

AOFA's Case for Legitimacy

Executive Summary

The breakaway **Anjouan** island (Comoros) founded the *Anjouan Offshore Finance Authority* (AOFA) in 2005 and enacted its own offshore banking statutes. AOFA's advocates point to these local laws – enacted by the Anjouan government – explicitly empowering an island regulator to license international banks[1][2]. Though Comoros' central bank (BCC) normally holds exclusive banking authority, AOFA argues this applies only to *domestic* finance and not to purely offshore entities. International examples (e.g. IBFs in the U.S.) show that offshore banking can operate under special frameworks[3]. AOFA supporters also note that the BCC itself is recognized globally (BIS lists the *Central Bank of the Comoros, Moroni*[4]) and participates in international networks (e.g. AFI[5]). The Islamic-oriented Union government (a *Federal Islamic Republic*[6]) clashed politically with Anjouan's more secular, pro-business stance. In sum, AOFA's legitimacy claim rests on Anjouan's de facto autonomy and domestic legal acts. Opponents invoke Comorian constitutional supremacy. This report examines all available primary sources – AOFA Acts, Comorian laws, central bank and international reports, and court cases – to analyze these arguments.

Timeline (1997–2008)

- **3 Aug 1997:** *Secession declared*. Anjouan proclaims independence after unrest[7].
- **Oct 1997:** *Independence referendum*. Voters endorse remaining autonomous[7]. Attempted Comorian military takeover fails.
- **1998:** Anjouan adopts its own constitution; holds elections under President Abdallah Ibrahim (succeeded 2001)[7].
- **Aug 9, 2001:** *Coup*. Colonel Mohamed Bacar ousts Ibrahim and assumes power[8]. (April 2002: Bacar is formally instated as Anjouan's president[8].)
- **Mar 2002:** *New Union constitution*. Islands ratify a federal constitution granting each a degree of autonomy[9]. Anjouan re-enters the Union under this framework[10].
- **2002–2005:** *AOFA formation*. Under Bacar, Anjouan's legislature (Act No. 003/2005) creates the AOFA and enacts International Banks Act 2005, etc.[1][2].
- **June 2007:** *Crisis*. Bacar defies term limit; federal forces sent to enforce a court ruling are repelled (2 soldiers killed)[11]. Anjouan holds an unsanctioned election, solidifying Bacar's control.
- **Oct 2007:** *Sanctions*. AU imposes travel and financial sanctions on Anjouan's regime[12].
- **Mar 25, 2008:** *Operation Democracy*. Comorian and AU troops (Tanzania, Sudan, etc.) invade[13]. Anjouan falls with no major resistance[13].
- **Mar 26, 2008:** *Aftermath*. Island fully under Union/AU control; Bacar escapes (via Mayotte to Réunion)[14][13]. Transitional government installed; federal elections promised.

AOFA's Statutory Foundation

Anjouan's self-styled government enacted a suite of **2005 financial laws**. Key texts include:

- **Offshore Finance Authority Act 2005 (Act No. 003/2005):** Establishes the AOFA and its mandate[1]. E.g., *“There shall be established... a new body... known as the ‘Anjouan Offshore Finance Authority’... The Authority shall have primary responsibility for... administration and supervision of offshore legislation.”*[1].
- **International Banks Act 2005 (Act No. 005/2005):** Defines classes of offshore banking and licensing (the exact text could not be retrieved). The AOFA site lists this and related regulations as operative documents.
- **Other 2005 Acts:** Including the International Business Companies Act, International Insurance Act, AML Act, etc. (listed on AOFA's website, though some appear unsigned). These laws collectively form AOFA's legal framework[15][1].

Notably, AOFA's Charter explicitly **grants exclusive licensing power** to AOFA. Section 8 of the AOFA Act states AOFA has the *“exclusive right ... to administer and undertake the licensing of International Banking companies under the provisions of the International Banks Act”*[2]. This clause is AOFA's core statutory authority. In summary, AOFA's argument is: *“Our Acts (passed by Anjouan authorities) explicitly empower us to license offshore banks”*[2]. No evidence was found of formal involvement by Comoros's central government in these acts; on face value they were enacted internally by the Anjouan administration (presidential proclamations and assembly votes – specific gazette details are *unspecified*).

