing Areas* 86; Munangagwa 2009 *Gettysburg Economic Review* 112.

193 Sibindi and Bimha 2014 *Banks and Bank Systems* 51; Mlambo and Mupunga 2018 *The African Finance Journal* 3; see related in Simwayi and Haseed 2012 *Journal of Money Laundering Control* 119; Gwande 2019 *The International Journal of African Historical Studies* 243; Tsaurai 2018 *The Journal of Developing Areas* 86.

Zimbabwe (RBZ).[194] The government focused on expanding the economy during the first decade after independence, and Zimbabwe experienced phenomenal economic growth together with a vibrant financial services sector.[195] From the outset, the banking sector witnessed relative stability and moderate growth in all its activities, providing financial services to many people in Zimbabwe. However, as years passed, a combination of internal and external factors began to strain the banking sector, which ultimately led to a series of bank failures.

2.2.3 Bank Failures in Zimbabwe between 1990 and 2000

Between 1990 and 1999, the *Banking Act* in force from the colonial period had strict administrative controls on deposits and lending rates and was restrictive of allowing indigenous black people into the banking sector.[196] The *Banking Act* in force since 1965 was inadequate because it made no provision for the inspection and supervision of indigenous banks in Zimbabwe. The strict administrative controls on deposits and lending rates only assisted foreign-owned banks to remain in the market with little to no competition from indigenous banks. Therefore, there was no meaningful competition of banks and corporate governance was not given adequate attention because it was not a material issue for banks as they had guaranteed profits under a cost-plus price formula.[197] There was only one bank failure experienced between 1990

---

194 Section 6 of the *Reserve Bank of Zimbabwe Act* [Chapter 22:15] (*RBZ Act*); Munyanyi 2017 *Munich Personal RePEc Archive* 3; Munangagwa 2009 *Gettysburg Economic Review* 112; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9; Nhavira and Ocran 2012 *Journal of Strategic Studies* 20; Simwayi and Haseed 2012 *Journal of Money Laundering Control* 120; see comments in Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 165 states that when the federation broke up in 1963, the central bank simply changed from being the bank of Rhodesia and Nyasaland to Reserve Bank of Rhodesia.

195 Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 55; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 180.

196 Simwayi and Haseed 2012 *Journal of Money Laundering Control* 114; Nhavira and Ocran 2012 *Journal of Strategic Studies* 11, 1956 saw the establishment of the Reserve Bank of Rhodesia and Nyasaland; Chomba 2017 *Journal of Sustainable Development in Africa* 164; Gwande 2019 *International Journal of African Historical Studies* 233.

197 Pfumorodze J and Nzonzo JC "Some Reflections on Corporate Governance in the Banking Sector in Zimbabwe" 2010 *Indian Journal of Corporate Governance* 51, 53; see related comments in Tsaurai 2018 *The Journal of Developing Areas* 86-87.

to 1999 in Zimbabwe. It was the failure of Universal Merchant Bank (UMB).[198] The UMB failed in 1998 and closed its doors in 2000. The collapse of UMB was due to various factors including fraudulent activities, high insider loans, poor corporate governance and some regulatory challenges within the banking sector.[199]

In the early 1990s, the Zimbabwean government engaged in financial liberalisation to promote financial competition in the country.[200] The government of Zimbabwe adopted and implemented a reform programme, the Economic and Structural Adjustment Programme (ESAP), in a bid to enhance economic growth and transform parastatals into commercial entities.[201] However, at that time, the banking sector was dominated by a few big banks such as Standard Chartered Bank and Barclays Bank under which

---

198 Dzomira 2014 *Journal of Governance and Regulation* 77; Tembo J "Bank Failures in Zimbabwe" *Economic Management in a Hyperinflationary Environment: The Political Economy of Zimbabwe* (Oxford University Press Ltd Cape Town 2015) 142; Tadu R and Mukonya S "Challenges of Whistle Blowing as a Corporate Governance Control Tool in the Zimbabwean Banking Sector During 2000-2008" 2016 *Journal of Research in Business, Economics and Management* 954; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 5; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Muranda 2006 *Corporate Governance* 650.

199 Sithole STM and Mtetwa G "Bank Failures in Zimbabwe: Lessons from 2003-2004 Bank-wide liquidity Crisis" 2009 *UNISWA Research Journal* 44, 45; Sibanda and Mhlanga 2013 *Journal of Global Business and Technology* 49; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18; Dzomira 2014 *Journal of Governance and Regulation* 77; Tsaurai 2018 *The Journal of Developing Areas* 87; Munoangira and Kaja 2016 *European Journal of Business and Management* 195; Maune A "Corporate Governance in Zimbabwe: An Overview of Its Current State" 2015 *Asian Economic and Financial Review* 167, 168; Muranda 2006 *Corporate Governance* 650.

200 Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18; Bara 2016 *African Journal of Science, Technology, Innovation and Development* 360; Mlambo and Mupunga 2018 *The African Finance Journal* 3; Dzomira 2014 *Journal of Governance and Regulation* 78; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Muranda 2006 *Corporate Governance* 644; Munyanyi 2017 *Munich Personal RePEc Archive* 2; Munangagwa 2009 *Gettysburg Economic Review* 112; Abel and Le Roux 2018 *International Journal of Economics and Financial Issues* 87; Nyakurukwa K and Seetharam Y "Corporate Governance in a Weak Legal Environment: A Systematic Review Focusing on Zimbabwe" 2023 *Qualitative Research in Financial Markets* 319, 323.

201 Tsaurai 2018 *The Journal of Developing Areas* 86; Abel and Le Roux 2018 *International Journal of Economics and Financial Issues* 87; Mpofu and Matsika Contributions and Challenges Facing the Financial Sector in Zimbabwe. *Zimbabwe Economic Policy Analysis and Research Unit Working Paper Series* 2013 11; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2; Chitimira and Ncube 2021 *Per/PELJ* 5.

restricted innovation and bank costs remained high.[202] This period saw the liberalisation of the banking and financial sectors and the relaxation of stringent laws which discouraged and prohibited the establishment of banking institutions. Abel and Le Roux argue that the financial liberalisation entailed deregulating the banking sector including the removal of price controls, entry barriers and the issuance of licences to new banks.[203] As a result, the banking sector liberalisation drive increased competition and saw the entry of new players into the banking sector in Zimbabwe.[204] During this period, the financial sector recorded a relative increase in the number of banks that operated in Zimbabwe. ESAP effectively stimulated annual asset growth among Zimbabwean banks, fostered competition within the country's banking sector and spurred technological advancements, including the introduction of Automated Teller Machines (ATMs).[205]

The reforms in the banking sector were designed to stimulate growth and enhance financial inclusion, but these reforms also brought challenges to the financial sector. Some notable challenges brought by these reforms in the banking sector are the inadequate regulation and supervision of the sector which allowed for the proliferation

---

202 Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Mpofu and Matsika Contributions and Challenges Facing the Financial Sector in Zimbabwe. *Zimbabwe Economic Policy Analysis and Research Unit Working Paper Series* 2013 9; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45; Abel and Le Roux 2018 *International Journal of Economics and Financial Issues* 87; Sibanda and Mhlanga 2013 *Journal of Global Business and Technology* 49.

203 Abel and Le Roux 2018 *International Journal of Economics and Financial Issues* 87; Tsaurai 2018 *The Journal of Developing Areas* 86 avers that the Banking Act came into effect in September 1999 due to the RBZ's desire to liberalise and deregulate the financial services sector to accommodate a broader indigenous participation in the banking sector.

204 Abel and Le Roux 2018 *International Journal of Economics and Financial Issues* 87; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Mpofu and Matsika Contributions and Challenges Facing the Financial Sector in Zimbabwe. *Zimbabwe Economic Policy Analysis and Research Unit Working Paper Series* 2013 9; Tsaurai 2018 *The Journal of Developing Areas* 86 states that the deregulation of the financial services sector which was brought about by the implementation of the ESAP in 1991 saw the banking sector of Zimbabwe being characterised by a rapid growth and expansion phase; Muranda 2006 *Corporate Governance* 644.

205 Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Tsaurai 2018 *The Journal of Developing Areas* 86; see related in Shambira 2020 *European Journal of Social Sciences Studies* 111; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 181.

of undercapitalised and poorly managed banks such as the UMB, which collapsed in 1998.[206] Liberalising the banking sector entailed the removal of market segmentation which resulted in the entry of more new banks into the banking sector. In 1999, a new legislation was enacted to regulate banks, giving the RBZ a stronger legal basis for the supervision of banking institutions and provisions on the disclosure of material information concerning risk management and risk exposures.[207] However, the relevant banking laws remained inadequate in preventing the causes of bank failures due to corruption, poor asset liquidity and management crisis, fraud, poor enforcement and regulatory arbitrage.[208]

ESAP failed to improve the socio-economic conditions of the majority in Zimbabwe. To the contrary, the liberalisation of the banking sector opened unfair competition practices, the charging of exorbitant bank fees and generally poor bank services in Zimbabwe.[209] The ESAP era also brought about major macroeconomic challenges, such as high inflation leading to currency devaluation. Additionally, the foreign bank policy that required a 30% shareholding to be ceded to Zimbabweans worsened the fragility

---

206 Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 183; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Chitimira and Ncube 2021 *PER/PELJ* 8; Dzomira 2014 *Journal of Governance and Regulation* 77.

207 Section 5 read together with section 8(1) of the *Banking Act*; Kondongwe 2018 *Politics and Public Management* 13; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

208 Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 54-56; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 183; Dzomira 2014 *Journal of Governance and Regulation* 78.

209 Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 183; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9.

of the banking sector and negatively impacted the confidence of foreign investors in Zimbabwean banks.[210]

2.2.3.1 Changes and Developments in the Relevant Banking Laws in Zimbabwe from 1990 to 2000

The *RBZ Act* was amended to establish the RBZ as a state-owned institution empowered to regulate and supervise the banking sector in Zimbabwe.[211] Furthermore, in 1999, the *People's Own Savings Bank Act* was enacted and it established the People's Own Savings Bank (POSB) as a state-owned savings institution by the government of Zimbabwe.[212] Zimbabwe has only one savings bank with several branches throughout the country.[213] Services offered by the POSB include savings, withdrawals and postal services such as telegraph, registered mail and general letters.

Banking legislation has evolved over the years, reflecting the country's political and economic developments in Zimbabwe.[214] The *RBZ Act* empowers the RBZ to institute

---

210 Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; see related in Chokuda and Chokuda-Santu 2021 *Midlands State University MSU Law Review* 2; Tsaurai 2018 *The Journal of Developing Areas* 92; see Chikoto 2014 *Journal of Contemporary Issues in Business Research* 45; see related in Maune 2014 *Journal of Governance and Regulation* 125; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45 states that liberalization limited new foreign entries to 30% shareholding and existing foreign banks were not allowed to shed their shareholding.

211 Section 6 of the *RBZ Act* confers the powers to regulate the monetary system, fostering stability and proper functioning of the financial system, supervising banks and promoting a stable payment system and so on; Munangagwa 2009 *Gettysburg Economic Review* 112; Nhavira and Ocran 2012 *Journal of Strategic Studies* 24; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Munyanyi 2017 *Munich Personal RePEc Archive* 3.

212 See the preamble and section 3 of the People's Own Savings Bank of Zimbabwe (POSB)The Post Office Savings Bank in Southern Rhodesia was established on 1 January 1905, and in 1999 the People's Own Servings Bank of Zimbabwe was established as a state-owned institution under the newly created *POSB Act*; Madimu and Msindo 2019 *African Economic History* 65.

213 Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Chigumira G and Makochekanwa "A Financial Liberalisation and Crisis: Experience and Lessons for Zimbabwe" 2014 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 6.

214 Munyanyi 2017 *Munich Personal RePEc Archive* 3; Nhavira JDG "Examining the Effect of Financial Sector Development on Zimbabwe's Economic Growth 1980-2014" 2017 *Journal of Strategic Studies* 22, 23; Dzomira 2014 *Journal of Governance and Regulation* 78; see related on Simwayi and Haseed 2012 *Journal of Money Laundering Control* 119.

a monetary policy committee tasked with determining interest rates and regulating the supply of money and credit.[215] The *Banking Act* of 1999 was introduced to liberalise and deregulate the financial services sector.[216] In 2000, the *Banking Act* was revised to provide for the regulation of competition and the introduction of new products and services such as electronic banking, in-store banking, and entrepreneurial activities emerging into the financial services factor.[217] Furthermore, the Zimbabwean government removed market segmentation and relaxed the entry requirements into the financial sector, making it possible for banking institutions to transform into commercial banks.[218] Furthermore, the government removed impediments that hindered the entrance of new players in the banking sector.[219] This was meant to challenge the dominance of Barclays Bank and Standard Chartered Bank, both foreign-owned banks that were the major players in the Zimbabwean banking sector.[220]

---

215 See sections 6 and 29B (3)(a-c) of the *RBZ Act*; Dube ZL and Murahwe GR "An Analysis of Corporate Governance Practices in Government Controlled versus Private Banking Institutions in Zimbabwe" 2015 *International Journal of Development and Sustainability* 759, 764; Sibindi and Bimha 2014 *Banks and Bank Systems* 54, the RBZ revises the minimum capital requirements, statutory reserve requirements and interest rates from time to time; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; see related in Nhavira and Ocrain 2012 *Journal of Strategic Studies* 14.

216 Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 9; Tsaurai 2018 *The Journal of Developing Areas* 86; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; Mpofu and Matsika Contributions and Challenges Facing the Financial Sector in Zimbabwe. *Zimbabwe Economic Policy Analysis and Research Unit Working Paper Series* 2013 9; Abel and Le Roux 2018 *International Journal of Economics and Financial Issues* 87.

217 Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 96; see related in Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 7; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; see related Chiguvi and Muchuchuti 2017 *Journal of Marketing and Consumer Research* 53.

218 Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

219 Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Dzingirai and Katuka 2014 *International Journal of Economic and Finance* 244; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323; Nyoka 2015 *Banks and Bank Systems* 9.

220 Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 52;Chokuda and Chokuda-Santu 2021 *MSU Law Review* 11; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Munyanyi 2017 *Munich Personal RePEc Archive* 3; Mlambo and Mupunga 2018 *The African Finance Journal* 5; Moyo *Financial Sector Liberalization and the Poor: A Critical Appraisal* 5.

Liberalisation of the financial sector created a more competitive environment that improved the range of financial services offered by banks.[221] In this regard, the deregulation of the banking sector in the early 1990s required banks to exercise risk management, and corporate governance as well as address other emerging vulnerabilities in an economy that was beginning to falter.[222] As the number of financial institutions increased, competition in the financial sector also grew. Moyo argues that competition among banks was a boon for efficiency and development in the Zimbabwean banking sector.[223] However, the entrance of newly licensed financial institutions exposed serious flaws and lapses in corporate governance standards in Zimbabwe's banking sector. In response, the *RBZ Act* was amended in 1994 to give the RBZ more powers to regulate and supervise banks in Zimbabwe.[224] From 1996 to 1997, the RBZ enhanced its protective regulatory measures and established the Deposit Protection Scheme to perform supervision of both onsite and offsite examinations of banks to reduce bank failures and protect depositors' funds.[225]

In 2000, the *Banking Act* was amended and it introduced significant changes to the financial regulatory framework in order to improve the safety and soundness of the

---

221 Moyo *Financial Sector Liberalization and the Poor: A Critical Appraisal* 11; Mlambo and Mupunga 2018 *The African Finance Journal* 3 states that in the 1990s, the sector was liberalised, leading to new banking institutions entering the market; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18.

222 Munoangira and Kaja 2016 *European Journal of Business and Management* 195; Dzomira 2014 *Journal of Governance and Regulation* 78; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18; Mlambo and Mupunga 2018 *The African Finance Journal* 3.

223 Moyo *Financial Sector Liberalization and the Poor: A Critical Appraisal* 13; Mlambo and Mupunga 2018 *The African Finance Journal* 3; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; see related in Nhavira 2017 *Journal of Strategic Studies* 58 who states that bank competition leads to economic growth by enhancing firms access to exterior financing.

224 See the preamble and section 4 of the *RBZ Act*; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18; Kavila W and Le Roux P "The Role of Monetary Policy in Zimbabwe's Hyperinflation Episode" 2017 *African Review of Economics and Finance* 131, 133; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Munyanyi 2017 *Munich Personal RePEc Archive* 3.

225 See remarks by Dhliwayo CL "Limiting the Risk of Failure in Financial Institutions" 2015 *on the accession of the Public Accountants and Auditors Board Conference* 15; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19; Munyanyi 2017 *Munich Personal RePEc Archive* 3; Dube and Murahwe 2015 *International Journal of Development and Sustainability* 760.

banking sector.[226] The *Banking Act* introduced the concept of minimum capital requirements for banks based on the size and complexity of their operations.[227] The minimum capital requirements for banks were required to maintain a minimum level of capital, which is the amount of money that a bank has available to absorb losses and protect depositors' funds. The amendments sought to ensure that banks had adequate capital to operate safely and soundly.[228]

Furthermore, the amendments introduced more stringent licencing requirements for banks. In this regard, banks were required to submit audited financial statements and ensure that they are financially sound at all times.[229] It became a prerequisite for financial statements and other relevant information to be audited before the RBZ could grant an operating licence. The *Banking Act* also included new provisions on the suitability and proper status of key bank personnel,[230] to ensure that individuals with requisite skills and integrity are appointed as officers, key employees and directors of

---

226 Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Dzingirai and Katuka 2014 *International Journal of Economic and Finance* 244; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45; Nyoka 2015 *Banks and Bank Systems* 9; Mlambo and Mupunga 2018 *The African Finance Journal* 3.

227 Section 29(1) of the *Banking Act* as amended; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 18 state that the growth of institutions attracted formal international capital regulation, and Zimbabwe began with the implementation of the risk-based capital in 1992 with a capital adequacy ratio of 8% which increased up to 10% by 1999; see related in Mlambo and Mupunga 2018 *The African Finance Journal* 3; see related in Musikavanhu, Matandare and Zhou *2018 Research Journal of Finance and Accounting* 45; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

228 Section 29(1) and (1a) of the *Banking Act*; Mupunga 2018 *The African Finance Journal* 3; see related in Musikavanhu, Matandare and Zhou *2018 Research Journal of Finance and Accounting* 45; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

229 Section 18 of the *Banking Act*; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Dzingirai and Katuka 2014 *International Journal of Economic and Finance* 244; Nyoka 2015 *Banks and Bank Systems* 9; Zinyama 2021 *African Journal of Public Affairs* 133; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 63.

230 Section 81(2)(f) of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53 aver that in terms of new legislation, banking institutions are required to disclose material information with respect to risk management and risk exposures and also required to publish financial information, every six months, for the information of the public.

banks in Zimbabwe.[231] The amendments also sought to strengthen the powers of the RBZ to supervise and regulate banks in Zimbabwe.[232] In this regard, the RBZ was given more authority to investigate and examine bank operations, issue directives and guidelines, and take corrective action where there are deviations.[233] In the event that the RBZ determines that a bank is not operating safely or is in violation of banking laws or regulations, it exercises its authority and takes corrective action.

2.2.4 Bank Failures in Zimbabwe from 2000 to 2010

From 2000 to 2010, Zimbabwe experienced possibly the biggest wave of bank failures over two years between 2003 and 2004.[234] Several banks failed between 2003 to 2004 owing to numerous factors including an increasingly faltering economy and deteriorating political conditions in Zimbabwe.[235] The banking sector was heavily affected due to excessive risk-taking, inadequate regulatory oversight, poor governance, excessive lending and undercapitalisation which caused many banks to

---

231 Section 18(1) to (4) of the *Banking Act*; Nyangara D, Nyangara MR and Mazviona BW "An Essay on the Ethical and Corporate Governance Issues in the 2003/4 Zimbabwean Banking Crisis" 2014 *International Journal of Economics and Management Sciences* 1, 3.

232 Section 45(1) and (2) of the *Banking Act*; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19; the Minister of Finance had the mandate to register and deregister banks while the Reserve Bank of Zimbabwe was delegated a supervisory role; Kavila and Le Roux 2017 *African Review of Economics and Finance* 133; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Santu, Mawanza and Muredzi 2017 *Journal of Finance and Bank Management* 61.

233 Tsaurai 2018 *The Journal of Developing Areas* 87 states that in a bid to strengthen the supervision of the banking sector in order to avert the total collapse of the whole banking sector, the powers of the Registrar of Banks were transferred to the RBZ coupled with the RBZ's implantation of very tight bank supervision programme; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 9; Dzomira 2014 *Journal of Governance and Regulation* 78; Sibanda and Mhlanga 2013 *Journal of Global Business and Technology* 49-50; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

234 Chowa T, Mhlanga R and Munakamwe MAP "Where Did Our Money Go? Answering the Questions Behind Loss of Value to Pensioners in Zimbabwe after Multi-Currency Adoption" 2014 *International Open and Distance Learning Journal* 1, 5; Chitimira and Ncube 2021 *Per/ PELJ* 7-8; Dzomira 2014 *Journal of Governance and Regulation* 78; Sibanda and Mhlanga 2013 *Journal of Global Business and Technology* 49-50; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

235 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 12; Tsaurai 2018 *The Journal of Developing Areas* 92; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3.

collapse or be placed under curatorship.[236] Hence, studying this period provides insight into the underlying structural and regulatory deficiencies causing bank failures in Zimbabwe.

Amongst others, bank failures in Zimbabwe were caused by poor regulatory oversight, poor corporate governance, managerial inefficiency; insider loans, imprudent banking behaviour and non-performing loans.[237] The *Banking Act* was then fairly new. It was enacted in 1999 and commenced operation on the 1st of August 2000.[238] The *Banking Act* provides for the registration, supervision and regulation of persons conducting business and financial activities in Zimbabwe and the repeal of the previous *Banking Act*.[239] Although the *Banking Act* provided for bank supervision, it was inadequate in preventing bank failures because it lacked the necessary regulatory mechanisms such as capital adequacy requirements, risk management frameworks, corporate

---

236 Chitimira H and Ncube M "The Regulatory Nexus between Corporate and Financial Markets Law in Promoting Economic Growth and Viable Financial Markets in Zimbabwe" 2021 *Interdisciplinary Journal of Economics and Business Law* 91, 105; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 8-9; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3; Chitimira and Ncube 2021 *Per/ PELJ* 7.

237 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 234; Muranda 2006 *Corporate Governance* 648; Dzomira 2014 *Journal of Governance and Regulation* 77; Tsaurai 2018 *The Journal of Developing Areas* 87; Muranda 2006 *Corporate Governance* 650; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3; Chitimira and Ncube 2021 *Per/ PELJ* 7.

238 See the preamble and section 3 of the *Banking Act* [Chapter 24:20] 9 of 2000 (the *Banking Act*); Tsaurai 2018 *The Journal of Developing Areas* 86; see related on Makena P "Banking Industry Competition and Stability in Zimbabwe" 2021 *African Economic Research Consortium* 1, 5; Ndlovu MW, Bhiri T, Mutambanadzo T and Hlahla BP "A Comparative Analysis of the Corporate Governance Practices in Multinational and Domestic Banks in Zimbabwe" 2013 *Journal of Emerging Trends in Economics and Management Sciences* 473

239 See the preamble and section 3 of the *Banking Act* ; Tsaurai 2018 *The Journal of Developing Areas* 86; Makena 2021 *African Economic Research Consortium* 5; Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 473; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 5 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 11 October 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4.

governance standards and liquidity requirements.[240] The lack of banking regulatory oversight left many undercapitalised banks with inadequate managerial expertise. Some bankers who had fraudulent intentions were allowed to open up and collect deposits from the public.[241] Moreover, the *Banking Act* does not expressly provide the RBZ with sufficient supervisory powers to take proactive measures against banks exhibiting early signs of distress.[242] The lack of necessary regulatory mechanisms and enforcement capacity in the *Baking Act* caused widespread non-compliance, poor governance and the eventual collapse of several banks. Some of the banks that failed during this period include Century Bank Limited, Metropolitan Bank, Time Bank, Rapid

---

240 See sections 16, 17 and the preamble of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 5; Foya D and Changunda G "An Investigation of Corporate Governance Challenges Facing Indigenous Banks in Zimbabwe" 2019 *International Journal of Research and Innovation in Social Science* 100,106; see related in Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 325; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; see related on Muranda 2006 *The International Journal of Business in Society* 644; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45.

241 Chikoko and Le Roux 2013 *International Journal of Finance and Accounting* 135; Nhuta 2014 *International Journal of Research in Social Sciences* 23-24;Tepetepe G "A Concurrent Triangulation Mixed Methods Study on Basel II/III Capital Modeling Techniques Implementation in Zimbabwean Banks" 2022 *Journal of Economics, Finance and Accounting* 48, 49; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 5; see related in Matanda E "Threats and Opportunities Facing Banking Institutions in Emerging Economies in their Desire to Adopt and Implement the Basel II Capital Accord: A Case Study of the Zimbabwean Economy in Dollarization Era" 2015 *International Review of Research in Emerging Markets and the Global Economy* 441, 449; see related comments in Mutarindwa S, Schafer D and Stephan A "Central Banks' Supervisory Guidance on Corporate Governance and Bank Stability: Evidence from African Countries" 2020 *Emerging Markets Review* 1,4; see related comments in Bara *2013 African Journal of Science, Technology, Innovation and Development* 347; Maune 2015 *Asian Economic and Financial Review* 168.

242 Nzaro R, Njanike K and Jaravani E "The Impact of Regulation Policy on Product and Service Delivery of Micro-Financial Institutions: A Case of Zimbabwe" 2013 *Global Advanced Research Journal of Management and Business Studies* 429, 432; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 174; see related comments in Chitimira H and Torerai E "Policy Implications and Mobile Money Regulatory Approaches to Promote Financial Inclusion of the Poor in Zimbabwe after Covid-19 Pandemic" 2023 *De Jure Law Journal* 241, 248; Udechuku O, Manungo T, Chipulu M and Johnie J "The Impact of Regulation on Risk Perception: Evidence from the Zimbabwean Banking Industry" 2013 *African Development Review* 276, 277.

Discount House, NMB Bank, CFX Bank, Royal Bank, Trust Bank and Barbican Bank.[243] The researcher discusses each of the failed banks separately below.

2.2.4.1 The Failure of Century Bank

In 2003, Century Bank started experiencing liquidity problems which saw it receiving liquidity support from the RBZ in January 2004.[244] According to the RBZ, the causes of the liquidity problem experienced by Century Bank emanated from significant investments in fixed assets.[245] These included rapid growth, over-reliance on wholesale deposits, and poor asset and liquidity management practices. Furthermore, the RBZ noted board oversight as another cause of the bank's failure. These weaknesses caused the major investors to withdraw their deposits prematurely, leaving Century Bank without enough liquidity to meet its obligations as they became due. At that point in time, the *Banking Act* did not provide clear provisions on corporate governance nor include the term corporate governance. Hence Century Bank failed due to poor corporate governance, among other factors such as over-reliance on wholesale deposits and poor asset and liquidity mismanagement.[246]

---

243 Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 324; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; Chitimira and Ncube 2021 *Per/ PELJ* 7; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

244 Muranda 2006 *Corporate Governance* 650; Dzomira 2014 *Journal of Governance and Regulation* 78; Chitimira and Ncube 2021 *Per/ PELJ* 7; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

245 Muranda 2006 *Corporate Governance* 650; Dlamini and Mbira 2017 *Journal of Economics and Behavioural Studies* 212; see related in Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 7; see related in Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53.

246 Section 16 of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 60 Chinoperekweyi J "Internal Corporate Governance Principles and Practices of Indigenous Banks in Zimbabwe and the Impact on Organisational Effectiveness" 2018 *International Journal of Applied Research* 398, 401; Chikoko L "Potential Sources of Zimbabwe Commercial Banks Illiquidity after Dollarisation" 2014 *Journal of Contemporary Issues in Business Research* 41, 45; Dzomira 2014 *Journal of Governance and Regulation* 77; Muranda 2006 *Corporate Governance* 650.

2.2.4.2 The Failure of Barbican Bank

At the beginning of 2003, Barbican Bank started experiencing liquidity problems and was placed under curatorship in March of the same year.[247] The bank failed due to imprudent banking behaviour including cross-funding of related entities within the group and excessive risk-taking among other shortcomings.[248] Barbican Bank was found to have been involved in questionable cross-border foreign exchange activities. Furthermore, the bank was found to have shifted funds to South Africa from local operations intending to establish a new company in South Africa, which was against its initial declaration of operating in a small market with not more than five branches.[249] When liquidity problems started, the central bank placed Barbican Bank under curatorship and the asset management company under liquidation. The RBZ injected money into the Bank as liquidity support during the time of taking these resolutive measures to keep the bank afloat. However, the Bank failed to repay the loan from the central bank's Troubled Bank Fund on time and was placed into liquidation by the RBZ.[250]

The *Banking Act* required every banking institution to conduct banking business and other operations following sound administrative and accounting practices and procedures, adhering to proper risk-management policies, and complying with terms

---

247 Muranda 2006 *Corporate Governance* 649; Dzomira 2014 *Journal of Governance and Regulation* 78; Tsaurai 2018 *The Journal of Developing Areas* 87; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

248 Muranda 2006 *Corporate Governance* 649; Chitimira and Ncube 2021 *Per/ PELJ* 7; Tsaurai 2018 *The Journal of Developing Areas* 87; see related in Dzomira 2014 *Journal of Governance and Regulation* 78.

249 Abel S, Le Roux P and Mutandwa L "Competition and Bank Stability" 2018 *International Journal of Economics and Finance* 86, 87; Muranda 2006 *Corporate Governance* 649; see related in Chitimira and Ncube 2021 *Per/ PELJ* 7.

250 Muranda 2006 *Corporate Governance* 649; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; see related in Chitimira and Ncube 2021 *Per/PELJ* 8; Dzomira 2014 *Journal of Governance and Regulation* 78.

and conditions of registration.[251] Barbican Bank failed to adhere to sound administrative and accounting practices and did not adhere to proper risk management causing liquidity challenges in the bank. The RBZ intervened with liquidity support but due to mismanagement of funds and excessive risk-taking, Barbican Bank failed to repay the loan and was liquidated by the RBZ.[252] The RBZ did not effectively enforce the requirement of disclosing material information with respect to risk management and risk exposures within the banking institutions.[253] There were serious violations of risk management policies, fraud and poor corporate governance within the bank, which led to its failure.

2.2.4.3 The Collapse of Trust Banking Corporation

Trust Banking Corporation (Trust Bank) also got into trouble in 2003 and during a routine inspection by the central bank in 2004, the bank was found to be in unsafe and unsound condition requiring huge liquidity support for survival.[254] In addition, in 2004, the Trust Banking Corporation got Z$630 billion as liquidity support from the central bank, which it failed to repay.[255] The main causes of Trust Banking

---

251 Section 17 of the *Banking Act*; Chinoperekweyi 2018 *International Journal of Applied Research* 401; the *Banking Act* provisions lacked specific guidelines on corporate governance in the banking sector, with limited requirements that did not address the matters concerning the role and function of the Board and Board composition of Directors, which led to poor corporate governance within banks and various banks failed because of that; Dzomira 2014 *Journal of Governance and Regulation* 77; Muranda 2006 *Corporate Governance* 650; Chitimira and Ncube 2021 *Per/ PELJ* 7.

252 Chinoperekweyi 2018 *International Journal of Applied Research* 401; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87; see related comments in Richardson CJ "The Loss of Property Rights and the Collapse of Zimbabwe 2005" *CATO Journal* 541, 555.

253 Section 16(1) of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Dzomira 2014 *Journal of Governance and Regulation* 77; Muranda 2006 *Corporate Governance* 650; Chitimira and Ncube 2021 *Per/ PELJ* 8.

254 Chitimira and Ncube 2021 *Per/ PELJ* 8; Muranda 2006 *Corporate Governance* 647; Dlamini and Mbira 2017 *Journal of Economics and Behavioral Studies* 212; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46.

255 Muranda 2006 *Corporate Governance* 648; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42.

Corporation's failure were insider loans that were not repaid, fraud by several employees which ran into billions of Zimbabwean dollars, poor risk management system and unwarranted diversification of its core business.[256]

The *Banking Act* provides that a bank shall conduct its banking business and other operations in accordance with sound administrative and accounting practices and procedures and proper risk-management policies.[257] Trust Bank failed to adhere to the requirements of the *Banking Act*, by issuing insider loans, failing to curb fraud within the bank, having poor risk management systems and engaging in unwarranted diversification of its core business. Accordingly, Trust Bank failed due to poor risk management systems, poor corporate governance, poor regulatory framework and poor enforcement of banking laws in Zimbabwe.

2.2.4.4 The Fall of Metropolitan Bank

In early 2004, Metropolitan Bank started experiencing liquidity problems and it was due to a vacuum in top management as the bank was operating without a substantive Chief Executive Officer and other executives in the key functional areas.[258] The bank was issued with a corrective order by the central bank which led to the restructuring of its management and the appointment of a new board chairperson, a new managing

---

256 Muranda 2006 *Corporate Governance* 648; Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 8; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3; see related in Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323.

257 Section 17 of the *Banking Act*; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Muranda 2006 *Corporate Governance* 648; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87; Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 8.

258 Muranda 2006 *Corporate Governance* 648; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235; Chitimira and Ncube 2021 *Per/ PELJ* 7; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3.

director and an executive director.[259] Metropolitan Bank borrowed Z$19.8 billion from the central bank's Troubled Bank Fund to assist during the time of the crisis. This move was to ensure the bank could continue to meet its obligations, maintain depositor confidence and avoid potential collapse that could have broader implications for the financial sector. However, reliance on such emergency funding raises important questions about the bank's financial resilience during times of stress. Moving forward, lessons from the RBZ intervention should inform stronger regulatory frameworks, better corporate governance and robust contingency planning to minimise the need for similar bailouts in future.

2.2.4.5 The Failure of ENG Asset Management

In 2004, ENG Asset Management firm failed when it could not repay investors' funds on maturity.[260] The ENG Asset Management directors failed to account for Z$61 billion of investors' money sending shock waves within the banking sector in Zimbabwe. The asset management firm failed due to poor governance, managerial inefficiency, poor asset and liquidity management and inside loans, where the directors gave themselves loans that were never repaid.[261]

---

259 Section 48 of the *Banking Act*; Muranda 2006 *Corporate Governance* 648; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235.

260 Dzomira 2014 *Journal of Governance and Regulation* 77; Muranda 2006 *Corporate Governance* 650; Chitimira and Ncube 2021 *Per/ PELJ* 7; see related in Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3.

261 Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 234; Dzomira 2014 *Journal of Governance and Regulation* 77; Tsaurai 2018 *The Journal of Developing Areas* 87; Muranda 2006 *Corporate Governance* 650; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3; Chitimira and Ncube 2021 *Per/ PELJ* 7.

2.2.4.6 The Failure of Century Foreign Exchange Bank

In 2004, Century Bank failed due to poor asset liquidity and a management crisis.[262] The failure of Century Bank was a result of liquidity problems largely developed from significant investments in fixed assets, poor corporate governance, and fraudulent activities.[263] The bank's management systems and procedures, including risk management systems, were not adequately enforced by the RBZ.[264] The persons entrusted with overseeing and operating the systems and procedures of Century Bank failed to do so. This was because the bank had no separation of family and work relationship, with a lack of power to restrain the CEO and was let to engage in excessive risk operations leading to its demise.[265]

2.2.4.7 Failure of Intermarket Banking Corporation

Intermarket Banking Corporation was placed under curatorship in 2004, following a determination that the bank was in an unsafe and unsound financial position.[266] Intermarket Banking Corporation's board was ineffective, and management indulged the immoral desire of the CEO due to poor risk management policies within the bank. The RBZ failed to effectively enforce the requirements of the *Banking Act*,[267] such that

---

262 Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 54; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Muranda 2006 *Corporate Governance* 648; Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 8.

263 Chinoperekweyi 2018 *International Journal of Applied Research* 401; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Muranda 2006 *Corporate Governance* 648; Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 8.

264 Section 16(1)(a) of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87.

265 Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 54; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232

266 Section 16 read with section 53(1) (a) of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 54; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87.

267 Section 16 and 17 of the *Banking Act*; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 62.

the chairman was so dominant and had the veto power on everything that took place in the bank.[268] The bank lacked proper corporate governance and risk management policies, which led to it being placed under curatorship. However, Intermarket Banking Corporation managed to resume normal operations after the curatorship, and this shows that some of the measures taken by the RBZ were effective.[269]

2.2.4.8 Failure of Royal Bank of Zimbabwe Limited

The Royal Bank of Zimbabwe Limited was placed under curatorship in 2004 after it was determined that it was facing chronic liquidity problems and was declared insolvent by the RBZ.[270] The bank in question failed due to a lack of capital caused by poor corporate governance and non-performing loans, most of which were insider loans.[271] The bank directors engaged in excessive risk practices, including insider loans, illegal foreign dealings, siphoning depositors' funds and poor corporate governance, which led to chronic liquidity problems.[272] The bank disregarded the requirements of the *Banking Act*, which is to conduct business in accordance with sound administrative practices and procedures, with proper risk management policies.[273]

---

268 Section 18(3) of the *Banking Act*; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 60; Nyoka 2015 *Banks and Bank Systems* 9.

269 Section 55(1) of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 62; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Muranda 2006 *Corporate Governance* 648; Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 7.

270 Tsaurai 2018 *The Journal of Developing Areas* 87; Chitimira and Ncube 2021 *Per/ PELJ* 7; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 56; Dzomira 2014 *Journal of Governance and Regulation* 77.

271 Chitimira and Ncube 2021 *Per/ PELJ* 7; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 56; Muranda 2006 *Corporate Governance* 648; Tsaurai 2018 *The Journal of Developing Areas* 87.

272 Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 56; Dzomira 2014 *Journal of Governance and Regulation* 77.

273 Section 17 of the *Banking Act*; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Finance* 87.

2.2.4.9 The Failure of Time Bank of Zimbabwe Limited

Time Bank of Zimbabwe Limited (Time Bank) failed in 2004 due to serious liquidity challenges, which led to insolvency. Time Bank was placed under curatorship after RBZ determined that the bank was not operating in accordance with sound administrative and accounting policies as required by the *Banking Act*.[274] There was also a major disregard for corporate governance within the bank, which included one domineering senior management member making all key decisions with no proper accounting procedures, which resulted in inflated balance sheets of the bank.[275] The RBZ placed the bank under curatorship in terms of the *Banking Act*.[276]

2.2.5 Notable Events and Changes to the Bank Supervision to Prevent Bank Failures in Zimbabwe During the Period 2000 and 2010

Between 2000 and 2010, the banking sector experienced significant challenges characterised by hyperinflation, political instability and erosion of public confidence in the sector.[277] One significant event that contributed to bank failures in Zimbabwe was the land reform programme.[278] The land reform programme which began in 2000, played a significant role in contributing to bank failures due to its profound impact on the agricultural sector, which was a major borrower and contributor to the banking

---

274 Section 17 of the *Banking Act*.

275 Section 17 of the *Banking Act*; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 56; Chinoperekweyi 2018 *International Journal of Applied Research* 401; Dzomira 2014 *Journal of Governance and Regulation* 77.

276 Section 53 of the *Banking Act*.

277 Bayai I and Nyangara D "An Analysis of Determinants of Private Investment in Zimbabwe for the Period 2009-2011" 2013 *International Journal of Economics and Management Sciences* 11, 12; Pasara and Garidzirai 2020 *Economies* 3; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 13.

278 Munangagwa C "The Economic Decline of Zimbabwe" 2009 *Gettysburg Economic Review* 110, 114-115; Nyamunda 2021 *Journal of Asian and African Studies* 206-207; Dashwood HS "Inequality, Leadership and the Crisis in Zimbabwe" 2002 *International Journal* 209, 210; Richardson 2005 *CATO Journal* 542.

sector.[279] Commercial agriculture in Zimbabwe accounted for a substantial portion of the loan portfolios of many banks and the land reform programme caused the deterioration of loan quality in banks, leading to a surge in non-performing loans, thereby weakening the balance sheets of many banks and contributing to their eventual collapse.[280]

Although land reform was meant to address the historical imbalances, it was done in a chaotic and disorderly manner to the detriment of the banking sector in Zimbabwe.[281] The sudden and unstructured nature of the land reform disrupted agricultural productivity and eroded the value of loan collateral. Consequently, a rise in non-performing loans, liquidity shortages, and loss of confidence in the financial sector destabilised the entire banking sector and caused widespread bank failures during the 2003/04 period.[282] Poor implementation of the land reform programme led to a decline in agricultural productivity and foreign direct investment and a sharp contraction in the

---

279 Munangagwa 2009 *Gettysburg Economic Review* 114-115; Nyamunda 2021 *Journal of Asian and African Studies* 206-207; Dashwood 2002 *International Journal* 210; Richardson 2005 *CATO Journal* 542; see related comments in Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues* 597.

280 Nyamunda 2021 *Journal of Asian and African Studies* 206-207; Munangagwa 2009 *Gettysburg Economic Review* 115; Dashwood 2002 *International Journal* 210; Richardson 2005 *CATO Journal* 542; see related comments in Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues* 597.

281 See Mutandare MA "An Analysis of the Role of the Agriculture Sector: Case of Zimbabwe" 2017 *International Journal of Scientific Research in Science and Technology* 1255, 1260; see related on Nyoni 2018 *International Journal of Marketing and Financial Management* 47; Kavila and Le Roux 2017 *African Review of Economics and Finance* 135 explained the economic crisis caused by land reform programme, which was meant to address the historical imbalance in land ownership, where the minority white commercial farmers owned large tracts of productive land, while the indigenous black majority were largely peasant farmers who owned small and unproductive land; see footnote 29 on Chitimira and Ncube 2021 *PER/PELJ* 5; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21, the economy declined successively over the period 2000-2006 which might be explained by persistent droughts and disturbances in agricultural production (necessitated by the 2000 land reform programme).

282 Nyamunda 2021 *Journal of Asian and African Studies* 206-207; Dashwood 2002 *International Journal* 210; Richardson 2005 *CATO Journal* 542; Munangagwa 2009 *Gettysburg Economic Review* 117; see related comments in Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues* 597.

economy. Consequently, many banks faced mounting non-performing loans due to defaults by borrowers who were unable to service their debts.[283]

The poorly implemented land reform programme arguably spawned a bank-wide liquidity crisis between 2003 and 2004, which led to several bank failures during that period.[284] As already highlighted, some of the banks that failed include Century Bank Limited, Metropolitan Bank, Time Bank, Rapid Discount House, NMB Bank, CFX Bank, Royal Bank, Trust Bank and Barbican Bank.[285] Factors such as poor corporate governance, poor asset management, fraud, insider loans, concentration of loans to specific individuals and deficiencies in the management of banks were identified as the primary causes of bank failures.[286] As a result, there was a decline in the number of banks in Zimbabwe, with many struggling to keep their operations afloat.[287] In response, the Deposit Protection Corporation (DPC) was established through the

---

283 Munangagwa 2009 *Gettysburg Economic Review* 117; Nyamunda 2021 *Journal of Asian and African Studies* 206-207; Dashwood 2002 *International Journal* 210; Richardson 2005 *CATO Journal* 542; see related comments in Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues* 597.

284 Dhlamini B and Mbira L "The Current Zimbabwean Liquidity Crisis: A Review of its Precipitates" 2017 *Journal of Economics and Behavioural Studies* 212, 213; Dzomira 2014 *Journal of Governance and Regulation* 78; an update on closed banks: Deposit Protection Corporation available at http://www.dpcorp.co.zw accessed 18 March 2024; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60.

285 Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 212; Mlambo and Mupunga 2018 *The African Finance Journal* 5; Kandongwe 2015 *Available at SSRN 3120898* 8; Dhlamini and Mbira 2017 *Journal of Economics and Behavioral Studies* 212; Chitimira and Ncube 2021 *PER/PELJ* 7; Dzomira and Katuka 2014 *International Journal of Economics and Finance* 232; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; Tsaurai 2012 *Corporate Ownership and Control* 515.

286 Dzomira 2014 *Journal of Governance and Regulation* 78; Tsaurai 2018 *The Journal of Developing Areas* 93-94; an update on closed banks: Deposit Protection Corporation available at http://www.dpcorp.co.zw accessed 18 March 2024; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42 state that major reasons for bank failures included liquidity and solvency problems, inadequate risk management systems, poor corporate governance and high levels of non-performing loans.

287 Tsaurai 2012 *Corporate Ownership and Control* 515; Kavila and Le Roux 2017 *African Review of Economics and Finance* 140; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 13; Santu, Mawanza and Muredzi 2017 *Journal of Finance and Bank Management* 63.

Banking (Deposit Protection) Regulations, Statutory Instrument 29 of 2003.[288] The DPC is responsible for ensuring that depositors' funds are protected in the event of a bank failure in Zimbabwe. The DPC's mandate was expanded by the *Deposit Protection Act* which came into effect in July 2012 to include responsibilities such as the resolution of failing or failed banks, judicial management and liquidation of closed banks.[289] The *Deposit Protection Act* outlines the powers and functions of the DPC, the coverage under the deposit insurance scheme and procedures for resolving failed banks and compensating depositors.[290] In the event of bank failure, the DPC compensates depositors part or all of their funds that a failed bank held up to the minimum cover limit that was prevailing at the time of closure.[291] The DPC provides reassurance to depositors concerned about the potential loss of their funds. It also restores confidence in the banking sector and provides certainty to individuals to use banks for savings without apprehension about deposit security. Furthermore, the enhanced mandate of the DPC empowers it to effectively pursue its objectives, thereby aligning itself with the standards of international best practices.

Makoto, Rwavheya and Maphosa posit that the 2003 bank crisis led to legislative and regulatory reforms in Zimbabwe, which also saw the appointment of a new central

---

288 Section 66 of the *Banking Act* repealed by Act & of 2011; see the preamble of the *Deposit Protection Corporation Act* [Chapter 24:29] 9 of 2011 as amended (*Deposit Protection Act*); see related comments by Chitimira and Torerai 2021 *PER/PERJ* 15; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19; Tsaurai 2012 *Corporate Ownership and Control* 515; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11.

289 Sections 4, 36 and 37 of the *Deposit Protection Act*; see background about the DPC at https://www.dpcorp.co.zw/about-dpc.html accessed 19 March 2024; Chokuda and Chokuda-Santu 2021 *MSU Law Review* 14.

290 Section 5 of the *Deposit Protection Act*; Otekunrin AO, Matowanyika K, Makurumidze S, Bhebhe T and Sifile O "Saving Practices and Economic Performance: A Zimbabwean Case 1980-2015" 2021 *Asian Economic and Financial Review* 118, 123; Kavila and Le Roux 2017 *African Review of Economics and Finance* 140; Dube and Murahwe 2015 *International Journal of Development and Sustainability* 760.

291 Nhavira 2017 J*ournal of Strategic Studie*s 58; see background about the DPC at https://www.dpcorp.co.zw/about-dpc.html accessed 19 March 2024; see related in Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19.

bank governor, Gideon Gono.[292] Chokuda and Chokuda-Santu state that in response to the 2003-2004 banking crisis, the RBZ introduced corporate governance measures followed by several amendments to the *Banking Act*. The amendments provided stricter requirements for anyone seeking to acquire a significant stake in a banking institution.[293] Furthermore, the scholars acknowledge the changes to the *Banking Act* that transferred the responsibility of registering banks from the Ministry of Finance and vested it in the Registrar of Banks.[294] This shift signifies significant legislative and regulatory changes in Zimbabwe as a result of the 2003-2004 banking crisis.

In 2004, the RBZ introduced the Troubled and Insolvent Banks Resolution Framework to deal with distressed banks after various banks in Zimbabwe became insolvent.[295] The framework includes measures such as the appointment of a curator who manages the affairs of a distressed bank. Furthermore, the framework provides for a deposit protection scheme that protects depositors in the event of a bank failure.[296]

---

292 Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19; see related in Dube and Murahwe 2015 *International Journal of Development and Sustainability* 761; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 234; Munoangira and Kaja 2016 *European Journal of Business and Management* 195.

293 Section 15B of the *Banking Act*; Chokuda and Chokuda-Santu 2021 *MSU Law Review* 10; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323.

294 Section 4A of the *Banking Act*; Chokuda and Chokuda-Santu 2021 *MSU Law Review* 10; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19; see related in Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 323.

295 Section 4 read together 26 of the *Troubled Financial Institutions* (*Resolution*) *Act* [Chapter 24:28] 31 of 2004 (Troubled Financial Institutional Act); Dzomira 2014 *Journal of Governance and Regulation* 78 state that owing to the financial distress an act was enacted Troubled Financial Institution Resolution; Munyanyi 2017 *Munich Personal RePEc Archive* 4; Chitimira and Torerai 2021 *PER/PELJ* 15; Nkomo *et al* 2013 *International Journal of Marketing and Technology* 2; see related Nhavira and Ocran 2012 *Journal of Strategic Studies* 25.

296 Section 11 of the *Troubled Financial Institutions Act*; section 13 of the *Deposit Protection Act*; Nkomo *et al* 2013 *International Journal of Marketing and Technology* 3; Makoto, Rwavya and Maphosa 2010 *Journal of Strategic Studies* 21, to restore public confidence, the government intervened so as to avoid bank contagions through the Troubled Bank Fund (TBF) programme; Dube and Murahwe 2015 *International Journal of Development and Sustainability* 761; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 234.

2.2.6 Other Factors that Contributed to Bank Failures in Zimbabwe Between 2000 and 2010

Hyperinflation may be another factor contributing to Zimbabwe's bank failures during this period. Inflation peaked in 2008, resulting in the erosion of the value of the Zimbabwean dollar and severely affecting the ability of banks to maintain stable operations and adequately manage risks.[297] Erosion of the value of the Zimbabwean dollar or currency cannot be pinpointed to a single person or entity, but primarily to the result of economic distress and unsustainable policies implemented by the Zimbabwean government and the central bank.[298] The RBZ excessively printed money to fund government expenditures, pay off debts and support parastatals, which significantly increased the money supply without corresponding growth in goods and services, leading to hyperinflation.[299] The government of Zimbabwe paid large sums of money to war veterans, and civil servants and sustained government operations despite the reduced revenue base, causing an oversupply of money in the market and drastically eroding the value of Zimbabwean currency.[300] Inflation peaked at an astonishing 89.7 sextillion percent, rendering the local currency worthless and wiping

---

297 Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Mlambo and Mupunga 2018 *The African Finance Journal* 3; see related in Munoangira and Kaja 2016 *European Journal of Business and Management* 196; see related in Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 41; Tsaurai 2018 *The Journal of Developing Areas* 87; Maune 2014 *Journal of Governance and Regulation* 129.

298 Nyamunda 2021 *Journal of Asian and African Studies* 206-207; Dashwood 2002 *International Journal* 210; Richardson 2005 *CATO Journal* 542; see related comments in Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues* 600.

299 Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320; Dzapasi 2020 *PM World Journal* 7; Abel and Le Roux 2016 *Economic Research Southern Africa* 3; Nhavira and Ocran 2012 *Journal of Strategic Studies* 25; Maune 2014 *Journal of Governance and Regulation* 129; Bayai and Nyangara 2013 *International Journal of Economics and Management Sciences* 21; Pasara and Garidzirai 2020 *Economies* 3.

300 Nyamunda 2021 *Journal of Asian and African Studies* 207; Dashwood 2002 *International Journal* 213; Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues* 597.

off people's savings in the process.[301] The hyperinflationary environment created an unstable financial sector where banks struggled to maintain liquidity and sustain their operations.[302] As a result, various banks experienced operational difficulties leaving some of them under curatorship.[303] The RBZ responded by printing more cash in the form of bearer cheques. However, printing and injecting more money into the economy fueled runaway inflation forcing the RBZ to abandon the Zimbabwean dollar and adopt a multi-currency regime in 2009.[304]

The liquidity crunch also played a significant role in eroding public trust in the banking sector which contributed to bank failures in Zimbabwe.[305] There was a shortage of

---

301 Gumbo *et al* 2022 *Global Scientific Journals* 801; See related in Munoangira and Kaja 2016 *European Journal of Business and Management* 196; see related in Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56 avers that confidence in the banking sector evaporated after 2008, when hyperinflation wiped out savings, meaning that many people bypass formal financial institutions and for many Zimbabweans, the reality is they keep their money to themselves than depositing into a bank; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Maune 2014 *Journal of Governance and Regulation* 129 states that inflation reached 26 470.8% as of November 2007; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 41; Tsaurai 2018 *The Journal of Developing Areas* 87; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Financial and Accounting* 45 states that inflation picked up to 1729% by January 2008.

302 Kavila and Le Roux 2017 *African Review of Economics and Finance* 133; Bayai and Nyangara 2013 *International Journal of Economics and Management Sciences* 12; Dzapasi 2020 *PM World Journal* 7; Pasara and Garidzirai 2020 *Economies* 3 where they state that the inflation rate reached its peak between August and November 2008 with approximate figures reaching 79,600,000,000 percent annually and daily equivalent inflation approximately 98%; Tsaurai 2012 *Corporate Ownership and Control* 515; Nyoni 2018 *International Journal of Marketing and Financial Management* 49 states that most depositors had attempted to empty their bank accounts as the government introduced bond notes, fearing that their hard-earned money could be lost as what happened in 2008 hyperinflationary era when depositors' accounts were "frozen"; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 41; Nhavira 2017 *Journal of Strategic Studies* 24.

303 Maune 2014 *Journal of Governance and Regulation* 129; Dzapasi 2020 *PM World Journal* 7; Pasara and Garidzirai 2020 *Economies* 3; Tsaurai 2018 *The Journal of Developing Areas* 88; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320.

304 Bayai and Nyangara 2013 *International Journal of Economics and Management Sciences* 21; Dzapasi 2020 *PM World Journal* 7; Pasara and Garidzirai 2020 *Economies* 3; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320; see related in Abel and Le Roux 2016 *Economic Research Southern Africa* 3; Nhavira and Ocran 2012 *Journal of Strategic Studies* 25; Maune 2014 *Journal of Governance and Regulation* 129.

305 Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56; Dzomira 2014 *Journal of Governance and Regulation* 75; Katuka and Dzingirai 2018 *MEFMI Research and Policy Journal* 69; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Abel and Le Roux 2016 *Economic Research Southern Africa* 16.

money from banks and cases of repeated lowering of the daily withdrawal limit forced people to refrain from depositing money, further squeezing the credit base of the banks.[306] In addition, fraudulent activities such as insider lending and embezzlement by bank officials equally weakened the banking sector.[307] For instance, Richard Floyd Mambo and Nigel Mahoko were arrested for attempting to cross into Zambia with an undeclared amount of ZW$575 million.[308] Furthermore, Gilbert Muponda and Nyasha Watyoka, executives and founding members of ENG Capital Asset Management, a prominent financial institution engaged in fraudulent activities, siphoning off large sums of money for personal gain.[309] Due to the increase in money shortage in banks, many people started hoarding cash at home and in the informal sector further exacerbating the liquidity challenges in Zimbabwe.[310]

---

306 Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56; Dzomira 2014 *Journal of Governance and Regulation* 78; Maune 2014 *Journal of Governance and Regulation* 129 states that the financial crisis of 2004 to 2008 was marked by hyperinflation, the critical foreign exchange shortages, and the country suffered bouts of cash shortages and witnessed the massive printing of cash by the central bank.

307 See Bonga, Chirenje, and Mugayi 2019 *Journal of Economics and Finance* 53 where it was stated that nepotism is a form of corruption and defines unhealthy institutions. Nepotism is related to favouritism and cronyism with the same social and economic effects that facilitate corruption; Dube and Murahwe 2015 *International Journal of Development and Sustainability* 766; Munoangira and Kaja 2016 *European Journal of Business and Management* 195, the financial sector had to deal with unique and peculiar challenges which include the pressure of imprudent lending practices, poor controls and risk management as well neglect of good corporate governance. This inevitably led to the erosion of the trust and confidence that depositors had; see related in Gianfrate, Santangelo and Zanetti 2012 *Corporate Ownership and Control* 488; see related in Dzomira 2014 *Journal of Governance and Regulation* 75.

308 Chitimira and Ncube 2021 *PER/PELJ* 7; Ncube C and Okeke-Uzodike U "Understanding Illicit Financial Flows in Post-2000 Zimbabwe" 2015 *Journal of African Foreign Affairs* 93, 101; see related comments in Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 13.

309 Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56 states that cash was directly taken out of the system through what the government refers to as leakages; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 102; see related in Dzomira 2014 *Journal of Governance and Regulation* 75; see related in Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 61.

310 See related in Munoangira and Kaja 2016 *European Journal of Business and Management* 196; see related in Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56; Maune 2014 *Journal of Governance and Regulation* 129.

Interestingly, there were no bank failures in Zimbabwe during the global financial crisis of 2008-2009 unlike in other jurisdictions such as the UK and other western countries.[311] This can be attributed to several unique factors in the country's banking and economic environment, including the extensive financial reforms and stricter regulatory frameworks implemented in response to earlier banking crises in the country.[312] In addition, Zimbabwe's economic environment during that period was characterised by hyperinflation and unique socio-economic challenges, that may have insulated the financial system from direct impact of the global financial crisis.[313] During the 2007-2008 financial crisis, regulatory agencies failed to detect irregularities in the operation of banks that eventually failed and collapsed.[314] The extent of the global financial crisis of 2007/08 showed that the overall accumulation of risks in the financial sector was not given due attention.[315] The RBZ and other banking regulatory agencies failed as external supervisors to curb repeated manifestations of poor corporate governance mechanisms due to the lack of enforcement capacity and the inadequacy

---

311 Chokuda and Chokuda-Santu 2021 *MSU Law Review* 4; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 48; see related in Ndlovu 2013 *International Journal of Economics and Financial Issues* 437.

312 Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; Dzomira 2014 *Journal of Governance and Regulation* 76.

313 Dzomira 2014 *Journal of Governance and Regulation* 76; Abel and Le Roux 2016 *Economic Research Southern Africa* 03; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Waweru and Kalani 2009 *Global Journal of Finance and Banking Issues* 23; Chipatiso 2018 *JCCL&P* 43; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 96; Sithole and Mtetwa 2009 *UniSWA Research Journal* 47; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 45.

314 Chokuda and Chokuda-Santu 2021 *MSU Law Review* 4; see related in Katuka and Dzingirai 2021 *MEFMI Research and Policy Seminar Journal* 55; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 48; see related in Ndlovu 2013 *International Journal of Economics and Financial Issues* 437.

315 Chikoko, Matambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences* 885 conducted a survey and all respondents pointed to inadequate supervision which led to gross violation of prudential guidelines; According to the RBZ Financial Standard Report of June 2014, 7 it was stated that in 2012 the regulatory emphasis came at a time when a number of banks were already faced with financial challenges caused by macroeconomic difficulties and other institution specific challenges. To address these challenges, a multidisciplinary Financial Stability Committee was established incorporating all financial sector regulatory agencies to promote financial stability, exchange ideas and make policy recommendations on financial sector stability as a whole; Chagwiza 2014 *International Journal of Empirical Finance* 52; Munoangira and Kaja 2016 *European Journal of Business and Management* 204.

of relevant laws.[316] Poor corporate governance, inadequate board oversight, inexperienced management, undue influence by dominant shareholders and excessive risk-taking caused many bank failures in Zimbabwe.[317] Non-compliance with laws was also another major cause of bank failures.[318] Such inadequate regulatory oversight within the banking sector enabled risky practices such as speculative lending, where banks were offering loans to individuals or businesses without proper assessment of the viability of their projects.

Furthermore, instances of insider lending where officials extended loans to themselves, their family members or associates without appropriate scrutiny or adherence to lending guidelines led to conflicts of interest and the diversion of funds for personal gain rather than productive investment.[319] Katuka and Dzingirai are of the same view that during and after the inception of the new currency regime in Zimbabwe, there was excessive insider lending and that presented a moral hazard in the banking

316 Prior 2004, there was no specific guideline on corporate governance in the banking sector, but the Banking Act merely provided for disqualification for appointment to board for banking institution financial requirements, accounting and auditing requirements, with no specific mention to the separation of ownership and management were addressed; section 16 and 17of the *Banking Act*; Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 432; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 174; see related comments in Chitimira and Torerai 2023 *De Jure Law Journal* 248; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 101-102; Udechuku *et al* 2013 *African Development Review* 277.

317 Udechuku *et al* 2013 *African Development Review* 277; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 101; Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 432; Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe" 174; see related comments in Chitimira and Torerai 2023 *De Jure Law Journal* 248.

318 Chokuda and Chokuda-Santu 2021 *MSU Law Review* 5; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 48 states that there is a near consensus that the African financial and economic crisis is the result of regulatory failure.

319 See Chikoko, Matambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences* 885 who contended that there was insider lending, where lending was to connected parties and prudential limits were violated; see related in Bonga and Mlambo 2016 *IOSR Journal of Economics and Finance* 70; see related in Gumbo and Zoromedza 2016 *Applied Economics and Finance* 224; Dzomira 2014 *Journal of Governance and Regulation* 75.

industry.[320] Insider lending could be a significant cause of bank failures, especially in an environment with poor regulatory oversight or economic instability as it diminishes a bank's financial health. Insider loans are often not subject to the same rigorous credit assessments as those of outsiders, leading to non-performing loans. This may weaken the bank's balance sheet, causing liquidity problems that may eventually lead to insolvency. In addition, other high-risk activities such as investing heavily in volatile markets or participating in ventures with uncertain returns, contributed to bank failures in Zimbabwe.[321]

Despite the RBZ tightening entry requirements for the banking sector and adopting Basel II international standards, bank failures continued to occur unabated in Zimbabwe.[322] Basel II technical guidelines aim to mitigate the causes of bank failures by promoting financial stability, market discipline, and risk management practices, as well as levelling the plain field of competition, and achieving simplicity and comparability among international banks.[323] Furthermore, the RBZ created the Troubled Bank Resolution Framework to mitigate insolvency and liquidity deficiencies

---

320 Katuka and Dzingirai 2021 *MEFMI Research and Policy Seminar Journal* 57; Dzomira 2014 *Journal of Governance and Regulation* 75; Abel and Le Roux 2016 *International Journal of Economics and Financial Issues* 846; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 13.

321 Chikoko, Matambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences* 884 provided high risks activities in which banks engaged that contributed to non-performing loans, which caused financial strains to the banks as high lending risks, weak internal systems, overdependency on balance sheet and multi borrowing.

322 Chokuda, Nkomazana and Mwanza 2017 *Journal of Economics and Behavioral Studies* 207; Chitimira and Ncube 2021 *Per/ PELJ* 24 recommended that the RBZ and the banks should consider incorporating codes of good corporate governance; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 19 states that in response to the financial crises, regulatory reforms were affected which saw the transfer of mandate to the central bank. The Minister of Finance had the mandate to register and deregister banks, while the central bank had a supervisory role. In 2004, a new banking statute, the Bank Supervision and Regulation Act [24:03] was enacted to give the RBZ autonomy on bank registration, deregistration and supervision; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49.

323 Chitimira and Ncube 2021 *Per/ PELJ* 24 states that the King Report and King Code on corporate Governance are corporate governance standards which seek to promote good governance in the boards of directors of listed companies, banks and certain state-owned enterprises in South Africa; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 12.

in the banking sector, which was designed to strengthen, promote and preserve stability in the financial sector.[324] It is imperative for the government to prioritise good governance practices, strengthen regulatory frameworks, combat corruption, attract foreign direct investment and promote economic diversification to ensure a more stable and resilient banking sector.

Another contributing factor to bank failures in Zimbabwe was the frequent changes in monetary policies and the introduction of multiple exchange rates.[325] These factors created uncertainty in the currency valuation, inflation rates and future economic conditions, making it difficult for banks to assess risk and price loans as well as manage foreign exchange reserves effectively and prevent bank failures in Zimbabwe. Changes in monetary policies destabilised the banking sector by causing the public to lose trust in depositing their money into the bank, making it difficult for banks to manage assets, liabilities and liquidity, ultimately contributing to bank failures.[326] In this regard, the official exchange rate and the parallel market exchange rate added resistance to transactions through the banks as consumer confidence in the banking sector

---

324 Section 4-9 *Troubled Financial Institution Act*; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 102; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2; Chitimira and Ncube 2021 *Per/ PELJ* 8.

325 Chitimira H, Torerai E and Tsaura O "A Statutory Analysis of the Role of the Courts in Protecting Financial Consumer' Rights in the Zimbabwean Banking Sector: The Penelope Case in Context" 2024 *PER/PELJ* 1, 6; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 102; see related comment in Chitimira and Ncube 2021 *Per/ PELJ* 7; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 11-12; see related comments by Munzara AT "Escaping Deflation in Zimbabwe: The Role of Monetary Policies" 2015 *IOS Journal of Economics and Finance* (*IOS-JEF*) 23, 26.

326 Dlamini B and Mbira L "The Current Zimbabwean Liquidity Crisis: A Review of its Precipitates" 2017 *Journal of Economics and Behavioral Studies* 212, 217; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56; Dzomira 2014 *Journal of Governance and Regulation* 75; Katuka and Dzingirai 2018 *MEFMI Research and Policy Journal* 69; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Abel and Le Roux 2016 *Economic Research Southern Africa* 16.

waned.[327] The government introduced various regulatory measures, including strengthened capital requirements for banks, enhanced supervision and oversight, and currency reforms to control and stabilise the banks.[328] Restrictions were imposed on the amount of foreign currency an individual could purchase in a bid to mitigate the economic instability experienced at the time.[329]

Poor enforcement of relevant banking laws on the amount of foreign currency an individual or business can purchase tarnished the reputation of banks and significantly contributed to the erosion of public trust in the banking sector in Zimbabwe.[330] Legislation such as the *Banking Act*, the *RBZ Act*, and the *Money Laundering Act* was designed to set out minimum standards and guidelines that financial institutions must adhere to, ensuring their soundness, stability and compliance with ethical and legal obligations.[331] However, the poor enforcement of the relevant banking laws and regulations has been a persistent concern within the banking sector of Zimbabwe. One

---

327 See related in Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 21 who contended that over the period, the government embarked on price, interest and exchange rate controls that promoted currency substitution, and these policies resulted in negative real returns affecting the portfolio choice of banks; The inconsistency in monetary policies disrupted the normal functioning of banks, making it difficult for banks to effectively manage their operations and maintain stability. In addition, the existence of multiple exchange rates created complexities and distortions within the banking sector as depositors resorted to the parallel market to access foreign currency at more realistic rates, bypassing the official channels. As a result, the effectiveness of monetary policies and regulatory oversight were undermined, contributing to a loss of confidence in the financial sector. Lastly, it led to challenges such as currency arbitrage, where individuals or entities exploited the differences between the official rate and parallel market rate for profit, destabilising the economy and banking sector.

328 See section 11(5), (7) and (8) of the *RBZ Act*; Dzapasi 2020 *PM World Journal* 2; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Nhavira and Ocran 2012 *Journal of Strategic Studies* 25.

329 Section 7 of the *RBZ Act*; The RBZ also introduced a number of regulatory measures, including limits on interest rates and reserve requirements of banks, however, this has not effectively prevented bank failures in Zimbabwe; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 5; Makoto, Rwavya and Maphosa 2010 *Journal of Strategic Studies* 21.

330 See related on Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 213, Dzapasi 2020 *PM World Journal* 3; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 32; see related on Nkomo *et al* 2013 *International Journal of Marketing and Technology* 4.

331 Section 7 of the *RBZ Act*; section 4C and 4D read with section 5 of the *Banking Act*; see related on Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 66.

key aspect of weak enforcement is the failure of the RBZ to hold banks accountable for violating regulations and engaging in misconduct. Consequently, this has perpetuated fraudulent activities, poor corporate governance and non-compliance with anti-money laundering regulations. Addressing these issues is crucial to prevent illicit financial activities and maintain transparency and integrity of the banking sector in Zimbabwe.[332]

2.2.7 Bank Failures in Zimbabwe Between 2011 and 2020

The period from 2012 to 2015 was another crucial phase of bank failures in Zimbabwe, which occurred after dollarisation.[333] In this regard, dollarisation refers to the use of the United States Dollar (USD) as the de facto official currency in Zimbabwe since about 2009. During this period, structural and regulatory deficiencies in the banking sector re-emerged, including liquidity shortages, non-performing loans, poor corporate governance, poor regulatory framework, and poor enforcement of relevant banking laws.[334] Several banks failed during this period, demonstrating the weaknesses within the banking regulatory framework and enforcement of the relevant banking laws to prevent such failures.[335] Some of the banks that failed during this period are discussed below. The following failed banks will be discussed bellow, the Renaissance Merchant Bank, Interfin Merchant Bank, Royal Bank Zimbabwe Limited, Genesis Investment

---

332 See section 4(1) of the *Bank Use Promotion and Suppression of Money Laundering Act* [Chapter 24:24] 2 of 2004 (*Money Laundering Act*); Kurebwa J "Organisational Downsizing and Its Impact on Leavers and Survivors: The Case of the Reserve Bank of Zimbabwe" 2011 *Journal of Emerging Trends in Economics and Management Sciences* 264, 265; Chitimira and Ncube 2021 *PER/PELJ* 10; see related in Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; Simwayi and Haseed 2012 *Journal of Money Laundering Control* 121.

333

334 Tsaurai 2018 *The Journal of Developing Areas* 89; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 47; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 47 states that banks have been characterised by insufficient money for withdrawals as there was shortage of cash.

335 Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 47; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 105; Tsaurai 2018 *The Journal of Developing Areas* 88; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 47.

Bank, AfriAsia Bank Zimbabwe, Zimbabwe Allied Banking Group, Allied Bank Limited and Tetrad Investment Bank.

2.2.7.1 The Failure of Renaissance Merchant Bank

In June 2011, Renaissance Merchant Bank failed due to gross irregularities and was placed under curatorship.[336] The RBZ's audit team revealed the causes of Renaissance Merchant Bank's failure as several non-compliance issues including inappropriate shareholder structure, high level of non-performing loans, poor corporate governance and poor internal control strategies.[337] In 2012, the bank's curatorship was lifted, and Renaissance Merchant Bank was rebranded to Capital Bank. The curatorship was lifted following a cash injection by the National Social Security Authority (NSSA), which acquired an 84 percent share in the holding company and installed new management.

2.2.7.2 The Failure of Interfin Merchant Bank

In June 2012, Interfin Merchant Bank was placed under provisional liquidation, after the RBZ audit report revealed that it was operating under gross irregularities.[338] The causes of Interfin Merchant Bank's failure include irregularities such as violation of relevant banking laws and regulations, inadequate capitalisation, concentrated

336 Dzomira 2014 *Journal of Governance and Regulation* 78; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 214; Dzomira and Katuka 2014 *International Journal of Economics and Finance* 232; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 233.

337 Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Tsaurai 2012 *Corporate Ownership and Control* 515; Ngara and Nhavira 2015 *Journal of Strategic Studies* 42.

338 Section 16, 17 read together with section 48 of the *Banking Act*; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 214; Tsaurai 2012 *Corporate Ownership and Control* 515; Nyoni 2018 *International Journal of Marketing and Financial Management* 47.

shareholding, abuse of corporate structures, high level of non-performing insider loans and related poor governance and management oversight, among others.[339]

2.2.7.3 The Failure of Royal Bank Zimbabwe Limited

In July 2012, Royal Bank Zimbabwe Limited was closed after it voluntarily surrendered its banking license to the RBZ. The RBZ conducted an on-site inspection and found that the mentioned bank operated under gross irregularities that were unsafe and unsound for a banking institution.[340] The failure of Royal Bank Zimbabwe Limited was caused by irregularities including, *inter alia*, inadequate capital, poor corporate governance and violation of banking regulations, hence the bank had to be closed.

2.2.7.4 The Failure of Genesis Investment Bank

In June 2012, Genesis Investment Bank also surrendered its operating license to RBZ voluntarily after failing to raise the minimum capital requirements.[341] Genesis Investment Bank experienced liquidity problems that led to its closure. The bank experienced liquidity problems that may have arisen from a combination of low capital buffers and inadequate access to interbank lending or external financing.[342] In

---

339 Section 35(2) of *Banking Act*; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 213; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Tsaurai 2012 *Corporate Ownership and Control* 515; Chitimira and Ncube 2021 *PER/PELJ* 7.

340 Section 17 of the *Banking Act*; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Tsaurai 2012 *Corporate Ownership and Control* 515; Chitimira and Ncube 2021 *PER/PELJ* 7; Nyoni 2018 *International Journal of Marketing and Financial Management* 47; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60.

341 Sections 29 and 30 of the *Banking Act*; Dzomira 2014 *Journal of Governance and Regulation* 78; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business* 470; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 212.

342 Muparuri A and Akinsola F "Explaining Bank Stability Using Bank Specific Factors in Zimbabwe" 2018 *Journal of Global Analysis* 45, 50; Mashingaidze S "Corporate Governance: Effectiveness of Zimbabwean Hard Law on Blockholders' Protection" 2014 *Corporate Ownership and Control* 549; 555; Chitimira and Ncube 2021 *PER/PELJ* 7; Nyoni 2018 *International Journal of Marketing and Financial Management* 47; Hlupo P, Mukute T, Chinoda T and Chagwedera E "The Impact of Financial Crisis on MFIs Performance in Zimbabwe" 2022 The *Journal of Entrepreneural Finance* 77, 78.

addition, Genesis Investment Bank failed due to imprudent lending activities such as insider lending which degenerated into non-performing loans.[343] The failure of Genesis Investment Bank shows that Zimbabwean banks fold due to internal pressures and non-compliance with the banking laws, regulations and policies that are inadequately enforced.

2.2.7.5 The Failure of the Zimbabwe Allied Banking Group

In 2012, the Zimbabwe Allied Bank Group (ZABG) failed due to liquidity challenges, and inability to access funds to service its clients' needs.[344] The failure of ZABG stemmed from liquidity challenges and poor asset quality caused by non-performing loans; access to external funding or interbank lending was limited due to economic challenges.[345] In addition, regulatory pressure played a role as the RBZ had set minimum capital requirements that ZABG could not meet.[346] The bank failed to attract new investment or recapitalise itself, exacerbating its liquidity crunch and it eventually collapsed.

---

343 Abel and Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 92; Mashingaidze 2014 *Corporate Ownership and Control* 555; Nyoni 2018 *International Journal of Marketing and Financial Management* 47; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60.

344 Chagwiza 2014 *International Journal of Empirical Finance* 52; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60, according to 2011 monetary policy, the number of commercial banks had risen to seventeen and out of these three banks, namely ZABG, Kingdom and Royal bank were undercapitalised.

345 Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Munoangira and Kaja 2016 *European Journal of Business and Management* 204; Abel and Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 92; Muparuri and Akinsola 2018 *Journal of Global Analysis* 52.

346 Section 29 and 30(1) of the *Banking Act;* Chagwiza 2014 *International Journal of empirical Finance* 52; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60, according to 2011 monetary policy, the number of commercial banks had risen to seventeen and out of these three banks, namely ZABG, Kingdom and Royal bank were undercapitalised.

2.2.7.6 The Failure of AfriAsia Bank Zimbabwe

In 2015, AfriAsia Bank Zimbabwe, formerly known as Kingdom Bank, had its operating license cancelled by the RBZ due to, among others, liquidity challenges and non-compliance with regulatory requirements.[347] The bank struggled with significant liquidity shortages caused by non-performing loans, failure to attract new investors, poor risk management policies and poor regulatory enforcement which led to deterioration of asset quality and failure to maintain adequate levels as required by RBZ.[348] AfriAsia Bank Zimbabwes attempts to raise additional capital to meet clients' withdrawals and settle other obligations as they became due were unsuccessful, leading to the bank's license being cancelled by RBZ. The RBZ can cancel a banking license if it is satisfied that the bank has contravened any provisions of the *Banking Act*, operating at unsound financial condition and the bank has failed or is likely to fail to comply with the minimum financial requirements prescribed by law.[349]

2.2.7.7 The Failure of Allied Bank Limited

In 2015, Allied Bank Limited was closed after its license was cancelled by the RBZ due to its gross undercapitalisation and chronic liquidity challenges.[350] Allied Bank failed after chronic liquidity issues that caused the bank not to have enough financial resources to absorb losses or support its operations, violating the regulatory capital

---

347 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 224; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Munoangira and Kaja 2016 *European Journal of Business and Management* 204.

348 Section 29 and 30(1) of the *Banking Act;* Chagwiza 2014 *International Journal of Empirical Finance* 52; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 44; Abel and Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 92.

349 Section 48 read together with section 53(1) of the *Banking Act*; Mashingaidze 2014 *Corporate Ownership and Control* 555.

350 Gumbo and Zoromedza 2016 *Applied Economics and Finance* 224; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Munoangira and Kaja 2016 *European Journal of Business and Management* 204

requirements of the *Banking Act*.[351] The lack of access to external funding sources compounded by poor asset quality due to non-performing loans, combined with pressures of inadequate capital, insufficient liquidity and poor enforcement of relevant banking laws and regulations led to the closure of Allied Bank Limited.[352] The RBZ determined that Allied Bank Limited was operating at an unsound financial position and the bank has failed or is likely to fail to comply with the minimum financial requirements prescribed by the *Banking Act*.[353]

2.2.7.8 The Failure of Tetrad Investment Bank

Tetrad Investments Bank faced financial difficulties and was placed under provisional liquidation in 2015.[354] The bank was unable to meet its financial obligations and was subsequently removed from the RBZ's list of registered banking institutions in Zimbabwe.[355] The RBZ determined that Tetrad Investment Bank was unable to raise sufficient capital to stabilise its operations and comply with the *Banking Act* and the central bank's minimum equity capital requirements which a financial institution should pay to the RBZ.[356] The bank's inability to meet its financial obligations, including fulfilling depositors' withdrawal requests and settling debts was largely due to poor

---

351 Sections 29 and 30 of the *Banking Act*; Muparuri and Akinsola 2018 *Journal of Global Analysis* 52; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Munoangira and Kaja 2016 *European Journal of Business and Management* 204.

352 Sections 29(2) and 30 of the *Banking Act*; Abel and Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 92; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 45; Mashingaidze 2014 *Corporate Ownership and Control* 555.

353 Section 48 read together with section 53(1) of the *Banking Act*; Mashingaidze 2014 *Corporate Ownership and Control* 555.

354 Section 53 of the *Banking Act*; According to the quarterly banking sector report by the RBZ bank supervision division dated 30 September 2015, 3 Tetrad Investment Bank remained under provisional judicial management of the Deposit Protection Corporation; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 240.

355 Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232.

356 Sections 29 and 30 of the *Banking Act*; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 45 states that commercial banks offer a narrow product range to clients and there was nothing offered in capital markets or derivatives markets.

asset quality caused by non-performing loans and the failure of Tetrad Bank to secure investors due to economic instability.[357]

According to the definition of bank failure adopted in this research, Interfin, AfriAsia Bank, Allied Bank Limited, Trust Bank Corporation Limited, Tetrad Investment Bank and Capital Bank failed as banking institutions in 2015.[358]

The banking sector in Zimbabwe continued to experience significant challenges such as economic instability, poor corporate governance, poor enforcement of relevant banking laws, and hyperinflation and foreign currency shortages persisted.[359] The transition to dollarisation did not fully address the deep-rooted economic challenges that faced Zimbabwe, hence economic instability and hyperinflation persisted even under the multi-currency regime.[360] Factors such as fiscal mismanagement, external

---

357 Muparuri and Akinsola 2018 *Journal of Global Analysis* 52.

358 Bank failure is when a financial institution is recapitalised by either the central bank or by a strategic investor, is acquired by another financial institution, has surrendered its banking licence, operations or license are temporarily suspended by the regulatory authority, and/or the regulatory authority closed the financial institution; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; Dinesen C "Bank Failures Cause a Global Crisis: How the Complexities of United States Mortgage Securities Devastated Banks and Made the Banking Crisis Global" 206; Kanas 2005 *Journal of Applied Economics* 104.

359 Chitimira H and Torerai E "A Regulatory Analysis of Digital Financial Services and the Adoption of Central Bank Digital Currencies in Zimbabwe and South Africa" 2023 *Juridical Tribute* 384, 388; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 100; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 56; Abel and Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 93; Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 320; see related comments by Chitimira, Torerai and Tsaura 2024 *PER/ PELJ* 5.

360 Chikoko, Mutambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences* 885; Dzomira 2014 *Journal of Governance and Regulation* 78 states that the financial turmoil and banking crisis which started in the pre-dollarisation era spilt over into the multi-currency era.

shocks and a ballooning informal economy contributed to economic instability and hyperinflation, thereby causing bank failures.[361]

2.2.8 Bank Failures in Zimbabwe from 2020 to 2023

In 2020 and 2023, Zimbabwe had no record of bank failures. The absence of bank failures could be attributed primarily to the reduced role of banks amid economic challenges.[362] Most of the banks have adopted more conservative lending practices and enhanced risk management strategies.[363] Another plausible explanation is that economic instability and extreme hardship have, paradoxically shielded the formal banking sector from the usual triggers of failure. In a situation where many people are either not banking or not borrowing, the exposure of banks to bad debts or liquidity crises is minimised.[364] In actual fact, the scale of formal banking activity is reduced, and those who receive their salaries through banks remove all their deposit from the bank leaving the banks with no money to do business, lowering the chances of systemic risk and large-scale bank failures.[365]

The absence of bank failures in Zimbabwe suggests that banks may be insulated from external economic shocks not because of inherent strength, but due to a contraction

---

361 Fiscal mismanagement entails government overspending, unsustainable fiscal deficits and inefficiencies in public expenditure management that persisted, contributing to inflationary pressures and economic instability in Zimbabwe. Limited monetary policy control comes from relinquishing control of its domestic monetary policy to adhere to monetary policies of adopted foreign currencies, constraining its ability to address economic domestic challenges through domestic monetary measures and external shocks such as global commodity price fluctuations and regional economic instability also impacted Zimbabwe's economy, exacerbating existing vulnerabilities.

362 Nyamunda 2021 *Journal of Asian and African Studies* 205; See related in Chikoko 2014 *Journal of Contemporary Issues in Business Research* 45; Tsaurai 2018 *The Journal of Developing Areas* 89.

363 Chikoko 2014 *Journal of Contemporary Issues in Business Research* 45 states that commercial banks in Zimbabwe offered a narrow product range to clients and there was nothing offered in the capital market and derivatives.

364 Tsaurai 2018 *The Journal of Developing Areas* 89; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 45 states that banks relied only on current accounts which were transitory in nature and not much from savings accounts making liquidity risk difficult to manage.

365 Tsaurai 2018 *The Journal of Developing Areas* 89Chikoko 2014 *Journal of Contemporary Issues in Business Research* 44.

in their operations and customer base.[366] However, when the economy began to stabilise, such as during the period after dollarisation and inclusive government, from 2009 to 2013, formal banking activity increased and so did the risk of failure. In this period, more individuals and businesses engage with the banking system, increasing the likelihood of defaults, liquidity shortages, engaging in illegal foreign currency trading and other vulnerabilities that could lead to bank failures. Therefore, the absence of bank failures in Zimbabwe during periods of extreme economic hardship such as the period from 2016 to the present day may indicate a lack of activity in the formal banking sector rather than resilience or robustness of banking laws.[367] Conversely, when the economy stabilises and banking operations expand, banks become more vulnerable to failure due to their increased exposure to operational risks. This cyclical nature suggests that the survival of banks in Zimbabwe is less about external factors or systemic strength and is more about the failure of regulation and poor enforcement of relevant banking laws to curb fraud, risk operations and ensure proper corporate governance within banks.

As of 05 April 2024, Zimbabwe had 14 commercial banks, four building societies and one savings bank.[368] According to the 2024 monetary policy statement, Zimbabwe's banking sector remains safe and sound and continues to play an important role in the recovery and growth of the economy.[369]

---

366 Tsaurai 2018 *The Journal of Developing Areas* 89; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 44.

367 Chikoko 2014 *Journal of Contemporary Issues in Business Research* 44; Tsaurai 2018 *The Journal of Developing Areas* 89.

368 See RBZ 2024 Monetary Policy Statement, Back to Basics: Recalibrating the Monetary Policy Framework to Anchor Currency, Exchange Rate and Price Stability dated 05 April 2024 35 available at https://www.rbz.co.zw/documents/mps/2024_Monetary_Policy_Statement.pdf accessed 17 February 2025.

369 See RBZ 2024 Monetary Policy Statement, Back to Basics: Recalibrating the Monetary Policy Framework to Anchor Currency, Exchange Rate and Price Stability dated 05 April 2024 35 available at https://www.rbz.co.zw/documents/mps/2024_Monetary_Policy_Statement.pdf accessed 08 June 2024.

2.3 Concluding Remarks

In conclusion, the historical background on the causes of bank failures in Zimbabwe reveals a multifaceted interplay of economic, regulatory, micro and macroeconomic factors. From 1980 to the late 1990s, there were no bank failures in Zimbabwe. From 1998 to date, Zimbabwe's banking sector experienced significant turmoil, marked by a series of bank failures. Key contributing factors to the bank failures included poor corporate governance, inadequate risk management practices, high levels of non-performing loans, speculative activities, the greed of alleged owner-managers and gross irregularities, and deterioration of asset quality. The failed banks also experienced issues such as inadequate capital and non-compliance with regulations which led to actions such as provisional liquidation or license cancellation by the RBZ. In addition, economic challenges such as hyperinflation and the adverse effects of the ESAP exacerbated the fragility of financial institutions. The absence of robust regulatory frameworks and effective supervisory mechanisms further compounded these issues, leading to systemic vulnerabilities and bank failures. Some of Zimbabwean failed banks include UMB, Unibank, ENG Capital, Barbican Bank Limited, Trust Bank, Royal Bank, Time Bank, CFX Bank Limited, CFX Merchant Bank, Renaissance Merchant Bank, Interfin Banking Corporation, AfriAsia Bank and Tetrad Bank.

In response to cases of several bank failures and challenges affecting the financial sector, Zimbabwe undertook financial reforms aimed at strengthening regulatory oversight and improving corporate governance within the banking sector. The RBZ introduced the Banking Amendment Bill, which seeks to strengthen the regulation and supervision of the banking sector.[370] The Bill compels banks to maintain minimum levels of capital and liquidity that can sustain their operations in order to curb bank

[370] See the preamble read together with section 4C of the *Banking Amendment Act*, 2015; Mlambo and Mupunga 2018 *The African Finance Journal* 5; Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 87; see related on the Bank Supervision Annual Report 2021 38, it provided an update on failed banks.

failures.[371] In addition, the Bill requires the RBZ to conduct regular stress tests to assess the banking sector's resilience and ensure early intervention resolutions are in place to deal with troubled banks.

The RBZ enhanced its supervisory framework by implementing Basel II/III standards on banking supervision and the implementation of enterprise-wide risk management frameworks in order to support its ability to identify and mitigate the causes of bank failures in Zimbabwe in a timely and effective manner.[372] Enhancing the regulatory framework strengthens the banks' risk management systems and capital adequacy to promote the banking sectors' resilience and reduce the chances of bank failures. The reforms, coupled with the unique economic environment characterised by hyperinflation and socio-economic challenges, insulated Zimbabwean banks from the direct impacts of the global financial crisis of 2007-2008, unlike in the comparative jurisdictions, which are the UK and South Africa.

The following chapter is Chapter Three and it discusses the current banking statutory framework and the combating of bank failures in Zimbabwe.

---

371 See section 19 and 29 of the *Banking Amendment Act*, 2015; Kavila and Le Roux 2017 *African Review of Economics and Finance* 142; Mlambo and Mupunga 2018 *The African Finance Journal* 5; see related on Santu, Mawanza and Muredzi 2017 *Journal of Finance and Risk Management* 63.

372 Dzomira 2014 *Journal of Governance and Regulation* 79; see related in Mlambo and Mupunga 2018 *The African Finance Journal* 3; Munoangira and Kaja 2016 *European Journal of Business and Management* 195 provided that in an effort to inspire confidence in the Zimbabwean banking sector the Central bank increased the minimum capitals of all financial system players; Maune 2014 *Journal of Governance and Regulation* 129; Chinoda, Chingombe and Chawuruka 2015 *IOSR Journal of Economics and Finance* 60; Ojiako *et al* 2013 *African Development Review* 282.

CHAPTER THREE

THE CURRENT BANKING STATUTORY FRAMEWORK AND THE COMBATING OF BANK FAILURES IN ZIMBABWE

3.1 Introduction

This chapter examines whether the current banking laws adequately provide for the regulation and supervision of banks in Zimbabwe and effectively combat bank failures. The researcher discusses various relevant statutes that regulate the banking sector and identifies provisions that aim to combat the causes of bank failures in Zimbabwe. To ensure the stability of the banking sector, the government and policymakers established a regulatory framework that regulates the operations of banks and other financial institutions in Zimbabwe.[373] The banking laws have evolved over the years and this chapter seeks to provide an insightful analysis of the robustness of the relevant banking laws in combating bank failures in Zimbabwe. This is done with the view to recommend measures that can be taken to mitigate against bank failures in Zimbabwe. The current banking laws consist of the *Banking Act*,[374] the *Reserve Bank*

---

373 Section 3 of the *Banking Act* [Chapter 24:20] 9 of 2000 (the *Banking Act*); section 3 of the *Reserve Bank of Zimbabwe Act* [Chapter 22:15] 5 of 1999 (the *RBZ Act*); see related on Chitimira H and Ncube M "Towards Ingenious Technology and the Robust Enforcement of Financial Markets Laws to Curb Money Laundering in Zimbabwe" 2021 *PER/PELJ* 1, 4; see related in Chokuda Santu TV, Mawanza W and Muredzi V "An Evaluation of the Agency Banking Model Adopted by Zimbabwean Commercial Banks" 2017 *Journal of Finance and Bank Management* 58, 64; Chitimira H and Torerai E "A Regulatory Analysis of Digital Financial Services and the Adoption of Central Bank Digital Currencies in Zimbabwe and South Africa" 2023 *Juridical Tribune* 384, 393 states that the Banking Act provides for the registration, supervision and regulation of banks and other financial institutions in Zimbabwe.

374 Section 3 the *Banking Act*; see related on Makena P "Banking Industry Competition and Stability in Zimbabwe" 2021 *African Economic Research Consortium* 1, 5; Ndlovu MW, Bhiri T, Mutambanadzo T and Hlahla BP "A Comparative Analysis of the Corporate Governance Practices in Multinational and Domestic Banks in Zimbabwe" 2013 *Journal of Emerging Trends in Economics and Management Sciences* 473; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 5 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024; Nhavira DG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 4.

of Zimbabwe Act (*RBZ Act*),[375] the *Bank Use Promotion and Suppression of Money Laundering Act*,[376] and the *National Payment System Act*.[377] The oversight of banks, financial regulation and supervision falls under the purview of five principal regulators. These are the Ministry of Finance, the Reserve Bank of Zimbabwe (RBZ), the Deposit Protection Corporation (DPC), the Insurance and Pensions Commission (IPEC) and the Security Exchange Commission (SEC).[378] The afore-mentioned role players are discussed in Chapter Four.

An analysis of the banking regulatory framework is essential for policymakers, regulators, bankers, and academics to understand and gain insight into formulating robust policies that assist in preventing bank failures in Zimbabwe. It also sheds light on the effectiveness and/or robustness of the banking laws in achieving bank stability and preventing bank failures in Zimbabwe.

