

Unclassified

DAF/COMP/LACF(2017)26

Organisation de Coopération et de Développement Économiques  
Organisation for Economic Co-operation and Development

19-Mar-2017

English - Or. English

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM**

**Session III: Addressing Competition Challenges in Financial Markets**

**-- Contribution from CARICOM --**

**4-5 April 2017, Managua, Nicaragua**

*The attached document from CARICOM is circulated to the Latin American and Caribbean Competition Forum FOR DISCUSSION under Session III at its forthcoming meeting to be held on 4-5 April 2017 in Nicaragua.*

Contact: Ms. Lynn Robertson, Global Relations Co-ordinator, OECD Competition Division [Tel: +33 1 45 24 18 77, Email: Lynn.ROBERTSON@oecd.org]

**JT03410968**

Complete document available on OLIS in its original format

*This document and any map included herein are without prejudice to the status of or sovereignty over any territory, to the delimitation of international frontiers and boundaries and to the name of any territory, city or area.*

DAF/COMP/LACF(2017)26  
Unclassified

English - Or. English

# LATIN AMERICAN AND CARIBBEAN COMPETITION FORUM



15th Latin American and Caribbean Competition Forum  
4-5 APRIL 2017, Managua, Nicaragua

---

## Session III: Addressing Competition Challenges in Financial Markets

\*\*\*

### -- CONTRIBUTION FROM CARICOM<sup>1</sup> --

#### 1. Introduction

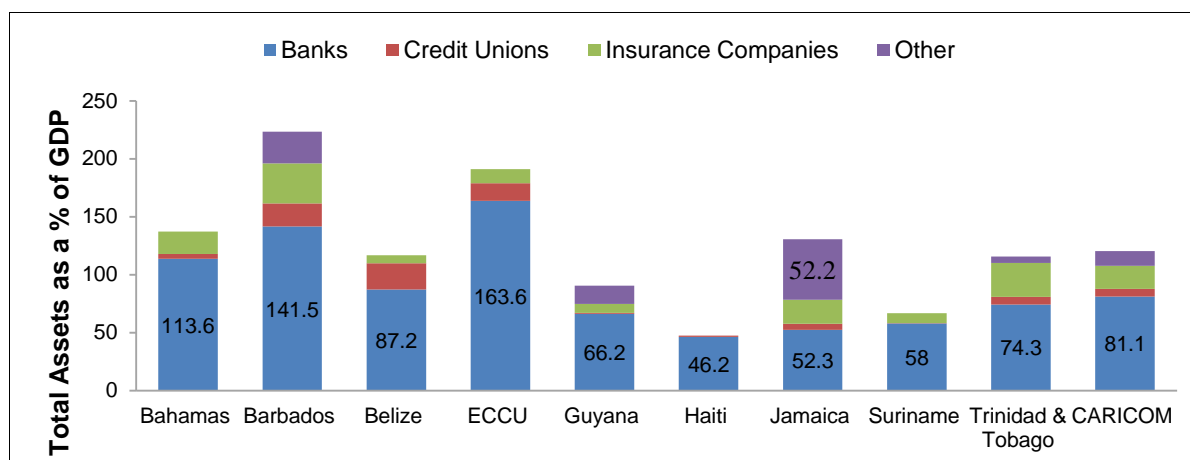
1. Banking is central to the financial systems of the countries of the Caribbean Community (CARICOM).<sup>2</sup> At the end of 2014, the total assets held by the regional banking sector was 81.1 percent of the total Gross Domestic Product (GDP) for the region (see Figure 1). Banks are especially dominant in the fixed exchange rate economies of The Bahamas, Barbados, and the Eastern Caribbean Currency Union<sup>3</sup> (ECCU) sub-region, serving as the main source of lending and deposit taking. Due to their large asset sizes and importance, the competition authorities in the region have devoted much attention to assessing the competitive environment of the banking sectors in their respective jurisdictions.

---

<sup>1</sup> The paper was prepared by the CARICOM Competition Network (CCN). The CCN was established in August 2016. It comprises the CARICOM Competition Commission and the national competition authorities of Jamaica, Barbados, Guyana and Trinidad and Tobago.

<sup>2</sup> CARICOM is a regional bloc which comprises the following countries: The Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Haiti, Jamaica, Montserrat, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname and Trinidad and Tobago.

<sup>3</sup> The Eastern Caribbean Currency Union is a sub-regional group which comprises the following 8 countries: Anguilla, Antigua and Barbuda, Dominica, Grenada, Montserrat, St. Kitts and Nevis, Saint Lucia, and St. Vincent and the Grenadines.