Central Bank vs. Offshore Licensing

Comoros' constitution (Art. 9) vests *“exclusive competence”* over banking in the federal government, implemented by the BCC[16]. The BCC emphasizes that it *“assures the proper functioning of the banking system”* and *“exercises surveillance and control of banking and financial activities”*[16]. AOFA acknowledges this domestic role but contends it applies to onshore banks only. Several legal principles support AOFA's position:

- **Jurisdictional Separation:** Offshore banks licensed by AOFA serve only non-residents (international business). Such entities are, in effect, *jurisdictionally offshore*: their activities occur outside the domestic economy. Internationally, many countries maintain offshore banking regimes separate from domestic banking law (e.g. International Banking Facilities (IBFs) in the U.S. or similar licenses in Bahrain), where central banks do not claim routine supervision[3]. By analogy, AOFA's licensees are like special entities that fall outside the BCC's day-to-day banking supervision.
- **Functional vs. Territorial Competence:** The BCC law focuses on maintaining *monetary stability and regulating banks in Comoros' national territory*[16]. AOFA argues that a parallel, international banking function (accepting foreign deposits for foreign-resident borrowers) can be carved out as a distinct function. The BIS/BPM

framework, for example, treats offshore units as separate statistics. The 2000 IMF background paper illustrates how offshore licenses cater to non-residents and can be set up by international corporations to manage FX or joint ventures[3]. This demonstrates that offshore banking is a recognized international practice. AOFA claims Comoros could similarly permit such structures under Anjouan's autonomy.

No Comoros law was found expressly forbidding an autonomous financial zone. While the BCC website stresses exclusivity in currency issuance and domestic banking[16], it does not enumerate offshore banks. AOFA's stance is that until the Union legislature explicitly prohibits offshore licenses by islands, the legal vacuum should be interpreted in favor of Anjouan's statutory grant.

BCC claim that “banking = central bank exclusivity” is doctrinally false in comparative banking law. In Labuan, Jersey, Guernsey, DIFC, ADGM, and historically Liberia and Panama, offshore banking exists alongside a unitary central bank without conflict.

International and UK Context

BCC's Global Recognition: The BCC is internationally accredited. The Bank for International Settlements (BIS) clearly lists “*Central Bank of the Comoros, Moroni*” as the member for country code KM[4]. This confirms BCC's recognized status but does not mention Anjouan's AOFA. AOFA advocates argue that since BCC's license is recorded at BIS, any properly licensed bank (domestic or offshore) under its umbrella would be part of that national system. Notably, in 2023 the BCC joined the Alliance for Financial Inclusion[5], reflecting engagement with global banking norms. There is no evidence AOFA licenses themselves appear in any FATF or BIS registers, which AOFA supporters explain by their offshore, private nature.

UK Legal Cases: Few formal judgments exist. A key incident was a 2003 London libel case (Lecler v. Hon) in which the judge noted that one offshore licensee “*obtained the [Anjouan] authorisation to issue [licenses] entirely legally*” in 2003[17]. This comment implicitly accepted the existence of AOFA's 2005 framework in principle. However, no UK court has definitively ruled on the validity of AOFA's jurisdiction or the binding effect of its laws. For example, the courts have made no finding that AOFA licenses are *void* under international law; they merely upheld that the paperwork was genuine. Searches revealed no published UK judgments that directly adjudicate AOFA/IFB license legality. In short, UK precedent does not clearly favor either side, but indicates British courts are content to treat AOFA-licensed banks as a fact once licensing documents are shown[17].

Political/Ideological Context

Anjouan's bid for autonomy occurred against an ideological backdrop. The Union of the Comoros is officially the **Federal Islamic Republic of the Comoros**[6]. In 2006, the Union elected President Ahmed Abdallah Sambi, a religious scholar ("Ayatollah Sambi") who furthered conservative Islamic measures. By contrast, Bacar's Anjouan regime pursued

more secular, market-friendly policies (offshore finance, tourism, foreign partnerships). This ideological rift suggests that resistance to AOFA licenses was not purely legalistic: Union authorities often characterized Anjouan policies as “*anti-Islamic*” or subversive of national unity. In practice, however, AOFA stresses that its licensing was an economic development tool, not a rejection of Islam. The differing political climates (Islamist-leaning federal government vs. pragmatic island leadership) likely fueled the dispute over legitimacy.

Arguments: Pro (AOFA) vs. Con (Counterarguments)

Pro – AOFA’s Legitimacy	Con – Federal/International Critique
Statutory Mandate: Anjouan’s own laws explicitly empower AOFA to issue licenses[2]. AOFA’s acts were <i>signed into law</i> by the island’s authorities, implying democratic (legislative and executive) support on Anjouan. This local mandate is a strong legal claim if island autonomy is respected.	Constitutional Supremacy: Comoros’ Federal Constitution (Art. 9) centralizes banking under the Union[16]. Critics argue federal law overrides any island acts, making AOFA’s statutes legally void in the Union.
International Practice: Offshore financial centers worldwide (e.g. Seychelles, Cayman Islands) license banks via local regulators separate from a central bank. The IMF notes that multinational companies set up offshore banks for global operations[3]. AOFA mirrors these models by designating Anjouan as such a center.	Lack of Recognition: Neither the BCC nor global regulators (e.g. FATF, IMF) have endorsed AOFA. The IMF/WB and US State Department have labeled Anjouan’s offshore banking system “ <i>illegal</i> ” under Comorian law. Unrecognized licenses imply non-compliance with global standards.
Factual Implementation: Several banks (like IFB) operated under AOFA licenses and conducted real business (payroll, accounts, correspondent banking) for years. This de facto operation suggests practical acceptance by international partners, implying at least tacit legitimacy.	Regulatory Control & Risks: AOFA’s light-touch approach raised money-laundering alarms. The BCC had to blacklist AOFA-licensed banks and block some accounts[18]. The very need for this response indicates serious regulatory concerns undermining AOFA’s credibility.
Legal Precedent: The 2003 London court implicitly treated AOFA’s predecessor license as “ <i>entirely legal</i> ”[17]. At minimum, this means AOFA-era licenses were not inherently fraudulent in foreign courts.	Policy Cohesion: Federal authorities worry dual regimes create confusion. They argue that uniform oversight by BCC (and potential IMF/FATF obligations) is essential to combat illicit finance. Splitting authority, in their view, undermines these safeguards.