---

375 Section 3 the *RBZ Act*, Njanike K "Central Bank Independency on the Development of the Financial Sector. A Case of Reserve Bank of Zimbabwe (1998-2008)" 2010 *Annals of the University of Petrosani, Economics* 251, 253; Moyo IL, Gumbo V, Chikodza E and Jones B "An Empirical Study on the Factors Influencing the Performance of Financial Institutions Zimbabwe" 2019 *International Journal of Finance and Banking Studies* 1, 2; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 6 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024; Makena 2021 *African Economic Research Consortium* 4; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

376 Section 4(1) of the *Bank Use Promotion and Suppression of Money Laundering Act* [Chapter 24:24] 2of 2004 (*Money Laundering Act*); Chitimira and Ncube 2021 *PER/PELJ* 11; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

377 See sections 2 and 3 of the *National Payments System Act* 78 of 1998 as amended (*NPS Act*); Chitimira and Torerai 2023 *Juridical Tribune* 387.

378 Kondongwe 2018 *Social Science Research Network* 12; Chitimira H and Ncube M "The Regulatory Nexus between Corporate and Financial Markets Law in Promoting Economic Growth and Viable Financial Markets in Zimbabwe" 2021 *Interdisciplinary Journal of Economics and Business Law* 91, 108; Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 8; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; Musikavanhu LT, Matandare MA and Zhou N "Ownership Structure and Bank Performance in Zimbabwe" 2018 *Research Journal of Finance and Accounting* 45.

3.2 The Banking Regulatory Statutory Framework in Zimbabwe

Generally, Zimbabwe does not have an express statute that regulates the causes of bank failures or a framework for combating bank failures. Nonetheless, regulation of supervision and monitoring of banks and banking activities is provided in an assortment of related legislation that can be used to fill the gap. The relevant banking laws containing provisions that could be used to combat the causes of bank failures in Zimbabwe are discussed below.

3.2.1 The Regulation and Combating of Bank Failures under the Banking Act

The *Banking Act* is the principal legislation that regulates banks and other financial institutions in Zimbabwe.[379] It was enacted in 1999 and came into effect on 1 August 2000. The *Banking Act* provides, *inter alia*, for the registration, supervision and regulation of banks, and regulation of persons conducting banking business and financial activities in Zimbabwe.[380] It further provides for the establishment, operation, and regulation of banks and financial institutions in Zimbabwe.[381] The *Act* requires that there should be cooperation and collaboration of the authorities that regulate various

---

379 See the long title and section 3 of the *Banking Act*; Kondongwe 2018 *Politics and Public Management* 13; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Chitimira and Torerai 2021 *PER/PELJ* 14 states that the Banking Act applies to any other registered institution that provide money transmission services in Zimbabwe; Makena 2021 *African Economic Research Consortium* 5.

380 See the preamble of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 5; Foya D and Changunda G "An Investigation of Corporate Governance Challenges Facing Indigenous Banks in Zimbabwe" 2019 *International Journal of Research and Innovation in Social Science* 100,106; see related in Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 325; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; see related on Muranda 2006 *The International Journal of Business in Society* 644; Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting* 45.

381 Section 5 read together with section 8(1) of the *Banking Act*; Kondongwe 2018 *Politics and Public Management* 13; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Chitimira and Torerai 2021 *PER/PELJ* 14 states that the Banking Act applies to any other registered institution that provide money transmission services in Zimbabwe; Makena 2021 *African Economic Research Consortium* 5; Mlambo K and Masiyandima N "Corporate Governance Factors, Capital Regulation and Bank Risk Taking in Zimbabwe" 2019 *Business and Management Research* 39, 40; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 417.

aspects of banking operations.[382] The *Banking Act* encompasses provisions for consumer protection in the Zimbabwean banking sector.[383] The *Act* further provides for the curatorship mechanism to revive distressed banks.[384] Two years after its enactment, the *Banking Act* was amended to strengthen the RBZ's supervisory capacity so that it could be more effective in ensuring financial stability in Zimbabwe.[385]

The RBZ is responsible for ongoing monitoring and supervision of banking institutions, to ensure that they comply with the provisions of the *Banking Act* or any other relevant law.[386] Additionally, the RBZ conducts thorough investigations on banks or controlling companies or classes of such institutions or companies, where it considers such investigation necessary to detect or prevent contravention of the *Banking Act* or any other law.[387] Furthermore, the *Banking Act* provides the methods in which the RBZ can exercise its functions to monitor and supervise banks, which include analysing and

---

382 See section 4D of the *Banking Act*; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 417.

383 See part IVA, section 28D-G of the *Banking Act*; see related Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 406; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 40 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

384 Section 53(1)(a) and (b) of the *Banking Act*; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 40 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

385 Section 45(1)(a) of the *Banking Act*.

386 Section 45(1)(a) of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 19; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Dzomira S "Electronic Fraud (Cyber Fraud) Risk in the Banking Industry, Zimbabwe" 2014 *Risk Governance & Control: Financial Markets & Institutions* 16, 24; see related in Ojiako U, Manungo T, Chipulu M and Johnson J "The Impact of Regulation on Risk Perception: Evidence from Zimbabwean Banking Industry" 2013 *African Development Review* 276, 278; see related in Pikirayi I "The Kingdom, the Power and Forevermore: Zimbabwe Culture in Contemporary Art and Architecture" 2006 *Journal of Southern African Studies* 754, 762; see related in Abor JY, Mensah S, Kusi BA and Mathuva D "Explaining Banking Failures in Africa" in Kusumaningrum R, Trihantana R and Thantawi TR *The Economics of Banking and Finance in Africa: Developments in Africa's Financial Systems* (Springer Nature Switzerland AG 2023) 459 where it was stated that the Central Bank oversees banks.

387 Section 45(1)(b) of the *Banking Act*; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Pikirayi 2006 *Journal of Southern African Studies* 762.

inspecting documents and information provided or obtained at the premises of the banks concerned.[388] The researcher submits that the *Banking Act* sufficiently provides for the roles and responsibilities of the RBZ that could assist in combating bank failures. The *Banking Act* reasonably empowers the RBZ and stipulates the responsibilities of the central bank which include the role to regulate, supervise and monitor banks to ensure compliance with the related banking laws and promote stability in the financial sector.[389] The RBZ's oversight role includes regular inspections and monitoring of banks' financial position, which helps to detect early warning signs and risks that cause bank failures. Accordingly, if the RBZ effectively fulfils its roles and responsibilities as prescribed by the *Banking Act*, it can proactively address the root causes of bank failures and intervene early enough to rescue distressed banks before they collapse.

The researcher submits that the *Banking Act* sufficiently provides for cooperation between the Registrar and the RBZ with other regulatory authorities to ensure efficient bank oversight, to combat the causes of bank failures.[390] The *Banking Act* promotes the cooperation between the Registrar and the RBZ with other regulatory authorities to better exercise their functions and ensure the efficient and coordinated regulation and development in Zimbabwe's banking sector.[391] Cooperation and collaboration are vital for ensuring efficient oversight, as it allows for the sharing of critical information, coordinated responses to emerging risks and the consistent enforcement of relevant banking laws. The provision of cooperation ensures that all stakeholders work together to address issues such as credit, liquidity and operational risks, thereby strengthening

---

388 Section 45(2) (a and b) read together with section 47 of the *Banking Act*; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Pikirayi 2006 *Journal of Southern African Studies* 762; Kondongwe 2018 *Social Science Research Network* 13; Chagwiza W "Rejuvenating the Zimbabwean Economy: The Role of Banks" 2012 *Journal of Sustainable Development in Africa* 183, 185.

389 Section 45(1)(a) of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 19; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; see related in Abor *et al* "Explaining Banking Failures in Africa" 459.

390 See section 4D of the *Banking Act*.

391 See section 4C of the *Banking Act*; see related comments in Van Heerden CM and Van Niekerk GM "Twin Peaks in South Africa: A New Role for the Central Bank" 2017 *Law and Financial Markets Law Review* 154, 156; see related comments by De Jager JJ "The South African Reserve Bank: Blowing Winds of Change (Part 2)" 2013 *South African Mercantile Law Journal* 490, 496.

the resilience and stability of banks and reducing the likelihood of bank failures.[392] The joint efforts of various authorities lead to a comprehensive and unified approach to combating risks that may cause bank failures in Zimbabwe.

In the event that the RBZ identifies a troubled bank, the *Banking Act* provides mechanisms to deal with such institution in a manner that protects and enhances stability and public confidence, protects depositors, and where applicable, protects public funds.[393] The *Banking Act* defines a problem bank as an institution whose capital adequacy, asset quality or liquidity, or solvency is, or will be (in the opinion of the registrar of banks), significantly impaired unless there is a major improvement in its financial resources, risk profile, strategic business direction, risk management capabilities or quality of management.[394] The RBZ must afford the problem bank an adequate opportunity to make representations in the matter or provide a resolution plan that should be implemented to prevent irreparable harm to the bank or its stakeholders.[395] However, if the RBZ discovers that a bank is in an unsound financial position, operating with inadequate administration, and failing to follow appropriate accounting practices and risk-management policies, such a bank can be placed under

---

392 Section 4D(1) and (2) of the *Banking Act*.

393 Section 52A (1) of the *Banking Act*; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 17; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Dandira M, Vere K, Sithole M, Chufamba M and Sifile O "Curatorship Paradox: Corporate Governance in Dilemma" 2019 *Public Policy and Administration Research* 1, 9; see Muparuri A and Akinsola F "Explaining Bank Stability Using Bank Specific Factors in Zimbabwe" 2018 *Journal of Global Analysis* 45, 54.

394 See section 52C of the *Banking Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Muparuri and Akinsola 2018 *Journal of Global Analysis* 54; see related in Chagwiza 2012 *Journal of Sustainable Development in Africa* 183-184; see related in Mugozhi F and Ngirazi A "An Assessment of the Application and the Corporate Failure Predictive Value of Altman's Z-Score Model in Zimbabwe" 2016 *GSTF Journal on Business Review* 64, 65.

395 Section 52A (3) read with section 52C of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 9; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487.

the management of a curator.[396] The *Banking Act* sets out clear measures and procedures for the RBZ to follow when identifying a troubled bank and these provisions can assist in addressing the causes of bank failures.[397] Once a problem bank is identified, the *Banking Act* mandates the RBZ to implement corrective actions, such as imposing stricter capital requirements, restricting risky activities or placing the bank under curatorship.[398] In light of this, the *Banking Act* robustly provides interventions that can stabilise the troubled banks before the situation escalates and this assists in combating bank failures.

The researcher submits that the *Banking Act* provides for the prevention of bank failures in Zimbabwe through the requirement of the adoption of prudential standards of bank supervision.[399] It is imperative at this point to define and explain the term 'prudential standards'. The *Banking Act* does not expressly define prudential standards, but it can be inferred that these refer to the financial regulations and guidelines developed to enhance supervision and ensure the safety and soundness of financial

---

396 Section 53 (1)(a) and (b) of the *Banking Act* as amended by *Act* 7 of 2011 and by *Act* 12 of 2015; see related in Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 10; Matanda E, Dube H and Madzokere N "Blessing or Curse? Introduction of Bond Notes as an Antidote to Zimbabwe's Liquidity Crises" 2018 *Journal of Modern Accounting and Auditing* 252; see related in Chagwiza 2012 *Journal of Sustainable Development in Africa* 186; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 10.

397 Section 48 and 49 of the *Banking Act*; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 17; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185.

398 Section 52A (1) of the *Banking Act*; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 17; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185.

399 Section 4C (1) of the *Banking Act*; see related in Gumbo and Zoromedza 2016 Applied Economics and Finance 223; Munoangira and Kaja 2016 *European Journal of Business and Management* 196; Muparuri and Akinsola 2018 *Journal of Global Analysis* 55; see related in Nyoka C "Banks and Fallacy of Supervision: The Case of Zimbabwe" 2015 *Banks and Bank Systems* 8, 12; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems 53 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

institutions by mitigating risks and promoting stability.[400] Prudential standards typically cover areas such as capital adequacy, risk management, asset quality, and liquidity. By adopting prudential standards, the RBZ seeks to minimise the diverse risks that banks encounter, thereby diminishing the likelihood of insolvency, liquidity crises, and other elements that can lead to bank failures.

The Bank for International Settlements (BIS) and the International Monetary Fund (IMF) supported the adoption of prudential standards of bank supervision. This heralded a series of reforms in many countries, including Zimbabwe, to adopt supervisory guidance on the structure, composition and functioning of banks.[401] These standards promote the stability of the banking sector and if all banks adhere to common regulatory standards, they minimise the chances of systemic shocks that could result from the failure of one or more banks. Hence, the provisions of the *Banking Act* robustly and adequately ensure strict adherence to prudential standards which, if effectively implemented can reduce the likelihood of bank failures in Zimbabwe.[402] The researcher submits that prudential standards provisions sufficiently promote financial

---

400 Section 4C (1) of the *Banking Act*; Munoangira and Kaja 2016 *European Journal of Business and Management* 196; Muparuri and Akinsola 2018 *Journal of Global Analysis* 55; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 53 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

401 See section 4C (1) and (2) read together with section 28A (1) of the *Banking Act*; In order to strengthen the resilience of the financial system to liquidity risk, the RBZ issued the Liquidity Coverage Ratio Prudential Standard. The Standard promotes the short-term resilience of the liquidity risk profile of banks by ensuring that they have an adequate liquidity cushion in terms of stock of unencumbered high-quality liquid assets that can be converted easily or immediately into cash to meet liquidity needs under stress scenarios; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12; Chitimira and Torerai 2021 *PER/PELJ* 14; Mutarindwa S, Schafer D and Stephan A "Central Banks' Supervisory Guidance on Corporate Governance and Bank Stability: Evidence from African Countries" 2020 *Emerging Markets Review* 1, 2.

402 Section 4C (1) of the *Banking Act*; see related comments in Gumbo and Zoromedza 2016 Applied Economics and Finance 223; Munoangira and Kaja 2016 *European Journal of Business and Management* 196; see related comments in Nyoka 2015 *Banks and Bank Systems* 12; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems 53 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 19 October 2024.

stability by requiring banks to maintain sound capital levels, manage risks prudently and operate within sustainable limits, all of which are critical in combating the causes of bank failures.

Furthermore, the *Banking Act* requires the registrar of banks to ensure that the standards and practices adopted are communicated to all affected banking institutions.[403] This requirement is crucial for the effective implementation of the prudential standards, and it ensures that banks are aware of the regulatory requirements they must adhere to in order to operate safely and soundly. In addition, making these standards known assists banks in aligning their operations with the regulatory framework, thereby reducing the likelihood of excessive risk-taking and misconduct that could lead to bank failures. It can also assist the regulatory authorities in monitoring and supervising banking activities based on the set standards in order to detect potential threats and intervene before such threats escalate into a full-blown crisis causing bank failures.

The researcher submits that the *Banking Act* sufficiently provides a framework and guidelines on the conduct of banks in Zimbabwe.[404] In relation to part IV of the *Banking Act*, no banking institution shall commence banking business after registration until it has satisfied the RBZ that its management systems and procedures are adequate to ensure compliance with the *Act*.[405] In addition, management systems and procedures to be satisfied include risk management systems, corporate governance framework,

---

403 Section 4C (2) of the *Banking Act*; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 25 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 17 March 2024.

404 Section 7, 16 and 17 of the *Banking Act*; see related in Katuka and Dzingirai 2021 *MEFMI Research and Policy Seminar Journal* 54; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12.

405 Section 16(1)(a) of the *Banking Act*; see related discussion on Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 18; see related in Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; see related in Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 2; see related in Nyoka 2015 *Banks and Bank Systems* 13.

and its systems for the detection and prevention of money laundering and the financing of terrorism.[406] The provision prohibits the immature commencement of banking business until all the regulatory and supervisory requirements are satisfied. That is done to ensure that newly established banks are subject to regulatory approval and oversight from the very beginning of their operations in order to prevent bank failures. The provision specifies that a bank must demonstrate that its management systems and procedures are adequate and essential for a bank's effective and responsible operation.[407]

Banks are exposed to various risks which include credit risk, liquidity risk, operation risk, compliance risk, regulatory risk and reputational risk, all of which may lead to bank failures if not properly managed.[408] Effective regulation and enforcement of relevant banking legislation are crucial in managing bank risks, ensuring that banks maintain stability and resilience in the face of potential financial threats. Without adequate oversight, systemic risks can escalate, undermining the resilience of banks and potentially leading to bank failures. Therefore, the RBZ, which serves as the main regulator and supervisor of banks, is mandated to ensure that banks have adequate

---

406 Section 16(1)(a) of the *Banking Act*; see related discussion on Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 18; see related in Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Katuka and Dzingirai 2021 *MEFMI Research and Policy Seminar Journal* 55; see related in Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 2; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150.

407 See section 17 of the *Banking Act* which provides that every banking institution shall conduct its business and other operations in accordance with sound administrative and accounting practices and procedures, adhering to proper risk-management policies and shall comply with the terms and conditions of its registration and any directions given to it by the RBZ or Registrar in terms of this Act; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 13.

408 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 20; Muparuri and Akinsola 2018 *Journal of Global Analysis* 55; see related in Sakarombe U "Financial Inclusion and Bank Stability in Zimbabwe" 2018 *International Journal of Academic Research in Economics and Management Sciences* 121, 126; see related in Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 142.

mechanisms in place to identify, assess, and manage various risks effectively.[409] By implementing stringent risk management practices, banks can safeguard their operations, protect depositors' funds and maintain the stability of the financial sector in Zimbabwe.[410] In this regard, the researcher submits that the *Banking Act* sufficiently provides for the regulation and supervision of banks in Zimbabwe. It also provides mechanisms to identify and assess banking institutions' viability and manage various risks that can likely cause bank failures in Zimbabwe.

The researcher submits that the *Banking Act* sufficiently provides for restrictions on certain transactions by banks including restrictions to not extend credit to officers, employees, and certain shareholders and their relatives which is insider lending.[411] Insider lending has caused many bank failures due to non-performing loans. The *Banking Act* provides criteria for issuing loans to insiders, providing limitations and restrictions that prevent excessive lending to insiders, reducing the likelihood of non-performing loans which cause bank failures.[412]

The *Banking Act* is robust and largely adequate in providing measures that seek to combat bank failures owing to its focus on a range of critical regulatory areas as discussed above. These critical regulatory areas include prudential standards, banking activities, shareholding and control of banking institutions, conduct of business,

---

409 Section 16 (1)(a) read together with section 28C (2)(a - j) of the *Banking Act*; see section 6(e) of the *RBZ Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 20; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 57 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 17 March 2024.

410 Section 6(f) of the *RBZ Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21; Muparuri and Akinsola 2018 *Journal of Global Analysis* 50; see related in Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150.

411 Section 35(2)(a-c) of the *Banking Act*.

412 Section 35 of the *Banking Act*.

corporate governance, financial requirements, restrictions on certain transactions by banks, responsibilities of the RBZ and resolution mechanisms.[413]

3.2.1.1 Corporate Governance under the *Banking Act*

Corporate governance is a crucial aspect that guides the financial sector to ensure the integrity, accountability, and responsible conduct of banks.[414] Corporate governance is broadly defined as the system by which companies are directed and controlled.[415] In this research, corporate governance refers to the use of a system of rules, practices, processes and structures to secure effective management of banks.[416] Corporate governance entails how a bank's business is directed and controlled, how the bank objectives are set and how bank activities and stakeholders' expectations are aligned.[417] The *Banking Act* provides that every bank should establish and maintain adequate and effective procedures of corporate governance consistent with such

---

413 Sections 4, 4C, 5, 7, 15A, 15F,16,17, 20A, 28A-C, 29, 30, 34, 35, 45,52, 53, 78A and 81 of the *Banking Act*.

414 Section 28A (2)(b)-(g) of the *Banking Act*; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Sciences* 103 agree with the view that good corporate governance regime can absolve the harm that emanates from corporate deficiencies and address issues such as poor business leadership, unrelenting poor firm performance and a common wearing of confidence in and around corporate organisations; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 40; Dandira *et al* 2019 *Public Policy and Administration Research* 2.

415 Foya and Changunda 2019 *International Journal of Research and Innovation in Social Sciences* 102; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 66; Dandira *et al* 2019 *Public Policy and Administration Research* 2; see related in Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 406.

416 See Njanike; Mutengezanwa and Gombarume 2011 *Annals of the University of Petrosani, Economics* 189; Maune 2015 *Asian Economic and Financial Review* 169 defines corporate governance as the processes and structures used to direct and manage the business and affairs of an institution with the objective of ensuring its safety and soundness and enhancing shareholder value; see related on Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 324; see also the defination of corporate governance on Dandira *et al* 2019 *Public Policy and Administration Research* 2; Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474.

417 Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 103; Maune 2015 *Asian Economic and Financial Review* 169; see related on Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; Dandira *et al* 2019 *Public Policy and Administration Research* 2; Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474.

prudential standards as may be prescribed and with the nature, complexity and risks inherent in the activities and business of the banking institution or controlling company concerned.[418] The emphasis is placed on the importance of customising corporate governance practices to the specific circumstances and risks each institution faces. Corporate governance procedures should aim to achieve the strategic and business objectives of banks in an efficient, effective, ethical and equitable manner while managing risks.[419]

Additionally, corporate governance should foster commitment among principal officers of banks or controlling companies to adhere to universally recognised and accepted principles of corporate governance.[420] The provision promotes ethical conduct and accountability within the institution and clear accountability mechanisms that help

---

418 See section 28A(1) of the *Banking Act*; Njanike; Mutengezanwa and Gombarume 2011 *Annals of the University of Petrosani, Economics* 190, referred to King Report, and provides that the corporate discipline, transparency, independency of board of directors and committees, fairness, accountability and social responsibility are the essential pillars of good corporate governance; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 107 noted that the Banking Act requires that the board should operate through committees composed of non-executive directors in the majority.

419 Section 28A(2) of the *Banking Act*; Njanike; Mutengezanwa and Gombarume 2011 *Annals of the University of Petrosani, Economics* 190 reiterated that corporate governance is concerned with holding goals, while the aims align as near as possible to corporate and society; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101; see *Troubled and Insolvent Banks Policy- A Framework for Timely and effective Responses to Banking Problems* (Updated June 2011) 33, which provides a list of indicators for poor corporate governance practices which includes-

i) Lack of separation between shareholders and management;
ii) Undue influence or dominance by shareholders who in some cases may also be involved in executive management;
iii) Improperly constituted boards of directors;
iv) Lack of effective board oversight;
v) Passive or uniformed and rubber-stamping boards;
vi) Use group structures or Special Purpose Vehicles or to evade regulation and engage in non-banking business.

420 Section 28A(2)(a) of the *Banking Act*; see Njanike, Mutengezanwa and Gombarume 2011 *Annals of the University of Petrosani, Economics* 193, a case that led to the collapsing of Barbican Bank, where the chief executive officer dominated board meetings and resulted in body of directors being a rubbers stamping board, with no separation of ownership and control, the bank lacked accountability; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 107 noted that the Banking Act requires that the board should operate through committees composed of non-executive directors in the majority.

prevent unethical practices and enhance investor confidence in the banking sector in Zimbabwe.[421] Corporate governance should ensure that decisions that promote long-term sustainability consider not only the interests of shareholders but also those of employees, customers, and the wider community.[422] Furthermore, the board of every bank should ensure that there are mechanisms that mitigate potential conflicts of interest between the institution's business and the personal interest of directors and principal officers that could compromise its integrity or lead to unethical behaviour.[423] While the primary goal of a bank is profitability and efficiency, it is essential to ensure that these objectives are pursued within acceptable parameters, which are characterised by responsibility and sustainability. Banks are required to be timely, accurate, and intentional in their disclosure of issues that materially concern the bank's operations and the interests of stakeholders.[424] A responsible bank promotes

---

421 See section 28A(2)(f) of the *Banking Act*; Njanike, Mutengezanwa and Gombarume 2011 *Annals of the University of Petrosani, Economics* 190 states that corporate governance guideline protect the integrity of the sector and cultivates confidence within investors and depositors; see related in Kondongwe 2018 *Social Science Research Network* 18; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155; see Dube ZL and Murahwe GR "An Analysis of Corporate Governance Practices in Government Controlled versus Private Banking Institutions in Zimbabwe" 2015 *International Journal of Development and Sustainability* 759, 760.

422 Section 28A(2)(b) of the *Banking Act*; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101; Dandira *et al* 2019 *Public Policy and Administration Research* 2 states that corporate governance involves the determination of minimum obligations of an organisation towards its various stakeholders; Chokuda Santu, Mawanza and Muredzi 2017 *Journal of Finance and Bank Management* 64, banks are looking for ways to ensure that they remain profitable and at the same time maintaining and expanding their foot-prints in the market.

423 Section 28A (2)(d) of the *Banking Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 37; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155; see related in Sithole and Mtetwa 2009 *UNISWA Research Journal* 47.

424 Section 28A (2)(g) of the *Banking Act*; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; transparency through disclosure and adherence to regulatory requirements are vital for maintaining trust and confidence in the institution; see related in Dandira *et al* 2019 *Public Policy and Administration Research* 2 where it was highlighted that the board of directors is answerable to depositors and stakeholders for safeguarding the of their interest through a lawful, informed, efficient and able administration of institution.

compliance with relevant laws and regulations as well as avoids legal issues and regulatory penalties that might cause strain on its financial stability.[425]

The compliance function, as provided by the *Banking Act*, plays a crucial role in preventing bank failures by enhancing the bank's ability to identify, assess, and mitigate compliance risks.[426] Compliance oversight is distinct from other operational functions within the bank, and an independent compliance function helps ensure that compliance issues are identified and addressed objectively without being influenced by other business priorities. By having a dedicated compliance function, banks can focus on statutory and regulatory adherence, reducing the likelihood of non-compliance leading to bank failures.

To prevent bank failures in Zimbabwe, the *Banking Act* provides for the establishment of a dedicated risk committee which is comprised of non-executive directors of its members, to oversee and manage risks effectively.[427] The risk committee functions encompass evaluating the adequacy and efficiency of the risk policies, procedures, and controls applied within a bank in the day-to-day management of its business.[428] A bank should implement effective and sufficient risk-related policies, practices and controls

---

425 Section 28A(2)(i) of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 2, see *Troubled and Insolvent Banks Policy- A Framework for Timely and Effective Responses to Banking Problems* (Updated June 2011) 38, provides supervisory enforcement action which gives power to the Registrar to appoint a supervisor or place the institution under curatorship in terms of the *Banking Act* if it is determined that there is deficiencies stemming from poor corporate governance; see related on Kurauone *et al* 2021 *Journal of Financial Crime* 306.

426 Section 28B(1)(a) of the *Banking Act*; see related in Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474; see the Executive summary on Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* V; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155.

427 Section 28C(1) of the *Banking Act*; See related in Chokuda Santu, Mawanza and Muredzi2017 *Journal of Finance and Bank Management* 59; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 31; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155.

428 Section 28C(1)(a) of the *Banking Act*; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155; see related on Kanhai and Ganesh 2014 *International Journal of Business and Commerce* 6.

in its daily operations in order to prevent the causes of bank failures.[429] The risk committee identifies and assesses the risks to which a bank is exposed and develops risk mitigation strategies to ensure that such risks are effectively dealt with.[430]

The researcher submits that the *Banking Act* provides adequate corporate governance provisions that can assist in combating bank failures in Zimbabwe.[431] The *Banking Act* outlines clear and detailed requirements for effective corporate governance, ensuring that banks adhere to sound management practices.[432] These provisions address critical aspects of corporate governance, such as board oversight, risk management and accountability, which are essential for maintaining financial stability and reducing the risk of bank failures.[433] Adequately enforcing the provisions of the *Banking Act* on corporate governance can safeguard the banks from internal mismanagement and systemic risks that cause bank failures in Zimbabwe. In addition, the *Banking Act* requires every bank to establish an independent compliance function as part of the risk management framework, enhancing responsible monitoring and enforcing regulatory compliance within banks.[434] Consequently, compliance with banking laws combats the causes of bank failures that are likely to emanate from internal factors such as insider landing, fraud, poor risk management and poor corporate governance. Furthermore, the *Banking Act* mandates the formation of a risk committee within banks, tasked with overseeing risk management practices, and identifying, assessing

---

429 Section 28C(2)(a) of the *Banking Act*; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 31; see related in Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324.

430 Section 28C(2)(b) and (c) of the *Banking Act*; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; see related in Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Science* 22, 23; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155.

431 See sections 8(d1)(i), 16(1)(a), 28A(1) and 81(g1) read together with section 52A(2)(e) of the *Banking Act*.

432 Section 28A(2)(a-i) of the *Banking Act*.

433 Section 28A(2)(a-i) of the *Banking Act*.

434 Section 28B of the *Banking Act*.

and mitigating risks to ensure that banks operate within safe and sustainable limits.[435] The risk committee should ensure effective supervision and proactive risk management to prevent the causes of bank failures.[436] Therefore, the *Banking Act* adequately provides a structure that ensures that banks are well equipped to handle potential threats that can lead to financial distress, thus contributing to combating bank failures in Zimbabwe.

3.2.1.2 Minimum capital level of banks

Banks operating in Zimbabwe are required and obliged to maintain a minimum capital level threshold that is determined by RBZ.[437] The *Banking Act* empowers the RBZ to set and adjust this minimum capital level threshold in order to promote financial stability in the country.[438] The minimum capital that banks must maintain can be denominated in currency or any other form as prescribed by the regulatory authorities.[439] This flexibility allows regulators to adapt to changing financial circumstances and ensure that banks have adequate resources to operate safely. If a bank fails to adhere to the prescribed minimum capital requirement, it violates the

---

435 Section 28C(2) of the *Banking Act*.

436 Section 28C(2) of the *Banking Act*.

437 Section 29(1) of the *Banking Act*; see related in Nhuta 2014 *International Journal of Research in Social Science* 23; Kanhai and Ganesh 2014 *International Journal of Business and Commerce* 2; see related in Gwatiringa 2020 *IOSR Journal of Business and Management* 24; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 31; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 445; Chikoko L and Le Roux P "The Impact of Minimum Capital Requirements on Zimbabwe Commercial Banks Lending" 2013 *International Journal of Finance and Accounting* 131, 134.

438 Section 30(1) and (2) of the *Banking Act*; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 445; Muparuri and Akinsola 2018 *Journal of Global Analysis* 53; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 31; see related in Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150.

439 Section 29(1a) of the *Banking Act*; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150; see related explanation in Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 445; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 31.

Banking Act and is liable to a fine.[440] The requirement to maintain a minimum capital requirement underscores the need to keep banks solvent. Therefore, the researcher submits that the *Banking Act* provides adequate guidelines on the requirements of minimum capital level banks must maintain to prevent liquidity crises that could cause bank failures in Zimbabwe.

The *Banking Act* provides that the RBZ should oversee and protect financial institutions.[441] The *Banking Act* further empowers the RBZ to supervise and investigate banks that fail to furnish the required information within the prescribed period.[442] The RBZ's responsibilities and powers of investigating and supervising banks are discussed in detail in Chapter Four.

The *Banking Act* also empowers the RBZ to implement measures that are in the best interests of the public, depositors, creditors, and the stability of the financial sector, particularly when a bank is in trouble.[443] Where the RBZ identifies a bank that is experiencing problems or facing financial distress, it may formulate and implement a plan of resolution in relation to the affected bank.[444] However, the RBZ may not choose to cancel the registration certificate for the troubled bank if doing so aligns with certain

---

440 Section 29(2) of the *Banking Act*; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 445; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150.

441 Section 45(1)(a) and (b) of the *Banking Act*; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 150; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 57 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 19 March 2024.

442 Section 49(1)(a) of the *Banking Act*; see related in Kabonga and Marime 2017 *Africanus Journal of Development Studies* 5; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 445.

443 Section 52A(1) of the *Banking Act*; Nhuta 2014 *International Journal of Research in Social Sciences* 24; Gwatiringa PT "Banking Sector Profitability Through Investigation of Financial Performance Indicators: The Case of Zimbabwe" 2020 *IOSR Journal of Business and Management* 22.

444 Section 52A(2)(h) of the *Banking Act*; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155; Muparuri and Akinsola 2018 *Journal of Global Analysis* 54; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 58 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

specified objectives.[445] In other words, the bank may continue operating under specific conditions rather than being shut down immediately. Firstly, the primary goal is to safeguard the stability of the broader financial sector, which is essential for averting systemic shocks that could arise from the sudden closure of a bank.[446] Secondly, maintaining public confidence or bolstering public trust in the banking sector is essential for ensuring that people feel secure in depositing their money in banks, which in turn helps maintain a stable deposit base. Moreover, public trust in the banking sector contributes to overall financial stability as people are less likely to withdraw their deposits at once which could lead to reduced bank runs and financial crises.[447]

If the RBZ identifies a problem bank, it is obliged to allow such a bank an opportunity to make representations before formulating a resolution plan that it will implement or cause to be implemented in terms of the *Act*.[448] The *Banking Act* further provides for actions that the RBZ can take when dealing with a troubled bank.[449] These provisions

---

445 See section 52A(1)(a) of the *Banking Act* states that RBZ may avoid cancelling the registration of a banking institution, if possible, in order to achieve any one or more of the following objectives-
a) to protect and enhance the stability of the financial system; and
b) to protect and enhance public confidence in the banking system; and
c) to protect depositors; and
d) where applicable, to protect public funds.

446 Section 52A(1)(a) of the *Banking Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 43; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155.

447 Section 52A(1)(b) of the *Banking Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 43; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 3 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

448 Section 52A(3)(ii) of the *Banking Act*; Makuyana 2016 *Mediterranean Journal of Social Sciences* 382, the RBZ is the guardian of the financial institutions and must provide resolutions to the distressed bank; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 47 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 11 March 2024.

449 Section 52A(6) and (7) of the *Banking Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 43 states that the RBZ refined its supervisory approaches in response to the banking sector challenges and introduced risk-based supervision, prompt corrective action programmes, consolidated supervision, credit rating of banks and issuing corporate governance to curb financial instability in the economy.

outline a structured and regulated process for dealing with banks facing problems or which are in distress.[450] The RBZ can take action to protect the interests of depositors, creditors, and the broader financial sector while considering factors such as proportionality, fairness in asset and liability transfers, and confidentiality.[451] These measures are designed to maintain financial stability and confidence in the banking sector, hence mitigating the causes of bank failures in Zimbabwe.

3.2.2 Mechanism to Address Troubled Banks under the Banking Act

3.2.2.1 Curatorship as a Mechanism to Curb Bank Failures

The *Banking Act* provides and outlines the procedure for the curatorship of a bank or banks that are identified as operating under unsound conditions and posing a threat of instability to the financial sector.[452] A curator is a person appointed to manage a bank that is in distress.[453] Before the RBZ can issue a directive to place a bank under

---

450 Section 52A(3) and (4) of the *Banking Act*; see related in Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 149; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 47 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 11 March 2024; see related in Makuyana 2016 *Mediterranean Journal of Social Sciences* 383.

451 Section 52A(6) of the *Banking Act*; Makuyana 2016 *Mediterranean Journal of Social Sciences* 384; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 48 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

452 See section 53-56 of the *Banking Act*; Maune 2015 *Risk Governance and Control: Financial Markets and Institutions* 107; see Dandira *et al* 2019 *Public Policy and Administration Research* 1 explained curatorship as aimed at protecting the interest of depositors and creditors, while the curator determines the full extent of the problems faced by the financial institution; Nhuta 2014 *International Journal of Research in Social Sciences* 24; see related in Muranda 2006 *Corporate Governance* 645; Chigumira and Makochekanwa 2014 *Zimbabwe Economic Policy Analysis and Research Unit* 36.

453 See section 2 and section 52C(1) of the *Banking Act* which defines a curator as an agent of the RBZ acting as an independent contractor or the RBZ itself operating through one of its employees, and concludes any special asset management company established in terms of Part IXA of the *RBA Act*; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Dandira *et al* 2019 *Public Policy and Administration Research* 1 refers to a curator as a person who is roped in after a financial institution faces problems and protects the investments of depositors, the curator is sought to look for fresh capital injection and strategies to serve the financial firm.

curatorship, it must consult with the Minister of Finance and Investment Promotion (Minister of Finance), inform that particular bank of the intention to curate and provide reasons for the same.[454] The RBZ must consult the Minister of Finance when placing a bank under curatorship that is in unsound financial condition, is not operating per sound administrative and accounting practices and procedures, and is not adhering to proper risk-management policies.[455] In addition, the RBZ must consult with the Minister of Finance when the distressed bank has failed or is unlikely to comply with minimum financial requirements unless placed under curatorship.[456]

The RBZ can place a troubled bank under the management of the curator for a definite or indefinite period, considering the fact that the institution's financial position may be remedied or resolved.[457] The *Banking Act* does not define "remedied or resolved". However, a general definition of remedied is when a situation to a problem or issue is addressed and fixed, while resolved means that a conflict or dispute has been settled or concluded satisfactorily.

The RBZ should communicate its intention to place a bank under the management of a curator and provide reasons for doing so. It should also allow the affected bank a

---

454 Section 53(1)(b) and (2) of the *Banking Act*; see related in Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 64.

455 Section 53(1)(a) of the *Banking Act*; see related on Maune 2015 *Risk Governance and Control: Financial Markets and Institutions* 108; Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review* 65; see example on Dandira *et al* 2019 *Public Policy and Administration Research* 5; Muranda 2006 *The International Journal of Business in Society* 648; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; Nhuta 2014 *International Journal of Research in Social Sciences* 24.

456 Section 53(1)(b) of the *Banking Act* read together with section 29 of the *Banking Act* which requires every banking institution whose head office is situated in Zimbabwe to have and maintain in Zimbabwe such a minimum paid-up equity capital as may be prescribed, and the currency may be prescribed in specified foreign currency denominated under the Exchange Control (General) Order, 1996, by the Minister; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; see also Dandira *et al* 2019 *Public Policy and Administration Research* 3.

457 Section 53(1)(b) of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 8; see related in Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5; see related in Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review* 65.

reasonable opportunity to make representations in the matter unless doing so would enable the disposal of assets by the bank or any other party that would prejudice the institution's creditors or depositors.[458] The RBZ also has the discretion to give or communicate its intention to place a distressed bank under curatorship, if such an appointment was recommended by an investigator in their report submitted to the RBZ in terms of section 50 of the *Act*.[459]

The directive to place a bank under curatorship should include several essential elements. These include specifying the reasons for appointing a curator, identifying such curator by name, and outlining the security that the curator must provide to ensure the proper execution of his/her duties.[460] In addition, the provisions of the directive must include delineating the powers granted to the curator in accordance with section 55 of the *Banking Act*.[461] The directive must include a defined period during which the troubled bank would be under curatorship, and when relevant, address the freezing of funds in accordance with the provisions of section 56 of the *Banking Act*.[462] At the earliest convenience after issuing a directive of placing a bank under curatorship, the RBZ must ensure that it publishes in the Government Gazette and in one or more editions of the newspaper distributed in the region where the bank

---

458 Section 53(2) of the *Banking Act*; see related Muranda 2006 *The International Journal of Business in Society* 646; Dandira *et al* 2019 *Public Policy and Administration Research* 4; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 74 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

459 Section 53(2)(b) of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 3.

460 Section 53(30(a) to (b1) of the *Banking Act*; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 71 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 12 April 2024.

461 Section 53(3)(c) of the *Banking Act*.

462 Section 53(3)(d) of the *Banking Act*; see related in Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 444; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 51 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 27 March 2024.

concerned conducts its banking activities.[463] Lastly, when a bank is placed under curatorship in terms of a directive issued by the RBZ, the central bank has the authority to modify or amend the issued directive. This is done in terms of the *Banking Act* at any given time, and the provisions outlined in subsections 2 and 4 of section 53 shall be applicable, with necessary changes, in relation to such alteration.[464]

The researcher submits that the provisions of the *Banking Act* are robust enough to ensure that the control of a distressed bank is transferred to the curator, who will be responsible for stabilising and managing the troubled bank's affairs.[465] While curatorship could be an effective response to save a distressed bank, it primarily serves as a reactive measure rather than a preventive measure to combat bank failures. Curatorship addresses problems after they have already arisen, rather than proactively combating them. As such, while curatorship is an important tool for managing distressed banks and addressing symptoms of a failing bank, it is not adequate on its own to prevent bank failures. As a result, the *Banking Act* is poor in its provision of pre-emptive supervision and risk management to combat bank failures.

3.2.2.2 Consequences of Curatorship

Curatorship seeks to address and resolve issues of a distressed bank. It is designed to restore a bank's stability, protect the interests of depositors and creditors, and ensure the proper management of troubled banks with the ultimate goal of safeguarding financial stability and the interests of stakeholders. However, curatorship has the effect of suspending the powers of every director, officer, and shareholder of the bank

---

463 Section 53(4) of the *Banking Act*; see related in Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5; Ncube C and Okeke-Uzodike U "Understanding Illicit Financial Flows in Post-2000 Zimbabwe" 2015 *Journal of African Foreign Affairs* 93,102.

464 Section 53(5) of the *Banking Act*; section 53(1) of the *Banking Act*; section 53(2) and (4) of the *Banking Act*.

465 Section 53 to 57 of the *Banking Act*; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5; Tsaurai 2018 *The Journal of Developing Areas* 87; Muparuri and Akinsola 2018 *Journal of Global Analysis* 49.

concerned, upon the issuance of a directive in terms of section 53 of the *Banking Act*.[466] The directive has the effect of suspending the powers of every director, officer, and shareholder of the bank concerned, except to the extent that the curator may permit them to exercise their powers.[467]

Provisions are in place to offer legal protection and stability to the bank that has been placed under curatorship or is facing financial distress.[468] In this regard, once a directive is issued to place a distressed bank under curatorship, all ongoing legal proceedings against the troubled bank are halted.[469] The directive ceases the execution of writs and other legal processes that were in progress against the bank. To resume or initiate legal actions against the bank under curatorship requires permission from the High Court.[470] The requirement to obtain leave from the High Court to initiate or resume legal proceedings adds an extra layer of oversight, ensuring that any legal actions taken against the affected bank are carefully considered and do not impede the efforts to stabilise such a bank.[471]

When a bank is placed under curatorship, creditors cannot automatically offset amounts owed to them by the troubled bank against their debts to the bank during

---

466 Section 54(1) of the *Banking Act*; Muranda 2006 *The International Journal of Business in Society* 648; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 57 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 27 March 2024; see related in Dandira *et al* 2019 *Public Policy and Administration Research* 8.

467 Section 54(1) of the *Banking Act*. See related in Muranda 2006 *The International Journal of Business in Society* 650; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 102; see related in Dandira *et al* 2019 *Public Policy and Administration Research* 8.

468 Section 54(2)(a) and (b) of the *Banking Act*; Muranda 2006 *The International Journal of Business in Society* 649; Dandira *et al* 2019 *Public Policy and Administration Research* 1; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5.

469 Section 54(2)(a) of the *Banking Act*; Muranda 2006 *The International Journal of Business in Society* 645; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 102; see related comments in Nyamunda 2021 *Journal of Asian and African Studies* 208.

470 Section 54(2)(a) of the *Banking Act*; see related in Muranda 2006 *The International Journal of Business in Society* 649; see related in Dandira *et al* 2019 *Public Policy and Administration Research* 3.

471 Section 54(2)(a) of the *Banking Act*; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4.

this period.[472] This means that the operation of set-off, which typically allows a creditor to deduct amounts owed to them by the troubled bank from the debts, is temporarily suspended. By delaying legal proceedings and suspending set-off, the goal is to prevent creditors from taking actions that could further harm the bank's financial position and potentially disrupt the curatorship or resolution process. Therefore, these measures seek to create a controlled and structured environment during the curatorship or financial distress period, allowing for a more orderly and effective resolution process while protecting the interests of the troubled bank's various stakeholders, including creditors and depositors.

3.2.2.3 Duties and Powers of a Curator

The curator is entrusted with several responsibilities to address the financial challenges of the troubled or distressed bank. Upon commencing his/her duties, a curator is required to take over and assume the management of the distressed bank concerned in order to try and prevent the bank from failing.[473] The curator is supposed to stop bank failure by managing the distressed bank in such a manner as he/she considers prudent and most likely to promote the interests of the bank and its stakeholders.[474] As soon as the curator assumes the management of a troubled bank, he/she should ensure that there is proper compliance with the provisions of the *Banking Act*.[475] The curator is further obliged to ensure that proper accounting records are kept and that

---

472 Section 54(2)(b) of the *Banking Act*; see related in Dandira *et al* 2019 *Public Policy and Administration Research* 5; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 72 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 9 April 2024.

473 Section 55(1)(a) of the *Banking Act*; Muranda 2006 *The International Journal of Business in Society* 648; Dandira *et al* 2019 *Public Policy and Administration Research* 5; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4.

474 Section 55(1)(b) of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 2.

475 Section 55(1)(c) of the *Banking Act*; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4.

annual financial statements concerning the operations of the distressed bank are properly prepared.[476]

In addition, the curator must prepare reports for the RBZ showing the assets and liabilities of the bank concerned and ensure that the bank's auditor verifies its debts and obligations.[477] Moreover, the curator should furnish the RBZ with all the information that is necessary for understanding the bank's financial position.[478] In order to ascertain whether any past or present director, officer, or employee of the troubled bank has contravened or appears to have contravened any provisions of the *Banking Act*, the curator is required to examine the affairs and transactions of the bank concerned before it was placed under curatorship.[479] Additionally, the curator must investigate the affairs and transactions of the bank pre-curatorship to ascertain if any offence has been committed that will render someone personally liable to pay damages or compensation to the institution.[480] The curator determines if the past or present director, officer, or employee of the troubled bank appears to be personally liable for any of the institution's liabilities that fall within the three months after the concerned bank is placed under curatorship.[481] After examining and identifying any such contravention, offence, or liability, the curator must submit a report containing full particulars of such to the RBZ.[482]

Lastly, the *Banking Act* requires a curator to report to the RBZ, at six-monthly intervals, in writing as to whether or not, in his/her opinion, it is in the interests of the institution's

---

476 Section 55(1)(d) of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 8.

477 Section 55(1)(e) of the *Banking Act*; see related in Dandira *et al* 2019 *Public Policy and Administration Research* 8.

478 Section 55(1)(e) of the *Banking Act*; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5.

479 Section 55(1)(f) of the *Banking Act*.

480 Section 55(1)(f)(i) and (ii) of the *Banking Act*.

481 Section 55(1)(f)(iii) of the *Banking Act*.

482 Section 55(1)(f)(iii) of the *Banking Act*.

creditors and depositors that the troubled bank should remain under curatorship.[483] If the curator firmly believes that despite their efforts and actions, the troubled bank cannot be restored, he/she must advise the RBZ accordingly.[484] The curator must suggest alternative measures such as liquidation or other forms of resolution that may be considered to address the bank's issues and protect the interests of depositors, creditors, and the financial sector as a whole.

3.2.3 The Regulation and Combating of Bank Failures under the RBZ Act

The *RBZ Act* regulates and provides for matters connected with banking and monetary policy. The Act fosters the liquidity and supervision of banks in Zimbabwe to ensure stability and proper functioning of the country's financial system.[485] The *RBZ Act* does not have any express provision for combating bank failures in Zimbabwe. However, it outlines the functions of the RBZ, which include ensuring stability and proper functioning of Zimbabwe's financial system.[486] While these provisions could be interpreted as implicitly aimed at preventing bank failures in the interests of promoting stability in the financial system, the *Act* does not expressly refer to combating bank failures.[487] Instead, it focuses on promoting responsible conduct among financial institutions including banks and other traditional financial institutions to avoid disruptions to the stability of the financial sector. Therefore, the absence of explicit

---

483 Section 55(1)(g) of the *Banking Act*; Dandira *et al* 2019 *Public Policy and Administration Research* 8; see related in Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4.

484 Section 55(1)(g) of the *Banking Act*.

485 See the preamble read together with sections 6(1)(a-e) and 45 of the *RBZ Act*; Chitimira and Torerai 2023 *Juridical Tribune* 394; Mashingaidze 2014 *Corporate Ownership and Control* 553; Nhuta 2014 *International Journal of Research in Social Sciences* 24; see related discussion on Njanike 2010 *Annals of the University of Petrosani, Economics* 253; Chitimira and Torerai 2021 *PER/PELJ* 13; Makena 2021 *African Economic Research Consortium* 5.

486 Section 6(1)(c) of the *RBZ Act*; section 45 of the *Banking Act*; Chitimira and Torerai 2023 *Juridical Tribute* 394; Richardson 2005 *CATO Journal* 551; Mashingaidze 2014 *Corporate Ownership and Control* 553.

487 See section 6 of the *RBZ Act*; section 47 of the *RBZ Act*; section 45 of the *Banking Act*; Tsaurai 2018 *The Journal of Developing Areas* 87; see related in Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 101; Mashingaidze 2014 *Corporate Ownership and Control* 552.

provisions addressing the prevention of bank failures hinders the effective enforcement of banking laws, supervision and monitoring of banks to combat such failures.

The *RBZ Act* further mandates the RBZ to manage the supply of money, control interest rates, and formulate and implement the monetary policy in Zimbabwe.[488] In addition, the *RBZ Act* empowers the RBZ to prevent and protect the banking sector by promoting stability and the supply of money in the economy.[489] Bank failure could be attributed to poor or inadequate monetary policies and inflation. Too much money in circulation raises the inflation rate. Normally, if a country or economy has a monetary policy that is not robust enough to curb inflation, there would be too much money supply in the economy, and the unit value of the currency would diminish. Therefore, to control inflation, prevent rapid fluctuations in exchange rates, and promote confidence in the currency, the *RBZ Act* requires that the national currency is kept stable at all times.[490] The provisions of the *RBZ Act* do not directly address the causes of bank failures or how to combat such failures in Zimbabwe. The runaway inflation in Zimbabwe is an indication that the RBZ has failed to meet inflation containment mandates outlined in the *RBZ Act*.[491] In addition, RBZ has implemented various monetary policies aimed at promoting economic growth and ensuring stability in the financial sector. However,

---

488 Section 6(1)(a) and section 47(2) of the *RBZ Act*; Njanike 2010 *Annals of the University of Petrosani, Economics* 257; Nhuta 2014 *International Journal of Research in Social Sciences* 24; Makena 2021 *African Economic Research Consortium* 5.

489 Section 6(1)(f) of the *Banking Act*; see related in RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 4 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024.

490 Section 6(1)(b) of the *RBZ Act*; see related in Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 7; Chitimira and Torerai 2021 *PER/PELJ* 13; Makena 2021 *African Economic Research Consortium* 5 provides that the RBZ is entrusted with supervisory and regulatory role to country's banks and to foster stability and proper functioning of the entire financial system; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 68.

491 Section 6(1)(a) and (b) of the *RBZ Act* require the RBZ to regulate Zimbabwe's monetary system and achieve and maintain the stability of the Zimbabwe dollar; Muranda 2006 *The International Journal of Business in Society* 644; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 69 states that maintaining stable inflation failed dismally with improper intentions that failed to solve the problem of high inflation.

many of the policies have not achieved their intended goals, as economic growth has remained stagnant and the financial sector continues to face significant challenges.[492] This failure undermines the RBZ's ability to effectively regulate and maintain confidence in the banking sector, to combat bank failures.

Furthermore, the *RBZ Act* requires the RBZ to foster or maintain the overall health and stability of the financial sector in Zimbabwe.[493] This can be done by bringing up the liquidity, solvency, stability and proper functioning of the financial sector. The RBZ should ensure that banks have adequate liquidity, they can meet their obligations and the banking sector is functioning smoothly and efficiently. To protect the banking sector, the RBZ supervises and regulates banks operating in Zimbabwe.[494] The authority and oversight function of the RBZ is to ensure that banks operate safely and soundly, comply with relevant laws, and protect the interests of depositors. Also, the RBZ is required to promote the smooth operation of the payment system which is essential for the functioning of the economy and preventing financial instability within the banking sector.[495] The *RBZ Act* is not explicit on combating bank failures but on promoting the smooth operation of the payment system. Therefore, the *RBZ Act* is inadequate in providing measures to prevent banking failures. It lacks clear, targeted provisions necessary for addressing the underlying issues that contribute to bank failures, limiting the ability to ensure effective enforcement of banking laws to combat such failures.

---

492 Munzara AT "Escaping Deflation in Zimbabwe: The Role of Fiscal and Monetary Policies" 2015 *IOSR Journal of Economics and Finance* 23, 24; Nyamunda 2021 *Journal of Asian and African Studies* 209; see related in Richardson 2005 *CATO Journal* 542; see related in Chitimira and Mavhuru 2024 *PER/PELJ* 6.

493 Section 6(1)(c) read together with section 11(5) of the *RBZ Act*; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 57 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 25 March 2024; Chitimira and Ncube 2021 *PER/ PELJ* 8; see related Chitimira and Torerai 2021 *PER/PELJ* 17.

494 Section 6(1)(e) of the *RBZ Act*; see related in Chitimira and Ncube 2021 *PER/ PELJ* 23; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 69; Chitimira and Torerai 2021 *PER/PELJ* 13.

495 Section 6(1)(e) of the *RBZ Act*.

The RBZ is empowered to address issues related to non-performing loans and distressed banking institutions by establishing companies or entities to assist in the restructuring and disposition of problem or failed banking institutions.[496] This can be done by establishing companies or other entities to acquire and settle non-performing loans or acquiring, restructuring and disposing of a failed bank.[497] The central bank has the authority to create one or more companies, known as Special Asset Management Companies (SAMCs) to take over non-performing loans from banks in Zimbabwe.[498] SAMCs take over the loans that are not being repaid as per their terms and are considered a financial burden on the banking sector, and restructure them, sell them, manage the assets underlying these loans, or otherwise resolve them to minimize losses for the bank concerned.[499] SAMCs are tasked with managing, acquiring, restructuring, or disposing of distressed, problematic, or failed banks.[500] Intervening when a bank faces severe financial distress helps in stabilising or orderly resolving such situations.[501] However, there is no express provision in the *RBZ Act* that deals with curbing bank failures.

---

496 Section 7(1)(rl)(ii) of the *RBZ Act*; read together with section 57A(1)(a) of the *RBZ Act*; see related in Muranda 2006 *The International Journal of Business in Society* 643; Muparuri and Akinsola 2018 *Journal of Global Analysis* 50.

497 Section 7(1)(rl)(i) and (ii) read together with section 57A(1)(a) of the *RBZ Act*; see related in Muranda 2006 *The International Journal of Business in Society* 643; Muparuri and Akinsola 2018 *Journal of Global Analysis* 53.

498 Section 57A(1) read together with section 57D of the *RBZ Act*; see related in Muranda 2006 *The International Journal of Business in Society* 643; see related in Muparuri and Akinsola 2018 *Journal of Global Analysis* 55; Tsaurai 2018 *The Journal of Developing Areas* 88.

499 Section 57A(a and b) of the *RBZ Act*; Muranda 2006 *The International Journal of Business in Society* 645; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 4 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 19 March 2024.

500 Section 57(1)(b) of the *RBZ Act*; Muranda 2006 *The International Journal of Business in Society* 645.

501 Section 57A(1)(b) of the *RBZ Act*; see related in Makena 2021 *African Economic Research Consortium* 19 who contend that bank regulators and policy makers have the leverage to shape and produce desired levels of financial stability; see related in Muranda 2006 *The International Journal of Business in Society* 643; Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 155.

3.2.3.1 The Regulation and Combating of Bank Failures by the RBZ's Bank Supervision Division

The RBZ is the central bank and is responsible for supervising banking institutions, fostering financial stability and ensuring the proper functioning of the financial system in Zimbabwe.[502] The bank supervision division is responsible for and contributes to the overarching mandate of the conduct of off-site surveillance and the conduct of risk-based on-site examinations of banks in Zimbabwe.[503] The bank supervision division is responsible for continuous monitoring and supervision of persons conducting banking business in Zimbabwe to ensure that the banking sector is safe and stable, bank customers are protected and trust in the banking system is retained.[504] In other words, the banking supervision division proactively monitors banks and the broader financial sector to identify emerging risks and vulnerabilities that may erode public confidence in banks.[505] It is submitted that most banks in Zimbabwe lack credit risk transparency,

---

502 See the preamble of the *RBZ Act*; Machirinani S, Shoko T, Shoko J, Dube SDG and Nyoni T "Evaluating the Effectiveness of the Macroprudential Policy and its Interaction with the Monetary in Zimbabwe (2009-2017)" 2020 *EPRA International Journal of Economics, Business and Management Studies* 17, 24 states that the RBZ is responsible authority for prudential regulation and watches over the financial stability of the financial system in Zimbabwe and is mandated to superintend systemic risks that may arise from key financial institutions; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 406; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; See RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 13 April 2024.

503 See Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 69; see RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 13 April 2024; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 414; see related in Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review* 65.

504 See RBZ Bank Supervision Annual Report 2022, 13 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 13 April 2024 where it states that the Bank (RBZ) continued to work closely with all financial institutions in the implementation of the sustainability Standards and Certification Initiative (SSCI) being driven by the European Organisation for Sustainable Development (EOSD).

505 Tsaurai 2018 *The Journal of Developing Areas* 87; see RBZ Bank Supervision Division Prudential Standard No: 02-2022/BSD: Guidance on the Implementation of Liquidity Coverage Ratio dated December 2022 4 available at https://www.rbz.co.zw/documents/BLSS/2022/Prudential_Standard_No02-2022_BSD_LCR.pdf accessed 15 October 2024.

have ineffective loan decision processes, use ineffective risk measurement methodologies, lack stress testing and have poor credit risk reporting.[506] The researcher asserts that the banking sector in Zimbabwe continues to suffer from a regulatory deficiency in its banking legal framework. Thus, there is no sufficient supervision and monitoring of banks, which leads to poor enforcement of relevant banking laws to combat the causes of bank failures in Zimbabwe. This inadequacy hampers the sector's ability to proactively mitigate the causes of bank failures and uphold financial stability, especially during periods of financial crises.

3.2.4.2 Objectives of the Bank Supervision Division

The main objective of the bank supervision division is to enhance and maintain the soundness of the financial sector through effective risk-based supervision to contribute to the overall stability of the financial markets in Zimbabwe.[507] Risk-based supervision means that the resources and attention allocated to financial institutions are based on the level of risk posed by individual banks to the stability of the financial sector in Zimbabwe.[508] Risk-based supervision encompasses assessing various risk factors such as credit risk, market risk, liquidity risk and operational risk of banks, and a bank or

---

506 Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 16; see related in Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; see related in Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 411.

507 Machirinani *et al* 2020 *EPRA International Journal of Economics, Business and Management Studies* 21 states that micro-prudential on bank supervision and regulation is still a necessity in guaranteeing the well-being of individual institutions, however, it is still evident that they are not enough when it comes to safeguarding the well-being of the financial system as a whole; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 446; Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review* 65; see related in Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 414; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 10 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 06 April 2024.

508 See related in RBZ Bank Supervision Annual Report 2022, 16 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 13 April 2024; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 406; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 4 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 11 April 2024.

banks with high risk profiles receive more scrutiny and more intensive supervision. This is done to ensure that the identified bank(s) manage the associated risks prudently.

The bank supervision division should periodically review regulatory and supervisory regulations, policies, and procedures in line with international best practices and the macroeconomic environment.[509] The *Banking Act* provides for the registration, regulation, continuous monitoring and supervision of financial institutions conducting banking business in Zimbabwe.[510] Accordingly, the bank supervision division under the RBZ is responsible for enforcing and effecting continuous monitoring and supervision of banks to ensure that they abide by the banking regulatory requirements, policies and procedures.[511] Furthermore, the bank supervision division is mandated to ensure that applicable regulations, policies and procedures are up to date and conform to international standards and best practices, such as the Basel I, II and III recommendations.[512]

Another core objective of the bank supervision division is to promote public confidence in the financial system by ensuring a consistent, objective and transparent regulatory

---

509 Machirinani *et al* 2020 *EPRA International Journal of Economics, Business and Management Studies* 21 contend that the maintenance of financial stability can assist in safeguarding an ideal working financial system as well as an effective transmission process, which will result in the achievement of price stability more efficient; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 446; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21.

510 Section 4C and sections 5-12 of the *Banking Act*.

511 Tsaurai 2018 *The Journal of Developing Areas* 87; see RBZ Bank Supervision Division Prudential Standard No: 02-2022/BSD: Guidance on the Implementation of Liquidity Coverage Ratio dated December 2022 4 available at https://www.rbz.co.zw/documents/BLSS/2022/Prudential_Standard_No02-2022_BSD_LCR.pdf accessed 15 October 2024.

512 Thamae RI, Odhiambo NM and Khumalo JM "Bank Regulation in the Selected Sub-Saharan African Countries: Dynamics and Trends" 2023 *Journal of Central Banking Theory and Practice* 175, 178; Ojiako *et al* 2013 *African Development Review* 281; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49 highlighted that the RBZ adopted Basel I in 1995, Basel II in 2010 and Basel III in 2019, however, due to Covid 19 pandemic impact, Basel III implementation have been shifted to 2027; Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 2; See RBZ Bank Supervision Annual Report 2022, 13 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 14 April 2024.

and supervisory process.[513] Consistent regulation and supervision imply that regulations and supervisory practices are applied uniformly across different entities or institutions and situations without fear, favour or arbitrary decision-making. The objectivity of regulations stems from the fact that decisions made are based on facts and not biased analysis or influenced by personal interests or external factors.

The researcher argues that despite robust provisions outlined in the *Banking Act* including the roles and responsibilities and the powers conferred to the RBZ, the central bank has faced challenges in effectively implementing relevant banking laws and measures to combat bank failures. Poor enforcement of relevant banking laws that could enhance combating bank failures may stem from a lack of critical resources such as skilled personnel, advanced technological infrastructure, focus, consistent enforcement of banking laws and adequate financial support. Without these resources, the RBZ faces challenges in effectively monitoring, supervising and intervening in troubled banks to combat the causes of bank failures in Zimbabwe. Thus, the policymakers should ensure that a banking regulatory framework adequately provides skilled personnel, advanced technological infrastructure, focus, consistent enforcement of banking laws and adequate financial support.

3.2.5 The Regulation and Combating of Bank Failures under the Bank Use Promotion and Suppression of Money Laundering Act

The *Bank Use Promotion and Suppression of Money Laundering* (*BUPSML) Act* does not have any express provision for the regulation and combating of bank failures. However, the *Act* primarily focuses on anti-money laundering (AML) and combating

[513] Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 17; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 446; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 48; Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review* 65; see related in Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 418.

the financing of terrorism.[514] While its main objective is to establish a legal framework for preventing money laundering and terrorism financing, it may indirectly contribute to combating bank failures in Zimbabwe by promoting the integrity and stability of the banking sector. The *BUPSML Act* requires banks to implement robust customer due diligence (CDD) which includes verifying customers' identity, establishing and maintaining customer records, and reporting suspicious transactions to identify and mitigate risks such as money laundering and other illicit activities.[515] Identifying the risks associated with customers or transactions can reduce the likelihood of financial losses that could lead to bank failures. Money laundering and terrorism financing activities can undermine the stability and reputation of the banking sector. The researcher submits that effective AML measures can help maintain public trust in banks and the financial sector, thereby preventing potential bank runs or crises.[516] Regulatory authorities can detect irregularities and vulnerabilities in banks' operations and take corrective measures that may prevent bank failures through strong regulatory oversight and reporting requirements.[517] Lastly, the researcher submits that by enforcing compliance with AML regulations, significant financial penalties to banks can

---

514 See section 4 of the *BUPSML Act*; Chitimira and Ncube 2021 *PER/ PELJ* 11 states that the Bank Use and Suppression of Money Laundering Act promotes the use of the formal banking system; see Munoangira and Kaja 2016 *European Journal of Business and Management* 197; See RBZ Bank Supervision Annual Report 2022, 15 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 13 April 2024.

515 See section 9(3) read together with section 24 to section 27 of the *BUPSML Act*; Fundira B *Money Laundering in Zimbabwe, 2004 to 2006: Confronting the Proceeds of Crime in Southern Africa* (Institute for Security Studies, Pretoria 2007) (*Money Laundering in Zimbabwe 2004 to 2006*) 56; Chitimira and Ncube 2021 *PER/ PELJ* 11; see related in Rose KJ "Non-compliance Behavior of De-risking Force the EU to Enhance Anti-money Laundering Regulation" 2021 *Journal of Financial Regulation and Compliance* 477, 479.

516 See related in Chitimira and Ncube 2021 *PER/PELJ* 3 who defined money laundering as the act of obscuring the origins of money usually illegally obtained through the provision of an apparently legal source. They further highlighted that the forms of money laundering which may be done on jurisdictions which do not comply with anti-money laundering investigations and legislation such as international anti-money laundering/ combating of the financing of terrorism measures will be a threat to the integrity and function of the financial sector; see also Rose 2021 *Journal of Financial Regulation and Compliance* 478.

517 Section 31(1) of the *BUPSML Act*; Fundira *Money Laundering in Zimbabwe 2004 to 2006* 60; Chitimira and Ncube 2021 *PER/ PELJ* 11; Chitimira and Torerai 2021 *PER/PELJ* 17.

be prevented, because such penalties may affect a bank's viability, which potentially contributes to its failure.[518]

3.2.6 The Regulation and Combating of Bank Failures under the National Payment System Act

The *National Payment System Act* was enacted in 2001 and does not directly address the prevention of bank failures in Zimbabwe, but it primarily focuses on regulating payment systems and payment service providers.[519] It establishes the legal framework for the operation of payment systems in Zimbabwe, promotes efficiency and stability in payment systems, and promotes the interests of users of payment systems.[520] However, it does not have any provision that expressly deals with combating bank failures. Banks form part of the recognised payment systems in Zimbabwe and their operations and regulation is recognised by the provisions of the *National Payment System Act*.[521] In this regard, it is important to note that a robust and efficient payment system can contribute to the stability of banks by facilitating the timely settlement of transactions and reducing systemic risks. Consequently, there would be overall stability in the banking sector and relative prevention of bank failures. Therefore, the absence of an adequate provision that expressly deals with bank failures in the *National Payment Systems Act* negatively affects the combating of bank failures in Zimbabwe.[522]

---

518 See section 48(2) of the *BUPSML Act*; Fundira *Money Laundering in Zimbabwe 2004 to 2006* 68; see explanation on Chitimira and Ncube 2021 *PER/ PELJ* 11; See RBZ Bank Supervision Annual Report 2022, 15 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 13 April 2024.

519 See the preamble and sections 3 and 7 of the *National Payment Systems Act*; see Simatele M and Mbedzi E "Consumer Payment Choices, Costs, and Risks: Evidence from Zimbabwe" 2021 *Cogent Economics and Finance* 1, 6; Chitimira and Torerai 2021 *PER/PELJ* 16.

520 Section 7 of the *NPS Act*; Simatele and Mbedzi 2021 *Cogent Economics and Finance* 6.

521 Section 2 of the *NPS Act*; Chitimira and Torerai 2023 *Juridical Tribune* 393.

522 Sections 2 and 3 of the *NPS Act*.

3.3 Concluding Remarks

This chapter explored the various relevant banking legislation governing the banking sector in Zimbabwe, with a particular focus on statutory measures or provisions aimed at mitigating the causes of bank failures.[523] The analysis underscores the critical role of a comprehensive and robust banking legislative framework in maintaining financial stability and protecting depositors' interests.[524] The researcher highlighted the provisions of relevant banking laws that can be useful in preventing and combating banking failures in Zimbabwe.[525] The researcher also recommended the need for continuous updates and reforms in the banking statutes to ensure that relevant banking law provisions are effectively enforced to combat the causes of bank failures in Zimbabwe. Furthermore, this chapter indicated that effective implementation and oversight are crucial to the success of the regulatory measures in preventing the causes of bank failures in Zimbabwe.[526]

The chapter concluded that while Zimbabwe's current banking regulatory framework provides a solid foundation for preventing bank failures, ongoing vigilance and adaptive strategies are imperative. Chapters Five to Nine of this thesis focus on comparative studies with other jurisdictions and the impact of global financial trends on local effectiveness. By doing so, policymakers can enhance the banking statutory framework to robustly address the causes of bank failures and promote a resilient and stable banking sector in the evolving economic challenges in Zimbabwe.

The following chapter is Chapter Four and it provide a discussion on the selected role players in the regulation of banks in Zimbabwe.

---

523 See the preamble, sections 4C and 52A of the *Banking Act*; the preamble read together with section 6 (1) of the *RBZ Act*; the preamble of the *NPS Act*; the *BUPSML Act*.

524 See paragraphs 3.2.1 and 3.2.2 of this chapter.

525 See paragraph 3.2.4 of this chapter.

526 See paragraph 3.2.6 of this chapter.

CHAPTER FOUR

SELECTED ROLE PLAYERS IN THE REGULATION OF BANKS IN ZIMBABWE

4.1 Introduction

There are many role players involved in the banking sector in Zimbabwe. The first major stakeholders are the banks. Zimbabwe has three categories of banks namely, commercial banks, building societies and savings banks.[527] Besides banks, several other role players are involved in regulating the Zimbabwean banking sector. These include the Ministry of Finance and Investment Promotion, the Reserve Bank of Zimbabwe (RBZ), the Deposit Protection Corporation (DPC), the Securities and Exchange Commission of Zimbabwe (SECZ), the courts and the Insurance and Pensions Commission (IPEC).[528] The mentioned role players perform various functions that seek to promote the smooth operation and sound regulation of the banking sector in Zimbabwe.

---

527 Muzari W, Mutambara J, Mufudza T and Gwata CC "The Role, Potential and Constraints to Development of Rural Financial Markets in Zimbabwe" 2013 *Journal of Agricultural Economics and Development* 166, 169; Ndlovu I and Ndlovu "Mobile Banking the future to Rural Financial Inclusion: Case Study of Zimbabwe" 2013 IOSR *Journal of Humanities and Social Science* 70, 71; see related in Mutsonziwa K and Maposa OK "Mobile Money – A Catalyst for Financial Inclusion in Developing Economies: A Case Study of Zimbabwe using FinScope Survey Data" 2016 *International Journal of Finance Management* 45, 51; Dube C, Abel S and Mugocha E "Access to Bank Credit as a Strategy to Re-Industrialisation in Zimbabwe: The Issues" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 11; Mpofu S and Matsika W "Contributions and Challenges Facing the Financial Sector in Zimbabwe" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 30.

528 Bonga WG, Chikeya CK and Sithole R "The Need for Financial Stability in Zimbabwe: Use of Derivatives Securities" 2015 *IOSR Journal of Economics and Finance* 6, 8; Mugwati MZ, Nkala D and Mukanganiki C "The Composition and Regulation of the Financial Services Sector in Zimbabwe" 2013 *Asian Economic and Financial Review* 483, 486; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106; Mlambo C, Mapondera D and Tenderere M "Barriers and Challenges Restraining Zimbabwean Banks in going Multinational" 2015 *International Business and Economic Research Journal* 297, 298; Mavengere K "Prediction Corporate bankruptcy and Earnings Manipulation using the Altman Z-score and Beneish M-score. The Case of Z Manufacturing Firm in Zimbabwe" 2015 *International Journal of Management Sciences and Business Research* 8; Magweva R and Mashamba T "Stock Market Development and Economic Growth: An Empirical Analysis of Zimbabwe (1989-2014)" 2016 *Financial Assets and Investments* 20, 22.

The named role players form part of the Multidisciplinary Financial Stability Committee (MFSC) of Zimbabwe, which is responsible for financial sector stability and chaired by the Governor of the RBZ.[529] The MFSC meets quarterly for information sharing and coordination sessions that are formalised through a memorandum of understanding (MOU) under the auspices of the RBZ and the DPC. In addition, the role players are also responsible for protecting the interests of depositors and investors in the Zimbabwean banking sector. The banking statutory framework promotes financial intermediation, economic growth and financial sector stability in Zimbabwe.[530]

4.2 Types of Banks in the Zimbabwean Banking Sector

Banks in Zimbabwe are governed, supervised and monitored by the RBZ.[531] The RBZ is the sole issuer of currency in Zimbabwe.[532] The RBZ is also responsible for the

---

529 See Deposit Protection Scheme Highlights available at https://dpcorp.co.zw/assets/dpc-and-financial-inclusion.pdf accessed 24 April 2024; see related in Mlambo K and Masiyandima N "Corporate Governance Factors, Capital Regulation and Bank Risk Taking in Zimbabwe" 2019 *Business and Management Research* 39, 48; Nhavira JDG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 59.

530 Bonga WG, Chirenje G and Mugayi P "Analysis of Credit Culture in the Zimbabwean Banking Sector" 2019 *Dynamic Research Journals* 45, 47 concurs with the idea that financial stability is very crucial in any economy which supports a growth motive; Mwatetsera A, Sandada M , Chuchu T and Maziriri ET "An empirical Assessment of Success Factors Boosting Zimbabwean Banking Consumer Confidence" 2022 *Journal of Economics, Business, and Accountancy Ventura* 440, 441; see related in Mpofu and Matsika 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 2.

531 See related in Chinoda, Chongombe and Chawuiruka 2015 *IORS Journal of Economics and Finance* 68; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486 states that commercial banks, asset management companies, unit trust, and microfinance institutions are regulated by the RBZ; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 10.

532 Section 7 of the *Reserve Bank of Zimbabwe Act* 5 of 1999 as amended (the *RBZ Act*); Nhavira JDG and Ocran MK "Did the Reserve Bank of Zimbabwe Charter Contribute to Hyperinflation? A Critical Review" 2012 *Journal of Strategic Studies* 9, 25 noted that the powers of the RBZ are contained in section 7 of the *RBZ Act*, including issuing bank notes, accepting money on demand deposits, and

formulation and implementation of monetary policy, stabilising inflation levels, and ensuring that banks adhere to international standards such as the Basel recommendations on bank supervision.[533] As of March 2024, there were 19 licensed banks in Zimbabwe.[534] They comprised 13 commercial banks, four building societies, one merchant bank and one savings bank.[535] A bank is defined as a company that is registered or is required to be registered in terms of the *Banking Act* to conduct any

---

so on; Munjeyi E "The Impact of Legal and Regulatory Framework on SMEs Development: Evidence from Zimbabwe" 2017 *Research Journal of Finance and Accounting* 133, 135; Njanike K "Central Bank Independency on the Development of the Financial Sector. A Case of Reserve Bank of Zimbabwe (1998-2008)" 2010 *Annals of the University of Petrosani, economics* 251, 253; Gwatiringa PT "Banking Sector Profitability Through Investigation of Financial Performance Indicators: the Case of Zimbabwe" 2020 *Journal of Business and Management* 22, 29; Mashingaidze 2014 *Corporate Ownership and Control* 553; Kabonga I and Marime R "In Search of Development: Zimbabwe Exemplar From 2000 to 2015" 2017 *Africanus Journal of Development Studies* 1, 5, see related on Chikoko L and Mangwendeza P "Financial Inclusion by Zimbabwean Commercial Banks in a Liquidity Constrained Environment" 2012 *Journal of Economics and International Finance* 252, 257; see Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 10; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2.

533 See related in Vhudzijena R and Nkomo D "Developing a Crypto Currency Regulatory Model: The Case of Zimbabwe" 2022 *Journal of Research and Innovation for Sustainable Society* 228, 229; Bonga WG *The role of the Financial Sector in Zimbabwe, Central Banking and its Social and Economic Impacts. The Zimbabwe Coalition on Debt and Development (ZIMCODD), Debate Paper* 3; see related in Jabangwe J and Kadenge PG "An Investigation of the Relationship between Capital Levels and the Performance of Banks in Zimbabwe from 2009 to 2013" 2015 *Botswana Journal of Economics* 68, 69; Gwatiringa 2020 *IOSR Journal of Business and Management* 22, 29; Nhavira and Ocran 2012 *Journal of Strategic Studies* 25.

534 The RBZ Bank Supervision Dision: Banking Sector Report for the Quarter Ended 31 March 2024 3 https://rbz.co.zw/documents/bank_sup/BANKING_SECTOR_QUARTERLY_INDUSTRY_REPORT/2024/Quarterly_Industry_Report_as_at_31_March_2024.pdf accessed on 21 October 2024.

535 Bank Supervision Annual Report 2021 11; Gwatiringa 2020 *IOSR Journal of Business and Management* 25; see related on Abel S, Le Roux P and Mutandwa L "Competition and Bank Stability" 2018 International Journal of Economics and Financial Issues 86, 88; Bhiri T, Vhimisai T and Bayai I "An Evaluation of the Usage and Operational Framework of the Real Times Gross Settlement System in the Zimbabwean Banking Sector" 2014 *Journal of Emerging Trends in Economics and Management Sciences* 412, 415; Maune A, Matanda E and Mundonde J "Does Financial Inclusion Cause Economic Growth in Zimbabwe? An Empirical Investigation" 2020 *Acta Universitatis Danubius Economica* 195, 196; see statement by Mangudya LP in the RBZ Monetary Policy Statement: *Sustainability Price Stability and Economic Resilience* 35 dated 2 February 2023; see Deposit Protection Corporation List of Operating Banks available at https://www.dpcorp.co.zw/member-banks.html accessed 21 April 2024; The RBZ Bank Supervision Dision: Banking Sector Report for the Quarter Ended 31 March 2024 3 https://rbz.co.zw/documents/bank_sup/BANKING_SECTOR_QUARTERLY_INDUSTRY_REPORT/2024/Quarterly_Industry_Report_as_at_31_March_2024.pdf accessed on 21 October 2024.

class of banking business in Zimbabwe.[536] As stipulated in the *Banking Act*, only registered banks are allowed to operate in Zimbabwe.[537] Additionally, a registered bank is restricted from engaging in any class of banking business unless it is specifically licensed for that class.[538] Banks are restricted by the *Banking Act* to undertake banking activities that are mentioned in their registration certificates or operation licenses.[539] All banks operate subject to the supervision of the RBZ.[540]

4.2.1 Commercial Banks

Commercial banks are banking institutions that conduct banking business in Zimbabwe and their business mainly consists of the acceptance of deposits withdrawable by cheque or otherwise.[541] There was an increase in the number of operating commercial banks to fourteen following the authorisation of Time Bank to recommence banking

---

536 See section 2 of the *Banking Act* 9 of 1999 (the *Banking Act*) on the interpretation of the term banking institution; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 102; see related on Chinoda T, Chingombe C and Chawuruka P "The Impact of Minimum Capital Requirements on Performance of Commercial Banks in Zimbabwe" 2015 *IOSR Journal of Economics and Financ*e 60; Bonga, Chirenje and Mugayi 2019 *Dynamic Research Journals* 46.

537 Section 5(2) of the *Banking Act*; see also the definition of banking business "banking operations" which means the business of accepting deposits withdrawable or repayable on demand or after a fixed period of time or after notice and the employment of those deposits, in whole or in part, by lending or any other means for the account and at the risk of the person accepting the deposits; Mutsonziwa and Maposa 2016 *International Journal of Finance Management* 48.

538 Section 5(2)(a) and (b) of the *Banking Act*.

539 Section 5(2)(b) of the *Banking Act*.

540 Bonga and Mlambo 2016 *IOSR Journal of Economics and Finance* 70; see the *RBZ Bank Supervision Annual Report* 2021, 11; Barugahara F "Financial Inclusion in Zimbabwe: Determinants, Challenges and Opportunities" 2021 *International Journal of Financial Research* 161; Sibindi AB and Bimha A "Banking Sector Development and Economic Growth: Evidence from Zimbabwe" 2014 *Banks and Bank Systems* 51, 54; Makena 2021 *African Economic Research Consortium* 4; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 486.

541 See the definition on section 2 of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 4; Bonga WG *The role of the Financial Sector in Zimbabwe, Central Banking and its Social and Economic Impacts. The Zimbabwe Coalition on Debt and Development (ZIMCODD), Debate Paper* 3; Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Ndlovu I and Sigola M "Benefits and Risks of E-Banking: Case of Commercial Banking in Zimbabwe" 2013 *The International Journal of Engineering and Science* 34, 37; Munyoro G and Dube F "The Significance of Indigenous Banks to Economic Development in Zimbabwe: A Case Study of Harare Metropolitan" 2017 *Information and Knowledge Management* 28, 30.

operations from the 27th of October 2022.[542] Commercial banks in Zimbabwe can be categorised into two groups, which are locally-owned banks and foreign-owned banks. Locally-owned banks are financial institutions where the majority of the ownership and control lies with Zimbabwean citizens, entities or the government.[543] This means that the Zimbabwean shareholders have the primary decision-making authority and influence over the bank's operations. In addition, locally-owned banks tend to have a strong focus on serving the local market and the specific customer needs of Zimbabweans. Foreign-owned banks are financial institutions where the majority of ownership and control is held by foreign investors, institutions, or parent companies based outside Zimbabwe. The main decision-making power and majority shareholding rest with foreign entities and strategic decisions including those related to capital allocation, product development and risk management are often guided by the parent company. Commercial banks offer a wide range of financial services, including deposits, loans, and money transfers.[544] In other words, commercial banks offer current and deposit account facilities and provide loans and overdrafts to businesses and individuals. To cater for the evolving needs of customers, commercial banks also

---

542 Makena 2021 *African Economic Research Consortium* 7 explained the migration of a number of banking institutions from merchant, discount and finance houses to commercial banking; see historical chronic liquidity challenges experienced by the bank in Dandira *et al* 2019 *Public Policy and Administration Research* 4; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2.

543 Munyoro and Dube 2017 *Information and Knowledge Management* 29; see related comments in Dube ZL and Murahwe GR "An Analysis of Corporate Governance Practices in Government Controlled versus Private Banking Institutions in Zimbabwe" 2012 *International Journal of Development and Sustainability* 759, 769; Munzara AM "The Consequences of Implementing the Indigenisation and Economic Empowerment Policy Framework on the Banking Sector in Zimbabwe" 2015 *IOSR Journal of Business and Management* 55; Musikavanhu LT, Matandare MA and Zhou N "Ownership Structure and Bank Performance in Zimbabwe" 2018 *Research Journal of Finance and Accounting* 45; Mashingaidze S "Corporate Governance: Effectiveness of Zimbabwean Hard Law on Blockholders' Protection" 2014 *Corporate Ownership and Control* 549, 553.

544 Shambare 2013 *International Journal of Business and Economic Development* 14; Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Mutsonziwa and Maposa 2016 *International Journal of Finance Management* 48; Munyoro and Dube 2017 *Information and Knowledge Management* 30.

provide digital banking services such as mobile banking and internet banking.[545] Failure of commercial banks to provide the services to consumers or inefficiency in providing such services can be costly to both the bank and the users, and poor intervention could result in bank failures.[546]

4.2.2 Mutual banks

The second bank type in Zimbabwe is the mutual banks, which are also known as building societies.[547] Building societies play a crucial role in facilitating affordable homeownership and property investment for individuals and businesses.[548] Building societies are a unique subset of banks, primarily focused on providing specialised services related to housing and real estate.[549] As of the first quarter of 2024, Zimbabwe

---

545 Munyoro and Dube 2017 *Information and Knowledge Management* 30; Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415.

546 Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415; Munyoro and Dube 2017 *Information and Knowledge Management* 30.

547 Bonga, Chikeya and Sithole 2015 *IORS Journal of Economics and Finance* 8; Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415.

548 Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415; Munyoro and Dube 2017 *Information and Knowledge Management* 30.

549 Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; see related in Mlambo and Masiyandima 2019 *Business and Management Research* 42; see Zimbabwe Economic Report, Building a new Zimbabwe Targeted Policies for Growth and Jobs (2018 African Development Bank Group) 61.

had four registered and operating building societies namely the Central Africa Building Society (CABS), the FBC Building Society and the National Building Society.[550]

4.2.3 Savings Bank

Savings banks are also found in the Zimbabwean banking sector. Currently, there is only one operating savings bank namely, the People's Own Savings Bank of Zimbabwe (POSB).[551] The POSB is regulated by the *People's Own Savings Bank of Zimbabwe Act* and unlike other types of banks in Zimbabwe, it is not regulated by the *Banking Act*.[552] The *Banking Act* exempts regulation of the POSB due to its unique legal and operational status as a state-owned savings bank, specifically created to serve the public interest. In other words, the POSB was established with a specific mandate of providing accessible banking services, particularly savings to the general public, including rural and underserved populations. Its purpose is more aligned with social development objectives such as promoting savings among ordinary citizens, rather than operating solely as a profit-driven commercial entity like all other locally-owned and foreign-owned banks in Zimbabwe. However, the Minister of Finance and Investment Promotion can publish a public notice in the Gazette to direct that all or

---

[550] See the RBZ Consolidated Banking Institutions' Information as of 30 June 2024 https://www.rbz.co.zw/documents/BLSS/Supervision%20Publications/Consolidated_Banking_Institutions_Information_as_at_30_June_2024.pdf accessed 20 October 2024; Mlambo, Mapondera and Tenderere 2015 *International Business and Economics Research Journal* 298; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415; Munyoro and Dube 2017 *Information and Knowledge Management* 30; Mashingaidze 2014 *Corporate Ownership and Control* 553.

[551] See section 2 of the *Banking Act* under the definition of the financial institution. The People's Own Savings Bank of Zimbabwe was established by the *People's Own Savings Bank of Zimbabwe Act* (*POSBZ Act*) [Chapter 24:10]; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 487; Bonga, Chikeya and Sithole 2015 *IORS Journal of Economics and Finance* 8; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185.

[552] See the preamble and section 3(2) of the *POSBZ Act*; section 3(1)(a) of the *Banking Act*; see related in Mlambo and Masiyandima 2019 *Business and Management Research* 40; Mashingaidze 2014 *Corporate Ownership and Control* 552.

any of the provisions of the *Banking Act* shall apply to the POSB, with certain modifications, terms and conditions that may be specified in the Gazette notice.[553]

Savings banks play a vital role by offering a range of services that prioritise savings mobilization and fostering a culture of saving among individuals and communities while promoting platforms for economic empowerment and stability.[554] POSB is a registered financial institution that offers savings accounts and postal services such as telegraph, registered mail and general letters.[555] The POSB is a government-owned bank, with multiple branches throughout Zimbabwe, offering accessible financial and postal services largely in rural areas.[556] The researcher submits that the POSB is less vulnerable to bank failures compared to commercial and other banks due to its focus on low-risk activities, such as savings and its state-owned status offers it government backing.[557] Low-risk activities often reduce exposure to the causes of bank failures. However, POSB is not immune to risks like poor corporate governance, political interference and operational inefficiencies which could threaten its financial health if not managed effectively.[558] Therefore, while the POSB helps promote financial stability by offering secure services to underserved communities, strong oversight is necessary to ensure that it combats financial distress.

---

553 Section 3(3)(b) of the *Banking Act*; section 3(1)(b) of the *RBZ Act*; Mashingaidze 2014 *Corporate Ownership and Control* 552.

554 The *Banking Act* does not provide the definition of a savings bank. For this thesis, a savings bank is a banking institution that specialises in catering to an individual's savings needs, providing a secure and accessible platform for people to save their funds over time. Unlike commercial banks, which offer a wide range of financial services including loans and investments, a savings bank generally has a more concentrated scope, emphasising the accumulation and preservation of funds for their customers; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185.

555 Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 487; Bonga, Chikeya and Sithole 2015 *IORS Journal of Economics and Finance* 8; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 12.

556 Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Mashingaidze 2014 *Corporate Ownership and Control* 552; see Zimbabwe Economic Report, Building a new Zimbabwe Targeted Policies for Growth and Jobs (2018 African Development Bank Group) 61.

557 Mashingaidze 2014 *Corporate Ownership and Control* 552.

558 Mashingaidze 2014 *Corporate Ownership and Control* 552.

4.3 Other Role players and Bank Failures in Zimbabwe

There are five main financial regulators or regulatory bodies responsible for regulating and supervising banks and/or financial institutions in Zimbabwe. Financial regulator's responsibilities include prudential supervision, consumer protection, policy development, crisis management, licensing, and regulation of financial institutions. This section examines the role of the RBZ, the Ministry of Finance and Investment Promotion, the DPC, the SEC and the IPC as the regulatory authority for banks in Zimbabwe and their role in preventing bank failures.[559]

4.3.1 The Role of the Ministry of Finance and Investment Promotion in Bank Regulation

The Ministry of Finance and Investment Promotion (MFIP) has authority over the financial services sector in Zimbabwe and all other regulatory bodies fall under its purview.[560] This ministry is responsible for fiscal policy formulation and the management of the financial resources of the nation as well as for ensuring economic

---

559 See section 45 of the *RBZ Act* which makes the RBZ, in consultation with the Minister (who is the head of the Ministry of Finance) responsible for formulating and implementing monetary policies; Bonga, Chikeya and Sithole 2015 *Journal of Economics and Finance* 8 noted that the Ministry of Finance is the ultimate supervisor of the financial system; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; see related in Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106 referred to the Minister of Finance as the core to the banking legal framework; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4; Mashingaidze 2014 *Corporate Ownership and Control* 553; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 58.

560 See section 45 of the *RBZ Act* which makes the RBZ, in consultation with the Minister (who is the head of the Ministry of Finance) responsible for formulating and implementing monetary policies; Bonga, Chikeya and Sithole 2015 *Journal of Economics and Finance* 8 noted that the Ministry of Finance is the ultimate supervisor of the financial system; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; see related in Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106 referred to the Minister of Finance as the core to the banking legal framework; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4; see related on Kurauone O, Kong Y, Mago S, Sun H, Famba T and Muzambindo S "Tax Evasion, Political/Public Corruption and Increased Taxation: Evidence from Zimbabwe" 2021 *Journal of Finance Crime* 300, 312; Coomer and Gstrunthaler 2011 *The Quarterly Journal of Austrian Economics* 331; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

stability and growth.[561] A fiscal policy provides direction for government expenditures, taxation, and borrowing, exerts an impact on the nation's financial stability, stimulates economic growth, and addresses budgetary constraints. The MFIP also plays a significant role in regulating and overseeing the banking sector, that is, through its relevant departments and agencies. The researcher submits that the MFIP's function of regulating government financial activities indirectly influences the financial environment that banks operate in, helping combat bank failures by promoting stability in the financial sector.[562] Additionally, the MFIP assists in establishing and maintaining the regulatory framework that governs banks including developing and enforcing banking laws, regulations and policies.[563] The researcher submits that by ensuring that a sound regulatory framework is in place, the MFIP helps to combat common risks that cause bank failures such as poor regulation, poor enforcement and poor governance practices.[564] However, the effectiveness of the banking regulatory framework in mitigating and combating the causes of bank failures depends on how well these laws are enforced and updated in response to emerging economic challenges.

---

561 See the overall functions of the Ministry of Finance available at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 25 April 2024; Mashingaidze 2014 *Corporate Ownership and Control* 553; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

562 Mashingaidze 2014 *Corporate Ownership and Control* 553; see related in Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106 referred to the Minister of Finance as the core to the banking legal framework; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4; see related on Kurauone *et al* 2021 *Journal of Finance Crime* 300, 312; Coomer and Gstrunthaler 2011 *The Quarterly Journal of Austrian Economics* 331; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

563 See the overall functions of the Ministry of Finance available at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 25 April 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; Mashingaidze 2014 *Corporate Ownership and Control* 553.