**Figure 1: Structure of CARICOM Economies Financial Systems (Total Assets as % of GDP) - 2014**

Data Source: Caribbean Regional Financial Stability Report 2015

2. Another important reason the competition authorities within CARICOM continue to monitor the activities of the banking sector is the large number of complaints they receive from customers of the banks. Allegations of unreasonably high and unjustified interest rates and bank charges are often levied against commercial banks in the region. There is a concern that commercial banks are behaving in a coordinated manner. The public, therefore, views the competition authorities in the region as the relevant agencies to address these concerns.

3. This contribution to the Latin American and Caribbean Competition Forum (LACCF) reports on the regulation of the commercial banking sectors in CARICOM. First, the paper highlights the roles of the central banks and national competition authorities in the region in assessing competition in the commercial banking sector. It also discusses the challenges faced by the competition authorities at the national and regional levels regarding enforcing competition law in the banking sectors. Second, the paper presents the experiences of the national competition authorities in Barbados and Jamaica on conducting market studies on the commercial banking sectors.

## 2. Assessing Competition in the Commercial Banking Sectors in CARICOM

### 2.1 The Role of Central Banks

4. Central banks stand at the centre of the financial systems in the Member States of CARICOM. Their role is to promote and develop a sound financial structure in the countries. Since the failure of a commercial bank can undermine the integrity of the financial system, central banks seek to prevent such risks from developing through legislation and regulations for the domestic banking sectors; inspecting banks to ensure their operations comply with applicable legislations; and reporting on the performance and conditions of the sector. Promoting, protecting or assessing competition in the commercial banking sector is not an expressed function of central banks in CARICOM.<sup>4</sup>

<sup>4</sup> The Banking Services Act of Jamaica provides for a Code of Conduct addressing deposit-taking licensees' dealings with their customers. Customer related issues covered under the Code include among others: simplification of the use of language in customer contracts and obligations to provide customers with reasonable notice of changes in fees and charges, interest rates and terms and conditions. The Bank of Jamaica has the authority to obtain information from depository institutions to establish whether the Code has been breached and if necessary impose sanctions.

5. Although not an explicit task of most central banks in CARICOM, to date many of the competition assessments of the commercial banking sectors in the region were carried out by the staff of these institutions. Based on the research conducted by the central banks there also appears to be an awareness of the possible relationship between competition and financial stability. **Table 1** provides a list of the studies on competition in the commercial banking sector conducted by central banks in the region. The studies are econometric in scope and focus on the general level of competition amongst the banks in the sectors.<sup>5</sup> Part A of the table shows that competition assessments were conducted for 7 countries in the region. Despite being highly concentrated, the researchers found that the banking sectors studied were characterised by monopolistic competition. Part B of the table shows that the analyses conducted on the relationship between competition and financial stability are contrasting, providing no definitive stance in the region on the competition-financial stability nexus.

**Table 1: A Comparison of Bank Studies Conducted in CARICOM**

| Measuring Competition in CARICOM Member States |  |               |                                    |  |
|--|--|---------------|------------------------------------|--|
| Author   | Country Studied  | Period        | Method                             | Results  |
| Rambarran (2000)                               | Trinidad and Tobago  | 1969-1997     | Panzar-Rosse                       | Monopolistic competition   |
|  |  |               | Conjectural variation model        | Competition greater than Cournot behaviour, with no increase in the level of competition after 1989.   |
| Duncan and Langrin (2003)                      | Jamaica  | 1989Q1-2002Q1 | Herfindahl – Hirschman Index (HHI) | Highly concentrated  |
|  |  |               | Panzar-Rosse                       | Monopolistic competition   |
| Craigwell et al. (2004)                        | Barbados   | 1990-2004     | Bresnahan-Lau                      | The level of competition in the sector increased from 1992-2002. Competition decreased in 1991 and 2003, coinciding with mergers during those years.                                     |
|  |  |               | HHI                                | HHI for Antigua and Barbuda below 2000 for most years. HHI for Saint Lucia and Grenada between 2000 and 2500 for most years, while more than 2500 for St. Kitts and Nevis for all years. |
| Hodge (2011)                                   | Antigua and Barbuda, Grenada, St. Kitts and Nevis, and Saint Lucia | 1998-2007     | Panzar-Rosse                       | Monopolistic competition in all countries  |
|  |  |               | Lerner Index                       | Consistent with HHI results. Lerner Index lowest for Antigua and Barbuda and highest for St. Kitts and Nevis.  |

<sup>5</sup> In Barbados, the staff of the central bank also examined competition between the commercial banking and credit union sectors (see Moore et al. 2002).

