

On 17 July 2014, a sequence of actions was put in train that had serious consequences for customers, employees and affiliates of FBME Bank, both in Cyprus and abroad. People have lost their jobs and firms have been closed down. Moreover, there are other victims who have latterly begun to feel the impact – the taxpayers, government, banking authorities and justice system of Cyprus. In this message, FBME Bank sets out its views on what has occurred.

# Everyone Suffers From This Fiasco

For further information on this subject and the points covered here go to [www.fbmeitd.com](http://www.fbmeitd.com)

It is shocking to think that a year has passed since the disastrous decision of the Resolution Committee of the Central Bank of Cyprus (CBC) to commandeer FBME Bank's branch in Cyprus. From that day to this, the Resolution Committee's actions remain what they were a year ago: unexplained, unprofessional, vindictive and possibly the product of a conspiracy.

**Resolution authorities in Cyprus** - the Resolution Authority is the body responsible for imposing Resolution measures on a bank in Cyprus but it appears that the Authority, comprised by the CBC Board of Directors, did not take the decisions on FBME Bank's Cyprus branch. In contravention of the rules these decisions were taken by the Resolution Committee on which the Governor and the two Executive Directors of the Board served. One of these executive directors has subsequently resigned.

Our aim in writing this message is to let people know our views on what has happened and to alert them to the repercussions of the actions of a handful of officials. There is a way out of this dilemma and we are using this document to point the way to finding a solution.

There are no winners in this episode and few stakeholders can hope to escape serious harm. FBME Bank and its Cyprus branch have been damaged – and it looks like that has been done deliberately! The interests of the Bank's customers have been maliciously handled. There are other innocent victims of the unprofessional irresponsibility of this Resolution Committee, including the government and people of the Republic who are faced with growing claims for possible compensation.

The reputation of Cyprus as a centre for banking and investment has been tarnished. Serious questions have been asked of the justice system and the competence of financial regulators. And the situation worsens by the day. Yet it should be possible to call a halt. Who is prepared to take this forward?

Probably the most serious criticism that can be laid at the door of the three-person Resolution Committee (now two since one jumped ship) and its one-man Resolution Unit is that their actions were completely unnecessary and always doomed to fail. Yet, these actions carry a massive penalty for all concerned. This just shows what can happen when an organisation like the CBC acts with autonomy but without responsibility to the financial sector, government, elected officials or the courts.

On the night of 21 July 2014, for reasons never explained, the CBC's Resolution Committee used the Resolution Law to take control of the FBME branch. It followed this by appointing its own man to act as Administrator, a man who turned out to be inept and conflicted. From the beginning, the CBC's Administrator acted against the interests of the Bank's customers by initially blocking their access to funds. Once he unlocked accounts he did so only by applying unwarranted restrictions, which he steadily made more onerous and damaging.

Salaries couldn't be paid, urgent bills couldn't be met, people have lost jobs and companies have cut back and in at least one case, suspended operations. All of this in a Cyprus economy beset by recession!

For their part, the members of the Resolution Committee undermined ties with the Bank of Tanzania (BoT), the supervisor of FBME's head office and the superior authority in this case. The decision to impose Resolution Law on FBME's Cyprus branch came as much of a surprise to the BoT as it did to the Bank. Incredibly, the CBC refused the cooperation required by international practices and took decisions that harmed their own interests as much as anyone else's. To this day, the Resolution Committee has still to put this right.

## FINCEN ALLEGATIONS

The actions of the Resolution Committee followed allegations by the US FinCEN bureau that FBME had dubious anti-money laundering practices. Studies carried out by international bodies such as Ernst and Young USA, Hogan Lovells USA and KPMG Germany, have found no evidence of such problems. FBME continues to cooperate with FinCEN to bring about a full rescission of the allegations. The CBC has not, in any way, responded to these allegations.

How the Resolution Committee took over the FBME branch was by co-opting the highly inappropriate Resolution Law, which had been enacted

under great pressure in 2013 to deal with Laiki Bank, which was insolvent and illiquid. This should never have been used against FBME which was healthy, solvent and highly liquid (see, The Story of FBME Bank in Cyprus). The Resolution Law requires three preconditions to be present in an insolvent bank, none of which applied in FBME's case.

It is important to remember that what FinCEN put forward were only allegations and the Bank was given 60 days to answer them. There was no call for the Resolution Committee to take action and, in fact, it was expected that the CBC would have assisted FBME to clear its name. After all, Cyprus and its bank supervision model were also implicated in the FinCEN allegations and the CBC has been responsible for supervising the Cyprus branch of FBME for over 30 years.

Senior officials of the CBC were implicated in the allegations in various ways. MOKAS, the Cyprus financial crime fighting agency, has reported that it received correspondence from FinCEN which it passed on CBC. Why CBC did not alert FBME or take action to refute accusations it knew to be wrong has remained a mystery. One of these allegations was that FBME had been faced with a EUR 240 million fine in 2013 which was absolutely and notoriously untrue. Requests to CBC, possibly itself the source of the rumour, to investigate this matter have been met with a resounding silence.

In addition, the CBC's Special Administrator actually tried to hinder the Bank in proving its innocence by banning international investigators Ernst and Young from entering the Bank's Cyprus branch.

Is this the way in which the CBC, its Resolution Committee and its agents should have acted to preserve financial stability in the banking sector in Cyprus?