564 Mashingaidze 2014 *Corporate Ownership and Control* 553; see related in Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9; Bonga, Chikeya and Sithole 2015 *Journal of Economics and Finance* 8.

The MFIP sets the criteria and standards of licensing for banks and other financial institutions, to ensure that only qualified and reputable entities are allowed to operate in the banking sector.[565] The ministry, often in collaboration with the central bank, sets prudential regulations for banks.[566] These regulations cover areas such as capital adequacy, risk management, and liquidity requirements. Prudential regulations are designed to ensure the stability and soundness of the banking sector. In this regard, the MFIP collaborates with the RBZ to implement monetary policies and set up interest rate targets and exchange rate policies that influence inflation and economic stability.[567] The MFIP also assists in maintaining financial stability by identifying and mitigating systemic risks that could threaten the stability of banks and the broader financial system. This is achieved by having measures to prevent bank failures and address any issues of insolvency or distress among financial institutions.[568]

In the event of a banking crisis or the need for bank resolution, the Ministry of Finance works with the central bank and other relevant authorities to manage and resolve the crises through measures such as providing financial support, restructuring troubled

---

565 See section 21 (1) of the *RBZ Act*; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14; Bonga, Chikeya and Sithole 2015 *Journal of Economics and Finance* 8 states that the government through the Ministry of Finance and the RBZ began issuing out new licenses to financial players; Nhavira and Ocran 2012 *Journal of Strategic Studies* 26.

566 Section 45 of the *RBZ Act*; Kurebwa J "Organisational Downsizing and Its Impact on Leavers and Survivors: The Case of the Reserve Bank of Zimbabwe" 2011 *Journal of Emerging Trends in Economics and Management Sciences* 264, 265; Nhavira and Ocran 2012 *Journal of Strategic Studies* 26; see Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 26; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 30.

567 Section 14 (2)(a) of the *Banking Act*; See related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 10 where it was stated that the RBZ was required to consult with the Ministry of Finance before withdrawing a bank license; Kondongwe 2018 *Social Science Research Network* 13; Nhavira and Ocran 2012 *Journal of Strategic Studies* 26; see related in Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4.

568 See the overall functions of the Ministry of Finance available at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 25 April 2024.

banks, or facilitating mergers and acquisitions.[569] The MFIP oversees the RBZ, Infrastructure Development Bank of Zimbabwe, and POSB and supervises the regulation of Insurance Companies, Pension Funds and the Securities Market. As the ultimate financial sector supervisor, the MFIP oversees all regulators and supervisors within its range of vision and collaborates with them to prevent bank failures in Zimbabwe.

In addition, the MFIP implements policies and regulations to ensure financial institutions practice fair and transparent banking practices. The MFIP is responsible for monitoring and curbing capital flight, eliciting foreign currency leakages, and abusing of special financial facilities in liaison with the RBZ and other financial regulatory authorities.[570] It also strives to protect consumers from fraudulent or unethical behaviour by banks. It ensures that consumer interests are safeguarded and public trust in the banking sector is maintained, thereby promoting stability and increasing bank liquidity. High bank capital boosts consumer confidence of the bank clients on the bank and attracts more deposits, which could lead to a positive relationship and curb the causes of bank failures in Zimbabwe. In addition, the ministry supports access to banking services by underserved and marginalised populations, thereby fostering economic development and inclusion.

In international financial forums and organisations, the MFIP represents Zimbabwe and collaborates with international bodies such as the International Monetary Fund (IMF)

---

569 See related in Otekunrin 2021 *Asian Economic and Financial Review* 126; see related in Mutsonziwa and Maposa 2016 *International Journal of Finance Management* 49; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 30; see the Republic of Zimbabwe Vision 2030 statement on "Towards a Prosperous and Empowered Upper Middle Income Society by 2030" 21 dated September 2018 available at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 27 April 2024.

570 See the Finance and Investment Promotion Official Government of Zimbabwe web portal available at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 27 April 2024.

and the World Bank on matters related to banking and the financial sector.[571] The MFIP has implemented policies and initiatives aimed to develop and modernise the financial services sector. These efforts include encouraging innovation and digitalisation in banking services that meet international standards.

The ministry plays a multifaceted role in the banking sector, encompassing regulatory, supervisory, policymaking, and crisis management functions. These regulatory efforts are crucial for maintaining a stable and resilient banking sector that contributes to the overall well-being of Zimbabwe's financial sector and combating the causes of bank failures.

4.3.2 The RBZ and the Regulation of Banks in Zimbabwe

The RBZ is the central bank of Zimbabwe, established under the *RBZ Act*.[572] It is responsible for regulating the Zimbabwe monetary system and promoting financial stability in the country.[573] As a central bank, the RBZ is empowered to supervise and

---

571 See related in Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474; Kondongwe 2018 *Social Science Research Network* 13; see related in Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 61; Munjeyi 2017 *Research Journal of Finance and Accounting* 135; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 5.

572 Section 4 of the *RBZ Act*; see also section 4(1) of the *Banking Act*; Njanike 2010 *Annals of the University of Petrosani, economics* 253; Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Mashingaidze 2014 *Corporate Ownership and Control* 553; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 5, see related on Chikoko and 2012 *Journal of Economics and International Finance* 257; see Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 10; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2.

573 Section 6(1) (f) of the *RBZ Act*; Simatele M and Mbedzi E "Consumer Payment Choices, Cost, and Risks: Evidence from Zimbabwe" 2021 *Cogent Economics and Finance* 1, 6; see related on Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Sciences* 22, 24 where agreed with other observers who argued that bank failures occur as a result of the central bank's failure to undertake their mandate, in making sure that banks comply with banking acts through strict supervision; Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Kanhai C "Factors Influencing the Adoption of Enterprise Risk Management (ERM) Practices by Banks in Zimbabwe" 2014 *International Journal of Business and Commerce* 1, 12; Njanike 2010 *Annals of the University of Petrosani, economics* 253; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487 on their findings states that as a result the Reserve Bank of Zimbabwe now regulates and supervises the banking institutions as well as micro-finance houses and even registers the asset management companies.

foster liquidity and solvency, as well as the proper functioning and stability of all banking institutions in Zimbabwe.[574] The RBZ's responsibilities and duties include supervising and investigating all banking institutions in Zimbabwe and promoting the smooth operation of banks and payment systems. Thus, the RBZ can appoint supervisors and inspectors who monitor financial sector activities which include adherence to prudential standards, risk management strategies and corporate governance requirements.[575] This is done by continuous monitoring, supervision, and enforcement of compliance with the *Banking Act* or any other regulations and policies enacted to stabilise the financial sector.[576] The mission of the RBZ is to safeguard the

---

574 Section 6(c) and (e) read together with section 45(1)(a) of the *RBZ Act*; Kanhai 2014 *International Journal of Business and Commerce* 3; Dzomira S "Electronic Fraud (Cyber Fraud) Risk in the Banking Industry, Zimbabwe" 2014 *Risk Governance & Control: Financial Markets and Institutions* 16, 24; Makena 2021 *African Economic Research Consortium* 5; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2; see related on Maune A "A Talmudic Perspective of the Zimbabwean Banking Crises of 2004/2005" 2015 *Risk Governance and Control: Financial Markets and Institutions* 104, 106; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 8.

575 Section 46-47 of the *Banking Act*; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 105; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 417; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2; Mashingaidze 2014 *Corporate Ownership and Control* 553; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14.

576 Section 26 (e) and 38 of the *RBZ Act*; Chitimira and Ncube 2021 *PER/PELJ* 24 states that RBZ should have dedicated objectives and clear mandates towards the formulation of a stable and robust monetary policy; Makena 2021 *African Economic Research Consortium* 5; Maune 2015 *Risk Governance and Control: Financial Markets and Institutions* 107; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 105; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 417; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14 contend that Zimbabwe prudential regulations is the purview of the RBZ and aims to ensure that the firms it regulates are financially sound.

financial system, ensure the stability of financial institutions and promote growth through monetary policy formulation and implementation.[577]

Accordingly, the RBZ is responsible for formulating and implementing the monetary policy in Zimbabwe.[578] The RBZ issues a policy statement twice a year, containing a description of a monetary policy to be followed by the banks. The policy statement also includes the reasons for those policies, and principles that the RBZ will follow to implement the monetary policy. The RBZ also provides a report on the evaluation of the monetary policy and its implementation for the preceding period.[579]

The RBZ is the lender of last resort, which is the specific responsibility and/or actions aimed at maintaining stability and confidence within the financial sector during times of crises or systemic distress.[580] The RBZ is responsible for providing liquidity

---

577 Section 6 of the *RBZ Act*; the RBZ's functions include safeguarding the financial system by implementing measures and regulations that protect the integrity and stability of the country's financial system. This involves monitoring and addressing risks that could potentially disrupt the functioning of financial institutions and markets. The RBZ also has the responsibility to oversee the stability of financial institutions such as banks, credit unions and other financial entities. RBZ ensure stability of financial institutions by ensuring that the institutions are well-capitalised, they follow appropriate risk management practices and maintain their financial health. Additionally, the RBZ promote growth through monetary policy formulation and implementation to manage factors inflation, interest rates and money supply which in turn influence the overall economic environment to achieve economic growth and stability; Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6.

578 Section 6(f) read together with part VII of the *RBZ Act*; Njanike 2010 *Annals of the University of Petrosani, economics* 253; see related on Chitimira and Ncube 2021 *PER/PELJ* 23; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Makena 2021 *African Economic Research Consortium* 5.

579 Section 46 of the *RBZ Act*; Njanike 2010 *Annals of the University of Petrosani, economics* 253; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; see related on Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 325.

580 Section 11(5) of the *RBZ Act* states that, the Bank may act as a lender of last resort for banking institutions, by granting to them or for their benefit, for periods not exceeding three months; see related on Noko J "Dollarisation: The Case of Zimbabwe" 2011 *Cato Journal* 339, 350 where it was stated that the Reserve Bank of Zimbabwe ceased to exist as a lender of last resort and deposits

assistance to a bank that is in financial distress and needs capital to manage its debts as they become due. Banks that experience financial distress can turn to RBZ for assistance and can borrow money to keep them in operation, avoiding closure or liquidation. In this regard, the central bank provides a backstop to ensure the financial system's stability as a whole.[581] During financial crises, financial institutions may struggle to obtain necessary funds from external sources to maintain their liquidity. In such situations, the central bank may provide emergency liquidity support to prevent institutions from experiencing a liquidity crisis that could lead to insolvency.

Additionally, RBZ typically lends funds to financial institutions, securing the loans with collateral against default.[582] This is done to ensure that the central bank is protected in case of the borrowing institution failing to repay the loan. Collateral of sufficient value to secure the loan can be of various forms, which include government securities, high-quality bonds, or other valuable assets that are adequate to uphold the central bank's mandate of promoting monetary stability and safeguarding the national economy.

Furthermore, the RBZ cautiously balances the necessity of preventing systemic collapse with the risk of encouraging reckless behaviour by financial institutions when

---

were highly transactional in nature, which resulted in the dislocation of the Zimbabwean financial sector from international credit markets, leading to hindering of the ability of financial markets to draw from the international pool of funds; see related on Makena 2021 *African Economic Research Consortium* 7; see related in Nyoni T and Bonga WG "Cashless Transacting Economy: A Necessary Evil for Development! A Zimbabwean Scenario! " 2017 *Dynamic Research Journal - Journal of Economics and Finance* 1, 3; see related in Nyaude AB "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" In Chitimira H and Warikandwa TV (eds) *Financial Inclusion Regulatory Practices in SADC: Addressing Prospects and Challenges in the 21st Century* (New York Routledge 2023) 209.

581 See section 11 (5) of the *RBZ Act*; see related on Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 486; Makena 2021 *African Economic Research Consortium* 5; Bonga WG *The role of the Financial Sector in Zimbabwe, Central Banking and its Social and Economic Impacts. The Zimbabwe Coalition on Debt and Development (ZIMCODD), Debate Paper* 4; see related in Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 8.

582 Section 7(c) and 11(6) of the *RBZ Act*; Bonga WG *The role of the Financial Sector in Zimbabwe, Central Banking and its Social and Economic Impacts. The Zimbabwe Coalition on Debt and Development (ZIMCODD), Debate Paper* 5; Nhavira and Ocran 2012 *Journal of Strategic Studies* 25; Kurebwa 2011 *Journal of Emerging Trends in Economics and Management Sciences* 265.

providing liquidity support.[583] The central bank is committed to ensuring a robust and resilient financial system. The RBZ aims to avoid encouraging reckless behaviour by financial institutions that may believe that they will always be provided with assistance when they have liquidity problems and as a result engage in riskier activities. Therefore, RBZ takes a careful approach to liquidity support, using a combination of measures to balance the well-being of the financial sector, economic stability and rescuing the distressed bank.

In addition, confidence in the banking sector is also preserved and maintained by knowing that the RBZ stands ready to provide support in times of crisis.[584] In this regard, depositors and investors have assurance and will desist from rushing to withdraw their funds, thereby preventing a panic-induced collapse of banks. Economic crises and instability in the financial sector prompt depositors and investors to hastily withdraw their monies, a trend that could trigger a chain reaction of instability that will cause bank failures. A warranty that the RBZ will provide financial support during times of crisis serves as a safeguard against panic-induced scenarios offering a buffer against unexpected challenges and assuring stakeholders of the safety of their funds.[585] Confidence in the RBZ stabilises individual banks, which helps maintain overall

---

583 Banking institutions may take on excessive risk knowing that they can rely on the central bank as a safety net, which is referred to as "moral hazard" dilemma; see related on Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Bonga WG *The role of the Financial Sector in Zimbabwe, Central Banking and its Social and Economic Impacts, Central Banking and its Social and Economic Impacts (June 30 2010) The Zimbabwe Coalition on Debt and Development (ZIMCODD), Debate Paper* 5; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 8.

584 See related comments by Barugahara 2021 *International Journal of Financial Research* 267; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487 states that RBZ now regulates and supervises the banking institutions as well as micro-finance houses; Munoangira and Kaja 2016 *European Journal of Business and Management* 198 defined public confidence in relation to the banking sector as the faith of the public in its decision-makers and the policies they set; Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474.

585 See Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 17 state that lack of depositor confidence in Zimbabwe led to the hoarding of cash by the public resulting in cash circulating outside the banking system; Barugahara 2021 *International Journal of Financial Research* 267; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Munoangira and Kaja 2016 *European Journal of Business and Management* 198; Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474.

confidence in the banking sector, preventing the possible disastrous fallout of a widespread banking crisis.[586]

The RBZ provides short-term assistance as temporary relief to address immediate liquidity challenges and stabilise the financial sector.[587] It is submitted that the central bank's role as a lender of last resort emerged from its responsibility to oversee and regulate financial institutions.[588] In this capacity, the central bank steps in to supply liquidity and save a bank facing insolvency issues. When a bank or banks encounter sudden and severe liquidity shortages due to unforeseen events or market disruptions, the RBZ steps in to offer temporary relief. This temporary relief typically involves offering short-term loans or liquidity support to ensure that banks can meet their immediate obligations, such as withdrawals by depositors without collapsing.[589] This prevents the bank from failing and reduces the likelihood of systemic failures that may

---

586 Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 16; Barugahara 2021 *International Journal of Financial Research* 267; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Munoangira and Kaja 2016 *European Journal of Business and Management* 198; Ndlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474.

587 See section 11 (5), (7) and (8) of the *RBZ Act*; Nhavira and Ocran 2012 *Journal of Strategic Studies* 25 noted that when a bank is in distress, the RBZ may lend for a three-month period, of which the period may be waived by the RBZ on its own discretion on secure or unsecure basis; Ndlovu *et al* 2013 Journal of *Emerging Trends in Economics and Management Sciences* 475; see related in Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 214; Kondongwe 2018 *Social Science Research Network* 16; see related comments in Chitimira and Torerai 2023 *Juridical Tribune* 394.

588 Section 6(1)(c) and (e) read together with section 11 of the *RBZ Act*; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 214 stated that the regulation and supervision of banks have included the lender of last resort function of the central bank whereby the central bank intervenes by providing liquidity and rescues a bank that experiences solvency problems; Chikoko L "Potential Sources of Zimbabwe Commercial Banks Illiquidity after Dollarisation" 2014 *Journal of Contemporary Issues in Business Research* 41, 50 states that the challenges that were posed by the multiple currency regime were cited to be among others, no lender of the last resort function by the Reserve Bank of Zimbabwe.

589 Section 6(1)(c) and (e) read together with section 11 of the *RBZ Act*; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 214; Tsaurai K "The Dynamics, Challenges and Transition of Banking Sector Development in Zimbabwe" 2018 *The Journal of Developing Areas* 85; 89 noted that challenges faced by Zimbabwe banking sector was mainly due to the absence of lender of last resort, lack of liquidity and given an inactive interbank market; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14.

arise due to the failure of such a bank. This temporary assistance is designed to bridge the gap between the institutions' immediate liquidity needs and the potential resolution of the underlying issues that triggered the crisis. The researcher argues that the RBZ has faced significant challenges in fulfilling its role as a lender of last resort, primarily due to its own liquidity constraints.[590] As a result, at times the RBZ has been unable to provide critical financial support to distressed banks, effectively abandoning its responsibility of providing financial support to distressed banks.[591] This left individual banks in financial distress to manage their financial crisis independently, further exacerbating their vulnerability and increasing the likelihood of bank failures rather than combating the causes of such failures.

The RBZ's role as a lender of last resort encapsulates its responsibility to maintain the health and resilience of the financial system. By stepping in during times of acute stress, the central bank not only prevents the undue panic that could lead to a liquidity spiral but also underscores its commitment to upholding the stability, credibility, and confidence of the banking sector.[592] The researcher submits that ensuring financial stability is crucial for maintaining public confidence in the banking sector which plays

---

590 Dzomira S "Analysis of Bank Failures During Financial Tumult in Africa-Zimbabwe: A Historical Review" 2014 *Journal of Governance and Regulation* 75, 78 noted that the RBZ withdrew its function as the lender of last resort in December 2003 and that there was a lack of an effective lender of last resort function, market illiquidity, cash based transactions and limited access to external credit lines; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50 states that the challenges that were posed by the multiple currency regime were cited to be among others, no lender of the last resort function by the Reserve Bank of Zimbabwe; Tsaurai 2018 *The Journal of Developing Areas* 89; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14.

591 Dzomira 2014 *Journal of Governance and Regulation* 78; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Tsaurai 2018 *The Journal of Developing Areas* 89; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14.

592 Dzomira 2014 *Journal of Governance and Regulation* 78; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Tsaurai 2018 *The Journal of Developing Areas* 89; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14.

a vital role in combating the causes of bank failures.[593] Thus, a stable financial sector reassures depositors and investors of the safety of their deposits and savings, reducing the risk of panic and bank runs that normally happen when the financial sector is unstable, causing the likelihood of bank failures.

4.3.3 The Role of the DPC in Bank Regulation

The DPC was established by the *DPC Act*,[594] and plays a vital role in safeguarding the interests of depositors and ensuring the stability of Zimbabwe's banking sector. The DPC promotes public confidence in the Zimbabwean financial sector by protecting depositors against the loss of parts or all of their deposits in case of a bank failure.[595] The DPC provides depositors with an insurance policy which is a safety net or assurance that they will receive payments of the deposits and savings in case of a bank failure in Zimbabwe.[596] The deposit insurance scheme provides a formal mechanism for handling failing banks and prevents contagious bank runs that normally happen when depositors panic about the safety of their deposits, and rush to withdraw their funds.[597] The DPC has several critical functions which include risk mitigation, crisis management and insurance coverage for depositors' funds in the event of a bank

---

593 Chinoperekweyi J "Internal Corporate Governance Principles and Practices of Indigenous Banks in Zimbabwe and their Impact on Organisational Effectiveness" 2018 *International Journal of Applied Research* 398, 400; Tsaurai 2018 *The Journal of Developing Areas* 87; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 47.

594 See section 66 of the *Banking Act*; section 4 of the *DPC Act*; Munoangira and Kaja 2016 *European Journal of Business and Management* 203; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Bonga, Chikeya and Sithole 2015 *Journal of Economics and Finance* 8.

595 See the policy-objectives of the deposit protection on the DPC website available at https://www.stanbicbank.co.zw/static_file/zimbabwe/Common%20Content/Footer/English%20Brochure%20June21.pdf accessed 30 April 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 28.

596 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 28; Kondongwe 2018 *Social Science Research Network* 13; see related in Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 209.

597 See the policy-objectives of the deposit protection on the DPC website available at https://www.stanbicbank.co.zw/static_file/zimbabwe/Common%20Content/Footer/English%20Brochure%20June21.pdf accessed 30 April 2024.

failure. Therefore, each of the DPC's functions contributes to the overarching goal of protecting depositors, maintaining financial stability and promoting fair competition within the banking sector.

The DPC establishes and administers a deposit insurance scheme for the protection of depositors against the risk of loss in the event of bank failures. In addition, the DPC also promotes stability in the banking sector.[598] That is, it acts as a custodian of a deposit insurance scheme, which provides a safety net for depositors by guaranteeing a specified level of protection in the event of bank failures or insolvency. In that regard, the DPC's responsibility is to administer the fund, levy contributions, and pay compensation to depositors in the event of the insolvency of a contributory institution. It further monitors the business and activities of contributory institutions to ensure minimum exposure to the fund.[599] The deposit insurance coverage limit is determined by law and may cover a specified number of deposits per account holder. The researcher submits that the DPC laws are insufficient to adequately protect depositors because they could be outdated to shield citizens from financial instability, risking the banking sector's stability when depositors panic and withdraw money. It is crucial to emphasise the importance of deposit insurance since it supports financial stability by reducing the risk of systemic crises caused by bank failures in Zimbabwe. However, the funding mechanisms for deposit insurance schemes may be insufficient to curb the causes of bank failures such as public trust and confidence in formal banking. In that regard, it raises concerns about their capacity to effectively address systemic risks,

---

598 Section 5(1) of the *Deposit Protection Act*; Munoangira and Kaja 2016 *European Journal of Business and Management* 203; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Kondongwe 2018 *Social Science Research Network* 13; see related in Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 209.

599 Section 5(1)(a-d) of the *Deposit Protection Act*; Munoangira and Kaja 2016 *European Journal of Business and Management* 203; Kondongwe 2018 *Social Science Research Network* 13; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Bonga, Chirenje and Mugayi 2019 *Dynamic Research Journals* 45; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4.

and adequately combat bank failures. Therefore, the researcher submits that enhancing the DPC laws and regulations can better protect the deposits and savings of financial consumers, promote financial inclusion and strengthen the resilience of banks against future crises. In addition, enhancing DPC laws could ensure adequate enforcement and effective regulatory oversight which assist in combating the causes of bank failures in Zimbabwe.

The DPC's funding mechanism is based on contributions from member banks and financial institutions, which enables the creation of a financial cushion that can be accessed to compensate depositors when a contributory institution experiences insolvency.[600] The banks and financial institutions which are overseen or on which funds are levied by the DPC are referred to as "contributory institutions".[601] It is also important to note that the DPC does not rely on government funding but rather on financial institutions within the system to support its operations. This funding structure aligns with international best practices in deposit insurance and ensures that the scheme remains robust and capable of fulfilling its mandate.

Furthermore, the DPC assists the Minister of Finance and the RBZ in the formulation and implementation of fiscal and monetary policy to ensure sound banking practices

---

600 Section 5(1)(b) and (c) read with section 13 (3) of the *Deposit Protection Act*; Kondongwe 2018 *Social Science Research Network* 13, the DPC gets its funding from quarterly premium levies collected from member institution; Bonga, Chirenje and Mugayi 2019 *Dynamic Research Journals* 45; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 5; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 32; see a discussion in Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 213, which provide a detailed information on Core Principle Nine of the DPC.

601 See section 2 of the *Deposit Protection Act*, which defined a contributory institution as a banking institution, building society, or other organisation which is a contributory institution in terms of Part IV and whose status as such has not been suspended or revoked in terms of section twenty-seven; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11.

and fair competition among banks in Zimbabwe.[602] That is, in cases where a bank faces financial distress or is at risk of failure, the DPC collaborates with the RBZ and other relevant authorities in formulating a resolution to address the issues and protect the depositors' interests.[603] It is also the responsibility of the DPC to keep the public informed of the corporation's role in contributing towards the stability of Zimbabwe's financial sector and the protection of the rights of depositors in the event of a contributory institution becoming insolvent.[604] The DPC is responsible for educating the public about the importance of deposit insurance and deposit protection by raising awareness about the coverage limits and how the system works.[605] By doing so, the DPC aims to provide a safety net to depositors and instill confidence in using Zimbabwean banks, having the assurance that they will get their money back in case of bank failure.

---

602 Section 5(1)(e) of the *Deposit Protection Act*; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4; Kondongwe 2018 *Social Science Research Network* 13 states that the DPC is also another important agency in the supervision and regulation of the financial sector; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 32.

603 Section 36(1) of the *Deposit Protection Act* provides that where it appears to the Reserve Bank or the Corporation that a contributory institution is financially distressed, or is or may become insolvent, the Reserve Bank and the Corporation shall consult together on the most appropriate measures to take in regard to the institution; see Bonga WC, Chirenje G and Mugayi P "Analysis of Credit Culture in the Zimbabwean Banking Sector" 2019 *Dynamic Research Journals-Journal of Economics and Finance* 45.

604 Section 5(1)(f) read with section 61(1) of the *Deposit Protection Act*; Munoangira and Kaja 2016 *European Journal of Business and Management* 203; see Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 210 who contends that potential depositors will have greater trust in banks if they believe their savings are insured and this will lead more individuals to open bank accounts; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 4; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2.

605 Section 5(1)(f) of the *Deposit Protection Act*; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 213 discussed the core principle ten of the DPC, which is public awareness, which requires that to protect depositors and contribute to financial stability, the public must be informed on an ongoing basis about the benefits and limitations of the deposit insurance system; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 2; see also Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 28 who states the functions of the DPC, which includes keeping the public informed of its role in contributing towards the stability of Zimbabwe's financial stability.

The DPC aims to protect depositors and enhance competition between different sectors and institutions in Zimbabwe's financial sector.[606] The DPC may provide financial support to the troubled bank to help them recover and avoid insolvency through various forms, including paying costs that the RBZ would have incurred to the troubled bank if that payment is less than compensation payable to depositors in the event of the institution's insolvency.[607] However, while the primary focus of the DPC is on deposit protection, it also has a role in overseeing and regulating certain aspects of the banking sector to ensure compliance with prudential and regulatory standards.[608] That is done to promote sound business practices in contributory institutions and protect the fund against loss.

In a nutshell, the DPC fulfils multifaceted roles that are necessary for Zimbabwe's financial sector growth and stability. It acts as a guardian of depositors' interests and a promoter of competition and sound banking business practices.[609] Furthermore, the DPC assists in stabilising the banking sector in Zimbabwe by assisting in the formulation and implementation of fiscal and monetary policy to ensure sound banking

---

606 Section 5(2)(a-c) of the *Deposit Protection Act*; Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" 210; Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 32; Ngoma G "Financial Inclusion and its Determinants in Zimbabwe" 2019 *International Journal for Innovative Research in Multidisciplinary Field* 78, 85; see related in Mwatetsera *et al* 2022 *Journal of Economics, Business, and Accountancy Ventura* 445; Bonga, Chirenje and Mugayi 2019 *Dynamic Research Journals-Journal of Economics and Finance* 45.

607 Section 36(2) of the *Deposit Protection Act* provides that notwithstanding any other provision of this Act, the Corporation may pay from the fund all or part of the cost of measures taken by the Reserve Bank under any law to prevent the insolvency of a contributory institution, if it appears to the Corporation that such payment is likely to be less than the compensation payable to depositors in the event of institution's insolvency; Kondongwe 2018 *Social Science Research Network* 14; see related in Mpofu and Matsika 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 29; Otekunrin 2021 *Asian Economic and Financial Review* 125.

608 See the objectives of the deposit protection on the DPC website available at https://www.stanbicbank.co.zw/static_file/zimbabwe/Common%20Content/Footer/English%20Brochure%20June21.pdf accessed 30 April 2024.

609 Section 5(2)(c) to (e) of the *DPC Act*; See the objectives of the deposit protection on the DPC website available at https://www.stanbicbank.co.zw/static_file/zimbabwe/Common%20Content/Footer/English%20Brochure%20June21.pdf accessed 30 April 2024.

practices and fair competition among banks.[610] The DPC's ability to coordinate with relevant authorities provides financial support and educates the public to understand its importance in ensuring the overall health of the financial sector and the protection of depositors' funds in Zimbabwe.

4.3.4 The Role of the Securities and Exchange Commission in Bank Regulation

The SECZ is the regulatory body responsible for overseeing and regulating the securities and capital markets in Zimbabwe.[611] It was established under the *Securities and Exchange Act*,[612] to protect investors, promote market integrity, and ensure fair and efficient functioning of capital markets in Zimbabwe.[613] The SECZ plays a vital role in fostering and sustaining economic growth and financial sector stability in Zimbabwe. SECZ is headed by a board of commissioners appointed by the Ministry of Finance and

---

610 Section 5(1)(e) of the *DPC Act*; See the objectives of the deposit protection on the DPC website available at https://www.stanbicbank.co.zw/static_file/zimbabwe/Common%20Content/Footer/English%20Brochure%20June21.pdf accessed 30 April 2024.

611 See sections 38-49 of the *Securities Act*; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 5; Magweva and Mashamba 2016 *Financial Assets and Investments* 22; Bonga WG "Stock Market Volatility Analysis Using GARCH Family Models: Evidence from Zimbabwe Stock Exchange" 2019 *Munich Personal RePEc Archive* 1, 3; Chitimira H "Theoretical Aspects of Insider Trading Regulation in Zimbabwe" 2022 *Journal of Financial Crime* 389, 397; Saungweme PW, Ricardo P and Pradeep B "A Framework for Combating Insider Trading on Developing Stock Exchanges: Evidence from the Zimbabwean Stock Exchange" 2013 *African Journal of Business Management* 1630, 1635.

612 Section 3 of the *Securities Act*; Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 6; Chitimira H "Selected Flaws Hampering the Enfrocement of the Insider Trading Prohibition by Key Role Players in Zimbabwe" 2022 *Act Universitatis Danubius Juridica* 84, 85; Magweva and Mashamba 2016 *Financial Assets and Investments* 23; Chitimira 2022 *Journal of Financial Crime* 397; Hurungu P, Sibanda V and Tadu R "Determinants of Investment Decisions: A Study of Individual Investors on the Zimbabwe Stock Exchange" 2020 *Applied Economics and Finance* 38, 39.

613 See section 4(1)(b) and (c) of the *Securities Act*; Saungweme, Ricardo and Pradeep 2013 *African Journal of Business Management* 1635; Hurungu, Sibanda and Tadu 2020 *Applied Economics and Finance* 39; Mutsonziwa and Maposa 2016 *International Journal of Finance Management* 49.

Economic Development.[614] The commission includes experts from various fields, including finance, law and economics.

SECZ is responsible for the establishment of rules and regulations that maintain market integrity, including regulating various aspects of the securities and capital markets, securities dealers and market intermediaries.[615] Licenses to market participants, such as stockbrokers, investment advisors, and asset managers are issued by the SECZ after such entities meet certain criteria and adhere to regulatory standards.[616] In this regard, SECZ's role in regulating the securities and capital markets promotes the overall financial stability of the country, which can, in turn, affect the banking sector if not robustly regulated. A stable and well-regulated market can bolster investor confidence and reduce the risk of financial instability, combating the causes of bank failures.[617] When investors have confidence in the capital markets, they are more likely to invest in various financial instruments, which can provide banks with additional capital and liquidity. The greater the capital a bank possesses, the lower the likelihood of that bank experiencing failure.

Diversification is a fundamental principle in investment strategy that seeks to manage risk by spreading investments across a range of assets aiming to achieve a more stable and balanced overall portfolio.[618] In other words, it is a risk management strategy that involves spreading investments across various assets, asset classes or investments to reduce exposure to any single risk. SECZ offers a wide range of investment options,

---

614 See section 5(1) of the *Securities Act*; Magweva and Mashamba 2016 *Financial Assets and Investments* 23; Mutsonziwa and Maposa 2016 *International Journal of Finance Management* 49; Chitimira 2022 *Journal of Financial Crime* 397.

615 Section 4(2)(a-d) of the *Securities Act*; Chitimira 2022 *Journal of Financial Crime* 399; see related in Saungweme, Ricardo and Pradeep 2013 *African Journal of Business Management* 1635; Hurungu, Sibanda and Tadu 2020 *Applied Economics and Finance* 39.

616 See section 4(2)(c) of the *Securities Act*; Kondongwe 2018 *Social Science Research Network* 14; see related in Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance* 6; Hurungu, Sibanda and Tadu 2020 *Applied Economics and Finance* 39.

617 Section 4(2)(a) of the *Securities Act*; Chitimira 2022 *Act Universitatis Danubius Juridica* 86.

618 See related in Gondwe, Gwatidzo and Mahonye 2022 *Journal of Financial Regulation and Compliance* 154.

that the securities market can encourage individuals and institutions to diversify their investments, which reduces the concentration of risks within the banking sector, making it more resilient to economic shocks.[619]

Furthermore, the SECZ enforces rules and regulations related to transparency and disclosure in the capital markets in Zimbabwe. This promotes the availability of accurate and timely financial information, which helps investors to make informed decisions about where to invest their funds. Greater transparency can also lead to better risk assessment within the banking sector, that is, it fosters an environment where risks are more visible, assessed accurately, and mitigated effectively. Transparency empowers stakeholders and regulators to make informed decisions, intervene when necessary and promote responsible banking practices, which consequently, plays a crucial role in preventing bank failures and maintaining the overall health of the financial sector.

4.3.5 The IPEC and the Regulation of Banks in Zimbabwe

The IPEC is established under the provisions of the *Insurance and Pension Commission Act*.[620] The primary objective of the IPEC is to oversee and govern the insurance and pension sector, with the aim of advancing the sector's growth and safeguarding the

---

619 Section 4(1)(a)-(f) read together with sections 88-94 of the *Securities Act*; Chitimira 2022 *Journal of Financial Crime* 397 highlighted that the *Securities Act* empowers the SECZ to promote investor protection, reduce systemic risk, promote market integrity and public investor confidence, curb market abuse and to promote market transparency and investor education in financial markets; Hurungu, Sibanda and Tadu 2020 *Applied Economics and Finance* 39; Mutsonziwa and Maposa 2016 *International Journal of Finance Management* 49.

620 Section 3 of the *Insurance and Pensions Commission Act* [Chapter 24:21] 7of 2000 (*Insurance and Pension Act*); see related in Chitimira H and Ncube M "The Regulatory Nexus between Corporate and Financial Markets Law in Promoting Economic Growth and Viable Financial Markets in Zimbabwe" 2021 *Interdisciplinary Journal of Economics and Business Law* 91, 94; see related in Nhavira JDG "Comparison of Management Fees in Zimbabwe with those Provided by the International Organisation of Pension Supervisors" 2018 *Journal of Strategic Studies* 41, 55; see related in Chowa T, Mhlanga R and Munakamwe MAP "Where Did Our Money Go? Answering the Questions Behind Loss of Value to Pensioners in Zimbabwe after Multi-Currency Adoption" 2014 *International Open and Distance Learning Journal* (*ZOU*) 1, 4; see related in Gurajena HT, Chaeruka J and Dumba S "The Usurpation of Agency in Property Management by Pension Funds in Zimbabwe: A Literature Review" 2018 *JOPPA* 157, 163.

interests of insurance policyholders and pension fund members.[621] While the IPEC primarily regulates the insurance and pension industries, its functions and oversight responsibilities have an indirect impact on the banking sector.[622] The IPEC's actions and regulations can affect investment practices, risk management, and the overall stability of the banking sector through its interactions with insurance companies and pension funds.[623] The IPEC's oversight of financial institutions such as insurance and pension industries ensures that insurers and pension fund administrators maintain prudential practices, which can also affect the stability and risk profile of banks that deal with these institutions.[624]

Insurance companies and pension funds often invest their assets in various financial instruments, including deposits, bonds, and other financial products offered by the banks.[625] In that regard, effective regulation and enforcement of related banking laws and collaboration with other regulators in ensuring effective risk management practices

---

621 See section 4(b) and (c) of the *Insurance and Pensions Commission Act*; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 92; Chowa, Mhlanga and Munakamwe 2014 *International Open and Distance Learning Journal* (*ZOU*) 4; Gurajena, Chaeruka and Dumba 2018 *JOPPA* 164.

622 Section 4(d) and (e) of the *Insurance and Pensions Commission Act*; Nhavira 2018 *Journal of Strategic Studies* 55; Abel S and Marire J "Competition in the Insurance Sector – An Application of Boone Indicator" 2021 *Cogent Economics and Finance* 1, 3; Bonga WG "The Role of the Financial Sector in Zimbabwe, Central Banking and its Social and Economic Impacts" 2021 *Social Science Research Network* 1, 6; Mukarati J, Jeke L and Abel S "Competition in the Non-life Insurance Industry" 2023 *International Journal of Economics and Finance Studies* 225; Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 9.

623 See Mukarati, Jeke and Abel 2023 *International Journal of Economics and Finance Studies* 226, acknowledged that financial markets and institutions affect our daily lives and involves enormous flows of funds through the economy and insurance industry is one financial sector that provides distinctive financial services by assisting societies in risk management; Chowa, Mhlanga and Munakamwe 2014 *International Open and Distance Learning Journal* (*ZOU*) 5; Gurajena, Chaeruka and Dumba 2018 *JOPPA* 164; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 486.

624 Nhavira 2018 *Journal of Strategic Studies* 42; Abel and Marire 2021 *Cogent Economics and Finance* 3; Bonga 2021 *Social Science Research Network* 2; Chowa, Mhlanga and Munakamwe 2014 *International Open and Distance Learning Journal* (*ZOU*) 5.

625 See section 25 of the *Insurance and Pensions Commission Act*; Abel and Marire 2021 *Cogent Economics and Finance* 3 states that the importance of the insurance sector to the economy and financial system is evidenced through the total assets held by players in the sector; Bonga 2021 *Social Science Research Network* 3; Mukarati, Jeke and Abel 2023 *International Journal of Economics and Finance Studies* 228.

across the different financial institutions assist in combating bank failures. The IPEC monitors and regulates investment activities to ensure that they are in compliance with relevant regulations, and that the investments are made in a manner that safeguards policy holders and pension fund members' interests.[626] Therefore, IPEC indirectly influences the banking sector through its control of these financial flows.

The IPEC sets out guidelines and prudential standards that insurance companies and pension funds must follow, including risk management practices.[627] These guidelines and standards may require these institutions to assess the credit risk associated with their bank deposits and investment portfolios, thereby influencing their interactions with the banking sector. An example is when these guidelines may limit exposure to banks or types of financial instruments, thus contributing to the mitigation and combating of the causes of bank failures such as risky operations, poor risk management policies and ineffective enforcement of regulatory guidelines within banks. Furthermore, the overall financial stability of the insurance and pension sectors is interconnected with the stability of the broader financial sector in Zimbabwe. Therefore, IPEC's role in ensuring the financial soundness of insurers and pension funds indirectly contributes to the stability of the banking sector. In this regard, it is submitted that a crisis or instability in the insurance and pension sectors has knock-on effects on the banking sector.

Lastly, the IPEC collaborates with other regulatory bodies to supervise and monitor banks in the country, such as the RBZ, which oversees banks and combat the causes of bank failures such as poor regulatory enforcement and poor corporate

---

626 See the mission statement of the IPEC which is to regulate, supervise and develop the insurance and pensions industry for the protection of policyholders and pension scheme members through regulatory excellence available at https://ipec.co.zw/overview/ accessed 30 April 2024.

627 Section 33 of the *Insurance and Pensions Commission Act*; Nhavira 2018 *Journal of Strategic Studies* 43; Chowa, Mhlanga and Munakamwe 2014 *International Open and Distance Learning Journal* (*ZOU*) 5; see related in Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 9.

governance.[628] Through information sharing and coordination, IPEC and the central bank work together to address systemic risks and vulnerabilities affecting the insurance and banking sectors.

4.3.6 The Role of Courts

Courts play several critical roles in preventing bank failures in Zimbabwe, largely through oversight, enforcement of financial regulations and protection of stakeholders' rights.[629] Courts uphold the legal framework governing banks, including the *Banking Act* and other relevant legislation. Courts also ensure that banks comply with these laws and they reinforce regulatory standards which are fundamental to bank stability.[630] This is done through judicial review and oversight when courts can review actions taken by bank regulators such as the RBZ, in licensing, suspending or penalising banks.[631] The courts uphold accountability in regulatory actions by ensuring that banks act within their legal mandate, and that the process and fair administrative

---

628 See Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 234 expressed that banks do not operate in an isolated tower but rather in an economy where they transact with less ability to influence the outside environment; Bonga 2021 *Social Science Research Network* 6; Mukarati, Jeke and Abel 2023 *International Journal of Economics and Finance Studies* 228 contend that the insurance industry is now integrated into the broader financial sector and its benefits are substantial; see Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance* 9 states that the RBZ, the Commissioner of Insurance and Pension funds, the ZSE and the Ministry of Finance are regulators of financial markets; Gurajena, Chaeruka and Dumba 2018 *JOPPA* 164.

629 Section 71 of the *Constitution of Zimbabwe Amendment Act* 20 of 2013 (the *Constitution*) Mashingaidze 2014 *Corporate Ownership and Control* 554; Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 6; Machakato JG "The Duty of Bank Confidentiality in South Africa and Other Jurisdictions such as Zimbabwe: Justifications, Judicial Limitations and Legislative Inroads Rising from the Need to Avert Crimes" 2018 *University of Zimbabwe Law Journal* 1, 2; Chitimira 2022 *Act Universitatis Danubius Juridica* 87.

630 See sections 3-15 of the *Banking Act*; see Part IVA (ss 28D-28G) of the *Banking Act* which provides that courts are obliged to uphold the rights of financial consumers in Zimbabwe; Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 7-12; Mashingaidze 2014 *Corporate Ownership and Control* 554; Machakato 2018 *University of Zimbabwe Law Journal* 4.

631 Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 8 states that the courts are supposed to enforce the requirements of the *Banking Act* and hold banks and other financial service providers accountable whenever disputes arise; Mashingaidze 2014 *Corporate Ownership and Control* 554; see related comments in Machakato 2018 *University of Zimbabwe Law Journal* 6; see related comments in Chitimira 2022 *Act Universitatis Danubius Juridica* 88.

actions are maintained.[632] The judicial review and oversight help to maintain trust in the banking system which is important in increasing liquidity in banks and preventing bank failures.

Courts interpret laws and make judgements that help balance individual bank cases with the overall need to maintain confidence in the banking sector, contributing to systemic stability.[633] Courts provide legal remedies for shareholders and investors who may suffer due to bank mismanagement or misconduct.[634] This could be done by compelling banks to adhere to corporate governance and other relevant banking laws and regulations to reduce the risk of failure. In addition, courts address fraud, mismanagement and malpractice within banks by hearing cases related to embezzlement, insider trading or unauthorised transactions which are the causes of bank failures.[635] Hence, the courts discourage fraudulent practices that could lead to bank instability or failure by holding bank officials accountable, thus deterring conduct that could compromise the financial soundness of a bank and cause it to fail. However, the researcher submits that courts in Zimbabwe do not adequately have the resources and independence that could effectively assist in combating bank failures in Zimbabwe.[636] This could be due to the lack of independence and politicisation of courts,

---

632 See section 52A(1) of the *Banking Act*; Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 9; Mashingaidze 2014 *Corporate Ownership and Control* 554; Chitimira 2022 *Act Universitatis Danubius Juridica* 88.

633 See section 52A(1) of the *Banking Act*; Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 12; Chitimira 2022 *Act Universitatis Danubius Juridica* 85.

634 See *Penelope Douglas Stone v Central African Building Society, the Reserve Bank of Zimbabwe and the Minister of Finance and Economic Development* HH118-23 (*Penelope case*) para 1-21; see related comments in Chitimira 2022 *Act Universitatis Danubius Juridica* 86; Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 12;

635 Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 11 states that the courts should carefully assess all actions of banks to determine whether they conform to prudential regulation; Chitimira 2022 *Act Universitatis Danubius Juridica* 91.

636 Mashingaidze 2014 *Corporate Ownership and Control* 555 avers that enforcement of laws via courts is challenging due to various weaknesses that plague the judiciary in Zimbabwe; see related in Chitimira, Torerai and Tsaura 2024 *PER/PELJ* 13; Chitimira 2022 *Act Universitatis Danubius Juridica* 91 avers that courts lack magistrate, judges and /or other court officials to relatively deal with banking and commercial issues and further propose that relevant courts should be expressly and statutorily empowered, well resource and equipped to deal with banking issues in Zimbabwe.

shortage of resources with commercial expertise, ignorance of the legal system and bias or selectivity in judgements due to corrupt court officials. Therefore, the lack of adequate financial, human and technical resources could hamper the courts' ability to thoroughly assess complex financial and regulatory matters involving banking institutions.

4.4 Concluding Remarks

In conclusion, this chapter provided an in-depth examination of the role players in Zimbabwe's banking sector. The chapter highlighted the roles and interactions of various entities and emphasised their collective efforts to promote economic growth, financial stability, and the protection of stakeholders in the financial sector in Zimbabwe. It discussed the functions and responsibilities of role players such as banks, the Ministry of Finance and Investment Promotion, the RBZ, the DPC, the SECZ and the IPEC. Each of these entities plays a crucial part in regulating and supervising banks and financial institutions, with a focus on prudential supervision, policy development, crisis management, and consumer protection, which all promote the banking sector's stability. The Ministry of Finance and Economic Development is recognised as the highest authority over the financial sector, setting the regulatory framework, issuing licenses, and contributing to policy formulation. It also collaborates closely with the RBZ in implementing monetary policies and maintaining financial stability. The RBZ, as the central bank, carries the responsibility of ensuring the stability, liquidity, and solvency of all banks. The RBZ is also responsible for acting as the lender of last resort, offering critical support during times of crisis, and providing temporary assistance to financially distressed banks. The RBZ's presence and readiness to provide support helps to maintain confidence in the banking sector.

The DPC is instrumental in safeguarding depositors' interests and preserving the stability of the banking sector in Zimbabwe. It administers a deposit insurance scheme, relying on contributions from member banks, also referred to as contributory institutions and financial institutions, to provide a safety net for depositors in case of bank failures. The DPC also collaborates with the RBZ and other authorities in crisis resolution and educates the public about deposit insurance. Additionally, SECZ

regulates the securities and capital markets, promoting market integrity, protecting investors, and ensuring fair competition. Its actions impact the overall stability of the financial system by enhancing transparency, diversification, and informed decision-making among investors. Lastly, the IPEC indirectly influences the banking sector through its regulation of investment practices, risk management, and overall financial stability which are also linked to the causes of bank failure in Zimbabwe. It also monitors the activities of insurance companies and pension funds, to ensure that they maintain set standards which may affect their interactions with banks and the broader financial sector.[637]

The following chapter is Chapter Five and it discusses the regulation of banks to prevent and combat bank failures in South Africa.

[637] See section 4(1)(c) of the *Insurance and Pensions Commission Act.*

CHAPTER FIVE

THE REGULATION OF BANKS TO PREVENT AND COMBAT BANK FAILURES IN SOUTH AFRICA

5.1 Introduction

South Africa has had various bank failures since 1990.[638] These bank failures were caused by factors such as credit risk, liquidity risk, capital requirements, bank regulation, inefficient management and external economic factors.[639] More than 30 banks have failed since 1990 including Alpha Bank, Capital Investment Bank, Pretoria Bank, Sechold Bank, Prima Bank, African Bank, the Community Bank, the Islamic Bank of South Africa and many more.[640] These failures have significantly impacted the financial sector and disrupted the lives of depositors and investors. In addition, these bank failures highlighted the vulnerabilities within the banking sector which policymakers and financial institutions have to prevent from occurring in future and ensure the stability and resilience of the banking sector.

---

638 Dzomira S "Analysis of Bank Failures During Financial Tumult in Africa-Zimbabwe: A Historical Review" 2014 *Journal of Governance and Regulation* 75, 76; Khan OM "Bank Failures in South Africa 'Where Have We Gone Wrong'? An Area of Concern for South Africans" in Delener N, Fuxman L, Lu FV, Rodrigues S and Rivera L *Global Business and Technology Association: Globalising Business for the Next Century: Visualising and Developing Contemporary Approaches to Harness Future Opportunities* (2013 Global Business and Technology Association USA) 479, 480; Havemann R "The South African Small Banks' Crisis of 2002/3" 2021 *Economic History of Developing Regions* 313, 316.

639 Munangi E and Sibindi AB "An Empirical Analysis of the Impact of Credit Risk on the Financial Performance of South African Banks" 2020 *Academic of Accounting and Financial Studies Journal* 1, 12; Okeahalam CC "The Political Economy of Bank Failure and Supervision in the Republic of South Africa" 1998 *African Journal of Political Sciences* 29, 35-37; Leukes C and Mensah JO "Systemic Risk Contribution of Financial Institutions in South Africa" 2019 *African Review of Economics and Finance* 188, 192.

640 Munangi and Sibindi 2020 *Academic of Accounting and Financial Studies Journal* 12; see related in Okeahalam 1998 *African Journal of Political Sciences* 36; Leukes and Mensah 2019 *African Review of Economics and Finance* 191.

The stability and resilience of the banking sector are of paramount importance to any country's economic well-being.[641] Moyo concurs with Simbanegavi, Greenberg and Gwatidzo who argue that a proficiently operating banking sector plays a pivotal role in fostering economic growth through enhanced resource allocation, efficiency and effective risk diversification.[642] Mishi and Khumalo further underscore the significance of financial stability in the success of any economy, including that of South Africa.[643] One key factor that brings about economic stability is the presence of a proper regulatory framework. A robust regulatory framework plays a central role in ensuring the soundness and integrity of financial institutions, thereby safeguarding the financial stability of a country.[644] In other words, a robust banking regulatory framework can bring about economic efficiency, financial stability, and consumer protection in the financial sector.

---

641 See Sanderson LB, Mare E and De Jongh DCJ "Banking Regulations: An Examination of the Failure of African Bank using Merton's Structural Model" 2017 *South African Journal of Sciences* 1, 2; Dzomira 2014 *Journal of Governance and Regulation* 76; see related in Bekink B and Botha C "The Role of a Modern Central Bank in Managing Consumer Bankruptcies and Corporate Failures: A South African Public-Law Angle of Incidence" 2009 *South African Mercantile Law Journal* 74, 75; see Munangi and Sibindi 2020 *Academic of Accounting and Financial Studies Journal* 12 who contends that the heart of any financial system lies in the banking sector; Walters NM, Beyers FJC, Van Zyl AJ and Van Den Heever RJ "A Framework for Simulating Systemic Risk and its Application to the South African Banking Sector" 2018 *South African Actuarial Journal* 99, 100.

642 Moyo B "An Analysis of Competition, Efficiency and Soundness in the South African Banking Sector" 2018 *South African Journal of Economic and Management Sciences* 1, 3; Simbanegavi W, Greenberg JB and Gwatidzo T "Testing for Competition in the South African Banking Sector" 2015 *Journal of African Economies* 303, 306; see related in Mishi S and Khumalo SA "Bank Stability in South Africa: What Matters" 2019 *Banks and Bank Systems* 122, 124.

643 Mishi and Khumalo 2019 *Banks and Bank Systems* 124; Moyo 2018 *South African Journal of Economic and Management Sciences* 3; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 303; Van Heerden CM, Van Niekerk GM Huls NJH "Two Takes on Twin Peaks: A Comparative Appraisal of the Models of Financial Regulation in the Netherlands and South Africa" 2020 *Journal for Contemporary Roman-Dutch Law* 491, 506.

644 Ifeacho C and Ngalawa H "Performance of the South African Banking Sector since 1994" 2014 *The Journal of Applied Business Research* 1183, 1188; Walters *et al* 2018 *South African Actuarial Journal* 100; Van Niekerk G and Van Heerden C "The Importance of a Legislative Framework for Co-operation and Collaboration in the Twin Peaks Model of Financial Regulation" 2020 *The South African Law Journal* 108, 110 emphasised the remarks made by Llewellyn that a well-structured regulatory regime contributes to the efficiency and stability of the financial system; see also Leukes and Mensah 2019 *African Review of Economics and Finance* 189 cited Walters *et al* who explained that the collapse of the banking system could critically damage the economy, as banks are central to a sound financial system.

In an ever-evolving banking and financial environment, the ability to adapt and enhance regulatory measures is critical in preventing financial crises, such as bank failures.[645] This chapter discusses the banking sector regulatory framework and bank failures in South Africa.

South Africa has one of the most developed banking sectors on the African continent.[646] This owes, in part, to the comprehensive regulation of the sector in order to maintain financial market stability.[647] However, the banking sector has experienced some difficulties. Mishi and Khumalo note that South Africa experienced a domestic financial crisis from 2001 to 2002.[648] The crisis affected several banks which include

---

645 Foggitt GM, Heymans A, Van Vuuren GW and Pretorius A "Measuring the Systemic Risk in the South African Banking Sector" 2017 *South African Journal of Economic and Management Sciences* 1, 3; Botha E and Makina D "Financial Regulation and Supervision: Theory and Practice in south Africa" 2011 *International Business & Economics Research Journal* 27, 35 contend that the South African financial regulatory and supervisory system has historically evolved through almost all the stages of the extant regulatory structures.

646 Mishi, Sibanda and Tsegaye 2016 *African Review of Economics and Finance* 115; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304; see related comments by Koziol 2022 *South African Journal of Sciences* 103; see also Ngonyama and Simatele 2020 *African Finance Journal* 24; Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Botha and Makina *2011 International Business & Economic Research Journal* 31.

647 Muyambiri B and Odhiambo NM "A Chronological Analysis of Monetary Policy and the Financial System in South Africa" 2014 *Public and Municipal Finance* 19, 20; Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1184; Okeahalam 1998 *African Journal of Political Sciences* 30; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 191 who contend that the South African financial system is well functioning and well regulated, encompassing a developed banking sector as well as a developed stock market; Botha and 2011 *International Business & Economics Research Journal* 35; Moyo 2018 *South African Journal of Economic and Management Sciences* 3 affirms that the South African banking system is well developed and effectively regulated, comprising of a central bank, the SARB, a few large banks and investment institutions, and a number of smaller banks, as well as lending and savings organisations.

648 Mishi and Khumalo 2019 *Banks and Bank Systems* 124; see related in Botha and Makina 2011 *International Business & Economics Research Journal* 35; Moyo 2018 *South African Journal of Economic and Management Sciences* 3; Qumba 2022 *South African Law Journal* 80; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; see Businesstech Banking "The Biggest Banks in South Africa in 2023" (5 July 2023) available at https://businesstech.co.za/news/banking/701565/the-biggest-banks-in-south-africa-in-2023/ accessed 24 March 2024; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304.

Saambou, Unifer and Bank of Executors.[649] South Africa arguably has the largest economy in Africa. South Africa's four biggest banks, the Amalgamated Banks of South Africa (Absa), First National Bank (FNB), Standard Bank and Nedbank have branches in many African countries.[650] Infamously called the "big four", the named banks account for about 90 percent market share.[651] According to Mishi and Khumalo, the big four accounts for eighty-four percent of total banking assets. Capitec is another bank that has grown exponentially in the recent past and it can easily claim a seat among the big banks in South Africa.[652]

This chapter seeks to provide an in-depth analysis of the banking regulatory framework in South Africa. This is done with a view to highlight positive factors attributable to the integrity and stability of the banking sector in South Africa. This can assist policymakers to adapt to what South Africa is doing right in keeping the banking sector free from bank failures.

---

649 Dzomira 2014 *Journal of Governance and Regulation* 77; Mishi and Khumalo 2019 *Banks and Bank Systems* 124; see related in Botha and Makina 2011 *International Business & Economics Research Journal* 35; Moyo 2018 *South African Journal of Economic and Management Sciences* 3.

650 Mishi S, Sibanda K and Tsegaye A "Industry Concentration and Risk Taking: Evidence from the South African Banking Sector" 2016 *African Review of Economics and Finance* 112, 115; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304; see related comments by Koziol T "How Vulnerable are Interconnected Portfolios of South African Banks? 2022 *South African Journal of Sciences* 101, 103; see also Ngonyama N and Simatele M "Structure and Market Power in the South African Banking Sector" 2020 *African Finance Journal* 22, 24; Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Botha and Makina *2011 International Business & Economic Research Journal* 31.

651 Mishi and Khumalo 2019 *Banks and Bank Systems* 125; see related in Mabwe K and Robert W "A Financial Ratio Analysis of Commercial Bank Performance in South Africa" 2010 *African Review of Economics and Finance* 30, 34; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304.

652 Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Mabwe and Robert 2010 *African Review of Economics and Finance* 31; Hawkins 2004 *Development Southern Africa* 183; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; see Businesstech Banking "The Biggest Banks in South Africa in 2023" (5 July 2023) available at https://businesstech.co.za/news/banking/701565/the-biggest-banks-in-south-africa-in-2023/ accessed 24 March 2024; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304.

5.2 The Current South African Banking Regulations

5.2.1 The Banks Act

The *Banks Act* is the primary legislation that governs the establishment, operation and regulation of banks in South Africa.[653] In this regard, the *Banks Act* mandates banks to maintain minimum levels of capital in relation to their risk-weighted assets, in line with international best practices.[654] This is done to ensure that banks have enough capital to absorb losses during periods of financial stress. Consequently, by enforcing strict capital adequacy ratios, the *Banks Act* mitigates and combats the risk of insolvency and helps to protect depositors and the broader financial sector from bank failures.

The researcher argues that the *Banks Act* sufficiently provides for stringent risk management practices the banks should adhere to, such as credit risk, market risk and operational risk controls.[655] Banks are required to hold adequate liquidity and manage their assets and liabilities responsibly to avoid overexposure to risk activities.[656] This regulatory oversight helps reduce the likelihood of bank failures caused by poor risk management, such as over-leveraging or high exposure to volatile markets. In addition, the *Banks Act* includes provisions aimed at improving corporate governance within banks.[657] The required process of corporate governance as per the *Banks Act* includes the mandate to establish the bank's strategic and business objectives that effectively, efficiently, ethically and equitably ensure effective bank regulation and

---

653 See the preamble and section 1A read together with section 11 of the *Banks Act*; see related in Masindi N and Singh P "A Panel Data Analysis into the Impact of Regulations and Supervision on the African Banking Profitability and Risk Profile" 2022 *Economics and Business Quarterly Reviews* 16, 17.

654 Section 4(7)(a)(ii) of the *Banks Act*.

655 Section 1A(1) of the *Banks Act* provides that the powers and duties of the prudential authority in terms of the *Banks Act* are in addition to the powers and duties that the authority has in terms of the *Financial Sector Regulatory Act*; Qumba 2022 *South African Law Journal* 95.

656 Section 64A(2)(m) of the *Banks Act*.

657 Section 60B of the *Banks Act*.

supervision.[658] The *Banks Act* requires banks to have effective boards of directors and internal control mechanisms to ensure that management acts in the best interest of the bank and its stakeholders.[659] The researcher submits that good corporate governance reduces the risk of mismanagement, fraud and unethical practices such as insider lending which are common causes of bank failures in South Africa.

The *Banks Act* gives the Prudential Authority (PA) the authority to manage, supervise and enforce prudential regulation and monitor the banks' compliance with prudential requirements by conducting stress tests and assessing the bank's resilience to economic shocks.[660] In addition, the Banks Act gives the PA the authority to intervene in the operations of troubled banks.

The researcher submits that the *Banks Act* sufficiently provides a strong foundation for regulating the banking sector in South Africa, particularly through its provisions which empower the PA to intervene in the operations of troubled banks, capital adequacy requirements, risk management provisions and governance standards.[661] These *Banks Act* provisions are critical in reducing the likelihood of individual bank failures.

5.2.2 The SARB Act

The *SARB Act* consolidate the laws relating to the SARB and governs its operations, powers and responsibilities.[662] The *SARB Act* provides two objectives of the SARB, which are to protect the value of the South African currency in the interest of balanced and sustainable economic development and protect and maintain financial stability in South Africa.[663] The *SARB Act* does not expressly provide provisions for preventing or

---

658 Section 60B(2) of the *Banks Act*.
659 Section 1A(a) and 13(2)(h) of the *Banks Act*.
660 Section 1A(1) and 4 of the *Banks Act*.
661 Section 4 of the *Banks Act*.
662 See the preamble read with sections 4 and 5 of the *SARB Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506;
663 Section 3(1) and (2) of the *SARB Act*; see related comments in Qumba 2022 *South African Law Journal* 96; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506;

combating the causes of bank failures. However, the *SARB Act* provides for functions of the SARB, *inter alia*, lender of last resort, prudential oversight, financial stability, crisis management and resolution, and macroprudential regulation.[664] The researcher asserts that provisions of the *SARB Act*, such as those for the supervision and control of monetary circulation, macroprudential regulation, and financial stability in South Africa, aid in controlling the amount of cash circulating in the market. This may help combat the risks that may cause bank failures.[665]

Furthermore, the *SARB Act* provides for the maintenance of minimum reserve balances and adequate capital reserves calculated according to the total amount of assets held by the bank, which will be able to cover bank liabilities as they fall due.[666] The researcher submits that the *SARB Act* provides a strong framework for promoting financial stability and combating bank failures through its lender of last resort function, microprudential oversight and capital requirements.[667] However, it lacks detailed, proactive resolution mechanisms for combating bank failures. In this regard, the *SARB Act's* effectiveness in preventing bank failures is limited and could be enhanced by more comprehensive, forward-looking tools for intervention and stronger coordination with microprudential regulators and international bodies.

5.2.3 The Financial Sector Regulation Act

The *Financial Sector Regulation Act (the FSR Act)* established the "Twin Peaks" regulatory model, which is designed to enhance the stability and integrity of the

664 See section 10(1)(c) of the *SARB Act*.
665 Section 11 and 14 of the *SARB Act*; Chitimira and Torerai 2023 *Juridical Tribune* 398; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506;
666 Section 10A of the *SARB Act*.
667 See section 3 of the *SARB Act*.

financial sector in South Africa.[668] The *FSR Act* established the two primary financial regulators, the PA and the FSCA and are mandated to, *inter alia*, supervise, the licensing of financial institutions, promoting financial stability and protecting financial consumers in South Africa.[669] In addition, the PA and the FSCA are obliged to regulate financial institutions to enhance financial inclusion and ensure that financial institutions provide financial education to the public.[670] The researcher submits that the *FSR Act* provides sufficient clearly defined provisions that mandate the PA and FSCA to regulate, supervise and ensure financial stability in banks, preventing the causes of bank failures in South Africa.[671] The *FSR Act* adequately provides for clear objectives of both the PA and the FSCA, separating the focus of each regulator to efficiently achieve its objectives and protect the banking sector from risks that could cause financial distress and lead to failures.[672] In addition, the *FSR Act* provides clearly defined provisions for the duties, responsibilities and functions of each regulator, ensuring effective enforcement of banking laws, including effective cooperation and

668 Section 32 and 56 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Chitimira H "Historical Aspects of the Statutory Regulation of Financial Inclusion for the Poor and Low-Income Earners in South Africa" 2020 *Acta Universitatis Danubius Juridica Economica* 269, 280; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 670.

669 Section 34, 57 and 111 of the *FRR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 510; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 672; Chitimira and Torerai 2023 *Juridical Tribune* 400.

670 Section 34(1)(e) of the *FSR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Chitimira and Torerai 2023 *Juridical Tribune* 400.

671 Sections 33, 34, 35, 50, 56, 57 and 59 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 396; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

672 Section 105 and 106 of the *FSR Act*; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 396; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 674.

regular review of financial sector regulations to combat systemic risks that may cause bank failures.[673]

The PA is responsible for ensuring the financial soundness of banks while the FSCA oversees market conduct and consumer protection.[674] This separation of powers enhances focus on both stability and accountability, reducing the chances of bank failures due to misconduct or insufficient capital, which are serious causes of bank distress. In addition, the PA may make and enforce prudential standards, requiring banks to maintain adequate capital and liquidity levels to manage risks effectively.[675] This oversight helps to ensure that banks are financially resilient and can absorb shocks, which is critical in preventing failures during economic downturns or market disruption.[676]

Furthermore, the researcher submits that the *FSR Act* sufficiently provides for crisis management and resolution framework for banking institutions in South Africa.[677] This is because the *FSR Act* provides mechanisms for early intervention in distressed banks, allowing regulators to step in before a bank failure occurs.[678] The *FSR Act* also includes a resolution framework for managing failing institutions in a manner that minimises

---

673 Section 34 and 58 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; see related comments in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 278.

674 Sections 33, 57, 105 and 106 of the *FSR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 510; Chitimira and Torerai 2023 *Juridical Tribune* 400; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 678.

675 Section 30(1) and section 105(1) of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 675; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 508.

676 Section 105(2) of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 397.

677 Section 30(1)(e) and (h) and section 108 of the *FSR Act*; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 397; Qumba 2022 *South African Law Journal* 86; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 694.

678 Section 31 of the *FSR Act*; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 397; Chitimira and Torerai 2023 *Juridical Tribune* 400; Qumba 2022 *South African Law Journal* 86.

systemic impact such as through restructuring or liquidation.[679] In this regard, the *FSR Act's* proactive approach can reduce the risk of contagion and effectively mitigate the effects of bank failures in South Africa.

The researcher argues that the *FSR Act's* market conduct regulations are sufficient and robust to mitigate and combat the causes of bank failures.[680] The *FSR Act* mandates the FSCA to monitor the conduct of financial institutions to ensure ethical practices and protect financial consumers.[681] Therefore, by addressing market conduct issues, such as misrepresentation or unethical lending practices, the *FSR Act* helps prevent problems that could lead to loss of confidence in the banking sector, thereby reducing the risk of bank runs and failures.

The researcher argues that the *FSR Act* provides a robust framework for combating bank failures in South Africa, particularly through the introduction of the Twin Peaks model, which enhances both prudential regulation and market conduct oversight within the financial sector.[682] The *FSR Act* provides for crisis management mechanisms and focused financial stability objectives which are strengths in preventing banking failures in South Africa. However, the adequacy of the *FSR Act* ultimately hinges on effective implementation and enforcement, addressing systemic risks and ensuring that regulatory complexities do not create gaps.[683] Hence, in its current form, *the FSR Act* is a significant step towards preventing bank failures that still need continued attention

---

679 Section 31 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Qumba 2022 *South African Law Journal* 86; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 397.

680 Sections 34, 58, 105 and 106 of the *FSR Act*; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 676; Chitimira and Torerai 2023 *Juridical Tribune* 400; Qumba 2022 *South African Law Journal* 103.

681 Section 106 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Qumba 2022 *South African Law Journal* 103; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 676.

682 Sections 105-110 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 396; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507.

683 Section 26 and 76 of the *FSR Act*; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 400 states that cooperation and collaboration between the financial regulators when performing their functions in terms of *FSR Act*; Qumba 2022 *South African Law Journal* 109.

to effective enforcement in order to combat system-wide risks that cause bank failures in South Africa.

5.2.4 The Financial Markets Act

The *Financial Markets Act (FMA)* governs the regulation of financial markets, including the oversight of securities exchange, market infrastructures and conduct of market participants.[684] The researcher argues that while the *FMA* is essential for ensuring transparency, market integrity and investor protection in financial markets, its direct impact on combating bank failures is insignificant. It plays a complementary role by regulating the interactions between banks and financial markets, helping to reduce systemic risks that could indirectly affect banks' stability, leading to failures. However, FMA does not focus on prudential regulation or the core banking risks such as liquidity, capital adequacy and insolvency, which are major causes of bank failures. Therefore, while the *FMA* contributes to overall financial stability, it is insignificant in combating bank failures.

5.2.5 The Financial Intelligence Centre Act

The *Financial Intelligence Centre Act* (*FICA)* primarily aims to combat money laundering, terrorist financing and other financial crimes by requiring banks and other financial institutions to implement strong Know Your Customer (KYC), Customer Due Diligence (CDD) and reporting systems.[685] The researcher submits that *FICA* has a limited direct impact on preventing and combating bank failures. Although it aims to prevent illegal activities that could compromise a bank's reputation or operations and indirectly support financial stability, it is not designed to address the causes of bank

---

684 Section 2-5 of the *Financial Markets Act* 19 of 2012 (*Financial Markets Act*).

685 Sections 21, 22, and 22A of *FICA*; Chitimira and Torerai 2023 *Juridical Tribune* 399; De Koker L "Money Laundering Control and Suppression of Financing of Terrorism: Some Thoughts on the Impact of Customer Due Diligence Measures on Financial Exclusion" 2006 *Journal of Financial Crime* 26, 28-29; see related in Lawack VA "Mobile Money, Financial Inclusion and Financial Integrity: The South African Case" 2013 *Washington Journal of Law, Technology & Arts* 317, 331-334.

failures such as liquidity, capital adequacy or risk management.[686] Therefore, while *FICA* is essential for maintaining trust and security in the financial sector, it is not adequate to combat bank failures and must work alongside other banking laws like the *Banks Act* and the *FSR Act* to contribute to combating bank failures.

5.2.6 The National Payment System Act

The *National Payment System Act (NPS Act)* governs the regulation and oversight of the country's payment systems, ensuring the smooth and efficient transfer of funds between financial institutions.[687] Although the *NPS Act* plays a critical role in maintaining financial stability by safeguarding the integrity of payment systems in South Africa, it has no direct impact on preventing bank failures. The researcher submits that the *NPS Act* allows banks to continue to process payments and settling transactions even in times of financial distress, which is essential for maintaining public confidence and liquidity.[688] However, the *NPS Act* does not address core issues like capital adequacy, credit risk and insolvency which are the primary causes of bank failures. Therefore, the *NPS Act* is insufficient to combat bank failures and should be complemented by prudential regulation under laws like the *Banks Act* and the *FSR Act* to bring significant contributions to combating bank failures in South Africa.

5.2.7 The Constitution of the Republic of South Africa

The Constitution is not directly designed to combat bank failures, but it provides the legal and institutional framework within which all financial and banking regulations operate. The Constitution establishes the rule of law which mandates accountability

---

686 Sections 21, 22, and 22A of *FICA*; Chitimira and Torerai 2023 *Juridical Tribune* 399; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 400; see related comments in De Kooker 2006 *Journal of Financial Crime* 39; Lawack 2013 *Washington Journal of Law, Technology & Arts* 339.

687 Section 2 of the *National Payment System Act* 78 of 1998 (*NPS Act*); section 10(1)(c) of the *SARB Act*; Chitimira and Torerai 2023 *Juridical Tribune* 398; Lawack 2013 *Washington Journal of Law, Technology & Arts* 323.

688 Section 2 of the *NPS Act*; section 10(1)(c) of the *SARB Act*; Chitimira and Torerai 2023 *Juridical Tribune* 398; Lawack 2013 *Washington Journal of Law, Technology & Arts* 323

and ensures that the government and regulatory bodies like the SARB act in the public interest. While the Constitution sets the groundwork for good governance, transparency and economic stability, it does not provide specific provisions to address banking risks like liquidity, insolvency or capital adequacy which are critical to preventing bank failures. Therefore, while the Constitution is foundational for ensuring that banking laws function within a just and accountable environment, it is not sufficient to combat bank failures.[689] In this regard, specific financial and banking legislation such as the *Banks Act* and the *FSR Act* are necessary to directly address the causes of bank failures in South Africa.

5.2.8 The Corporation for Public Deposits Act

The *Corporation for Public Deposits Act* (*CPD Act)* regulates the management of public sector deposits, specifically those held by government entities, ensuring that the funds are placed securely, typically with the SARB.[690] The researcher argues that, although the *CPD Act* provides a framework for the safekeeping of government funds, it has a minimal direct impact on preventing bank failures.[691] This is because the *CPD Act* focuses on managing public funds and not on addressing the broader causes of bank failures. The *CPD Act* helps protect public funds and indirectly supports financial stability but does not provide provisions to prevent or combat the causes of bank failures.

---

689 Section 24 of the *Constitution*.
690 Section 2 and 3 of the *Corporation for Public Deposits Act* (*CPD Act*) 46 of 1984.
691 Section 3 of the *CPD Act*.

5.3 Role players Dealing with the Regulation and Enforcement of Banking Laws

South African banking sector is regulated by the SARB and the two main bodies, which are the PA and the FSCA.[692] The two bodies form the twin peaks model which was adopted by the South African financial regulatory system in the year 2013, and they assist the SARB in maintaining financial stability.[693] On the one hand, the FSCA is responsible for protecting consumers of financial services and promoting confidence in South Africa's financial sector. It regulates and supervises the market conduct of financial service providers, such as banks, insurers, financial advisers, financial intermediaries, investment institutions and broader financial markets.[694] On the other hand, the PA is responsible for micro-prudential supervision.[695] Micro-prudential supervision is a regulatory and supervisory approach that focuses on the safety and

---

692 See section 56 of the *FSR Act* which established the FRSA, while the PA was established in terms of section 32 of the *FSR Act*; see Prudential Authority Regulatory Strategy 2021-2024 2; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; See Godwin A, Howse T and Ramsay I "Twin Peaks: South Africa's Financial Sector Regulatory Framework" 2017 *South African Law Journal* 665, 666; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see related comments by Okeahalam 1998 *African Journal of Political Science* 29 states that South African banks are subjected to two types of regulations -economic and prudential; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

693 Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Mishi and Khumalo 2019 *Banks and Bank Systems* 123; Botha and Makina *2011 International Business & Economic Research Journal* 34; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

694 Qumba 2022 *South African Law Journal* 87; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Godwin, Howse and Ramsay 2017 *South African Law Journa*l 670; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; see related comments by Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Leukes and Mensah 2019 *African Review of Economics and Finance* 192.

695 Qumba 2022 *South African Law Journal* 87; Godwin, Howse and Ramsay 2017 *South African Law Journa*l 670; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10 state that the PA is required to maintain financial stability and protect financial customers against any systemic financial risks from financial institutions that fail to meet their operational and statutory obligations.

soundness of individual financial institutions, such as banks, insurance companies and other financial intermediaries.[696]

5.3.1 The Role of the SARB in Banking Regulation in South Africa

The SARB is the central bank of South Africa. It operates as a legal entity entrusted to safeguard and preserve the value of the South African currency and foster sustainable economic growth.[697] The SARB is responsible for making and issuing bank notes and coins.[698] Furthermore, it is responsible for the supervision of banking and related financial institutions, monetary policy formulation, and implementation of relevant rules and procedures that safeguard the financial sector.[699] However, the SARB must regularly consult with the Minister responsible for national financial matters when exercising its powers and functions.[700] The primary mandate of the SARB is to protect

---

696 Godwin, Howse and Ramsay 2017 *South African Law Journal* 672; see related comments by Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384 where it was stated that the PA, whose remit is the prudential supervision of financial institutions, including banks; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 113.

697 Section 2 and 3 of the *SARB Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 7; De Jager 2006 *South African Mercantile Law Journal* 165; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 12.

698 Section 10(1)(a)(i)-(v) read together with section 14 of the *SARB Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 12; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 7; De Jager 2006 *South African Mercantile Law Journal* 165; Bekink and Botha 2009 *South African Mercantile Law Journal* 78.

699 Section 10 of the *SARB Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 12; De Jager 2013 *The South African Mercantile Law Journal* 500; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 140; Godwin, Howse and Ramsay 2017 *South African Law Journal* 668.

700 Section 224(2) of the *Constitution of the Republic of South Africa* 1996 (the *Constitution*); Godwin, Howse and Ramsay 2017 *South African Law Journal* 666; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Godwin and Schmulow 2015 *The South African Law Journal* 758; see related in Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 143.

the value of the rand in the interest of balanced and sustainable economic growth.[701] The SARB is responsible for macro-prudential supervision and overseeing the overall financial stability of the financial sector.[702]

Van Niekerk states that the SARB's autonomy is entrenched in the Constitution.[703] The Constitution states that SARB is the central bank of the Republic of South Africa and its primary objective is to protect the value of the currency in the interest of balanced and sustainable economic growth.[704] Van Niekerk contends that since the bank must, in pursuit of its primary objective, perform its functions independently and without fear, favour or prejudice, the SARB falls under the umbrella of the Constitution.[705] Furthermore, SARB's mandate was extended to include the responsibility for protecting and maintaining financial stability as stipulated in the *FRS Act*.[706]

---

701 Section 3 of the *SARB Act* provides that the primary objective of the SARB was the protection of the value of the currency of the Republic in the interest of balanced and sustainable economic growth in the Republic; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 7; De Jager 2006 *South African Mercantile Law Journal* 165; Bekink and Botha 2009 *South African Mercantile Law Journal* 78.

702 Section 3(2) of the *SARB Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 670; Godwin and Schmulow 2015 *The South African Law Journal* 758; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; see related comments by Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 140 which highlight the SARB responsibility for management and oversight of National Payment Systems, Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384 states that the SARB has the overarching task of system-wide macro-prudential regulation.

703 Section 223 of the *Constitution*; section 3(1) and 10 of the *SARB Act*; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Vermeulen 2021 *Economic History of Developing Regions* 261; De Jager 2006 *South African Mercantile Law Journal* 284; Bekink and Botha 2009 *South African Mercantile Law Journal* 78.

704 Section 224(1) of the *Constitution*; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; De Jager 2006 *South African Mercantile Law Journal* 284.

705 Section 224(2) of the *Constitution*; ss 3(1) and 10 of the *SARB Act*; Vermeulen 2021 *Economic History of Developing Regions* 261 highlighted that the SARB's price stability mandate is laid down in the Constitution and formalised in the form of inflation target; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; De Jager 2006 *South African Mercantile Law Journal* 284.

706 See schedule 4 of the *FSR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507; Godwin and Schmulow 2015 *The South African Law Journal* 759; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 132.

The SARB is responsible for continuously overseeing and assessing the strengths and vulnerabilities of the financial sector, as well as identifying potential threats to its stability.[707] This involves a comprehensive examination of the nature and extent of systemic risks, including the probability of a single event potentially leading to a broader collapse or failure of banks.[708] A systemic banking crisis happens when numerous banks in a country face severe solvency or liquidity problems simultaneously. This could occur due to widespread external shock or because the failure of one bank or a group of banks spreads to other banks due to their interconnected nature. In addition, the SARB has a mandate to act as a lender of last resort and provider of emergency liquidity assistance.[709] Finally, SARB empowers economic growth through its mandate to maintain price stability while conducting monetary policy within an inflation-targeting framework that maintains the consumer-price index inflation within a designated target range.[710]

5.3.2 The Role of the PA in Banking Regulation in South Africa

As mentioned above, the PA is the financial sector regulator that governs the South African banking system and was established to operate within the administration of

---

[707] See the long title of the *SARB Act* read together with sections 3 and 4; section 12(a)(i) and (ii) of the *FSR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507; Godwin and Schmulow 2015 *The South African Law Journal* 759; Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 10; Bekink and Botha 2009 *South African Mercantile Law Journal* 83.

[708] Section 14 and 15 of the *FSR Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 675; Loewald C "The South African Reserve Bank's Response to the Recent Inflation Episode" in English B, Forbes K and Ubide A *Monetary Policy Responses to the Post-Pandemic Inflation* (Centre for Economic Policy Research Press France 2024) 235, 240; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 396 states that the SARB is responsible for protecting and enhancing financial stability and restoring or maintaining financial stability if a systemic event has occurred or is imminent.

[709] Section 10(1) of the *SARB Act*; Okeahalam CC "The Political Economy of Bank Failure and Supervision in the Republic of South Africa" 1998 *African Journal of Political Science* 29, 38; Qumba 2022 *South African Law Journal* 87; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507; Bekink and Botha 2009 *South African Mercantile Law Journal* 83.

[710] Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; De Jager 2006 *South African Mercantile Law Journal* 284; see related in Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 11.

the SARB in terms of the *FSR Act*.[711] The PA is responsible for regulating and supervising financial institutions and ensuring system-wide safety and soundness of the financial sector in South Africa.[712] Accordingly, Chitimira and Ncube correctly highlight that the PA directly supervises banks and other financial conglomerates that provide basic financial services and products in South Africa.[713] The PA has the responsibility of ensuring the safety and soundness of financial institutions, including banks, insurance companies, cooperative financial institutions as well as securities and derivative market infrastructures.[714] In addition, the PA is tasked with micro-prudential supervision of financial institutions. Micro-prudential supervision involves firm-level

---

711 Section 32 of the *FSR Act* provides that the PA is a juristic person operating within the administration of the Reserve Bank; Chitimira H and Ncube M "The Role of Regulatory Bodies and other Role-players in the Promotion of Financial Inclusion in South Africa" 2020 *Acta Universitatis Danubius Juridica Economica* 1, 10; Godwin and Schmulow 2015 *The South African Law Journal* 758; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; also see the Prudential Authority Regulatory Strategy 2021-2024, 3 available at the South African Reserve Bank https://www.resbank.co.za>prudential-regulation accessed 21 February 2024.

712 See section 32 of the *FSR Act*; Qumba 2022 *South African Law Journal* 80; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 192; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Godwin and Schmulow 2015 *The South African Law Journal* 758; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130.

713 See section 34(1)(a) of the *FSR Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Godwin and Schmulow 2015 *The South African Law Journal* 758; see Prudential Authority Regulatory Strategy 2021-2024 2 https://www.resbank.co.za>prudential-regulation accessed 24 January 2024 provided that the PA plays a crucial role in safeguarding the interests of customers of financial institutions against the risks associated with financial institutions failing to meet their obligations; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395 state that the PA is the entity responsible for prudential supervision of the wider spectrum of regulated financial institutions, such as banks and non-bank financial institutions.

714 Section 33(a) and (b) of the *FSR Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see comments by Botha and Makina 2011 *International Business & Economics Research Journal* 34; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Godwin, Howse and Ramsay 2017 *South African Law Journal* 673 submitted that it is significant that the PA 'is a juristic person' and emphasised that it is important because it confirms that the prudential regulator has a legal status that is separate from the SARB; Prudential Authority Regulatory Strategy 2021-2024 at https://www.resbank.co.za>prudential-regulation accessed 24 January 2024 further clarifies that the PA was established as a juristic person operating within the administration of the SARB, with its governance and processes aligned to those of SARB.

oversight or financial regulation of financial institutions to ensure that such institutions maintain adequate balance or liquidity to withstand shocks.[715]

5.3.3 The Role of the FSCA in Banking Regulation in South Africa

The FSCA is the second pillar in banking regulation in South Africa.[716] Like the PA, it was established in 2018 in terms of the *FSR Act*.[717] The FSCA is an independent entity and a market conduct regulator of financial institutions that provide financial products and services that are licensed under relevant financial sector laws of South Africa.[718] Unlike the PA, the FSCA is an independent and public entity.[719] It has an overall governance objective of managing its affairs efficiently and effectively while adhering to internationally accepted standards.[720] The FSCA primarily focuses on or is entrusted with the responsibility for system-wide market conduct, market regulation and

---

715 See related comments by Qumba 2022 *South African Law Journal* 87; also see Leukes and Mensah 2019 *African Review of Economics and Finance* 194; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10 who state that the PA has a direct supervisory role on banks and other financial conglomerates that provide basic financial services; Botha and Makina 2011 *International Business & Economics Research Journal* 29; Prudential Authority Regulatory Strategy 2021-2024 3 at https://www.resbank.co.za>prudential-regulation accessed 21 February 2024 further provides that the PA is responsible for protecting the customers of financial institutions against the risk of these institutions failing to meet their obligations.

716 See s 56-58 of the *FSR Act*; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395.

717 Section 56(1) of the *FSR Act* states that the FSCA is hereby established, as a juristic person; Godwin, Howse and Ramsay 2017 *South African Law Journal* 675; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

718 Section 56-58 of the *FSR Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 675; see explanation in Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Qumba 2022 *South African Law Journal* 87; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

719 Section 56(2) of the *FSR Act*; section 32(2) and (3) of the *FSR Act* provides that the PA is a juristic person operating within the administration of the Reserve Bank and is not a public entity in terms of the Public Finance Management Act; Godwin, Howse and Ramsay 2017 *South African Law Journal* 676; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

720 Section 59 of the *FSR Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 676; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

supervision of financial institutions in South Africa.[721] The FSCA seeks to ensure fairness, efficiency and integrity of the financial markets, financial services and products while promoting fair treatment to financial consumers by financial institutions.[722] The FSCA is tasked with protecting financial consumers and promoting confidence in the South African financial sector by regulating and supervising the market conduct of all financial services providers such as banks, insurers and investment institutions.[723] In other words, the FSCA is mandated to oversee and regulate the entire financial sector.[724]

5.3.4 The Role of the National Credit Regulator

The *National Credit Act* established the National Credit Regulator (NCR) as the regulatory body responsible for overseeing the South African credit industry.[725] The NCR is an independent body vested with the responsibility for consumer credit and

---

721 Section 56 of the *FSR Act*; Qumba 2022 *South African Law Journal* 87; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; see Prudential Authority Regulatory Strategy 2021-2024, 2 https://www.resbank.co.za>prudential-regulation.

722 Section 58 of the *FSR Act*; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

723 Section 57 of the *FSR Act*; Qumba 2022 *South African Law Journal* 80; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 145; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395.

724 Section 58(1)(f) of the *FSR Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Qumba 2022 *South African Law Journal* 80; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 155.

725 See section 12 of the *NCA* read together with section 32 of the *FSR Act*; section 2 of the *Financial Intelligence Centre Act* 38 of 2001; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; see related in Boraine A and Van Wyk J "Credit Bureaus in South Africa and Namibia: A Comparative Analysis of the Regulatory Frameworks Evaluated against the World Bank's Principles for Credit Reporting- Part II" 2017 *The Comparative and International Law Journal of Southern Africa* 303, 304; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 13; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 279.

consumer credit financing regulation.[726] The NCR prevents bank failures in South Africa by promoting responsible borrowing, avoiding over-indebtedness and fulfilling financial obligations by consumers, reducing cases of Non-Performing Loans (NPL) within banks.[727] Furthermore, the NCR discourages reckless credit granting by credit providers and contractual default by consumers preventing NPL which may cause bank failures.[728]

5.3.5 The Ombudsman for Banking Services

The Ombudsman for Banking Services (OBS) provides an independent and impartial dispute resolution service for customers and banks, addressing complaints such as unfair treatment, service failures and financial disputes.[729] The OBS plays a key role in protecting consumers' rights by ensuring that banks adhere to ethical standards and treat their customers fairly and that promotes trust in the banking sector.[730] The researcher submits that, although OBS instils public trust in the banking sector, it primarily focuses on individual customer complaints and has limited influence in combating the causes of bank failures such as poor risk management, poor regulatory

---

726 Section 12 of the *NCA*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 13; Qumba 2022 *South African Law Journal* 80; Godwin, Howse and Ramsay 2017 *South African Law Journal* 679; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 400; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 279.

727 Section 12-18 of the *NCA*; Qumba 2022 *South African Law Journal* 87; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506 states that other financial regulators operate within the Twin Peaks model, but outside the peaks established by the model; see related in Godwin and Schmulow 2015 *The South African Law Journal* 758; Godwin, Howse and Ramsay 2017 *South African Law Journal* 668.

728 Section 12-15 of the *NCA*; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 279; Godwin and Schmulow 2015 *The South African Law Journal* 758; Godwin, Howse and Ramsay 2017 *South African Law Journal* 668.

729 Du Toit SF "Reflections on the South African Code of Banking Practice: aantekeninge." 2014 *Journal of South African Law* 568, 570; Petzer DJ, De Meyer-Heydenrych CF and Svensson G "Perceived Justice, Service Satisfaction and Behavior Intentions Following Service Recovery Efforts in a South African Retail Banking Context" 2016 *International Journal of Bank Marketing* 241, 244; see related comments in Donnelly M "The Financial Services Ombudsman: Asking the Existential Question" 2012 *Dublin University Law Journal* 229, 230.

730 Du Toit 2014 *Journal of South African Law* 570; Petzer, De Meyer-Heydenrych and Svensson 2016 *International Journal of Bank Marketing* 244; see related comments in Donnelly 2012 *Dublin University Law Journal* 230.

framework, poor corporate governance and capital inadequacies of banks. Therefore, while the OBS plays an important role in maintaining public confidence in the banking sector, it does not have the capacity or authority to address the root causes of bank failures in South Africa.

5.3.6 The Courts

South African courts play a crucial role in the adjudication and enforcement of banking laws, handling cases of insolvency, fraud, liquidation and disputes involving banking institutions.[731] Courts provide a platform for essential checks on the conduct of banking institutions and ensure that banks comply with legal and regulatory frameworks as required by relevant banking laws.[732] However, the court's role in preventing bank failures is reactive rather than proactive because they intervene once issues have escalated, often addressing the aftermath of financial distress rather than combating it. In addition, although courts are effective in enforcing laws and resolving disputes fairly, courts are not designed to address the underlying risks that cause bank failures such as liquidity shortages or capital mismanagement. Hence, while courts contribute to upholding the rule of law, they are not sufficient on their own to combat bank failures.[733] Banking sector regulators such as the SARB, the PA and the FSCA provide a strong regulatory oversight that is necessary for curbing and combating bank failures.

---

731 Letsoalo L "Navigating Reputational Risks: Cautionary Considerations for South African Banks in the Unilateral Termination of Bank-Customer Relationships" 2024 *PER/PELJ* 1, 2; see *Bredenkamp v Standard Bank of South Africa Ltd* 2010 4 SA 468 (SCA); *Survé v Nedbank Ltd* 2022 2 CPLR 38 (CT); *Nedbank Limited v Survé 2024 1 All SA 615 (SCA)*; *Mercantile Bank, A Division of Capitec Bank Limited v Survé* 2023 3 CPLR 33 (CAC); *Talhado Fishing Enterprises (Pty) Ltd v Firstrand Bank Ltd t/a First National Bank* (1104/2022) [2022] ZAECQBHC 15 (19 July 2022; *Africa Community Media (Pty) Ltd v Standard Bank of SA Ltd* (EC08/2023) [2023] ZAWCHC 243.

732 Letsoalo 2024 *PER/PELJ* 3.

733 Letsoalo 2024 *PER/PELJ* 3-10.

5.4 Causes of Bank Failures in South Africa

5.4.1 Poor Credit Regulation

Credit risk arises when the borrower lacks the capability to repay the loan, combined with inadequate oversight by the bank regarding the extended credit.[734] Banks take deposits from their customers and give out credit or loans which generate revenue through interest charged on the loans.[735] However, some credit or loans will not be fully recovered, and these are referred to as non-performing loans.[736] The non-performing loans exert a significant influence on the overall profitability of banks and pose an elevated risk of precipitating bank failures. According to Mishi and Khumalo, credit risk is linked to a rise in non-performing loans, diminishing asset quality and hindering banks' capacity to build capital, thus heightening the likelihood of instability.[737] The PA and the SARB regulate credit risk in the South African banking sector.[738] The PA and the SARB enforce regulations and guidelines to ensure banks

---

734 Mokatsanyane D, Muzindutsi PF and Viljoen D "Credit Risk and Securitisation in the South African Banking Sector" 2017 *Acta Universitatis Danubius Juridica Economica* 102; Munangi and Sibindi 2020 *Academy of Accounting and Financial Studies Journal* 4; by Lawrence B, Doorasamy M and Sarpong P "The Impact of Credit Risk on Performance: A Case of South African Commercial Banks" 2024 *Global Business Review* 151S, 253S.