| <b>Competition and Financial Stability</b> |                 |               |                                |   |
|--|-----------------|---------------|--------------------------------|---|
| Author                                     | Country Studied | Period        | Method                         | Results   |
| Hodge (2011)                               | ECCU            | 1998-2007     | Granger causality              | Competition negatively affects financial stability.   |
| Bailey-Tapper (2009)                       | Jamaica         | 2000Q1-2008Q2 | Seemingly unrelated regression | Competition improves commercial bank soundness but increases financial instability in the merchant bank sector. |

## **2.2 The Role of other Sector Regulators**

6. Unlike the rest of CARICOM, the regulatory framework for the commercial banking sector in Trinidad and Tobago has two regulators. In Trinidad and Tobago, besides the central bank, the banking sector is also regulated by the Securities and Exchange Commission (SEC).<sup>6</sup> This Commission deals with mergers and/or takeovers of commercial banks that are listed on the Trinidad and Tobago Stock Exchange.

## **2.3 The Role of Competition Authorities**

### **2.3.1 National Authorities**

7. Except for Trinidad and Tobago<sup>7</sup>, the national laws enacted (or draft Bills developed) in CARICOM countries do not exempt the banking sector from competition enforcement. The national laws of Barbados and Guyana both provide the competition authorities with the power to prohibit individual or collective anti-competitive business conduct by commercial banks in their jurisdiction. These laws, however, state that sectors could be exempted from competition law by an Order from the Minister of the Ministry responsible for competition law and policy.

8. Similar to Barbados and Guyana, the banking sector of Jamaica is not exempted from the enforcement of competition law. However, since *The Jamaica Stock Exchange vs. The Fair Trading Commission* case, jurisdictional boundaries between the Jamaica Fair Trading Commission (JFTC) and sector regulators remain unresolved. The case is significant since the Court held that the Jamaica Stock Exchange is governed by the Securities Act of 1993 and therefore the jurisdiction of the FCA is ousted.<sup>8</sup> Therefore, for the banking sector which is governed by financial legislation, the JFTC could investigate anti-competitive business conduct in the banking sector but might not have the power to enforce the national competition law.<sup>9</sup>

<sup>6</sup> The Trinidad and Tobago Securities and Exchange Commission was established by the Securities Industries Act 1995.

<sup>7</sup> The Trinidad and Tobago Fair Trading Act does not apply to banks and non-bank financial institutions which fall within the purview of the Securities Industry Act 1995.

<sup>8</sup> See the contribution from Jamaica to the 2<sup>nd</sup> Latin American Competition Forum held June 14-15, 2004.

<sup>9</sup> A good example is with telecommunications which have a sector regulator, the Office of Utilities Regulation (OUR). The JFTC has investigated cases but makes recommendations to the OUR for regulatory action.

### 2.3.2 *Regional Authority*

9. At the regional level, the CARICOM Competition Commission (CCC) is not restricted from enforcing community competition policy if it discovers cross-border anti-competitive business conduct between banks located in two or more Member States. Nevertheless, the CCC relies on cooperation with national competition authorities to investigate cross-border conduct, using national competition laws to execute searches of property, secure the attendance of persons to give evidence and the discovery or production of documents relevant in a case. A challenge the CCC would face is if the banking sector is exempted from national competition law such as in Trinidad and Tobago, or under the remit of a sector regulator as in Jamaica.

10. The CCC understands the importance of assessing the degree of competition in the banking sectors of the CSME Member States. To expand the research initiated by central banks in the region on competition in the banking sectors, the CCC recently turned its focus towards the commercial banking sectors of Guyana and Suriname. The research has so far found the Suriname commercial banking sector to be characterised by monopolistic competition although the sector was not in long-run structural equilibrium. An assessment of the commercial banking sector in Guyana is still on-going.

### 2.4 *Cooperation between Central Banks, other Sector Regulators and Competition Authorities*

11. From the preceding sections, except for Trinidad and Tobago and Jamaica, the jurisdictions of national competition authorities and central banks do not overlap. Since there are no jurisdictional overlaps in Guyana and Barbados, no formal relationships exist between the central banks and the national competition authorities.

12. In Trinidad and Tobago, there is also no formal relationship between the central bank and the Trinidad and Tobago Fair Trading Commission (TTFTC). There is, however, a formal relationship between the TTFTC and the SEC as evidenced by: (i) Section 14(b) of the Trinidad and Tobago Fair Trading Act which requires the TTFTC to consult with the SEC when examining and/or approving mergers; and (ii) officials of the SEC and TTFTC attending training sessions on competition law and policy. The TTFTC is now seeking to build a formal relationship with the Central Bank of Trinidad and Tobago.