## CBC'S OWN INVESTIGATIONS

The CBC surely knows the truth regarding FBME's operations through its long supervision of the Bank's branch. Immediately before and since FinCEN's announcement, the CBC has commissioned its own investigations conducted by international specialists from PwC and Kroll, and by Central Bank staff. Given the potential importance of the insights of these investigations it is extraordinary that none of the results have been ever disclosed to FBME as one would have expected!

There is another question and that is the use that the Resolution Committee has made of depositors' funds in FBME, spending them without approval from the Bank or its depositors, or the use of proper tender practices.

Two Special Administrators have been appointed and others such as lawyers, liquidators, security companies and investigators have been paid from FBME deposits. The first Administrator, Dinos Christofides, was appointed in July 2014 and resigned abruptly 10 months later, and his actions are the subject of legal inquiry. The second Administrator is paid five times more than the first, though he is only seldom in Cyprus.

As we mentioned, these actions were and are completely unnecessary, leading one to wonder if there was a secret hand behind all this: everything happens for a reason and if there is no reason given, then there is a reason for that too! Had the CBC worked with the Bank's management, as was expected, strenuous efforts would have been made to ensure that harm to third parties was minimised.

FBME has sought repeatedly for clarification from the CBC and its agents without receiving a reply, while similar overtures from its parent regulator, the BoT, have been also ignored. The CBC thought it could push around its counterparts in Tanzania but has learnt to its cost that it cannot. It also misread the resolve of the international financial sector, which has acted to prevent CBC from taking control of the bulk of FBME customers' money as the CBC has attempted on a number of occasions.

## The Payments Monopoly

The decision of the Resolution Committee's agent, the first Special Administrator, in blocking customers from having any access to their own money caused the suspension of FBME Card Services and put 70 employees out of work (see <http://www.fbmeitd.com/media-identify-link-with-monopolistic-card-market/>). At a stroke it destroyed competition in card processing, putting up prices and undermining margins. Cyprus' card processing market is said once again to be the only monopoly market in Europe.

## The story of FBME Bank in Cyprus

FBME Bank Ltd was formed in Cyprus in 1982 as a subsidiary of the Federal Bank of Lebanon (FBL), itself established in 1952. FBME was owned 51% by Michel Saab, with the remaining 49% owned equally by Ayoub-Farid M Saab and Fadi M Saab. On the passing of Michel Saab in 1991 his shares were transferred to Ayoub-Farid and Fadi Saab in equal proportions. The relocations of FBME from Cyprus to Cayman Islands and subsequently Tanzania, were due to the reluctance of CBC as a matter of policy to accept the responsibility of a Home Regulator.

Over the course of three decades, the Bank has made a substantial contribution to the Republic. For instance, in the six-and-a-half years prior to the Resolution measures in July 2014, FBME was one of the largest private sector taxpayers in Cyprus. Following is a summary of the contribution by the Bank over the period from the start of 2008 to the middle of 2014:

Spending on assets, including new premises, office equipment, vehicles, etc. ....	EUR 15.6 million
Expenses on local goods and services in Cyprus .....	EUR 28.5 million
Total staff cost including salaries .....	EUR 51.6 million
Cyprus tax and social insurance payments .....	EUR 38.3 million
<b>Total:</b>	<b>EUR 134.0 million</b>

Other assistance to Cyprus has been made through loans and investments. In 2012, FBME invested EUR 240 million in Cyprus sovereign debt at a time when the Republic was entering an extremely precarious financial position. In the first half of 2014 the Ministry of Finance wrote on two occasions to thank the Bank for its support and immediately prior to the announcement of the Resolution decree, an agreement in principle had been reached on further substantial investments up to \$ 300 million. FBME also invested EUR 30 million in the Cyprus Electricity Authority in the wake of the disaster at Mari in July 2011, the worst ever peacetime explosion in the Republic. The Bank has also signalled its commitment to the future of Cyprus in the construction of a new building in Nicosia.

Prior to the action of the Resolution Committee, the financial health of FBME's Cyprus branch, and of FBME Bank as a whole, was exceptionally good. In July 2014, trial balances, as prepared by FBME's external auditors, were:

Placements to deposits:	84.15%
Placements and bonds to total deposits:	104.44%
Gross loans to deposits:	15.95%
Net loans to deposits:	10.95%

## ACTION NEEDED NOW

Currently, it seems that senior officials in the CBC are paralysed by a series of scandals, only one of which concerns FBME. To help prevent this paralysis worsening the situation, FBME now publicly repeats its willingness to cooperate with CBC officials to find a way out of this mess. Here is a preliminary list of matters on which we should work:

There should be a prompt agreement between the executive management of FBME and the CBC on a programme for re-starting the Bank and FBME Card Services. This should occur as a priority.

There should be full cooperation in continuing the relationships with FBME's correspondent banks.

The findings of all investigations conducted by and on behalf of the CBC, should be released together with the report of the Resolution Committee.

The CBC and executive management of FBME should cooperate honestly and actively for the resumption of services from Reuters, Bloomberg and Euroclear.

Meaningful communications based on mutual respect should be established with BoT and its agents, and FBME owners and managers. FBME is eager to renew its cooperation with the Cyprus authorities to restore confidence in the Republic's banking sector and to return to playing its part in rebuilding the economy of the country.

None of these matters should be problematic and all are reasonable. They are only a start but they are important first steps. We wait to hear from the Central Bank. ■