735 Mishi and Khumalo 2019 *Banks and Bank Systems* 132 states that banks need to lend as their basic business model is to generate revenue; Munangi and Sibindi 2020 *Academy of Accounting and Financial Studies Journal* 4; Mokatsanyane, Muzindutsi and 2017 *Acta Universitatis Danubius Juridica Economica* 103.

736 Mishi and Khumalo 2019 *Banks and Bank Systems* 132; see related comments by Koziol 2022 *South African Journal of Sciences* 102; Munangi and Sibindi 2020 *Academy of Accounting and Financial Studies Journal* 3 state that when banks issue credit there is uncertainty which surrounds the outcome on returns.

737 Mishi and Khumalo 2019 *Banks and Bank Systems* 132; Munangi and Sibindi 2020 *Academy of Accounting and Financial Studies Journal* 3; Mokatsanyane, Muzindutsi and 2017 *Acta Universitatis Danubius Economica* 103 agrees with Chijoriga who contends that the influence of credit risk is far greater and capable of collapsing a whole bank, compared to the other risks faced by banks.

738 Section 10A of the *SARB Act* requires all banks to hold and maintain a prescribed credit balance based on a prescribed percentage of the bank's liabilities; see related comments by Lawrence, Doorasamy and Sarpong 2024 *Global Business Review* 252S; Munangi and Sibindi 2020 *Academy of Accounting and Financial Studies Journal 3*; De Jager 2006 *South African Mercantile Law Journal* 276.

maintain sound risk management practices.[739] The measures include setting minimum capital requirements, conducting regular stress tests, and implementing frameworks for assessing credit risk.[740]

The SARB and the PA require banks to adhere to Basel III standards which provide guidelines for risk management, including credit risks.[741] The use of credit agencies, internal risk models, and comprehensive credit risk policies is common to assess and mitigate risks. Regular reporting and supervision by regulatory authorities help maintain stability and prevent bank failures.

5.4.2 Poor Bank Regulation

Bank regulation can help reduce the frequency and cost of bank failures. To achieve this, it is crucial to have a robust regulatory framework that enables effective supervision and enforcement of rules and regulations. The banking regulatory framework, particularly that deals with the supervision and monitoring of banks, is crucial for maintaining stability within the financial sector. Regulating the conduct of a financial institution is justified because certain financial market activities generate systematic risks and cause economic instability in the country.[742] However, over-regulating the financial sector can hinder economic development by making the financial sector inefficient and uncompetitive. In addition, poor or ineffective banking laws and regulations may cause bank failures by allowing risky practices to go unchecked, leading to financial instability and potential financial sector crises. In this regard, the financial sector must have a robust regulatory framework that is flexible

---

739 Section 33(d) of the *FRS Act*; Mishi and Khumalo 2019 *Banks and Bank Systems* 132; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 9.

740 Section 10A(3) and s 11 of the *SARB Act*; sections12, 13 and 129(1) of the *FSR Act*.

741 Mishi and Khumalo 2019 *Banks and Bank Systems* 128 found South African banks to be generally well-capitalised because they adhere to stringent capital requirements of the Basel Accords recommendation; Foggitt *et al 2017 South African Journal of Economic and Management Sciences* 3.

742 Botha and Makina 2011 *International Business and Economic Research Journal* 31; Sanderson, Mare and De Jongh 2017 *South African Journal of Science* 20; Mishi, Sibanda and Tsegaye 2016 *African Review of Economics and Finance* 120; Hawkins 2004 *Development Southern Africa* 193.

enough to adapt to emerging risks and challenges, ensuring that banks operate safely.[743] Regulatory inflexibility in any financial sector can create a significant barrier to accessing financial services.

South Africa has a well-developed financial sector that is comparable to those in advanced economies. South Africa is a member of the Group of 20 (G-20) countries and is a member of the Bank of International Settlements (BIS).[744] It also has a seat at the Financial Stability Board (FSB) which coordinates financial regulation at the international level.[745]

South Africa joined the Basel Committee in 2009, which was established to set and promote international guidelines for better regulation and supervision of risk management in the banking sector. The Basel Committee recommendations are implemented along the prescribed capital and liquidity requirements provided by the *Banks Act*.[746] According to Basel III, the minimum capital requirement and the common

---

743 Bentezen E, Freij A and Varnes CJ "The Role of Flexibility and Complexity in Response to Regulatory Change: A Case Study of Innovation in a Major Danish Financial Institution" 202 *The International Journal of Entrepreneurship and Innovation* 229, 232; Thamae RI and Odhiambo NM "Bank Regulation, Supervision and Lending: Empirical Evidence from Selected Sub-Saharan African Countries" 2022 *Macroeconomics and Finance in Emerging Market Economies* 485, 498; Hawkins 2004 *Development Southern Africa* 200.

744 Botha and Makina 2011 *International Business & Economics Research Journal* 31; Mishi and Khumalo 2019 *Banks and Bank Systems* 123; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 667, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; Petzer, De Meyer-Heydenrych and Svensson 2016 *International Journal of Bank Marketing* 244.

745 Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; Botha and Makina *2011 International Business & Economic Research Journal* 31; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 667; Moyo 2018 *South African Journal of Economic and Management Sciences* 3; see related comments by Mishi and Khumalo 2019 *Banks and Bank Systems* 123.

746 Section 70 of the *Banks Act* provides for the minimum share capital and unimpaired reserve funds that banks should keep; see also Regulation 38 of the Banks Act Regulations, which requires banks to hold the greater of R250 million or prescribed amount calculated at the risk-weighted assets calculated under the said regulations; Qumba 2022 *South African Law Journal* 100; Mishi and Khumalo 2019 *Banks and Bank Systems* 122; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 699.

equity percentage of the bank's risk-weight assets will be used as a buffer when a bank is faced with financial stress.[747]

5.5 Adopted Measures to Curb Bank Failures in South Africa

5.5.1 Bank Resolution

Placing a bank in resolution is a mechanism employed when there is a reason to believe that a banking institution is no longer or will not be able to repay deposits made with it when legally obliged to do so, or will probably be unable to meet its monthly financial obligations as and when they become due.[748] To address the issue of failing banks in South Africa, the *FSR Act* provides for the placing of designated financial institutions in resolution.[749] The resolution framework sets out additional and improved actions that the SARB may take when a bank is failing or is likely to fail. These actions include the SARB taking measures to plan or prepare the resolution of banks in advance. The resolution framework provides the SARB, as the resolution authority (RA) with powers to set requirements for institutions during normal times that are aimed at improving their loss absorbency and resolvability.[750] The SARB is also provided with powers for early intervention, orderly resolution and powers to take action and minimise the impact on the financial sector by offering more flexible tools and flexibility than curatorship.[751] Before the introduction of a resolution framework, failing banks were dealt with under the curatorship, which required the appointment of curators by the court.[752] The process was costly and time-consuming for a financial institution that was

---

747 Sanderson, Mare and De Jongh 2017 *South African Journal of Science* 15; Botha and Makina 2011 *International Business and Economic Research Journal* 31; Thamae and Odhiambo 2022 *Macroeconomics and Finance in Emerging Market Economies* 485.

748 Section 1A of the *Banks Act*; section 10(1)(d)(i) of the *SARB Act*; section 166J of the *FSR Act*.

749 Section 166J of the *FSR Act* and section 166R of the *Financial Sector Laws Amendment Act* 23 of 2021 (the *FSLA Act*.

750 SARB Resolution Authority available at https://www.resbank.co.za/en/home/what-we-do/resolution-authority accessed 10 August 2024.

751 Section 166M of the *FSR Act*; the curatorship framework did not provide for the requirement of authorities to plan or prepare for the failure of a bank and the powers it provided only allowed for action when the PA determined that the bank was failing or likely to fail.

752 Schulze 1999 *South African Mercantile Law Journal* 430.

already in distress. The institution of curatorship was repealed in 2023.[753] Curatorship was repealed in South African banking law as part of a broader effort to modernise and strengthen the banking regulatory framework for handling bank failures. The curatorship model could have been outdated and regarded as less effective in managing the complexities of modern financial institutions. The repeal of curatorship reflects the shift towards more effective mechanisms for managing distressed banks, emphasising timely intervention and resolution to protect depositors and maintain financial stability.

5.5.2 Liquidation

The SARB may apply to the court for the winding up of a bank on the grounds that the institution has been placed in resolution and there are no reasonable prospects that the bank will cease to be in resolution.[754] The Reserve Bank will appoint a person who, in its opinion, has suitable experience and expertise to advise the liquidator on managing and disposing of the bank's assets, ensuring that the liquidation process is conducted efficiently and in compliance with regulatory requirements.[755]

5.5.3 Recapitalisation, Restructuring and Bail-In

The SARB may provide financial assistance to recapitalise a failing bank, either through direct funding or by facilitating mergers with stronger financial institutions.[756] SARB is empowered to re-organise the bank's operations, assets, liabilities and governance to improve its financial health and sustainability.[757] Furthermore, the SARB can design a plan that allows a failing bank's creditors and shareholders to bear some of the losses

---

753 See section 69 of the *Banks Act*; section 9(1) of *FSLA Act*; see SARB Resolution Authority available at https://www.resbank.co.za/en/home/what-we-do/resolution-authority accessed 10 August 2024.

754 Section 166H of the *FSR Act*; section 1 of the *FSLA Act*; Resolution is defined as the means of the management of the affairs of a designated institution as provided in Chapter 12A of the *FSR Act*,

755 Section 166AW of the *FSR Act*.

756 Section 11 of the *FSR Act*.

757 Section 166S of the *FSLA Act*.

by converting debt into equity or writing down the value of their claim namely bail-in.[758] Bail-in is designed to stabilise the failing bank without the need to use taxpayers' public funds.

5.5.4 Compliance with International Best Practices

The South African baking sector regulators adopted international best standards for bank regulation and supervision, which is critical for ensuring the stability and resilience of banks during times of crisis.[759] South Africa adheres to the Basel III standards, which focus on capital adequacy, liquidity risk and leverage ratios, providing guidelines to ensure banks can absorb financial shocks and avoid failures.[760] The researcher submits that incorporating the international best practices in legislation and ensuring combined oversight by the SARB, the PA, the FSCA and other financial regulators ensures banks maintain sufficient capital buffers and manage risk effectively.[761] This could contribute significantly to preventing and combating the causes of bank failures while bolstering the country's credibility in the global financial markets and strengthening investor confidence.

However, while compliance with international standards provides a robust framework for risk management, it is not always enough to combat bank failures. The effectiveness of international standards in combating the causes of bank failures depends on local implementation, consistent enforcement, and the responsiveness of regulatory bodies. Therefore, as South Africa's banking regulatory framework aligns with international practices, ensuring the strict enforcement of these standards and

---

758 Section 166S of the *FSLA Act*.

759 Section 60B of the *Banks Act*; see related comments in Chitimira H "Aspects of the Regulation of Cross-Border Insolvency in South Africa" 2018 *OBITER* 173, 181; Qumba 2022 *The South African Law Journal* 104; Koekemoer 2021 *OBITER* 342.

760 Section 60B of the *Banks Act*; see related comments in Chitimira 2018 *OBITER* 173, 181; Qumba 2022 *The South African Law Journal* 104; Koekemoer 2021 *OBITER* 342.

761 Section 60B of the *Banks Act*; section 30(1)(1C)(b), 166AH of the *FSR Act*; Masindi and Singh 2022 *Asian Institute of Research* 17; see related comments in Chitimira 2018 *OBITER* 173, 181; Qumba 2022 *The South African Law Journal* 104; Koekemoer 2021 *OBITER* 342.

adapting them to local challenges is essential for adequately combating the risks that cause bank failures.

5.7 Conclusion

The South African banking sector is well developed and compares favourably with those of developed countries, with sound regulations and serves as a robust and dynamic foundation for ensuring financial stability, integrity and efficiency.[762] The South African banking landscape is characterised by an oligopolistic nature, with a few numbers of dominant players including Standard Bank, ABSA, First National Bank, Nedbank, Investec Bank and Capitec Bank.[763] The stability and resilience of the banking sector are of paramount importance to any nation's economic well-being.[764]

The banking regulatory framework in South Africa is overseen by the SARB and supported by various legislation and regulatory bodies that aim to promote financial stability, protect depositors' interests and facilitate sound banking practices.[765] The South African banking regulatory framework consists of the *Banks Act*, *SARB Act*, *FSR Act*, and other supporting legislations to ensure adequate regulation and supervision of banks. The regulatory framework has evolved, and it has largely been driven by international trends and responses to global financial crises.[766] The global crisis of 2007

---

762 Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 504.

763 Koziol 2022 *South African Journal of Sciences* 103; Moyo 2018 *South African Journal of Economic and Management Sciences* 3; Qumba 2022 *South African Law Journal* 80; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 669; see Businesstech Banking "The Biggest Banks in South Africa in 2023" (5 July 2023) available at https://businesstech.co.za/news/banking/701565/the-biggest-banks-in-south-africa-in-2023/ accessed 24 March 2024; see related in Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304.

764 Sanderson, Mare and De Jongh 2017 *South African Journal of Sciences* 2; Dzomira 2014 *Journal of Governance and Regulation* 76; Walters *et al* 2018 *South African Actuarial Journal* 100; Hupkes 2002 *Current Developments in Monetary and Financial Law* 2.

765 Qumba 2022 *South African Law Journal* 80; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 668; Botha and Makina *2011 International Business & Economic Research Journal* 37.

766 Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 386; Botha and Makina *2011 International Business & Economic Research Journal* 35; Foggitt *et al* 2017 *South African Journal of Economic and Management Sciences* 3.

exposed the weaknesses in South Africa's financial sector regulatory framework.[767] In addition, ongoing developments and adaptations to domestic and international standards underscore South Africa's commitment to fostering a resilient and competitive banking framework.[768]

The banking regulatory framework in South Africa offers a valuable case study that presents the potential lessons and insights that could be applied to the banking laws of other countries such as Zimbabwe. This chapter provided an in-depth analysis of the banking regulatory framework in South Africa and offered a comprehensive discussion of the causes of bank failures. It also highlighted South Africa's compliance with international standards and its challenges in maintaining financial stability.

The following chapter is Chapter Six and it discusses the regulation of banks to prevent and combat the causes of bank failures in the UK.

---

767 Qumba 2022 *South African Law Journal* 80; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 493; Mishi and Khumalo 2019 *Banks and Bank Systems* 122; Havemann 2021 *Economic History of Developing Regions* 313; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 670; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384.

768 See South African Reserve Bank Prudential Authority Regulatory Strategy 2021-2024 30.

CHAPTER SIX

THE REGULATION OF BANKS TO PREVENT AND COMBAT BANK FAILURES IN THE UNITED KINGDOM

6.1 Introduction

The United Kingdom (UK) witnessed many bank failures since the 1990s. Many of the failed banks were regarded as small.[769] Owing to this, the failure of these banks did not materially affect the financial services sector in the UK. However, the Bank of England (BoE) provided emergency liquidity assistance for some failing banks to avoid contagion to the wider banking sector.[770] Other bank failures in the UK have historically posed significant challenges, impacting the economy, financial stability, and public confidence. The causes of bank failures in the UK include the loss of confidence in those banks that fail, which led to depositors and investors pulling out their money rapidly, reducing the banks' capital levels.[771] Bank failures in the UK have been caused by, among other factors, fraud, mismanagement, a lack of supervision by the bank

---

769 Han L, Benson A, Chen JJ and Zhang S "The Use and Impacts of Bank Support on UK Small and Medium-sized Enterprises" 2014 *International Small Business Journal* 61, 63; Mugarura N and Namanya P "Supervisory Mandate of Central Banks and the Spate of Bank Failures: Who is to Blame? 2020 *Journal of Money Laundering Control* 341, 342; Forbes WP, Donohoe SO and Prokop J "Financial Regulation, Collective Cognition, and Nation-State Crisis Management: A Multiple Case Study of Bank Failures in Germany, Ireland and the UK" 2015 *The Journal of Risk Finance* 284, 295; Mora N and Logan A "Shocks to Bank Capital: Evidence from UK Banks at Home and Away" 2012 *Applied Economics* 1103, 1107.

770 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 293; Goodhart CAE "Bank of England" in *Monetary Economics* (London Palgrave Macmillan UK 2008) 1, 6; Kanas A "Pure Contagion Effects in International Banking: The Case of the BCCI's Failure" 2005 *Journal of Applied Economics* 101, 108; Lastra RM "Northern Rock, UK Bank Insolvency and Cross-border Bank Insolvency" 2008 *Journal of Banking Regulation* 165, 180; Brown AD "Making Sense of the Collapse of Barings Bank" 2005 *Human Relations* 1579, 1583; Hupkes E "Insolvency – Why a Special Regime for Banks?" 2002 *Current Development in Monetary and Financial Law* 1, 30; Evemy J "The Bank of England, Operational Independence and the Financial Crisis" 2019 *British Politics* 347, 357.

771 Kanas 2005 *Journal of Applied Economics* 104; Lastra 2008 *Journal of Banking Regulation* 169; Hupkes 2002 *Current Development in Monetary and Financial Law* 5 states that mismanagement, fraudulent activities, excessive risk-taking or adverse market conditions can cause serious or even fatal financial problems; McKnight A " The Banking Act 2009" 2009 *Law and Financial Markets Review* 325, 331.

management, and a lack of adequate oversight and review by the Financial Sector Authority (FSA), the central bank and the Treasury.[772]

The stability and resilience of any country's financial sector hinge upon the effectiveness of that country's regulatory framework, especially in dealing with challenges such as bank failures.[773] A failing bank carries significant risks including the inability to meet its obligations to pay depositors their funds. This results in depositors failing to access their funds.[774] Such an outcome can lead to systemic bank failures and undermine depositors' confidence in the banking sector. The development of the UK's banking regulations to prevent bank failures is shaped by economic conditions, financial crises, and evolving global regulatory standards.[775] Furthermore, the UK is a key player in the global financial landscape, and it has developed and refined a

---

772 Mora and Logan 2012 *Applied Economics* 1106; Lastra 2008 *Journal of Banking Regulation* 174; McKnight 2009 *Law and Financial Markets Review* 327; Chambers C "Banking on Reform in 2010: Is Regulatory Change Ever Enough and Will the General Election Hold the Answers for the Financial Services Industry" 2010 *The Law Teacher* 218, 226; Lui A "Single or Twin? The UK Financial Regulatory Landscape Crisis of 2007-2009" 2011 *Liverpool John Moores University* 1, 2.

773 Kanas 2005 *Journal of Applied Economics* 107; see related comments by Chambers 2010 *The Law Teacher* 219; also see Badwan N, Saleh B and Hamdan M "Factors and Determinants Affecting Banking Sector Stability: Empirical Evidence from Conventional and Islamic Banks Listed on the Palestine Stock Exchange" 2024 *Journal of Financial Regulation and Compliance* 118, 126; Mora and Logan 2012 *Applied Economics* 1107; Hupkes 2002 *Current Development in Monetary and Financial Law* 5; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 342 state that banks play a fundamental role in the social-economic development of countries, and how they are regulated is significantly important the stability of economies.

774 Penn B and Measor D "A Guide to the Banking Bill 2008" *2009 Law and Financial Markets Review* 34, 39; Nyaude AB and Van Heerden C "Bank Resolution in South Africa: Recent Developments" 2024 *International Insolvency Review* 182, 183-184; Hsiao M "Ligitimised Interference with Private Properties-Banking Act 2009" 2010 *Journal of International Banking Law and Regulation* 234, 235 assert that a failure of a bank in the economy can create a systemic risk that is of public interest where the economy as a whole would be affected; Evemy 2019 *British Politics* 349; Lastra 2008 *Journal of Banking Regulation* 168.

775 Chambers 2010 *The Law Teacher* 221 states that regulation development objectives in the UK were to maintain consumer confidence, to maintain market stability, to enhance consumer awareness and to protect the market from financial crime; Goodhart CAE "The Regulatory Response to the Financial Crisis" 2008 *Journal of Financial Stability* 351, 352; Schooner HM and Taylor M "Convergence and Competition: The Case of Bank Regulation in Britain and the United States" 1999 *Michigan Journal of International Law* 595, 596.

comprehensive regulatory approach to address the complexities surrounding bank failures.[776]

To understand the current UK banking regulatory landscape, it is imperative to trace the historical development of its banking laws and regulations that dealt with the prevention of bank failures. Over the years, the nation has faced various financial crises, each leaving a lasting impact on the regulatory landscape.[777] The banking regulatory framework has undergone significant changes, adapting to the evolving nature of the financial sector and the intricate interplay of domestic and international financial markets. It is also worth noting that during the 18th and 19th centuries, the UK bank regulatory framework consisted of a few players, such as the BoE and a concentrated industry dominated by a few elite firms.[778] The UK bank regulation is centred on how the financial institutions navigated both good and bad times, and how the weaknesses in the supervisory framework ultimately proved contributed to systemic vulnerabilities and bank failures. This focus highlights the importance of strengthening oversight, improving risk management, and fostering resilience within the banking sector to ensure stability during periods of economic stress.

---

776 Mora and Logan 2012 *Applied Economics* 1106; Evemy 2019 *British Politics* 349; Chambers 2010 *The Law Teacher* 221; McKnight 2009 *Law and Financial Markets Review* 326.

777 Kanas 2005 *Journal of Applied Economics* 102; Chambers 2010 *The Law Teacher* 223; Goodhart 2008 *Journal of Financial Stability* 353; Schoenmaker D and Veron N "A Twin Peaks Vision for Europe" in Godwin A and Schmulow A *The Cambridge Handbook of Twin Peaks Financial Regulation* (Cambridge University Press 2018) 2-3; Singh D "The UK Banking Act 2009, Pre-insolvency and Early Intervention: Policy and Practice" 2011 *Journal of Business Law* 1, 4 states that the UK authorities recognised the importance of a special resolution regime for banks soon after the Northern Rock debacle; see the Financial Stability and Depositor Protection: *Strengthening the Framework* dated January 2008 5 available at https://assets.publishing.service.gov.uk/media/5a7cd2e8e5274a2c9a484550/7308.pdf accessed 20 March 2024; Pigott HS "Regulatory and Other Changes in the UK Banking Market" in *Current Legal Issues Affecting Central Banks* (International Monetary Fund 1994) 113 states that major bank collapses led to general review of the system of banking supervision in the United Kingdom.

778 Schooner and Taylor 1999 *Michigan Journal of International Law* 605.

6.2 Key Legislations that Regulate Banks to Combat Bank Failures

6.2.1 The Financial Services and Markets Act 2000

The *Financial Services and Markets Act* (*FSMA*) is the foundational legislation in the UK that established the regulatory framework for financial services, including banking, in order to promote market stability, consumer protection and integrity.[779] Originally, the *FSMA* created the Financial Services Authority (FSA) as a sole regulator for financial services, but after the 2008 financial crisis, it was amended to establish a Twin Peaks regulatory model.[780] The twin peaks model consists of the Prudential Regulation Authority (PRA) and the Financial Conduct Authority (FCA) which assume the FSA's responsibilities.[781] The adopted Twin Peaks structure enables specialised oversight where the PRA focuses on the soundness of the banks, requiring them to hold sufficient capital, conduct regular testing and adhere to strict liquidity standards, thereby reducing the risk of insolvency, which causes bank failure.[782]

In addition, the FCA ensures fair conduct, transparency and protection of consumers, minimising unethical practices that could destabilise banks or erode public confidence in the banking sector.[783] The *FSMA* mandates reporting and disclosure requirements, providing regulators with critical data to detect emerging risks early.[784] The *FSMA* adequately provide for provisions that include prudential regulation, governance, and systems and controls which prevent and curb bank failures. These measures effectively

---

779 Part 1, section 1-7 of the *Financial Services and Markets Act* 2000 (the *FSMA*).

780 Part 1, sections 1 and 2 of the *FSRA*.

781 Part 1A, Chapter 1 to 3, sections 1A to 3T of the *FSRA*; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin Peaks approach to financial supervision seems superior.

782 Part 1A, Chapter 2, section 2A to 2E of the *FSRA* provides the establishment of PRA and the functions and duties of the PRA.

783 Part 1A, Chapter 1, section 1A to 1EB of the *FSRA* provides the FCA establishment and the general duties and objectives of the FCA.

784 Part VI, section 96A of the *FSRA*.

help curb bank failures by fostering a safer, more transparent banking environment that protects both consumers and the financial sector.

6.2.2 The Banking (Special Provisions) Act 2008

The UK's *Banking (Special Provisions) Act*, hereinafter the *BSP Act*, was enacted as an interim framework in response to the Northern Rock Crisis to provide the basis for dealing with failing banks.[785] The *BSP Act* provided that the Treasury licences banks in the UK.[786] Banks were referred to as institutions that were licensed to accept deposits in terms of Chapter 4 of the *Financial Services and Markets Act* 2000.[787] The Treasury was given discretionary powers concerning the transfer of securities issued by banks, or the transfer of property, rights and liabilities of the same.[788] Furthermore, the power of the Treasury to make an order under or concerning the transfer of securities and

---

785 Section 1(1) of the *BSP Act*; see also the preamble of the *Banking* (*Special Provisions*) *Act* 2008 which states that it is "An Act to make provision to enable the Treasury in certain circumstances to make an order relating to the transfer of securities issued by, or of property, rights or liabilities belonging to, an authorised deposit-taker; to make further provision in relation to building societies, and for connected purposes"; see also Chambers 2011 *Journal of Corporate Ownership and Control* 67; Penn and Measor 2009 *Law and Financial Markets Review* 37 highlight that the *BSPA 2008* was passed in order to nationalise Northern Rock, provide the Treasury with powers to facilitate an orderly resolution to maintain financial stability and protect the public interest, to effect the transfer of securities issued by, and property of, a failing bank; Chambers 2010 *The Law Teacher* 224.

786 As provided by the preamble read together with section 2 of the *BSP Act*; Chambers 2010 *Law Teacher* 224; Hsiao 2010 *Journal of International Banking Law and Regulation* 231 states that the bank in the Act is any UK institution falling under the FSMA 2000 with authorisation or exemption to carry on the regulated activities of accepting deposits.

787 See section 1 of the *BSP Act*; see also section 2(1) of the *Banking Act* 2009 which referred to a bank as a UK institution which has permission under Part 4 of the *Financial Services and Markets Act* 2000 to carry on the regulated activity of accepting deposits; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 76; see related in Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295.

788 See section 2(1)(a) and (b) of the *BSP Act* which states that "The Power of the Treasury to make an order under (a) section 3 (transfer of securities issued by an authorised UK deposit-taker), or (b) section 6 (transfer of property, rights and liabilities of an authorised UK deposit-taker)-Is exercisable in relation to an authorised UK deposit-taker if (and 0nly if) it appears to Treasury to be desirable to make the order for either or both of the following purposes:-

(a) Maintaining the UK financial system's stability in circumstances where the Treasury considered that there would be a serious threat to such stability if the order were not made; and

(b) Protecting the public interest in circumstances where financial assistance had been provided by the Treasury to the bank concerned for the purpose of maintaining the stability of the UK financial system; Chambers 2010 *The Law Teacher* 224.

transfer of property, rights and liabilities were subject to subsection 7 of the *Act*.[789] The *Banking Act* provides that before one of the stabilisation powers is exercised, the FSA, in consultation with the Treasury and the BoE, must be satisfied that the bank has failed or is likely to fail.[790]

The FSA and Treasury were accorded broad powers to deal with a failing bank or financial institution in the UK.[791] The Treasury could modify legislation such as the *Building Societies Act*, as it considered appropriate for or in connection with facilitating the provision of relevant financial assistance by the BoE. Furthermore, it can prescribe specific modifications to designated statutory provisions, applicable either universally or for particular purposes, to implement the provisions of the *Act*. These adjustments, termed 'consequential and supplementary provisions' serve to give practical effect to the legislative intent.[792] The legislative intent behind the *Banking Act* 2009 and its subsequent provisions was to enhance the stability and resilience of the UK banking sector, particularly in the aftermath of the 2008 global financial crisis. In addition, the *Banking Act* 2009 aimed to establish a stronger regulatory framework to prevent future bank failures and protect consumers.[793] The additional provisions address matters such as imposing a moratorium on legal proceedings, dissolving the failing bank or its

---

789 Section 2(7) of the *BSP Act* states that where an order has been made under section 3 or 6 in relation to any authorised UK deposit-taker, subsection (1) does not apply in relation to any subsequent exercise of the power to make an order under either of those sections in relation to deposit-taker; see related in Hsiao 2010 *Journal of International Banking Law and Regulation* 231; Chambers 2010 *The Law Teacher* 224.

790 Section 7 of *Banking Act* 2009; McKnight 2009 *Law and Financial Review* 327 states that the tripartite must be satisfied that the bank has failed or is likely to fail, to satisfy the threshold conditions for authorisation under section 41(1) of and Schedule 6 to *the Financial Services and Markets Act* 2000; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; Chambers 2010 *The Law Teacher* 224; Lastra 2008 *Journal of Regulation* 175.

791 Section 11 of the *BSP Act*; Penn and Measor 2009 *Law and Financial Markets Review* 35; Hsiao 2010 *Journal of International Banking Law and Regulation* 227; Lastra 2008 *Journal of Regulation* 175; McKnight 2009 *Law and Financial Review* 327.

792 Section 12 of the *BSP Act*; McKnight 2009 *Law and Financial Review* 327; Penn and Measor 2009 *Law and Financial Markets Review* 36; Hupkes 2002 *Current Development in Monetary and Financial Law* 4; Lastra 2008 *Journal of Regulation* 175.

793 Haentjens 2014 *International Insolvency Law Review* 270; McKnight 2009 *Law and Financial Markets Review* 326-328; Hupkes 2002 *Current Development in Monetary and Financial Law* 5; Lastra 2008 *Journal of Regulation* 174; Mora and Logan 2012 *Applied Economics* 1107.

subsidiary, exempting directors from liability and determining compensation payable by the Treasury to affected persons.[794]

6.2.3 The UK Banking Act 2009 and subsequent developments in the prevention of the causes of bank failures

After the global financial crisis of 2008, the UK refined its regulatory approach to bank supervision to prevent bank failures. The *Banking Act* 2009, building on the foundation laid by its predecessor, further strengthened the regulatory toolkit, providing a more robust banking legal framework to address bank failures.[795] The *Banking Act* 2009 consists of eight parts and the first three parts introduced the UK's Special Resolution Regime (SRR) for failing or failed banks, providing three stabilising options, a bank insolvency procedure and a bank administration procedure.[796] The remaining parts cover changes to the Financial Services Compensation Scheme arrangements,[797] formalisation of the BoE's role overseeing inter-bank payment systems,[798] banknotes of Scotland and Northern Ireland,[799] strengthening the role of BoE,[800] and other related provisions.[801] The purpose of the SRR for banks is to address the business of a bank,

---

794 Section 12(3)(a) to (d) of the *BSP Act*.

795 See sections 236 to 238 of the *Banking Act* 2009; Avgouleas 2009 *Capital Markets Law Journal* 229; Singh 2011 *Journal of Business Law* 4; Chambers 2011 *Journal of Corporate Ownership and Control* 68 states that the Act strengthens the UK's statutory framework for financial stability and depositor protection and extends the powers of the *BSP Act* which was enacted to allow the Treasury to rescue Northern Rock via nationalisation of the ailing bank; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; see related in Muradoglu 2010 *Qualitative Research in Financial Markets* 7 states that the UK has a well-developed financial markets and institutions that are international in nature; Chambers 2010 *The Law Teacher* 223 put it that the Act aimed to strengthen the UK's statutory framework for financial stability and depositor protection.

796 Sections 1(1) and 171(1) of the *Banking Act* 2009 provide that the purpose of the special resolution regime for banks is to address the situation where all or part of the business of a bank has encountered, or is likely to encounter financial difficulties; Avgouleas 2009 *Capital Markets Law Journal* 212-213; McKnight 2009 *Law and Financial Markets Review* 325; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295 states that in the UK, the *Banking Act* of 2009 created a Special Resolution Regime to ensure financial stability and to anticipate recourse by banks to the public purse.

797 Part 4, section 169-180 of the *Banking Act* 2009.

798 Part 5, Section 181-206B of the *Banking Act* 2009.

799 Part 6, section 207-227 of the *Banking Act* 2009.

800 Part 5A, section 206K-206N of the *Banking Act* 2009.

801 Part 7 and 8, 228-265 of the *Banking Act* 2009

where all or part of it has encountered or is likely to encounter financial difficulties.[802] Revision to the SRR within the *Banking Act* 2009 demonstrated a commitment to adapting to evolving challenges.[803]

The UK's SRR comprises three key components namely the stabilisation options, the bank insolvency procedure and the bank administration procedure.[804] The first stabilising option is a transfer by sale of the whole or part of a bank to a commercial purchaser through the arrangement of the BoE.[805] The second stabilising option is a transfer of the whole or part of a bank to a subsidiary of the BoE through the transfer of one or more property transfer instruments.[806] The last stabilisation option is the transfer of the share capital of a bank to a nominee of the Treasury or a company wholly owned by it through a statutory instrument by which the shares and other securities issued by the bank are transferred to a temporary public ownership.[807] The

---

802 Section 1(1) read together with section 4 of the *Banking Act* 2009; McKnight 2009 *Law and Financial Markets Review* 326; Avgouleas 2009 *Capital Markets Law Journal* 213; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295.

803 See Singh 2011 *Journal of Business Law* 5 who argued that the other reason for the amendment to the banking regulations was to try and deal with the failing bank as a business unit, thereby providing better value for the assets, which became one of the underlying functions of the *Banking Act* 2009 and to also ensure that depositors are paid quickly and efficiently; Chambers 2011 *Journal of Corporate Ownership and Control* 68 emphasises that the aim of the new legislation (Banking Act 2009) was not to prevent banks from failing but to allow them to fail in an organised manner that will not disrupt the industry or consumers as a whole; Avgouleas 2009 *Capital Markets Law Journal* 213; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295.

804 Section 1(2)(a) to (c) of the *Banking Act* 2009 provided elements of the SRR as the three stabilisation options contained in Part 1 of the Act, which were the transfer to a private purchaser, transfer to bridge bank and transfer to temporary public ownership. Part 2 of the SRR dealt with the bank insolvency procedure while Part 3 provided the bank administration procedures; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295 pointed out that the Act's SRR consists of three elements, the first of which was designed to stabilise failing SIFIs; Avgouleas 2009 *Capital Markets Law Journal* 203; McKnight 2009 *Law and Financial Markets Review* 326.

805 Section 11 of the *Banking Act*; McKnight 2009 *Law and Financial Markets Review* 327; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; Penn and Measor 2009 *Law and Financial Markets Review* 36; Chambers 2010 *The Law Teacher* 227.

806 Section 12 of the *Banking Act* 2009; Hsiao 2010 *Journal of International Banking Law and Regulation* 232; Penn and Measor 2009 *Law and Financial Markets Review* 36; McKnight 2009 *Law and Financial Markets Review* 327.

807 Section 13 of the *Banking Act* 2009; McKnight 2009 *Law and Financial Markets Review* 327; Hsiao 2010 *Journal of International Banking Law and Regulation* 232; Penn and Measor 2009 *Law and Financial Markets Review* 35.

Banking Act 2009 deals with banks experiencing financial problems by capturing the complex set of risks of banks in distress.[808] The *Banking Act* 2009 requires the prevention of financial sector collapse and depositors' confidence is maintained by ensuring the compensation of depositors as efficiently and quickly as possible.[809] The SRR provides new powers and tools, institutional structures and insolvency arrangements for banks, and was designed to produce a more orderly resolution of failing banks.[810] In addition, the SRR provided powers to the Treasury, BoE and the FSA to intervene before insolvency is reached. The SRR arrangements are designed to maintain the continuity of the failing banks for the benefit of customers and to facilitate (where necessary) a fast payout from the FSCS.[811]

These changes not only fortified the regulatory framework but also ensured alignment with international best practices, considering the increasingly interconnected nature of

---

808 Section 4(4) to (10) of the *Banking Act* 2009; Avgouleas 2009 *Capital Markets Law Journal* 212.

809 Section 4(4) to (8) of the *Banking Act* 2009 provide the five objectives of the special resolution regime which the authorities (provided by section 4(3) of the same Act, the Treasury, the FSA and the Bank of England) were obliged to have regard to, namely, to protect and enhance the stability of the financial system, to protect and enhance public confidence in the stability of the banking systems, to protect depositors, to protect public funds and to avoid interfering with property rights in contravention of a Convention right; Avgouleas 2009 *Capital Markets Law Journal* 228; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 231 reiterated that the special resolution regime could be exercised depending on the nature of the financial difficulties of the failing institution, aiming to stabilise the failing institution using operational mechanisms such as transfer of the assets to various entities accordingly.

810 Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 29; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Mayes and Wood 2009 *SUERF-The European Money and Finance Forum Vienna* 42 states that the SRR was able to handle an orderly closure before losses amount if no market solution can be found and a rapid transfer of the bank as a whole or its key operations into the authorities control without a break in business; Avgouleas 2009 *Capital Markets Law Journal* 203; Singh 2011 *Journal of Business Law* 11 highlighted that the powers of FSA are wide and varied, and the powers associated with early intervention should be viewed as a sub-set of the normal powers of supervision, investigation and enforcement.

811 Section 1 (5) read together with section 4 (3) of the *Banking Act* 2009; Singh 2011 *Journal of Business Law* 9-10; see related in Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295 Avgouleas 2009 *Capital Markets Law Journal* 228.

global financial markets.[812] The UK's regulatory framework is also shaped by international cooperation and adherence to global standards.[813] Initiatives such as the Basel Accords have played a pivotal role in influencing the UK's banking regulatory approach, emphasising the importance of harmonised standards to promote financial stability on a global scale.[814]

Regardless of all the efforts to mitigate the financial stability crisis and have a stable financial sector, the UK's financial landscape remained weak under the tripartite regulatory structure.[815] The UK then moved to the new regulatory model, the twin peaks model, which separates the responsibilities of financial regulators between two key authorities to address weaknesses in the previous regulatory structure.[816] The FSA, the Treasury and the BoE had allowed systemic risks and misconduct to go unchecked, contributing to major financial institution's failures in the UK.[817] The researcher submits that the *Banking Act* 2009 as amended, is comprehensive and effective in providing for and mitigating the causes of bank failures in the UK due to its established robust framework for early intervention, resolution and oversight. In addition, it sufficiently provides for a strong regulatory framework to deal with failing banks including

---

812 See section 5 read with sections 76 and 77 of the *Banking Act* 2009; furthermore, the *Banking Act* 2009 provided the Treasury with a Code of Practice regarding the stabilisation of powers, the bank insolvency procedures, and the administration procedures that guided how the special resolution objectives were to be achieved and provided the different resolution options to deal with distressed banks.

813 Section 76(1) of the *Banking Act* 2009 provided that as an international obligation, the Bank of England may not exercise a stabilisation power in respect of a bank if the Treasury notified the Bank that the exercise would likely to contravene an international obligation of the United Kingdom. It is clear that the UK banking framework is shaped by international cooperation and adherence to global standards; Avgouleas 2009 *Capital Markets Law Journal* 210.

814 Mora and Logan 2012 *Applied Economics* 1106; Evemy 2019 *British Politics* 349; Avgouleas 2009 *Capital Markets Law Journal* 210-211; Haentjens 2014 *International Insolvency Law Review* 261.

815 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 293.

816 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 293 states that a subsequent audit by the FSA makes clear the failure of that body to implement the regulatory Advanced Risk-Responsive Operating Framework regime then in place; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343.

817 Lui 2011 *Liverpool John Moores University* 4; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343; Hall 2009 *Journal of Financial Regulation and Compliance* 433; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292.

empowering regulators, resolution tools and prudential regulations, and it aligns with international standards, demonstrating a strong, proactive approach to preventing systemic risks.

6.3 Causes of Bank Failures in the UK

The causes of bank failures in the UK can be attributed to a mix of external economic shocks, poor risk management and regulatory failures.[818] The failure of banks such as the Bank of Credit and Commerce International (BCCI), Barings Bank, Northern Rock Bank, the Halifax and Bank of Scotland (HBOS) and RBS could be attributed to excessive risk-taking and overreliance on short-term funding.[819] These banks, like many others, engaged in aggressive lending practices, particularly in the housing market and heavily relied on securitisation, which exposed them when the housing bubble burst.

External economic shocks can lead to bank failures by disrupting financial stability, triggering liquidity shortages and undermining the value of assets on which banks rely.[820] In the UK, external economic shocks have played a role in causing bank failures, notably the recession in 1991 and the global financial crises of 2007 to 2008.[821] External shocks can cause a sudden economic decline, leading to events such as

---

818 Mora and Logan 2012 *Applied Economics* 1113; Kanas 2005 *Journal of Applied Economics* 104; Schooner and Taylor 1999 *Michigan Journal of International Law* 637; Goodhart 2008 *Journal of Financial Stability* 352.

819 Mugarura and Namanya 2020 *Journal of Money Laundering Control* 342; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292; Chambers 2010 *The Law Teacher* 223; Kanas 2005 *Journal of Applied Economics* 107.

820 Mora and Logan 2012 *Applied Economics* 1113; Kanas 2005 *Journal of Applied Economics* 104; Schooner and Taylor 1999 *Michigan Journal of International Law* 637; Goodhart 2008 *Journal of Financial Stability* 352; Brown 2005 *Human Relations* 1583; Shabir M, Jiang P, Shahab Y, Wang W, Isik O and Mehroush I "Diversification and Bank Stability: Role of Political Instability and Climate Risk" 2024 *International Review of Economics and Finance* 63, 65.

821 Mugarura and Namanya 2020 *Journal of Money Laundering Control* 342 state that a well-supervised bank can also fail not necessarily because of inherent weaknesses within the banking supervision, but it could fail because of extraneous factors beyond the control of individual banks; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 285; Hall MJB "The Sub-prime Crisis, the Credit Crunch and Bank "Failure" An Assessment of the UK Authorities' Response" 2009 *Journal of Financial Regulation and Compliance* 427, 429.

financial market crushes, geopolitical instability or commodity price fluctuations. In the UK banks, exposure to these events can lead to rapid devaluation of assets like mortgage-backed securities or real estate portfolios as seen in the 2008 crisis. In the 2008 global financial crisis, UK banks that were deeply invested in securitised products were negatively impacted or had widespread losses due to the collapse of the United States subprime mortgage market.[822]

Additionally, external economic shocks can cause sudden drops in consumer and foreign investor confidence, leading to bank runs or a freeze in interbank lending.[823] When liquidity dries up, banks that rely on short-term funding face immediate cash flow problems, as experienced by Northern Rock, which collapsed due to its inability to secure funding during the global liquidity crunch.[824] External shocks can expose structural weaknesses within banks, such as over-leverage or reliance on risk assets. In that regard, the UK's open, globally connected financial sector makes it vulnerable to external shocks and when these shocks hit, they can cause ripple effects throughout the banking sector, causing banks to fail.

Poor corporate governance can lead to bank failure by creating an environment where excessive risk-taking, inadequate oversight and misaligned incentives exist.[825] One of the ways poor corporate governance exists is through poor risk management. A bank's

---

822 Mugarura and Namanya 2020 *Journal of Money Laundering Control* 342; Kanas 2005 *Journal of Applied Economics* 103; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292; Chambers 2010 *The Law Teacher* 225.

823 Shabir *et al* 2024 *International Review of Economics and Finance* 65; Kanas 2005 *Journal of Applied Economics* 120; Schooner and Taylor 1999 *Michigan Journal of International Law* 637; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292; Goodhart 2008 *Journal of Financial Stability* 352; Brown 2005 *Human Relations* 1583.

824 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292; Avgouleas 2009 *Capital Markets Law Journal* 208 concur that something more serious happened directly linked to the inadequacies of the risk-based regulation that led to the collapse of Northern Rock.

825 Kudanga D, Mthombeni A, Chinongwa E, Singende M, Tshuma E and Tembo EB "The Role of Technology in Evidence Gathering for Cases of Fraud: Case of Bulawayo Central Business District, Zimbabwe" 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 21, 23; Chambers 2010 *The Law Teacher* 231; Proctor 1997 *Brooklyn Journal of International Law* 751; Lui 2011 *Liverpool John Moores University* 7; Avgouleas 2009 *Capital Markets Law Journal* 208.

board of directors and executives may prioritise short-term profits over long-term stability by engaging in risk practices such as aggressive lending, over-reliance on wholesale funding or exposure to speculative markets. Without a robust governance structure, these risks may go unchecked and cause the bank to fail. In addition, weak corporate governance often results in poor internal controls, making it difficult to detect and mitigate emerging threats to the bank, which may lead it to collapse.[826] Furthermore, poor corporate governance can create conflicts of interest, where executives act in their own interest rather than the shareholders' or the bank's long-term stability. This misalignment coupled with poor regulatory oversight could allow problems to escalate until the bank faces insolvency or require government intervention or collapses.

Ineffective oversight by regulatory bodies, such as the FSA, also played a critical role in causing bank failures in the UK.[827] The banking regulatory framework for banks in the UK has tougher minimum liquidity and funding requirements aimed at reducing banks' exposure to an outflow of wholesale financing. For this to be achieved, there should be an effective banking supervisory framework. Supervision of banks entails the oversight by the regulator to ensure that banks adhere to the rules and regulations. On the one hand, the BoE is responsible for macro-prudential regulation. Macro-prudential regulation focuses on the stability of the entire financial sector. On the other hand, the FSA is primarily responsible for micro-prudential regulation, which focuses on the supervision of individual organisations and the implementation of rules. Ineffective oversight could lead to problems such as poor risk management, regulation

826 Lui 2011 *Liverpool John Moores University* 7; Kudanga *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 28; Proctor 1997 *Brooklyn Journal of International Law* 751.

827 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 293 states that a subsequent audit by the FSA makes clear the failure of that body to implement the regulatory Advanced Risk-Responsive Operating Framework regime then in place; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343.

and supervision, as well as high leverage, and insufficient liquidity and capital within banks.

Financial regulatory failures and the lack of robust resolution mechanisms to prevent bank failures in the UK also played a significant role in causing bank failures.[828] Financial regulation refers to the rules which govern the behaviour of banks. Financial regulatory failures occur when oversight bodies lack the capacity, authority or willingness to enforce regulations effectively, allowing banks to engage in risky behaviour without adequate safeguards.[829] This can result from outdated regulations, insufficient monitoring or regulatory capture, where regulators are unduly influenced by the prominent individuals or institutions they are meant to oversee.

Fraud has been identified as another cause of bank failures in the UK.[830] Fraud involves deliberate deception by bank officials including falsifying financial statements, embezzling funds and/or engaging in illegal transactions.[831] A bank with lax regulatory enforcement can allow fraud to occur undetected, leading to significant financial losses, eroding public trust and triggering bank runs or insolvencies. Fraud creates a toxic environment where the risk of bank collapse is significantly heightened, leading to widespread economic disruption.[832]

---

828 Brown 2005 *Human Relations* 1593; Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 278; Lui 2011 *Liverpool John Moores University* 7; Petitjean 2013 *Journal of Financial Regulation and Compliance* 35 contend that regulatory strategy must focus on both lowering the probability of bank failures and limit their costs when they occur.

829 Lastra 2008 *Journal of Banking Regulations* 168; Brown 2005 *Human Relations* 1586; Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 283; Lui 2011 *Liverpool John Moores University* 6; Petitjean 2013 *Journal of Financial Regulation and Compliance* 28.

830 Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 286; Kanas 2005 *Journal of Applied Economics* 102 noted that BCCI's failure was due to massive fraud; Brown 2005 *Human Relations* 1592; Hall 2009 *Journal of Financial Regulation and Compliance* 435.

831 Kudanga *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 36.

832 McKnight 2009 *Law and Financial Markets Review* 329; Brown 2005 *Human Relations* 1592; Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 286; Hall 2009 *Journal of Financial Regulation and Compliance* 435; Kudanga *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 23; Petitjean 2013 *Journal of Financial Regulation and Compliance* 26.

Liquidity mismanagement and the failure to maintain adequate capital buffers are also systemic weaknesses that cause bank failures.[833] Chambers avers that a flawed set of prudential rules for capital and liquidity permitted banks to hold insufficient reserves, which was inadequate to prevent many banks from failing or turning to the government for assistance.[834] Bank failures are often caused by a flawed business model and inadequate deposit insurance coverage within the financial sector. This exposes banks to shocks due to insufficient capital buffers to sustain themselves in times of crisis. Therefore, it is crucial to have adequate liquidity regulation to avoid liquidity mismanagement that can lead to bank failures.

6.4 Examples of Bank Failures in the UK

6.4.1 The Failure of Bank of Credit and Commerce International (BCCI)

The UK experienced a significant high-profile case of bank failure in 1991: the collapse of BCCI. The collapse of the BCCI was due to the lack of effective supervision and monitoring by the BoE.[835] BCCI's failure was caused by weaknesses in the banking regulatory framework which let BCCI engage in illegal activities, falsifying financial records and concealing losses.[836] The BCCI also failed due to fraud that included falsification of accounting records, fraudulent use of funds, disguised unlawful lending

---

833 Avgouleas 2009 *Capital Markets Law Journal* 209; McKnight 2009 *Law and Financial Markets Review* 329; Mora and Logan 2012 *Applied Economics* 1105; Lastra 2008 *Journal of Banking Regulations* 169; Han *et al* 2014 *International Small Business Journal* 63.

834 McKnight 2009 *Law and Financial Markets Review* 329; Lastra 2008 *Journal of Banking Regulations* 169; Mora and Logan 2012 *Applied Economics* 1104; Chambers 2010 *The Law Teacher* 225; Lui 2011 *Liverpool John Moores* University 4.

835 Chambers 2010 *The Law Teacher* 223; Herring RJ "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" in Evanoff DD and Kaufman GG *Systemic Financial Crises: Resolving Large Bank Insolvencies* (World Scientific 2005) 321, 328; Kanas 2005 *Journal of Applied Economics* 119-120; Schooner and Taylor 1999 *Michigan Journal of International Law* 637; Goodhart 2008 *Journal of Financial Stability* 352; Brown 2005 *Human Relations* 1583.

836 Mugarura and Namanya 2020 *Journal of Money Laundering Control* 344; Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" 325; Brown 2005 *Human Relations* 1583; Kanas 2005 *Journal of Applied Economics* 107 highlights that the Bank of England was aware that significant accounting transactions of BCCI may have been either false or deceitful.

and collusion with third-party banks to make loans to BCCI customers.[837] The failure or collapse of a bank, especially a large bank that is regarded as systemically important to the stability of the economy, can undermine public confidence in the banking sector. Thus, when a major bank collapses, it may trigger a domino effect, leading to a loss of trust among depositors, triggering panic withdrawals and potentially causing bank runs. The erosion of trust in banks can spread to other banks, especially those perceived as vulnerable, thereby disrupting credit availability, increasing borrowing costs and reducing bank liquidity. When a systemic bank is distressed, as mitigation, the government and bank regulators should intervene with measures like deposit insurance, bailouts or regulatory reforms to restore stability and reassure the public of the safety of their deposits.

6.4.2 The Failure of Barings Bank

Barings Bank was placed under the supervision of the BoE for over a hundred years, and it collapsed in 1995.[838] Barings Bank failed due to serious management inadequacies that existed at all management levels and the lack of inquisitiveness.[839] Barings Bank also failed due to fraud, and internal and external weaknesses in bank oversight.[840]

---

837 Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" 327; Chambers 2010 *The Law Teacher* 223; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343; Kanas 2005 *Journal of Applied Economics* 102; Schooner and Taylor 1999 *Michigan Journal of International Law* 637; Brown 2005 *Human Relations* 1583.

838 Kanas 2005 *Journal of Applied Economics* 103; Chambers 2010 *The Law Teacher* 223; Drummond H "Living in a Fool's Paradise: The Collapse of Barings' Bank" 2002 *Management Decision* 232, 234; Schooner and Taylor 1999 *Michigan Journal of International Law* 639 provided a historical overview of Barings Bank, a bank that had its members of the family serve as the board of directors and had provided a Governor of the Bank; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343; Proctor L "The Barings Collapse: A Regulatory Failure or a Failure of Supervision" 1997 *Brooklyn Journal of International Law* 735, 762..

839 Chambers 2010 *The Law Teacher* 223; Schooner and Taylor 1999 *Michigan Journal of International Law* 637; Proctor 1997 *Brooklyn Journal of International Law* 763; Drummond 2002 *Management Decision* 236; Brown 2005 *Human Relations* 1587.

840 Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" 335; Brown 2005 *Human Relations* 1587; Proctor 1997 *Brooklyn Journal of International Law* 762; Chambers 2010 *The Law Teacher* 223.

Fraud is an insidious cause of bank failures because it may evade detection for long periods and cause an institution to become insolvent before the insolvency is recognised or detected.[841] Barings Bank had a transparent structure but still, the BoE permitted the fraud to continue longer than it otherwise might have done, showing a lack of effective oversight from the BoE.[842] The Board of Banking Supervision concluded that there was a near-total failure of risk-management systems and controls as well as confusion within the management group of the Barings Banks.[843] The collapse of BCCI and Baring Bank led to the BoE losing its supervisory role and this power was transferred to the FSA in 1998.[844]

In 1997, the government introduced a new system of financial regulation in the UK with the creation of the FSA.[845] The financial regulation reform stripped the supervisory powers and responsibilities of the BoE and consolidated nine different supervisory bodies into a single FSA. Hence the FSA gained bank supervision powers and

---

841 Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" 341; Proctor 1997 *Brooklyn Journal of International Law* 762; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343.

842 Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" 337; Brown 2005 *Human Relations* 1583; Schooner and Taylor 1999 *Michigan Journal of International Law* 639 states that the Bank of England was found to be lacking inquisitiveness and permitted a situation in which some very large intra-group exposures- the funding for margin calls by the Singapore Monetary Exchange were not reported; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343 argue that any laxity in banking supervision should be identified sooner rather than later before they become multi-layered.

843 Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" 338; Schooner and Taylor 1999 *Michigan Journal of International Law* 639 contends that the Bank of England failed to identify serious management inadequacies that existed at all levels at Barings Bank; Protor 1997 *Brooklyn Journal of International Law* 752 states that the most obvious failure contributing to the Barings collapse was the managerial failure on the part of Barings itself; Kanas 2005 *Journal of Applied Economics* 103.

844 Part 3 section 21 of the *Bank of England Act* 1998; Chambers 2010 *The Law Teacher* 223; Lastra 2008 *Journal of Banking Regulation* 174-175; Schooner and Taylor 1999 *Michigan Journal of International Law* 646 states that, in the interim, the Bank of England's powers to regulate banks have already been transferred to the FSA by virtue of the amendments made to the *Banking Act* 1987 by the *Bank of England Act* 1998; Evemy 2019 *British Politics* 3.

845 See related comments in Goodhart 2008 *Journal of Financial Stability* 353; the Financial Stability and Depositor Protection: *Strengthening the Framework* dated January 2008 5 available at https://assets.publishing.service.gov.uk/media/5a7cd2e8e5274a2c9a484550/7308.pdf accessed 20 March 2024; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343.

responsibilities for maintaining financial stability and allowing the BoE to focus on monetary policy and money market operations. Therefore, the BoE was left with limited powers to deal with failing banks and entirely dependent on the FSA to mitigate the causes of bank failures.

6.4.3 The Failure of Northern Rock Bank

The Northern Rock crisis between 2007 and 2008 was a watershed moment that marked the UK's banking regulatory landscape and the response towards bank failures.[846] The failure of Northern Rock led to a temporary regulatory reform measure which saw the enactment of the *Banking (Special Provisions) Act* to allow the transfer of failed banking institutions' assets, liabilities capital and business to the Bank of England, the Treasury or a commercial entity.[847] Northern Rock, a British bank heavily reliant on short-term wholesale funding, faced a severe liquidity crisis as a result of

---

[846] Hamalainen 2009 *SUERF-The European Money and Finance Forum Vienna* 53; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292; see also Singh 2011 *Journal of Business Law* 4; Chambers 2010 *Law Teacher* 220; Lastra 2008 *Journal of Banking Regulations* 166; Chambers 2011 *Journal of Corporate Ownership and Control* 68; see also comment by Penn and Measor 2009 *Law and Financial Markets Review* 34 places an emphasis on the lack of permanent statutory regime for dealing with failing banks in the UK, and that particular concern was raised by the Northern Rock failure; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 342; Avgouleas 2009 *Capital Markets Law Journal* 201 contends that the credit crunch of the Northern Rock in 2007 and its failure triggered a depositors' run, providing strong and clear signals that the UK system of banking supervision presented serious cracks.

[847] McKnight 2009 *Law and Financial Markets Review* 326; Section 1(1) of the *Banking* (*Special Provisions*) *Act* 2008 (*BSP Act*); see also the preamble of the *Banking* (*Special Provisions*) *Act* 2008 which states that it is "An Act to make provision to enable the Treasury in certain circumstances to make an order relating to the transfer of securities issued by, or of property, rights or liabilities belonging to, an authorised deposit-taker; to make further provision about building societies, and for connected purposes"; see also Chambers 2011 *Journal of Corporate Ownership and Control* 67; Penn and Measor 2009 *Law and Financial Markets Review* 37 highlight that the *BSPA 2008* was passed to nationalise Northern Rock, provide the Treasury with powers to facilitate an orderly resolution to maintain financial stability and protect the public interest, to effect the transfer of securities issued by, and property of, a failing bank; Chambers 2010 *The Law Teacher* 224

the global financial turmoil triggered by the collapse of the subprime mortgage market in the United States.[848]

The key features of the Northern Rock crisis that made the case study more relevant to this chapter are the causes of bank failures and the response by the UK government and banking regulators in dealing with bank failures. Northern Rock's failure was due to, *inter alia*, regulatory weaknesses in the UK banking regulatory framework.[849] The FSA failed to adequately implement controls regarding capital, liquidity and stress testing for Northern Rock. In 2007, the Northern Rock breached its capital position, prompting the FSA to take action to address the issue. However, there are no records of the meeting between the FSA and the Northern Rock representatives on the reasons for the breach.[850] It is evident that there were regulatory weaknesses within the UK banking sector. Furthermore, the lack of rigour and internal controls may have affected the performance of the FSA, leading to a failure to conduct a required stress test frequently and a failure to complete regulatory returns to allow the banking supervisor to monitor capital adequacy.[851]

The Northern Rock failed due to weak corporate governance. The bank experienced poor financial ratios between 2003 and 2009, with the highest loan to deposit ratio, a

---

848 Chambers 2010 *Law Teacher* 219 highlights that the trouble came when sub-prime mortgage market lending giants faltered and some failed, leaving devastating events in the US with ripple effects to the rest of the world. This affected Northern Rock, causing a bank run, which was the catalyst for the banking crisis in the UK; see a detailed history of the Northern Rock Bank run in Lastra 2008 *Journal of Bank Regulations* 166; Llewellyn DT "The Northern Rock Crisis: A Multi-Dimensional Problem" 2009 *SUERF-The European Money and Finance Forum Vienna* 13, 14; Mayes DG and Wood G "The Northern Rock Crisis in the UK" 2009 *SUERF-The European Money and Finance Forum Vienna* 35; 42; Hall 2009 *Journal of Financial Regulation and Compliance* 445.

849 Lui 2011 *Liverpool John Moores University* 4; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343; Hall 2009 *Journal of Financial Regulation and Compliance* 433; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292.

850 Lui 2011 *Liverpool John Moores University* 4; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 342; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 290.

851 Mora and Logan 2012 *Applied Economics* 1106; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 293.

poor capital ratio and negative profitability.[852] The poor financial ratios reflect weak corporate governance at the bank and inadequate supervision by the FSA as the financial institution supervisor. In addition, the FSA failed to update the internal risk database, had no risk mitigation plan, had insufficient engagement and had long gaps between close and continuous meetings with Northern Rock.[853] Perhaps the FSA failed to adequately supervise Northern Rock by allowing its unconventional business model, and the adoption of ambitious policy which then experienced a steep decline in shares in 2007. For that reason, the researcher believes that the FSA did not provide adequate supervision and allocate enough resources to monitor Northern Rock in order to mitigate liquidity risks.

---

852 Lastra 2008 *Journal of Bank Regulations* 166; Hall 2009 *Journal of Financial Regulation and Compliance* 433; Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 14 provides a detailed history of the Northern Rock. He provided that the Northern Rock (a previous mutual building society) converted to bank status in 1997, stripped of the previous constraints on its business powers under the *Building Societies Act*, and acquired legal powers to conduct the full range of banking business. Northern Rock opted to remain predominantly on the residential mortgage market and adopted a securitisation and funding strategy which was increasingly based on secured wholesale money (by issuing mortgage-backed securities) and other capital markets funding. At its peak, Northern Rock had assets of over a hundred billion Euros and a growth rate of about 20 percent for over a decade. Northern Rock was the seventh largest UK mortgage lender in the first half of 2007 and its new mortgage lending accounted for around one-quarter of the total mortgage lending in the UK. The pace of mortgage lending substantially exceeded the growth of retail deposits with the funding gap met through securitisation and other wholesale market funding. Followed by two problems which emerged in the summer month of 2007, which were a generalised lack of confidence in a particular asset class associated with developments in sub-prime mortgage markets in the United States and doubts emerged about the viability of the Northern Rock business model; Mayes and Wood 2009 *SUERF-The European Money and Finance Forum Vienna* 42; Lui 2011 *Liverpool John Moores University* 3.

853 Lui 2011 *Liverpool John Moores University* 5; Avgouleas 2009 *Capital Markets Law Journal* 209; Hall 2009 *Journal of Financial Regulation and Compliance* 442; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 293.

The Northern Rock crisis marked a significant turning point in the UK's approach to dealing with bank failures.[854] The crisis, characterised by a bank run and the subsequent nationalisation of Northern Rock, exposed vulnerabilities in the financial sector and underscored the need for a more specialised regulatory response to bank failures.[855] The crisis served as a catalyst for re-evaluation and legislative review. The Northern Rock crisis revealed the need for structural reform for resolution arrangements of failed banks, deposit protection arrangements, a prompt corrective action regime, crisis arrangements regime and insolvency arrangements for failed banks.[856] In direct response to the lessons learned from the Northern Rock crisis, the

---

854 Goodhart 2008 *Journal of Financial Stability* 354; Lastra 2008 *Journal of Bank Regulations* 166; Mayes and Wood 2009 *SUERF-The European Money and Finance Forum Vienna* 36 states that the lessons from Northern Rock experiences are vital for other countries to consider and act on them in strengthening their supervisory and safety net in case they experience similar adverse shocks; Hamalainen 2009 *SUERF-The European Money and Finance Forum Vienna* 53; see also Muradoglu YG "The Banking and Financial Crisis in the UK: What is Real and What is Behavioural? " 2010 *Qualitative Research in Financial Markets* 6, 7; Hall 2009 *Journal of Financial Regulation and Compliance* 439.

855 Chambers 2010 *Law Teacher* 220; Lastra 2008 *Journal of Bank Regulations* 167 states that parallel to the actions specific to Northern Rock, the authorities embarked on a programme of legislative reform, with a major overhaul of the banking law in the UK; Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 15 describes the starting of the problem in Northern Rock when it was forced to seek substantial assistance from the Bank of England even after the regulatory authorities had given assurances that the bank was solvent, and the announced sparked a run on the government moved to offer a guarantee to all deposits. The government intervention was unique as it was not to be restricted to the normal limit of the Financial Services Compensation Scheme, which marked the Northern Rock crisis as a major case study in the origin and management of bank failures in the UK. The crisis revealed several issues which include poor corporate governance, poor institutional structure of financial regulation and supervision, weaknesses in the management of low-probability-high impact risks and poor structure in the then-current model of supervision and the separation of powers.

856 Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 17; Hamalainen 2009 *SUERF-The European Money and Finance Forum Vienna* 56 highlights that before the Northern Rock crisis, the UK regulatory authorities' approach was one of constructive ambiguity, which one cannot rely on being bailed out regardless of the size of the institution. The UK banking regulatory regime had weaknesses which were revealed by the Northern Rock crisis, and this triggered an overhaul to the banking regulatory regime, adopting a special resolution regime and new powers conferred to the FSA while government involvement increased; Mugarura and Namanya 2020 *Journal of Money Laundering Control* 343; Eisenbeis RA and Kaufman GG "Lessons from the Demise of the UK's Northern Rock and the U.S.'s Countrywide and IndyMac" 2009 *SUERF-The European Money and Finance Forum Vienna* 73, 76.

UK government and legislature enacted the *Banking (Special Provisions) Act* 2008.[857] This legislation granted expanded powers to the FSA, the Treasury and the BoE, empowering them to intervene and manage failing banks more effectively.

The Northern Rock crisis led to a liquidity run, government intervention, and nationalisation, and was the catalyst for change to the UK's financial sector regulatory framework.[858] The Northern Rock crisis had profound implications for the UK's financial legal framework and provided a fundamental shift in the approach to dealing with bank failures. The bank's reliance on short-term financing aggravated the situation, leading to a severe liquidity squeeze.[859]

The Northern Rock crisis and its causes were the lack of an established bankruptcy regime and the lack of a well-established or predictable resolution for handling troubled

---

857 Section 1(1) of the *BSP Act*; see also the preamble of the *Banking* (*Special Provisions*) *Act* 2008 which states that it is "An Act to make provision to enable the Treasury in certain circumstances to make an order relating to the transfer of securities issued by, or of property, rights or liabilities belonging to, an authorised deposit-taker; to make further provision in relation to building societies, and for connected purposes"; see also Chambers 2011 *Journal of Corporate Ownership and Control* 67; Penn and Measor 2009 *Law and Financial Markets Review* 37 highlight that the *BSPA 2008* was passed in order to nationalise Northern Rock, provide the Treasury with powers to facilitate an orderly resolution to maintain financial stability and protect the public interest, to effect the transfer of securities issued by, and property of, a failing bank; Chambers 2010 *The Law Teacher* 224Lastra 2008 *Journal of Bank Regulations* 167; Muradoglu 2010 *Qualitative Research in Financial Markets* 10.

858 Lastra 2008 *Journal of Bank Regulations* 166; Penn and Measor 2009 *Law and Financial Markets Review* 37; Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 22 assent that the government intervened in an *ad hoc* manner by guaranteeing all deposits held at Northern Rock (and, by implication, all banks in similar circumstances) which was contrary to the well-established deposit protection scheme. This gives significance to the Northern Rock crisis as it relates to the regulation and supervision of banks in the interests of financial stability and the protection of depositors; see Muradoglu 2010 *Qualitative Research in Financial Markets* 11 who contends that the current regulatory landscape has its roots in the US framework designed more than 70 years ago in response to the 1929 crisis and the regulation is lagging behind the latest innovation. It was further pointed out that new regulations are being introduced to address some of the issues; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292.

859 Lastra 2008 *Journal of Bank Regulations* 166 states that Northern Rock was offered all sorts of assistance, including offer of guarantees, emergency liquidity assistance, guarantee of all deposits and eventually nationalisation and that sometimes is a distortion of competition; Goodhart 2008 *Journal of Financial Stability* 355.

banks.[860] The UK's banking regulatory framework lacked an institutional structure of supervision that separated responsibility for systemic stability and lender of last resort. The FSA, the Treasury and the BoE signed a memorandum of understanding (MOU) to formalise the set of arrangements and procedures for handling failing banks. The tripartite agreement was based on five main principles which include that there was to be a clear division of responsibilities, appropriate accountability, avoidance of duplication of responsibilities, exchange of information and mechanism for crisis management.[861]

To mitigate the Northern Rock crisis, the UK government made a historic move and intervened to guarantee all deposits held by Northern Rock, aiming to prevent a complete collapse of the bank.[862] This marked an unprecedented level of government involvement in the financial sector. The UK government issued a comprehensive consultation proposal, which involved the BoE and the FSA in a special document titled: HM Treasury Financial Stability and Depositor Protection: Strengthening the

---

860 Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 23 provides that the central issues from the Northern Rock crisis was of the inadequacy of supervisory arrangements and crisis management, which include, the institutionary structure of agencies and their responsibilities as between the Treasury, FSA and BoE, the actual conduct of supervision and the effectiveness and efficiency of crisis management. In addition, the UK structural flaws which include the deposit protection scheme, which was flawed, no special insolvency arrangements, no clearly defined *ex-ante* resolution procedures and institutional structure between the Tripartite regime proved to be uncertain in times of crisis; Lastra 2008 *Journal of Banking Regulation* 174; Avgouleas 2009 *Capital Markets Law Journal* 202 observes that the Northern Rock failure was followed by political recriminations, severe criticism of FSA's style of supervision and the Bank's handling of the crisis.

861 Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 24; see related in Hamalainen 2009 *SUERF-The European Money and Finance Forum Vienna* 57; Goodhart 2008 *Journal of Financial Stability* 355; Avgouleas 2009 *Capital Markets Law Journal* 212; Lastra 2008 *Journal of Banking Regulation* 174.

862 Goodhart 2008 *Journal of Financial Stability* 354; Chambers 2010 *Law Teacher* 221; Lastra 2008 *Journal of Bank Regulation* 166, as mentioned above, the government was granted with temporary powers over Northern Rock until new legislation is promulgated. The Treasury acquired all the shares in Northern Rock, including its preference shares, and all share options and other entitlements to shares issued by the company; see also Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 26.

Framework and SRR.[863] The consultation document for strengthening the framework aimed to address some key objectives summarised below:

(a) Strengthening the financial sector.

To strengthen its stability and resilience, the UK strengthened risk management by banks by enhancing better stress testing and liquidity management as well as improving the functioning of securitisation markets.[864]

(b) Reducing the likelihood of banks failing.

To minimise the potential impact on financial stability, the UK introduced the special resolution regime, within which there was a range of tools to resolve a failing bank in a more orderly manner and ensure that banks have in place practical arrangements to lessen the impact of their failure, should it occur.[865]

(c) Strengthening the BoE and improving coordination between authorities.[866]

The UK tripartite (the government, the FSA and the BoE) had to change the arrangements to work in practice by enforcing a statutory basis for the responsibility for maintaining financial stability. The reformed banking framework had to improve the coordination between authorities in the tripartite

---

863 HM Treasury Financial Stability and Depositor Protection: strengthening the framework presented to parliament by the Chancellor of the Exchequer 2008, available at https://assets.publishing.service.gov.uk accessed 04 January 2024; see Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 28; Lastra 2008 *Journal of Banking Regulation* 174; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Avgouleas 2009 *Capital Markets Law Journal* 212.

864 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Chambers 2010 *The Law Teacher* 223; Lastra 2008 *Journal of Bank Regulations* 168; Hupkes 2002 *Current Development in Monetary and Financial Law* 25.

865 Lastra 2008 *Journal of Bank Regulations* 168; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Hupkes 2002 *Current Development in Monetary and Financial Law* 25; Chambers 2010 *The Law Teacher* 223.

866 Hupkes 2002 *Current Development in Monetary and Financial Law* 25; Lastra 2008 *Journal of Bank Regulations* 168; Chambers 2010 *The Law Teacher* 223; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295.

arrangement and between national, supra-national and international authorities.[867]

The historical trajectory of the UK's banking regulatory framework dealing with bank failures reflects a journey marked by responsiveness to crises, legislative enhancements, and alignment with international standards. From general insolvency procedures to specialised legislation in response to the Northern Rock crisis, the UK has continuously developed its banking regulatory framework to mitigate the causes of bank failures. In addition, the Northern Rock crisis exposed the deficiencies of the UK banking laws in dealing with distressed banks and preventing the causes of bank failures.

6.4.4 The Failure of HBOS

HBOS was formed in 2001 and failed in 2008.[868] HBOS experienced liquidity problems during the 2007 and 2008 financial crises. The bank failed, among other factors, due to weak corporate governance, lack of a culture that appropriately balanced risk and return and insufficient banking experience and knowledge.[869] In addition, HBOS failed due to poor enforcement of relevant banking laws and regulations. The poor enforcement of relevant banking laws and regulations could be attributed to the FSA neglecting its statutory duties to supervise HBOS and failing to act appropriately on

---

867 Chambers 2010 *The Law Teacher* 223; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Hupkes 2002 *Current Development in Monetary and Financial Law* 22; Lastra 2008 *Journal of Bank Regulations* 168.

868 The failures of HBOS plc (BHOS) A Report by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) at https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/hbos-summary-and-recommendations.pdf accessed 25 August 2024; Lui 2011 *Liverpool John Moores University* 6.

869 Lui 2011 *Liverpool John Moores University* 7; The failures of HBOS plc (BHOS) A Report by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) at https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/hbos-summary-and-recommendations.pdf accessed 25 August 2024.

the warning signs.[870] The FSA had limited resources and could only conduct a limited risk review in each division. The FSA failed to maintain market confidence, protect retail consumers, fight financial crimes and ensure proper consumer education.

6.5 Adopted Measures and Mechanisms to Curb Bank Failures in the UK

The UK has implemented several measures and mechanisms to curb bank failures, focusing on enhanced regulation, risk management and protection of depositors. These measures include the adoption of the Twin Peaks model, the SRR; the FSCS and ring-fencing.

6.5.1 The Special Resolution Regime

The SRR in the UK banking framework was established by the *Banking Act* 2009 to address the risks posed by failing financial institutions and prevent them from destabilising the financial sector.[871] The SRR grants the BoE, the PRA and the FCA powers to intervene in the operations of a distressed bank, managing the resolution process and ensuring the continued protection of depositors and financial stability.[872] The objectives of SRR include ensuring the continuity of essential banking services, protecting depositors and public funds, preserving financial stability and confidence in the banking sector, curbing the risk of contagion to other financial institutions and preventing the use of taxpayers' money as bailouts by using private sector solutions.[873]

The SRR provides resolution tools that could be used by the banking regulators to manage failing and curb systemic failures in the UK.[874] Firstly, the SRR provides the

---

870 The failures of HBOS plc (BHOS) A Report by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) at https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/hbos-summary-and-recommendations.pdf accessed 25 August 2024; Lui 2011 *Liverpool John Moores University* 7.

871 Part 1, sections 1(1) of the *Banking Act* 2009; McKnight 2009 *Law and Financial Markets Review* 326; Lastra 2008 *Journal of Bank Regulations* 168; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Chambers 2010 *The Law Teacher* 223.

872 Part 1, sections 1(5)(a) to (d) of the *Banking Act* 2009

873 Part 1, sections 1(3)(c) read with section 12A of the *Banking Act* 2009.

874 Part 1, sections 1(2) of the *Banking Act* 2009.

transfer to a private sector purchaser option, which allows the sale of all or part of a failing bank to a private sector purchaser.[875] Therefore, by transferring assets of business operations to another financial institution, the BoE can preserve critical functions while preventing disruptions to depositors and the economy. Secondly, the BoE may transfer all or part of a failing bank's business to a temporary, publicly owned bank "bridge bank".[876] The bridge bank will be managed by the BoE, HM Treasury, the PRA and the FCA and continue providing essential services while a permanent solution, such as winding down or selling the business, is sought.[877] This approach curbs bank failures as it controls an orderly resolution minimising the impact of panic withdrawals and causing liquidity shortages.

In addition, the SRR provides for the bail-in tool, which involves restructuring the bank's debts by converting some or all of its unsecured liabilities such as bonds or loans into equity or other form of capital.[878] Bail-in encompasses imposing losses on shareholders and other creditors rather than relying on taxpayers' funds, helping restore the bank's solvency and allowing continued operation. The SRR also allows the BoE, the HM Treasury, the PRA and the FCA to transfer the bank's non-performing assets to an asset management bank, which helps clear up the bank's balance sheet by isolating problematic assets.[879] Problematic assets will then be managed and sold over time, often at a reduced price, without affecting the bank's core business and risking other financial institutions.

Furthermore, the SRR framework requires banks to prepare resolution plans, often called living wills which outline how they would be wound down or resolved in an orderly manner in the event of distress.[880] That is, banks must demonstrate in their

---

875 Part 1, sections 1(3)(a) read with section 11 of the *Banking Act* 2009.
876 Part 1, sections 1(3)(b) read with section 12 of the *Banking Act* 2009
877 Part 1, sections 1(3)(d) read with section 13 of the *Banking Act* 2009
878 Part 1, sections 1(3)(c) read with section 12A of the *Banking Act* 2009.
879 Part 1, sections 1(3)(ba) read with section 12ZA of the *Banking Act* 2009
880 Part 1, sections 1(3)(d) read with section 13 of the *Banking Act* 2009

resolution plans that they have sufficient capital and liquidity resources to allow for an orderly close-down, even during times of stress. The SRR is a comprehensive legal framework aimed at preventing bank failures and protecting the economy from cascading effects of bank failures.

6.5.2 The Financial Service Compensation Scheme

The Financial Service Compensation Scheme (FSCS) is the UK's deposit protection scheme designed to protect consumers in the event that a bank or financial institution fails.[881] The FSCS protect the savings of depositors and maintains public confidence in the financial system.[882] In addition, the FSCS acts as a safeguard against bank runs by assuring depositors that their funds are protected even if a bank collapses.[883] The FSCS covers a range of financial services including insurance and pensions and pays out claims if firms go into liquidation or cannot meet customer obligations as they become due.[884] As a result, the FSCS is a critical tool for maintaining financial stability by enhancing consumer trust and limiting panic-driven withdrawals, leading to systemic bank failures.

6.5.3 The Ring-Fencing

The Ring-Fencing is a structural reform which was established by the Financial Services (Banking Reform) Act, which mandated large UK banks to separate their core retail banking activities from investment and international banking operations.[885] This structural reform is designed to protect essential retail services, such as savings accounts and small business loans from risks associated with more volatile investment banking activities. In addition, ring-fencing is applicable to distinct banks with core

---

881 Part 4, sections 169 to 180 of the *Banking Act* 2009.
882 Part 4, section 173 of the *Banking Act* 2009.
883 Part 4, section 170 of the *Banking Act* 2009.
884 Part 4 section 175 of the *Banking Act* 2009.
885 Colvin CL, de Jong A and Fliers PT "Predicting the Past: Understanding the Causes of Bank Distress in the Netherlands in the 1920s" 2015 *Explorations in Economic History* 97, 108.

deposits above the set minimum required amount and with independent governance, capital and liquidity arrangements. This separation ensures that in the event of investment losses, retail deposits and consumer banking are shielded from financial instability, thereby reducing the risk of systemic crises and preventing the potential of bank failures. Therefore, the ring-fencing mechanism reinforces financial stability by enhancing resilience within large banks. Although it adds operational complexity and compliance cost, it curbs bank failures in the UK.

6.5.4 The European Union Bank Recovery and Resolution Directive

As part of the European Union at the time, the UK participated in developing the European Bank Recovery and Resolution Directive (BRRD 2014).[886] This directive, a collaborative effort among EU member states, set common standards for the recovery and resolution of failing banks. The UK transposed these directives into its regulatory framework, aligning its approach with broader European initiatives and reflecting the interconnectedness of financial markets.

The BRRD was approved by the European Parliament on the 15th of April 2014 and came into operation on the 2nd of July of the same year.[887] The BRRD housed the outcome of negotiations between the Commission, the European Council and the Parliament, which required all member states to adopt and apply the directive into

---

886 See the preamble of the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024; Chen Chen H "The Recovery Framework in the BRRD and its Effectiveness" *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* (May 2015) 1, 3; Avgouleas 2009 *Capital Markets Law Journal* 233; Haentjens 2014 *International Insolvency Law Review* 269.

887 See the preamble of the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024; Haentjens 2014 *International Insolvency Law Review* 269; Chen Chen 2015 *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* 3.

their national legislation.[888] The BRRD highlighted a significant lack of credible tools to deal with unsound or failing banks which led to the government rescuing those institutions with taxpayers' money.[889] The BRRD proposed an early intervention tool that robustly protects and prevents distressed or failing banks ensuring continuity of the banking critical functions and promoting economic and financial system stability.[890] To stabilise financial markets and retain customer trust, authorities should ensure continuous access to deposits and payment transactions, and ensure that no creditor should be worse off during resolution. In other words, the BRRD required rapid and coordinated action to sustain market confidence and minimise contagion once a bank is deemed to be failing or is likely to fail.

6.5.5 The Twin Peaks Model

The UK also adopted the Twin Peaks, as the financial regulatory model to enhance financial stability by separating the oversight of financial conduct and prudential regulation into two distinct peaks.[891] The Twin Peaks model is effective in curbing bank failures because it provides a clear division of duties and responsibilities which allows each regulatory body to focus on specialised objectives and ensure consumer

---

888 Haentjens 2014 *International Insolvency Law Review* 269; see the preamble of the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024; Chen Chen 2015 *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* 5.

889 See recital (1) of the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024; Chen Chen 2015 *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* 5; Avgouleas 2009 *Capital Markets Law Journal* 233; Haentjens 2014 *International Insolvency Law Review* 266.

890 See recital (53) of the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024; Haentjens 2014 *International Insolvency Law Review* 275; Chen Chen 2015 *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* 5; Avgouleas 2009 *Capital Markets Law Journal* 233.

891 Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin Peaks approach to financial supervision seems superior.

protection and resilience of financial institutions, thereby curbing bank failures.[892] The Twin Peaks is beneficial as it reduces regulatory conflicts of interest, enabling a specified approach to both prudential and conduct risks that may cause bank failures.[893] Bank oversight is adequate to ensure fair operations while maintaining strong financial health.

6.6 Main Role Players in the UK Banking Sector Dealing with Prevention of Banking Failures

The UK's financial regulatory framework is centred on the two regulators created to separate the roles of supervision of financial institutions and market conduct. The two regulators were established in 2013 after the previous single regulator, the FSA was disbanded. The FSA was established in 2001 and was the only financial regulator in the UK until 2013.[894] The two are separate entities with independent mandates set out in the statute, although they work closely together on certain issues.[895] The UK twin peaks model, introduced by the *Financial Services Act* of 2012, significantly revised the *Financial Services Act* of 2000.

---

[892] Avgouleas 2009 *Capital Markets Law Journal* 233 states that under the Twin Peaks structure, the FSA would remain responsible for the supervision of business conduct, market conduct and market integrity (Insider dealing, market manipulation) and consumer protection; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5; Ouenniche J and Carrales S "Assessing efficiency Profiles of UK Commercial Banks: A DEA Analysis with Regression-Based Feedback" 2018 *Analytical Models for Financial Modelling and Risk Management* 551, 552.

[893] Lui 2011 *Liverpool John Moores University* 10; Avgouleas 2009 *Capital Markets Law Journal* 233; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5

[894] De-Ramon, Francis and Milonas 2017 *Bank of England Working Paper* 18 explain the period when the FSA was established as the banking supervisory authority independent from the Bank of England; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 76; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4.

[895] Avgouleas 2009 *Capital Markets Law Journal* 233 states that under the Twin Peaks structure the FSA would remain responsible for the supervision of business conduct, market conduct and market integrity (Insider dealing, market manipulation) and consumer protection; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5.

The PRA is responsible for the financial safety and soundness of banks and it deals with prudential regulation such as capital and liquidity of banks.[896] The PRA ensures that the financial sector operates safely and soundly, knowing that if a bank fails, the economy could halt.[897] It also manages crises and ensures that if a bank is to fail, it happens in an orderly manner. The objective of the PRA is to prevent systemic risk by minimising the likelihood of bank failures that could impact the stability of the broader banking sector in the UK.[898] The PRA oversees and regulates capital adequacy, liquidity requirements and risk management practices within banks, insurance companies and major investment firms. The PRA monitors financial institutions' balance sheets, stress tests them under different economic scenarios and evaluates their contingency planning in case of economic shocks to prevent bank failures. In addition, the PRA enforce stringent regulatory standards and ongoing supervision to detect and address causes of bank failures early on before they escalate into systemic crises.[899] This is done by mandating banks to hold sufficient capital and maintain adequate liquidity

---

[896] Avgouleas 2009 *Capital Markets Law Journal* 233 avers that the PRA supervise the compliance of banks, security firms, and investment funds, with systemic stability regulations, including liquidity and capital adequacy regulations; see prudential regulations at https://www.bankofengland.co.uk/prudential-regulation/publication/2019/non-binding-pra-materials-the-pras-approach-after-the-uks-withdrawal-from-the-eu-ss accessed on 28 August 2024; the PRA supervises each bank according to its needs and the impact it would have on the economy, should it fail. It does not use the one-size-fits-all method but provides tailored supervision which allows early identification of crises or when things are about to go wrong. The PRA also engages in forward-looking, which allows them to be prepared for unexpected future events. It understands that things may be going well today but might go wrong in the future, therefore, it tests stressful scenarios on banks to see how they would respond to such unexpected events. Then it works with the bank to develop strategies to help build resilience in crises and encourage banks to hold adequate financial resources to keep things flowing; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5.

[897] Section 6(2B) of the *Financial Services Act* 2012Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5; see the Prudential Regulation Authority's approach to banking supervision, October 2018, at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors 4 accessed 29 August 2024.

[898] Section 192 of the *Banking Act* 2009; section 6(2B) of the *Financial Services Act* 2012; PRA-authorised person refers to financial institution regulated by the PRA; Avgouleas 2009 *Capital Markets Law Journal* 233.

[899] See comments in the Prudential Regulation Authority's Approach to Banking Supervision (Bank of England PRA) dated July 2023 11.

buffers to withstand economic shocks.[900] Furthermore, the PRA ensures that banks have credible recovery and resolution plans in place outlining how a bank would restructure or resolve in an orderly manner should it face severe distress, minimising disruptions to customers and the economy.[901]

The FCA is responsible for the conduct of banks and other financial institutions in the UK.[902] The main objectives of the FCA include protecting consumers, promoting competition and maintaining market integrity.[903] The FCA reduces the risk of bank failures driven by unethical or irresponsible conduct and unfair treatment of consumers.[904] The FCA ensures that financial products and services are safe, clearly explained and marketed responsibly, thereby assisting in maintaining consumer confidence in the banking sector, and curbing bank failures.[905] In addition, the FCA prevents market abuse, fraud and financial crime by enforcing anti-money laundering rules and monitoring insider trading or market manipulation.[906] These efforts help to reduce the risk of bank failures that could arise when such threats are not effectively managed. Furthermore, the FCA conducts regular checks to ensure that financial institutions meet conduct standards preventing high-risk practices that could jeopardise consumer welfare and ultimately cause bank failures. Therefore, the FCA's

---

900 See comments in the Prudential Regulation Authority's Approach to Banking Supervision (Bank of England PRA) dated July 2023 17.

901 See comments in the Prudential Regulation Authority's Approach to Banking Supervision (Bank of England PRA) dated July 2023 6-10.

902 See Financial Conduct Authority at https://www.fca.org.uk/ accessed 28 August 2024; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 8; Avgouleas 2009 *Capital Markets Law Journal* 233.

903 Section 6(1B)(2) of the *Financial Services Act* 2012.

904 Section 6(1B)-(1D) of the *Financial Services Act* 2012; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 80.

905 Section 6(1C) of the *Financial Services Act* 2012.

906 Section 6(1D) of the *Financial Services Act* 2012; Avgouleas 2009 *Capital Markets Law Journal* 233 states that under the Twin Peaks structure the FSA would remain responsible for the supervision of business conduct, market conduct and market integrity (Insider dealing, market manipulation) and consumer protection; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5.

commitment to consumer protection ensures public confidence in the financial institutions' safety and integrity, curbing the risk of panic-driven bank runs in the UK.

The key difference between the FCA and the PRA is that the FCA focuses on ensuring fair outcomes for consumers by regulating and promoting fair practices within banks. The PRA and FCA play pivotal roles in overseeing and regulating bank governance, as well as ensuring the robustness of systems and controls within financial institutions. These aspects are fundamental to a bank's overall financial health, influencing each bank's interactions with clients and its conduct in various markets.

6.7 Conclusion

The UK, unlike most of the developed countries, has not historically had a permanent statutory regime for dealing with failing banks.[907] In addition, the UK's banking regulatory framework has undergone significant evolution in response to emerging challenges, including the global financial crisis, bank failures, economic turbulence and other financial risks that cause instability in the country.[908] This evolution reflects a proactive approach aimed at mitigating systemic vulnerabilities and enhancing the resilience of the financial system. Through continuous adaptation and refinement, the regulatory framework seeks to address dynamic threats to financial institutions while promoting confidence, transparency and accountability within the UK's banking sector.

Northern Rock was established in 1997 and was listed on the London Stock Exchange.[909] The FSA failed to supervise and monitor Northern Rock when its business

---

907 Penn and Measor 2009 *Law and Financial Markets Review* 34; Chambers 2010 *The Law Teacher* 223; Goodhart 2008 *Journal of Financial Stability* 352.

908 Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 273; Chambers 2010 *The Law Teacher* 220; see the Prudential Regulation Authority's Approach to Banking Supervision dated October 2018 5 available at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors accessed 23 March 2024.

909 Hamalainen 2009 *SUERF-The European Money and Finance Forum Vienna* 53; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 292; Chambers 2010 *Law Teacher* 220; Lastra 2008 *Journal of Banking Regulations* 166; Chambers 2011 *Journal of Corporate Ownership and Control* 68; see also comment by Penn & Measor 2009 *Law and Financial Markets Review* 34

was unusual, when its share prices dropped sharply in late 2007 and when it adopted an ambitious expansion policy.[910] The House of Commons' Treasury Committee concluded that the tripartite system, which included the BoE, FSA and HM Treasury failed to work well and suggested that the financial framework be reviewed as it was not adequate for bank supervision and preventing bank failures.[911]

Mechanisms such as the SRR, the FCA and the PRA were established by the UK to create a robust system for early intervention, resolution planning and crisis management in the event of bank distress or failure.[912] In addition, the enhanced regulatory framework emphasises on accountability, transparency and collaboration among regulatory authorities, financial institutions and other stakeholders to effectively mitigate risks and ensure the resilience of the banking sector. The SRR provided three stabilisation options for the FSA, the Treasury and the BoE to use as resolution options for a failing bank. The three stabilisation options include the stabilisation powers, the administration or the insolvency procedures when dealing with a failing bank and the transfer of the share capital of a bank to a nominee of the Treasury or a company wholly owned by it.[913] The FSA, the Treasury and the BoE are required to take into account the objectives set out in the *Banking Act* 2009 when deciding the fate of a distressed bank.[914] Furthermore, the Treasury shall provide guidance on the use of the stabilisation options through a code of practice, after

---

910 Lui 2011 *Liverpool John Moores University* 4 states that as a supervisor, the FSA failed to allocate sufficient resources to monitor Northern Rock where its business model was unusual, and it failed to supervise the bank properly.

911 Chambers 2010 *The Law Teacher* 224; Lui 2011 *Liverpool John Moores University* 5.

912 See Section 4(4) to 4(8) of the *Banking Act* 2009; Penn and Measor 2009 *Law and Financial Markets Review* 36 who contend that the bill contains the provision to introduce the SRR to allow the Authorities to intervene when a bank gets into severe difficulties and bring a more orderly resolution of a failing bank; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228.