## 3. **Market Studies in CARICOM on the Banking Sector**

### 3.1 *Barbados*

13. In 2012, the Barbados Fair Trading Commission (BFTC) conducted an assessment into the banking and interest charges of commercial banks operating in Barbados.<sup>10</sup> Customer complaints to the BFTC and concerns raised in various public discussions of alleged unfair commercial banking charges prompted the agency to investigate the matter.

14. The aim of the study was to assess whether the high banking and interest charges were the result of commercial banks engaging in collusive practices. The assessment focused on the amount of the banking and interest charges imposed by the banks; the frequency of their increases; the timing of their implementation; the similarity of their type; and other information that might reveal if bank charges were driven by anti-competitive business conduct.

---

<sup>10</sup> The study is available at [http://www.ftc.gov.bb/library/2012-12-11\\_ftc\\_report\\_banking\\_charges.pdf](http://www.ftc.gov.bb/library/2012-12-11_ftc_report_banking_charges.pdf)

15. The BFTC was also concerned about the interbank charges on the Caribbean Integrated Services Network. This network connects the ATMs and POS services of all the commercial banks and is run by a Board comprised of representatives from each bank. It was believed the Board created opportunities for collusion.

16. The study relied on the following to determine the structure and state of competition in the sector and to identify trends in the banking and interest charges:

- Data collected from the commercial banks and other stakeholders.
- Information from extensive interviews with all the banks.
- Results of a customer survey that examined how frequently customers switched to other banks when attracted by different product offerings.

17. The findings from the assessment of competition were:

- The sector was moderately concentrated and satisfies the criteria of a differentiated oligopolistic industry.
- High barriers to entry which facilitated the maintenance of the market structure.
- Based on the movement of interest rates on loans the banks appeared to compete in this area of business.
- The evidence suggested that competition in sundry bank charges was not as robust as with interest rates.
- Consumers uninformed about the reason behind bank charges and were not empowered to make comparisons between the various banks.

18. The study recommended several strategies to enhance competition in the sector. These were:

- The bankers association inform the public of developments in the sector (e.g. changes in legislation, costs, policies, etc.);
- Standardised definitions of services provided to customers to enable them to make comparisons between the banks; and
- Banks should frequently review their fee schedules to make certain they are relevant to the respective services offered.

### **3.2 Jamaica**

19. In 2010, JFTC conducted a market study on the commercial banking sector in Jamaica.<sup>11</sup> The study was motivated by public concerns of coordinated behaviour among the banks operating in the country. Specific cases highlighted included: fees introduced by the banks for services that were traditionally offered without charge; and increased fees for other services.

---

<sup>11</sup> The Jamaica study is available at [http://www.jftc.com/Libraries/Industry\\_Studies/2011\\_1\\_10\\_Final\\_-\\_Nature\\_and\\_Extent\\_of\\_Competition.sflb.ashx](http://www.jftc.com/Libraries/Industry_Studies/2011_1_10_Final_-_Nature_and_Extent_of_Competition.sflb.ashx)

20. The aim of the study was to assess whether the banks, individually or collectively, were hindering competition and recommend measures to enhance competition in the sector. The assessment focused on the fees charged on ancillary services offered by banks, which included: transactions relating to credit and debit cards, bill payment, and wire transfers, to mention a few. The study also covered bank charges relating to minimum balance violations, in-branch withdrawals, cash deposits and dormant accounts.

21. The study relied on several pieces of information, including:

- Data on assets and deposits of the commercial banks sourced from the central bank of Jamaica. The JFTC used this data to analyse the level of concentration of the sector.
- Data relating to the profitability and fees of the banks collected from their audited financial statements.
- Results of a 2010 national survey that examined the knowledge, experience and perspectives of customers on commercial banking services in Jamaica. The information informed the JFTC of competitive restraints from customers.
- Information on regulatory impediments to entry into the sector.

22. The findings from the assessment of competition were:

- The sector is highly concentrated, but it is unlikely that an individual commercial bank could exercise market power given that each of the two largest banks can provide sufficient competitive constraint against each other.
- Entrants could constrain attempts by an incumbent bank(s) to exercise market power.
- Based on the extent of their awareness about the sector, consumers are unlikely to mitigate attempts by any bank or group of banks to exercise market power.
- The market has the characteristics could allow the two largest banks the opportunity to coordinate their activities and collectively exercise market power. The JFTC, however, found no evidence to suggest that commercial banks were colluding.

23. The study made the following recommendations to enhance competition in the sector:

- Mechanisms should be put in place to make certain banks provide adequate information on their services to customers;
- Facilities should be put in place to make it easier for consumers to access information about banking services (e.g. a central location where customers can review the fees charged by various banks); and
- Mechanisms should be put in place to make it easier for banks to access customer information on credit worthiness.

24. To date the recommendations proposed by the JFTC have not been adopted.