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`Merger talks arbitration plausible'

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NO history of arbitration exists with regard to resolving differences between financial institutions engaged in merger negotiations but the emergence of such a mechanism cannot be ruled out, analysts say.

The Government is committed to the policy of promoting mergers among financial institutions to strengthen the industry, an analyst said, adding that the move was initiated even before the Malaysian economy was affected by the region's currency turbulence which surfaced last July.

"As the March 31 deadline set for Malaysian banks and finance companies to finalise consolidation plans is drawing near, some form of third-party intervention in merger talks that run into trouble may well have to be introduced," he said.

On Saturday, commenting on the termination of bank merger talks between RHB Bank Bhd and Commerce Asset Holdings Bhd, Prime Minister Datuk Seri Dr Mahathir Mohamad had suggested that prospective merger partners consider arbitration when faced with difficulties in their negotiations.

"Currently, there is no banking sector body with such a function, but if it is decided that one is needed it will not be too complicated to establish it," another analyst said.

It may not even be necessary to set up a special body as the roles of authorities like the Securities Commission (SC) and the Foreign Investment Committee (FIC) can always be expanded to include the function, he added.

They are already involved in scrutinising corporate proposals, including mergers and acquisitions, and as such would only need to be given the authority to serve as an arbitrator, and provide a legal framework that makes the body's decisions binding.

"Alternatively, an arbitration panel could be set up on a case-by-case basis, comprising high calibre nominees from the financial, legal and corporate sectors to handle these disputes," he said.

In both cases, as it is crucial that whatever decision the arbitration body arrives at is binding, a special legislation would be required, the analyst added.

"However, this may take time and it is therefore best that the financial institutions in merger talks adopt a flexible stance and be willing to compromise to ensure the industry's long-term strength," he said, stressing that Bank Negara, in playing the role of "match-maker" to facilitate the industry's consolidation process cannot be expected to be involved in the details of merger negotiations.

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