913 Section 1(2) read with ss (3) of the *Banking Act* 2009; Singh 2011 *Journal of Business Law* 5; see related in Goodhart 2008 *Journal of Financial Stability* 353.

914 Section 4(2) of the *Banking Act* 2009; Goodhart 2008 *Journal of Financial Stability* 354; Singh 2011 *Journal of Business Law* 6.

consulting with the FSA, the BoE and the scheme manager of the Financial Services Compensation Scheme.[915]

In 2013, the UK transitioned to a twin peaks model of financial regulation, replacing the single financial regulator, the FSA, which was established in 2001. The twin peaks model allows each regulator to focus on its core mandate, however, for the model to work, there needs to be cooperation between the two regulators.[916]

The following chapter is Chapter Seven and it provides a discussion of international best practices on banking regulation and the prevention of Bank failures.

---

915 Section 5 and 6 of the *Banking Act* 2009.

916 See the Prudential Regulation Authority's Approach to Banking Supervision dated October 2018 available at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors 9 accessed 23 March 2024.

CHAPTER SEVEN

INTERNATIONAL BEST PRACTICES ON BANKING REGULATION AND THE PREVENTION OF BANK FAILURES

7.1 Introduction

Bank failures are not a unique phenomenon around the world and have caused devastating effects on economies, eroding public trust in the financial sector and causing economic disruption in various countries.[917] To mitigate the causes of bank failure and reduce the future cases of such, countries around the world have moved or are moving towards implementing international best practices which were often informed by lessons learned from past crises.[918] International practices are defined as globally accepted standards, guidelines and frameworks and are applied to ensure

---

917 Atay G "Promoting International Cooperation in Resolving Bank Failures" 2006 *Journal of Banking Regulation* 66; Rawlins M and Zanforlin L *Resolving Bank Failures and Institutions: Is There a Link? Some Empirical Evidence* (International Monetary Fund 2021) 4 noted that bank failures could bring large losses to many depositors, spread rapidly and amplify economic distress, including triggering fiscal outlays; Arner DW and Norton JJ "Building a Framework to Address Failure of Complex Global Financial Institutions" 2009 *Hong Kong Law Journal* 95, 116 states that the collapse of one bank could lead to contagious loss of confidence, resulting in bank runs, potentially causing the collapse not only of individual banks but also of the banking sector as a whole and the consequent collapse of economic activity generally; Vousinas GL "Supervision of Financial Institutions The Transition from Basel I to Basel III. A Critical Appraisal of the Newly Established Regulatory Framework" 2015 *Journal of Financial Regulation and Compliance* 383, 384 states that the collapse of a bank may lead to chain of reaction (domino effect) in the market in which it operates, spreading the economic recession to the whole world; Gumbo V and Zoromedza S "Bank failure Prediction Model for Zimbabwe" 2016 *Applied Economics and Finance* 222; 223; Munoangira A and Kaja P "Strategies to Enhance Public Confidence in the Zimbabwean Banking Sector" 2016 *European Journal of Business and Management* 198.

918 Coleman N, Georgosouli A and Rice T "Measuring the Implementation of the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions in the European Union" 2018 *International Finance Discussion Papers* 1, 3; Nolte JP and Hoelscher D *Using the FSB Key Attributes to Design Bank Resolution Frameworks for Non-FSB Members: Proportionality and Implementation Challenges* (World Bank Group 2020) 8-12; see related comments in Bermpei T, Kalyvas A and Nguyen TC "Does Institutional Quality Condition the Effect of Bank Regulations and Supervision on Bank Stability? Evidence from Emerging and Developing Economies" 2018 *International Review of Financial Analysis* 255, 256; Ahmed J M "A Conceptual Framework for the Basel Accords-Based Regulation" 2016 *Journal of Financial Regulation and Compliance* 90, 95.

consistency, transparency and effectiveness in a specific area.[919] In banking regulation, the international best practices are standards that establish a common regulatory framework across countries aligning national standards with global expectations to facilitate cooperation, improve risk management and promote stability within the international banking sector.[920] International best practices are designed to help financial institutions manage risks, protect consumers, prevent financial crises and promote a level playing field across countries.[921]

---

919 Alford DE "Core Principles for Effective Banking Supervision: An Enforceable International Financial Standard" 2005 *Boston College International and Comparative Law Review* 237, 239; Feridum M and Ozün A "Basel IV implementation: A Review of the Case of the European Union" 2020 *Journal of Capital Markets Studies* 7, 8; Dordevic L, Ferreira C, Kitonga M and Seal K *Strengthening Bank Regulation and Supervision: National Progress and Gaps* (International Monetary Fund 2021) 5; see related explanation in Ahmed 2016 *Journal of Financial Regulation and Compliance* 95; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; see related comments in Shakdwipee P and Mehta M "From Basel I to Basel II to Basel III" 2017 *International Journal of New Technology and Research* 66, 69.

920 Alford 2005 *Boston College International and Comparative Law Review* 239; Bermpei, Kalyvas and Nguyen 2018 *International Review of Financial Analysis* 257; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 9; see related comments in Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69 state that the Basel III framework, whose main thrust has been enhancing the banking sector's safety and stability emphasises the need to improve the quality and quantity of capita components, leverage ratio, liquidity standards, risk management and enhanced disclosures.

921 Feridum and Ozün 2020 *Journal of Capital Markets Studies* 8; Ahmed 2016 *Journal of Financial Regulation and Compliance* 95; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384 state that the main aim is to reinforce the system and to ensure the stability of the international banking system; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69 avers that Basel III poised to have a significant impact on world's financial systems and economies; Alford 2005 *Boston College International and Comparative Law Review* 240 states that events in other nations had potential to cause dramatic and sometimes devastating effects on other economies and Basel framework aim to rectify the situation by efforts to harmonise bank regulation (own emphasis); Chikoko L and Le Roux P "The Impact of Minimum Capital Requirement on Zimbabwe Commercial Banks Lending" 2013 *International Journal of Finance and Accounting* 131, 133.

The Global Financial Crisis (GFC) prompted an unprecedented review of international prudential standards aiming to address the root causes of the crisis.[922] Some of the factors that contributed to the GFC include deficiencies in the regulatory and oversight system, inappropriate incentives for bank and risk managers, flaws in techniques used to measure price and manage risks, and weak corporate governance that hindered proper monitoring of banks' risks.[923] These international best practices are also guided by the ongoing advancements in the banking sector and the advancement requirements of regulatory frameworks and risk management techniques to maintain a safe and sound financial sector.

This chapter explores key regulatory approaches, supervisory mechanisms and financial safeguards employed by leading financial institutions, including those recommended by international bodies such as the Basel Committee on Banking Supervision, the Financial Stability Board (FSB), the International Monetary Fund (IMF) and the World Bank.[924] The Basel Committee on Banking Supervision (BCBS) was

---

922 Ferreira C, Jenkinson N and Wilson C *From Basel I to Basel III: Sequencing Implementation in Developing Economies* (International Monetary Fund 2019) 5; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 9; Yaacob H, Markom R and Hakimah A "Coping with the International Standards of Basel Committee on Core Principles on Effective Banking Supervision (BCBS): Analysis and Reform for Islamic Banking" 2018 *International Journal of Business and Society* 385, 386; Rawlins and Zanforlin *Resolving Bank Failures and Institutions: Is There a Link? Some Empirical Evidence* 21; Pfingsten A and Woyand C "Banking Regulation and Banking Supervision: Current Structure and Challenges" in Bergener K, Rackers M and Stein A *The Art of Structuring Bridging the Gap between Information Systems Research and Practice* (Springer Nature Switzerland 2019) 439.

923 Ferreira, Jenkinson and Wilson *From Basel I to Basel III: Sequencing Implementation in Developing Economies* 5; Avgouleas E *International Corporate Law and Financial Market Regulation, Governance of Global Financial Markets: The Law, the Economics, the Politics* (Cambridge University Press New York 2012) 263 (Governance of Global Markets); Arner and Norton 2009 *Hong Kong Law Journal* 98; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 7.

924 Min J "Basel Revisited: An Assessment of the Legitimacy and Effectiveness of the Basel Framework" 2018 *Peking University Law Journal* 323, 327; Yaacob, Markom and Hakimah 2018 *International*

established to address gaps in the supervisory framework and enhance the understanding of banking supervision quality on a global scale.[925] By examining global and international best practices on bank regulation, the researcher may gain valuable insights into the most effective strategies for maintaining banking stability and resilience to curb bank failures in Zimbabwe. Furthermore, understanding these best practices provides a foundation for developing robust regulatory frameworks that can help safeguard the Zimbabwean banking sector from potential failures.

Journal of Business and Society 386; Avgouleas *Governance of Global Financial Markets* 7 states that a number of formal and informal international bodies, such as the International Monetary fund, the European Union, the G-20 and the Basel Committee on Banking Supervision and a number of other Transnational Regulatory Networks have produced multiple sets of financial standards and regulations that intended to secure the sound and safe operation of international banks and other parts of global financial markets; Atay 2006 *Journal of Banking Regulation* 67; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 3.

925 Min 2018 *Peking University Law Journal* 327; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 386; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Avgouleas *Governance of Global Financial Markets* 266; Nhavira JDG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 15 states that the Bank of International Settlement (BIS) has the important work in the international financial system and its mission is to serve central banks in their pursuit of monetary and financial stability, to foster international cooperation in those areas and to act as a bank for central banks. The BIS monitors the international financial system for threats to stability to ensure that it is stable through research and regular meetings of central governors and senior officials of member central banks. The BIS takes a keen interest in understanding financial crisis regardless of wherever they may occur in the world; Chikoko and Le Roux 2013 *International Journal of Finance and Accounting* 131.

7.2 Key International Regulatory Bodies on Banking Regulation and Supervision

International regulatory bodies play a critical role in establishing standards and frameworks that guide banking regulation and supervision worldwide.[926] Organisations such as the FSB, BCBS, IMF and World Bank provide essential guidelines to help countries strengthen financial stability and prevent bank failures.[927] These bodies promote global standards like the Basel III framework which sets capital and liquidity requirements to reduce risks within the banking sector.[928] The FSB provides the Key

---

926 Scott HS *International Finance :Law and Regulation* 2nd ed (2008 London Sweet and Maxwell) 763; Girasa *Laws and Regulations in the Global Financial Markets* 168; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 7; see related in Ahmed 2016 *Journal of Financial Regulation and Compliance* 93; Atay 2006 *Journal of Banking Regulation* 67; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 8; Arner and Norton 2009 *Hong Kong Law Journal* 110; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Alford 2005 *Boston College International and Comparative Law Review* 241-242; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 387.

927 Warikandwa TV "Financial Inclusion, Intra-African Trade and the AfCFTA: A Law and Economics Perspective" in Chitimira H and Warikandwa TV *Financial Inclusion and Digital Transformation Regulatory Practices in Selected SADC Countries: South Africa, Namibia, Botswana and Zimbabwe* (Springer Switzerland AG 2023) 207, 218; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 386; Alford 2005 *Boston College International and Comparative Law Review* 239; Dordevic *et al Strengthening Bank Regulation and Supervision: National Progress and Gaps* 5; Scott *International Finance :Law and Regulation* 763-769; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 4; Ahmed 2016 *Journal of Financial Regulation and Compliance* 95; Min 2018 *Peking University Law Journal* 325; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Nyaude AB and Van Heerden C "Bank Resolution in South Africa: Recent Developments" 2024 *International Insolvency Review* 182, 191.

928 Dordevic *et al Strengthening Bank Regulation and Supervision: National Progress and Gaps* 5; Scott *International Finance :Law and Regulation* 763; Bermpei, Kalyvas and Nguyen 2018 *International Review of Financial Analysis* 256; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 17; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 387; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

Attributes of Effective Resolution Regimes for Financial Institutions (key attributes).[929] The IMF and the World Bank focus on guiding the regulation and supervision of banks worldwide, particularly by promoting financial stability, strengthening regulatory frameworks and reducing the likelihood of bank failures.[930]

Zimbabwe, South Africa and the United Kingdom (the UK) each approach banking regulation by aligning with these international standards, though their adoption levels vary due to economic context and regulatory capacity.[931] The UK adopted the Twin Peaks model and integrated Basel III requirements fully which demonstrate a robust regulatory approach that enhanced both financial stability and consumer protection to reduce bank failures.[932] South Africa has implemented the Twin Peak model and aligned closely with FSB recommendations improving both prudential and market

---

929 Nyaude and Van Heerden 2024 *International Insolvency Review* 185-189; Alford 2005 *Boston College International and Comparative Law Review* 240; Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* (2014) 1 at https://www.treasury.gov.za/publications/other/RFFI/KA.Resolution.pdf accessed 19 May 2024; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 3; Cunliffe 2016 *European Economy* 64; Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 14; Nolte and Hoelscher *Using the FSB Key Attributes to Design Bank Resolution Frameworks for Non-FSB Members: Proportionality and Implementation Challenges* 8-32.

930 Dordevic *et al Strengthening Bank Regulation and Supervision: National Progress and Gaps* 8; Scott *International Finance :Law and Regulation* 766 state that while Basel Committee has taken the lead in promulgating standards, the IMF and World Bank have undertaken the lead since 1999 in assessing whether the Basel Principles are being complied with; Min 2018 *Peking University Law Journal* 329; Chikoko and Le Roux 2013 *International Journal of Finance and Accounting* 131; see related comments in Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 397.

931 Scott *International Finance :Law and Regulation* 763; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 4; see related comments in Bermpei, Kalyvas and Nguyen 2018 *International Review of Financial Analysis* 257; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 397; Nyaude and Van Heerden 2024 *International Insolvency Review* 191; Van Heerden CM, Van Niekerk GM and Huls NJH "Two Takes on Twin Peaks: A Comparative Appraisal of the Models of Financial Regulation in the Netherlands and South Africa" 2020 *Journal of Contemporary Roman-Dutch Law* 491, 505.

932 Nyaude and Van Heerden 2024 *International Insolvency Review* 184; see related explanation in Ahmed 2016 *Journal of Financial Regulation and Compliance* 98; see related comments in Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69; see related comments in Chokuda BT and Chokuda-Santu TV "The External Governance Architecture of Zimbabwe's Banking and Financial Services Sector" 2021 *Midlands State University Law Review* 1, 13 contend that the Twin Peaks model has largely emerged as the internatinal best practice that avoid the weaknesses and limitations of sectoral model supervision.

conduct regulation to curb bank failures.[933] Zimbabwe has made progress in adopting some aspects of these global standards. However, challenges remain in fully aligning with international best practices which continues to heighten the likelihood of bank failures.[934]

7.2.1 Basel Committee on Banking Supervision

The Basel Committee on Banking Supervision (BCBS) comprises various countries that provide a forum for regular cooperation on banking supervisory matters.[935] The BCBS was established in 1974 to create an advisory committee on national regulators to set

---

933 Dordevic *et al Strengthening Bank Regulation and Supervision: National Progress and Gaps* 6; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 23; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 397; Nyaude and Van Heerden 2024 *International Insolvency Review* 191; see related comments in Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69; Svotwa TD, Wealth E and Makanyeza C "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" in Chitimira H and Warikandwa TV *Financial Inclusion and Digital Transformation Regulatory Practices in Selected SADC Countries: South Africa, Namibia, Botswana and Zimbabwe* (Springer Switzerland AG 2023) 351, 358.

934 Tepetepe G "A Concurrent Triangulation Mixed Methods Study on Basel II/III Capital Modeling Techniques Implementation in Zimbabwean Banks" 2022 *Journal of Economics, Finance and Accounting* 48, 49 states that The Reserve Bank of Zimbabwe adopted Basel global capital regulations to comply to international capital modelling standards; Mashingaidze S "Corporate Governance: Effectiveness of Zimbabwean Hard Law on Blockholders' Protection" 2014 *Corporate Ownership and Control* 549, 554; see related comments in Svotwa, Wealth and Makanyeza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 359.

935 Girasa *Laws and Regulations in the Global Financial Markets* 168; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 7; see related in Ahmed 2016 *Journal of Financial Regulation and Compliance* 93; Atay 2006 *Journal of Banking Regulation* 67; Arner and Norton 2009 *Hong Kong Law Journal* 110; Min 2018 *Peking University Law Journal* 330; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 397 avers that the BCBS core principles has been adopted by all banks in many jurisdictions; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441.

common capital requirements for internationally active banks.[936] The mission of the BCBS is to make recommendations on key supervisory issues and improve the quality of banking supervision worldwide to curb the occurrence of bank failures.[937] The BCBS was responsible for the creation of the first international capital framework entitled International Convergence of Capital Measurement and Capital Standards in 1988 (Capital Accord).[938] In 1996, the BCBS formulated general risk-based capital rules which amended the Capital Accord to require banks to measure and hold capital to cover their exposure to market risk associated with foreign exchange and commodity position and their positions located in the trading account. The BCBS also enhanced the international banking supervisory framework by formulating the Basel II framework with three pillars including risk-based capital requirement, supervisory review of capital adequacy and market discipline. Lastly, the BCBS formulated a global regulatory framework for more resilient banks and banking systems in the Basel III Accord, which

---

936 Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67 states that following a high number of disruptions happening in the international financial markets like the Herstatt debacle of 26 June 1974 and the breakdown of Bretton Woods system, the G-10 countries formed a standing committee at the Bank of International Settlements in 1975, called the Basel Committee on Banking Supervision, which later became the birthplace of the Basel Accords; Min 2018 *Peking University Law Journal* 328; King P and Tarbert H "Basel III: An Overview" *Banking and Financial Services* (5 May 2011) 1; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Alford 2005 *Boston College International and Comparative Law Review* 241-242.

937 Min 2018 *Peking University Law Journal* 327; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384 noted that the main task of the BCBS was to reinforce the system and ensure the stability of the international banking system; Avgouleas *Governance of Global Financial Markets* 266; Atay 2006 *Journal of Banking Regulation* 67; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 387; Alford 2005 *Boston College International and Comparative Law Review* 242.

938 Kaur M and Kapoor S "Adoption of Basel Norms: A Review of Empirical Evidences" 2015 *Journal of Financial Regulation and Compliance* 271; Atay 2006 *Journal of Banking Regulation* 67; Girasa *Laws and Regulations in the Global Financial Markets* 168; Min 2018 *Peking University Law Journal* 327 states that the Basel I was initially negotiated among the G10 and Luxembourg and was to be applied only to the globally active banks in these countries, which include Belgium, Canada, France, Germany, Italy, Japan, Netherlands, Spain, Sweden, Switzerland, the United Kingdom and the United States; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Alford 2005 *Boston College International and Comparative Law Review* 243; Mbizi R "An Analysis of the Impact of Minimum Capital Requirements on Commercial Bank Performance in Zimbabwe" 2012 *International Journal of Independent Research and Studies* 124, 125.

provides additional technical changes made concerning the assignment of risk to certain securitisation positions.[939]

The international banking framework by the BCBS is not a binding legislative instrument but is widely accepted as capturing best practices for effective bank supervision.[940] It also provides appropriate tools to deal with all types of financial difficulties and helps banking sectors to maintain financial stability, minimise systemic risk, protect consumers, limit moral hazards and promote market efficiency.

7.2.1.1 Basel Accord I

Basel I was established from the 1988 international capital framework entitled International Convergence of Capital Measurement and Capital Standards by the Group of Ten (the G10) central bank governors who identified the need to strengthen capital standards in their banking system.[941] The Capital Accord was later referred to as Basel

---

939 Girasa *Laws and Regulations in the Global Financial Markets* 168; see related in Zephirin M and Wajid SK "Financial Sector Stability: A Regional Approach" in Drummond P, Wajid SK and Williams O *The Quest for Regional Integration in the East African Community* (International Monetary Fund Washington DC 2014) 202 available at https://books.google.co.za/books?hl=en&lr=&id=y7UZEAAAQBAJ&oi=fnd&pg=PA199&dq=guiding+principles+for+supervisors+dealing+with+weak+banks&ots=5msOGNEHE9&sig=yx9O7125Qm9XpegnS4mlDb8BAu8&redir_esc=y#v=onepage&q=guiding%20principles%20for%20supervisors%20dealing%20with%20weak%20banks&f=false accessed 25 May 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 15; Avgouleas *Governance of Global Financial Markets* 266; Min 2018 *Peking University Law Journal* 342; Mbizi 2012 *International Journal of Independent Research and Studies* 125.

940 Min 2018 *Peking University Law Journal* 326; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 271; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440 noted that the Basel framework provides comprehensive guidelines to be applied by each BCBS member country, while it is no legislative act; see related Avgouleas *Governance of Global Financial Markets* 267; Alford 2005 *Boston College International and Comparative Law Review* 239 state that these standards, however, are not legally enforceable, they are merely soft law, voluntary guidelines on regulatory and supervisory practices over banking industry.

941 Min 2018 *Peking University Law Journal* 326; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 271; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Mbizi 2012 *International Journal of Independent Research and Studies* 125; Felsenfeld C and Bilali G "The Role of the Bank for International Settlements in Shaping the World Financial System" 2004 *University of Pennsylvania Journal of International Economic Law* 945, 951.

I, aimed to eliminate competitive inequality arising from differences in national capital requirements and introduced a mandatory eight-percent minimum capital reserve requirement against risk-weighted assets held by banks.[942] Basel I consisted of three main components. The first component was the standardised minimum regulatory ratio for internationally active banks by the BCBS.[943] The second component established a basic definition of regulatory capital while the third component introduced a uniform process by which banks calculate their regulatory capital ratios.[944] Basel I had shortcomings which include the lack of risk sensitivity, limited recognition of collateral, incomplete coverage of risk resources, a one-size-fits-all approach, an arbitrary measure, no recognition of diversification, no recognition of term structure of credit risk, inadequate assessment of risk and effects of the use of new financial instruments and simplified calculation of potential future counterparty risk.[945] These shortcomings prompted the BCBS to develop the Basel II Accord to address the deficiencies in Basel I.

---

942 Min 2018 *Peking University Law Journal* 327; King and Tarbert *Banking and Financial Services* 1; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67; Vousinas 2015 *Journal of Financial Regulation and Compliance* 384; Mbizi 2012 *International Journal of Independent Research and Studies* 127; see related in Alford 2005 *Boston College International and Comparative Law Review* 260; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 272.

943 Vousinas 2015 *Journal of Financial Regulation and Compliance* 387 noted the three parts contained in the Basel I which include the new institutional framework for components of capital, the new institutional framework for the weights regarding risk and the capital adequacy ratio; King and Tarbert *Banking and Financial Services* 2; Atay 2006 *Journal of Banking Regulation* 67; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 271 state that the Basel Accord was signed by the G10 countries and was intended to apply only to internationally active banks, but it was adopted by more than 100 nations.

944 King and Tarbert *Banking and Financial Services* 2; Vousinas 2015 *Journal of Financial Regulation and Compliance* 387; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67 provided that the definition of capital as composed of core capital and supplementary capital (representing up to 100% of core capital) and respectively the minimum level that banks had to maintain between capital and assets weighted by risk level, which must be calculated at minimum 8% when it expresses the total capital ratio; Avgouleas *Governance of Global Financial Markets* 267.

945 Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 68; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 14; Vousinas 2015 *Journal of Financial Regulation and Compliance* 387-388; see related in Alford 2005 *Boston College International and Comparative Law Review* 250.

7.2.1.2 Basel Accord II

Basel II was established in 2004 when the Basel committee wanted to offer a more comprehensive and risk-sensitive approach to capital regulation.[946] Basel II framework consists of three pillars which include the minimum capital requirements, the supervisory review process and market discipline.[947] However, Basel II had shortcomings including being unclear and inconsistent capital definition, failure to expose some risk, inadequate treatment of liquidity risk, excessive BS growth despite relatively small levels of capital and inability to prevent pro-cyclical amplification of shocks in the financial sector.[948] Kaur and Kapoor argue that the Basel II Accord was blamed for being one of the reasons for the global crisis of 2008 because of its inability

---

946 Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 271 state that Basel 11 provided a more risk-sensitive accord having three mutually reinforcing pillars; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 68 states that Basel II transformed the 1988 Basel Accord's primitive capital adequacy rules into more general risk management regime; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 26; Thoraval P "The Basel II Framework: The Role and Implementation of Pillar 2" 2006 *Banque De France Financial Stability Review* 117, 118; Vousinas 2015 *Journal of Financial Regulation and Compliance* 388.

947 King and Tarbert *Banking and Financial Services* 2; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 272 states that Basel II set of international standards required banks to maintain a minimum level of capital, to ensure that they can meet their obligations, cover unexpected losses and promote public confidence; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 68; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Thoraval 2006 *Banque De France Financial Stability Review* 118; Vousinas 2015 *Journal of Financial Regulation and Compliance* 388-389; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 388; Alford 2005 *Boston College International and Comparative Law Review* 267.

948 Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 70; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 26; Vousinas 2015 *Journal of Financial Regulation and Compliance* 389; see related in Zephirin and Wajid "Financial Sector Stability: A Regional Approach" 202; see related in Thoraval 2006 *Banque De France Financial Stability Review* 122; see related in Alford 2005 *Boston College International and Comparative Law Review* 269.

to address the risk faced by the banks, hence the advanced framework was issued to improve banking supervision and achieve harmonisation at the international level.[949]

7.2.1.3 Basel Accord III core principles for effective banking supervision

Basel III was officially endorsed by the member states of the Group of Twenty (G20) in November 2010.[950] Basel III aims to increase the quality and quantity of capital that banks must hold and the risk coverage of system-wide macroprudential or bank-specific level.[951] Basel III introduced a set of tools and standards at the macroprudential level which includes a countercyclical buffer and a universal leverage

---

949 Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 272; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 68 argue that the 2008 financial crisis highlighted the additional systemic risk that the failure of one large institution could cause the failure of one or more of its counterparties, which trigger could trigger a chain reaction; see related in Vousinas 2015 *Journal of Financial Regulation and Compliance* 395 mentioned that the global financial crisis occurred at the beginning of the implementation of a major effort to amend the prudential framework for capital requirements of Basel II and the lessons from the crisis highlighted some obvious weaknesses of Basel II; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 26.

950 Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 272; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69 contend that the main thrust of the Basel III framework has been to enhance the banking sector's safety and stability, emphasising the need to improve the quality and quantity of capital components, leverage ratio, liquidity standards, and enhances disclosures; Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; Arner and Norton 2009 *Hong Kong Law Journal* 101-102; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 27; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 15; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 387; Cunliffe J "Ending Too-Big-to Fail: How Best to Deal with Failed Large Banks" 2016 *European Economy* 59, 64.

951 King and Tarbert *Banking and Financial Services* 3; Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 272; Avgouleas *Governance of Global Financial Markets* 266 states that Basel III aims to ensure that banks are able to withstand the type of stress experienced during the GFC, including banks' exposure to the economic cycle, bubbles and other macroeconomic developments; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69 noted that Basel III introduces and enhanced rules, including the introduction of a new and stricter definition of capital, designed to increase consistency, transparency and quality of the capital base; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 27; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 389.

ratio to address systemic risk within the global financial system.[952] Unlike Basel I and II, which focused exclusively on microprudential measures, Basel III's reforms encompass both microprudential and macroprudential measures which aim to enhance bank resilience during periods of stress and address system-wide risks.[953] The macro-prudential policy complements and interacts with other types of public policy that have an impact on financial stability, such as monetary or fiscal policy but is not their substitute.[954] The main elements of macro-prudential policy are limiting systemic or system-wide financial risk, the focus of analysis of the financial system as a whole and its interactions with the real economy, and the set of powers and instruments used for this purpose and their governance, namely prudential tools and those specifically

---

952 King and Tarbert *Banking and Financial Services* 2; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69 noted that a new framework has formulated ways of reducing systemic risk and the cyclical effects of Basel II and it includes the introduction of a countercyclical capital buffer and capital conservation; Ahmed 2016 *Journal of Financial Regulation and Compliance* 98; Avgouleas *Governance of Global Financial Markets* 266; Vousinas 2015 *Journal of Financial Regulation and Compliance* 398-399; see related in Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 389; see related in Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 6; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 17.

953 Ahmed 2016 *Journal of Financial Regulation and Compliance* 98-99 see discussion on micro-prudential and macro-prudential regulation, Ahmed defined macro-prudential as the 'assessment and monitoring of the strengths and vulnerabilities of financial systems in terms of macro-prudential indicators comprising both financial soundness indicators and other macroeconomics indicators such as Gross Domestic Product (GDP) growth and inflation along with information on the structure of the financial system, qualitative information on the institutional and regulatory framework, particularly through assessments of compliance with international financial sector standards and codes and the outcome of stress tests'; see related in Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 13; see related in Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 389; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 9; Girasa *Laws and Regulations in the Global Financial Markets* 169; see related in Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Avgouleas *Governance of Global Financial Markets* 267.

954 Avgouleas *Governance of Global Financial Markets* 268 adopted a definition of macro-prudential policy as a policy that uses primary prudential tools to limit systemic or system-wide financial risk, thereby limiting the incidence of disruptions in the provision of key financial services that can have serious consequences for the real economy, by dampening the build-up of financial imbalances and building defences that contain the speed and sharpness of subsequent downswings and their effects on the economy; identifying and addressing common exposures, risk concentrations. Linkages and interdependencies that are sources of contagion and spillover risks that may jeopardise the functioning of the system as a whole'; Arner and Norton 2009 *Hong Kong Law Journal* 102; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 15.

assigned to macro-prudential authorities. An effective macro-prudential policy toolkit is one that can robustly provide a diagnosis of systemic risk built up.

7.2.1.4 Basel Accord IV

Basel IV was published by the BCBS in December 2017. Basel IV comprises measures that are aimed at enhancing the robustness and risk sensitivity of the standardised approaches for credit and operational risks.[955]

Accordingly, Zimbabwe has taken steps toward compliance with international standards, particularly through the Reserve Bank of Zimbabwe (RBZ), which oversees banking regulation and supervision in the country.[956] The RBZ has implemented some elements aligned with Basel II and III, especially concerning capital adequacy and prudential regulation to ensure banks maintain sufficient capital buffers.[957] However, there are gaps in fully adhering to BCBS standards, particularly in areas such as risk management, transparency and crisis response frameworks which may lead to bank failures.[958] Zimbabwe's progress in complying with the Basel II and III standards is commendable, yet establishing a focused authority for market conduct and developing a formal deposit insurance scheme would enhance stability and consumer confidence,

---

955 Feridum and Ozün 2020 *Journal of Capital Markets Studies* 8; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 27; see related in Vousinas 2015 *Journal of Financial Regulation and Compliance* 400; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441 states that the finalisation of Basel III (sometimes referred to as Basel IV) was recently published in December 2017 and aims to correct shortcomings of previous frameworks, which became apparent during the financial crisis.

956 Mashingaidze 2014 *Corporate Ownership and Control* 554 states that Zimbabwe also subscribe to the Basel's views and standards recommended by Basel II; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49 states that as in other jurisdictions Reserve Bank of Zimbabwe adopted Basel II/III in a proportional philosophical manner; Chikoko and Le Roux 2013 *International Journal of Finance and Accounting* 131.

957 Feridum and Ozün 2020 *Journal of Capital Markets Studies* 17; Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; see related comments in Min 2018 *Peking University Law Journal* 343; Mashingaidze 2014 *Corporate Ownership and Control* 554.

958 Mashingaidze 2014 *Corporate Ownership and Control* 554; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49-52; Chikoko and Le Roux 2013 *International Journal of Finance and Accounting* 131; see related comments in Warikandwa "Financial Inclusion, Intra-African Trade and the AfCFTA: A Law and Economics Perspective" 218.

therefore, reducing the likelihood of bank failures. Furthermore, the lack of a dedicated crisis management and resolution authority, means Zimbabwe is at higher risk of bank failures which will impact consumers and the stability of the banking sector.

South Africa has made significant strides in aligning with international best practices, particularly the Basel III, the FSB and the IMF's guidelines.[959] Prudential regulation and market conduct are properly legislated and align with the international best practices which makes South Africa more prepared to prevent bank failures in accordance with the Basel III, the FSB and the IMF's guidelines.[960] However, South Africa could further enhance oversight by integrating more advanced frameworks and increasing enforcement in the regulatory framework. The South African banking framework provides an excellent example for Zimbabwe in terms of adopting a dual regulatory model to ensure the effective implementation and enforcement of prudential regulations and market conduct.[961] The Twin Peaks framework aligns with international best practices and sufficiently integrates the practices into relevant banking laws, as a result creating a more robust and resilient banking sector.[962]

The UK is widely regarded as a global leader in banking regulation and consistently aligns with Basel III and FSB recommendations and sets a benchmark for international

---

959 Nyaude and Van Heerden 2024 *International Insolvency Review* 191; Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 505 states that South Africa as a G-20 member aligned itself with international reform agenda post-GFC and undertook a wholesale overhaul of the existing regime; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 17; Svotwa, Wealth and Makanyeza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 359; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69; Min 2018 *Peking University Law Journal* 345;

960 Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 505; Nyaude and Van Heerden 2024 *International Insolvency Review* 191; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49.

961 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13; Nyaude and Van Heerden 2024 *International Insolvency Review* 191 avers that South Africa has a robust bank regulatory framework which helped the country to not have or suffer from continuous widespread bank failures.

962 Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 505; Nyaude and Van Heerden 2024 *International Insolvency Review* 193-194; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13 states that the Twin peaks model has largely emerged as the international best practice.

best practices.[963] The UK enforces strict capital adequacy standards, conducts regular stress testing and has a Financial Services Compensation Scheme (FSCS) for deposit insurance, which efficiently provide for the provisions to curb bank failures.[964] The UK's model is effective and comprehensive with separate bodies such as the FCA focusing on market conduct and the PRA focusing on prudential regulation, both aligning to international best standards of the Basel III and the FSB requirements.[965] Hence, the UK's strong adherence to international guidelines, proactive regulatory measures and robust crisis management framework offer a comprehensive example of how financial regulation should function to curb bank failures.

7.2.2 The FSB in Effective Supervision of Financial Institutions to Mitigate Bank Failures

The FSB oversees the regulation of both banks and non-bank financial institutions, including insurers and financial market infrastructures, as well as the protection of client assets during the resolution process.[966] However, for the purposes of this thesis, the key attributes are discussed in relation to mitigating the causes of bank failures

---

963 Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 23-24; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 19; Alford 2005 *Boston College International and Comparative Law Review* 274; Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; Min 2018 *Peking University Law Journal* 346; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

964 Alford 2005 *Boston College International and Comparative Law Review* 274 states that the UK's supervisory system is a state of the art and fully complies with the core principles; Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13.

965 Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 24; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 21; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69, Alford 2005 *Boston College International and Comparative Law Review* 274.

966 Avgouleas *Governance of Global Financial Markets* 270; see related in Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Atay 2006 *Journal of Banking Regulation* 67; see Guideline No. 02-2007/BSD: Consolidated Supervision Policy Framework 6; Arner and Norton 2009 *Hong Kong Law Journal* 104; Arner and Norton 2009 *Hong Kong Law Journal* 112; Cunliffe 2016 *European Economy* 64; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 16; see related in Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 281.

which may pose a systemic risk for Zimbabwean banks. This will help to identify actionable measures for mitigating risks that could be adopted in Zimbabwe to preserve financial stability and prevent the causes of bank failures. The FSB adopted the key attributes in 2011, at the plenary meeting of the FSB as essential features that could be part of all resolution regimes and was subsequently endorsed by the G20.[967] The G20 endorsed the twelve key attributes in November 2011 at the Cannes Summit. The key attributes were approved as a new international standard for the resolution regime, agreeing that the guidance would be developed further to accommodate different national legal systems.[968] In addition, the G20 was looking at developing the key attributes to take into consideration market environments and sector-specific factors to promote effective and consistent implementation across jurisdictions.[969]

In October 2014, the FSB adopted additional guidelines that elaborate on specific key attributes relating to information sharing for resolution purposes and sector-specific guidelines that set out how the key attributes should be applied for insurers, financial market infrastructures and the protection of client assets in resolution.[970] The

---

967 Nyaude and Van Heerden 2024 *International Insolvency Review* 191; Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 1; Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 15; Avgouleas *Governance of Global Financial Markets* 270; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 5.

968 Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 1; see related in Alford 2005 *Boston College International and Comparative Law Review* 255; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 6; Arner and Norton 2009 *Hong Kong Law Journal* 105; Nyaude and Van Heerden 2024 *International Insolvency Review* 185.

969 Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 14; Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 1; Cunliffe 2016 *European Economy* 64; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 7; Arner and Norton 2009 *Hong Kong Law Journal* 102.

970 Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 1; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 4; see related in Arner and Norton 2009 *Hong Kong Law Journal* 111; Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 14; see Arda A and Dobler M "The Role for Deposit Insurance in Dealing with Failing Banks in the European Union" 2022 *International Monetary Fund Working Paper* 1, 6; Cunliffe 2016 *European Economy* 65.

guidelines that were adopted have been incorporated as annexes in the 2014 version of the key attributes.[971] There were no changes made to the October 2011 key attributes, which continue to serve as the overarching standard for resolution regimes that cover all types of financial institutions that could potentially fail in a way that impacts the entire system. The Annexes to the key attributes do not form part of the key attributes standards but provide guidance on implementing and interpreting the key attributes.

The FSB's objective of an effective resolution regime is for every nation or jurisdiction to have a system of resolving troubled financial institutions in an orderly manner without taxpayers' exposure to loss from solvency support while maintaining the continuity of vital economic functions.[972] This means that the implementation of the key attributes should allow authorities to wind down financial institutions in an orderly manner without risking taxpayer funds while maintaining the continuity of their vital economic functions. The FSB set out twelve key attributes as part of the resolution regimes for all jurisdictions in order to ensure their effectiveness in implementation and mitigating bank failures. The twelve key attributes include the scope of the resolution regime; the designated resolution authority; resolution powers; set-off, netting, collateralisation and segregation of client assets; safeguards during resolution; funding of firms in resolution; legal framework conditions for cross-border cooperation; crisis management groups (CMGs); institution-specific cross-border cooperation

---

971 Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 2; see related in Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Cunliffe 2016 *European Economy* 65; Arda and Dobler 2022 *International Monetary Fund Working Paper* 6; Hanson SG, Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 3; Kashyap AK and Stein JC " A Macroprudential Approach to Financial Regulations" 2011 *Journal of Economic Perspectives* 3, 23.

972 Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 8; Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 1; Avgouleas *Governance of Global Financial Markets* 272; see related in Girasa *Laws and Regulations in the Global Financial Markets* 180; Atay 2006 *Journal of Banking Regulation* 67; Arner and Norton 2009 *Hong Kong Law Journal* 116; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 7; Cunliffe 2016 *European Economy* 60; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440.

agreements; resolvability assessments; recovery and resolution planning; and access to information sharing.[973]

7.2.3 The IMF and the World Bank

The IMF and the World Bank focus on guiding the regulation and supervision of banks worldwide, particularly by promoting financial stability, strengthening regulatory frameworks and reducing the likelihood of bank failures.[974] The IMF and the World Bank support nations in adopting international best practices such as the Basel Accords to safeguard banking sectors, protect consumers and maintain economic stability.[975] In addition, the IMF and the World Bank provide technical assistance and capacity building to strengthen regulatory and supervisory frameworks to establish sound regulatory practices, conduct stress tests and manage risks effectively.[976] The IMF and the World Bank assess countries' financial sectors, evaluate the soundness of their

---

973 Nyaude and Van Heerden 2024 *International Insolvency Review* 184-189; Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 3; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 7; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Cunliffe 2016 *European Economy* 69; see related in Avgouleas *Governance of Global Financial Markets* 271; see related in Atay 2006 *Journal of Banking Regulation* 68; see related in Feridum and Ozün 2020 *Journal of Capital Markets Studies* 8.

974 Scott *International Finance :Law and Regulation* 766 state that the IMF and World Bank have undertaken the lead since 1999 in assessing whether Basel Core Principles are being complied with; Ahmed 2016 *Journal of Financial Regulation and Compliance* 99; Min 2018 *Peking University Law Journal* 346; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49 highlighted that other scholars argue that, Basel adoption is not very useful but rather is a result of peer pressure from the international world, standards setting bodies such as the International Monetary Fund and the World Bank; see related comments in Svotwa, Wealth and Makanyeza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 366-369; Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 69.

975 Basel standards set global standards for capital adequacy, stress testing and liquidity forming a framework that is vital for reducing systemic risks and preventing bank failures; Scott *International Finance :Law and Regulation* 763; see related comments in Feridum and Ozün 2020 *Journal of Capital Markets Studies* 20; Ahmed 2016 *Journal of Financial Regulation and Compliance* 99; Nyamunda T "Open for Business' but Bankrupt: Currencies, the 'New Dispensation' and the Zimbabwean Economy" 2021 *Journal of Asian and African Studies* 204, 205; Chikoko and Le Roux 2013 *International Journal of Finance and Accounting* 133.

976 Scott *International Finance :Law and Regulation* 767; Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 69; Min 2018 *Peking University Law Journal* 346; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49; see related in Nyamunda 2021 *Journal of Asian and African Studies* 205.

regulatory frameworks and provide reviews that could lead to regulatory reforms, ensuring the resilience of the banking sector to curb bank failures.[977] Furthermore, the IMF and the World Bank promote frameworks that improve crisis management and resolution, helping countries establish mechanisms to handle distressed banks and protect depositors without resorting to taxpayer-funded bailouts.

Zimbabwe has received technical assistance from the IMF and the World Bank to enhance its regulatory framework and the RBZ has partially aligned with Basel I, II and III following the recommendations from IMF due to economic constraints.[978] However, the RBZ focus has primarily been on improving capital adequacy, though enforcement and consumer protection measures still need strengthening.

South Africa has a well-developed banking regulatory framework and has embraced IMF and World Bank guidance, consistently aligning with international best practices.[979] South Africa adopted the Twin Peaks model which created two primary regulatory bodies, dividing prudential regulation and market conduct which aligns closely with IMF and World Bank recommendations.[980] South Africa has implemented Basel III standards, particularly regarding capital adequacy and liquidity, and regularly

977 Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 69; Svotwa, Wealth and Makanyeza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 369; Scott *International Finance :Law and Regulation* 763; Min 2018 *Peking University Law Journal* 346; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49; see related comments in Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13.

978 Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; Min 2018 *Peking University Law Journal* 346; Svotwa, Wealth and Makanyeza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" 369; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49.

979 Nyaude and Van Heerden 2024 *International Insolvency Review* 190-191; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49; Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 505.

980 Ahmed 2016 *Journal of Financial Regulation and Compliance* 98; Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 505-506; Vousinas 2015 *Journal of Financial Regulation and Compliance* 396; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13; Nyaude and Van Heerden 2024 *International Insolvency Review* 191.

conducting stress testing to assess financial system vulnerabilities that are likely to cause bank failures.[981]

The UK's banking regulatory framework is among the most advanced globally, closely following IMF and World Bank guidelines and consistently aligning with international standards.[982] The UK implemented the Twin Peaks model and fully adheres to Basel III standards, with both regulators conducting regular stress tests to assess the resilience of banks to periods of stress and ensure enforcement of prudential regulations to combat systemic bank failures.[983]

The IMF and World Bank's guidance on financial regulation and supervision provides essential blueprints for enhancing banking sector resilience and minimising bank failures.[984] While the UK's fully developed system serves as a benchmark in aligning with international standards, South Africa has also made significant strides in implementing a Twin Peak model and meeting Basel III standards.[985] Zimbabwe, though progressing, has room to strengthen its regulatory approach by further incorporating IMF and World Bank recommendations, including adopting a formal crisis

---

981 Vousinas 2015 *Journal of Financial Regulation and Compliance* 394; Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 509-510; see related comments in Tepetepe 2022 *Journal of Economics, Finance and Accounting* 50.

982 Scott *International Finance :Law and Regulation* 767; Alford 2005 *Boston College International and Comparative Law Review* 275 states that the UK is in full compliance with the core principles and the Financial Sector Assessment Program (FSAP) rated the UK second in the world with respect to compliance with twelve key standards, including the core principles; Min 2018 *Peking University Law Journal* 364.

983 Alford 2005 *Boston College International and Comparative Law Review* 273; Scott *International Finance :Law and Regulation* 763.

984 Scott *International Finance :Law and Regulation* 746 states that the IMF and the World Bank have put forward a special initiative for heavily indebted countries, this includes Zimbabwe (own emphasis); Min 2018 *Peking University Law Journal* 362; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49.

985 Van Heerden, Van Niekerk and Huls 2020 *Journal of Contemporary Roman-Dutch Law* 501; see related comments in Scott *International Finance :Law and Regulation* 763 where it was mentioned that an effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks; Vousinas 2015 *Journal of Financial Regulation and Compliance* 397; Alford 2005 *Boston College International and Comparative Law Review* 273 states that the UK has an active, well-developed financial sector and is particularly strong in international finance.

management framework and adopting Twin Peaks to divide the roles of regulators for the effective implantation of international standards and banking laws.[986] These efforts would improve Zimbabwe's financial stability and align its banking regulatory framework with the globally accepted practices, thereby reducing bank failures.

7.3 Basel Committee on Banking and Supervision Guidelines for Identifying and Dealing with Weak Banks

BCBS adopted the definition of a weak bank as a bank whose liquidity or solvency is impaired or will soon be impaired unless there is a major improvement in its financial resources, risk profile, business model, risk management systems and controls, and/or quality of governance and management in a timely manner.[987] According to the

---

986 Scott *International Finance :Law and Regulation* 763-766; Alford 2005 *Boston College International and Comparative Law Review* 284 highlighted that implementation of the core principles by emerging markets has been more problematic.

987 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* (Bank for International Settlements 2015) 6; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 19; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 3-10; Key Attribute 1: provide for the requirement of the scope of the legal framework for bank resolution which provides legal certainty and strengthen enforcement of such a resolution. It also lays down principles that are used to determine which banks in a country should be subjected to a formal resolution regime and are systemically significant or critical if it fails; Key Attribute 2: deals with the resolution authority that must direct the entry of a bank into resolution and measures provided by the resolution regime in each jurisdiction; Key Attribute 3 provides for the resolution powers and how they should be exercised with number of aspects including powers applicable in the context of entry into resolution, use of bridge institutions and bail-in within the resolution and the general resolution powers and specific resolution powers and tools such as transfer of assets liabilities; Key Attribute 4: require a legal framework governing set-off rights, contractual netting and collateralisation agreements and the segregation of client assets to be clear, transparent and enforceable during a crisis or resolution; Key Attribute 5: recommend a number of safeguards to be incorporated for an effective resolution regime to provide respect for creditor hierarchy in insolvency, meaning equity should absorb losses first and that no loss should be imposed on senior debt holders until subordinated debt has been entirely written-off; Key Attribute 6: requires that jurisdictions should have in place privately financed deposit insurance or resolution funds and the funding mechanism for ex post recovery from the industry of the costs of providing temporary financing to facilitate the resolution of the failing bank; Key Attribute 7: require that a statutory

definition, a bank which is facing potential or immediate threats to its liquidity and solvency is a weak bank, rather than a bank with observable weaknesses that are isolated or temporary and do not threaten its viability. It is also important to clarify that while all weaknesses can pose a threat to a bank if allowed to persist for some time, regardless of their magnitude and character, the bank must address them as early as they are detected. However, some weaknesses with isolated or temporary risks may not threaten the overall viability of the bank, as these risks can be managed or mitigated without causing significant long-term damage to bank stability. More fundamental problems of a weak bank include, but are not limited to, poor governance or managerial weaknesses, inadequate financial resources, non-viable business model or strategy, poor asset quality and poor systems and control.[988] These are the problems that pose a threat to the bank's viability if minimum prudential requirements are not met. Therefore, the BCBS has established minimum guidelines to assist bank

mandate of a resolution authority should empower and strongly encourage the authority to act to achieve a cooperative solution with foreign resolution authorities to deal with effects that may transcend the borders of the country to where a bank is incorporated, that might affect foreign economies too; Key Attribute 8: deals with the CMGs and require that planning pertaining to how a crisis will be managed to prevent systemic bank failure and require jurisdictions to have proper structures in place for crisis management during the failure of a global systemically important financial institution; Key Attribute 9: require that there should be, at minimum, institution specific cooperation agreements in place between the home and relevant host authorities for all globally systemically important financial institution (G-SIFIs) that need to be involved in the planning and crisis resolution stages; Key Attribute 10: require a bank resolution with a pro-active approach such that authorities should regularly undertake resolvability assessment; Key Attribute 11: require jurisdictions to put in place an ongoing process for recovery and resolution planning that cover at minimum domestic systemically important banks; Lastly Key Attribute 12: require that jurisdictions should ensure that no legal, regulatory or policy impediments exist that would hinder the appropriate exchange of information between supervisory authorities, central banks, resolution authorities, finance ministries and the public authorities for guarantee schemes.

988 Kusi BA, Agbloyor EK, Simplice AA and Abor J "Foreign Bank and Banking Stability in Africa: Does Strong and Weak Corporate Governance Systems under Different Regulatory Regimes Matter?" 2021 *Journal of Financial Economic Policy* 207, 216; see related in Cunliffe 2016 *European Economy* 64; Felsenfeld and Bilali 2004 *University of Pennsylvania Journal of International Economic Law* 1023; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 16.

supervisors in dealing with these issues and preventing bank failures by ensuring that preventative or corrective measures are adopted.[989]

As mentioned above, in 2002 the Basel Committee released an international supervisory guidance as a toolkit for dealing with weak banks based on the experiences and circumstances of various countries.[990] To establish a robust guideline or framework, the BCBS analysed various bank problems, their background and causes, and assessed the pros and cons of the methods used to address them. Developments have been made since then, in response to significant changes in the global financial markets and regulatory landscape.

In 2013, the BCBS set up a task force to update the 2002 guidance by considering the changes to regulatory expectations and practices regarding early intervention, resolution framework, recovery and resolution planning, stress testing and macroprudential oversight.[991] The task force was mandated to review existing guidance, as well as relevant publications issued by BCBS and other standard-setting bodies since 2002, and share supervisory lessons learned during the crisis such as that poor governance or risk management can weaken a bank even if its financial ratios

---

989 Avgouleas *Governance of Global Financial Markets* 272; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67-69; see the Bank Supervision Division Prudential Standard No: 02-2022/BSD: Guidance on the Implementation of the Liquidity Coverage Ratio dated December 2022 4 (BSD Prudential Standard No: 02-2022) which noted that the BCBS introduced the liquidity coverage ratio with the underlying objective of promoting the short-term resilience of the liquidity risk profile of banking institutions by ensuring that they have adequate stock of unencumbered high-quality liquid assets to survive a significant stress scenario lasting for 30 days; see related in Cunliffe 2016 *European Economy* 69.

990 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 5; see related in Avgouleas *Governance of Global Financial Markets* 271; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Arner and Norton 2009 *Hong Kong Law Journal* 120.

991 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 3; BSD Prudential Standard No: 02-2022 4; Atay 2006 *Journal of Banking Regulation* 67; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Cunliffe 2016 *European Economy* 64; Arner and Norton 2009 *Hong Kong Law Journal* 120.

remain healthy.[992] It is worth mentioning here that the task force did not aim to provide a supervisory handbook on all types of preventive action, since many actions should take place in the course of supervising institutions but had a goal to show how to identify weak banks and how to deal with them in a manner that does not affect taxpayers funds.[993] In addition, the task force guidelines targeted the supervisory community and the resolution community including the international financial institutions that advise supervisors. Because of that, the task force has not focused on any specific category of countries or banking systems but formulated the guidelines in a manner that is relevant to both smaller local banks and large international groups; public or private banks and universal bank or a financial group or a financial conglomerate.

7.3.1 Guiding principles for supervisors when dealing with weak banks

The Task Force identified that maintaining stability and confidence in the financial system by reducing the risk of loss to depositors and other creditors is the primary objective of banking supervision when dealing with weak banks.[994] In that regard, the supervisory actions aim to preserve the value of the bank's assets with minimal disruption to its operations by minimising any resolution costs and systemic impact. When dealing with a weak bank, supervisors' guiding principles include early identification, early intervention, effectiveness, flexibility, clear internal governance processes, consistency, transparency and cooperation, avoiding potential systemic problems and early preparation. Furthermore, the Basel Committee's Core principles

---

992 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 3; Atay 2006 *Journal of Banking Regulation* 67; Avgouleas *Governance of Global Financial Markets* 166; Cunliffe 2016 *European Economy* 64.

993 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 3; Atay 2006 *Journal of Banking Regulation* 67; Cunliffe 2016 *European Economy* 73; see related in Felsenfeld and Bilali 2004 *University of Pennsylvania Journal of International Economic Law* 1027; Hanson, Kashyap and Stein 2011 *Journal of Economic Perspectives* 25.

994 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 6; Girasa *Laws and Regulations in the Global Financial Markets* 201; see related in Arner and Norton 2009 *Hong Kong Law Journal* 120; see related Cunliffe 2016 *European Economy* 64.

for effective banking supervision set out the necessary foundation of a sound supervisory system including the framework mentioned above or principles that laws should provide for supervisors to have powers to set the required standards.[995] The banking laws should provide the bank supervisory authority with operational independence and access to adequate resources for conducting effective supervision. That is, for an effective system of banking supervision, there should be clear responsibilities, objectives and powers for each authority involved in the supervision of banks.[996] In addition, the responsible authority to supervise banks should have the necessary legal powers to authorise banks, conduct ongoing supervision, address compliance with laws and undertake timely corrective actions to ensure the safety and soundness of the bank.[997]

For effective and robust supervision of banks, supervisors should incorporate forward-looking tools such as early warning systems, reviews of governance and management, macroeconomic surveillance and stress testing to identify weak banks at an early stage.[998] This principle involves early identification of risk in banks for effective

---

995 Avgouleas *Governance of Global Financial Markets* 269; Girasa *Laws and Regulations in the Global Financial Markets* 201 principle 1 states that an effective system of banking supervision has clear responsibilities and objectives for each authority involved in the supervision of banks and banking groups, and also provide each responsible authority with necessary legal powers to authorise banks, conduct ongoing supervision, address compliance with laws and undertake timely corrective actions to address safety and soundness concerns; Arner and Norton 2009 *Hong Kong Law Journal* 120; Cunliffe 2016 *European Economy* 64.

996 Girasa *Laws and Regulations in the Global Financial Markets* 201; Scott *International Finance :Law and Regulation* 763; Arner and Norton 2009 *Hong Kong Law Journal* 119; Cunliffe 2016 *European Economy* 65.

997 Scott *International Finance :Law and Regulation* 763 state that a suitable legal framework should have each agency supervising banks possess operational independence and resources, provide adequate provisions relating to authorisation of banking establishments and their own ongoing supervision, powers to address compliance with laws as well as safety and soundness concerns; see related comments in Vousinas 2015 *Journal of Financial Regulation and Compliance* 396; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

998 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 6; Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 30; Girasa *Laws and Regulations in the Global Financial Markets* 202 principles 8 and 9 require supervisors to use an appropriate range of techniques and tools to implement the effective supervisory approach.

supervision and mitigation of the causes of bank failures.[999] As soon as the risks or problems are identified, supervisors should act promptly and intervene at an early stage to prevent the bank from failing.[1000] That will prevent the rapid growth of the causes of weakness to a bank, which could become more widespread and systemic causing many other banks to suffer. An effective supervisory approach entails a forward-looking assessment of the risk profile of individual banks and banking groups, proportionate to their systemic importance and assists with a framework that will provide plans in place with actions to resolve banks in an orderly manner if they become nonviable.[1001]

The key attribute of effectiveness is consistent with the core principles for effective banking supervision and other Basel Committee guidance that require the supervisor to make his best effort, given the available information at his disposal, considering all costs including exogenous costs such as instability of the financial system, in deciding on a course of action.[1002] Flexibility is important to allow supervisors to apply recovery measures for a bank in distress and act decisively in concert with the resolution authority when a distressed bank reaches the point of non-viability. It is also important for supervisors to develop their own governance processes to ensure their

---

999 Scott *International Finance :Law and Regulation* 763; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 14; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

1000 Girasa *Laws and Regulations in the Global Financial Markets* 203; see Basel III Principles 11 and 15; Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 6.

1001 Scott *International Finance :Law and Regulation* 763 provide that an effective system of banking supervision will have clear responsibilities and objectives for each agency involved in the supervision of banks, each such agency should possess operational independence and adequate resources; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 23-25; see related comments in Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

1002 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 6, see Barth *et al* 2013 *Journal of Banking and Finance* 2882 with regard to supervisory independence; see related in Avgouleas *Governance of Global Financial Markets* 269; Girasa *Laws and Regulations in the Global Financial Markets* 200; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441.

discretionary decisions are taken at a level within the hierarchy that is appropriate to the significance of the issue at hand.[1003]

It is also trite for supervisors to be consistent and well-understood so as not to distort the competitive environment and to minimise confusion and uncertainty in times of crisis.[1004] Consistency entails actions that are supported by a well-functioning supervisory rating system, which should be on the basis of subsequent supervisory actions so that similar problems in different banks, large or small, private or state-owned receive similar treatment. In addition, the supervisors should be well-understood in their supervisory reporting, consolidated supervision and home-host relationships to ensure adequate monitoring and appropriate application of prudential standards to all aspects of the business conducted by the banking group worldwide.[1005]

In terms of the principles in dealing with weak banks, supervisors should design a clear internal governance process to ensure that discretionary decisions are taken at a level within the organisational hierarchy that is appropriate to the significance of the issue with clear underlying reasons for the decision.[1006] The supervisor determines that banks have adequate prudential regulations and requirements frameworks to establish

---

1003 Basel Committee on Banking Supervision *Guidelines for Identifying and Dealing with Weak Banks* 7; Girasa *Laws and Regulations in the Global Financial Markets* 204; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 78.

1004 Girasa *Laws and Regulations in the Global Financial Markets* 204; Basel III Principles 18 and 26; see related in Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 444; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 277.

1005 Girasa *Laws and Regulations in the Global Financial Markets* 202; Basel III Principles 10,12 and 13; see related in Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440.

1006 Girasa *Laws and Regulations in the Global Financial Markets* 202; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 281.

and maintain a properly controlled operating environment for the conduct of their business taking into consideration their risk profile.[1007]

Transparency and cooperation also play an important role in supervisory actions. Effective supervision needs adequate and correct information from banks, hence the need for banks to aim for a higher degree of information sharing and transparency to

---

[1007] Basel principles 14-29 are the prudential regulations and requirements and they are as follows: principle 14: Corporate governance requires supervisors to ensure that banks and banking groups have robust corporate governance policies and processes covering strategic direction, group and organisational structure, control environment, responsibilities of banks' Boards and senior management and that the policies and processes commensurate with the risk profile and systemic importance of the bank; Principle 15: requires supervisors to have a comprehensive risk management process to identify, measure, evaluate, monitor, report and control or mitigate all material risks on timely basis and to access the adequacy of their capital and liquidity in relation to their risk profile and market and macroeconomic condition; Principle 16: requires supervisors to set prudential and appropriate capital adequacy requirements for banks that reflect the risks undertaken by, and presented by a bank in the context of the markets and macroeconomic conditions in which it operates; Principle 17: requires supervisors to determine that banks have adequate credit risk management process that takes into account their risk appetite, risk profile and market and macroeconomic conditions; Principle 18: requires supervisors to ensure that banks have adequate policies and processes for identification and management of problem assets and the maintenance of adequate provisions and reserves; Principle 19: requires banks to have adequate policies and processes to identify, measure, evaluate, monitor, report and control 68774-7667or mitigate concentration of risk on a timely basis; Principle 20: requires supervisors to ensure that banks to enter into transactions with related parties on an arm's length basis to prevent abuses arising in transactions with such related parties; Principle 21: requires banks to have policies and processes that control or mitigate country risk and transfer risk in their international lending and investment activities on a timely basis; Principle 22: requires supervisors to ensure effective market risks on all banks; Principle 23: requires that supervisors determines and ensure adequate systems regarding interest rate risk in the banking book to identify, measure, evaluate, monitor, report, and control or mitigate such risks in a timely basis; Principle 24: requires supervisors to set prudent and appropriate liquidity requirements for banks that reflect the liquidity needs of the bank; Principle 25: requires a framework that ensures an adequate operational risk management that takes into account their risk appetite, risk profile and market and macroeconomic conditions; Principle 26: requires adequate internal control audit; Principle 27: requires a framework that ensures banks and banking groups maintain adequate and reliable records, prepare financial statements in accordance with accounting policies and practices that are widely accepted internationally and annually publish information that fairly reflects their financial condition and performance; Principle 28: requires banks and banking groups to regularly publish information on a consolidated and where appropriate on solo basis that is easily accessible and fairly reflects their financial condition, performance, risk exposures, risk management strategies and corporate governance policies and processes; and lastly Principle 29: requires a framework that has adequate policies and processes including strict customer due diligence rules to promote high ethical and professional standards in the financial sector and prevent bank from being used, intentionally or unintentionally for criminal activities; Girasa *Laws and Regulations in the Global Financial Markets* 203-205.

assist supervisors when considering dealing objectively with weak banks and maintaining broader systemic stability.[1008]

The researcher submits that the Basel III framework provides robust and effective international best standards and guidelines for maintaining banking stability and curbing bank failures globally.[1009] The standards and guidelines provided by the Basel III set the global regulatory standards to strengthen bank capital requirements, enhance risk management and improve liquidity ensuring banks have a larger financial buffer to absorb losses and reduce the risk of insolvency.[1010] In addition, Basel III introduces specific liquidity ratios such as liquidity coverage ratio and net stable funding ratio to ensure that banks have enough liquid assets to cover short-term obligations.[1011] It also limits excessive borrowing by establishing leverage ratios, which helps prevent issues like bank runs and ensures that banks can manage both immediate and longer-term funding needs. Furthermore, Basel III identifies globally systemically important banks (G-SIBs) and imposes additional capital requirements on them.[1012] In this regard, it is particularly valuable because it places additional safeguards on banks whose failure could trigger a systemic or wide financial crisis.

1008 Barth *et al* 2013 *Journal of Banking and Finance* 2881; Arner and Norton 2009 *Hong Kong Law Journal* 102; Atay 2006 *Journal of Banking Regulation* 69; see related in Botha and Makina 2011 *International Business and Economics Research Journal* 34.

1009 Nyaude and Van Heerden 2024 *International Insolvency Review* 191; see related comments in Scott *International Finance :Law and Regulation* 764; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 9-22; Vousinas 2015 *Journal of Financial Regulation and Compliance* 394-398; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49-53.

1010 Scott *International Finance :Law and Regulation* 760-771; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 20; Vousinas 2015 *Journal of Financial Regulation and Compliance* 397; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 67-69; Alford 2005 *Boston College International and Comparative Law Review* 273-275 .

1011 Vousinas 2015 *Journal of Financial Regulation and Compliance* 397; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

1012 Nyaude and Van Heerden 2024 *International Insolvency Review* 186; Feridum and Ozün 2020 *Journal of Capital Markets Studies* 21; Vousinas 2015 *Journal of Financial Regulation and Compliance* 395; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69.

7.4 Concluding Remarks

Global and international best practices in preventing bank failures encompass a multi-faceted approach that incorporates regulatory oversight, risk management and financial stability measures. Bank failures are not a unique phenomenon and have caused devastating effects on economies, eroding public trust in the financial sector and causing economic disruption in various countries.[1013] Effective regulation and supervision are paramount, ensuring banks adhere to stringent capital adequacy requirements, maintain sufficient liquidity and employ robust risk management frameworks. Institutions such as the BCBS set global standards, including the Basel III framework which enhances the resilience of banks through improved capital and liquidity regulations.[1014] Basel III contains regulatory measures on capital adequacy, stress testing and market liquidity risk. Cross-border cooperation and information sharing among regulatory bodies also play a vital role in managing systemic risks, given the interconnected nature of global banking systems.[1015]

The Basel principles require regular stress testing and transparent reporting as they are critical in identifying potential vulnerabilities and ensuring timely corrective actions.[1016] Adopting sound corporate governance practices further strengthens the

---

[1013] Atay 2006 *Journal of Banking Regulation* 66 contended that a bank failure can produce more negative consequences; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 78; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; Munoangira and Kaja 2016 *European Journal of Business and Management* 198.

[1014] Girasa *Laws and Regulations in Global Financial Markets* 170; Atay 2006 *Journal of Banking Regulation* 67; Avgouleas *Governance of Global Financial Markets* 272; see the Bank Supervision Division Prudential Standard No: 02-2022/BSD: Guidance on the Implementation of the Liquidity Coverage Ratio dated December 2022 4 (BSD Prudential Standard No: 02-2022); see related in Cunliffe 2016 *European Economy* 69; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 74.

[1015] Atay 2006 *Journal of Banking Regulation* 67; Girasa *Laws and Regulations in Global Financial Markets* 169; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 76; see related in Botha and Makina 2011 *International Business and Economics Research Journal* 32.

[1016] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 74; Principle 1 and 11 of the Basel III; Botha and Makina 2011 *International Business and Economics Research Journal* 32; Girasa *Laws and Regulations in Global Financial Markets* 203-204.

internal controls and accountability mechanisms within banks, therefore, reducing the chances of bank failures.[1017] The Basel principles established clear lines of responsibility, enhanced board oversight and fostered a risk-aware culture throughout the financial institution as guidelines for effective or good corporate governance.[1018]

In addition, the Financial Stability Board's key attributes of Effective Resolution Regimes require financial institutions to have an early intervention and resolution framework in place.[1019] The objective of the Financial Stability Board's Key attributes is to ensure that authorities can manage failing banks in an orderly manner, minimising disruption to the financial system and protecting depositors.[1020]

Ultimately, the convergence of these best practices enhances the overall stability and resilience of the banking sector, reduces the likelihood of bank failures and contributes to sustainable economic growth. Continuous evolution and adaptation of the best practices in response to emerging risks and market development are essential to maintain financial stability in an ever-changing landscape.

[1017] Girasa *Laws and Regulations in Global Financial Markets* 203 states that principle 14 requires the supervisors to determine that banks and banking groups have robust corporate governance policies and processes that are commensurate with the risk profile and systemic importance of the bank; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 76; Kim H "Financial Regulation and Supervision in Corporate Governance of Banks" 2016 *Journal of Corporation Law* 707, 720.

[1018] Girasa *Laws and Regulations in Global Financial Markets* 203; see Principle 1 of the Basel III; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 31; Kim 2016 *Journal of Corporation Law* 720.

[1019] Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 1; Coleman, Georgosouli and Rice 2018 *International Finance Discussion Papers* 4; see related in Arner and Norton 2009 *Hong Kong Law Journal* 111; Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps* 14; see Arda and Dobler 2022 *International Monetary Fund Working Paper* 6; Cunliffe 2016 *European Economy* 65; Atay 2006 *Journal of Banking Regulation* 67.

[1020] Girasa *Laws and Regulations in the Global Financial Markets* 201; see related in Arner and Norton 2009 *Hong Kong Law Journal* 120; see related Cunliffe 2016 *European Economy* 64; Atay 2006 *Journal of Banking Regulation* 68 noted that a bank insolvency regime always includes the following steps: initiating the insolvency proceedings, either taking over or supervising the administration of the bank, undertaking operations relating to the bank's restructuring, liquidating insolvent banks, and paying off insured depositors.

The following chapter is Chapter Eight and it provides the overall comparative analysis of banking regulation and related measures to prevent and combat bank failures.

CHAPTER EIGHT

OVERALL COMPARATIVE ANALYSIS OF BANKING REGULATION AND RELATED MEASURES TO PREVENT AND COMBAT BANK FAILURES

8.1 Introduction

Both developed and developing countries continue to experience banking failures despite efforts to develop regulatory frameworks to mitigate the same. Ideally, the banking sector should be stable and resilient to ensure financial security and general economic stability.[1021] The global financial crisis of 2007 to 2008 exposed banking sector vulnerabilities such as poor regulatory frameworks, poor risk management, inadequate capital reserves, over-leveraging, excessive risk-taking and poor corporate governance across the world.[1022] In response to the global financial crisis, most countries implemented various legislative and regulatory measures aimed at preventing bank failures.[1023] This chapter provides an in-depth comparative analysis of banking legislation and regulatory frameworks of Zimbabwe, South Africa and the

---

[1021] Nhavira JDG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1, 13; Botha E and Makina D "Financial Regulation and Supervision: Theory and Practice in South Africa" 2011 *International Business and Economics Research Journal* 27; see the *Financial Stability Review* 2nd ed (South African Reserve Bank Pretoria 2023) 5; see related in Chagwiza W "Zimbabwean Commercial Banks Liquidity and Its Determinants" 2014 *International Journal of Empirical Finance* 52; 53.

[1022] Goenner CF "Robust Lessons Learned from Bank Failures During the Great Financial Crisis" 2024 *Review of Quantitative Finance and Accounting* 449, 454 states that banks ultimately failed, or were close to failure, due to having insufficient capital to cover their losses during the crisis; ; Forbes WP, Donohoe SO and Prokop J "Financial Regulation, Collective Cognition, and Nation-State Crisis Management: A Multiple Case Study of Bank Failures in Germany, Ireland and the UK" 2015 *The Journal of Risk Finance* 284, 292; see related in Nyaude AB and Van Heerden C "Bank Resolution in South Africa: Recent Developments" 2024 *International Insolvency Review* 182, 183-184; Lessambo F *The International Banking System: Capital Adequacy, Core Businesses and Risk Management* (Palgrave Macmillan New York 2013) 222.

[1023] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 22; Botha and Makina 2011 *International Business and Economics Research Journal* 31 contend that the 2007-2009 global financial crisis exposed the weaknesses of the system; Foya D and Changunda G "An Investigation of Corporate Governance Challenges Facing Indigenous Banks in Zimbabwe" 2019 *International Journal of Research and Innovation in Social Science* 100, 101.

UK. In other words, the chapter compares how banking regulatory frameworks in Zimbabwe, South Africa and the UK can be used to combat bank failures.

The comparative study delves into the regulatory and supervisory reforms adopted to ensure the robust implementation of banking legal frameworks to effectively impede bank failures.[1024] The comparative analysis focuses on the effectiveness of respective banking legal frameworks in safeguarding against systemic risks and mitigating the likelihood of bank failures. By examining the regulatory and supervisory approaches adopted by South Africa and the UK, this analysis aims to evaluate the efficacy of strategies employed in fortifying their banking sectors against systemic risks and enhancing resilience to factors that potentially cause bank failures.

South Africa's banking regulatory framework and that of the UK have adopted the twin peaks model as a regulatory and supervisory mechanism to assist and manage the financial sector.[1025] The regulatory authorities established by the twin peaks in both countries play a key role in overseeing financial institutions' implementation and maintenance of appropriate measures to facilitate compliance with the banking laws,

---

[1024] Jabotinsky HY "The Federal Structure of Financial Supervision: A Story of Information-Flow" 2017 *Stanford Journal of Law, Business and Finance* 52, 66; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101; the *Financial Stability Review* 28; Gumbo V and Zoromedza S "Bank Failure Prediction Model for Zimbabwe" 2016 *Applied Economics and Finance* 222, 223; Mishi S and Khumalo SA "Bank Stability in South Africa: What Matters" 2019 *Banks and Bank Systems* 122, 123.

[1025] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 22; see related the *Financial Stability Review* 30; Godwin A, Howse T and Ramsay I "Twin Peaks: South Africa's Financial Sector Regulatory Framework" 2017 *The South African Law Journal* 655, 667; Van Heerden CM, Van Niekerk GM and Huls NJH "Two Takes on Twin Peaks: A Comparative Appraisal of the Models of Financial Regulation in the Netherlands and South Africa" 2020 *Journal for Contemporary Roman-Dutch Law* 491, 504; Chitimira H and Torerai E "A Regulatory Analysis of Digital Financial Services and the Adoption of Central Bank Digital Currencies in Zimbabwe and South Africa" 2023 *Juridical Tribute* 384, 400.

rules, regulations and policies.[1026] However, the extent of their involvement may vary depending on the specific regulations and the nature of the institutions they supervise, as well as other factors such as the institutions' risk profiles. Furthermore, the banking regulatory authorities have two main statutory objectives which are to promote the safety and soundness of financial institutions and to ensure an appropriate degree of protection for financial consumers. Therefore, this comparative analysis seeks to draw insights from South Africa and the UK's banking legal frameworks in order to provide lessons that policymakers in Zimbabwe can adopt to curb bank failures.

8.2 Comparative Analysis of Key Terms

8.2.1 Bank

The *Banking Act* defines a bank as an institution that is registered or required to be registered to conduct any class of banking business in Zimbabwe.[1027] Interestingly, the definition has some striking resemblance to that provided in South Africa's *Banks Act* and the UK's *Banking Act*.[1028] South Africa and the UK's banking statutory frameworks

---

[1026] Van Niekerk G "The Nationalisation of the South African Reserve Bank: A Legal-Historical Perspective of Three Central Banks" 2023 *Fundamina: A Journal of Legal History* 80, 99; Godwin and Schmulow 2015 *The South African Law Journal* 759; Visagie-Swart L and Lawack V "An Overview of the First Draft of the Conduct of Financial Institution Bill and the Potential Impact on the National Payment System in South Africa" 2020 *South African Mercantile Law Journal* 129, 132; see related in Rassouw J *South African Reserve Bank: History, Functions, and Institutional Structure* (2009 South African Reserve Bank Pretoria) 11; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507.

[1027] See section 2(1) *Banking Act* [Chapter 24:20] 9 of 1999 as amended (*Banking Act*); Munyoro G, Kusema W, Chimusakasa W and Zingunde M "The Contribution of Entrepreneurial Culture on Corporate Performance in the Banking Sector in Zimbabwe: A Case Study of African Century Bank" 2022 *International Journal of Economics and Management Studies* 21, 26; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 102; see related on Chinoda T, Chingombe C and Chawuruka P "The Impact of Minimum Capital Requirements on Performance of Commercial Banks in Zimbabwe" 2015 *IOSR Journal of Economics and Financ*e 60; Bonga WG, Chirenje G and Mugayi P "Analysis of Credit Culture in the Zimbabwean Banking Sector" 2019 *Dynamic Research Journals* 45, 46.

[1028] Section 2(1) of the *Banking Act*; section 2(1) of the *Banking Act* 2009 (Chapter 1) thereafter *Banking Act* 2009; section 1(1) of the *Banks Act* 94 of 1990 as amended by [s.1 of Act 9/93 and substituted by s.1 of Act 26/94] thereafter the *Banks Act*.

have express definitions of a bank.[1029] The *Banks Act* of South Africa defines a bank as a public company registered as a bank in terms of this Act.[1030] In the UK, a bank means an institution which is incorporated in, or formed under the law of any part of the UK, which has permission under part 4 of the *Financial Services and Markets Act* 2000 to carry out the regulated activity of accepting deposits, within the requirements of section 22 of that Act and does not include a building society, credit union, or any other class of institution excluded by an order made by the Treasury.[1031]

8.2.2 Bank Failure

For the purposes of this research, bank failure refers to a situation where a bank or financial institution cannot sustain itself any longer without external support and is subject to re-capitalisation, acquisition by another financial institution, or closure.[1032] Defining bank failure provides clarity on the thresholds or conditions that constitute failure, such as insolvency, capital inadequacy or inability to meet obligations to depositors.

Bank failure is not expressly defined in Zimbabwe's *Banking Act* or the *Reserve Bank of Zimbabwe Act* (*RBZ Act*).[1033] The *Banking Act* and the *RBZ Act* are the primary

---

[1029] See the definition of a bank in section1 of the *Banks Act*; section 2(1) and (2) of the *Banking Act* 2009.

[1030] Section 1(1) of the *Banks Act*.

[1031] Section 2(1) of the *Banking Act* 2009; Hsiao M "Legitimised Interference with Private Properties – Banking Act 2009" 2010 *Journal of International Banking Law and Regulation* 227, 230.

[1032] Lastra RM "Northern Rock, UK Bank Insolvency and Cross-Border Bank Insolvency" 2008 *Journal of Banking Regulation* 165, 171 states that a bank is considered to have failed when the competent authorities order the cessation in its operations and activities; Tefula M and Murinde V "Identifying Problem Banks in Sub-Sahara Africa: Problem Banks in Africa" 2002 *The African Financial Journal* 1, 3; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; see also Munoangira A and Kaja P "Strategies to Enhance Public Confidence in the Zimbabwean Banking Sector" 2016 *European Journal of Business and Management* 198 referenced Kaufman (1996) who described bank failure as a situation when the market value of the bank assets declines below the market value of its liabilities; Havemann R "The South African Small Banks' Crisis of 2002/3" 2021 *Economic History of Developing Regions* 313, 322; Ghosh A "Do Bank Failures Still Matter in Affecting Regional Economic Activity?" 2017 *Journal of Economics and Business* 1, 3.

[1033] See section 2(1) *Banking Act*; Section 2 of the *Reserve Bank of Zimbabwe Act* [Chapter 22:15] thereafter the RBZ Act; see related in Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 108.

legislation that governs financial institutions in Zimbabwe ensuring financial stability and providing for the supervision of the banking institutions.[1034] Ideally, the two primary legislation should provide clear provisions or definitions of bank failure. Without a clear definition of bank failure, there can be ambiguity in determining whether a bank has failed, or in determining the correct time of intervention to curb such failure.

Rather, the *Banking Act* provides for the definition of a "problem banking institution" which is a bank whose capital adequacy, asset quality or liquidity or solvency is, or will be (in the opinion of the registrar), significantly impaired unless there is a major improvement in its financial resources, risk profile, strategic business direction, risk management capabilities or quality of management.[1035]

While both definitions relate to a state of financial distress within banks, a problem banking institution refers to the moment the institution experiences significant impairment in key areas such as capital adequacy, asset quality, liquidity, or insolvency. Its categorisation is based on the institution's current state and potential for bank failure if not addressed. Bank failure specifically denotes the outcome of related financial distress, which is the point at which a bank can no longer sustain itself without external support and may need to undergo recapitalisation, acquisition, or closure.[1036] In this regard, it is safe to state that the *Banking Act* lacks on providing a clear definition of bank failure.

Likewise, the South African *Banks Act* does not expressly define bank failures or provide a clear explanation of what constitutes a bank failure. Similarly, the UK *Banking*

[1034] Section 6(1)(a-e) of the *RBZ Act*.
[1035] Section 2 (1) of the *Banking Act*.
[1036] Havemann 2021 *Economic History of Developing Regions* 322; Lastra 2008 *Journal of Banking Regulation* 117; Ghosh 2017 *Journal of Economics and Business* 3; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223.

Act does not define bank failure.[1037] The decision not to include the definition of bank failure in the main statutes of the selected jurisdictions could be from a combination of factors such as the regulatory philosophy and the need for adaptability in addressing complex issues within the financial sector. However, the researcher is of the view that the definition of bank failure should be incorporated into the main banking statutes for the three countries under review. Against this backdrop, the researcher argues that including the definition of bank failure can enhance regulatory clarity, market confidence, and legal effectiveness in managing and mitigating the risks associated with financial instability and distress within the banking sector.

8.2.3 Prudential Standards

The *Banking Act* does not provide or define the term prudential standards. However, deriving from the provisions of the same *Act*, prudential standards can refer to financial regulations and guidelines developed to enhance supervision and ensure the safety and soundness of financial institutions by mitigating risks and promoting stability.[1038] Prudential standards typically cover areas like capital adequacy, risk management, asset quality, and liquidity. In that regard, most supervisory authorities require banks to have adequate internal systems to monitor and control the risks that may cause specific crises.

[1037] Ghosh 2017 *Journal of Economics and Business* 3 states that bank failure is declared by the FDIC, which defines failure or closing date as the date when a bank ceases to exist and operate; Havemann 2021 *Economic History of Developing Regions* 322; Lastra 2008 *Journal of Banking Regulation* 117; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223.

[1038] Section 4C(1) of the *Banking Act*; Haentlens M "Bank Recovery and Resolution: An Overview of International Initiatives" 2014 *International Insolvency Law Review* 255, 265; Cornell Law School *Legal Information System* available at https://www. law.cornell.edu/uscode/text/12/5301#13 accessed on 11 March 2024 provides the definition of prudential standards as the enhanced supervision and regulator standards developed by the Board of Governors; see related comments in Nzaro R, Njanike K and Jaravani U "Impact of Regulation Policy on Product and Service Delivery of Micro-Financial Institutions: A Case of Zimbabwe" 2013 *Global Advanced Research Journal of Management and Business Studies* 429, 432.

South Africa's *Banks Act* provides a definition of prudential standards with reference to the meaning ascribed to it in terms of the *Financial Sector Regulation Act*.[1039] Prudential standards are defined as standards or conduct aimed at ensuring the safety and soundness of financial institutions, reducing the risk that those financial institutions and key persons engage in conduct that amounts to, or contributes to financial crime, and assisting in maintaining financial stability.[1040]

The UK's *Banking Act* does not specifically define prudential standards. Prudential standards in the UK banking framework are typically established and enforced by the regulatory authorities overseeing the banking sector, primarily the Prudential Regulatory Authority (PRA), which operates under the auspices of the Bank of England.[1041] Furthermore, the broader legal and regulatory framework governing the banking sector, including legislation, regulatory rules and international standards, collectively shape and enforce prudential standards within the UK banking sector.

The following concepts are universal in nature, and they apply to all three jurisdictions in the same way. As such, the researcher discusses them in general terms.

8.2.4 Financial Stability

Financial stability refers to a state where the financial sector operates smoothly, efficiently allocates capital, facilitates investments and supports productive economic activities with no or little disruptions.[1042] In other words, financial stability denotes a

---

[1039] Section 105 (2) of the *FSR Act.*

[1040] Section 105 (2) of the *FSR Act*.

[1041] Section 250 (1) and (2) of the *Banking Act*; see related in Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 54.

[1042] Section 4(1)(a-c) of the *FSR Act*; see publication by *The World Bank IBRD-IDA* available at https://www.worldbank.org/en/publication/gfdr/gfdr-2016/background/financial-stability accessed on 11 March 2024; Schinasi GJ Defining Financial Stability IMF Working Paper International Capital Markets Department (International Monetary Fund 2004) 1, 8; see also the SARB home on financial stability available at https://www.resbank.co.za/en/home/what-we-do/financial-stability accessed 11 March 2024, which defines financial stability as a financial system that inspires through its resilience to systemic risks and its ability to efficiently intermediate funds.

robust and resilient financial system that not only withstands stress but also inspires confidence in stakeholders through its ability to manage systemic risks effectively.[1043]

8.2.5 Banking Regulation

Banking regulation refers to a set of enforceable laws, rules, guidelines and supervisory practices established by government or independent regulatory authorities to regulate restrict or direct the establishment and actions of banking institutions.[1044] Thus, banking regulation is done through a body of specific rules or agreed behaviour imposed by the government or other agencies by implicit or explicit agreement within the banking sector to oversee the activities and business operations of banking institutions.[1045] Therefore bank regulation is important to maintain and ensure the stability, integrity and soundness of banking institutions while promoting consumer protection and market conduct of banks. That is, banking regulation encompasses a set of laws, rules, guidelines and policies designed to ensure that banks are properly instituted, operate safely, uphold fair market conduct and protect consumers to curb bank failures.

[1043] Section 4(1)(a-c) of the *FSR Act*; see the definition provided in the *Financial Stability Review* (Second Edition 2023) available at https://www.resbank.co.za/content/dam/sarb/publications/reviews/finstab-review/2023/financial-stability-revew/second-edition-2023-financial-stability-review/Second%20Edition%202023%20Financial%20Stability%20Review1.pdf accessed 11 March 2024 which state as follows, financial stability refers to a financial system that is resilient to systemic risks and shocks and that can efficiently intermediate funds, even in adverse conditions, thereby bolstering confidence in the financial system and financial institutions.

[1044] See related explanation in Barth JR, Caprio Jr G and Levine R "Bank Regulation and Supervision: What Works Best?" 2004 *Journal of Financial Intermediation* 205, 209; Pfumorodze J and Nzonzo JC "Some Reflections on Corporate Governance in Banking Sector in Zimbabwe" 2010 *Indian Journal of Corporate Governance* 51, 61; Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 431 see related comments in Chagwiza W "Rejuvenating the Zimbabwean Economy: The Role of Banks" 2012 *Journal of Sustainable Development in Africa* 183, 185; Rossouw J "A Selective Reflection on the Institutional Development of the South African Reserve Bank since 1921" 2011 Economic History of Developing Regions S3, S5.

[1045] Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 430-431; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 61; Scott HS *International Finance: Law and Regulation* (Sweet and Maxwell London 2004) 606.

6.2.6 Bank Supervision

Bank supervision is the systematic process undertaken by regulatory authorities to oversee, monitor and evaluate banking institutions ensuring their adherence to relevant banking laws, regulations and policies and to reduce the probability and impact of bank failures.[1046] Bank supervision includes an examination of the bank's financial position, risk management practices and operational stability of banks to minimise the likelihood and mitigate the effects of bank failures.[1047] Thus, the bank regulatory authorities regularly inspect, assess and enforce corrective actions when necessary to safeguard depositors' funds, maintain public confidence and uphold the overall stability of the banking sector to minimise the likelihood of bank failures.

6.2.7 International Best Practices

International best practices refer to widely accepted standards, guidelines and procedures established by global bodies or developed through cross-border consensus to ensure high-quality, efficient and ethical operations across financial sectors.[1048] International best practices ensure that industries align their operations with a set of high-quality benchmarks, which helps enhance the resilience, integrity and stability of

---

[1046] Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 61; see the Basel Committee on Banking Supervision: Core Principles for Effective Banking Supervision (Bank for International Settlements 2012) available at https://www.bis.org/basel_framework/ accessed 30 October 2024 4-5; see related comments in Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 430.

[1047] Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 430; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 62; Tadu R and Mukonya S "Challenges of Whistle Blowing as a Corporate Governance Tool in Zimbabwean Banking Sector During 2000-2008" 2016 *Journal of Research in Business, Economics and Management* 594, 956.

[1048] See section 166AH of the *FSR Act*; Berge TL and St John T "Asymmetric Diffusion: World Bank 'Best Practice' and the Spread of Arbitration in National Investment Laws" 2021 *Review of International Political Economy* 584, 589; Scott HS *International Finance: Law and Regulation* 606; see the Basel Committee on Banking Supervision: Core Principles for Effective Banking Supervision available at https://www.bis.org/basel_framework/ accessed 30 October 2024 53; see related comments in Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 58-63; Dhliwayo CL and Gardener EPM "Supervision, Capital Adequacy and Banking Development: Some Evidence from Zimbabwe" 1996 *African Review of Money Finance and Banking* 5, 10.

banks worldwide.[1049] By adopting international best practices banks minimise risks, promote consumer protection and create a level playing field fostering global trust and cooperation. In this regard, the cross-border consensus allows different regulatory systems to meet common objectives, ensures stability and ethical operation on an international scale, while considering local needs and regulatory environments to prevent bank failures or systemic crises.

8.3 Overall Analysis of the Causes of Bank Failures and the Regulation of Banks

8.3.1 Causes of Bank Failures in Zimbabwe, South Africa and the UK

Bank failure is a global phenomenon that can be defined in several ways. Generally, bank failure occurs when a financial institution experiences significant financial distress, rendering it incapable of fulfilling its obligations to depositors, shareholders and other stakeholders.[1050] In Zimbabwe, South Africa and the UK, bank failures are caused by, *inter alia*, poor regulatory oversight or enforcement, poor corporate governance, poor risk management policies, liquidity shortages, non-performing loans, excessive risk-taking and exposure to global market shocks.[1051] Each country's experience underscores the importance of a strong banking regulatory framework, prudent corporate governance and effective risk management to prevent bank failures.

Soon after the enactment of the *Banking Act* in 1999, Zimbabwe suffered from numerous adverse effects of a faltering economy from the year 2000 and that also led

---

[1049] Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 62; Dhliwayo and Gardener 1996 *African Review of Money Finance and Banking* 10; Scott *International Finance: Law and Regulation* 606.

[1050] Munoangira and Kaja 2016 *European Journal of Business and Management* 198 adopted the definition of bank failure by Kaufman (1996) who described bank failure as a situation when the market value of bank assets declines below the market value of its liabilities; Sithole and Mtetwa 2009 *UNISWA Research Journal* 44; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; see related Chipatiso and Kawadza 2018 *Journal of Corporate and Commercial Law & Practice* 38.

[1051] Gumbo and Zoromedza 2016 *Applied Economics and Finance* 223; see related Chipatiso and Kawadza 2018 *Journal of Corporate and Commercial Law & Practice* 38.

to banks failing to sustain their operations owing to, *inter alia*, economic meltdown, inflation and other macroeconomic factors.[1052] From the year 2000, Zimbabwe recorded several bank failures, starting with the collapse of the United Merchant Bank.[1053] The causes of the United Merchant Bank collapse were fraudulent activities, high insider loans and a lack of good corporate governance. This signifies that there was a lack of regulations or enforcement thereof to crackdown on the activities and factors that caused bank failures in Zimbabwe.

As pointed out in Chapter One, the period from 2002 to 2004 recorded many bank failures in Zimbabwe.[1054] The collapse of Zimbabwe Building Society (Zimbank), First National Building Society, Century Bank Limited, Metropolitan Bank, Time Bank, Royal Bank, Trust Bank and Barbican Bank, to mention a few, marked the peak of the period of bank failures in Zimbabwe.[1055] These banks collapsed primarily due to poor

---

[1052] See chapter 1 of this thesis; Tembo J "Bank Failures in Zimbabwe" *Economic Management in a Hyperinflationary Environment: The Political Economy of Zimbabwe* (Oxford University Press Ltd Cape Town 2015) 142; see also Abel S and Le Roux P "Determinants of Banking Sector Profitability in Zimbabwe" 2016 *International Journal of Economics and Financial Issues* 845, 846 where they argue that hyperinflation significantly reduced public savings in real terms; Non-transparent financial transactions refer to a scenario where financial transactions lack transparency or clarity in their execution or reporting, that is, the financial transactions are conducted in a way that is not clear or open to external observers; Chipatiso goes on to say that a bank's collapse can undermine public confidence more acutely than the failure of any other comparably sized private business enterprise, see Chipatiso 2018 *JCCL&P* 38; Munyoro *et al* 2022 *International Journal of Economics and Management Studies* 27; Makumbe C, Sunge R and Zivanomoyo J "Zimbabwean Commercial Banks Performance under Multiple-Currency System: A Dynamic Panel Data Analysis" 2020 *African Finance Journal* 40; 41.

[1053] Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Dzomira S "Analysis of Bank Failures During Financial Tumult in Africa- Zimbabwe: A Historical Review" 2014 *Journal of Governance and Regulation* 75, 77; Tembo "Bank Failures in Zimbabwe" 139; Kandongwe S "The Root Causes of Bank Failures in Zimbabwe Since the Year 2008-2015" 2015 *Available at SSRN 3120898* 1, 8; Munoangira and Kaja 2016 *European Journal of Business and Management* 202.

[1054] Chokuda and Chokuda-Santu 2021 *MSU Law Review* 4-5; Dzomira 2014 Journal of Governance and Regulation 78; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42 states that Zimbabwe's banking sector has been characterised by turmoil and failures between 2002 and 2006.

[1055] Dzingirai C and Dzingirai M "Threshold Effect of Non-interest Income Disaggregates on Commercial Banks' Financial Performance in Zimbabwe" 2024 *Heliyon* 1, 4; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42-43; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; Kandongwe 2015 *Available at SSRN 3120898* 8; Dzomira and Katuka 2014 *International Journal of Economics and Finance* 232.

corporate governance, high levels of non-performing loans, inflation, poor banking legislation, poor enforcement of relevant regulations and liquidity crisis.[1056] Various initiatives were implemented to curb bank failures, including strengthening the RBZ's supervisory capacity and improving effectiveness in maintaining financial stability through expanding the legal framework to comply with international standards such as the Basel Committee's Core Principles.[1057] Furthermore, the RBZ sought the amendment of the *Banking Act* to address ambiguous legislative provisions and clarify issues that were not clearly defined in the *Act*.

Likewise, South Africa has had various bank failures since 1990.[1058] These bank failures were caused by factors such as credit risk, poor regulation of banks, poor corporate governance, liquidity risk, capital requirements, bank regulation, inefficient management and external economic factors.[1059] More than 30 banks have failed since 1990 and among them include Alpha Bank, Capital Investment Bank, Pretoria Bank, Sechold Bank, Prima Bank, African Bank, the Community Bank, the Islamic Bank of

---

[1056] Chokuda and Chokuda-Santu 2021 *MSU Law Review* 4-5; Dzingirai and Dzingirai 2024 *Heliyon* 4; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42-43; Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; Dzomira and Katuka 2014 *International Journal of Economics and Finance* 23.

[1057] Section 45 of the *Banking Act*; Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review* 2; Tepetepe 2022 *Journal of Economics, Finance and Accounting* 49; see RBZ Bank Supervision Annual Report 2022, 13 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 14 October 2024.

[1058] Dzomira 2014 *Journal of Governance and Regulation* 76; Khan OM "Bank Failures in South Africa 'Where Have We Gone Wrong'? An Area of Concern for South Africans" in Delener N, Fuxman L, Lu FV, Rodrigues S and Rivera L *Global Business and Technology Association: Globalising Business for the Next Century: Visualising and Developing Contemporary Approaches to Harness Future Opportunities* (2013 Global Business and Technology Association USA) 479, 480; Havemann R "The South African Small Banks' Crisis of 2002/3" 2021 *Economic History of Developing Regions* 313, 316.

[1059] Munangi E and Sibindi AB "An Empirical Analysis of the Impact of Credit Risk on the Financial Performance of South African Banks" 2020 *Academic of Accounting and Financial Studies Journal* 1, 12; Okeahalam CC "The Political Economy of Bank Failure and Supervision in the Republic of South Africa" 1998 *African Journal of Political Sciences* 29, 35-37; Leukes C and Mensah JO "Systemic Risk Contribution of Financial Institutions in South Africa" 2019 *African Review of Economics and Finance* 188, 192.

South Africa and many more.[1060] These bank failures have significantly impacted the financial sector and disrupted the lives of depositors and investors. The stability and resilience of the banking sector are essential to any country's economic well-being, as they underpin financial stability, foster investor confidence and support sustainable economic growth.[1061] In response to multiple bank failures, South Africa's financial sector implemented various regulatory reforms including the adoption of the twin peaks model to enhance financial stability and curb bank failures.[1062] Unlike Zimbabwe, which still operates under a single regulatory framework, South Africa's twin peaks model separates regulatory responsibilities between two independent authorities. The two independent authorities are the Prudential Authority (PA) which oversees the financial soundness of financial institutions and the Financial Sector Conduct Authority

---

[1060] Chipatiso T and Kawadza H "Business Rescue as a Mechanism for Addressing Bank Failures: Possible Lessons from the American Approach" 2018 *Journal of Corporate and Commercial Law & Practice* 37, 41; Kupakuwana PS "Sustainable Retail Banking and Asset Management: Lessons from Challenges Faced by Entrepreneurs in African Economies" in Helmchen TB (ed) *Entrepreneurship: Gender, Geographies and Social Context* (2012 InTech, Croatia) 197; Okeahalam 1998 *African Journal of Political Science* 36; Dzomira 2014 *Journal of Governance and Regulation* 76 see related comments by Foggit GM, Heymans A, Van Vuuren GW and Pretorius A "Measuring the Systemic Risk in the South African Banking Sector" 2017 *South African Journal of Economic and Management Sciences* 1, 3; Khan "Bank Failures in South Africa 'Where Have We Gone Wrong'? An Area of Concern for South Africans" 480.

[1061] See Sanderson LB, Mare E and De Jongh DCJ "Banking Regulations: An Examination of the Failure of African Bank using Merton's Structural Model" 2017 *South African Journal of Sciences* 1, 2; Dzomira 2014 *Journal of Governance and Regulation* 76; see related in Bekink B and Botha C "The Role of a Modern Central Bank in Managing Consumer Bankruptcies and Corporate Failures: A South African Public-Law Angle of Incidence" 2009 *South African Mercantile Law Journal* 74, 75; see Munangi and Sibindi 2020 *Academic of Accounting and Financial Studies Journal* 12 who contends that the heart of any financial system lies in the banking sector; Walters NM, Beyers FJC, Van Zyl AJ and Van Den Heever RJ "A Framework for Simulating Systemic Risk and its Application to the South African Banking Sector" 2018 *South African Actuarial Journal* 99, 100.

[1062] Munangi and Sibindi 2020 *Academy of Accounting and Financial Studies Journal* 4; Ngonyama and Simatele 2020 *African Finance Journal* 23; Mishi, Sibanda and Tsegaye 2016 *African Review of Economics and Finance* 115; see related in Mabwe and Robert 2010 *African Review of Economics and Finance* 33.

(FSCA) which ensures fair market conduct and consumer protection.[1063] This dual approach is intended to provide more robust regulatory oversight and reduce the risk of systemic failures. The researcher submits that the twin peaks model offers a more robust approach to curbing bank failures by clearly dividing prudential oversight and market conduct regulation, strengthening the financial sector.[1064] Compared to a single regulator model, a twin peaks model provides more effective oversight of banking institutions, making it more suitable for countries like Zimbabwe aiming to build a resilient banking regulatory framework to curb bank failures.

The UK has also experienced various bank failures like Zimbabwe and South Africa. Bank failures in the UK were caused by, among other factors, fraud, mismanagement, lack of supervision by the bank management and poor oversight of financial institutions and supervision by the Financial Sector Authority (FSA), the central bank and the Treasury.[1065] The UK and South Africa have adopted the twin peaks regulatory model for their financial sectors, whereas Zimbabwe continues to operate under a single regulatory model. The UK's financial sector is developed and has a comprehensive

---

[1063] See section 56 of the *FSR Act* which established the FRSA, while the PA was established in terms of section 32 of the *FSR Act*; see Prudential Authority Regulatory Strategy 2021-2024 2; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Godwin and Schmulow 2015 *The South African Law Journal* 666; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see related comments by Okeahalam 1998 *African Journal of Political Science* 29 states that South African banks are subjected to two types of regulations - economic and prudential; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

[1064] Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Godwin and Schmulow 2015 *The South African Law Journal* 759; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 132; see related in Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 11; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507.

[1065] Mora and Logan 2012 *Applied Economics* 1106; Lastra 2008 *Journal of Banking Regulation* 174; McKnight 2009 *Law and Financial Markets Review* 327; Chambers C "Banking on Reform in 2010: Is Regulatory Change Ever Enough and Will the General Election Hold the Answers for the Financial Services Industry" 2010 *The Law Teacher* 218, 226; Lui A "Single or Twin? The UK Financial Regulatory Landscape Crisis of 2007-2009c 2011 *Liverpool John Moores University* 1, 2; Paintin I and Kingsley B "The United Kingdom" in Shapiro DE *Getting the Deal Through: Banking Regulation in 27 Jurisdictions Worldwide* (2015 Law Research Ltd London) 152.

regulatory approach to address the risks that cause bank failures and is fully compliant with the requirements of international best practices.[1066]

8.3.2 Overall Analysis of the Banking Statutory Framework for Mitigating Bank Failures

Zimbabwe's banking sector operates under a legislative framework for prudential regulation and supervision of banks as set out in the *Banking Act* and the *RBZ Act*. This banking framework includes measures aimed at enhancing the safety and soundness of banks.[1067] While these provisions provide a foundation for banking regulatory oversight, they are not sufficiently comprehensive, adequate or robust to effectively prevent bank failures in instances of systemic distress. The banking legislative provisions provided by the *Banking Act* lack the depth and precision necessary to address systemic risks and ensure long-term financial stability, particularly when compared to those of South Africa and the UK. Zimbabwe's regulatory framework is not efficiently and effectively enforced to curb bank failures due to limited regulatory resources, single regulator challenge, political and economic instability and lack of independence among other factors.[1068] Therefore, the current banking legislative framework, though functional, requires significant enhancement to

---

[1066] Mora and Logan 2012 *Applied Economics* 1106; Evemy 2019 *British Politics* 349; Avgouleas 2009 *Capital Markets Law Journal* 229; Singh 2011 *Journal of Business Law* 4; Chambers 2011 *Journal of Corporate Ownership and Control* 68 states that the Act strengthens the UK's statutory framework for financial stability and depositor protection and extends the powers of the *BSP Act* which was enacted to allow the Treasury to rescue Northern Rock via nationalisation of the ailing bank; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; see related in Muradoglu 2010 *Qualitative Research in Financial Markets* 7 states that the UK has a well-developed financial markets and institutions that are international in nature; Chambers 2010 *The Law Teacher* 223 put it that the Act aimed to strengthen the UK's statutory framework for financial stability and depositor protection; McKnight 2009 *Law and Financial Markets Review* 326

[1067] See the preamble of the *Banking Act* as amended; section 4 of the *RBZ Act*; see the 2024 *Monetary Policy Statement at A Glance* dated 05 April 2024 4; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2.

[1068] See related in Mlambo C and Tenderere M "Barriers and Challenges Restraining Zimbabwean Banks in Going Multinational" 2015 *International Business and Economics Research Journal* 297, 303; Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 68; Dzomira 2014 *Journal of Governance and Regulation* 78; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 58.

match those of South Africa, the UK and align with international best practices to strengthen the resilience of the banking sector even in times of economic stress.

Comparatively, the UK's banking regulatory framework is robust and effectively enforced under the twin peaks model, which allocates separate regulatory and supervisory responsibilities to two independent financial regulators.[1069] This separation of duties and responsibilities enhances regulatory oversight, promotes a more focused and effective approach to maintaining financial stability, and curbs bank failures.[1070] The UK's banking sector is among the most stable and well-developed financial sectors globally, supported by a robust financial regulatory framework that incorporates international best practices aimed at effectively curbing bank failures.[1071] Similar to the UK, the South African financial sector is regulated by the twin peaks model, which separates regulatory and supervisory duties and responsibilities to two independent regulators, the PA and the FSCA.[1072] Likewise, the separation of duties and responsibilities of financial regulators enhances banking sector oversight and allows for a more focused and effective approach to maintaining financial stability and

---

1069 Sections 1 and 2 of the *Financial Service and Markets Act* 2000 (FSMA 200); Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin Peaks approach to financial supervision seems superior; Arora A *Banking Law* (2014 Pearson Education Limited United Kingdom) 173.

1070 Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233.

1071 Mora and Logan 2012 *Applied Economics* 1106; Evemy 2019 *British Politics* 349; Avgouleas 2009 *Capital Markets Law Journal* 210-211; Haentjens 2014 *International Insolvency Law Review* 261.

1072 Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see related comments by Okeahalam 1998 *African Journal of Political Science* 29 states that South African banks are subjected to two types of regulations -economic and prudential; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

preventing bank failures.[1073] Also, South Africa has adopted and fully implemented most of the international best practices, with independent regulators overseeing different aspects of the financial sector, leading to enhanced bank oversight and reducing the likelihood of bank failures or systemic risks.[1074]

The UK and South Africa regulatory frameworks are robust and provide a safety net to depositors' funds. The UK has the Financial Services Compensation Scheme (FSCS) aimed at protecting consumer's savings, safeguarding against bank runs and protecting consumers in the event of bank failure to ensure it maintains public confidence in the banking sector.[1075] Similarly, South Africa has the Corporation for Deposit Insurance and the Deposit Insurance Fund aimed at protecting consumers' savings and curbing bank failures by protecting bank runs and maintaining public trust in the banking sector.[1076]

The banking statutory framework in Zimbabwe has depositor protection provided by the *Deposit Protection Corporation Act* (*DPC Act*), which provides a financial safety net to depositors and has the components of prudential supervision.[1077] However, the *DPC Act* is insufficient to address the evolving risks and challenges facing the financial sector in Zimbabwe because they are outdated to shield citizens from financial

---

[1073] Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10.

[1074] See Prudential Authority Regulatory Strategy 2021-2024 2; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Godwin, Howse and Ramsay 2017 *South African Law Journal* 666.

[1075] Part 4, section 169-180 of the *Banking Act* 2009; sections 212-216 of the *FSMA* 2000; Arora *Banking Law* 31; Donohoe and Prokop 2015 *The Journal of Risk Finance* 298.

[1076] Section 166BD of the *FSR Act*; see related comments in Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica*

[1077] Section 4 of the *Deposit Protection Corporation Act* [Chapter 20:29] of 2011 (*DPC Act*); Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11; Deposit Protection Corporation available at http://www.dpcorp.co.zw accessed 18 March 2024; see related comments in Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42.

instability, risking the stability of the banking sector. Factors such as the coverage limits may be too low to provide adequate protection for all depositors, especially small savers who rely heavily on their bank accounts for financial security. In addition, mechanisms provided by the *DPC Act* for funding deposit insurance schemes may be inadequate for the corporation to effectively respond to systemic crises considering the economic and political environment in which banks operate in Zimbabwe. Public confidence in the financial sector and financial safety has not yet been restored since the 2008 financial crisis that saw many depositors losing their deposits overnight with no compensation provided. In this regard, the financial safety net in Zimbabwe still requires to be strengthened to meet the UK and South Africa's framework to ensure that depositors are protected in cases of a financial crisis or bank failure.[1078]

It is submitted that poor corporate governance, inadequate risk management and high levels of nonperforming loans are the primary reasons for bank failures in Zimbabwe.[1079] Therefore, it is recommended to implement enterprise-wide risk management frameworks and adopt Basel III standards for banking supervision to address and ensure effective bank supervision in Zimbabwe.[1080] The researcher noted

---

[1078] Munyoro *et al* 2022 *International Journal of Economics and Management Studies* 27; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; Dzomira 2014 *Journal of Governance and Regulation* 77; Coomer J and Gstraunthaler T "The Hyperinflation in Zimbabwe" 2011 *The Quarterly Journal of Australian Economics* 311, 322; Chinoperekweyi 2018 *International Journal of Applied Research* 399.

[1079] Dzomira 2014 *Journal of Governance and Regulation* 78; Munyoro *et al* 2022 *International Journal of Economics and Management Studies* 27; see related in Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; Nhavira and Ocran 2012 *Journal of Strategic Studies* 19; Ndlovu, Bhiri, Mutambabadzo and Hlahla 2013 *Journal of Emerging Trends in Economics and Management Sciences* 474.

[1080] Dzomira 2014 *Journal of Governance and Regulation* 79; see the RBZ Bank Licensing, Supervision and Surveillance Guideline No: 1-2011/BSD Technical Guidance on the Implementation of Revised Capital Adequacy Framework in Zimbabwe 8; Min J "Basel Revisited: An Assessment of the Legitimacy and Effectiveness of the Basel Framework" 2018 *Peking University Law Journal* 323,

that the efforts by the RBZ's supervisory framework in implementing the Basel III principles in banking supervision and surveillance are substantially comprehensive to curb bank failures in Zimbabwe. However, there is a need for enhanced enforcement of the supervisory framework to ensure that it is fully implemented and can sufficiently prevent causes of bank failures in Zimbabwe during periods of financial crisis. The RBZ should establish a robust banking regulatory framework that incorporates codes of good corporate governance to combat flawed corporate governance, inadequate risk management and speculative activities which cause bank failures in Zimbabwe. Comparatively, the UK has incorporated the Basel II and III standards into its banking legislation, establishing a robust regulatory framework for bank regulation and supervision to curb bank failures.[1081] Similarly, South Africa has fully implemented the Basel II and most Basel III requirements, enhancing its banking legislation to establish a robust regulatory framework that adequately and effectively curbs bank failures.[1082]

Zimbabwe's banking sector regulatory framework has a bank resolution regime for when a bank is no longer viable or is likely to be no longer viable.[1083] The bank

---

327; Avgouleas *Governance of Global Financial Markets* 266; Mbizi 2012 *International Journal of Independent Research and Studies* 125; Girasa *Laws and Regulations in the Global Financial Markets* 168; Wood PR *Law and Practice of International Finance: Regulation of International Finance* 1st ed (Sweet & Maxwell Limited London 2007) 46; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42; see related in Zephirin M and Wajid SK "Financial Sector Stability: A Regional Approach" in Drummond P, Wajid SK and Williams O *The Quest for Regional Integration in the East African Community* (International Monetary Fund Washington DC 2014) 202 available at https://books.google.co.za/books?hl=en&lr=&id=y7UZEAAAQBAJ&oi=fnd&pg=PA199&dq=guiding+principles+for+supervisors+dealing+with+weak+banks&ots=5msOGNEHE9&sig=yx9O7125Qm9XpegnS4mlDb8BAu8&redir_esc=y#v=onepage&q=guiding%20principles%20for%20supervisors%20dealing%20with%20weak%20banks&f=false accessed 14 June 2024.

1081 McKnight 2009 *Law and Financial Markets Review* 326; Lastra 2008 *Journal of Bank Regulations* 168; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Chambers 2010 *The Law Teacher* 223.

1082 Qumba 2022 *South African Law Journal* 80; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 493; Mishi and Khumalo 2019 *Banks and Bank Systems* 122; Havemann 2021 *Economic History of Developing Regions* 313; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 670; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; see South African Reserve Bank Prudential Authority Regulatory Strategy 2021-2024 30.

1083 Section 52A(1) of the *Banking Act*; Avgouleas *Governance of Global Financial Markets* 270; Mbizi 2012 *International Journal of Independent Research and Studies* 125.

resolution for identification of a distressed or problem bank in Zimbabwe is captured by the *Banking Act*, which sets the various criteria to enable the identification of a distressed bank.[1084] Zimbabwe's bank resolution regime partially aligns with the requirements of the Financial Stability Board (FSB) for effective supervision of financial institutions to mitigate bank failures.[1085] There are still other key attributes of the FSB that are not addressed by the resolution framework for banking supervision in Zimbabwe.[1086] Unlike Zimbabwe, the UK has fully incorporated the key recommendations or attributes of the FSB into its banking legislation and has a

---

[1084] Section 52A(2) of the *Banking Act*; Each of the instances listed under subsection 2 could trigger resolution and declaration of the bank as a problem bank, it is thus not necessary that all the instances have to be met before a bank can be determined a problem bank.

[1085] Dzomira 2014 Journal of Governance and Regulation 79; The FSB Key Attribute 1 requires the scope of the resolution, which is provided by the definition of problem banking institution in section 2 of the *Banking Act* and section 52A(1) of the *Banking Act* provides a clear scope of the application of the resolution regime; Key Attribute 2 is aligned with the authority of the RBZ as a resolution authority to pursue financial stability and a depositor protection framework that enhance financial stability, depositor protection and protection of public funds as the function of RBZ; Key Attribute 3 is aligned to with the powers given to RBZ for removal and replacement of directors and senior managers and to provide for a curator to rescue the bank or parts thereof by managing under the guidelines by the RBZ; Key Attribute 5 requires safeguards and the section 52A(4)(c)(i) of the *Banking Act* provides for protection rights of depositors; Key Attribute 6 require a resolution funding, section 56A of the *Banking Act* provides for the recovery by the RBZ of funding extended to maintain critical functions of a bank that has been put into resolution, however, it is unclear as to how the funding of resolution framework provides for recovery by the RBZ.

[1086] Dzomira 2014 Journal of Governance and Regulation 79; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 99; The resolution of Zimbabwe is not aligned with Key Attribute 4 which requires set-off, netting and collaterisation in that there is no clear provision that addresses the set-off rights, contractual netting and collateralisation agreements in the *Banking Act*; Key Attribute 6 requires that jurisdiction should have in place privately financed deposit insurance or resolution funding mechanism for ex post recovery resolution of the failing bank, Zimbabwe resolution regime have deposit insurance but is not clear on how exactly the funding resolution actions by the RBZ will be done in respect of a failing bank and contains no provisions on the conditions temporary funding during resolution should be extended in order to reduce systemic risks; Key Attribute 10 requires jurisdictions to have resolvability assessments in their supervisory framework, however, in the Banking Act there is no provision for resolvability assessments to be conducted in order to evaluate the feasibility of resolution strategies; Key Attribute 11 requires a recovery and resolution planning to be in place, however, the current Zimbabwean Banking Act does not provide for recovery plans to be compiled and regularly updated by banks, section 52A(2) only provides for RBZ to formulate a resolution plan after a report by an inspector or an investigation in terms of section 49 or on the basis of financial intelligence that a banking institution is identified as a problem banking institution, which leaves the Zimbabwean resolution not aligned to Attribute 11, a recovery and resolution plan should always be in place even before any bank is identified as a problem bank.

comprehensive Special Resolution Regime (SRR) which provides tools that could be used by banking regulators to manage failing banks and curb systemic failures.[1087] Likewise, South Africa has fully incorporated the FSB's key attributes into its banking legislation and provides for a bank resolution plan that bank regulators can use to deal with a failing bank.[1088] South Africa, like the UK, also provides a comprehensive resolution plan ranging from a determination by the Minister to place designated institutions in resolution and other actions including restructuring and bail-in.[1089]

8.3.3 Overall Analysis of the Financial Sector Regulators and International Best Practices Dealing with Mitigation of Bank Failures

The regulation and supervision of banks involve multiple key role players, each with specific responsibilities aimed at mitigating bank failures. For the purpose of this thesis, a brief analysis of the financial sector regulators such as the PRA, the PA, the FCA, the FSCA, the RBZ the DPC, and the Ministry of Finance and Economic Development of Zimbabwe is presented.

8.3.3.1 The RBZ

Zimbabwe still operates under a single model of financial sector regulation and supervision. The RBZ is the single regulator for the financial services sector in Zimbabwe and has experienced some challenges in enforcing and robustly preventing

---

[1087] Part 1, sections 1(1) of the *Banking Act* 2009; section 166E-166Y of the *FSR Act*; McKnight 2009 *Law and Financial Markets Review* 326; Lastra 2008 *Journal of Bank Regulations* 168; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Chambers 2010 *The Law Teacher* 223.

[1088] See section 166E-166I of the *FSR Act*.

[1089] See section 166J-166Y of the *FSR Act*.

bank failures.[1090] The RBZ is responsible for overseeing the regulation and enforcement of relevant banking laws and ensuring the stability of the banking sector to prevent bank failures in Zimbabwe.

8.3.3.2 The Twin Peaks Regulators

Unlike Zimbabwe which still operates with a single financial regulator, the UK and South Africa have adopted and implemented the twin peaks model consisting of two financial sector regulators.[1091] The UK's Financial sector regulators under the twin peaks model are the PRA and the FCA who have separate regulatory and supervisory responsibilities to regulate and oversee financial institutions.[1092] This separation of duties and responsibilities enhances regulatory oversight, allowing for a more focused and effective approach to maintaining financial stability and curbing bank failures.[1093] Similarly, the South African financial sector is regulated by the twin peaks model, which separates regulatory and supervisory duties and responsibilities to two independent

---

[1090] See the preamble of the *RBZ Act*; Machirinani S, Shoko T, Shoko J, Dube SDG and Nyoni T "Evaluating the Effectiveness of the Macroprudential Policy and its Interaction with the Monetary in Zimbabwe (2009-2017)" 2020 *EPRA International Journal of Economics, Business and Management Studies* 17, 24 states that the RBZ is responsible authority for prudential regulation and watches over the financial stability of the financial system in Zimbabwe and is mandated to superintend systemic risks that may arise from key financial institutions; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 406; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; See RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 22 October 2024.

[1091] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 17; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71; Schoenmaker D and Veron N "A Twin Peaks Vision for Europe" in Godwin A and Schmulow A *The Cambridge Handbook of Twin Peaks Financial Regulation* (Cambridge University Press, Cambridge UK 2021) 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79.

[1092] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79.

[1093] Mora and Logan 2012 *Applied Economics* 1106; Evemy 2019 *British Politics* 349; Avgouleas 2009 *Capital Markets Law Journal* 210-211; Haentjens 2014 *International Insolvency Law Review* 261.

regulators, the PA and the FSCA.[1094] This separation of duties and responsibilities enhances regulatory oversight, allowing for a more focused and effective approach to maintaining financial stability and curbing bank failures in South Africa.

8.3.3.3 The DPC

The DPC is tasked with protecting depositors by providing deposit insurance in the event of a bank failure. The DPC ensures that depositors are compensated up to a certain amount in the event of a loss of part, or all of their savings, which helps maintain public confidence in the banking sector.[1095] However, the DPC's failure to monitor all banks and other relevant authorities to ensure strict compliance with relevant banking laws, rules and regulations has undermined the public investor confidence in the Zimbabwean formal banking institutions.[1096]

8.3.3.4 The Financial Stability Board (FSB)

The FSB oversees the regulation of both banks and non-bank financial institutions, including insurers and financial market infrastructures, as well as protects the client assets during the resolution process.[1097] The FSB promotes international financial stability by coordinating national financial authorities and international standard-setting bodies focusing on total loss-absorbing capacity (TLAC) and develops effective

---

[1094] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; see Prudential Authority Regulatory Strategy 2021-2024, 2 https://www.resbank.co.za>prudential-regulation accessed 24 June 2024; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130.

[1095] Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 108-109; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 24-86.

[1096] Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 109.

[1097] Avgouleas *Governance of Global Financial Markets* 270; see related in Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Atay 2006 *Journal of Banking Regulation* 67; see Guideline No. 02-2007/BSD: Consolidated Supervision Policy Framework 6; Arner and Norton 2009 *Hong Kong Law Journal* 104; Arner and Norton 2009 *Hong Kong Law Journal* 112; Cunliffe 2016 *European Economy* 64; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 16; see related in Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 281; Wood *Regulation of International Finance* 47.

resolution regimes to manage bank failures without systemic disruption.[1098] The objectives of the FSB include ensuring that global systemically important banks (G-SIBs) have sufficient capacity to absorb shocks and that every nation has a system of resolving troubled financial institutions in an orderly manner without taxpayers' exposure to loss while maintaining the continuity of vital functions of the banks.[1099] The FSB set out twelve key attributes as part of the resolution regimes for all jurisdictions to ensure their effectiveness in implementation and mitigating bank failures.

8.3.3.4 The Basel Committee on Banking Supervision (BCBS)

The BCBS has developed comprehensive regulatory frameworks known as the Basel core principles for effective banking supervision aimed at, amongst others, curbing bank failures.[1100] The Basel principles focus on minimum capital requirements,

---

1098 Wood *Regulation of International Finance* 47.

1099 Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* 3; Coleman, Andromachi and Tara "Measuring the Implementation of the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions in the European Union" 7; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Cunliffe 2016 *European Economy* 69; see related in Avgouleas *Governance of Global Financial Markets* 271; see related in Atay 2006 *Journal of Banking Regulation* 68; see related in Feridum and Ozün 2020 *Journal of Capital Markets Studies* 8; FSB 2023 Bank Failures: Preliminary Lessons Learnt for Resolution dated 10 October 2023.

1100 Kaur M and Kapoor S "Adoption of Basel Norms: A Review of Empirical Evidences" 2015 *Journal of Financial Regulation and Compliance* 271; Min J "Basel Revisited: An Assessment of the Legitimacy and Effectiveness of the Basel Framework" 2018 *Peking University Law Journal* 323, 327; Atay G "Promoting International Cooperation in Resolving Bank Failures" 2006 *Journal of Banking Regulation* 66, 67; Girasa *Laws and Regulations in the Global Financial Markets* 168; Shakdwipee P and Mehta M " From Basel I to Basel II to Basel III" 2017 *International Journal of New Technology and Research* 66, 67; Pfingsten A and Woyand C "Banking Regulation and Banking Supervision: Current Structure and Challenges" in Bergener K, Rackers M and Stein A *The Art of Structuring Bridging the Gap between Information Systems Research and Practice* (Springer Nature Switzerland 2019) 440; Duncan 2005 *Boston College International and Comparative Law Review* 243; Mbizi R "An Analysis of the Impact of Minimum Capital Requirements on Commercial Bank Performance in Zimbabwe" 2012 *International Journal of Independent Research and Studies* 124, 125.

supervisory review processes and market discipline.[1101] In addition, the core principles for effective banking supervision issued by the BCBS provide a framework for the regulation and supervision of banks and emphasise robust legal frameworks within the banking sectors, effective supervisory practices and sound risk management practices.[1102]

Zimbabwe is falling behind in the implementation of international best practices and adherence to Basel standards due to economic challenges, struggles with enforcement and economic instability impacting regulatory effectiveness.[1103] The *Banking Act*, in Part IV, outlines provisions related to the minimum capital of banking institutions, minimum reserves to be maintained with the Reserve Bank and other financial requirements.[1104] However, these provisions failed to provide a comprehensive, clear and robust framework for prudential regulation in line with the three pillars of Basel III, which emphasise capital adequacy, risk management and market discipline.

In contrast, South Africa's *Banks Act* provides a more advanced and detailed framework under Chapter VI which addresses prudential requirements

---

[1101] King and Tarbert *Banking and Financial Services* 2; Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance* 272 states that Basel II set of international standards required banks to maintain a minimum level of capital, to ensure that they can meet their obligations, cover unexpected losses and promote public confidence; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 68; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 441; Thoraval 2006 *Banque De France Financial Stability Review* 118; Vousinas 2015 *Journal of Financial Regulation and Compliance* 388-389; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 388; Duncan 2005 *Boston College International and Comparative Law Review* 267.

[1102] King and Tarbert *Banking and Financial Services* 2; Shakdwipee and Mehta 2017 *International Journal of New Technology and Research* 69 noted that a new framework has formulated ways of reducing systemic risk and the cyclical effects of Basel II and it includes the introduction of a countercyclical capital buffer and capital conservation; Ahmed 2016 *Journal of Financial Regulation and Compliance* 98; Avgouleas *Governance of Global Financial Markets* 266; Vousinas 2015 *Journal of Financial Regulation and Compliance* 398-399; see related in Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 389; see related in Dordevic L, Ferreira C, Kitonga M and Seal K *Strengthening Bank Regulation and Supervision National Progress and Gaps* (2021 International Monetary Fund) 6.

[1103] Dzomira 2014 *Journal of Governance and Regulation* 79 states that although the RBZ has been trying total implementation of the Basel II/III Committees on Banking Supervision and Surveillance, it has not fully implemented.

[1104] Sections 29-30 of the *Banking Act*.

comprehensively. These prudential requirements include minimum share capital and unimpaired reserve funds, minimum capital and reserve funds in respect of banking group, minimum liquid assets, concentration risk and mechanisms for resolution instances of failure or non-compliance with prudential requirements.[1105] The South African framework exemplifies a structured approach to promote financial stability, resilience and adherence to international standards, highlighting a stark disparity between the two countries' banking regulatory approaches.

The effectiveness of deposit insurance and resolution mechanisms in Zimbabwe is significantly affected by ongoing economic challenges and the current banking environment. In contrast, South Africa boasts a well-developed banking sector underpinned by a robust banking regulatory framework aligned with international standards yet faces challenges in market conduct regulation. South Africa has implemented the Basel III core principles into its banking regulatory framework including the effective deposit insurance and resolution mechanisms.[1106] These measures are complemented by a strong emphasis on robust risk management practices and capital adequacy requirements, which are central to Basel III's objective of enhancing the resilience of financial institutions and minimising the risk of bank failures. South Africa's alignment with Basel III standards underscores its commitment to ensuring financial stability and sound regulatory practices within banks to prevent bank failures.[1107]

The UK adheres to Basel III standards and implements rigorous stress testing and resolution planning for banks. The UK's banking regulation is sophisticated and well aligned with international standards which are primarily regulated by the BoE, FCA and

[1105] Section 70-74 of the *Banks Act*.
[1106] See section 166S, 166AF and 166BD of the *FSLA Act*.
[1107] Sections 166C-166H and 166S of the *FSLA Act.*

the *Banking Act* 2009.[1108] In addition, the UK has additional stringent measures, strong resolution mechanisms and deposit protection schemes to deal with distressed banks and ensure stability in the financial sector.[1109]

The researcher submits that the BCBS provides a robust banking regulatory and supervisory framework which is suitable for the development of regulatory frameworks that adequately curb bank failures. The BCBS standards are globally adopted and create a level of international consistency in bank supervision, making global banking safer and more amenable to curbing bank failures. In addition, the BCBS's emphasis on capital buffers, liquidity requirements and risk management make it an essential international standard setter for countries seeking to enhance the robustness of their banking sectors and prevent systemic risks and bank failures.

8.4 Overall Analysis of the Role of Central Banks in the Regulation and Supervision of Banks to Mitigate Bank Failures in Zimbabwe, South Africa and the UK

The RBZ is the central bank of Zimbabwe and it plays a critical role in the overall regulation and supervision of banks.[1110] The RBZ was established by the *RBZ Act* to

---

[1108] Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in see Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; see related in Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 78.

[1109] Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 23 provided that the central issues from the Northern Rock crisis was of the inadequacy of supervisory arrangements and crisis management, which include, the institutionary structure of agencies and their responsibilities as between the Treasury, FSA and Bank of England, the actual conduct of supervision and the effectiveness and efficiency of crisis management. In addition, the UK structural flaws which include the deposit protection scheme, which was flawed, no special insolvency arrangements, no clearly defined *ex ante* resolution procedures and institutional structure between the Tripartite regime proved to be uncertain in times of crisis; Avgouleas 2009 *Capital Markets Law Journal* 202 observes that the Northern Rock failure was followed by political recriminations, severe criticism of FSA's style of supervision and the Bank's handling of the crisis.

[1110] See related in Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Sciences* 22, 24.

regulate and supervise financial institutions.[1111] It is responsible for setting monetary policy, supervising financial institutions and ensuring financial stability in Zimbabwe.[1112] The bank supervision division under the RBZ is responsible for or is mandated to conduct off-site surveillance and risk-based on-site examinations of banks in Zimbabwe.[1113] The bank supervision division under the RBZ is responsible for continuously monitoring and supervising individuals and entities conducting banking business in Zimbabwe. Its primary goal is to ensure the banking sector remains safe and stable, customers are protected and trust in the banking system is retained to curb bank failures or likelihood of such.[1114] Likewise, the SARB is the central bank of South Africa, established by the SARB Act operating as a legal entity entrusted with the responsibility of safeguarding and preserving the value of the South African currency

---

[1111] Section 3 the *RBZ Act*, Njanike K "Central Bank Independency on the Development of the Financial Sector. A Case of Reserve Bank of Zimbabwe (1998-2008)" 2010 *Annals of the University of Petrosani, Economics* 251, 253; Moyo IL, Gumbo V, Chikodza E and Jones B "An Empirical Study on the Factors Influencing the Performance of Financial Institutions Zimbabwe" 2019 *International Journal of Finance and Banking Studies* 1, 2; RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 6 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 22 June 2024; Makena 2021 *African Economic Research Consortium* 4; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

[1112] See the preamble of the *RBZ Act*; Machirinani *et al* 2020 *EPRA International Journal of Economics, Business and Management Studies* 24 states that the RBZ is responsible authority for prudential regulation and watches over the financial stability of the financial system in Zimbabwe and is mandated to superintend systemic risks that may arise from key financial institutions; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 406; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4; See RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 21 June 2024.

[1113] See RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 21 June 2024; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 69; Njanike, Dube and Mashayanye 2009 *Journal of Sustainable Development in Africa* 414; see related in Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review* 65.

[1114] See RBZ Bank Supervision Annual Report 2022, 13 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 21 June 2024 where it states that the Bank (RBZ) continued to work closely with all financial institutions in the implementation of the sustainability Standards and Certification Initiative (SSCI) being driven by the European Organisation for Sustainable Development (EOSD).

and fostering sustainable economic growth.[1115] The SARB is responsible for supervising banks and related institutions, formulating monetary policy and implementing relevant rules and procedures that safeguard the financial system.[1116] Furthermore, the SARB continuously monitors and assesses the strengths and vulnerabilities of the financial sector, as well as identifies potential threats to the country's financial stability, in order to promote the prevention of bank failure in South Africa.[1117]

The BoE is the UK's central bank with the core mandate of promoting the good of the UK people by maintaining monetary and financial stability and preventing the likelihood of bank failures.[1118] The BoE has a statutory supervisory role through the PRA and monitors financial sector risks that are likely to cause bank failures and financial sector instability.[1119] The bank also offers liquidity support and other services to banks and other financial institutions and in exceptional cases acts as a lender of last resort. Furthermore, the BoE is the UK's resolution authority for banks marked 'too-big-to-fail'

[1115] Section 2 and 3 of the *SARB Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 7; De Jager 2006 *South African Mercantile Law Journal* 165; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica* 12.

[1116] Section 10(1)(a)(i)-(v) read together with section 14 of the *SARB Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica* 12; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 7; De Jager 2006 *South African Mercantile Law Journal* 165; Bekink and Botha 2009 *South African Mercantile Law Journal* 78.

[1117] See schedule 4 of the *FSR Act*; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 507; Godwin and Schmulow 2015 *The South African Law Journal* 759; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 132.

[1118] Evemy J "The Bank of England, Operational Independence and the Financial Crisis" 2019 *British Politics* 347, 349; Avgouleas E "Banking Supervision and the Special Resolution Regime of the Banking Act 2009: the Unfinished Reform" 2009 *Capital Markets Law Journal* 201, 211; Hall MJB "The Sub-Prime Crisis, the Credit Crunch and the and Bank Failure: An Assessment of the UK Authorities' Response" 2009 *Journal of Financial Regulation and Compliance* 427, 438-439; Godwin A, Kourabas S and Ramsay I "Twin Peaks and Financial Regulation: The Challenges of Increasing Regulatory Overlap and Expanding Responsibilities" 2016 *The International Lawyer* 273, 276; see related in Rose AK and Wieladek T "Too Big to Fail: Some Empirical Evidence on the Causes and Consequences of Public Banking Interventions in the UK" 2012 *Journal of International Money and Finance* 2038, 2042.

[1119] Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 290; Evemy 2019 *British Politics* 352; See related in Rose and Wieladek 2012 *Journal of International Money and Finance* 2040.

and is empowered to act in the event of a bank failure, protecting the UK's vital financial services and financial stability.[1120]

The central banks of Zimbabwe, South Africa and the UK play pivotal roles in maintaining financial stability and overseeing monetary policy in order to prevent bank failures, but their effectiveness and approaches vary significantly.[1121] The RBZ faces various challenges in enforcing and implementing relevant banking regulations and international best practices due to economic instability and other factors that undermine its regulatory role.[1122] The RBZ is often limited by operating environment and political interference, which affects its operational independence and hinders the impartial enforcement of banking laws.[1123] In addition, resource constraints and gaps in legal frameworks further challenge the RBZ's capacity for proactive supervision and crisis management to curb bank failures. Furthermore, it has faced challenges of liquidity, volatile deposits and the absence of an interbank market which saw it abandoning its duties and responsibilities to act as lender of last resort to distressed banks in Zimbabwe.[1124]

[1120] Avgouleas 2009 *Capital Markets Law Journal* 201; Rose and Wieladek 2012 *Journal of International Money and Finance* 2040; Godwin Howse and Ramsay 2016 *Journal of Banking Regulation* 111; Evemy 2019 *British Politics* 351.

[1121] See the preamble read together with section 45 of the *RBZ Act*; Nhuta 2014 *International Journal of Research in Social Sciences* 24; see related discussion on Njanike 2010 *Annals of the University of Petrosani, Economics* 253; Evemy 2019 *British Politics* 349; Wood *Regulation of International Finance* 45; Chitimira and Torerai 2021 *PER/PELJ* 13; Makena 2021 *African Economic Research Consortium* 5.

[1122] Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 68; Dzomira 2014 *Journal of Governance and Regulation* 78; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 58.

[1123] Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 58; Dzomira 2014 *Journal of Governance and Regulation* 78; Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 68.

[1124] Dzomira 2014 *Journal of Governance and Regulation* 78; Nhavira and Mudyunguyo 2015 *Journal of Strategic Studies* 68; Manungo *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 58; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 50.

In contrast to the RBZ, the SARB operates within the robust regulatory framework, emphasising prudential supervision and aligning with international standards like Basel III. In addition, the BoE and the SARB operate under more independent, well-resourced and structured banking frameworks, enabling them to implement policies effectively, enforce regulations and safeguard financial stability to prevent bank failures.[1125] The BoE oversee prudential regulation through the PRA and maintains stringent adherence to international standards. While the RBZ is hampered by local challenges, the SARB and the BoE demonstrate robust regulatory practices to mitigate the causes of bank failures and compliance with international best practices.

8.5 Evaluation of the Banking Regulatory Frameworks and Models

Regulation and supervision models have evolved into several forms such as being regulated based on their legal form or the functions they perform. The main four banking regulatory frameworks and models namely the functional model, the vertical or silos model, the horizontal or peaks model and the unified or integrated model are discussed in this section.[1126] The different banking regulatory models have different advantages each country considers and deems fit to suit its financial sector.[1127] Single regulatory agencies enhance the overall supervisory capacity of the financial sector, especially in a small financial sector which is simple, unlike the multiple supervisory bodies that may be clumsy in forming an overarching risk assessment of a financial conglomerate due to the range of resources of financial risk assessment associated

---

[1125] Vermeulen 2021 *Economic History of Developing Regions* 261 highlighted that the SARB's price stability mandate is laid down in the Constitution and formalised in the form of inflation target; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; De Jager 2006 *South African Mercantile Law Journal* 284.

[1126] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; Botha and Makina 2011 *International Business and Economics Research Journal* 29; Godwin, Howse and Ramsay 2016 *Journal of Banking Regulation* 104.

[1127] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19 contended that different approaches present an evolution based on the market "feeling" its way in search of the optimal regulatory structure that will put an end or mitigate financial crises; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 67.

with each different segment of the financial institution.[1128] In addition, the multiple supervisory bodies could potentially diffuse accountability in case of regulatory failure at any independent supervisory agencies causing the likelihood of bank failures. Furthermore, there may be a lack of harmonisation in the regulations and their consistent implementation across institutions. In contrast, the sole supervisory agency is best positioned to oversee the entire financial sector, reducing regulatory arbitrage by consistently applying regulations and supervision across all financial segments.

The first model is the functional or hybrid model which is based on the functions of the type of financial institution without regard to its legal status.[1129] The functional model is characterised by functions performed by financial firms and each business may be assigned its own functional regulator. In other words, the functional model supervisor oversight is determined by the business of the firm.[1130]

Secondly, the silo model which is sometimes called the vertical or the institutional model, is the traditional approach that appropriates financial regulation according to main functional lines such as banking, insurance and securities.[1131] In other words, the silos model follows the legal status of the institution or business type such as banking, insurance, securities and pension sector with each sector supervised by a different agency.[1132] It usually has the central bank assigned the responsibility for prudential and systemic regulation of the banking sector and regulation of the conduct of banking

---

[1128] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 17; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 66.

[1129] Botha and Makina 2011 *International Business and Economics Research Journal* 31; Godwin, Howse and Ramsay 2016 *Journal of Banking Regulation* 104; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 290; see related in Pan EJ "Understanding Financial Regulation" 2012 *Utah Law Review* 1897, 1906.

[1130] Botha and Makina 2011 *International Business and Economics Research Journal* 31; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; see related in Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 66.

[1131] Botha and Makina 2011 *International Business and Economics Research Journal* 29; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3

[1132] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 16; Botha and Makina 2011 *International Business and Economics Research Journal* 30.

business is done through self-regulation whereby a committee selected by the regulators and industry players is assigned. Unlike the UK and South Africa which have adopted the Twin Peaks regulatory framework, Zimbabwe operates under the silo-based financial regulatory framework.[1133] The silo-based framework limits comprehensive oversight and coordination across the financial sector, leaving the banking sector vulnerable and less resilient during financial crises. As a result, Zimbabwe's banking sector has miraculously survived economic challenges that ravage the country, and the regulatory framework lacks the robustness needed to effectively prevent bank failures.

The ability of a single supervisor to achieve greater economies of scale through centralised regulatory functions that allow the consolidation of administrative, information technology and other joint support functions is a strong justification for establishing a sole supervisory agency. In addition, sole supervisors become specialised and more efficient in overseeing the financial sector, allowing for streamlining and reduction of duplication of functions and resource waste. The silos model is regarded as effective and efficient in small markets where it has a single focus on regulation and supervision without the conflict over jurisdictional lines that may arise in other supervisory models with hybrid approaches.[1134] In contrast, multiple regulatory supervisors are more likely to fall prey to financial crises due to regulatory overlap and inconsistent implementation of regulations across institutions.

Thirdly, the twin peaks (horizontal) model as adopted by the UK and South Africa, is premised on the differences among public regulation goals and assigns a different regulatory authority to every goal. The twin peaks model is identified by objectives of

---

[1133] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71; Botha and Makina 2011 *International Business and Economics Research Journal* 30.

[1134] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 17; Botha and Makina 2011 *International Business and Economics Research Journal* 28.

regulation and where each objective is supervised by a separate authority.[1135] The twin peaks model has two separate regulators, whereby one performs the safety and soundness supervision function and the other focuses on the conduct of business regulation.[1136] The twin peaks model is designed to incorporate the integrated approach's efficiencies and benefits and provide robust consumer protection, transparency, safety and soundness of regulatory objectives.[1137] Therefore, the twin peaks model is effective and comprehensive to robustly prevent bank failures due to its dual approach separating prudential regulation and market conduct supervision.

As mentioned above, the twin peaks model is a financial regulatory model that provides and delineates regulatory functions between two regulators. One regulator oversees the safety and soundness supervision function and the other focuses on conduct of business regulation. The twin peaks model is regarded as a hybrid approach and is designed to achieve the benefits and efficiencies of an integrated approach while minimising the conflicts that may arise between the objectives of safety and soundness regulation and consumer protection and transparency.[1138] The twin peaks banking supervisory model is regarded as optimal due to its success in mitigating the effects of the 2007-2008 financial crises, which saw a number of jurisdictions moving to this approach including South Africa and the UK.[1139]

[1135] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 16; Botha and Makina 2011 *International Business and Economics Research Journal* 30; Pan 2012 *Utah Law Review* 1906; see related in Wissink L "Challenges to an Efficient European Centralised Banking Supervision (SSM): Single Rulebook, Joint Supervisory Terms and Split Supervisory Tasks" 2017 *European Business Organisation Law Review* 431, 448.

[1136] Botha and Makina 2011 *International Business and Economics Research Journal* 30; Pan 2012 *Utah Law Review* 1906; see related in Wissink 2017 *European Business Organisation Law Review* 449.

[1137] Botha and Makina 2011 *International Business and Economics Research Journal* 30; Pan 2012 *Utah Law Review* 1906.

[1138] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19; Pan 2012 *Utah Law Review* 1906; Wissink 2017 *European Business Organisation Law Review* 449.

[1139] Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 66; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19 provided a list of countries moving to twin peaks model.

Lastly, the integrated model is where a single authority supervises the whole financial system and all the public objectives.[1140] However, the UK, South Africa and Zimbabwe do not use or operate under this financial regulatory model.

8.5.1 Zimbabwe's Banking and Supervision Model

The Zimbabwean model of regulatory supervision of financial institutions primarily follows the silos or vertical model, where separate authorities regulate different types of financial institutions.[1141] The silos model supervision regime is based on the type of institution, with each type of financial institution having its dedicated regulator and banks. However, insurance companies and securities firms are regulated separately.[1142] The RBZ supervises and regulates banks, focusing on their stability, compliance with banking laws and curbing of bank failures. Other financial sectors, like insurance and securities, are overseen by their respective regulatory bodies, leading to a vertical regulatory structure.

The researcher submits that the silo regulatory model is not adequate to address the complexities and interconnectedness of the modern banking sector and combating bank failures in the event of a financial crisis.[1143] While it allows each regulatory body to oversee particular types of financial institutions, the overall financial sector regulator is the RBZ, which is also the specific regulator for banking institutions.[1144] This leaves the RBZ with inadequate resources and capabilities to effectively prevent bank failures

---

1140 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71.

1141 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71; Botha and Makina 2011 *International Business and Economics Research Journal* 30.

1142 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 17; Botha and Makina 2011 *International Business and Economics Research Journal* 30; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71.

1143 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19; Pan 2012 *Utah Law Review* 1906; Wissink 2017 *European Business Organisation Law Review* 449.

1144 See related comments in Dzomira 2014 Journal of Governance and Regulation 79; Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law* 99; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 19.

as a sole regulator for banks in Zimbabwe. Therefore, models like twin peaks which separate regulation by function rather than institution type are better suited to managing systemic risks and ensuring comprehensive regulatory oversight to curb bank failures in Zimbabwe.

8.5.2 The South African Banking and Supervision Model

The South African banking sector has a rich history and diverse landscape with a comprehensive and dynamic statutory framework to maintain financial stability, protect the interests of depositors and prevent bank failures. South Africa's economy is the largest in Africa with the most developed banking sector, with its largest banks operating in many of the African countries.[1145] The banking statutory framework evolved over the years to strengthen prudential regulations and address challenges posed by digital banking and fintech innovations, preventing the causes of bank failures.[1146] The changes and developments to the banking regulatory framework in South Africa include, among others, the adoption of the twin-peak model. This model established two independent regulatory bodies, one responsible for overseeing prudential regulations and the other for the conduct of financial institutions. Their role is to assist the SARB in maintaining financial stability in the country.[1147]

[1145] Simbanegavi W, Greenberg JB and Gwatidzo T "Testing for Competition in the South African Banking Sector" 2015 *Journal of African Economies* 303, 304; see related in Koziol T "How Vulnerable are Interconnected Portfolios of South African Banks? 2022 *South African Journal of Sciences* 101,103; see also Ngonyama N and Simatele M "Structure and Market Power in the South African Banking Sector" 2020 *African Finance Journal* 22, 24; Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Botha and Makina *2011 International Business & Economic Research Journal* 31.

[1146] Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economics* 304; Mabwe and Robert 2010 *African Review of Economics and Finance* 30; Mishi and Khumalo 2019 *Banks and Bank Systems* 122; Botha and Makina *2011 International Business & Economic Research Journal* 29.

[1147] See section 56 of the *Financial Sector Regulation Act* which established the FRSA, while the PA was established in terms of section 32 of the *Financial Sector Regulation Act*; see Prudential Authority Regulatory Strategy 2021-2024, 2 https://www.resbank.co.za>prudential-regulation accessed 22 June 2024; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130.

Before the adoption of the twin peaks model, the South African regulatory model was based on the integrated approach, whereby a single overarching regulator was responsible for both safety and soundness supervision, and conduct of business regulation for all sectors of the financial services business.[1148] The South African banking regulatory model regime is based on the twin peaks model, which is a hybrid between silos and unified models and is comprehensive to curb bank failures.[1149] The twin peaks include the FSCA which falls under the SARB and oversees prudential regulation. The SARB ensures the prudential oversight of financial institutions, maintaining stability and soundness. The FSCA oversees market conduct regulation focusing on consumer protection and market integrity.[1150]

8.5.3 The UK's Banking and Supervision Model

The UK employs the horizontal model, known as the twin peaks approach.[1151] Financial supervision is organised around broad regulatory objectives or peaks such as prudential regulation, conduct regulation and market integrity, regardless of the type of financial institution.[1152] The UK has different regulators who are responsible for

---

[1148] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 17; see related in Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71; Botha and Makina 2011 *International Business and Economics Research Journal* 28.

[1149] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; see Prudential Authority Regulatory Strategy 2021-2024, 2 https://www.resbank.co.za>prudential-regulation accessed 24 June 2024; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130.

[1150] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 3; Qumba 2022 *South African Law Journal* 87; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Leukes and Mensah 2019 *African Review of Economics and Finance* 192.

[1151] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 17; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71; Schoenmaker D and Veron N "A Twin Peaks Vision for Europe" in Godwin and Schmulow *The Cambridge Handbook of Twin Peaks Financial Regulation* 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79.

[1152] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 4; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79.

different regulatory objectives across all types of financial institutions and these include the PRA which oversees prudential regulation and the FCA which focuses on conduct regulation and consumer protection. The PRA is part of the Bank of England, and it ensures the safety and soundness of banks, insurers and major investment firms. In addition, the FCA regulates the conduct of financial services firms to protect consumers and ensure market integrity.

The researcher submits that the twin peaks model is the best model suitable for banking regulation and supervision because it robustly and effectively provides a comprehensive banking framework that curbs bank failures and ensures the stability of the banking sector.[1153] The twin peaks model allows each regulator to focus on its specific mandate, ensuring the financial soundness of banking institutions, protecting consumers and promoting fair market conduct which adequately prevents bank failures or the likelihood of such.[1154] Furthermore, the twin peaks provide a clear division of responsibilities which enhances regulatory oversight, reduces conflicts of interest and strengthens overall financial stability, making the banking sector more resilient to systemic risks and the causes of bank failures.[1155]

[1153] Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Howse and Ramsay 2017 *South African Law Journal* 673; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin Peaks approach to financial supervision seems superior.

[1154] Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see comments by Botha and Makina 2011 *International Business & Economics Research Journal* 34; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Godwin, Howse and Ramsay 2017 *South African Law Journal* 673; Prudential Authority Regulatory Strategy 2021-2024 at https://www.resbank.co.za>prudential-regulation accessed 24 January 2024.

[1155] Vermeulen 2021 *Economic History of Developing Regions* 261; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; De Jager 2006 *South African Mercantile Law Journal* 284.

8.6 Overall Analysis of the Theoretical Perspectives of Financial Regulation and Bank Supervision to Curb Bank Failures

Financial regulation and supervision are critical components of the financial sector designed to ensure financial stability, protect customers and promote market efficiency.[1156] Some of the theories of financial regulation and supervision include the public interest theory, private interest theory, institutional theory, behavioural economics perspective, macroprudential regulation and principles and rules-based regulation. The theoretical perspectives on financial regulation and supervision provide a framework for understanding the rationale behind various regulatory approaches and the mechanisms through which they operate.[1157] These perspectives are shaped by economic theories, historical contexts and practical considerations encompassing the set of laws, guidelines and oversight mechanisms governing financial institutions. They offer diverse viewpoints on how various goals can be achieved and their primary objectives include maintaining financial stability, protecting consumers and investors, and ensuring the integrity and transparency of financial markets.

8.6.1 The Public Interest Theory

Public interest theory posits that financial regulation is established to protect the public from financial institutions and market failures.[1158] The theory concentrates on the general public's ability to monitor regulatory decision makers and those regulatory decision makers operate under public scrutiny, and regulatory outcomes tend to reflect

---

[1156] Botha and Makina 2011 *International Business and Economics Research Journal* 28; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 61; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21.

[1157] Botha and Makina 2011 *International Business and Economics Research Journal* 28; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 79; see related in Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 432.

[1158] Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 432; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 61; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21.

general interest.[1159] This perspective views regulation as a necessary tool to correct imperfections in the financial sector such as information asymmetry, moral hazard and systemic risk. According to this theory, regulatory bodies act in the best interest of society, aiming to create a stable and fair financial sector rather than delivering regulatory benefits to well-organised interest groups at the public's expense.

In the UK, regulations by the PRA and FCA are framed around the public interest theory aiming to protect depositors and the financial sector. Similarly, South Africa's twin peaks model and financial regulation incorporate the public interest theory through consumer protection and ensure fair market conduct. However, Zimbabwe's banking regulatory framework lags behind in consumer protection and market conduct, limiting its alignment with public interest theory goals though the RBZ does prioritise general financial stability in the country.

8.6.2 Private Interest Theory

The private interest theory suggests that financial regulation and supervision is driven by the self-interests of regulators and industrial players.[1160] According to this perspective, regulatory agencies may be influenced by the industries they are supposed to regulate, leading to regulations that benefit incumbents at the expense of broader societal goals.[1161] In other words, the theory challenges the idea that agencies genuinely respond to market failures, but instead, they deliver regulatory benefits to well-organised political interest groups, which then profit at the expense of

---

[1159] See related in Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 61; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21; Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 432.

[1160] Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 433.

[1161] Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 433.

the generally unorganised public.[1162] This theory suggests that banks may lobby for favourable conditions that still adhere to safety standards, thus indirectly curbing bank failures by aligning private interests with stability.

The UK and South Africa encourage private sector engagement in regulatory development, particularly with input on Basel standards, thereby fostering a collaborative approach that helps curb bank failures. In Zimbabwe, private interest influence is less formalised and regulatory power largely remains centralised with the RBZ under the influence of the government, potentially limiting responsiveness to industry needs.

8.6.3 Institutional Theory

The institutional theory is based on examining how the structures, norms and cultural contexts of regulatory institutions influence financial regulation.[1163] This perspective emphasises the role of regulatory institutions in shaping behaviour through formal rules and informal norms, highlighting the importance of institutional quality and governance in effective financial regulation.

8.6.4 Behavioural Economics Theory

The behavioural economics theory incorporates insights from psychology to understand how irrational behaviour and cognitive biases affect financial institutions and the efficacy of regulation. In other words, the theory postulates that agency decisions embody the policy's judgements about how competing regulatory values safe and sound financial sector versus consumer convenience.[1164] The theory's perspective

---

[1162] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 20; Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 433.

[1163] Petracci B and Rammal HG "Developing the Islamic Financial Services Sector in Italy: An Institutional Theory Perspective" 2014 *Journal of Financial Services Marketing* 198, 199; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 79.

[1164] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 21.

helps address irrational decision-making by banks and consumers and aims to prevent sticky behaviour that could lead to bank failures. The UK, South Africa and Zimbabwe employ the behavioural economics theory on consumer protection requirements and measures to prevent high-risk banking activities, therefore, enhancing bank and consumer decision-making that favourably prevents bank failures.

8.6.5 Macroprudential Regulation

Macroprudential regulation focuses on ensuring the stability of the entire financial system rather than individual institutions.[1165] This perspective emphasises the importance of systemic risk management, recognising that the interconnectedness of financial institutions can lead to contagion effects and amplify financial crises. The macroprudential perspective advocates for regulatory tools that address procyclicality and systemic vulnerabilities.[1166] The UK and South Africa have established comprehensive regulatory frameworks that effectively monitor systemic risks through macroprudential regulation, allowing for early identification and management of risks that could cause bank failures. However, Zimbabwe has limited macroprudential regulation capacity due to resource constraints, limiting its ability to identify and address systemic risks.

8.7 Concluding Remarks

The comparative analysis of banking legislation and related banking regulatory frameworks across the UK, South Africa and Zimbabwe reveals a multifaceted approach to preventing banking failures. Each country analysed adopts a unique

---

[1165] Hanson SG, Kashyap AK and Stein JC " A Macroprudential Approach to Financial Regulations" 2011 *Journal of Economic Perspectives* 3, 5 states that the macroprudential approach to financial regulation can be characterised as an effort to control the social costs associated with excessive balance-sheet shrinkage on the part of multiple financial institutions hit with a common shock.

[1166] Hanson, Kashyap and Stein 2011 *Journal of Economic Perspectives* 7-13 provides a list of macroprudential tools which includes time-varying capital requirements, higher-quality capital, corrective action targeted at dollars of capital, contingent capital, regulation of debt maturity and regulating the shadow banking system.

combination of regulatory framework, reflecting its specific economic environment, historical context and financial sector architecture.[1167] Key commonalities include the implementation of robust capital adequacy requirements, stringent liquidity provisions and comprehensive supervisory mechanisms. However, significant variations exist in the execution and emphasis of these regulations.

Countries such as South Africa,[1168] and the UK have developed advanced regulatory frameworks and infrastructures with extensive oversight capabilities.[1169] These countries emphasise the importance of transparency, risk management and proactive intervention to mitigate the causes of bank failures and ensure financial stability. That means these countries have fully adopted and implemented the international best standards for banking regulation and supervision to prevent bank failures. For instance, the Basel III Framework adopted widely illustrates the global shift towards more resilient banking frameworks that can mitigate the causes of bank failures and enhance bank regulation, supervision and monitoring. South Africa and the UK have fully adopted the Basel III requirements and most of these requirements have been incorporated into their banking statutes.

In contrast, developing economies such as Zimbabwe often face challenges related to regulatory enforcement and resource limitations. Although Zimbabwe has made commendable strides in aligning with international best standards, it has not yet fully adopted them into its banking laws. However, countries such as South Africa have

---

1167 Wall 2017 *Journal of Financial Regulation and Compliance* 323; Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Lessambo *The U.S Banking System: Laws, Regulations, and Risk Management* 17; Jabotinsky 2017 *Stanford Journal of Law, Business and Finance* 71; Avgouleas 2009 *Capital Markets Law Journal* 231.

1168 Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economies* 304; Koziol 2022 *South African Journal of Sciences* 103; Ngonyama and Simatele 2020 *African Finance Journal* 24; Mishi and Khumalo 2019 *Banks and Bank Systems* 125; Botha and Makina *2011 International Business & Economic Research Journal* 31.

1169 Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 23; Wood *Regulation of International Finance* 106; Kroszner and Strahan "Regulation and Deregulation of the US Banking Industry: Causes, consequences, and Implications for the Future" 533; Avgouleas 2009 *Capital Markets Law Journal* 203.

made significant strides in enhancing their banking regulations to align with international standards, adopting stringent best practices for bank regulation, supervision and monitoring of banks to curb bank failures.[1170] This comparative analysis underscores the importance of a tailored regulatory approach, recognising that a one-size-fits-all model is impractical. Effective prevention of bank failures requires a dynamic and context-specific regulatory strategy that balances global best practices with local economic realities. Moreover, the evolving nature of financial markets necessitates continuous review and adaptation of regulatory measures to address emerging risks and challenges. While there is no universally optimal banking regulatory framework, adopting a coherent and adaptive approach informed by comparative insights can significantly enhance the resilience of Zimbabwe's banking sector and mitigate the causes of bank failures.

The following chapter is Chapter Nine and is the last chapter which provides the conclusion and recommendations.

[1170] Simbanegavi, Greenberg and Gwatidzo 2015 *Journal of African Economics* 304; Mabwe and Robert 2010 *African Review of Economics and Finance* 30; Mishi and Khumalo 2019 *Banks and Bank Systems* 122; Botha and Makina *2011 International Business & Economic Research Journal* 29.

CHAPTER NINE

RECOMMENDATIONS AND CONCLUSION

9.1 Introduction

This chapter provides the overall conclusions and recommendations on the regulation, supervision and monitoring of banks to mitigate and curb bank failures in Zimbabwe. The researcher draws conclusions and recommendations from experiences learnt from Zimbabwe, South Africa, the United Kingdom (the UK), and the international best practices in the regulation and supervision of banks. A general observation of the banking laws in Zimbabwe, South Africa, and the UK provides valuable insights into the flaws that could be attributed to bank failures in Zimbabwe. This chapter also discusses the main causes of bank failures in Zimbabwe, South Africa and the UK.

Furthermore, the chapter draws lessons from the international best practices on the regulation of banks to prevent bank failures. The researcher discusses and provides recommendations that policymakers in Zimbabwe can adopt to enhance the regulation, supervision and monitoring of banks to prevent or mitigate the causes of bank failures.

9.2 General Observations on Bank Failures in Zimbabwe

Bank failures in Zimbabwe have been a recurring challenge marked by economic instability, particularly during the past two decades.[1171] Bank failures are often

[1171] Dzomira S "Analysis of Bank Failures During Financial Tumult in Africa-Zimbabwe: A Historical Review" 2014 *Journal of Governance and Regulation* 75, 77-78; Chokuda BT and Chokuda-Santu TV "The External Governance Architecture of Zimbabwe's Banking and Financial Services Sector" 2021 *Midlands State University Law Review* 1, 2; Nyakurukwa K and Seetharam Y "Corporate Governance in a Weak Legal Environment: A Systematic Review Focusing on Zimbabwe" 2023

attributed to a combination of factors such as poor regulatory oversight, poor governance practices within banks, inexperienced management, undue influence by dominant shareholders, non-performing loans and excessive risk-taking.[1172] However, the chief cause of bank failures remains the failure of regulatory and monitoring systems combined with poor or weak enforcement of the relevant banking laws in Zimbabwe.[1173]

The first bank failure in Zimbabwe occurred in 1998 when the black-owned United Merchant Bank (UMB) collapsed.[1174] In 2000, Unibank became the second bank to fail in Zimbabwe.[1175] However, the first wave of bank failures in Zimbabwe occurred between 2003 and 2004, during the early years of the third decade since the country

---

Qualitative Research in Financial Markets 319, 324; Muranda Z "Financial Distress and Corporate Governance in Zimbabwean Banks" 2006 *The International Journal of Business in Society* 643, 644; Matanda E "Threats and Opportunities Facing Banking Institutions in Emerging Economies in their Desire to Adopt and Implement the Basel II Capital Accord: A Case Study of the Zimbabwean Economy in the Dollarisation Era" 2015 *International Review of Research in Emerging Markets and the Global Economy* 441, 444; see speech by Dhliwayo CL "Limiting the Risk of Failure in Financial Institutions" on the occasion of the Public Accountants and Auditors Board Conference held at Rainbow Towers in Harare, from 9-10 April 2015 1, 7 https://www.rbz.co.zw/documents/publications/speeches/speech-by-dr.-dhliwayo-on-limiting-the-risk-of-bank-failures-at-the-paab-workshop---10-april-2015.pdf accessed 15 October 2024.

1172 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Dzomira 2014 *Journal of Governance and Regulation* 77; Dlamini B and Mbira L "The Current Zimbabwean Liquidity Crisis: A Review of its Precipitates" 2017 *Journal of Economics and Behavioural Studies* 212, 217; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; Muranda 2006 *The International Journal of Business in Society* 644; Ncube C and Okeke-Uzodike U "Understanding Illicit Financial Flows in Post-2000 Zimbabwe" 2015 *Journal of African Foreign Affairs* 93, 101.

1173 Chitimira H and Torerai E "A Regulatory Analysis of Digital Financial Services and the Adoption of Central Bank Digital Currencies in Zimbabwe and South Africa" 2023 *Juridical Tribune* 384, 386; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Dzomira 2014 *Journal of Governance and Regulation* 77; Nhavira JDG and Mudhunguyo C "A Minskyan Analysis of Zimbabwe's Deflationary Episode" 2015 *Journal of Strategic Studies* 43, 44.

1174 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 9; Dzomira 2014 *Journal of Governance and Regulation* 77; Muranda 2006 *The International Journal of Business in Society* 650; Sakarombe U "Financial Inclusion and Bank Stability in Zimbabwe" 2018 *International Journal of Academic Research in Economics and Management Sciences* 122, 125.

1175 Dzomira 2014 *Journal of Governance and Regulation* 77; Muranda 2006 *The International Journal of Business in Society* 650; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 9.

gained independence.[1176] A wave of bank failures here refers to a time when several banks became insolvent and collapsed within a short period. A wave of bank failures could occur due to financial, economic, and regulatory factors such as economic downturn, contagion risks, regulatory failures and poor corporate governance, either separately or in combination. This period of bank failures followed the enactment of the *Banking Act* of 1999. The primary reason for these bank failures in Zimbabwe between 2003 and 2004 was severe economic distress caused by hyperinflation coupled with a gross misuse of borrowed capital.[1177]

After 2004, there was a period of zero bank failures in Zimbabwe even during the global financial crisis of 2007 and 2008.[1178] The absence of bank failures in Zimbabwe during the global financial crisis can be attributed to several factors such as economic isolation, hyperinflation environment, regulatory oversight and conservatism in

---

[1176] Nyangara D, Nyangara MR and Mazviona BW "An Essay on the Ethical and Corporate Governance Issues in the 2003/4 Zimbabwean Banking Crisis" 2014 *International Journal of Economics and Management Sciences* 1, 4; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 9; Kanhai C and Ganesh L "Factors Influencing the Adoption of Enterprise Risk Management (ERM) Practices by Banks in Zimbabwe" 2014 *International Journal of Business and Commerce* 1, 2; Dzomira 2014 *Journal of Governance and Regulation* 77; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; Muranda 2006 *The International Journal of Business in Society* 644; Chitimira and Ncube 2021 *Potchefstroom Electronic Law Journal* 7; Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 444.

[1177] Nzaro R, Njanike K and Jaravani E "The Impact of Regulation Policy on Product and Service Delivery of Micro-Financial Institutions: A Case of Zimbabwe" 2013 *Global Advanced Research Journal of Management and Business Studies* 429, 430 highlighted that 2000-2005 Zimbabwe has been sailing in murky waters because of economic hardships; Dzomira 2014 *Journal of Governance and Regulation* 77 contend that there was gross misuse of borrowed money through overnight accommodation window which was not properly and closely supervised; Coomer J and Gstraunthaler T "The Hyperinflation in Zimbabwe" 2011 *The Quarterly Journal of Australian Economics* 311, 322; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 5 states that directives by the RBZ compelling banks to sell their illiquid assets overnight resulted in the crushing of real estate and stock markets, affecting legitimate investors who had nothing to do with the malpractices in the banking sector.

[1178] See Otekunrin AO, Matowanyika K, Makurumidze S, Bhebhe T and Sifile O "Saving Practices and Economic Performance: A Zimbabwean Case 1980-2015" *Asian Economic and Financial Review* 118, 120; Mlambo C, Mapondera D and Tenderere M "Barriers and Challenges Restraining Zimbabwean Banks in going Multinational" 2015 *International Business and Economic Research Journal* 297, 298; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 7.

banking practices.[1179] During the 2007/2008 period, Zimbabwe was economically isolated primarily due to sanctions imposed by Western Countries.[1180] These sanctions were in response to allegations of human rights abuses and governance issues under the then government of Robert Mugabe.[1181] As a result of the economic isolation, Zimbabwe had limited access to international capital markets, restricted foreign direct investment and little diplomatic relations with Western countries and members of the EU.[1182] That collectively made it difficult for Zimbabwe to participate in the global financial system.

Furthermore, banks in Zimbabwe did not have significant exposure to high-risk financial products such as subprime mortgages and complex derivatives that triggered the financial crisis in other countries like the UK.[1183] Subprime mortgages and

---

[1179] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 6; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320 noted that Zimbabwe has been placed under the radar of punitive economic sanctions which impeded and weakened most of the state institutions; Nhavira JD and Mudhunguyo C "A Minskyan Analysis of Zimbabwe's Deflationary Episode" 2015 *Journal of Strategic Studies* 43, 46 state that despite dollarisation Zimbabwe's banking system is not integrated with the world financial markets; Munzara AT "The Consequences of Implementing the Indigenisation and Economic Empowerment Policy Framework on the Banking Sector in Zimbabwe" 2015 *IOSR Journal of Business and Management* 55, 57.

[1180] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 6; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320 noted that Zimbabwe has been placed under the radar of punitive economic sanctions which impeded and weakened most of the state institutions; Nhavira and Mudhunguyo 2015 *Journal of Strategic Studies* 46; Munzara 2015 *IOSR Journal of Business and Management* 57.

[1181] Manungo G, Mpahlo R, Ndhlovu F and Chirisa I "Structure, Function and Performance of the Financial Services Sector in Zimbabwe since 1980" 2021 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 41, 56; Otekunrin *et al* 2021 *Asian Economic and Financial Review* 122; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 97-98; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320.

[1182] Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 6; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320 noted that Zimbabwe has been placed under the radar of punitive economic sanctions which impeded and weakened most of the state institutions; Nhavira and Mudhunguyo 2015 *Journal of Strategic Studies* 46; Munzara 2015 *IOSR Journal of Business and Management* 57.

[1183] Otekunrin *et al* 2021 *Asian Economic and Financial Review* 120; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 97-98; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320; Manungo *et al* 2021 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 43.

derivatives triggered the global financial crisis when their values plummeted, leading to a chain of defaults and liquidity shortages within the banks.[1184]

In addition, Zimbabwe was experiencing hyperinflation during the global financial crisis of 2007/08 and banks were relatively conservative in their operations.[1185] The hyperinflation period in Zimbabwe began around 2000 and reached a peak in 2008 when inflation reached an unprecedented 231 million percent in the last quota of the same year.[1186] Banks in Zimbabwe operated conservatively during the period of hyperinflation because of the volatile economic environment which made lending and investment extremely risky. Banks focused more on survival, and managing short-term liquidity needs rather than engaging in long-term lending or speculative investments.

In the 2007/08 period, banks in Zimbabwe had minimal high-risk lending or investment practices due to economic uncertainties and the collapse of consumer purchasing power which could result in bank failures, unlike in other jurisdictions such as the UK.[1187] Banking activities were minimal because of the hyperinflationary environment

---

1184 Otekunrin *et al* 2021 *Asian Economic and Financial Review* 120-121; Han L, Benson A, Chen JJ and Zhang S "The Use and Impacts of Bank Support on UK Small and Medium-sized Enterprises" 2014 *International Small Business Journal* 61, 63; Mugarura N and Namanya P "Supervisory Mandate of Central Banks and the Spate of Bank Failures: Who is to Blame? 2020 *Journal of Money Laundering Control* 341, 342; Forbes WP, Donohoe SO and Prokop J "Financial Regulation, Collective Cognition, and Nation-State Crisis Management: A Multiple Case Study of Bank Failures in Germany, Ireland and the UK" 2015 *The Journal of Risk Finance* 284, 292; Mora N and Logan A "Shocks to Bank Capital: Evidence from UK Banks at Home and Away" 2012 *Applied Economics* 1103, 1107.

1185 Coomer and Gstraunthaler 2011 *The Quarterly Journal of Australian Economics* 330; Otekunrin *et al* 2021 *Asian Economic and Financial Review* 120; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 7.

1186 Manungo *et al* 2021 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 43; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 7; Otekunrin *et al* 2021 *Asian Economic and Financial Review* 122.

1187 Haentjens M "Bank Recovery and Resolution: An Overview of International Initiatives" 2014 *International Law Review* 255, 261; Colvin CL, de Jong A and Fliers PT "Predicting the Past: Understanding the Causes of Bank Distress in the Netherlands in 1920s" 2015 *Explorations in Economic History* 97, 109; Chambers C "Banking Reform in 2010: Is Regulatory Change Ever Enough and Will the General Election Hold the Answers for the Financial Services Industry" 2010 *The Law Teacher* 218, 219; see related in Arora A "Reform of Bank Regulation and Supervision in the UK" 1999 *Journal of International Banking Regulation* 103, 106.

which rendered the local currency nearly worthless.[1188] As a result, high-risk lending or investment practices, such as seen in the UK and other advanced economies, were nearly nonexistent in Zimbabwe during the global financial crisis of 2007/08. The researcher submits that the lack of high-risk exposure could be one of the reasons why banks in Zimbabwe did not face the same kind of failures which happened in other countries during the global financial crisis of 2007/08.

The second wave of bank failures hit Zimbabwe during the 2012 to 2015 financial years.[1189] This wave of bank failures could be attributed to factors such as economic instability in light of the dollarisation development when the US Dollar became the default Zimbabwean currency from 2009 onwards.[1190] Although there was relative stability in the economy, no real economic growth happened due to reduced foreign direct investment, high unemployment and lack of industrial productivity in Zimbabwe. Furthermore, the banking sector experienced loss of public confidence and customers rushed to withdraw their deposits, exacerbating the liquidity crisis in Zimbabwe.[1191]

1188 Coomer and Gstraunthaler 2011 *The Quarterly Journal of Australian Economics* 331 notes that the extreme hyperinflation left the local currency defunct as the economy dollarised in late 2008; Otekunrin *et al* 2021 *Asian Economic and Financial Review* 122; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 97-98; Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320; Manungo *et al* 2021 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 43.

1189 Dzomira 2014 *Journal of Governance and Regulation* 78; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Otekunrin *et al* 2021 *Asian Economic and Financial Review* 120; see related comments in Dlamini and Mbira 2017 *Journal of Economics and Behavioral Studies* 213.

1190 Nhavira JDG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 1, 13 argue that in 2009 following dollarisation of the economy, the financial system was once again in crisis due to low capitalisation level; Nhavira and Mudhunguyo 2015 *Journal of Strategic Studies* 48 contend that Zimbabwe successfully stabilised the economy in 2009 and subsequently became a victim of its own success; Dlamini and Mbira 2017 *Journal of Economics and Behavioral Studies* 213.

1191 Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 6; see related comments in Nhavira and Mudhunguyo 2015 *Journal of Strategic Studies* 47; Matanda E, Dube H and Madzokere N ""Blessing or Curse"? Introduction of Bond Notes as an Antidote to Zimbabwe's Liquidity Crises" 2018 *Journal of Modern Accounting and Auditing* 252, 258; Kefela GT "Regulatory Challenges Strategically Enhance Banking Efficiency and Stability: The Study of East African Countries" 2008 *Indus Journal of Management and Social Sciences* 129, 145.

Regulatory failures also contributed to the wave of bank failures from 2012 to 2015 and the RBZ was sometimes slow to intervene in troubled banks.[1192]

In 2015, the *Banking Amendment Act (BAA)* was enacted as a legislative reform designed to strengthen banks' internal governance and bolster the regulation, monitoring and supervision of the same.[1193] While it intended to improve the regulation, monitoring and supervision, the *BAA* falls short in several areas, particularly in integrating international best practices for preventing bank failures as outlined by the Basel Committee on Banking Supervision.[1194] Notably, the *BAA* fails to impose mandatory, uniform prudential standards on all banks, resulting in inconsistent regulatory practices across banking institutions in Zimbabwe. Instead, sound prudential standards are only applied selectively, at the discretion of the Registrar, who may issue a written notice to a specific bank based on the assessment of the necessity for additional monitoring and supervising the activities of such a bank.[1195] The researcher argues that this selective approach undermines the overall stability and resilience of the banking sector as it does not provide a proactive, industry-wide standard for bank supervision, leaving some institutions under-regulated until problems arise.

It is important to note that no bank failures have been recorded between 2016 and 2023. However, the absence of bank failures during the mentioned period may be attributed to the structural changes in the banking sector that had already occurred before the *BAA* was enacted. By 2015, banks that were owner-managed or part of an

---

[1192] Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 433; Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Sciences* 22, 23; Muranda 2006 *The International Journal of Business in Society* 652.

[1193] See the preamble and of the *Banking Amendment Act* 12 of 2015 (*Banking Amendment Act*); Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Nhavira and Mudhunguyo 2015 *Journal of Strategic Studies* 75.

[1194] Girasa *Laws and Regulations in the Global Financial Markets* 201; Scott *International Finance: Law and Regulation* 763; Arner and Norton 2009 *Hong Kong Law Journal* 119; Cunliffe 2016 *European Economy* 65; see key attribute 5 of the BCBS; see paragraph 7.3 of Chapter Seven of this thesis.

[1195] See section 4C of the *Banking Act* as amended.

owner-managed corporate group where a single individual or family held high levels or concentration of ownership had collapsed at the time.[1196] Banks which were owner-managed or with a high concentration of ownership were particularly vulnerable to failure due to governance weaknesses, conflicts of interest and risky lending practices.[1197] Consequently, by the time the *BAA* came into effect, the banking sector was primarily composed of institutions with more diversified ownership structures, better governance practices and lower levels of risk exposure. Despite a period with no recent bank failures in Zimbabwe, patterns from previous waves of bank failures since the early 2000s, combined with current banking conditions and the country's economic trajectory suggest a potential risk of another wave of failures emerging in Zimbabwe.

The researcher's recommendations in this chapter can assist policymakers and the legislature in developing a robust and suitable regulatory framework for the banking sector that can mitigate the causes of bank failures in Zimbabwe.[1198]

[1196] See discussion on Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 3; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 20; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 5-8.

[1197] Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 240; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 232; Dzomira 2014 *Journal of Governance and Regulation* 77-78; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 43; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 212.

[1198] Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 231; see Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy and Analysis and Research Unit* 23; see related in Sakarombe U "Financial Inclusion and Bank Stability in Zimbabwe" 2018 *International Journal of Academic Research Economics and Management Sciences* 122, 135; Gumbo V and Zoromedza S "Bank failure Prediction Model for Zimbabwe" 2016 *Applied Economics and Finance* 222, 231; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 20; see related in Mhishi and Khumalo 2019 *Banks and Bank Systems* 123; see Nhavira 2017 *Journal of Strategic Studies* 64.

9.3 General Observations on the Banking Laws in Zimbabwe, South Africa and the UK

The research sought to answer whether the current banking statutory framework is comprehensive and robust enough to combat bank failures in Zimbabwe.[1199] In addressing this research question, the researcher endeavoured to provide a four-pronged response.[1200] Firstly, the researcher discussed the importance of effective banking laws to prevent the causes of bank failures in Zimbabwe and promote financial stability in the country.[1201] Effective banking laws are crucial for banks and bank regulators in establishing clear regulatory guidelines, ensuring compliance and preventing systemic risks that lead to bank failures.[1202]

The researcher submits that the effectiveness and robustness of the relevant banking laws depend on the adequacy of the provisions regulating banks and their effective

---

1199 See Chapter One par 1.4 of this thesis; Foya D and Changunda G "An Investigation of Corporate Governance Challenges Facing Indigenous Banks in Zimbabwe" 2019 *International Journal of Research and Innovation in Social Science* 100, 101; Nhuta 2014 *International Journal of Research in Social Sciences* 23; Moyo IL, Gumbo V, Chikodza E and Jones B "An Empirical Study on the Factors Influencing the Performance of Financial Institutions in Zimbabwe" 2019 *International Journal of Finance and Banking Studies* 1, 2.

1200 See paragraph 1.5.1 of Chapter One of this thesis.

1201 Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 3 contend that financial problems in a banking institution can trigger a bank run, which can easily and usually spread to other banking institutions with dire consequences to the wider economy; Munoangira A and Kaja P "Strategies to Enhance Public Confidence in the Zimbabwean Banking Sector" 2016 *European Journal of Business and Management* 198, 203; Sakarombe 2018 *International Journal of Academic Research Economics and Management Sciences* 126; see related in the definition for financial regulation as provided in Chitimira H and Mavhuru L "An Expository Overview of the Financial Integrity Risk Associated with the Relaxation of Financial Regulation to Promote Financial Innovation Through Mobile Money Services in Zimbabwe" 2024 *Acta Universitatis Danubius Economica* 70, 71 which include establishment of institutional measures for the enforcement, monitoring and supervision of compliance with such rules and regulations.

1202 See paragraph 1.6 of Chapter One of this thesis; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 17; Njanike 2009 *Annals of the University of Petroşani, Economics* 176; Munoangira and Kaja 2016 *European Journal of Business and Management* 197.

enforcement.[1203] In this regard, the researcher observed that the enforcement of banking laws in Zimbabwe is not robust and adequate enough to prevent bank failures and promote financial stability in the country.[1204] Therefore, the researcher argues that inconsistent enforcement of banking laws and regulations in Zimbabwe leads to confusion and overlapping functions between financial sector regulators. The lack of separation of duties and responsibilities within Zimbabwe's financial sector regulator undermines efforts to combat bank failures and limits the effective enforcement of banking laws to curb such failures.

Robust enforcement of banking laws enhances the ability of regulatory bodies to effectively monitor, supervise and enforce such laws and regulations, which is essential for preventing causes of bank failures and maintaining financial sector stability.[1205] Effective banking laws provide clear guidelines on capital requirements, risk management and governance, enabling regulators to identify and address emerging

---

[1203] Botha E and Makina D "Financial Regulation and Supervision: Theory and Practice in South Africa" 2011 *International Business & Economics Research Journal* 27, 31; Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 71; see related in Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101.

[1204] Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 13 state that the supervisory gaps and opportunities for regulatory arbitrage that the RBZ decried in its 2005 Annual Report remained; Chikoko L "Potential Sources of Zimbabwe Commercial Banks Illiquidity After Dollarisation" 2014 *Journal of Contemporary Issues in Business Research* 41, 47; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4 states that the recurrence of bank failures in Zimbabwe indicates that the measures were either inadequate or the implementation was selective; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 85; see related in Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 86; see related in Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235; Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 72 defined financial integrity as to the soundness of a financial system in relation to the combating of systemic risks and all related threats to the financial markets and financial institutions in any country.

[1205] Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 17; Njanike 2009 *Annals of the University of Petroşani, Economics* 176; Munoangira and Kaja 2016 *European Journal of Business and Management* 197.

risks before they become systemic problems.[1206] The researcher submits that the lack of rigorous and stringent measures to enforce compliance with the banking laws and regulations that deal with regulation, supervision and monitoring of banks gives rise to bank failures in Zimbabwe.[1207] The lack of stringent measures to enforce compliance could be due to capacity constraints and potential political interference, compounded by economic instability which undermines effective enforcement and oversight of banking laws. Stringent measures to enforce compliance with the banking laws are important as they prevent an environment where non-compliance can flourish, undermining the safety, soundness and stability of banks in Zimbabwe.

Secondly, the researcher observed that there are notable gaps and flaws in the banking laws governing the banking sector in Zimbabwe. The researcher argues that inadequacies and flaws in Zimbabwe's banking laws stem from inadequately formulated banking legislation compounded by a lack of enforcement mechanisms for mitigating and curbing bank failures.[1208] In this regard, the researcher submits that poorly crafted banking laws create regulatory deficiencies by failing to provide clear guidelines, effective oversight mechanisms and enforcement powers for regulators to monitor and control banking activities in Zimbabwe. Legislative gaps potentially lead to increased risks such as financial instability due to poor risk management, and a

---

1206 Basel Committee on Banking Supervision *Core Principles for Effective Banking Supervision* (Bank of International Settlements Basel 2011) 64; Gumbo and Zoromedza 2016 *Applied Economics and Finance* 231; Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies* 20; see related in Mhishi and Khumalo 2019 *Banks and Bank Systems* 123; see Nhavira 2017 *Journal of Strategic Studies* 64; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 5-8.

1207 Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 71; Chinoperekweyi 218 *International Journal of Applied Research* 400; Muranda 2006 *The International Journal of Business in Society* 644; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4.

1208 Abor JY, Mensah S, Kusi BA and Mathuva D "Explaining Banking Failures in Africa" in Kusumaningrum R, Trihantana R and Thantawi TR *The Economics of Banking and Finance in Africa: Developments in Africa's Financial Systems* (Springer Nature Switzerland AG 2023) 457; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 47; Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 83; Chidaushe WK "The Impediments and Best Practice Use of Derivatives in Zimbabwe, Botswana and South Africa" 2018 *Journal of Business and Financial Affairs* 1, 5; Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 42.

higher likelihood of fraud and misconduct within the banks, leading to bank failures. In addition, the legislative gaps allow for poor corporate governance as banks operate with limited accountability and reduced public confidence, leading to a loss of trust in the safety and integrity of the banking sector by depositors.[1209]

The researcher also submits that lack of enforcement of banking laws may result in non-compliance by banks as they may perceive the regulatory environment as lenient or ineffective.[1210] Lack of enforcement of banking laws creates a permissive atmosphere where banks can engage in high-risk behaviour, neglect sound financial practices or even manipulate regulations without fearing repercussions.[1211] Consequently, non-compliance with banking laws exacerbates vulnerabilities such as under-capitalisation, poor risk management and increased exposure to systemic risks, which increases the likelihood of bank failures in Zimbabwe.

Accordingly, the third aim of this research is to analyse the banking laws of Zimbabwe in comparison to South Africa and the UK. The researcher analysed banking laws and banking sector models adopted by Zimbabwe, South Africa and the UK with a view to gain insights on what Zimbabwe could adopt to curb bank failures. A comparative analysis allows the researcher to leverage insights from South Africa and the UK, countries with reasonably stable banking sectors so that Zimbabwe can draw lessons on how to combat bank failures.[1212]

[1209] Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica* 75; Abor *et al* "Explaining Banking Failures in Africa" 457; Chidaushe 2018 *Journal of Business and Financial Affairs* 5; Matanda, Dube and Madzokere 2018 *Journal of Modern Accounting and Auditing* 258; 2008 *Indus Journal of Management and Social Sciences* 145.

[1210] Barth JR, Lin C, Ma Y Seade J and Song FM "Do Bank Regulation, Supervision and Monitoring Enhance or Impede Bank Efficiency" 2013 *Journal of Banking & Finance* 2879, 2888; Mutarindwa S, Schafer D and Stephan A "Central Banks' Supervisory Guidance on Corporate Governance and Bank Stability: Evidence from African Countries" 2020 Emerging Markets Review 1,3.

[1211] Dhlamini "Limiting the Risk of Failure in Financial Institutions" 8-10; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 20; see related in Sakarombe 2018 *International Journal of Academic Research in Economics and Management Sciences* 126; see related in Tembo *Bank Failures in Zimbabwe: Evidence and Lessons, 2000-09* 142.

[1212] See Chapter One par 1.4 and 19 of this thesis.

The researcher observed that Zimbabwe's banking laws somehow share some similarities with those of South Africa. However, Zimbabwe's banking laws do not match those of South Africa and are not as effectively enforced due, in part, to limited resources and capacity, inadequate risk assessment tools, political interference and corruption.[1213] The enforcement challenges can be attributed to the Reserve Bank of Zimbabwe (RBZ)'s limited regulatory capacity, including constraints such as inadequate resources, insufficient technical expertise and limited supervisory capacity. The RBZ's limited regulatory and resource constraints hinder its ability to enforce banking laws effectively, weakening its ability to prevent bank failures.[1214]

In addition to the above-mentioned, Zimbabwe's banking laws have not fully adopted international best practices leading to weaknesses in corporate governance, insufficient crisis management and resolution of failing banks in Zimbabwe.[1215] Consequently, these deficiencies in banking laws hinder regulators' ability to effectively mitigate and curb the causes of bank failures, leading to increased financial institution vulnerabilities in Zimbabwe.

The researcher observed and identified that South Africa's banking laws are generally more robust, with stronger enforcement mechanisms because they clearly outline the responsibilities and obligations of banking institutions, thereby enabling better

---

[1213] Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 85; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economic Management Sciences* 3; see related in Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues* 86; see related in Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 235.

[1214] Matanda E "Threats and Opportunities Facing Banking Institutions in Emerging Economies in their Desire to Adopt and Implement the Basel II Capital Accord: A Case Study of the Zimbabwean Economy in the Dollarisation Era" 2015 *International Review of Research in Emerging Markets and the Global Economy* 441; 445; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 10; Nhuta 2014 *International Journal of Research in Social* Sciences 23.

[1215] Dzomira 2014 *Journal of Governance and Regulation* 78; Chitimira and Ncube 2021 *Potchefstroom Electronic Law Journal* 8-9; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101; Dhlamini "Limiting the Risk of Failure in Financial Institutions" 10; Nhuta 2014 *International Journal of Research in Social* Sciences 23.

enforcement, compliance and oversight of banks.[1216] Therefore, the researcher submits that the South African banking sector benefits from strong independent regulatory bodies such as the Prudential Authority (PA) and the Financial Sector Conduct Authority (FSCA) which have the authority and capacity to supervise, monitor and enforce banking laws effectively.[1217] The researcher also submits that these independent regulatory bodies have access to advanced risk assessment tools and the necessary resources to perform their functions robustly. Unlike the RBZ, the PA and the FSCA have well-defined enforcement mechanisms, including stringent penalties, sanctions and the power to intervene directly in banks' operations when non-compliance is suspected or detected.[1218] This prevents non-compliance and ensures adherence to high standards of risk management and corporate governance, reducing the chances of bank failures in South Africa.

[1216] Muyambiri B and Odhiambo NM "A Chronological Analysis of Monetary Policy and the Financial System in South Africa" 2014 *Public and Municipal Finance* 19, 20; Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1184; Okeahalam 1998 *African Journal of Political Sciences* 30; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 191 who contend that the South African financial system is well functioning and well regulated, encompassing a developed banking sector as well as a developed stock market; Botha and 2011 *International Business & Economics Research Journal* 35; Moyo 2018 *South African Journal of Economic and Management Sciences* 3 affirms that the South African banking system is well developed and effectively regulated, comprising of a central bank, the SARB, a few large banks and investment institutions, and a number of smaller banks, as well as lending and savings organisations.

[1217] See section 56 of the *FSR Act* which established the FRSA, while the PA was established in terms of section 32 of the *FSR Act*; see Prudential Authority Regulatory Strategy 2021-2024 2; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 98; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; See Godwin A, Howse T and Ramsay I "Twin peaks: South Africa's Financial Sector Regulatory Framework" 2017 *South African Law Journal* 665, 666; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see related comments by Okeahalam 1998 *African Journal of Political Science* 29 states that South African banks are subjected to two types of regulations -economic and prudential; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

[1218] Section 56-58 of the *FSR Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 675; see explanation in Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Qumba 2022 *South African Law Journal* 87; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

In addition, South Africa's banking laws are closely aligned with international standards, such as the Bassel III framework, ensuring that banks maintain sufficient capital and liquidity levels.[1219] In contrast, Zimbabwe's banking laws are not fully aligned with Basel III requirements and have yet to incorporate these international standards comprehensively.[1220] Alignment with international standards promotes and strengthens financial stability and reduces the causes of bank failures by improving banks' ability to absorb shocks from financial and economic stress.[1221] The King IV Report on Corporate Governance provides guidance on best practices in corporate governance, which is incorporated into South Africa's banking laws, fostering a culture of good corporate governance and effective risk management.[1222] These robust banking laws minimise the likelihood of bank failures and promote financial stability in South Africa's banking sector.

The UK's banking laws are well-developed with stringent regulatory and enforcement practices because its legislations such as the *Financial Services and Markets Act* and the *Banking Act* provide clear guidelines for risk management, corporate governance and crisis resolution which are crucial for maintaining a stable banking sector.[1223] The

---

[1219] Section 59 of the *FSR Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 676; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280. Vousinas 2015 *Journal of Financial Regulation and Compliance* 393; Arner and Norton 2009 *Hong Kong Law Journal* 101-102; Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" 27; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 15; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 387; Cunliffe J "Ending Too-Big-to Fail: How Best to Deal with Failed Large Banks" 2016 *European Economy* 59, 64.

[1220] Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 446.

[1221] Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy* 447.

[1222] Min 2018 *Peking University Law Journal* 327; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 386; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; Avgouleas *Governance of Global Financial Markets* 266; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 15.

[1223] See Section 4(4) to 4(8) of the *Banking Act* 2009; Penn and Measor 2009 *Law and Financial Markets Review* 36 who contend that the bill contains the provision to introduce the SRR to allow the Authorities to intervene when a bank gets into severe difficulties and bring a more orderly resolution of a failing bank; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228

UK's Special Resolution Regime (SRR) provide structured methods for handling failing banks without causing widespread financial instability within the banking sector, reducing the likelihood of systemic bank failures.[1224]

The UK banking regulators namely the PRA and the FCA employ advanced risk assessment tools and early warning systems to detect potential causes of bank failures before they escalate.[1225] In contrast, Zimbabwe has a single financial regulator, with limited regulatory capacity, including constraints such as inadequate resources, insufficient technical expertise and limited supervisory reach, which collectively hinder its ability to effectively prevent bank failures. Unlike the UK, where financial regulatory bodies operate with a higher degree of independence, free from political interference, Zimbabwe's financial regulator, the RBZ faces significant political influence due to its close ties to the government.[1226] The political appointment of RBZ board members could lead to regulatory decisions that prioritise political interests over impartial enforcement of banking laws, undermining the ability to regulate independently and effectively enforce banking laws. Zimbabwe can learn from the UK's approach to risk management and regulatory compliance because it is structured to proactively identify and mitigate risks, to ensure the financial stability of banks and minimise systemic risks that could lead to bank failures.[1227] Zimbabwe can adopt aspects of the UK's rigorous monitoring and supervisory mechanisms such as the Twin peaks model and the SRR

1224 See Section 4(4) to 4(8) of the *Banking Act* 2009; Penn and Measor 2009 *Law and Financial Markets Review* 36; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228.

1225 Schoenmaker and Veron "A Twin peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233.

1226 Avgouleas 2009 *Capital Markets Law Journal* 233 states that under the Twin peaks structure the FSA would remain responsible for the supervision of business conduct, market conduct and market integrity (Insider dealing, market manipulation) and consumer protection; Schoenmaker and Veron "A Twin peaks Vision for Europe" 5.

1227 Schoenmaker and Veron "A Twin peaks Vision for Europe" 5; see the Prudential Regulation Authority's approach to banking supervision, October 2018, at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors 4 accessed 9 October 2024.

to enhance its own banking sector and curb the causes of bank failures.[1228] Adopting a model similar to the UK's Twin peaks and SRR will strengthen the independence of Zimbabwe's banking regulatory bodies and could enable more effective enforcement of banking laws and supervision of banks, reducing vulnerabilities caused by non-compliance.[1229]

Lastly, the fourth aim of this research is to identify gaps, inconsistencies and areas for improvement in the relevant banking laws in Zimbabwe that can assist in curbing bank failures. The relevant banking laws that regulate the supervision and monitoring of banks in Zimbabwe to prevent bank failures include the *Banking Act*, the *RBZ Act*, and other related legislations such as the *BUPSML Act*.[1230] The researcher observed that Zimbabwe's financial sector has regulatory gaps such as inadequate supervision of banks, poor enforcement of banking laws, and poor corporate governance that need to be filled to ensure a robust banking environment with little or no bank failures. Addressing these gaps is crucial for fostering a resilient banking sector, ensuring that banks can withstand internal causes of bank failures such as poor corporate governance as well as external causes of bank failures to prevent bank failures in Zimbabwe. The researcher submits that failure to attend to these gaps could lead to systemic risks and financial instabilities that will affect global and international banking institutions and the stability of financial markets.

The researcher identified the main gap as inconsistent and inadequate enforcement within the existing banking regulatory framework resulting in non-compliance with banking laws and regulations. Inconsistent and ineffective enforcement of existing

---

[1228] See Section 4(4) to 4(8) of the *Banking Act* 2009; Penn and Measor 2009 *Law and Financial Markets Review* 36 who contend that the bill contains the provision to introduce the SRR to allow the Authorities to intervene when a bank gets into severe difficulties and bring a more orderly resolution of a failing bank; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228.

[1229] Section 4(2) of the *Banking Act* 2009; Goodhart 2008 *Journal of Financial Stability* 354; Singh 2011 *Journal of Business Law* 6; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228.

[1230] See paragraphs 3.3.2, 3.2.3 and 3.2.5 of Chapter Three of this thesis.

banking laws could increase the probability of systemic risks and bank failures in Zimbabwe. In addition, the researcher submits that inconsistencies in the application and poor enforcement of banking laws and regulations can create an uneven playing field for banks, which may undermine the banking sector's stability. Furthermore, inconsistencies in the application and enforcement of banking laws can erode confidence in the formal banking sector, leading to a decline in direct foreign investors and inducing people to avoid formal banking.[1231] In this regard, the researcher submits that enhanced supervisory practices such as that provided by the Twin peaks model could provide stricter compliance measures necessary to address the vulnerabilities in the Zimbabwean banking sector that may cause bank failures.

9.4 Conclusions

This thesis concluded that there are flaws, gaps and inconsistencies in the regulation and enforcement of banking laws, which has led to bank failures in Zimbabwe. In this regard, policymakers can develop a robust banking regulatory framework that ensures effective, comprehensive and adequate enforcement of banking laws and regulations similar to the UK and South Africa banking regulatory frameworks. In addition, supervision and monitoring of banks and banking activities must be strengthened and enhanced through the adoption of a model similar to the UK and South Africa Twin peaks to effectively prevent the causes of bank failures in Zimbabwe.

Chapter Two, it was concluded that bank failures in Zimbabwe were caused by inadequate capital and non-compliance with regulations, economic challenges such as

---

[1231] see Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 320; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 6 argue that the lack of confidence has not been confined to the Zimbabwean domestic market players but has affected international banks wishing to do business in Zimbabwe as reflected in the high-risk premium they demand for their short-term funds; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 3; Sakarombe 2018 *International Journal of Academic Research Economics and Management Sciences* 126; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 101; Hlupo P, Mukute T, Chinoda T and Chigwedera E "The Impact of Financial Crisis on MFIs Performance in Zimbabwe" 2022 *The Journal of Entrepreneurial Finance* 77, 78.

hyperinflation and adverse effects of the Economic Structural Adjustment Programme (ESAP).[1232] Furthermore, bank failures were caused by the absence of a robust regulatory framework, ineffective supervisory mechanisms and inconsistent enforcement of banking laws.

In Chapter Three, the researcher concluded that a comprehensive and robust banking legislative framework is imperative in maintaining financial stability and protecting depositors' interests.[1233] The banking laws in Zimbabwe have evolved from 1980 to the present and the developments attempt to address the causes of bank failures.[1234] In addition, the banking laws provide a solid foundation for the prevention of the causes of bank failures in Zimbabwe.[1235] However, the researcher recommends the need for continuous updates and reforms of the banking statutes to robustly address emerging risks and align to the international best practices on bank regulation and supervision, making a resilient and stable banking sector in the evolving economic challenges in Zimbabwe.[1236] Furthermore, the banking regulatory framework should

---

[1232] See paragraph 2.2.3 of Chapter Two of this thesis; Dzingirai C and Dzingirai M "Threshold Effect of Non-interest Income Disaggregates on Commercial Banks' Financial Performance in Zimbabwe" 2024 *Heliyon* 1, 2; see related in Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal* 41; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 10; Nzaro; Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies* 430.

[1233] See paragraph 3.3 of Chapter Three of this thesis.

[1234] See paragraph 3.3 of Chapter Three of this thesis; Dzomira 2014 *Journal of Governance and Regulation* 77; Tembo J "Bank Failures in Zimbabwe" *Economic Management in a Hyperinflationary Environment: The Political Economy of Zimbabwe* (Oxford University Press Ltd Cape Town 2015) 142; Tadu R and Mukonya S "Challenges of Whistle Blowing as a Corporate Governance Control Tool in the Zimbabwean Banking Sector During 2000-2008" 2016 *Journal of Research in Business, Economics and Management* 954; Munoangira and Kaja 2016 *European Journal of Business and Management* 202; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 5; Nyoka 2015 *Banks and Bank Systems* 9; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232; Sithole and Mtetwa 2009 *UNISWA Research Journal* 45; Muranda 2006 *Corporate Governance* 650.

[1235] Section 52A (1) of the *Banking Act*; Mugwati MZ, Nkala D and Mukanganiki C "The Composition and Regulation of the Financial Services Sector in Zimbabwe" 2013 *Asian Economic and Financial Review* 483, 487; Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 17; Chagwiza 2012 *Journal of Sustainable Development in Africa* 185; Dandira M, Vere K, Sithole M, Chufamba M and Sifile O "Curatorship Paradox: Corporate Governance in Dilemma" 2019 *Public Policy and Administration Research* 9.

[1236] See paragraph 3.2.4.2 of Chapter Three of this thesis.

be improved to ensure effective implementation and enforcement of banking laws and oversight of banks to mitigate the causes of bank failures in Zimbabwe.

Chapter Four of this thesis discussed the role players in the regulation, supervision and monitoring of banks to prevent the causes of bank failures in Zimbabwe.[1237] It was revealed that Zimbabwe's financial sector is governed by various role players such as the RBZ,[1238] the Ministry of Finance and Investment Promotion (MFIP),[1239] the Deposit Protection Corporation (DPC),[1240] the Securities and Exchange Commission of Zimbabwe (SEZC),[1241] and the Insurance and Pensions Commission (IPEC).[1242] Each of these entities plays a crucial part in regulating, supervising and monitoring banks and other related financial institutions to ensure and promote financial stability in the banking sector and the country as a whole.[1243] However, the RBZ is the primary regulator of the banking sector responsible for the stability and soundness of banking institutions in Zimbabwe. In this regard, the researcher concluded that the RBZ, as the sole banking regulator, lacks the enforcement capacity needed to curb bank failures in Zimbabwe.

1237 See paragraph 4.1 of Chapter Four of this thesis.
1238 See paragraph 4.3.2 of Chapter Four of this thesis.
1239 See paragraph 4.3.1 of Chapter Four of this thesis.
1240 See paragraph 4.3.3 of Chapter Four of this thesis.
1241 See paragraph 4.3.4 of Chapter Four of this thesis.
1242 See paragraph 4.3.5 of Chapter Four of this thesis; Bonga WG, Chikeya CK and Sithole R "The Need for Financial Stability in Zimbabwe: Use of Derivatives Securities" 2015 *IOSR Journal of Economics and Finance* 6, 8; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 486; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 106; Mlambo, Mapondera and Tenderere *International Business and Economic Research Journal* 298; Mavengere K " Prediction Corporate bankruptcy and Earnings Manipulation using the Altman Z-score and Beneish M-score. The Case of Z Manufacturing Firm in Zimbabwe" 2015 *International Journal of Management Sciences and Business Research* 8; Magweva R and Mashamba T "Stock Market Development and Economic Growth: An Empirical Analysis of Zimbabwe (1989-2014)" 2016 *Financial Assets and Investments* 20, 22.
1243 See Deposit Protection Scheme Highlights available at https://dpcorp.co.zw/assets/dpc-and-financial-inclusion.pdf accessed 11 October 2024; see related in Mlambo and Masiyandima 2019 *Business and Management Research* 48; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 9.

Chapter Five discussed the South African banking legislative framework and the prevention of the causes of bank failures.[1244] The chapter revealed that the South African banking regulatory framework is comprehensive and compares favourably with those of developed countries, such as the UK, with sound banking regulations and mechanisms to effectively curb bank failures.[1245] The Twin peaks model serves as a robust and dynamic foundation for ensuring financial stability, integrity and efficiency in mitigating the causes of bank failures in South Africa.[1246] The researcher also established that the Twin peaks model, which separates the roles of regulators in bank regulation and supervision, provides a robust framework for curbing bank failures in South Africa and other countries that have adopted it.[1247] The structure of the twin peaks model allows for adequate financial institution supervision and monitoring to reduce bank failures and promote financial stability.[1248] The South African twin peaks model consists of the PA, a juristic person operating under SARB, and the FSCA, a juristic person operating independently outside the ambits of SARB.[1249] The enhancement of the South African banking regulatory framework was to mitigate the weaknesses exposed by the global crisis of 2007, that caused bank failures and

---

1244 Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1184; Okeahalam 1998 *African Journal of Political Sciences* 30; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 191; Botha and 2011 *International Business & Economics Research Journal* 35; Moyo 2018 *South African Journal of Economic and Management Sciences* 3.

1245 See paragraphs 5.2.1 and 5.4.2 Chapter Five of this thesis.

1246 See paragraph 5.2.1 of Chapter Five of this thesis; Van Heerden CM, Van Niekerk GM Huls NJH "Two Takes on Twin peaks: A Comparative Appraisal of the Models of Financial Regulation in the Netherlands and South Africa" 2020 *Journal for Contemporary Roman-Dutch Law* 491, 505; Godwin A, Howse T and Ramsay I "Twin peaks South Africa's Financial Sector Regulatory Framework" 2017 *The South African Law Journal* 665, 667; Moyo B "An Analysis of Competition, Efficiency and Soundness in the South African Banking Sector" 2018 *South African Journal of Economic and Management Sciences* 1, 3; see related in Mishi S and Khumalo SA "Bank Stability in South Africa: What Matters" 2019 *Banks and Bank Systems* 122, 123.

1247 See paragraph 5.2.3 of Chapter Five of this thesis.

1248 See paragraph 5.2.3 of Chapter Five of this thesis.

1249 Section 32(2) of the *FSR Act*; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 673; Qumba MF "A Comparative Analysis of the Twin peaks Model of Financial Regulation in South Africa and the United Kingdom" 2022 *The South African Law Journal* 78, 87; Van Niekerk G and Nyane H "Accountability in the Twin peaks Model of Financial Regulation in South Africa" 2022 *South African Mercantile Law Journal* 382,395; Botha and Makina 2011 *International Business and Economics Research Journal* 34; see paragraph 5.2.3 of Chapter Five of this thesis.

instability in the financial sector.[1250] The South African banking regulatory framework offers valuable insights and lessons that Zimbabwe can adopt to enhance its banking legislative framework, including compliance with international standards on bank supervision and monitoring to curb bank failures.[1251]

In Chapter Six, the researcher discussed the banking regulatory framework of the UK and concluded that it has a comprehensive regulatory framework addressing the causes of bank failures and has a dynamic approach to safeguard financial stability, protect depositors and minimise systemic risks.[1252] The UK's *Banking Act* is a comprehensive, strengthened legislation, providing a more robust banking legal toolkit to address bank failures.[1253] The *Banking Act* 2009 consists of eight parts and the first three parts introduced the UK's Special Resolution Regime (SRR) for failing or failed banks, providing three stabilising options, a bank insolvency procedure and a bank

---

[1250] Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 386; Botha and Makina *2011 International Business & Economic Research Journal* 35; Foggitt GM, Heymans A, Van Vuuren GW and Pretorius A "Measuring the Systemic Risk in the South African Banking Sector" 2017 *South African Journal of Economic and Management Sciences* 1, 3, see related in Sakarombe 2018 *International Journal of Academic Research Economics and Management Sciences* 134.

[1251] See paragraph 5.5 of Chapter Five of this thesis.

[1252] Section 4(2) of the *Banking Act* 2009; Goodhart 2008 *Journal of Financial Stability* 354; Singh 2011 *Journal of Business Law* 6; see the Prudential Regulation Authority's Approach to Banking Supervision dated October 2018 available at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors 9 accessed 11 October 2024; see paragraph 6.1 of Chapter Six of this thesis.

[1253] See sections 236 to 238 of the *Banking Act* 2009; Avgouleas 2009 *Capital Markets Law Journal* 229; Singh 2011 *Journal of Business Law* 4; Chambers 2011 *Journal of Corporate Ownership and Control* 68 states that the Act strengthens the UK's statutory framework for financial stability and depositor protection and extends the powers of the *BSP Act* which was enacted to allow the Treasury to rescue Northern Rock via nationalisation of the ailing bank; Hsiao 2010 *Journal of International Banking Law and Regulation* 231; see related in Muradoglu 2010 *Qualitative Research in Financial Markets* 7 states that the UK has a well-developed financial markets and institutions that are international in nature; Chambers 2010 *The Law Teacher* 223 put it that the Act aimed to strengthen the UK's statutory framework for financial stability and depositor protection.

administration procedure.[1254] The purpose of the SRR for banks is to address the business of a bank, where all or part of it has encountered or is likely to encounter financial difficulties.[1255] Revision to the SRR within the *Banking Act* 2009 demonstrated a commitment to adapting to evolving challenges.[1256]

The *Banking Act* 2009 deals with banks experiencing financial problems by capturing the complex set of risks of banks in distress.[1257] The UK banking regulatory framework has evolved significantly since the global financial crisis, proactively addressing systemic vulnerabilities by adopting international practices and strengthening the financial sector's resilience.[1258] In addition, the UK adopted the twin peaks, a regulatory model which seeks to address dynamic threats to financial stability while promoting

---

[1254] Sections 1(1) and 171(1) of the *Banking Act* 2009 provide that the purpose of the special resolution regime for banks is to address the situation where all or part of the business of a bank has encountered, or is likely to encounter financial difficulties; Avgouleas 2009 *Capital Markets Law Journal* 212-213; McKnight 2009 *Law and Financial Markets Review* 325; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295 states that in the UK, the *Banking Act* of 2009 created a Special Resolution Regime to ensure financial stability and to anticipate recourse by banks to the public purse; see paragraph 6.2.3 of Chapter Six of this thesis.

[1255] Section 1(1) read together with section 4 of the *Banking Act* 2009; McKnight 2009 *Law and Financial Markets Review* 326; Avgouleas 2009 *Capital Markets Law Journal* 213; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295.

[1256] See Singh 2011 *Journal of Business Law* 5 who argued that the other reason for the amendment to the banking regulations was to try and deal with the failing bank as a business unit, thereby providing better value for the assets, which became one of the underlying functions of the *Banking Act* 2009 and to also ensure that depositors are paid quickly and efficiently; Chambers 2011 *Journal of Corporate Ownership and Control* 68 emphasises that the aim of the new legislation (Banking Act 2009) was not to prevent banks from failing but to allow them to fail in an organised manner that will not disrupt the industry or consumers as a whole; Avgouleas 2009 *Capital Markets Law Journal* 213; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; see paragraph 6.2.3 of Chapter Six of this thesis.

[1257] Section 4(4) to (10) of the *Banking Act* 2009; Avgouleas 2009 *Capital Markets Law Journal* 212; see paragraph 6.2.3 of Chapter Six of this thesis.

[1258] See recital (53) of the Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024; Haentjens 2014 *International Insolvency Law Review* 275; Chen Chen 2015 *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* 5; Avgouleas 2009 *Capital Markets Law Journal* 233.

confidence, transparency and accountability within the UK.[1259] Mechanisms to deal with distressed banks including the SRR and the Prudential Regulatory Authority (PRA) were established to provide a robust system for early intervention, resolution planning and crisis management in the event of bank failure.[1260]

Chapter Seven discussed the international best practices that provide guidelines on robust bank regulation, supervision and monitoring aimed at preventing the causes of bank failures and keeping the banking sector stable and ready to sustain any financial crises that may arise.[1261] The Basel Committee on Banking Supervision (BCBS) provides recommendations on key supervisory issues that aim to improve the quality of banking supervision worldwide to curb the occurrence of bank failures.[1262] The BCBS formulated

---

1259 Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Avgouleas 2009 *Capital Markets Law Journal* 233; Schoenmaker and Veron "A Twin peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Bando "Single Regulator or Twin peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; see paragraph 6.2.3 and 6.4.5 of Chapter Six of this thesis.

1260 See Section 4(4) to 4(8) of the *Banking Act* 2009; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228; Penn and Measor 2009 *Law and Financial Markets Review* 36; see paragraph 6.4 of Chapter Six of this thesis.

1261 Ferreira C, Jenkinson N and Wilson C *From Basel I to Basel III: Sequencing Implementation in Developing Economies* (International Monetary Fund 2019) 5; Feridum M and Ozün A "Basel IV implementation: A Review of the Case of the European Union" 2020 *Journal of Capital Markets Studies* 7, 9; Yaacob H, Markom R and Hakimah A "Coping with the International Standards of Basel Committee on Core Principles on Effective Banking Supervision (BCBS): Analysis and Reform for Islamic Banking" 2018 *International Journal of Business and Society* 385, 386; Rawlins and Zanforlin *Resolving Bank Failures and Institutions: Is There a Link? Some Empirical Evidence* 21; Pfingsten A and Woyand C "Banking Regulation and Banking Supervision: Current Structure and Challenges" in Bergener K, Rackers M and Stein A *The Art of Structuring Bridging the Gap between Information Systems Research and Practice* (Springer Nature Switzerland 2019) 439; see paragraph 7.2 of Chapter Seven of this thesis.

1262 Chikoko L "Potential Sources of Zimbabwe Commercial Banks Illiquidity after Dollarisation" 2014 *Journal of Contemporary Issues in Business Research* 41, 42; Min J "Basel Revisited: An Assessment of the Legitimacy and Effectiveness of the Basel Framework" 2018 *Peking University Law Journal* 323, 327; Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 386; Avgouleas *Governance of Global Financial Markets* 7 states that a number of formal and informal international bodies, such as the International Monetary fund, the European Union, the G-20 and the Basel Committee on Banking Supervision and a number of other Transnational Regulatory Networks have produced multiple sets of financial standards and regulations that intended to secure the sound and safe operation of international banks and other parts of global financial markets; Atay 2006 *Journal of Banking Regulation* 67; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; see paragraph 7.2.1 of Chapter Seven of this thesis.

a global framework for more resilient banks and provided appropriate tools to deal with all types of financial difficulties and assist banking sectors to maintain financial stability, minimise systemic risks, protect consumers, limit moral hazards and promote market efficiency.[1263]

In Chapter Eight, the researcher made an overall comparative analysis of the banking regulatory frameworks of Zimbabwe, South Africa, and the UK.[1264] It was revealed that the three different jurisdictions use different banking regulatory and supervisory models including the silos model for Zimbabwe, and the twin peaks model for South Africa and the UK.[1265] In addition, the researcher conducted an overall analysis of the different theoretical perspectives of financial regulation and supervision designed to ensure stability, protect customers and promote market efficiency.[1266] These theory perspectives are shaped by economic theories, historical contexts and practical considerations encompassing the set of laws, guidelines and oversight mechanisms governing financial institutions to maintain financial stability and ensure the integrity and transparency of the financial markets.

9.5 Recommendations

Several recommendations aimed at enhancing an effective banking regulatory framework in Zimbabwe that robustly combat the causes of bank failures are provided below. It is hoped that policymakers can utilise these recommendations to develop effective regulations, supervision and monitoring measures to curb the causes of bank failures in Zimbabwe. The researcher proposes eight recommendations that may be taken into consideration to enhance and promote effective and robust bank supervision

---

1263 Min 2018 *Peking University Law Journal* 326; Kaur M and Kapoor S "Adoption of Basel Norms: A Review of Empirical Evidences" 2015 *Journal of Financial Regulation and Compliance* 271; Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges" 440; see related Avgouleas *Governance of Global Financial Markets* 267; see paragraph 7.2.1 of Chapter Seven of this thesis.

1264 see paragraph 8.3 of Chapter Eight of this thesis.

1265 see paragraph 8.3.3.1 of Chapter Eight of this thesis.

1266 see paragraph 8.3.3.2 of Chapter Eight of this thesis.

and enforcement of banking laws to prevent the causes of bank failures in Zimbabwe. The researcher proposes the adoption of a new supervision model for banks in Zimbabwe to address the root causes of bank failures and enhance financial stability.

9.5.1 Zimbabwean Government and Legislators Should Consider Adopting a Twin Peaks Model of Financial Sector Regulation in Zimbabwe

The twin peaks model, initially developed and adopted by Australia in 1998, represents a modern approach to banking sector regulation.[1267] The twin peaks model separates regulatory functions into two distinct peaks, one focused on prudential regulation and the other on conduct regulation.[1268] The prudential regulatory peak is mandated with ensuring the soundness and stability of financial institutions, while the conduct regulation peak is mandated with protecting consumers and maintaining the market integrity of financial institutions.[1269] The twin peaks model has been lauded for its ability to provide clearer oversight and reduce conflicts of interest in regulatory responsibilities and has been adopted by various countries including South Africa and the UK with positive outcomes in many instances.[1270] Therefore, if the twin peaks model is adopted in Zimbabwe and properly implemented, it could fundamentally transform the country's financial regulatory landscape, enhancing stability, transparency and investor confidence. The researcher submits that the twin peaks model would ensure a rigorous and focused approach to overseeing both the

---

[1267] Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Mishi and Khumalo 2019 *Banks and Bank Systems* 123; Botha and Makina *2011 International Business & Economic Research Journal* 34; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

[1268] See paragraph 6.6 of Chapter Six of this thesis; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279.

[1269] See paragraph 5.2.3 of Chapter Five of this thesis; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 510; Chitimira and Torerai 2023 *Juridical Tribune* 400; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 678.

[1270] Schoenmaker and Veron "A Twin peaks Vision for Europe" 4; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Mishi and Khumalo 2019 *Banks and Bank Systems* 123; Botha and Makina *2011 International Business & Economic Research Journal* 34; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 112.

prudential soundness of financial institutions and their adherence to fair market conduct, preventing the causes of bank failures in Zimbabwe.

While both South Africa and the UK adopted the twin peaks model to improve their financial regulatory frameworks post-2007 global financial crisis, they have differences in institutional arrangements, regulatory focus and historical context that have led to distinct implementations tailored to each country's specific needs and objectives. The adoption of the twin peaks in South Africa was after a comprehensive review of the financial sector following the global crisis and a broader strategy was formed to reform the financial regulatory framework to address emerging and existing challenges in the financial sector. However, the UK implemented the twin peaks in the aftermath of the financial crisis to address the failures in financial supervision and restructuring as a global move towards more stringent financial regulations aimed at preventing future global financial crises.

The South African twin peaks model established the PA housed within the SARB focusing specifically on the financial soundness of banks and other significant financial institutions while the FSCA, which is concerned with the conduct of financial institutions, is a stand-alone entity.[1271] The UK established the PRA, which is part of the BoE and focuses on the prudential regulation of banks, major investment firms and insurers.[1272] The FCA is an independent entity separate from the BoE and is responsible

---

[1271] Section 32 and 56 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 505; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Chitimira H "Historical Aspects of the Statutory Regulation of Financial Inclusion for the Poor and Low-Income Earners in South Africa" 2020 *Acta Universitatis Danubius Juridica Economica* 269, 280; Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 670.

[1272] Part 1A, Chapter 2, section 2A to 2E of the *FSRA* provides the establishment of PRA and the functions and duties of the PRA; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin Peaks approach to financial supervision seems superior.

for regulating the conduct in both retail and wholesale financial markets, as well as supporting these markets.[1273]

The regulatory focus and goals of the adopting South African twin peaks model include protecting financial consumers, ensuring that they are treated fairly by financial institutions, and supporting the efficiency and integrity of the financial system.[1274] The UK regulatory focus aimed to maintain the safety and soundness of the financial system with a strong emphasis on minimising systemic risks and focusing extensively on promoting competition, improving market integrity and preventing market abuse.[1275]

The researcher submits that in Zimbabwe where banking sector vulnerabilities have persisted despite regulatory reforms, the government and legislature may find the twin peaks model advantageous in preventing bank failures and enhancing financial stability. Zimbabwe's banking sector has experienced periodic crises and high levels of non-performing loans, pointing to the need for a more specialised and regulatory approach.[1276] Currently, Zimbabwe's banking sector is primarily overseen by the RBZ and has historically been challenged by fragmented oversight and limited focus on consumer protection.[1277] Therefore, adopting a Zimbabwean twin peaks model may consider implementing a regulatory framework that focuses on prudential regulation and regulation of financial institution market conduct. The proposed Zimbabwean twin peaks should aim to address challenges and opportunities within the country's financial

---

[1273] Part 1A, Chapter 1, section 1A to 1EB of the *FSRA* provides the FCA establishment and the general duties and objectives of the FCA.

[1274] Sections 33, 34, 35, 50, 56, 57 and 59 of the *FSR Act*; Chitimira and Torerai 2023 *Juridical Tribune* 400; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 396; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280

[1275] Part 1A, Chapter 1 to 3, sections 1A to 3T of the *FSRA*; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 4; see related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin Peaks approach to financial supervision seems superior.

[1276] See paragraph 2.2.4 of Chapter Two of this thesis.

[1277] See paragraph 4.3.2 of Chapter Four of this thesis.

landscape including an innovative approach focusing on enhanced transparency measures and stakeholder engagement to curb bank failures.

Unlike more traditional prudential and conduct focuses, the Zimbabwean twin peaks model could be modelled for specific challenges including combating corruption and enhancing governance in the banking sector to curb bank failures.[1278] Both peaks should be independent regulatory authorities with no or limited interference in the regulation and supervision of banking institutions.[1279] This would aim to ensure that financial institutions are free from undue political or external influences that cause the likelihood of bank failures. In addition, the independence of regulatory authorities in Zimbabwe would ensure the effective implementation and enforcement of relevant banking laws.

The Zimbabwean twin peaks model could be established by leveraging technological tools such as digital monitoring tools that allow for real-time oversight and public reporting, increasing the accountability of financial institutions in Zimbabwe. This approach would not only help prevent systemic risks and external interference but also promote a more inclusive and transparent financial sector, tailored specifically to Zimbabwe's unique economic and social conditions. Moreover, by including innovative mechanisms to guard against external interference and promote inclusivity, the Zimbabwean twin peaks could address unique local challenges such as political influence in banking operations and access to financial services for underserved populations. The researcher submits that a twin peaks model will provide a comprehensive regulatory approach that would not only mitigate the risk of financial crises but also support sustainable economic growth by fostering a more resilient and inclusive financial sector.

[1278] See paragraph 6.5 of Chapter Six of this thesis; Lui 2011 *Journal of Banking Regulation* 34; Avgouleas 2009 *Capital Markets Law Journal* 233; Schoenmaker and Veron "A Twin Peaks Vision for Europe" 5.

[1279] See paragraph 6.5 of Chapter Six of this thesis.

Adopting the twin peaks would allow the prudential peak to focus specifically on systemic risk management, financial resilience and capital adequacy in banks, therefore, reducing the likelihood of bank failures in Zimbabwe.[1280] This is particularly important given Zimbabwe's high levels of currency volatility and economic uncertainty which require a more resilient financial sector. In addition, the conduct regulation peak could be instrumental in Zimbabwe where consumer protection and transparency issues in the financial sector remain a challenge. A dedicated conduct authority could ensure fair banking practices, transparency in lending and consumer confidence, thus promoting trust in the banking sector and reducing the likelihood of bank failures.

Lastly, the twin peaks model aligns with the international best practices objectives including ensuring clear, structured regulatory frameworks that reduce systemic risk and promote consumer protection. The twin peaks allow for a focused and proactive approach to managing both institutional stability and consumer protection, thereby reducing the causes of bank failures.

9.5.2 The Legislature in Zimbabwe Should Consider Enacting a Banking Sector Regulation Act in order to Expressly and Comprehensively Regulate Bank Failure and Establish New Banking Regulators

A single bank failure can significantly impact a country's banking sector by eroding public confidence and trust in the formal banking sector and potentially leading to

[1280] Schoenmaker and Veron "A Twin peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79; Avgouleas 2009 *Capital Markets Law Journal* 233 contend that the Twin peaks approach to financial supervision seems superior.

multiple bank failures due to contagion effects.[1281] Zimbabwe has experienced waves of bank failures, particularly from 2000 to 2015, with devastating effects on the economy.[1282] To prevent bank failures, Zimbabwe's legislature should consider enacting a new legislation, the *Banking Sector Regulation Act* (*BSR Act*), to expressly and comprehensively regulate the supervision and monitoring of banks in Zimbabwe. The *BSR Act* would establish two banking sector regulators in Zimbabwe to ensure that the banking legislation or relevant banking laws are effectively enforced, robust and aligned with international best practices.

The current *Banking Act* lacks clear and comprehensive provisions that deal specifically with the processes and mechanisms of preventing and resolving distressed banks to mitigate the causes of bank failures. Although the *Banking Act* grants the RBZ general regulatory powers to supervise and monitor banks and other financial institutions, it lacks sufficient measures and mechanisms to effectively enforce relevant banking laws that could prevent bank failures in Zimbabwe.[1283] A robust banking legislation should

---

[1281] Atay G "Promoting International Cooperation in Resolving Bank Failures" 2006 *Journal of Banking Regulation* 66; Rawlins M and Zanforlin L *Resolving Bank Failures and Institutions: Is There a Link? Some Empirical Evidence* (International Monetary Fund 2021) 4 noted that bank failures could bring large losses to many depositors, spread rapidly and amplify economic distress, including triggering fiscal outlays; Arner DW and Norton JJ "Building a Framework to Address Failure of Complex Global Financial Institutions" 2009 *Hong Kong Law Journal* 95, 116 states that the collapse of one bank could lead to contagious loss of confidence, resulting in bank runs, potentially causing the collapse not only of individual banks but also of the banking sector as a whole and the consequent collapse of economic activity generally.

[1282] Sithole and Mthetwa 2009 *UNISWA Research Journal* 46; Nyakurukwa and Seetharam 2022 *Qualitative Research in Financial Markets* 324; Chokuda, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 207; Chitimira and Ncube 2021 *Per/ PELJ* 7; Nhavira, Mudzonga and Magocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 42; Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance* 53; Dzingirai and Katuka 2014 *International Journal of Economics and Finance* 232.

[1283] Section 45(1)(a) if the *Banking Act*; Makena 2021 *African Economic Research Consortium* 19; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Sibindi and Bimha 2014

provide clear, detailed bank resolution planning, bank restructuring steps or recovery plan before insolvency becomes inevitable and a clear delineation of the roles of the RBZ and other stakeholders in preventing bank failures.[1284]

The *BSR Act* should establish a system of banking sector regulation by establishing a new banking regulatory model including the two regulatory bodies, the Zimbabwean Prudential Regulation Authority (ZPRA) and the Zimbabwean Financial Sector Conduct Authority (ZFSCA).[1285] The *BSR Act* should separate the functions and responsibilities of the RBZ and the two banking sector regulators.[1286] The RBZ should remain with the overall powers to protect the value of the currency of the Republic of Zimbabwe in the interest of balanced and sustainable economic growth of the country.[1287] In addition, the RBZ should retain responsibility for safeguarding and maintaining overall oversight of financial regulators in the country.[1288] Financial stability means financial institutions generally provide financial products and financial services, and market structures

---

Banks and Bank Systems 54; Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions* 24; see related in Ojiako U, Manungo T, Chipulu M and Johnson J "The Impact of Regulation on Risk Perception: Evidence from Zimbabwean Banking Industry" 2013 *African Development Review* 276, 278; see related in Pikirayi I "The Kingdom, the Power and Forevermore: Zimbabwe Culture in Contemporary Art and Architecture" 2006 *Journal of Southern African Studies* 754, 762; see related in Abor JY, Mensah S, Kusi BA and Mathuva D "Explaining Banking Failures in Africa" in Kusumaningrum R, Trihantana R and Thantawi TR *The Economics of Banking and Finance in Africa: Developments in Africa's Financial Systems* (Springer Nature Switzerland AG 2023) 459 where it was stated that the Central Bank oversees banks.

1284 See related comments in Penn and Measor 2009 *Law and Financial Markets Review* 36 who contend that the bill contains the provision to introduce the SRR to allow the Authorities to intervene when a bank gets into severe difficulties and bring a more orderly resolution of a failing bank; Singh 2011 *Journal of Business Law* 6; Hsiao 2010 *Journal of International Banking Law and Regulation* 228.

1285 See related model in Schoenmaker and Veron "A Twin peaks Vision for Europe" 4; See related in Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 279; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 298; Bando "Single Regulator or Twin peaks, The Different Regulatory Approach by UK, Switzerland and Japan" 79.

1286 See related sections 32 and 56-58 of the *FSR Act* provides that the PA is a juristic person operating within the administration of the Reserve Bank; Chitimira H and Ncube M "The Role of Regulatory Bodies and other Role-players in the Promotion of Financial Inclusion in South Africa" 2020 *Acta Universitatis Danubius Juridica Economica* 1, 10; Godwin and Schmulow 2015 *The South African Law Journal* 758; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; also see the Prudential Authority Regulatory Strategy 2021-2024, 3 available at the South African Reserve Bank https://www.resbank.co.za>prudential-regulation accessed 12 October 2024.

1287 See Table 1 below.

1288 See Table 1 below.

perform their functions and duties in terms of financial sector laws without interruption.[1289]

The RBZ should be the ultimate financial sector supervisor, overseeing the banking regulators and other financial sector regulators to ensure that they consistently monitor banks and financial institutions that may pose risks to financial stability.[1290] However, the RBZ should not directly supervise or monitor banking institutions except after recommendations from the banking sector regulator. The RBZ should oversee and supervise the proposed banking regulators. In this regard, the banking sector regulators are responsible for the direct supervision and monitoring of banks, ensuring the proper implementation, effective enforcement of banking laws and effective adherence to corporate governance requirements to curb and mitigate causes of bank failures.

The *BSR Act* should confer the powers to bank regulators, to regulate and supervise banking institutions and improve market conduct in order to protect financial consumers and provide for prudential regulation and supervision.[1291] This proposed regulatory and supervisory framework for banks should promote financial stability, the safety and soundness of banks, the fair treatment and protection of financial

---

[1289] Section 4 of the *FSR Act*; Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research* 1188; Walters *et al* 2018 *South African Actuarial Journal* 100; Van Niekerk and Van Heerden 2020 *The South African Law Journal* 110 emphasised the remarks made by Llewellyn that a well-structured regulatory regime contributes to the efficiency and stability of the financial system; see also Leukes and Mensah 2019 *African Review of Economics and Finance* 189.

[1290] See related in Chinoda, Chongombe and Chawuiruka 2015 *IORS Journal of Economics and Finance* 68; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Finance Review* 486 states that commercial banks, asset management companies, unit trust, and microfinance institutions are regulated by the RBZ; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 415; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 10; see related in Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; Bekink and Botha 2009 *South African Mercantile Law Journal* 78; De Jager 2006 *South African Mercantile Law Journal* 284.

[1291] Section 7(a) to(f) of the *FSR Act*.

customers, the efficiency and integrity of banks, financial inclusion and effective implementation and enforcement of banking laws.

9.5.3 Zimbabwe's Policymakers Should Consider Moving the Bank Supervision and Monitoring Functions from RBZ to an Independent Prudential Regulator for Effective Enforcement of Relevant Banking Laws

Currently, the duties, responsibilities and functions of bank supervision and monitoring are mandated to the RBZ, as the only banking sector regulator in Zimbabwe.[1292] The researcher recommends the amendment of the *Banking Act* to provide for separate roles and functions of the RBZ as the ultimate supervisor of financial institutions. The proposed bank regulator, the ZPRA, should have powers to supervise, monitor and effectively enforce banking laws on banking institutions to prevent bank failures. The ZPRA should have regulatory powers, separate from the RBZ, to compel banking institutions and financial role players to effectively enforce all banking laws and regulations to bring sanity to the banking sector and maintain financial stability. Banking regulators in Zimbabwe should enhance the functions of a dedicated ZPRA with stringent capital adequacy and liquidity requirements, regular stress testing and comprehensive risk management frameworks and enforcement powers to effectively implement banking laws in Zimbabwe.[1293] As seen in the UK's PRA, the *Banking Act* should provide for a ZPRA as a financial regulator responsible for the safety and

---

[1292] See paragraph 4.3.2 of Chapter Four of this thesis.

[1293] Section 6(c) and (e) read together with section 45(1)(a) of the *RBZ Act*; Kanhai 2014 *International Journal of Business and Commerce* 3; Dzomira S "Electronic Fraud (Cyber Fraud) Risk in the Banking Industry, Zimbabwe" 2014 *Risk Governance & Control: Financial Markets and Institutions* 16, 24; Makena 2021 *African Economic Research Consortium* 5; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2; see related on Maune A "A Talmudic Perspective of the Zimbabwean Banking Crises of 2004/2005" 2015 *Risk Governance and Control: Financial Markets and Institutions* 104, 106; Moyo *et al* 2019 *International Journal of Finance and Banking Studies* 8.

soundness of banking institutions.[1294] The UK's *Banking Act* 2009 is arguably robust in prudential regulation and effective in the supervision of banking institutions ensuring financial stability and resilience against shocks, reducing bank failures. The objective of the proposed ZPRA would be to maintain and enhance the safety and soundness of banks by effectively enforcing prudential regulations and supervision of banks.

9.5.4 Policymakers and Regulators Should Establish a Zimbabwean Financial Sector Conduct Authority as an Independent Financial Regulator to Ensure Effective Enforcement of Banking Laws and Curb Bank Failures

As mentioned above, Zimbabwe's only banking sector regulator is the RBZ.[1295] However, the researcher proposes two banking sector regulators with separate duties, responsibilities and functions to ensure effective bank supervision and monitoring to curb bank failures in Zimbabwe. Zimbabwe's banking sector should have an independent banking sector conduct authority to oversee consumer protection and ensure transparency and fair market pricing. An independent banking sector conduct authority would focus solely on consumer interests and be free from conflicts of interest that might arise if the same body responsible for prudential regulation also oversees market conduct. This separation of duties and responsibilities would allow for more effective enforcement of consumer protection laws, ensuring that banks treat customers fairly and avoid predatory practices that can cause a loss of trust and confidence in banks. Therefore, having a dedicated regulatory authority would strengthen public trust in the banking sector by providing a clear avenue for addressing complaints and ensuring accountability for banks' conduct.

[1294] Section 192 of the *Banking Act* 2009; Avgouleas 2009 *Capital Markets Law Journal* 233 avers that the PRA supervise the compliance of banks, security firms, and investment funds, with systemic stability regulations, including liquidity and capital adequacy regulations; see prudential regulations at https://www.bankofengland.co.uk/prudential-regulation/publication/2019/non-binding-pra-materials-the-pras-approach-after-the-uks-withdrawal-from-the-eu-ss accessed on 14 October 2024.

[1295] See paragraph 9.5.3 of this chapter.

The researcher recommends an independent banking sector conduct authority that maintains market stability by ensuring that consumer rights are protected, which can reduce the risk of mass withdrawals or panic during times of financial distress. As a result, it can assist in preventing bank failures or systemic crises in Zimbabwe. The UK's FCA provides good examples of how focused market conduct regulation could enhance consumer trust and market integrity.[1296] Key important areas of focused market conduct include robust consumer protection, market transparency, exercising strong enforcement powers and promoting competition. These efforts establish a fair and accountable financial environment, fostering greater consumer confidence and enhancing the overall stability and integrity of the banking sector, thereby helping to prevent bank failures.

9.5.5 The Legislature in Zimbabwe should Consider Developing a Crisis Management and Resolution Authority to Relieve the RBZ's Responsibilities of Dealing with Problem Banking Institutions

Currently, Zimbabwe does not have a dedicated Crisis Management and Resolution Authority (CMRA) to deal with distressed banks to curb bank failures. Creating a dedicated CMRA with clear resolution plans, a deposit insurance scheme and regular stress testing is crucial for ensuring the stability and resilience of Zimbabwe's banking sector. Establishing the CMRA would provide Zimbabwe with a comprehensive banking regulatory framework to handle bank failures efficiently, protect consumers and maintain confidence in the banking sector. The UK's resolution regime under the Bank of England demonstrates the importance of having a structured approach to managing and resolving bank failures, minimising systemic risks.[1297]

[1296] See paragraph 6.6 of Chapter Six of this thesis.

[1297] Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 18; Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 29; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Mayes and Wood 2009 *SUERF-The European Money and Finance Forum Vienna* 42; Avgouleas 2009 *Capital Markets Law Journal* 203; Singh 2011 *Journal of Business Law* 11.

The CMRA will specify the roles of each regulatory authority during a bank crisis including plans for liquidity support, asset restructuring and intervention protocols to stabilise the banking sector. Lessons from the UK's SRR show that a robust crisis management and resolution authority can ensure the continuity of essential banking services and prevent bank failures.[1298] The CMRA should ensure the effective use of tools provided by the *Banking Act* to manage failing banks and curb systemic failures. These tools include transfer to a private sector purchaser option and/or transfer part or all of the failing bank's business to a temporary, publicly owned bank, which will manage and provide essential services while a permanent solution such as winding down or selling the business is sought.[1299]

In addition, the CMRA should provide a bail-in tool, which involves restructuring the bank's debts by converting some or all of its unsecured liabilities such as bonds or loans into equity or other form of capital.[1300] Bail-in entails imposing losses on shareholders and other creditors rather than relying on taxpayers' funds to help restore the bank's solvency and allow continued operation. CMRA should ensure that the bank's non-performing assets are transferred to an asset management bank, which helps clear up the bank's balance sheet by isolating problem assets.

The CMRA should ensure that banks prepare resolution plans, which outline how they would be wound down or resolved in an orderly manner in the event of distress.[1301] That means banks must demonstrate in their resolution plans that they have sufficient

---

[1298] Part 1, sections 1(3)(c) read with section 12A of the *Banking Act* 2009; Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna* 29; Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance* 295; Mayes and Wood 2009 *SUERF-The European Money and Finance Forum Vienna* 42 states that the SRR was able to handle an orderly closure before losses amount if no market solution can be found and a rapid transfer of the bank as a whole or its key operations into the authorities control without a break in business; Avgouleas 2009 *Capital Markets Law Journal* 203; Singh 2011 *Journal of Business Law* 11 highlighted that the powers of FSA are wide and varied, and the powers associated with early intervention should be viewed as a sub-set of the normal powers of supervision, investigation and enforcement.

[1299] See section 52A(2)(h) to (o) of the *Banking Act*.

[1300] See paragraph 6.5.1 of Chapter Six of this thesis.

[1301] See paragraph 6.5.1 of Chapter Six of this thesis.

capital and liquidity resources to allow for an orderly close-down, even during times of economic stress. The CMRA should aim to prevent bank failures that may result from systemic risk and protect the economy from the cascading effects of bank failures in Zimbabwe.

9.5.6 Regulators Should Leverage Technology and Innovation to Integrate Effective Bank Supervision Mechanisms to Prevent Bank Failures

Policymakers should develop and establish a Technology and Innovation Authority (TIA) to promote digital banking solutions, fintech innovations and strong cybersecurity protocols that can assist in curbing bank failures. Leveraging technology and innovation in bank supervision is a powerful tool to identify, manage and mitigate risks that can lead to bank failures. Enhanced data collection and real-time monitoring will allow advanced data analysis and comprehensive risk analysis to detect issues like liquidity shortfalls or deteriorating loan quality before they escalate into insolvency risks. In addition, banking regulators can get automated data feeds from banks, promoting continuous monitoring and enabling immediate corrective action if warning signs appear that may lead to bank failures. TIA can ensure remote supervision of banks and regulators can keep a close watch on all banks without the need for regular onsite inspections, allowing for more consistent and frequent supervision. The UK's approach to regulating fintech and the emphasis on cybersecurity can provide a framework for integrating technology in financial regulation, improving efficiency and protecting against cyber threats.

9.5.7 Policymakers in Zimbabwe Should Incorporate Sustainable Finance Principles in Regulatory Objectives in the Banking Act to Curb Bank Failures

Policymakers could create a more resilient and inclusive financial sector aligned with international best practices by incorporating sustainable finance principles in the

regulatory objectives of the *Banking Act*.[1302] International financial bodies such as BCBS, and the FSB emphasise sustainability finance as part of responsible banking practice that can reduce bank failures and the impact thereof. By aligning fully with international best practices, Zimbabwe can attract foreign investors and increase the liquidity and stability of the banking sector.

Sustainable finance principles include provisions to deal with specific risks affecting consumers, consumer protection tools and responses such as equitable and fair treatment of consumers, responsible business conduct and culture among others. Sustainable finance includes financial models, services, products, markets and ethical practices that deliver resilience and long-term value in banks contributing to sustainable development and resilience of banks to economic stress.[1303]

9.5.8 The Banking Act should be amended to Regulate Enhanced Coordination and Communication Between the RBZ, the Two Independent Regulators (the ZPRA and the ZFSCA), and the Banks for Effective and Early Detection of Distressed Banks to Prevent Systemic Failures

The financial sector regulators and the RBZ must cooperate and collaborate when performing functions in terms of financial sector laws to minimise duplication of efforts and expenses in combating bank failures.[1304] Policymakers should also establish regular communication and coordination mechanisms among regulatory authorities to ensure a cohesive regulatory approach and prevent regulatory gaps and overlaps that could disturb the effective oversight of banks. Most of Zimbabwe's banking institutions

---

[1302] See FSCA Sustainable Finance Consumer Risk Report and Roadmap 2024 at https://www.fsca.co.za/Documents/FSCA%20SF%20Roadmap%20and%20Consumer%20Risk%20Report.pdf accessed 13 November 2024 5.

[1303] See FSCA Sustainable Finance Consumer Risk Report and Roadmap 2024 at https://www.fsca.co.za/Documents/FSCA%20SF%20Roadmap%20and%20Consumer%20Risk%20Report.pdf accessed 13 November 2024 5.

[1304] See related in Chitimira H and Munedzi Qankase S "Historical Aspects of the Cooperation and Collaboration Between the South African Reserve Bank and Other Role Players" 2024 *PER/ PELJ* 1, 6.

are structured as financial conglomerates. It would be beneficial for the banks to have a more streamlined regulatory structure that enables the regulatory authorities to form a broader and more holistic view of the financial sector that will anticipate risks and trouble spots across banks before they accumulate into crises.[1305] In addition, there should be a financial system council of regulators established to facilitate cooperation and collaboration for consistency of action between financial institutions and a forum to discuss matters of common interest that may cause bank failures.[1306]

9.6 Proposed Twin Peaks Model

Figure 1 below presents the proposed supervision and monitoring model for banks: the Zimbabwean twin peaks model.[1307] The proposed twin peaks model is based on the regulation of activities carried out by financial institutions. For the purpose of this thesis, the Zimbabwean twin peaks model is proposed to regulate the banking institutions as defined in the *Banking Act*.[1308] The Zimbabwean twin peaks model illustrates various levels of supervision and monitoring in the banking sector, as well as the collaboration between the RBZ and other financial regulators to ensure robust

---

[1305] See related in Lessambo *The U.S Banking System: Laws, Regulations, and Risk Management* 17; see related in Girasa *Laws and Regulations in Global Financial Markets* 172; Kroszner and Strahan "Regulation and Deregulation of the US Banking Industry: Causes, consequences, and Implications for the Future" 535.

[1306] Chitimira and Munedzi Qankase 2024 *PER/ PELJ* 11-14.

[1307] See related in Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 13 highlighted the transformation by the UK that championed the single regulator at some point but abandoned the model in favour of the twin peaks model in the wake of the global financial crisis of 2007 citing that the effectiveness of the twin peaks model was demonstrated by the financial services sector in Australia, which pioneered the model and was not adversely affected by the global financial crisis of 2007 compared to other countries that used sector-specific models of regulation such as the US and the single regulator model; Godwin, Kourabas and Ramsay 2016 *The International Lawyer* 273.

[1308] See section 2 of the *Banking Act*; A Banking institution is defined as a company that is registered or required to be registered in terms of the *Banking Act* to conduct any class of banking business in Zimbabwe which includes accepting deposits withdrawable or repayable on demand or after a fixed period or after notice and the employment of those deposit, in whole or part, by lending or any other means for the account and at the risk of person accepting the deposits.

protection, promotion and enhancement of financial stability.[1309] The model is made of the RBZ as the central bank and supervisor for the financial regulators. The ZPRA will be a juristic person operating within the administration of the RBZ.[1310] Secondly, the ZFSCA will be a national public entity operating independently outside the ambits of the RBZ.[1311] The proposed framework aims to enhance the enforcement of existing laws, establish an adequate resolution regime and prevent the causes of bank failures in Zimbabwe.[1312] The model ensures that the specialised regulatory functions are carried out effectively by dedicated authorities while maintaining overall oversight and strategic direction from the central bank. The proposed model, if fully implemented and enforced robustly, will reduce the causes of bank failures in Zimbabwe, increase the financial sector's stability, promote the use of formal banking, and increase confidence to direct foreign investors.[1313]

1309 Botha and Makina 2011 *International Business and Economics Research Journal* 30; see related in Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 5; see related in Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 11.

1310 See related section 32 of the *FSR Act*.

1311 See related section 56 of the *FSR Act*, Godwin, Hawse and Ramsay 2017 *The South African Law Journal* 673; Qumba 2022 *The South African Law Journal* 87; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 395; Botha and Makina 2011 *International Business and Economics Research Journal* 34; see paragraph 5.2.3 of Chapter Five of this thesis.

1312 Section 26 (e) and 38 of the *RBZ Act*; Chitimira and Ncube 2021 *PER/PELJ* 24 states that RBZ should have dedicated objectives and clear mandates towards the formulation of a stable and robust monetary policy; Makena 2021 *African Economic Research Consortium* 5; Maune 2015 *Risk Governance and Control: Financial Markets and Institutions* 107; Foya and Changunda 2019 *International Journal of Research and Innovation in Social Science* 105; Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences* 417; Guideline No.02-2007/BSD: Consolidated Supervision Policy Framework 2; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 14 contend that Zimbabwe prudential regulations is the purview of the RBZ and aims to ensure that the firms it regulates are financially sound.

1313 Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets* 324; Sakarombe 2018 *International Journal of Academic Research Economics and Management Sciences* 134-135; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 81.

Table 1: Summary of the Zimbabwean Twin Peaks Model

Prudential Regulator	**Market Conduct Regulator**
Zimbabwean Prudential Regulatory Authority (ZAPA) is responsible for: - Prudential regulation of banking institutions - Ensuring the safety and soundness of banks - Preventing the causes of bank failures such as liquidity crises, non-payment loans, poor corporate governance and other macroprudential causes of bank failures. - Performs all the duties, responsibilities and functions as a banking regulator and supervisor of banks to prevent bank failures in Zimbabwe	The Zimbabwean Financial Sector Conduct Authority (ZFSCA) is responsible for: - Market conduct regulation for banking institutions - Financial consumer protection - Ensuring stability of the banking sector - Preventing systemic events and imminent management of the financial crisis to curb bank failures - Macroprudential regulation to prevent causes of bank failures - Performs all the duties, responsibilities and functions as a conduct regulator of banks to prevent bank failures in Zimbabwe

9.6.1 Brief Explanation of the Roles and Duties of the Proposed Regulators, the ZPRA

Firstly, if established, the ZPRA will focus on the prudential regulation of banking institutions. Prudential regulation in Zimbabwe under the ZPRA involves setting standards and supervisory practices that aim to ensure the safety, soundness and effective functioning of banks, protect the interest of depositors and prevent the

causes of bank failures.[1314] Currently, this responsibility is mandated to the RBZ, and the researcher proposes that it be separated and assigned to ZPRA for effective prudential regulation to maintain the overall stability of the financial sector and prevent causes of bank failures in Zimbabwe.[1315] In the context of Zimbabwe, establishing a separate prudential regulator like the proposed ZRPA, focusing on prudential regulation would be key in advancing effective prudential measures, preventing the causes of bank failures and safeguarding the financial sector.

Secondly, the duty and responsibility of ensuring the safety and soundness of banks in Zimbabwe should be mandated by the ZPRA. Ensuring the safety and soundness of banks involves rigorous prudential regulations that require banks to hold adequate capital to cover potential losses, manage risks effectively across various domains (credit, market, liquidity and operational risks) and maintain sufficient liquidity to fulfil obligations without undue stress. Safety and soundness of banks include implementing policies, practices and oversight mechanisms to prevent bank failures and maintain stability in the financial sector. The RBZ is responsible for the safety and soundness of banks in Zimbabwe, setting standards, conducting regular inspections and monitoring the banks' compliance with these standards.[1316] The researcher submits that mandating the responsibility for the safety and soundness of banks to an independent regulator, the ZPRA, could enhance effectiveness in the enforcement of prudential regulation to curb bank failures.

Additionally, the duty and responsibility of the ZPRA should be to address and mitigate potential causes of bank failures such as liquidity crises, non-performing loans, poor corporate governance and macroprudential issues which have been major causes of bank failures in Zimbabwe. By addressing these issues, prudential regulation in

---

[1314] See section 4C of the *Banking Act* as amended.

[1315] Section 45(1)(a) of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 19; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Sibindi and Bimha 2014 *Banks and Bank Systems* 54.

[1316] See section 29-31 of the *Banking Act*.

Zimbabwe could foster a stable, reliable and robust banking sector that can prevent the causes of bank failures, protect the interests of depositors and maintain confidence in the banking sector.

Lastly, if considered, the ZPRA should perform all the duties, functions and responsibilities as a banking regulator and supervisor of banks to ensure the soundness and stability of banks and prevent the causes of bank failures in Zimbabwe.[1317]

9.6.2 Brief Explanation of the Roles and Duties of the Proposed Regulators, the ZFSCA

Firstly, if adopted, the ZFSCA can focus on the market conduct regulation of financial institutions, which entails the regulation framework and standards that ensure that there is no political influence in the financial operations of banks and that financial institutions engage in fair, transparent and ethical practices with each other and other stakeholders.[1318] The ZFSCA should be mandated to enforce rules related to the effective enforcement of banking laws, prohibiting misleading advertisements, ensuring that bank fees are fair and justified and that the terms of financial products are clearly communicated to consumers. The researcher submits that effective market conduct supports the prevention of financial abuses, enhances consumer protection and promotes healthy competition, which in turn helps in the overall stability and

---

[1317] Section 45(1)(a) of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 19; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; see related in Abor *et al* "Explaining Banking Failures in Africa" 459; see related in Ojiako U, Manungo T, Chipulu M and Johnson J "The Impact of Regulation on Risk Perception: Evidence from Zimbabwean Banking Industry" 2013 *African Development Review* 276, 278; see related in Pikirayi I "The Kingdom, the Power and Forevermore: Zimbabwe Culture in Contemporary Art and Architecture" 2006 *Journal of Southern African Studies* 754, 762; see related in Abor JY, Mensah S, Kusi BA and Mathuva D "Explaining Banking Failures in Africa" in Kusumaningrum R, Trihantana R and Thantawi TR *The Economics of Banking and Finance in Africa: Developments in Africa's Financial Systems* (Springer Nature Switzerland AG 2023) 459 where it was stated that the Central Bank oversees banks.

[1318] See section 17 of the *Banking Act*; the provision can be expanded to effectively and robustly regulate market conduct and protect financial consumers aligning to international best standards.

reliability of the financial sector, as well as in curbing causes of bank failures in Zimbabwe.

Secondly, the ZFSCA can ensure the protection of consumers in the banking sector. This can be achieved by monitoring the treatment of consumers to ensure that they are not subjected to unfair or predatory practices, building trust between consumers and financial institutions, enhancing consumer satisfaction and fostering a stable and competitive financial environment.

Furthermore, the ZFSCA can be mandated to ensure the stability of the banking sector focusing on the behaviour of financial institutions towards consumers. This responsibility is currently assigned to the RBZ, and separating its mandate to specialised market conduct enhances the development of deep expertise in consumer protection issues, ensuring that practices across the financial sector are fair and transparent.[1319] In addition, specialised regulators can tailor their policies and enforcement strategies to the unique aspect of market conduct, which can improve compliance among financial institutions, preventing the causes of bank failures in Zimbabwe.[1320] Therefore, ZFSCA could implement more consistent and rigorous enforcement actions against malpractices.

The fourth responsibility the ZFSCA should perform is preventing systemic events and managing financial crises, maintaining the stability of the financial sector and mitigating risks that could lead to widespread disruptions or bank failures in Zimbabwe.[1321] This responsibility entails continuously monitoring of financial

---

[1319] Section 17 of the *Banking Act*.

[1320] Section 16(1)(a) of the *Banking Act* requires every banking institution before commencing banking business after registration to satisfy the Reserve Bank that its management systems and procedures including its risk management systems, corporate governance framework and systems for detection and prevention of money-laundering and the financing of terrorism are adequate to ensure compliance with the *Banking Act*.

[1321] Section 45(1)(a) of the *Banking Act*; Makena 2021 *African Economic Research Consortium* 19; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; Sibindi and Bimha 2014 *Banks and Bank Systems* 54; see related in Abor *et al* "Explaining Banking Failures in Africa" 459.

institutions for signs of stress or imbalances that could signal systemic risks, such as high levels of insider loans, asset bubbles or significant interconnections among financial institutions that might cause financial distress to banks in Zimbabwe. The responsibility of preventing systemic events and managing financial crises also entails developing and implementing crisis management tools, such as stress testing for banks, enforcing counter-cyclical capital buffers and coordinating with other financial regulators to ensure a unified response to threats and financial risks.

The fifth responsibility of the ZFSCA would be to ensure macroprudential regulation in the Zimbabwean financial sector. The *Banking Act* does not have explicit provisions for macroprudential regulation. Macroprudential regulations will aim to prevent the causes of bank failures by addressing systemic risks that could affect the entire financial sector rather than focusing on individual institutions. Macroprudential regulation involves implementing policies and regulatory tools designed to enhance the stability of the financial sector by preventing the build-up of systemic risks which could lead to another wave of bank failures in Zimbabwe. Therefore, it is submitted that macroprudential regulation can include implementing counter-cyclical capital buffers and stress testing financial institutions to assess their resilience, curbing excessive borrowing and mitigating risks associated with bank failures in Zimbabwe.

Lastly, if adopted, the ZFSCA should perform all the duties, responsibilities and functions as a market conduct regulator of financial institutions to prevent the causes of bank failures in Zimbabwe.

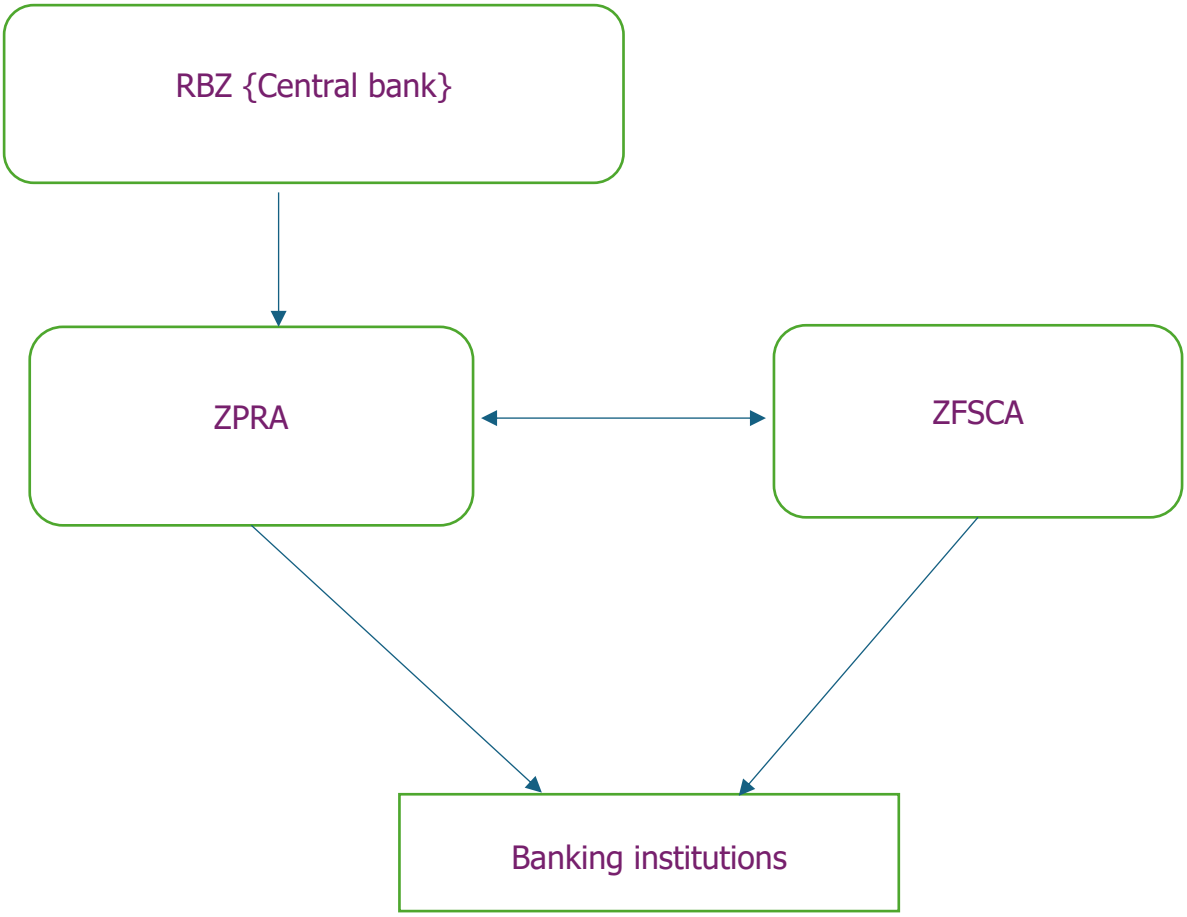

Figure 1: The Proposed Zimbabwean Twin Peaks Model

The Zimbabwean twin peaks model presents a novel contribution to knowledge by proposing a new banking regulatory model that could robustly regulate, supervise and monitor banks in Zimbabwe and effectively enforce the relevant banking laws to prevent bank failures.[1322] The Zimbabwean twin peaks model, if considered, could be the most effective framework for preventing bank failures in Zimbabwe because it fulfils the primary aspects of financial regulation. The four primary aspects of financial regulation include the protection of consumers, ensuring the solvency and soundness of financial institutions, overseeing financial market conduct and the promotion of a

[1322] See The Minister of Finance Statement on the document: *Implementing a Twin peaks Model of Financial Regulation in South Africa* published for public comment by the Financial Regulatory Reform Steering Committee dated 1 February 2013 page 14.

stable financial sector.[1323] Like what has already been mentioned, the twin peaks model is already in countries like South Africa and the UK. Adopting the twin peaks model can significantly enhance Zimbabwe's ability to effectively enforce banking laws and regulations to prevent bank failures. In other words, the rationale for the twin peaks model is to ensure robust bank regulation and effective banking law enforcement to improve the banking sector align with international best practices. This will create a more resilient and stable financial sector and protect consumers and prevent bank failures in Zimbabwe.

As depicted in the diagram above, the RBZ has no direct supervision and oversight of banks but is empowered and mandated to oversee the banking regulatory authorities and the overall financial sector stability. In other words, the central bank will focus more on formulating and implementing the country's monetary policy, controlling inflation, managing interest rates and regulating the money supply to ensure economic stability.[1324] As the central bank, the RBZ should retain the exclusive authority to issue and manage the national currency including design, production and distribution of banknotes and coins, as well as ensuring the currency's stability in Zimbabwe.[1325] In addition, the central bank retains the responsibility of maintaining overall financial system stability including acting as a lender of last resort to provide emergency liquidity

---

1323 Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 386; Botha and Makina *2011 International Business & Economic Research Journal* 35; Foggitt *et al* 2017 *South African Journal of Economic and Management Sciences* 3, see related in Sakarombe 2018 *International Journal of Academic Research Economics and Management Sciences* 134

1324 Section 6(1) of the *RBZ Act*; Simatele M and Mbedzi E "Consumer Payment Choices, Cost, and Risks: Evidence from Zimbabwe" 2021 *Cogent Economics and Finance* 1, 6; see related on Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Sciences* 22, 24; Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Kanhai C "Factors Influencing the Adoption of Enterprise Risk Management (ERM) Practices by Banks in Zimbabwe" 2014 *International Journal of Business and Commerce* 1, 12; Njanike 2010 *Annals of the University of Petrosani, economics* 253; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487.

1325 Section 7(1) of the *RBZ Act*; Njanike 2010 *Annals of the University of Petrosani, economics* 253; see related on Chitimira and Ncube 2021 *PER/PELJ* 23; Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review* 487; Makena 2021 *African Economic Research Consortium* 5.

support to financial institutions in times of stress.[1326] Furthermore, the central bank would retain the role of managing the country's foreign exchange reserves and gold reserves which are crucial for maintaining national economic stability.[1327] This responsibility involves safeguarding and optimising the returns on these reserves as well as managing foreign exchange operations to support trade and investment activities in Zimbabwe. In the current economic and financial sector environment in Zimbabwe, these responsibilities of the central bank would complement the more focused regulatory roles ensuring a comprehensive and robust banking regulatory framework to prevent bank failures.

The arrow from the RBZ pointing to the ZPRA denotes that the ZPRA operates under the ambits of the RBZ. Although the ZPRA is an independent juristic person, it is housed under the RBZ which ensures that the overall financial stability of the banking sector is achieved. In contrast, the ZFSCA operates independently of the RBZ to regulate the market conduct of banks, ensuring a fair banking environment and fostering strong, transparent relationships between banks and their clients.

The ZPRA and the ZFSCA are the banking regulators responsible for ensuring effective supervision and monitoring of banks to ensure financial stability and prevent bank failures in Zimbabwe. The two arrows pointing to banking institutions denote that the two regulators, the ZPRA and the ZFSCA, are the two pillars equally responsible for banking sector regulation, specialising in their distinct mandate. In addition, the

---

[1326] Section 11(5) of the *RBZ Act*; Noko J "Dollarisation: The Case of Zimbabwe" 2011 *Cato Journal* 339, 350; see related on Makena 2021 *African Economic Research Consortium* 7; see related in Nyoni T and Bonga WG "Cashless Transacting Economy: A Necessary Evil for Development! A Zimbabwean Scenario! " 2017 *Dynamic Research Journal - Journal of Economics and Finance* 1, 3; see related in Nyaude AB "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" In Chitimira H and Warikandwa TV (eds) *Financial Inclusion Regulatory Practices in SADC: Addressing Prospects and Challenges in the 21st Century* (New York Routledge 2023) 209; see paragraph 4.3.2 of Chapter Four of this thesis.

[1327] Section 6 of the *RBZ Act*; the RBZ's functions include ensuring that financial institutions are well-capitalised; Gwatiringa 2020 *IOSR Journal of Business and Management* 29; Kabonga and Marime 2017 *Africanus Journal of Development Studies* 6; see paragraph 4.3.2 of Chapter Four of this thesis.

horizontal arrow pointing to the ZPRA and ZFSCA denotes that the two bank regulators operate at the same level with the same powers and authority to oversee banking institutions and prevent bank failures in Zimbabwe.

The Zimbabwean twin peaks model separates the prudential regulation and conduct regulation, with the ZPRA being the prudential regulator and the ZFSCA the conduct regulator.[1328] The ZPRA focuses on the safety and soundness of banks ensuring that they are financially stable and can withstand financial shocks without collapsing.[1329] The ZPRA can be created as a juristic person, empowered to focus exclusively on monitoring banks' risk profiles, capital adequacy, liquidity levels and overall financial health. This separation of bank regulators could prevent overlapping functions, reducing the chances of conflicts of interest and ensuring prudential and conduct risks are addressed adequately to prevent bank failures in Zimbabwe.

The ZPRA ensures effective monitoring and early intervention mechanisms are implemented to prevent the causes of bank distress at an early stage and intervene to save such distressed banks before it becomes inevitable to save them from failure. In this regard, the ZPRA identifies and detects any distress signals in the banking sector focusing on prudential risks separately. The ZPRA could detect early signs of distress in banks using indicators including metrics like capital adequacy ratios (CAR), liquidity ratios, stress testing and other risk indicators. These indicators could help to detect causes of bank failures in Zimbabwe such as inadequate enforcement of relevant

---

1328 Section 33(a) and (b) of the *FSR Act*; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; see comments by Botha and Makina 2011 *International Business & Economics Research Journal* 34; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; Godwin, Howse and Ramsay 2017 *South African Law Journal* 673 submitted that it is significant that the PA 'is a juristic person' and emphasised that it is important because it confirms that the prudential regulator has a legal status that is separate from the SARB; Prudential Authority Regulatory Strategy 2021-2024 at https://www.resbank.co.za>prudential-regulation accessed 05 October 2024.

1329 See section 32 of the *FSR Act*; Qumba 2022 *South African Law Journal* 80; Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; see related in Leukes and Mensah 2019 *African Review of Economics and Finance* 192; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Godwin and Schmulow 2015 *The South African Law Journal* 758; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130.

banking laws, inadequate liquidity or rising non-performing loans, which would allow early regulatory intervention before banks reach critical levels of distress.

The ZPRA should adopt a risk-based supervision approach where banks with higher risks are closely monitored and subjected to more stringent capital and liquidity requirements to avoid wide financial instability if left unchecked.

The twin peaks model second peak, the ZFSCA could focus on how banks interact with consumers, ensuring fair treatment, transparency and good ethical practices to restore trust and confidence in the formal banking sector, in order to reduce bank failures in Zimbabwe.[1330] The ZFSCA could oversee market conduct and ensure that banks are not engaging in practices that may harm depositors or investors such as fraud, embezzlement or corruption which can lead to loss of confidence in the banking sector.

The ZFSCA's objective is to ensure that customers are treated fairly and are well-informed about the banking operations and services to boost confidence in the formal banking sector.[1331] Confidence in the formal banking sector boosts bank liquidity as people deposit their savings in banks instead of hoarding cash or stashing funds in offshore accounts. Therefore, the ZFSCA's focus on consumer protection through strong enforcement of transparency, fair banking practices and ethical standards to build public trust in the banking sector, thereby reducing the likelihood of bank runs caused by poor conduct of banks in Zimbabwe.[1332] Ensuring public trust and confidence in the banking sector could prevent bank failures in Zimbabwe by increasing liquidity

---

[1330] Section 59 of the *FSR Act*; Godwin, Howse and Ramsay 2017 *South African Law Journal* 676; Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 280.

[1331] Section 56 of the *FSR Act*; Qumba 2022 *South African Law Journal* 87; Van Niekerk and Nyane 2022 *South African Mercantile Law Journal* 384; Godwin and Schmulow 2015 *The South African Law Journal* 758; Chitimira and Ncube 2020 *Acta Universitatis Danubius Juridica Economica* 10; Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law* 506; Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal* 130; see Prudential Authority Regulatory Strategy 2021-2024, 2 https://www.resbank.co.za>prudential-regulation accessed 14 October 2024.

[1332] See related comments in Chitimira 2020 *Acta Universitatis Danubius Juridica Economica* 279; Godwin and Schmulow 2015 *The South African Law Journal* 758; Godwin, Howse and Ramsay 2017 *South African Law Journal* 668.

in banks and reducing the rate of non-payment loans which are the causes of bank failures. In addition, the ZFSCA could strengthen or expand the deposit protection scheme (DPS) to ensure that depositors are adequately protected in the event of bank failure, thus maintaining confidence in the banking sector.

The RBZ could be explicitly mandated to maintain and enhance financial stability in the country and be the supervisor of the two banking regulators, the PRA and the ZFSCA and other financial sector regulators.[1333] The RBZ could provide broad strategic objectives and policies for financial stability which the ZPRA, the ZFSCA and other financial sector regulators must adhere to, in order to ensure a unified and coherent regulatory approach across the entire financial sector.[1334]

The RBZ should establish a coordination committee within its purview to facilitate communication and collaboration between ZPRA, ZFSCA and other relevant financial sector bodies. Joint task forces or working groups can be created to address cross-cutting issues such as systemic risks, financial innovations and crisis management. Rather than the RBZ monitoring the performance of individual financial institutions, it will monitor the performance of the ZPRA and ZFSCA through regular evaluations, audits and reviews. This will be achieved by establishing performance metrics and key performance indicators to assess the effectiveness of the two regulators. In addition, the RBZ retains the ultimate responsibility for crisis management and resolution, ensuring that the ZPRA and the ZFSCA have the necessary support and resources to manage financial distress and prevent the causes of bank failures as early as they emerge. A crisis management and resolution committee, chaired by the RBZ must

---

[1333] Abor *et al* "Explaining Banking Failures in Africa" 459 states that the Central Bank oversees bank regulation; see related in Chikoko 2014 *Journal of Contemporary Issues in Business Research* 48.

[1334] See related comments in Van Niekerk 2023 *Fundamina: A Journal of Legal History* 99; De Jager 2006 *South African Mercantile Law Journal* 284; see related in Rassouw *South African Reserve Bank: History, Functions, and Institutional Structure* 11.

include representatives from the ZPRA and the ZFSCA to ensure a coordinated response to financial crisis and mitigation of the causes of bank failures.

9.6.3 Advantages of the Proposed Zimbabwean Twin Peaks Model

Firstly, the Zimbabwean twin peaks model offers specialisation and focus to each banking regulatory authority, the ZPRA and the ZFSCA, with a clear core mandate which enhances efficiency and effectiveness in the implementation of banking laws, supervision and monitoring of financial institutions to prevent the causes of bank failures in Zimbabwe. The researcher submits that the division of duties and responsibilities between the ZPRA and the ZFSCA strengthens the enforcement of banking laws in Zimbabwe by allowing each bank regulator to specialise in its respective mandate. The division of duties and responsibilities could enable more thorough and targeted regulatory oversight in banks, reduce the risk of regulatory overlap and ensure swift enforcement of banking laws in Zimbabwe.

In addition, the specialisation and focus of each regulator allow better monitoring of issues affecting the entire banking sector as well as rapid policy responses from the responsible regulator. The ZPRA will concentrate on prudential supervision such as capital adequacy and risk management allowing for early detection of risks, early interventions and implementation of necessary reforms without delay. The ZFSCA will focus on consumer protection and market conduct, developing deeper expertise in its respective area of bank supervision to help address banking risks in real-time, prevent potential bank failures and enhance the overall stability of banks in Zimbabwe.

Secondly, the ZPRA and the ZFSCA will have operational independence and ensure that each banking regulatory authority can carry out its functions effectively without undue influence. Operational independence of the ZPRA and ZFSCA will ensure that these banking regulatory authorities are empowered by the law and protected from undue influence from political or industrial pressures that may compromise the integrity of their oversight mandate. This independence allows the PRA and the BSCA to make impartial decisions, enforce banking regulations consistently and take necessary actions without external bias, thereby strengthening the overall governance and resilience of banks in Zimbabwe.

Moreover, there will be effective and strategic bank supervision in Zimbabwe as the RBZ's oversight ensures that the activities of the ZPRA and ZFSCA align with national financial stability and inclusion goals.[1335] The RBZ can set clear objectives for both the ZPRA and the ZFSCA, ensuring that all regulatory efforts contribute to broader economic priorities such as stability of the currency, stability of the banking sector and maintaining the integrity of the formal banking system.

Lastly, there will be improved financial crisis management in Zimbabwe through coordinated crisis management led by independent regulatory bodies like the ZPRA and the ZFSCA under the supervision of the RBZ. By streamlining communication and decision-making processes, the ZPRA and the ZFSCA could respond swiftly and effectively to emerging financial risks, ensuring that issues are detected early and addressed before they escalate to cause bank failures. Coordinated crisis management will enhance the resilience of the banking sector by promoting transparency, reinforcing oversight of banks and fostering cooperation between the PRA, the BSCA and banks, reducing the likelihood of impact crisis causing bank failures.

9.6.4 Proposed Implementation Steps

a) Zimbabwean policymakers should consider enacting a statute on bank regulation and supervision to establish the ZPRA and the ZFSCA as independent authorities. The RBZ's duties and responsibilities of supervising and monitoring banks should be removed and be mandated to the established bank regulators, the ZPRA and the ZFSCA. This banking supervision framework would enhance the effectiveness of bank supervision by separating regulatory functions, allowing the ZPRA to focus on prudential oversight to ensure financial stability, while the ZFSCA would concentrate on consumer protection and conduct supervision of banks. Independent regulatory

---

[1335] Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 7 states that poor coordination between the regulatory agencies has played a huge role in the overall ineffectiveness of the current external supervision model; Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences* 4.

authorities with specialised mandates would improve regulatory enforcement, mitigate conflicts of interest and bolster public confidence in the banking sector, and reduce the risk of bank failures in Zimbabwe.

b) The RBZ, as the overall oversight authority of the ZPRA and the ZFSCA should train the personnel and develop institutional capacity to regulate, supervise and monitor banks effectively to prevent bank failures. The RBZ should ensure that the ZPRA and ZFSCA are always well-equipped and empowered to execute their duties without fear or favour or external influence from prominent people or politically affiliated individuals.

c) The RBZ, the ZPRA and the ZFSCA must provide and educate financial institutions and financial consumers through regular workshops and seminars, conferences, training, guidelines, circulars and manuals about the new regulatory structure and its benefits. By leveraging workshops, digital platforms, partnerships and ongoing learning initiatives, the RBZ, the ZPRA and the ZFSCA can ensure continuous up-to-date education on regulatory requirements, risk management and financial consumer protection, thus promoting trust and fostering a stable banking sector. Trust and confidence between financial consumers and the banks will boost the stability in the banking sector and reduce bank failures in Zimbabwe.

d) The RBZ should establish adequate and effective monitoring and evaluation mechanisms for the new regulatory framework like early warning systems, stress testing, off-site surveillance and risk-based supervision, enhanced data collection and reporting standards, post-failure analysis, continuous improvement mechanisms and regulatory impact assessments.

9.7 Conclusion

Although the legal framework for banking exists to ensure financial stability in Zimbabwe, a lack of effective oversight and poor enforcement of banking laws have contributed to systemic risks and erosion of public trust in the banking sector leading

to bank failures.[1336] In addition, hyperinflation, economic meltdown, weak governance, chronic liquidity, poor corporate governance, inadequate enforcement and excess risks are also causes of bank failures in Zimbabwe.[1337] Various other factors can potentially contribute to a bank's financial distress, such as severe economic downturns, political instability, depreciation of the local currency, high inflation, mismanagement, fraud, collusion with borrowers and insider trading, and poor regulation and supervision of banks, which can also be the cause of bank failures in Zimbabwe.[1338] Bank failures in Zimbabwe could also be a result of investor withdrawals, significant currency depreciation, capitalisation and financial crises which led to the erosion of consumers' trust and confidence in the banking sector.[1339]

The current banking regulatory framework in Zimbabwe attempts to address the causes of bank failures. However, the discussion above revealed that the regulatory framework for supervising and monitoring banks is not adequate and robust enough

---

[1336] Chokuda and Chokuda- Santu 2021 *Midlands State University Law Review* 12; Ndlovu 2013 *International Journal of Economics and Financial Issues* 437; Pfumorodze and Nzonzo *2010 Indian Journal of Corporate Governance* 53; Evgouleas E *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, The Law, the Economics, the Politics* (2012 Cambridge University Press Cape Town) 135; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 6; Nhuta 2014 *International Journal of Research in Social Sciences* 23; Chikoko 2014 *Journal of Contemporary Issues in Business Research* 46.

[1337] Sithole and Mtetwa 2009 *UniSWA Research Journal* 54; see related in Munoangira and Kaja 2016 *European Journal of Business and Management* 197; Chokuda-Santu, Nkomazana and Mawanza 2017 *Journal of Economics and Behavioral Studies* 208; Hupkes EHG "Insolvency – Why a Special Regime for Banks?" in *Forthcoming in Current Developments in Monetary and Financial Law* (International Monetary Fund, Washington DC 2002) 5; Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 4.

[1338] See Abel S, Le Roux P and Mutandwa L "Competition and Bank Stability" 2018 *International Journal of Economics and Financial Issues* 86, 87; Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance* 60; Mawaru NM and Kalani VM "Commercial Banking Crises in Kenya: Causes and Remedies *2009 Global Journal of Finance and Banking Issues* 23, 32; Chipatiso 2018 *JCCL&P* 43; Ncube and Okeke-Uzodike 2015 *Journal of African Foreign Affairs* 96; Sithole and Mtetwa 2009 *UniSWA Research Journal* 47.

[1339] See paragraph 1.3 of this Thesis; Tembo "Bank Failures in Zimbabwe" 142; see also Abel S and Le Roux P "Determinants of Banking Sector Profitability in Zimbabwe" 2016 *International Journal of Economics and Financial Issues* 845, 846; Chipatiso goes on to say that a bank's collapse can undermine public confidence more acutely than the failure of any other comparably sized private business enterprise, see Chipatiso 2018 *JCCL&P* 38; Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 6.

to effectively prevent bank failures and safeguard financial stability and market integrity in Zimbabwe.[1340] Therefore, the researcher submits that adopting a new banking regulatory model can address the lack of adequate and robust measures to curb the causes of bank failures in Zimbabwe. The researcher recommends the adoption of the Zimbabwean twin peaks model and enacting a new banking statute establishing the proposed model. The two regulatory agencies, the ZPRA and the ZFSCA should be positioned as overarching bodies with powers and authority to regulate, supervise and monitor financial institutions. The researcher also recommends that the two regulatory bodies should have operational independence which ensures that each entity has authority to carry out its functions without undue influence.

The researcher hopes that policymakers can consider the recommendations outlined in this thesis to establish a robust, effective, adequate and consistently enforced regulatory framework that addresses the causes of bank failures in Zimbabwe.

[1340] Chokuda and Chokuda-Santu 2021 *Midlands State University Law Review* 2.

Bibliography

Literature

Abel and Marire 2021 *Cogent Economics and Finance*

Abel S and Marire J "Competition in the Insurance Sector – An Application of Boone Indicator" 2021 *Cogent Economics and Finance* 1-12

Abel and Le Roux 2016 *International Journal of Economics and Financial Issues*

Abel S and Le Roux P "Determinants of Banking Sector Profitability in Zimbabwe" 2016 *International Journal of Economics and Financial Issues* 845-854

Abel, Le Roux and Mutandwa 2018 *International Journal of Economics and Financial Issues*

Abel S, Le Roux P and Mutandwa L "Competition and Bank Stability" 2018 *International Journal of Economics and Financial Issues* 86-94

Abor *et al* "Explaining Banking Failures in Africa"

Abor JY, Mensah S, Kusi BA and Mathuva D "Explaining Banking Failures in Africa" in Kusumaningrum R, Trihantana R and Thantawi TR *The Economics of Banking and Finance in Africa: Developments in Africa's Financial Systems* (Springer Nature Switzerland AG 2023)

Aharon, Ali and Naved 2023 *Research in International Business and Finance*

Aharon DY, Ali S and Naved M "Too Big to Fail: The Aftermath of Silicon Valley Bank (SVB) Collapse and its Impact on Financial Markets" 2023 *Research in International Business and Finance* 1-15

Ahmed 2016 *Journal of Financial Regulation and Compliance*

Ahmed J M "A Conceptual Framework for the Basel Accords-Based Regulation" 2016 *Journal of Financial Regulation and Compliance* 90-103

Aldohni 2011 *The Legal and Regulatory Aspects of Islamic Banking: A Comparative Look at the United Kingdom and Malaysia*

Aldohni AK *The Legal and Regulatory Aspects of Islamic Banking: A Comparative Look at the United Kingdom and Malaysia* (Routledge London and New York 2011)

Arora 1999 *Journal of International Banking Regulation*

Arora A "Reform of Bank Regulation and Supervision in the UK" 1999 *Journal of International Banking Regulation* 103

Arner and Norton 2009 *Hong Kong Law Journal*

Arner DW and Norton JJ "Building a Framework to Address Failure of Complex Global Financial Institutions" 2009 *Hong Kong Law Journal* 95-128

Atay 2006 *Journal of Banking Regulation*

Atay G "Promoting International Cooperation in Resolving Bank Failures" 2006 *Journal of Banking Regulation* 66-72

Avgouleas *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, the Law, the Economics, the Politics*

Avgouleas E *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, the Law, the Economics, the Politics* (Cambridge University Press New York 2012)

Avgouleas 2009 *Capital Markets Law Journal*

Avgouleas E "Banking Supervision and the Special Resolution Regime of the Banking Act 2009: the Unfinished Reforms" 2009 *Capital Markets Law Journal* 201-235

Badwan, Saleh and Hamdan 2024 *Journal of Financial Regulation and Compliance*

Badwan N, Saleh B and Hamdan M "Factors and Determinants Affecting Banking Sector Stability: Empirical Evidence from Conventional and Islamic Banks Listed on the Palestine Stock Exchange" 2024 *Journal of Financial Regulation and Compliance* 118-150

Bando "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan"

Bando H "Single Regulator or Twin Peaks, The Different Regulatory Approach by UK, Switzerland and Japan" in *Twin Peaks – Financial Market Regulation in Switzerland, The UK and Japan* 2014 74-87

Bara 2016 *African Journal of Science, Technology, Innovation and Development*

Bara A "Diffusion and Adoption of Bank Financial Innovation in Zimbabwe: An External Factor Analysis" 2016 *African Journal of Science, Technology, Innovation and Development* 357-368

Bara 2013 *African Journal of Science, Technology, Innovation and Development*

Bara A "Mobile Money for Financial Inclusion: Policy and Regulatory Perspective in Zimbabwe" 2013 *African Journal of Science, Technology, Innovation and Development* 345-354

Barugahara 2021 *International Journal of Financial Research*

Barugahara F "Financial Inclusion in Zimbabwe: Determinants, Challenges and Opportunities" 2021 *International Journal of Financial Research* 161-270

Barth and Jahera 2010 *Journal of Financial Economic Policy*

Barth J and Jahera J "US Enacts Sweeping Financial Reform Legislation" 2010 *Journal of Financial Economic Policy* 192-199

Barth *et al* 2013 *Journal of Banking & Finance*

Barth JR, Lin C, Ma Y Seade J and Song FM "Do Bank Regulation, Supervision and Monitoring Enhance or Impede Bank Efficiency" 2013 *Journal of Banking & Finance* 2879-2892

Barth, Caprio Jr and Levine 2004 *Journal of Financial Intermediation*

Barth JR, Caprio Jr G and Levine R "Bank Regulation and Supervision: What Works Best?" 2004 *Journal of Financial Intermediation* 205-248

Bayai and Nyangara 2013 *International Journal of Economics and Management Sciences*

Bayai I and Nyangara D "An Analysis of Determinants of Private Investment in Zimbabwe for the Period 2009-2011" 2013 *International Journal of Economics and Management Sciences* 11-42

Bayless and Kornblau 2010 *Journal of Investment Compliance*.

Bayless D and Kornblau DL "Dodd-Frank Beefs Up SEC and CFTC Enforcement" 2010 *Journal of Investment Compliance* 37-40.

Bekink and Botha 2009 *South African Mercantile Law Journal*

Bekink B and Botha C "The Role of a Modern Central Bank in Managing Consumer Bankruptcies and Corporate Failures: A South African Public-Law Angle of Incidence" 2009 *South African Mercantile Law Journal* 74-91

Berge and St John 2021 *Review of International Political Economy*

Berge TL and St John T "Asymmetric Diffusion: World Bank 'Best Practice' and the Spread of Arbitration in National Investment Laws" 2021 *Review of International Political Economy* 584-610

Bernanke 2013 *Journal of Economic Perspectives*

Bernanke BS "A Century of US Central Banking: Goals, Frameworks, Accountability" 2013 *Journal of Economic Perspectives* 3-6

Bhiri, Vhimisai and Bayai 2014 *Journal of Emerging Trends in Economics and Management Sciences*

Bhiri T, Vhimisai T and Bayai I "An Evaluation of the Usage and Operational Framework of the Real Times Gross Settlement System in the Zimbabwean Banking Sector" 2014 *Journal of Emerging Trends in Economics and Management Sciences* 412-418

Blair and Kushmeider 2006 *FDIC Banking Review*

Blair CE and Kushmeider RM "Challenges to the Dual Banking System: The Funding of Bank Supervision" 2006 *FDIC Banking Review* 1-22

Bradstreet 2010 *South African Mercantile Law Journal*

Bradstreet R "The leak in the Chapter 6 Lifeboat: Inadequate Regulation of Business Rescue Practitioners May Adversely Affect Lenders' Willingness and the Growth of the Economy" 2010 *South African Mercantile Law Journal* 195-213

Brownbridge "Financial Policies & the Banking System in Zambia"

Brownbridge M "Financial Policies & the Banking System in Zambia" in Brownbridge M and Harvey C *Banking in Africa: The Impact of Financial Sector Reform since Independence* (1998 Africa World Press, Inc) 143-162

Brett 2014 *Economic Geography*

Brett C "Competition, Law and the Power of (Imagined) Geography: Market Definition and the Emergence of Too-Big-to-Fail Banking in the United States" 2014 *Economic Geography* 429-450

Bond "The British Banking Population 1790-1982"

Bond I "The British Banking Population 1790-1982" in *Complexity and Crisis in the Financial System: Critical Perspectives on the Evolution of American and British Banking* (2016 Edward Elgar Publishing UK) 85-118

Bonga 2019 *Munich Personal RePEc Archive*

Bonga WG "Stock Market Volatility Analysis Using GARCH Family Models: Evidence from Zimbabwe Stock Exchange" 2019 *Munich Personal RePEc Archive* 1-13

Bonga *The Role of the Financial Sector in Zimbabwe, Central Banking and Economic Impacts. The Zimbabwe Coalition on Debt and Development*

Bonga WG *The Role of the Financial Sector in Zimbabwe, Central Banking and Economic Impacts. The Zimbabwe Coalition on Debt and Development* (ZIMCODD, Debate Paper 01, 2010)

Bonga, Chikeya and Sithole 2015 *IOSR Journal of Economics and Finance*

Bonga WG, Chikeya CK and Sithole R "The Need for Financial Stability in Zimbabwe: Use of Derivatives Securities" 2015 *IOSR Journal of Economics and Finance* 06-14

Bonga, Chirenje and Mugayi 2019 *Journal of Economics and Finance*

Bonga WG, Chirenje G and Mugayi P "Analysis of Credit Culture in the Zimbabwean Banking Sector" 2019 *Journal of Economics and Finance* 45-55

Boraine and Van Wyk 2017 *The Comparative and International Law Journal of Southern Africa*

Boraine A and Van Wyk J "Credit Bureaus in South Africa and Namibia: A Comparative Analysis of the Regulatory Frameworks Evaluated against the World Bank's Principles for Credit Reporting-Part II" 2017 *The Comparative and International Law Journal of Southern Africa* 303-346

Botha and Makina 2011 *International Business & Economics Research Journal*

Botha E and Makina D "Financial Regulation and Supervision: Theory and Practice in South Africa" 2011 *International Business & Economics Research Journal* 27-36

Campbell *et al* 2009 *Journal of Financial Regulation and Compliance*

Campbell A, LaBrosse JR, Mayes DG and Singh D "A New Standard for Deposit Insurance and Government Guarantees after the Crisis" 2009 *Journal of Financial Regulation and Compliance* 210-239

Cebula *et al* 2016 *Journal of Financial Economic Policy*

Cebula RJ, Gillis W, McCrary S.C and Capener D "New Evidence on the Impact of Economic Conditions and Banking Legislation on the Bank Failure Rate in the US, 1970 to 2014" 2016 *Journal of Financial Economic Policy* 364-379

Coleman 2010 *Kentucky Law Journal*

Coleman WT Jr "A Brief History of Banking and Investment Regulation in the US and a Challenge to Remain the Greatest Nation in the World" 2010 *Kentucky Law Journal* 1-7

Coleman, Andromachi and Tara 2018 *International Finance Discussion Papers Board of Governors of the Federal Reserve System*

Coleman N, Andromachi G and Tara R "Measuring the Implementation of the FSB Key Attributes of Effective Resolution Regimes for Financial Institutions in the European Union" 2018 *International Finance Discussion Papers Board of Governors of the Federal Reserve System* 1-99

Colvin, de Jong and Fliers 2015 *Explorations in Economic History*

Colvin CL, de Jong A and Fliers PT "Predicting the Past: Understanding the Causes of Bank Distress in the Netherlands in the 1920s" 2015 *Explorations in Economic History* 97-121

Congdon 2009 *SUERF-The European Money and Finance Forum Vienna*

Congdon T "The Northern Rock Affair: An Analysis of the 'Teaser Rate' Strategy" 2009 *SUERF-The European Money and Finance Forum Vienna* 195-213

Coomer and Gstrunthaler 2011 *The Quarterly Journal of Austrian Economics*

Coomer J and Gstrunthaler T "The Hyperinflation of Zimbabwe" 2011 *The Quarterly Journal of Austrian Economics* 331-346

Cunliffe 2016 *European Economy*

Cunliffe J "Ending Too-Big-to Fail: How Best to Deal with Failed Large Banks" 2016 *European Economy* 59-74

Chagwiza 2012 *Journal of Sustainable Development in Africa*

Chagwiza W "Rejuvenating the Zimbabwean Economy: The Role of Banks" 2012 *Journal of Sustainable Development in Africa* 183-190

Chagwiza 2014 *International Journal of Empirical Finance*

Chagwiza W "Zimbabwean Commercial Banks Liquidity and Its Determinants" 2014 *International Journal of Empirical Finance* 52-64

Chambers 2010 *The Law Teacher*

Chambers C "Banking on Reform in 2010: Is Regulatory Change Ever Enough and Will the General Election Hold the Answers for the Financial Services Industry" 2010 *The Law Teacher* 218-234

Chambers 2011 *Journal of Corporate Ownership and Control*

Chambers C "Banking Regulation in the UK" 2011 *Journal of Corporate Ownership and Control* 66-72

Chidaushe 2018 *Journal of Business and Financial Affairs*

Chidaushe WK "The Impediments and Best Practice Use of Derivatives in Zimbabwe, Botswana and South Africa" 2018 *Journal of Business and Financial Affairs* 1-12

Chigumira and Makochekanwa 2014 *Zimbabwe Economic Policy Analysis and Research Unit*

Chigumira G and Makochekanwa "A Financial Liberalisation and Crisis: Experience and Lessons for Zimbabwe" 2014 *Zimbabwe Economic Policy Analysis and Research Unit* 1-86

Chikoko, Mutambanadzo and Vhimisai 2012 *Journal of Emerging Trends in Economics and Management Sciences*

Chikoko L, Mutambanadzo T and Vhimisai T "Insights on Non-Performing Loans: Evidence from Zimbabwean Commercial Banks in a Dollarised Environment (2009-2012)" 2012 *Journal of Emerging Trends in Economics and Management Sciences* 882-886

Chikoko 2014 *Journal of Contemporary Issues in Business Research*

Chikoko L "Potential Sources of Zimbabwe Commercial Banks Illiquidity After Dollarisation" 2014 *Journal of Contemporary Issues in Business Research* 41

Chikoko 2013 *Journal of Applied Finance and Banking*

Chikoko L "Zimbabwean Commercial Banks Liquidity Risk Determinants after Dollarisation" 2013 *Journal of Applied Finance and Banking* 97-114

Chikoko and Mangwendeza 2012 *Journal of Economics and International Finance*

Chikoko L and Mangwendeza P "Financial Inclusion by Zimbabwean Commercial Banks in a Liquidity Constrained Environment" 2012 *Journal of Economics and International Finance* 252-259

Chimucheka and Rungani 2011 *African Journal of Business Management*

Chimucheka T and Rungani EC "The Impact of Inaccessibility to Bank Finance and Lack of Financial Management Knowledge to Small, Medium and Micro Enterprises in Buffalo City Municipality, South Africa" 2011 *African Journal of Business Management* 5509-5517

Chinoda, Chingombe and Chawuruka 2015 *Journal of Economics and Finance*

Chinoda T, Chingombe C and Chawuruka P "The Impact of Minimum Capital Requirements on Performance of Commercial Banks in Zimbabwe" 2015 *Journal of Economics and Finance* 60-68

Chipatiso and Kawadza 2018 *Journal of Corporate and Commercial Law & Practice* (*JCCL&P*)

Chipatiso T and Kawadza H "Business Rescue as a Mechanism for Addressing Bank Failures: Possible Lessons from the American Approach" 2018 *Journal of Corporate and Commercial Law & Practice* (*JCCL&P*) 37-50

Chitimira 2020 *Acta Universitatis Danubius Juridica*

Chitimira H "Historical Aspects of the Statutory Regulation of Financial Inclusion for the Poor and Low-Income Earners in South Africa" 2020 *Acta Universitatis Danubius Juridica* 269-284

Chitimira 2022 *Journal of Financial Crime*

Chitimira H "Theoretical Aspects of Insider Trading Regulation in Zimbabwe" 2022 *Journal of Financial Crime* 389-405

Chitimira and Mavhuru 2024 *Acta Universitatis Danubius Economica*

Chitimira H and Mavhuru L "An Expository Overview of the Financial Integrity Risk Associated with the Relaxation of Financial Regulation to Promote Financial

Innovation Through Mobile Money Services in Zimbabwe" 2024 *Acta Universitatis Danubius Economica* 70-87

Chitimira and Ncube 2021 *Interdisciplinary Journal of Economics and Business Law*

Chitimira H and Ncube M "The Regulatory Nexus between Corporate and Financial Markets Law in Promoting Economic Growth and Viable Financial Markets in Zimbabwe" 2021 *Interdisciplinary Journal of Economics and Business Law* 91

Chitimira and Ncube 2021 *PER/PELJ*

Chitimira H and Ncube M "Towards Ingenious Technology and the Robust Enforcement of Financial Markets Laws to Curb Money Laundering in Zimbabwe" 2021 *Potchefstroom Electronic Law Journal* (*PER/PELJ*) 1-46

Chitimira and Torerai 2021 *PER/PELJ*

Chitimira H and Torerai E "The Nexus between Mobile Money Regulations, Innovative Technology and the Promotion of Financial Inclusion in Zimbabwe" 2021 *Potchefstroom Electronic Law Journal* (*PER/PELJ*) 1-33

Chitimira, Torerai and Tsaura 2024 *PER/PELJ*

Chitimira H, Torerai E and Tsaura O "A Statutory Analysis of the Role of the Courts in Protecting Financial Consumers' Rights in the Zimbabwean Banking Sector: The Penelope Case in Context" 2024 *Potchefstroom Electronic Law Journal* (*PER/PELJ*) 1-21

Chokuda and Chokuda-Santu 2021 *MSU Law Review*

Chokuda BT and Chokuda-Santu TV "The External Government Architecture of Zimbabwe's Banking and Financial Services Sector" 2021 *Midlands States University (MSU) Law Review* 1-20

Chomba 2017 *Journal of Sustainable Development in Africa*

Chomba C "Resurrecting and Modernizing the Federation of Rhodesia and Nyasaland 1953-1963: Challenges and Opportunities of Sustainable Development in Africa" 2017 *Journal of Sustainable Development in Africa* 163-184

Chowa, Mhlanga and Munakamwe 2014 *International Open and Distance Learning Journal*

Chowa T, Mhlanga R and Munakamwe MAP "Where Did Our Money Go? Answering the Questions Behind Loss of Value to Pensioners in Zimbabwe after Multi-Currency Adoption" 2014 *International Open and Distance Learning Journal* 1

Dandira *et al* 2019 *Public Policy and Administration Research*

Dandira M, Vere K, Sithole M, Chufamba M and Sifile O "Curatorship Paradox: Corporate Governance in Dilemma" 2019 *Public Policy and Administration Research* 1-9

Davis *et al* 2010 *Research and Analysis*

Davis R, Richardson P, Katinaite V and Manning M "Evolution of the UK Banking System" 2010 *Research and Analysis* 321-332

De Jager 2006 *South African Mercantile Law Journal*

De Jager J "The South African Reserve Bank: An Evaluation of the Origins, Evolution and Status of a Central Bank (Part 1)" 2006 *South African Mercantile Law Journal* 159-174

De Jager 2013 *SA MERC LJ*

De Jager J "The South African Reserve Bank: Blowing Winds of Change (Part 1) " 2013 *SA MERC LJ* 342-361

De Matos-Ala 2006 *Annual Survey of South African* Law

De Matos-Ala C "Financial Institutions and Stock Exchange" 2006 *Annual Survey of South African* Law 558-594

De-Ramon, Francis and Milonas 2017 *Papers.ssrn.com*

De-Ramon AJA, Francis WB and Milonas K "An Overview of the UK Banking Sector since the Basel Accord: Insights from a New Regulatory Database" 2017 *Papers.ssrn.com* 1-63

Dixon 2014 *Property Law Review*

Dixon M "A Doctrinal Approach to Property Law Scholarship: Who Cares and Why?" 2014 *Property Law Review* 160-165

Dordevic *et al Strengthening Bank Regulation and Supervision National Progress and Gaps*

Dordevic L, Ferreira C, Kitonga M and Seal K *Strengthening Bank Regulation and Supervision National Progress and Gaps* (2021 International Monetary Fund)

Dube and Murahwe 2015 *International Journal of Development and Sustainability*

Dube ZL and Murahwe GR "An Analysis of Corporate Governance Practices in Government Controlled versus Private Banking Institutions in Zimbabwe" 2015 *International Journal of Development and Sustainability* 759, 771

Dube, Abel and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit*

Dube C, Abel S and Mugocha E "Access to Bank Credit as a Strategy to Re-Industrialisation in Zimbabwe: The Issue" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1-43

Duncan *2005 Boston College International and Comparative Law Review*

Duncan EA "Core Principles for Effective Banking Supervision: An Enforceable International Financial Standard" *2005 Boston College International and Comparative Law Review* 237-297

Dhlamini and Mbira 2017 *Journal of Economics and Behavioural Studies*

Dhlamini B and Mbira L "The Current Zimbabwean Liquidity Crisis: A Review of its Precipitates" 2017 *Journal of Economics and Behavioural Studies* 212-219

Drummond 2002 *Management Decision*

Drummond H "Living in a Fool's Paradise: The Collapse of Barings' Bank" 2002 *Management Decision* 232-238

Dzapasi 2020 *PM World Journal*

Dzapasi FD "The Impact of Liquidity Management on Bank Financial Performance in a Subdued Economic Environment: A Case of the Zimbabwean Banking Industry" 2020 *PM World Journal* 1-20

Dzingirai and Dzingirai 2024 *Heliyon*

Dzingirai C and Dzingirai M "Threshold Effect of Non-interest Income Disaggregates on Commercial Banks' Financial Performance in Zimbabwe" 2024 *Heliyon* 1-17

Dzingirai and Katuka 2014 *International Journal of Economics and Finance*

Dzingirai C and Katuka B "Determinants of Bank Failures in Multiple-Currency Regime in Zimbabwe (2009-2012)" 2014 *International Journal of Economics and Finance* 229-246

Dzomira 2014 *Journal of Governance and Regulation*

Dzomira S "Analysis of Bank Failures during Financial Tumult in Africa-Zimbabwe: A Historical Overview" 2014 *Journal of Governance and Regulation* 75-80

Dzomira 2014 *Risk Governance & Control: Financial Markets & Institutions*

Dzomira S "Electronic Fraud (Cyber Fraud) Risk in the Banking Industry, Zimbabwe" 2014 *Risk Governance & Control: Financial Markets & Institutions* 16-26

Ehlers 2009 *South African Journal of Economic History*

Ehlers A "South African Trust Companies and Boards of Executors and the 1942 Bank Act from Self-regulating 'Financial Aristocrats' to Statutory Controlled Deposit-Receiving Institutions" 2009 *South African Journal of Economic History* 1-42

Eisenbeis and Kaufman 2009 *SUERF-The European Money and Finance Forum Vienna*

Eisenbeis RA and Kaufman GG "Lessons from the Demise of the UK's Northern Rock and the U.S.'s Countrywide and IndyMac" 2009 *SUERF-The European Money and Finance Forum Vienna* 73-96

Elliner, Lomnicka and Hare 2011 *Ellinger's Modern Banking Law*

Ellinger EP, Lomnicka E, Hare CVM *Ellinger's Modern Banking Law* (Oxford University Press Cape Town 2011)

Erbmann and Sheen 1974 *The American Economist*

Erbmann CA and Sheen JR "Some Reasons for the Low Rate of Inflation in Rhodesia Since the Unilateral Declaration of Independence" 1974 *The American Economist* 99-107

Erer and Erer 2024 *Borsa Istanbul Review*

Erer E and Erer D "The Domino Effect of Silicon Valley Bank's Bankruptcy and the Role of FED's Monetary Policy" 2024 *Borsa Istanbul Review* 1-19

Evemy 2019 *British Politics*

Evemy J "The Bank of England, Operational Independence and the Financial Crisis" 2019 *Br Polit* 347-371

Evgouleas *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, The Law, the Economics, the Politics*

Evgouleas E *International Corporate Law and Financial Market Regulation: Governance of Global Financial Markets, The Law, the Economics, the Politics* (2012 Cambridge University Press Cape Town) 135

Felsenfeld and Bilali 2004 *University of Pennsylvania Journal of International Economic Law*

Felsenfeld C and Bilali G "The Role of the Bank for International Settlements in Shaping the World Financial System" 2004 *University of Pennsylvania Journal of International Economic Law* 945-1046

Feridum and Ozün 2020 Journal of Capital Markets Studies

Feridum M and Ozün A "Basel IV implementation: A Review of the Case of the European Union" 2020 Journal of Capital Markets Studies 7-24

Ferran "Institutional Design: The Choices for National Systems"

Ferran E "Institutional Design: The Choices for National Systems" in Moloney N, Ferran E and Payne J *The Oxford Handbook of Financial Regulation* 1st ed (Oxford University Press United Kingdom 2015) 98-124

Ferreira, Jenkinson and Wilson *From Basel I to Basel III: Sequencing Implementation in Developing Economies*

Ferreira C, Jenkinson N and Wilson C *From Basel I to Basel III: Sequencing Implementation in Developing Economies* (International Monetary Fund 2019)

Forbes, Donohoe and Prokop 2015 *The Journal of Risk Finance*

Forbes WP, Donohoe SO and Prokop J "Financial Regulation, Collective Cognition, and Nation-State Crisis Management: A Multiple Case Study of Bank Failures in Germany, Ireland and the UK" 2015 *The Journal of Risk Finance* 284-302

Foya and Changunda 2019 *International Journal of Research and Innovation in Social Sciences*

Foya D and Changunda G "An Investigation of Corporate Governance Challenges Facing Indigenous Banks in Zimbabwe" 2019 *International Journal of Research and Innovation in Social Sciences (IJRISS)* 100-115

Foggitt *et al* 2017 *South African Journal of Economic and Management Sciences*

Foggitt GM, Heymans A, Van Vuuren GW and Pretorius A "Measuring the Systemic Risk in the South African Banking Sector" 2017 *South African Journal of Economic and Management Sciences* 1-9

Fundira *Money Laundering in Zimbabwe, 2004 to 2006*

Fundira B *Money Laundering in Zimbabwe, 2004 to 2006: Confronting the Proceeds of Crime in Southern Africa* (Institute for Security Studies, Pretoria 2007) (*Money Laundering in Zimbabwe 2004 to 2006*)

Ghosh 2016 *Review of Development Finance*

Ghosh A "Banking Sector Globalization and Bank Performance: A Comparative Analysis of Low-Income Countries with Emerging Markets and Advanced Economies" 2016 *Review of Development Finance* 58-70

Ghosh 2016 *Journal of Economics and Business*

Ghosh A "Do Bank Failures Still Matter in Affecting Regional Economic Activity?" 2017 *Journal of Economics and Business* 1-16

Gianfrate, Santangelo and Zanetti 2012 *Corporate Ownership & Control*

Gianfrate G, Santangelo E and Zanetti L "Private Benefits of Control in the Banking Industry: A Cross-Country Analysis" 2012 *Corporate Ownership & Control* 486-498

Girasa *Laws and Regulations in Global Financial Markets*

Girasa R *Laws and Regulations in Global Financial Markets* 1st ed (Palgrave Macmillan New York 2013)

Goodhart 2008 *Journal of Financial Stability*

Goodhart CAE "The Regulatory Response to the Financial Crisis" 2008 *Journal of Financial Stability* 351-358

Godfrey *et al* 2010 *Journal of Investment Compliance*

Godfrey AN, Holton TJ, Raymond PB and Stefanak C "US Financial Reform Law: Key Changes for Non-Us Advisors and Certain Investors in Hedge and Private Equity Funds" 2010 *Journal of Investment Compliance* 19-26

Godwin, Howse and Ramsay 2017 *The South African Law Journal*

Godwin A, Howse T and Ramsay I "Twin Peaks South Africa's Financial Sector Regulatory Framework" 2017 *The South African Law Journal* 665-702

Goenner 2024 *Review of Quantitative Finance and Accounting*

Goenner CF "Robust Lessons Learned from Bank Failures During the Great Financial Crisis" 2024 *Review of Quantitative Finance and Accounting* 449-498

Gondwe, Gwatidzo and Mahonye 2022 *Journal of Financial Regulation and Compliance*

Gondwe S, Gwatidzo T and Mahonye N "Bank Regulation and Risk-Taking in Sub-Sahara Africa" 2022 *Journal of Financial Regulation and Compliance* 149-169

Gola and Roselli 2009 *The UK Banking System and its Regulatory and Supervisory Framework*

Gola C and Roselli *A The UK Banking System and its Regulatory and Supervisory Framework* (Palgrave Macmillan 2009)

Golembe 1967 *Virginia Law Review*

Golembe CH "Our Remarkable Banking System" 1967 *Virginia Law Review* 1091-1114

Gurajena, Chaeruka and Dumba 2018 *JOPPA*

Gurajena HT, Chaeruka J and Dumba S "The Usurpation of Agency in Property Management by Pension Funds in Zimbabwe: A Literature Review" 2018 *JOPPA* 24-39

Gwarazimba and Shumba 2010 *Acta Academia*

Gwarazimba E and Shumba A "The Nature, Extent and Impact of the Brain Drain in Zimbabwe and South Africa" 2010 *Acta Academia* 209-241

Gwatiringa 2020 *IOSR Journal of Business and Management*

Gwatiringa PT "Banking Sector Profitability Through Investigation of Financial Performance Indicators: The Case of Zimbabwe" 2020 *IOSR Journal of Business and Management* 22-30

Gumbo and Zoromedza 2016 *Applied Economics and Finance*

Gumbo V and Zoromedza S "Bank Failure Prediction Model for Zimbabwe" 2016 *Applied Economics and Finance* 222-235

Haentjens 2014 *International Law Review*

Haentjens M "Bank Recovery and Resolution: An Overview of International Initiatives" 2014 *International Law Review* 255-270

Hall 2009 *Journal of Financial Regulation and Compliance*

Hall MJB "The Sub-Prime Crisis, the Credit Crunch and the and Bank Failure: An Assessment of the UK Authorities' Response" 2009 *Journal of Financial Regulation and Compliance* 427-452

Hamurcu 2023 *Financial Internet Quarterly*

Hamurcu Ç "Bank Failure Risk: A Study on Silicon Valley Bank, Signature Bank and Silvergate Capital Corporation" 2023 *Financial Internet Quarterly* 36-45

Han *et al* 2014 *International Small Business Journal*

Han L, Benson A, Chen JJ and Zhang S "The Use and Impacts of Bank Support on UK Small and Medium-sized Enterprises" 2014 *International Small Business Journal* 61-80

Hanson, Kashyap and Stein 2011 *Journal of Economic Perspectives*

Hanson SG, Kashyap AK and Stein JC " A Macroprudential Approach to Financial Regulations" 2011 *Journal of Economic Perspectives* 3-28

Harvey "The Limited Impact of Financial Sector Reforms in Zimbabwe"

Harvey C "The Limited Impact of Financial Sector Reforms in Zimbabwe" in Brownbridge M and Harvey C *Banking in Africa: The Impact of Financial Sector Reform since Independence* (1998 Africa World Press, Inc) 163-186

Havemann 2021 *Economic History of Developing Region*

Havemann R "The South African Small Banks' Crisis of 2002/3" 2021 *Economic History of Developing Regions* 313-338

Herndon and Paul 2020 *Journal of Post Keynesian Economics*

Herndon T and Paul M "A Public Banking Option as a Mode of Regulation for Household Financial Service in the US" 2020 *Journal of Post Keynesian Economics* 578-607

Herring "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure"

Herring RJ "BCCI and Barings: Bank Resolutions Complicated by Fraud and Global Corporate Structure" in Evanoff DD and Kaufman GG *Systemic Financial Crises: Resolving Large Bank Insolvencies* (World Scientific 2005) 321-345

Hsiao 2010 *Journal of International Banking Law and Regulation*

Hsiao MWH "Ligitimised Interference with Private Properties-Banking Act 2009" 2010 *Journal of International Banking Law and Regulation* 227-234

Hu CC "The Recovery Framework in the BRRD and its Effectiveness"

Hu CC "The Recovery Framework in the BRRD and its Effectiveness" *Forthcoming in International Company and Commercial Law Review* 2015 *Papers.ssrn.com* 1-18

Hupkes "Insolvency – Why a Special Regime for Banks?"

Hupkes EHG "Insolvency – Why a Special Regime for Banks?" in *Forthcoming in Current Developments in Monetary and Financial Law* (International Monetary Fund, Washington DC 2002)

Hurungu, Sibanda and Tadu 2020 *Applied Economics and Finance*

Hurungu P, Sibanda V and Tadu R "Determinants of Investment Decisions: A Study of Individual Investors on the Zimbabwe Stock Exchange" 2020 *Applied Economics and Finance* 38-53

Hlupo *et al* 2022 *The Journal of Entrepreneurial Finance*

Hlupo P, Mukute T, Chinoda T and Chigwedera E "The Impact of Financial Crisis on MFIs Performance in Zimbabwe" 2022 *The Journal of Entrepreneurial Finance* 77-102

Ifeacho and Ngalawa 2014 *The Journal of Applied Business Research*

Ifeacho C and Ngalawa H "Performance of the South African Banking Sector Since 1994" 2014 *The Journal of Applied Business Research* 1185-1195

Jabangwe and Kadenge 2015 *Botswana Journal of Economics*

Jabangwe J and Kadenge PG "An Investigation of the Relationship between Capital Levels and the Performance of Banks in Zimbabwe from 2009 to 2013" 2015 *Botswana Journal of Economics* 68-86

Jabotinsky 2017 *Stanford Journal of Law, Business and Finance*

Jabotinsky HY "The Federal Structure of Financial Supervision: A Story of Information-Flow" 2017 *Stanford Journal of Law, Business and Finance* 52-84

Kabonga and Marime 2017 *Africanus Journal of Development Studies*

Kabonga I and Marime R "In Search of Development: Zimbabwe Exemplar from 2000 to 2015" 2017 *Africanus Journal of Development Studies* 1-13

Kanas 2005 *Journal of Applied Economics*

Kanas A "Pure Contagion Effects in International Banking: The Case of BCCI's Failure" 2005 *Journal of Applied Economics* 101-123

Kanonge and Bussin 2022 *SA Journal of Human Resource Management*

Kanonge TT and Bussin MHR "Pre-conditions for Employee Motivation to Curb Zimbabwe's Academic Brain Drain" 2022 *SA Journal of Human Resource Management* 1-12

Kanhai and Ganesh 2014 *International Journal of Business and Commerce*

Kanhai C and Ganesh L "Factors Influencing the Adoption of Enterprise Risk Management (ERM) Practices by Banks in Zimbabwe" 2014 *International Journal of Business and Commerce* 1-17

Kaur and Kapoor 2015 *Journal of Financial Regulation and Compliance*

Kaur M and Kapoor S "Adoption of Basel Norms: A Review of Empirical Evidences" 2015 *Journal of Financial Regulation and Compliance* 271-284

Kavila and Le Roux 2017 *African Review of Economics and Finance*

Kavila W and Le Roux P "The Role of Monetary Policy in Zimbabwe's Hyperinflation Episode" 2017 *African Review of Economics and Finance* 131-166

Kefela 2008 *Indus Journal of Management and Social Sciences*

Kefela GT "Regulatory Challenges Strategically Enhance Banking Efficiency and Stability: The Study of East African Countries" 2008 *Indus Journal of Management and Social Sciences* 129

Kelso 1997 *Pepperdine Law Review*

Kelso R "Statutory Interpretation Doctrine on the Modern Supreme Court and Four Doctrinal Approaches to Judicial Decision-Making" 1997 *Pepperdine Law Review* 37-66

Kim 2016 *Journal of Corporation Law*

Kim H "Financial Regulation and Supervision in Corporate Governance of Banks" 2016 *Journal of Corporation Law* 707-726

Kim and Muldoon 2015 *Journal of Applied Business and Economics*

Kim S and Muldoon C "The Dodd-Frank Wall Street Reform and Consumer Protection Act: Accomplishments and Shortcomings" 2015 *Journal of Applied Business and Economics* 92-107

King and Tarbert "Basel III: An Overview" *Banking and Financial Services*

King P and Tarbert H "Basel III: An Overview" *Banking and Financial Services* (5 May 2011) 1-19

Koziol 2022 *South African Journal of Sciences*

Koziol T "How Vulnerable are Interconnected Portfolios of South African Banks? 2022 *South African Journal of Sciences* 101-106

Khan "Bank Failures in South Africa 'Where Have We Gone Wrong'? An Area of Concern for South Africans"

Khan OM "Bank Failures in South Africa 'Where Have We Gone Wrong'? An Area of Concern for South Africans" in Delener N, Fuxman L, Lu FV, Rodrigues S and Rivera L *Global Business and Technology Association: Globalising Business for the Next Century: Visualising and Developing Contemporary Approaches to Harness Future Opportunities* (2013 Global Business and Technology Association USA) 479-483

Krishnakumar 2010 *Hastings Law Journal*

Krishnakumar AS "Statutory Interpretation in the Roberts Court's First Era: An Empirical and Doctrinal Analysis" 2010 *Hastings Law Journal* 221-296

Kroszner and Strahan "Regulation and Deregulation of the US Banking Industry: Causes, consequences, and Implications for the Future"

Kroszner RS and Strahan PE "Regulation and Deregulation of the US Banking Industry: Causes, consequences, and Implications for the Future" in Rose NL Economic *Regulation and Its Reform: What Have We Learned?* (University of Chicago Press USA 2014) 485-543

Kudanga *et al* 2022 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy*

Kudanga D, Mthombeni A, Chinongwa E, Singende M, Tshuma E and Tembo EB "The Role of Technology in Evidence Gathering for Cases of Fraud: Case of Bulawayo Central Business District, Zimbabwe" 2022 *Lighthouse: The*

Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy 21-41

Kurauone *et al* 2021 *Journal of Finance Crime*

Kurauone O, Kong Y, Mago S, Sun H, Famba T and Muzambindo S "Tax Evasion, Political/Public Corruption and Increased Taxation: Evidence from Zimbabwe" 2021 *Journal of Finance Crime* 300-319

Kurebwa 2011 *Journal of Emerging Trends in Economics and Management Sciences*

Kurebwa J "Organisational Downsizing and Its Impact on Leavers and Survivors: The Case of the Reserve Bank of Zimbabwe" 2011 *Journal of Emerging Trends in Economics and Management Sciences* 264-269

Kupakuwana *Sustainable Retail Banking and Asset Management: Lessons from Challenges Faced by Entrepreneurs in African Economies. Entrepreneurship: Gender, Geographies and Social Context*

Kupakuwana PS *Sustainable Retail Banking and Asset Management: Lessons from Challenges Faced by Entrepreneurs in African Economies. Entrepreneurship: Gender, Geographies and Social Context* (2012 InTech, Croatia)

Kushmeider 2005 *FDIC Banking Review*

Kushmeider RM "The U.S. Federal Financial Regulatory System: Restructuring Federal Bank Regulation" 2005 *FDIC Banking Review* 1-30

Kusi *et al* 2021 *Journal of Financial Economic Policy*

Kusi BA, Agbloyor EK, Simplice AA and Abor J "Foreign Bank and Banking Stability in Africa: Does Strong and Weak Corporate Governance Systems under Different Regulatory Regimes Matter?" 2021 *Journal of Financial Economic Policy* 207-241

Lastra 2008 *Journal of Banking Regulations*

Lastra RM "Northern Rock, UK Bank Insolvency and Cross-Border Bank Insolvency" 2008 *Journal of Banking Regulations* 165-186

Lastra "Systemic Risk and Macro-Prudential Supervision"

Lastra RM "Systemic Risk and Macro-Prudential Supervision" in Moloney N, Ferran E and Payne J *The Oxford Handbook of Financial Regulation* (1st ed 2015 Oxford University Press United Kingdom)

Lave 2014 *Fields of Knowledge: Science and Politics in the Neoliberal Age Political Power and Social Theory*

Lave R "Neoliberal Confluences: The Turbulent Evolution of Stream Mitigation Banking in the US" 2014 *Fields of Knowledge: Science and Politics in the Neoliberal Age Political Power and Social Theory* 55-88

Lawa, Zogli and Dhlamini 2017 *Journal of Economics*

Lawa E, Zogli LKJ and Dhlamini BI "The Determinants of Bank Performance in South Africa: A Panel Data Analysis" 2017 *Journal of Economics* 94-108

Lessambo *The U.S Banking System: Laws, Regulations, and Risk Management*

Lessambo FI *The U.S Banking System: Laws, Regulations, and Risk Management* (Palgrave Macmillan USA 2020)

Lessambo *The International Banking System*

Lessambo F *The International Banking System: Capital Adequacy, Core Businesses and Risk Management* (Palgrave Macmillan New York 2013)

Leukes and Mensah 2019 *African Review of Economics and Finance*

Leukes C and Mensah JO "Systemic Risk Contribution of Financial Institutions in South Africa" 2019 *African Review of Economics and Finance* 188-218

Llewellyn 2009 *SUERF-The European Money and Finance Forum Vienna*

Llewellyn DT "The Northern Rock Crisis: A Multi-Dimensional Problem" 2009 *SUERF-The European Money and Finance Forum Vienna* 13-31

Lui 2011 *Journal of Banking Regulation*

Lui A "Single or Twin? The UK Financial Regulatory Landscape Crisis of 2007-2009" 2011 *Journal of Banking Regulation* 24-35

Lyu *et al* 2024 *Finance and Economics*

Lyu S, Lu T, Sang D and Kang S "The Effects of Collapsion of Silicon Vally Bank on JP Morgan and Signature Banks Stock" 2024 *Finance and Economics* 1-11

Mabvure *et al* 2012 *Interdisciplinary Journal of Contemporary Research in Business*

Mabvure TJ, Gwangwava E, Faitira M, Mutibvu C and Kamoyo M "Non-performing Loans in Commercial Banks: A Case of CBZ Bank Limited in Zimbabwe" 2012 *Interdisciplinary Journal of Contemporary Research in Business* 467-488

Mabwe and Robert 2010 *African Review of Economics and Finance*

Mabwe K and Robert W "A Financial Ratio Analysis of Commercial Bank Performance in South Africa" 2010 *African Review of Economics and Finance* 30-53

Machirinani *et al* 2020 *EPRA International Journal of Economics, Business and Management Studies*

Machirinani S, Shoko T, Shoko J, Dube SDG and Nyoni T "Evaluating the Effectiveness of the Macroprudential Policy and its Interaction with the Monetary in Zimbabwe (2009-2017)" 2020 *EPRA International Journal of Economics, Business and Management Studies* 17

Madimu and Msindo 2019 *African Economic History*

Madimu T and Msindo E "Towards Banking Inclusion? The Post Office Savings Bank (POSB) in Southern Rhodesia, 1905-1945" 2019 *African Economic History* 54-91

Magweva 2023 *African Journal of Business and Economic Research*

Magweva R "Multiple Currency System and Commercial Bank Deposit Mobilisation in Zimbabwe" 2023 *African Journal of Business and Economic Research* 35-52

Magweva and Mashamba 2016 *Financial Assets and Investments*

Magweva R and Mashamba T "Stock Market Development and Economic Growth: An Empirical Analysis of Zimbabwe (1989-2014)" 2016 *Financial Assets and Investments* 20-36

Makena 2021 *African Economic Research Consortium*

Makena P "Banking Industry Competition and Stability in Zimbabwe" 2021 *African Economic Research Consortium* 1-12

Makoto, Rwaveya and Maphosa 2010 *Journal of Strategic Studies*

Makoto R, Rwaveya E and Maphosa N "Bank Capital Regulation, Bank Capital and Risk-Taking: An Analysis of Commercial Banks in Zimbabwe" 2010 *Journal of Strategic Studies* 16-36

Makumbe, Sunge and Zivanomoyo 2020 *African Finance Journal*

Makumbe C, Sunge R and Zivanomoyo J "Zimbabwean Commercial Banks Performance under Multiple-Currency System: A Dynamic Panel Data Analysis" 2020 *African Finance Journal* 40-51

Malloy 2000 *The Journal of Corporate Law*

Malloy MP "Banking in the Twenty-First Century" 2000 *The Journal of Corporate Law* 788-830

Manungo *et al* 2021 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy*

Manungo G, Mpahlo R, Ndhlovu F and Chirisa I "Structure, Function and Performance of the Financial Services Sector in Zimbabwe since 1980" 2021 *Lighthouse: The Zimbabwe Ezekiel Guti University Journal of Law, Economics and Public Policy* 41-64

Masera "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates"

Masera R "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" in Arcelli F and Masera R *Elements of Board Governance in Banking and Financial Companies* (Rubbettino Editore 2020)

Masiyandima 2017 *Development Finance Agenda*

Masiyandima N "Monetary Policy Innovation and Bank Lending Under Dollarisation: The Case of Zimbabwe" 2017 *Development Finance Agenda* 22-23

Matanda 2015 *International Review of Research in Emerging Markets and the Global Economy*

Matanda E "Threats and Opportunities Facing Banking Institutions in Emerging Economies in their Desire to Adopt and Implement the Basel II Capital Accord: A Case Study of the Zimbabwean Economy in Dollarization Era" 2015 *International Review of Research in Emerging Markets and the Global Economy* 441- 454

Matanda, Dube and Madzokere 2018 *Journal of Modern Accounting and Auditing*

Matanda E, Dube H and Madzokere N "Blessing or Curse? Introduction of Bond Notes as an Antidote to Zimbabwe's Liquidity Crises" 2018 *Journal of Modern Accounting and Auditing* 252-264

Maune 2015 *Risk Governance and Control: Financial Markets and Institutions*

Maune A "A Talmudic Perspective of the Zimbabwean Banking Crises of 2004/2005" 2015 *Risk Governance and Control: Financial Markets and Institutions* 104-113

Maune, Matanda and Mundonde 2020 *Acta Universitatis Danubius Economica*

Maune A, Matanda E and Mundonde J "Does Financial Inclusion Cause Economic Growth in Zimbabwe? An Empirical Investigation" 2020 *Acta Universitatis Danubius Economica* 195-215

Mavengere 2015 *International Journal of Management Sciences and Business Research*

Mavengere K " Prediction Corporate bankruptcy and Earnings Manipulation using the Altman Z-score and Beneish M-score. The Case of Z Manufacturing Firm in Zimbabwe" 2015 *International Journal of Management Sciences and Business Research* 8-14

Mawanza and Muredzi 2017 *Journal of Finance and Bank Management*

Mawanza W and Muredzi V "An Evaluation of the Agency Banking Model Adopted by Zimbabwean Commercial Banks" 2017 *Journal of Finance and Bank Management* 58-66

Maweru and Kalani 2009 *Global Journal of Finance and Banking Issues*

Maweru NM and Kalani VM "Commercial Banking Crises in Kenya: Causes and Remedies 2009 *Global Journal of Finance and Banking Issues* 23-43

Mayer "Economic Development, Financial Systems, and the Law"

Mayer C "Economic Development, Financial Systems, and the Law" in Moloney N, Ferran E and Payne J *The Oxford Handbook of Financial Regulation* 1st ed (Oxford University Press United Kingdom 2015)

Mayes and Wood 2009 *SUERF-The European Money and Finance Forum Vienna*

Mayes DG and Wood G "The Northern Rock Crisis in the UK" 2009 *SUERF-The European Money and Finance Forum Vienna* 35-47

Menand and Ricks 2021 *The University of Chicago Law Review*

Menand L and Ricks M "Federal Corporate Law and the Business of Banking" 2021 *The University of Chicago Law Review* 1361-1418

Metrick 2024 *Journal of Economic Perspectives*

Metrick A "The Failure of Silicon Valley Bank and the Panic of 2023" 2024 *Journal of Economic Perspectives* 133-152

Min 2018 *Peking University Law Journal*

Min J "Basel Revisited: An Assessment of the Legitimacy and Effectiveness of the Basel Framework" 2018 *Peking University Law Journal* 323-369

Mintz 2015 *Research on Professional Responsibility and in Accounting*

Mintz S "Whistleblowing Considerations for External Auditors under Dodd-Frank: A Blueprint for Future Research" *2015 Research on Professional Responsibility and in Accounting* 99-128

Mugarura and 2020 *Journal of Money Laundering Control*

Mugarura N and Namanya P "Supervisory Mandate of Central Banks and the Spate of Bank Failures: Who is to Blame? 2020 *Journal of Money Laundering Control* 341-354

Mbizi 2012 *International Journal of Independent Research and Studies*

Mbizi R "An Analysis of the Impact of Minimum Capital Requirements on Commercial Bank Performance in Zimbabwe" 2012 *International Journal of Independent Research and Studies* 124-134

McKnight 2009 *Law and Financial Markets Review*

McKnight A "The Banking Act 2009" 2009 Law and Financial Markets Review 325-332

Mhishi and Khumalo 2019 *Banks and Bank Systems*

Mhishi S and Khumalo SA "Bank Stability in South Africa: What Matters?" 2019 *Banks and Bank Systems* 122-136

Mlambo and Mupunga 2018 *The African Finance Journal*

Mlambo K and Mupunga N "Assessment of Competition in the Zimbabwean Banking Sector since Dollarisation" 2018 *The African Finance Journal* 1-23

Mlambo and Masiyandima 2019 *Business and Management Research*

Mlambo K and Masiyandima N "Corporate Governance Factors, Capital Regulation and Bank Risk Taking in Zimbabwe" 2019 *Business and Management Research* 39-52

Mlambo, Mapondera and Tenderere 2015 *International Business and Economic Research Journal*

Mlambo C, Mapondera D and Tenderere M "Barriers and Challenges Restraining Zimbabwean Banks in Going Multinational" 2015 *International Business and Economic Research Journal* 297-308

Mokatsanyane, Muzindutsi and Viljoen 2017 *Acta Universitatis Danubius Economica*

Mokatsanyane D, Muzindutsi PF and Viljoen D "Credit Risk and Securitisation in the South African Banking Sector" 2017 *Acta Universitatis Danubius Economica* 102-121

Mora and Logan 2012 *Applied Economics*

Mora N and Logan A "Shocks to Bank Capital: Evidence from UK Banks at Home and Away" 2012 *Applied Economics* 1103-1119

Moyo 2018 *South African Journal of Economic and Management Sciences*

Moyo B "An Analysis of Competition, Efficiency and Soundness in the South African Banking Sector" 2018 *South African Journal of Economic and Management Sciences* 1-14

Moyo *et al* 2019 *International Journal of Finance and Banking Studies*

Moyo IL, Gumbo V, Chikodza E and Jones B "An Empirical Study on the Factors Influencing the Performance of Financial Institutions Zimbabwe" 2019 *International Journal of Finance and Banking Studies* 1-20

Mpofu and Matsika 2013 *Zimbabwe Economic Policy Analysis and Research Unit*

Mpofu S and Matsika W "Contributions and Challenges Facing the Financial Sector in Zimbabwe" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1-50

Mugozhi and Ngirazi 2016 *GSTF Journal on Business Review*

Mugozhi F and Ngirazi A "An Assessment of the Application and the Corporate Failure Predictive Value of Altman's Z-Score Model in Zimbabwe" 2016 *GSTF Journal on Business Review* 64-74

Mugwati, Nkala and Mukanganiki 2013 *Asian Economic and Financial Review*

Mugwati MZ, Nkala D and Mukanganiki C "The Composition and Regulation of the Financial Services Sector in Zimbabwe" 2013 *Asian Economic and Financial Review* 483-489

Mukanga 2017 *Business and Social Sciences Journal*

Mukanga ET "A Neural Networks Adoption Framework for Predicting Stock Market Trends: Case of Zimbabwe Stock Exchange" 2017 *Business and Social Sciences Journal* 27-60

Mukarati, Jeke and Abel 2023 *International Journal of Economics and Finance Studies*

Mukarati J, Jeke L and Abel S "Competition in the Non-life Insurance Industry" 2023 *International Journal of Economics and Finance Studies* 225-245

Munangagwa 2009 *Gettysburg Economic Review*

Munangagwa CL "The Economic Decline of Zimbabwe" 2009 *Gettysburg Economic Review* 108-129

Munangi and Sibindi 2020 *Academic of Accounting and Financial Studies Journal*

Munangi E and Sibindi AB "An Empirical Analysis of the Impact of Credit Risk on the Financial Performance of South African Banks" 2020 *Academic of Accounting and Financial Studies Journal* 1-15

Munjeyi 2017 *Research Journal of Finance and Accounting*

Munjeyi E "The Impact of Legal and Regulatory Framework on SMEs Development: Evidence from Zimbabwe" 2017 *Research Journal of Finance and Accounting* 133-139

Munoangira and Kaja 2016 *European Journal of Business and Management*

Munoangira A and Kaja P "Strategies to Enhance Public Confidence in the Zimbabwean Banking Sector" 2016 *European Journal of Business and Management* 195-210

Munzara 2015 *IOSR Journal of Business and Management*

Munzara AT "The Consequences of Implementing the Indigenisation and Economic Empowerment Policy Framework on the Banking Sector in Zimbabwe" 2015 *IOSR Journal of Business and Management* 55-57

Munyanyi 2017 *Munich Personal RePEc Archive*

Munyanyi ME "The Dynamic Relationship Financial Development and Economic Growth: New Evidence from Zimbabwe" 2017 *Munich Personal RePEc Archive* 1

Munyoro *et al* 2022 *International Journal of Economics and Management Studies*

Munyoro G, Kusema W, Chimusakasa W and Zingunde M "The Contribution of Entrepreneurial Culture on Corporate Performance in the Banking Sector in Zimbabwe: A Case Study of African Century Bank" 2022 *International Journal of Economics and Management Studies* 21-34

Muradoglu 2010 *Qualitative Research in Financial Markets*

Muradoglu YG "The Banking and Financial Crisis in the UK: What is Real and What is Behavioural? " 2010 *Qualitative Research in Financial Markets* 6-15

Murphy 2013 *Congressional Research Service*

Murphy EV "Who Regulates Whom and How? An Overview of U.S. Financial Regulatory for Banking and Securities Markets" 2013 *Congressional Research Service* 1-51

Musikavanhu, Matandare and Zhou 2018 *Research Journal of Finance and Accounting*

Musikavanhu LK, Matandare MA and Zhou N "Ownership Structure and Bank Performance in Zimbabwe" 2018 *Research Journal of Finance and Accounting* 45-54

Mutandare 2017 *International Journal of Scientific Research in Science and Technology*

Mutandare MA "An Analysis of the Role of the Agriculture Sector: Case of Zimbabwe" 2017 *International Journal of Scientific Research in Science and Technology* 1255-1263

Mutarindwa, Schafer and Stephan 2020 *Emerging Markets Review*

Mutarindwa S, Schafer D and Stephan A "Central Banks' Supervisory Guidance on Corporate Governance and Bank Stability: Evidence from African Countries" 2020 *Emerging Markets Review* 1-19

Mutsonziwa and Maposa 2016 *International Journal of Finance Management*

Mutsonziwa K and Maposa OK "Mobile Money – A Catalyst for Financial Inclusion in Developing Economies: A Case Study of Zimbabwe using FinScope Survey Data" 2016 *International Journal of Finance Management* 45-56

Muranda 2006 *Corporate Governance*

Muranda Z "Financial Distress and Corporate Governance in Zimbabwean Banks" 2006 *Corporate Governance* 643-654

Muvingi and Hotera 2015 *Journal of Data Envelopment Analysis and Decision Science*

Muvingi J and Hotera S "Zimbabwe Commercials Banks Efficiency and Productivity Analysis through DER Malmquist Approach: 2002-2012" 2015 *Journal of Data Envelopment Analysis and Decision Science* 32-49

Muyambiri and Odhiambo 2014 *Public and Municipal Finance*

Muyambiri B and Odhiambo NM "A Chronological Analysis of Monetary Policy and the Financial System in South Africa" 2014 *Public and Municipal Finance* 19-29

Muzari *et al* 2013 *Journal of Agricultural Economics and Development*

Muzari W, Mutambara J, Mufudza T and Gwata CC "The Role, Potential and Constraints to Development of Rural Financial Markets in Zimbabwe" 2013 *Journal of Agricultural Economics and Development* 166-174

Mwatasera *et al* 2022 *Journal of Economics, Business and Accountancy Ventura*

Mwatetsera A, Sandada M, Chuchu T and Maziriri ET "An Empirical Assessment of Success Factors Boosting Zimbabwean Banking Consumer Confidence" 2022 *Journal of Economics, Business and Accountancy Ventura* 440-447

Ncube and Okeke-Uzodike 2015 *Journal of African Affairs*

Ncube C and Okeke-Uzodike U "Understanding Illicit Financial Flows in Post-2000 Zimbabwe" 2015 *Journal of African Affairs* 93-112

Ndlovu 2013 *International Journal of Economics and Financial Issues*

Ndlovu G "Financial Sector Development and Economic Growth: Evidence from Zimbabwe" 2013 *International Journal of Economics and Financial Issues* 435-446

Ndlovu and Ndlovu 2013 IOSR *Journal of Humanities and Social Science*

Ndlovu and Sigola 2013 *The International Journal of Engineering and Science*

Ndlovu I and Sigola M "Benefits and Risks of E-Banking: Case of Commercial Banking in Zimbabwe" 2013 *The International Journal of Engineering and Science* 34-40

Ndlovu and Ndlovu 2013 IOSR *Journal of Humanities and Social Science*

Ndlovu I and Ndlovu M "Mobile Banking the Future to Rural Financial Inclusion: Case Study of Zimbabwe" 2013 IOSR *Journal of Humanities and Social Science* 70-75

Ndhlovu *et al* 2013 *Journal of Emerging Trends in Economics and Management Sciences*

Ndhlovu MW, Bhiri T, Mutambanadzo T and Hlahla BP "A Comparative Analysis of the Corporate Governance Practices in Multinational and Domestic Banks in Zimbabwe" 2013 *Journal of Emerging Trends in Economics and Management Sciences* 473-480

Ngalawa 2012 *J.Stud.Econometrics*

Ngalawa HPE "Banking Instability and Deposit Insurance in Low Income Countries" 2012 *J.Stud.Econometrics* 1-24

Ngoma 2019 *International Journal for Innovative Research in Multidisciplinary Field*

Ngoma G "Financial Inclusion and its Determinants in Zimbabwe" 2019 *International Journal for Innovative Research in Multidisciplinary Field* 78-87

Ngonyama and Simatele 2020 *African Finance Journal*

Ngonyama N and Simatele M "Structure and Market Power in the South African Banking Sector" 2020 *African Finance Journal* 22-39

Nkomo *et al* 2013 *International Journal of Marketing and Technology*

Nkomo F, Mafuka A, Mafumbate J and Charumbira M "An Analysis of the Causes of Bank Fragility in Zimbabwe (2003-2005) " 2013 *International Journal of Marketing and Technology* 1-15

Nhavira 2018 *Journal of Strategic Studies*

Nhavira JDG "Comparison of Management Fees in Zimbabwe with those Provided by the International Organisation of Pension Supervisors" 2018 *Journal of Strategic Studies* 41-67

Nhavira 2017 *Journal of Strategic Studies*

Nhavira JDG "Examining the Effect of Financial Sector Development on Zimbabwe's Economic Growth 1980-2014" 2017 *Journal of Strategic Studies* 22-35

Nhavira 2017 *Journal of Strategic Studies*

Nhavira JDG "How competitive is Zimbabwe's Financial Services Sector?" 2017 *Journal of Strategic Studies* 57-89

Nhavira and Mudhunguyo 2015 *Journal of Strategic Studies*

Nhavira JDG and Mudhunguyo C "A Minskyan Analysis of Zimbabwe's Deflationary Episode" 2015 *Journal of Strategic Studies* 43-78

Nhavira and Ocran 2012 *Journal of Strategic Studies*

Nhavira JDG and Ocran MK "Did the Reserve Bank of Zimbabwe Charter Contribute to Hyperinflation? A Critical Review" 2012 *Journal of Strategic Studies* 9-50

Nhavira, Mudzonga and Mugocha 2013 *Zimbabwe Economic Policy Analysis and Research Unit*

Nhavira JDG, Mudzonga E and Mugocha E "Financial Regulation and Supervision in Zimbabwe: An Evaluation of Adequacy and Options" 2013 *Zimbabwe Economic Policy Analysis and Research Unit* 1-76

Nhuta 2014 *International Journal of Research in Social Science*

Nhuta S "Recapitalisation Strategies Employed by Commercial Banks in Zimbabwe" 2014 *International Journal of Research in Social Science* 22-25

Njanike 2009 *Annals of the University of Petrosani, Economics*

Njanike K "The Impact of Effective Credit Risk Management on Bank Survival" 2009 *Annals of the University of Petrosani, Economics* 173-184

Njanike 2010 *Annals of the University of Petrosani, Economics*

Njanike K "Central Bank Independency on the Development of the Financial Sector. A Case of Reserve Bank of Zimbabwe (1998-2008)" 2010 *Annals of the University of Petrosani, Economics* 251-264

Nolle 2012 *Journal of Financial Economic Policy*

Nolle DE "Global Financial System Reform: the Dodd-Frank Act and the G20 Agenda" 2012 *Journal of Financial Economic Policy* 160-197

Noko 2011 *Cato Journal*

Noko J "Dollarisation: The Case of Zimbabwe" 2011 *Cato Journal* 339-365

Nyamunda 2017 *The Journal of Imperial and Commonwealth History*

Nyamunda T "Money, Banking and Rhodesia's Unilateral Ratio of Independence" 2017 *The Journal of Imperial and Commonwealth History* 746-776

Nyamunda 2017 *African Economic History*

Nyamunda T "British Sterling Imperialism, Settler Colonialism and the Political Economy of Money and Finance in Southern Rhodesia, 1945 to 1962" 2017 *African Economic History* 77-109

Nyangara, Nyangara and Mazviona 2014 *International Journal of Economics and Management Sciences*

Nyangara D, Nyangara MR and Mazviona BW "An Essay on the Ethical and Corporate Governance Issues in the 2003/4 Zimbabwean Banking Crisis" 2014 *International Journal of Economics and Management Sciences* 1-5

Nyakurukwa and Seetharam 2023 *Qualitative Research in Financial Markets*

Nyakurukwa K and Seetharam Y "Corporate Governance in a Weak Legal Environment: A Systematic Review Focusing on Zimbabwe" 2023 *Qualitative Research in Financial Markets* 319-335

Nyaude "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe".

Nyaude AB "Exploring the Legal Protection of Bank Depositors as an Instrument for Promoting Financial Inclusion in Zimbabwe" In Chitimira H and Warikandwa TV (eds) *Financial Inclusion Regulatory Practices in SADC: Addressing Prospects and Challenges in the 21st Century* (New York Routledge 2023).

Nyaude AB and Van Heerden C "Bank Resolution in South Africa: Recent Developments" 2024 *International Insolvency Review* 182

Nyaude AB and Van Heerden C "Bank Resolution in South Africa: Recent Developments" 2024 *International Insolvency Review* 182-204

Nyoka 2015 *Banks and Bank Systems*

Nyoka C "Banks and Fallacy of Supervision: The Case of Zimbabwe" 2015 *Banks and Bank Systems* 8-17

Nyoni 2018 *International Journal of Marketing and Financial Management*

Nyoni T "Information Asymmetry in the Banking Sector: A Zimbabwean Scenario" 2018 *International Journal of Marketing and Financial Management* 45-51

Nyoni and Bonga 2017 *Dynamic Research Journal - Journal of Economics and Finance*

Nyoni T and Bonga WG "Cashless Transacting Economy: A Necessary Evil for Development! A Zimbabwean Scenario! " 2017 *Dynamic Research Journal - Journal of Economics and Finance* 1-10

Nzaro, Njanike and Jaravani 2013 *Global Advanced Research Journal of Management and Business Studies*

Nzaro R, Njanike K and Jaravani U "Impact of Regulation Policy on Product and Service Delivery of Micro-Financial Institutions: A Case of Zimbabwe" 2013 *Global Advanced Research Journal of Management and Business Studies* 429-438

Ouenniche and Carrales 2018 *Annals of Operations Research*

Ouenniche J and Carrales S "Assessing Efficiency Profiles of UK Commercial Banks: A DEA Analysis with Regression-based Feedback 2018 *Annals of Operations Research* 551-587

Ofari-Sasu *et al* 2021 *Review of Development Finance*

Ofari-Sasu D, Agbloyor EK, Kuttu S and Abor JY "Bank Governance, External Regulations and Risk-Taking Behaviours of Banks in Africa" 2021 *Review of Development Finance* 71-93

Ojiako *et al* 2013 *African Development Review*

Ojiako U, Manungo T, Chipulu M and Johnson J "The Impact of Regulation on Risk Perception: Evidence from Zimbabwean Banking Industry" 2013 *African Development Review* 276-288

Okeahalam 1998 *African Journal of Political Sciences*

Okeahalam CC "The Political Economy of Bank Failure and Supervision in the Republic of South Africa" 1998 *African Journal of Political Sciences* 29-48

Omarova and Tahyar 2011 *Review of Banking and Financial Law*

Omarova ST and Tahyar ME "That Which We Call A Bank: Revisiting the History of Bank Holding Company Regulation in the United States" 2011 *Review of Banking and Financial Law* 113-198

Omer 2023 *International Journal of Economics and Financial Research*

Omer OA "SVB Failure: Causes and Results on Banking Industry" 2023 *International Journal of Economics and Financial Research* 9-19

Otekunrin *et al* 2021 *Asian Economic and Financial Review*

Otekunrin AO, Matowanyika K, Makurumidze S, Bhebhe T and Sifile O "Saving Practices and Economic Performance: A Zimbabwean Case 1980-2015" 2021 *Asian Economic and Financial Review* 118-128

Otusanya 2010 *International Academy of African Business and Development*

Ousanya OJ "The Nigerian Banking Crisis: Accounting for Auditors" 2010 *International Academy of African Business and Development* 62-81

Ouenniche and Carrales 2018 *Analytical Models for Financial Modelling and Risk Management*

Ouenniche J and Carrales S "Assessing efficiency Profiles of UK Commercial Banks: A DEA Analysis with Regression-Based Feedback" 2018 *Analytical Models for Financial Modelling and Risk Management* 551-587

Pan 2012 *Utah Law Review*

Pan EJ "Understanding Financial Regulation" 2012 *Utah Law Review* 1897-1948

Partnoy "Financial Systems, Crises, and Regulation"

Partnoy F "Financial Systems, Crises, and Regulation" in Moloney N, Ferran E and Payne J *The Oxford Handbook of Financial Regulation* 1st ed (Oxford University Press United Kingdom 2015)

Pasara and Garidzirai 2020 *Economies*

Pasara MT and Garidzirai R "The Boomerang Effects: An Analysis of the Pre and Post Dollarisation Era in Zimbabwe" 2020 *Economies* 1-20

Penn and Measor 2009 *Law and Financial Markets Review*

Penn B and Measor D "A Guide to the Banking Bill 2008" 2009 *Law and Financial Markets Review* 34-40

Petracci and Rammal 2014 *Journal of Financial Services Marketing*

Petracci B and Rammal HG "Developing the Islamic Financial Services Sector in Italy: An Institutional Theory Perspective" 2014 *Journal of Financial Services Marketing* 198-207

Pigott "Regulatory and other Changes in the UK Banking Market"

Pigott HS "Regulatory and other Changes in the UK Banking Market" in *Current Legal Issues Affecting Central Banks* (International Monetary Fund 1994) 101-118

Pikirayi 2006 *Journal of Southern African Studies*

Pikirayi I "The Kingdom, the Power and Forevermore: Zimbabwe Culture in Contemporary Art and Architecture" 2006 *Journal of Southern African Studies* 754-770

Pfingsten and Woyand "Banking Regulation and Banking Supervision: Current Structure and Challenges"

Pfingsten A and Woyand C "Banking Regulation and Banking Supervision: Current Structure and Challenges" in Bergener K, Rackers M and Stein A

The Art of Structuring Bridging the Gap between Information Systems Research and Practice (Springer Nature Switzerland 2019) 439-450

Pfumorodze and Nzonzo 2010 *Indian Journal of Corporate Governance*

Pfumorodze J and Nzonzo JC "Some Reflections on Corporate Governance in the Banking Sector in Zimbabwe" 2010 *Indian Journal of Corporate Governance* 51-64

Proctor 1997 *Brooklyn Journal of International Law*

Proctor L "The Barings Collapse: A Regulatory Failure or a Failure of Supervision" 1997 *Brooklyn Journal of International Law* 735-766

Qumba 2022 *The South African Law Journal*

Qumba MF "A Comparative Analysis of the Twin Peaks Model of Financial Regulation in South Africa and the United Kingdom" 2022 *The South African Law Journal* 78-113

Ramsarghey and Hardman 2020 *Southern African Journal of Accountability and Auditing Research*

Ramsarghey K and Hardman SG "The Auditing Profession's Role in Terms of Accountability: A South African Perspective" 2020 *Southern African Journal of Accountability and Auditing Research* 39-49

Rawlins and Zanforlin *Resolving Bank Failures and Institutions: Is There a Link? Some Empirical Evidence*

Rawlins M and Zanforlin L *Resolving Bank Failures and Institutions: Is There a Link? Some Empirical Evidence* (International Monetary Fund 2021)

Richard 2010 *Moving Africa Towards Sustainable Growth and Technological Development Emmanuel Obuah*

Richard E "Factors that Cause Non-performing Loans in Commercial Banks in Tanzania and Strategies to Resolve Them" 2010 *Moving Africa towards Sustainable Growth and Technological Development Emmanuel Obuah* 16-24

Rose 2021 *Journal of Financial Regulation and Compliance*

Rose KJ "Non-compliance Behavior of De-risking Force the EU to Enhance Anti-money Laundering Regulation" 2021 *Journal of Financial Regulation and Compliance* 477-490

Rose and Wieladek 2012 *Journal of International Money and Finance*

Rose AK and Wieladek T "Too Big to Fail: Some Empirical Evidence on the Causes and Consequences of Public Banking Interventions in the UK" 2012 *Journal of International Money and Finance* 2038-2051

Rossouw *South African Reserve Bank: History, Functions, and Institutional Structure*

Rossouw J *South African Reserve Bank: History, Functions, and Institutional Structure* (1st ed South African Reserve Bank Pretoria 2009)

Rossouw 2011 *Economic History of Developing Regions*

Rossouw J "A Selective Reflection on the Institutional Development of the South African Reserve Bank since 1921" 2011 *Economic History of Developing Regions* S3-S20

Samakovitis 2012 *Journal of Technology Research*

Samakovitis G "UK Banking Experts as Decision-makers: A Historical View on Banking Technologies" 2012 *Journal of Technology Research* 1-20

Sanderson, Mare and De Jongh 2017 *South African Journal of Science*

Sanderson LB, Mare E and De Jongh DCJ "Banking Regulations: An Examination of the Failure of African Bank using Merton's Structural Model" 2017 *South African Journal of Science* 15-22

Sakarombe 2018 *International Journal of Academic Research in Economics and Management Sciences*

Sakarombe U "Financial Inclusion and Bank Stability in Zimbabwe" 2018 *International Journal of Academic Research in Economics and Management Sciences* 121-138

Saungweme, Ricardo and Pradeep 2013 *African Journal of Business Management*

Saungweme PW, Ricardo P and Pradeep B "A Framework for Combating Insider Trading on Developing Stock Exchanges: Evidence from the Zimbabwean Stock Exchange" 2013 *African Journal of Business Management* 1630-1639

Sun, Mohamad and Ariff 2017 *Pacific-Basin Finance Journal*

Sun PH, Mohamad S and Ariff M "Determinants Driving Bank Performance: A Comparison of Two Types of Banks in the OIC" 2017 *Pacific-Basin Finance Journal* 193-203

Scott *International Finance: Law and Regulation*

Scott HS *International Finance: Law and Regulation* 2nd ed (Sweet & Maxwell Limited London 2008)

Scott *International Finance: Law and Regulation*

Scott HS *International Finance: Law and Regulation* (Sweet and Maxwell London 2004)

Schooner and Taylor 1999 *Michigan Journal of International Law*

Schooner HM and Taylor M "Convergence and Competition: The Case of Bank Regulation in Britain and the United States" 1999 *Michigan Journal of International Law* 595-665

Schoenmaker and Veron 2018 *Papers.ssrn.com*

Schoenmaker D and Veron N "A Twin Peaks Vision for Europe" 2018 *Papers.ssrn.com* 1-12

Shabir *et al* 2024 *International Review of Economics and Finance*

Shabir M, Jiang P, Shahab Y, Wang W, Isik O and Mehroush I "Diversification and Bank Stability: Role of Political Instability and Climate Risk" 2024 *International Review of Economics and Finance* 63-92

Shakdwipee and Mehta 2017 *International Journal of New Technology and Research*

Shakdwipee P and Mehta M " From Basel I to Basel II to Basel III" 2017 *International Journal of New Technology and Research* 66-70

Shambare 2013 *International Journal of Business and Economic Development*

Shambare R "Technology Readiness and EFTPoS Usage in Zimbabwe" 2013 *International Journal of Business and Economic Development* 13-22

Sibanda and Mhlanga 2013 *Journal of Global Business and Technology*

Sibanda M and Mhlanga R "Transformation of the Zimbabwean Banking Industry: Evidence from the Lifecycle Model" 2013 *Journal of Global Business and Technology* 44-52

Sibindi and Bimha 2014 *Banks and Bank Systems*

Sibindi AB and Bimha A "Banking Sector Development and Economic Growth: Evidence from Zimbabwe" 2014 *Banks and Bank Systems* 51-58

Singh 2011 *Journal of Business Law*

Singh D "The UK Banking Act 2009, Pre-insolvency and Early Intervention: Policy and Practice" 2011 *Journal of Business Law* 1-32

Simatele and Mbedzi 2021 *Cogent Economics and Finance*

Simatele M and Mbedzi E "Consumer Payment Choices, Costs, and Risks: Evidence from Zimbabwe" 2021 *Cogent Economics and Finance* 1-23

Simbanegavi, Greenberg and 2015 *Journal of African Economies*

Simbanegavi W, Greenberg JB and Gwatidzo T "Testing for Competition in the South African Banking Sector" 2015 *Journal of African Economies* 303-324

Simwayi and Haseed 2012 *Journal of Money Laundering Control*

Simwayi M and Haseed M "The Role of Financial Intelligence Units in Combating Money Laundering: A Comparative Analysis of Zambia, Zimbabwe and Malawi" 2012 *Journal of Money Laundering Control* 112-134

Singh 2012 *Banking Regulations of UK and US Financial Markets*

Singh D *Banking Regulations of UK and US Financial Markets* (Ashgate Publishing Ltd 2012)

Singleton and Verhoef 2010 *Business History*

Singleton J and Verhoef G "Regulation, Deregulation, and Internationalisation in South African and New Zealand Banking" 2010 *Business History* 536-563

Sithole 2018 *Financial Sector Conduct Authority Publications*

Sithole A "Regulatory Strategy of the Financial Sector Conduct Authority: October 2018 to September 2021" 2018 *Financial Sector Conduct Authority Publications* 1-75

Sithole and Mtetwa G 2009 *UNISWA Research Journal*

Sithole STM and Mtetwa G "Bank Failures in Zimbabwe: Lessons from 2003-2004 Bank-wide liquidity Crisis" 2009 *UNISWA Research Journal* 44-56

Stephens 2005 *Records Management Journal*

Stephens DO "The Sarbanes-Oxley Act Records Management implication" 2005 *Records Management Journal* 98-103

Svota, Wealth and Makanyaza "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe"

Svota TD, Wealth E and Makanyaza C "Policy and Regulatory Frameworks for Financial Inclusion in South Africa, Botswana, Namibia and Zimbabwe" in Chitimira A and Warikandwa TV *Financial Inclusion and Digital Transformation Regulatory Practices in Selected SADC Countries: South Africa, Namibia, Botswana and Zimbabwe* (2023 Springer) 351-374

Sykes 2018 *Congressional Research Services*

Sykes JB "Banking Law: An Overview of Federal Preemption in the Dual Banking System" 2018 *Congressional Research Services* 1-29

Tadu and Mukonya 2016 *Journal of Research in Business, Economics and Management*

Tadu R and Mukonya S "Challenges of Whistle Blowing as a Corporate Governance Control Tool in the Zimbabwean Banking Sector During 2000-2008" 2016 *Journal of Research in Business, Economics and Management* 954-963

Taylor 2009 *SUERF-The European Money and Finance Forum Vienna*

Taylor MW "Blurring the Boundaries in Financial Stability" 2009 *SUERF-The European Money and Finance Forum Vienna* 117-127

Tefula and Murinde 2002 *The African Financial Journal*

Tefula M and Murinde V "Identifying Problem Banks in Sub-Sahara Africa: Problem Banks in Africa" 2002 *The African Financial Journal* 1-23

Tembo *Economic Management in a Hyperinflationary Environment: The Political Economy of Zimbabwe, 1980-2008*

Tembo J "Bank Failures in Zimbabwe" *Economic Management in a Hyperinflationary Environment: The Political Economy of Zimbabwe, 1980-2008* (Oxford University Press Ltd Cape Town 2015)

Tepetepe 2022 *Journal of Economics, Finance and Accounting*

Tepetepe G "A Concurrent Triangulation Mixed Methods Study on Basel II/III Capital Modeling Techniques Implementation in Zimbabwean Banks" 2022 *Journal of Economics, Finance and Accounting* 48-71

Tepetepe, Simenti-Phiri and Morton 2022 *Researchjournali's Journal of Finance*

Tepetepe G, Simenti-Phiri E and Morton D "An Investigation into the State of Market Discipline for Basel II/III and Green Banking Disclosures in Zimbabwean Banks: A Content Analysis Approach" 2022 *Researchjournali's Journal of Finance* 1-26

Terullo 2022 *Columbia Business Law Review*

Terullo DK "Bank Supervision and Administrative Law" 2022 *Columbia Business Law Review* 279-398

Thamae, Odhiambo and Khumalo 2023 *Journal of Central Banking Theory and Practice*

Thamae RI, Odhiambo NM and Khumalo JM "Bank Regulation in the Selected Sub-Saharan African Countries: Dynamics and Trends" 2023 *Journal of Central Banking Theory and Practice* 175-198

Thoraval 2006 *Banque De France Financial Stability Review*

Thoraval P "The Basel II Framework: The Role and Implementation of Pillar 2" 2006 *Banque De France Financial Stability Review* 117-125

Tsaurai 2012 *Corporate Ownership and Control*

Tsaurai K "An Analysis of the Sufficiency of Credit Risk Management Framework in the Banking Sector in Zimbabwe" 2012 *Corporate Ownership and Control* 515-520

Tsaurai 2018 *The Journal of Developing Areas*

Tsaurai K "The Dynamics, Challenges and Transition of Banking Sector Development in Zimbabwe" 2018 *The Journal of Developing Areas* 85-96

Tyavambiza and Nyangara 2015 *International Journal of Economics and Financial Issues*

Tyavambiza T and Nyangara D "Financial and Monetary Reforms and the Finance-Growth Relationship in Zimbabwe" 2015 *International Journal of Economics and Financial Issues* 590-602

Van Niekerk 2023 *Fundamina: A Journal of Legal History*

Van Niekerk G "The Nationalisation of the South African Reserve Bank: A Legal-Historical Perspective of Three Central Banks" 2023 *Fundamina: A Journal of Legal History* 80-109

Van Niekerk and Nyane 2022 *South African Mercantile Law Journal*

Van Niekerk G and Nyane H "Accountability in the Twin Peaks Model of Financial Regulation in South Africa" 2022 *South African Mercantile Law Journal* 382-403

Van Niekerk and Van Heerden 2020 *The South African Law Journal*

Van Niekerk G and Van Heerden C "The Importance of a Legislative Framework for Co-operation and Collaboration in the Twin Peaks Model of Financial Regulation" 2020 *The South African Law Journal* 108-144

Van Heerden, Van Niekerk and Huls 2020 *Journal for Contemporary Roman-Dutch Law*

Van Heerden CM, Van Niekerk GM and Huls NJH "Two Takes on Twin Peaks: A Comparative Appraisal of the Models of Financial Regulation in the Netherlands and South Africa" 2020 *Journal for Contemporary Roman-Dutch Law* 491-513

Vermeulen 2021 *Economic History of Developing Regions*

Vermeulen C "One Hundred Years of Private Shareholding in the South African Reserve Bank" 2021 *Economic History of Developing Regions* 245-263

Visagie-Swart and Lawack 2020 *South African Mercantile Law Journal*

Visagie-Swart L and Lawack V "The Conduct of Financial Institutions Bill and the Potential Impact on the National Payment System in South Africa" 2020 *South African Mercantile Law Journal* 129-155

Vousinas 2015 *Journal of Financial Regulation and Compliance*

Vousinas GL "Supervision of Financial Institutions, The Transition from Basel I to Basel III. A Critical Appraisal of the Newly Established Regulatory Framework" 2015 *Journal of Financial Regulation and Compliance* 383-402

Vhudzijena and Nkomo 2022 *Journal of Research and Innovation for Sustainable Society*

Vhudzijena R and Nkomo D "Developing a Crypto Currency Regulatory Model: The Case of Zimbabwe" 2022 *Journal of Research and Innovation for Sustainable Society* 228-239

Vranken 2010 *Methodologies of Legal Research*

Vranken JBM "Methodology of Legal Doctrinal Research: A Comment on Westerman" 2010 *Methodologies of Legal Research* 111-121

Wall 2017 *Journal of Financial Regulation and Compliance*

Wall LD "Recent Changes in US Regulation of Large Foreign Banking Organisations" 2017 *Journal of Financial Regulation and Compliance* 318-332

Walters *et al* 2018 *South African Actuarial Journal*

Walters NM, Beyers FJC, Van Zyl AJ and Van Den Heever RJ "A Framework for Simulating Systemic Risk and its Application to the South African Banking Sector" 2018 *South African Actuarial Journal* 99-133

Waweru and Kalani 2009 *Global Journal of Finance and Banking Issues*

Waweru NM and Kalani VM "Commercial Banking Crises in Kenya: Causes and Remedies" 2009 *Global Journal of Finance and Banking Issues* 23-43

Wigmore 2010 *Research in Economic History*

Wigmore BA "A Comparison of Federal Financial Remediation in the Great Depression 2008-2009" 2010 *Research in Economic History* 255-303

Wissink 2017 *European Business Organisation Law Review*

Wissink L "Challenges to an Efficient European Centralised Banking Supervision (SSM): Single Rulebook, Joint Supervisory Terms and Split Supervisory Tasks" 2017 *European Business Organisation Law Review* 431-456

Wood *Law and Practice of International Finance: Regulation of International Finance*

Wood PR *Law and Practice of International Finance: Regulation of International Finance* 1st ed (Sweet & Maxwell Limited London 2007)

Yaacob, Markom and Hakimah 2018 *International Journal of Business and Society* 385

Yaacob H, Markom R and Hakimah A "Coping with the International Standards of Basel Committee on Core Principles on Effective Banking Supervision (BCBS): Analysis and Reform for Islamic Banking" 2018 *International Journal of Business and Society* 385-399

Zeidan 2012 *Journal of Financial Regulation and Compliance*

Zeidan MJ "The Effects of Violating Banking Regulations on the Financial Performance of the US Banking Industry" 2012 *Journal of Financial Regulation and Compliance* 56-71

Zephirin and Wajid "Financial Sector Stability: A Regional Approach"

Zephirin M and Wajid SK "Financial Sector Stability: A Regional Approach" in Drummond P, Wajid SK and Williams O *The Quest for Regional Integration in the East African Community* (International Monetary Fund Washington DC 2014)

Zinyama 2021 *African Journal of Public Affairs*

Zinyama T "Systemic Corruption in Zimbabwe, Is the Human Factor the Missing Link?" 2021 *African Journal of Public Affairs* 132-152

Conference Papers

Chen Chen "The Recovery Framework in the BRRD and its Effectiveness" *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review*

Chen Chen H "The Recovery Framework in the BRRD and its Effectiveness" *Nordic and European Company Law LSN Research Paper Series: Forthcoming in International Company and Commercial Law Review* (May 2015) 1

Dhliwayo *Limiting the Risk of Failure in Financial Institutions on the occasion of the Public Accountants & Auditors Board Conference held at Rainbow Towers in Harare, From 9-10 April 2015*

Dhliwayo CL *Limiting the Risk of Failure in Financial Institutions on the occasion of the Public Accountants & Auditors Board Conference held at Rainbow Towers in Harare, From 9-10 April 2015* 1-21

Gambacorta and Van Rixtel Structural Bank Regulation Initiatives: Approaches and Implications 2013 *BIS Working Papers No 412*

Gambacorta L and Van Rixtel A Structural Bank Regulation Initiatives: Approaches and Implications 2013 *BIS Working Papers No 412* 1-38

Havemann Contagion without Deposit Insurance: The South African Small Bank Crisis of 2002/3 *Working paper 823* 2020

Havemann R Contagion without Deposit Insurance: The South African Small Bank Crisis of 2002/3 *Working paper 823* 2020 1-48

Schinasi Defining Financial Stability IMF Working Paper International Capital Markets Department

Schinasi GJ Defining Financial Stability IMF Working Paper International Capital Markets Department (International Monetary Fund 2004)

Legislation

Zimbabwe

Banking Act [Chapter 24:20] 9 of 1999

Banking Amendment Act [Chapter 24: 20] of 2015

Money Laundering and Proceeds of Crime Act [Chapter 9:24] of 2013

National Payment Systems Act [Chapter 24:23] 21 of 2001

Reserve Bank of Zimbabwe Amendment Act (RBZ Amendment Act) 1 of 2017

Reserve Bank of Zimbabwe Act [Chapter22:15] 5 of 1999

The South African

Banks Act 94 of 1990

Financial Sector Regulation Act 9 of 2017

South African Reserve Bank Act 89 of 1990

The United Kingdom

The Financial Services and Markets Act 2000

Banking (Special Provisions) Act 2008

Banking Act 2009

Internet Sources

Bank Supervision Division: Banking Sector Report for the Quarter ended 30 September 2022 03 available at https://www.rbz.co.zw/documents/BLSS/2022/Banking_Sector_Industry_Report_-_30_September_2022.pdf accessed on the 15th of March 2024]

Bank Supervision Division Minimum Licensing Requirements for Banking Institutions 3 dated June 2018 https://www.rbz.co.zw/documents/bank_sup/licensing_requirements_banks_2018.pdf accessed on 01 May 2024

The failures of HBOS plc (BHOS) A Report by the Financial Conduct Authority (FCA) and the Prudential Regulation Authority (PRA) at https://www.bankofengland.co.uk/-/media/boe/files/prudential-regulation/publication/hbos-summary-and-recommendations.pdf accessed 25 August 2024

Brownbridge M "The Causes of Financial Distress in Local Banks in Africa and Implications for Prudential Policy United Nations" *Conference on Trade and Development* (UNCTAD) UNCTAD/OSG/DP/132 March 1998 https://www.researchgate.net/profile/Martin-Brownbridge/publication/23694125_The_causes_of_financial_distress_in_local_banks_in_Africa_and_implications_for_prudential_policy/links/53f48bdd0cf2fceacc6e8bb0/The-causes-of-financial-distress-in-local-banks-in-Africa-and-implications-for-prudential-policy.pdf accessed 01 March 2024

Business tech Banking "The Biggest Banks in South Africa in 2023" (5 July 2023) available at https://businesstech.co.za/news/banking/701565/the-biggest-banks-in-south-africa-in-2023/ accessed 24 March 2024

Financial Stability Board *Key Attributes of Effective Resolution Regimes for Financial Institutions* (2014) 1 at https://www.treasury.gov.za/publications/other/RFFI/KA.Resolution.pdf accessed 19 May 2024

Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024

HM Treasury Financial Stability and Depositor Protection: strengthening the framework presented to parliament by the Chancellor of the Exchequer 2008, available at https://assets.publishing.service.gov.uk accessed 04 January 2024

The World Bank IBRD-IDA available at https://www.worldbank.org/en/publication/gfdr/gfdr-2016/background/financial-stability accessed on 11 March 2024

The *Financial Stability Review* (Second Edition 2023) available at https://www.resbank.co.za/content/dam/sarb/publications/reviews/finstab-review/2023/financial-stability-revew/second-edition-2023-financial-stability-review/Second%20Edition%202023%20Financial%20Stability%20Review1.pdf accessed 11 March 2024

The Financial Stability and Depositor Protection: *Strengthening the Framework* dated January 2008 5 available at https://assets.publishing.service.gov.uk/media/5a7cd2e8e5274a2c9a484550/7308.pdf accessed 20 March 2024

The Herald ZW https://www.herald.co.zw/rbz-cancels-avis-bank-licence/ accessed on 15 April 2024

The policy-objectives of the deposit protection on the DPC website available at https://www.stanbicbank.co.zw/static_file/zimbabwe/Common%20Content/Footer/English%20Brochure%20June21.pdf accessed 30 April 2024

The mission statement of the IPEC at https://ipec.co.zw/overview/ accessed 30 April 2024

The Prudential Regulation Authority's Approach to Banking Supervision dated October 2018 5 available at https://www.bankofengland.co.uk/prudential-regulation/publication/pras-approach-to-supervision-of-the-banking-and-insurance-sectors accessed 23 March 2024

The UK Statutory Instruments 1963 No.2085 available at https://www.legislation.gov.uk/uksi/1963/2085/made accessed on the 15th of March 2024

The DPC at https://www.dpcorp.co.zw/about-dpc.html accessed 19 March 2024

Prudential Authority Regulatory Strategy 2021-2024, 7 available at the South African Reserve Bank https://www.resbank.co.za>prudential-regulation accessed 24 January 2024

The Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 http://data.europa.eu/eli/dir/2014/59/oj accessed 22 January 2024

Prudential Authority Regulatory Strategy 2021-2024, 2 https://www.resbank.co.za>prudential-regulation accessed 22 June 2024

RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 21 June 2024

RBZ public notice dated 21 November 2023 https://www.rbz.co.zw/documents/press/2023/November/Public_Notice_-_AVIS_Bank_Limited_License_Cancellation_November_2023_1.pdf accessed 15 April 2024

RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 5 available at

https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 15 March 2024

RBZ 2024 Monetary Policy Statement, Back to Basics: Recalibrating the Monetary Policy Framework to Anchor Currency, Exchange Rate and Price Stability dated 05 April 2024 35 available at https://www.rbz.co.zw/documents/mps/2024_Monetary_Policy_Statement.pdf accessed 08 June 2024

RBZ Banking Supervision Division Banking Sector Report for Quarter ended 31 <arch 2022 2 available at https://www.rbz.co.zw/documents/BLSS/2022/Banking-Sector-Industry-Report----31-March-2022.pdf accessed 10 April 2024

Masera R "Regulatory and Economic Capital for Banking Firms: Risk Measurement and Assessment with Negative Interest Rates" in Arcelli F and Masera R *Elements of Board Governance in Banking and Financial Companies* 26 available at https://www.google.co.za/books/edition/Elements_of_board_governance_in_banking/declEAAAQBAJ?hl=en&gbpv=1&dq=THE+BASEL+III+GLOBAL+REGULATORY+FRAMEWORK:+A+REVIEW+Rainer+Masera*&pg=PA35&printsec=frontcover accessed 25 May 2024

RBZ Bank Supervision Annual Report 2022, 14 available at www.rbz.co.zw/documents/BLSS/2021/Bank_Supervision_2022_Annual_Report.pdf accessed 22 June 2024

The overall functions of the Ministry of Finance at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 25 April 2024

The Finance and Investment Promotion Official Government of Zimbabwe web portal at https://www.zim.gov.zw/index.php/en/my-government/government-ministries/finance-and-economic-development accessed 27 April 2024

RBZ Troubled and Insolvent Banks Policy – A Framework for Timely and Effective Responses to Banking Problems updated 2011, 6 available at https://www.rbz.co.zw/documents/BLSS/guide_circ_not/troubled-and-insolvent-bank-policy-revised.-06.06.2011doc.pdf accessed 22 June 2024

Zephirin M and Wajid SK "Financial Sector Stability: A Regional Approach" in Drummond P, Wajid SK and Williams O *The Quest for Regional Integration in the East African Community* (International Monetary Fund Washington DC 2014) 202 available at https://books.google.co.za/books?hl=en&lr=&id=y7UZEAAAQBAJ&oi=fnd&pg=PA199&dq=guiding+principles+for+supervisors+dealing+with+weak+banks&ots=5msOGNEHE9&sig=yx9O7125Qm9XpegnS4mlDb8BAu8&redir_esc=y#v=onepage&q=guiding%20principles%20for%20supervisors%20dealing%20with%20weak%20banks&f=false accessed 14 June 2024

List of Abbreviations

ABSA	Amalgamated Banks of South Africa
AML	Anti-Money Laundering
ATM	Automated Teller Machines
BAA	Banking Amendment Act
BIS	Banks for International Settlements
BCCI	Bank of Credit and Commerce International
BCBS	Basel Committee for Banking Supervision
BoE	Bank of England
BRRD	Bank Recovery and Resolution Directive
CDD	Customer Due Diligence
CEO	Chief Executive Officer
CMGs	Crisis Management Groups
CMRA	Crisis Management and Resolution Authority
DPC	Deposit Protection Corporation
DRC	Democratic Republic of Congo
ESAP	Economic Structural Adjustment Programme

KYC	Know Your Customer
FNB	First National Bank
FICA	Financial Intelligence Centre Act
FCA	Financial Conduct Authority
FMA	Financial Markets Act
FSA	Financial Service Authority
FSCA	Financial Sector Conduct Authority
FSB	Financial Stability Board
FSCS	Financial Services Compensation Scheme
G20	Group of 20 countries
GFC	Global Financial Crisis
G-SIBs	Global Systemically Important Banks
IMF	International Monetary Fund
IPEC	Insurance and Pension Commission
MFIP	Ministry of Finance and Investment Promotion
MFSC	Multidisciplinary Financial Stability Committee
NCA	National Credit Act
NPL	Non-Performing Loans
NSSA	National Social Security Authority
OBS	Ombudsman for Banking Services
POSB	Peoples Own Savings Bank
PA	Prudential Authority
PRA	Prudential Regulatory Authority
RBZ	Reserve Bank of Zimbabwe
SADC	Southern Africa Development Countries
SAMCs	Special Asset Management Companies
SARB	South African Reserve Bank
SECZ	Securities and Exchange Commission of Zimbabwe
SRR	Special Resolution Regime
TIA	Technology and Innovation Authority
TLAC	Total Loss-Absorbing Capacity
TRRF	Trouble Bank Resolution Framework

TIBP	Troubled Insolvent Bank Resolution Policy
UK	United Kingdom
UMB	United Merchant Bank
ZABG	Zimbabwe Allied Banking Group
ZFSCA	Zimbabwe Financial Sector Conduct Authority
ZPRA	Zimbabwe Prudential Regulatory Authority

List of Figures

Figure 1: The Proposed Zimbabwean Twin Peaks

List of Tables

Table 1: Summary of the Zimbabwean Twin Peaks Model