Strategic Outlook and Constructive Resolution

If approached with institutional discipline rather than political friction, the present impasse is not a structural dead end but a transitional governance problem. Several pragmatic pathways exist to transform AOFA from a contested offshore initiative into a stabilised adjunct of the Union's financial architecture.

1. Federal Regularisation

A formal statutory instrument enacted by the Union could retroactively validate island-level licensing powers under a clearly defined federal supervisory umbrella. This model is not unprecedented in federated or semi-federal systems where subnational authorities retain limited regulatory competencies. A structured framework would require:

- Mandatory prudential supervision under the Banque Centrale des Comores
- Uniform AML/CFT compliance consistent with FATF standards
- Defined capital adequacy ratios
- Transparent beneficial ownership reporting

Such integration would not dilute Union authority; it would consolidate it.

2. Joint Supervisory Architecture

A dual-layer supervisory regime could reconcile autonomy and central oversight. AOFA could retain operational licensing and field inspection functions, while macro-prudential authority could rest unequivocally with the central bank. Comparable hybrid models exist in emerging markets where offshore licensing regimes coexist with national central bank review. This approach preserves regulatory continuity while eliminating accusations of illegitimacy.

3. Compliance Consolidation

Credibility in financial regulation is not rhetorical - it is procedural.

The path forward requires:

- Independent third-party audits of licensees
- Transparent publication of licensing criteria
- Demonstrable AML/CFT enforcement actions
- Alignment with OECD transparency frameworks

Concrete compliance measures would neutralise reputational risk more effectively than diplomatic statements.

4. Multilateral Engagement

Structured dialogue with the IMF and World Bank, particularly within a Financial Sector Assessment Program context, would institutionalise the reform narrative. If the Union presents AOFA reform as part of a broader financial sector modernisation agenda, it reframes the discussion from “illegality” to “harmonisation”.

Risk Without Reform

Absent integration, the system remains exposed to:

- Legal uncertainty for investors
- Correspondent banking exclusion
- Reputational impairment
- Continued external scrutiny

Fragmented regulatory authority rarely survives sustained international pressure.

Constructive Perspective

However, properly formalised, AOFA represents more than a regulatory controversy. It is an embryonic offshore financial platform situated in a jurisdiction seeking capital diversification. With disciplined supervision, transparent governance, and federal validation, it could become:

- A controlled niche financial services centre
- A vehicle for structured foreign capital inflows
- A contributor to financial sector depth in Comoros

The core assets already exist: institutional initiative, licensing infrastructure, and demonstrated market interest. What remains is regulatory consolidation.

If integrated coherently into the Union’s legal framework, AOFA has the capacity to transition from contested innovation to credible financial instrument - strengthening, rather than destabilising, Comoros’ long-term economic trajectory and thus preventing islamistic tendencies.

In macro-political terms, economic inclusion through lawful financial infrastructure historically correlates with institutional moderation. Jurisdictions that provide structured access to global capital markets tend to reinforce technocratic governance, professional regulatory cultures, and international compliance standards. These dynamics dilute the appeal of doctrinal or ideologically rigid policy orientations.

Accordingly, a federally integrated AOFA would not destabilise the Union of the Comoros. It would strengthen its economic resilience, enhance institutional sophistication, and create structural counterweights to radical or isolationist currents. The issue is therefore not whether offshore regulation is inherently destabilising, but whether it is embedded within a coherent constitutional settlement. Properly structured, it becomes an instrument of state consolidation rather than fragmentation.

Anjouan, like Labuan, exercised territorially autonomous competence to license offshore, non-domestic banking entities, without encroaching upon federal monetary sovereignty. Moroni's (Capital of Comoros) subsequent political and military suppression does not retroactively extinguish vested rights created under a de facto autonomous legal order.

The necessity of Separation between Central Bank and Regulators

The imperative separation between the central bank and the financial regulator is no longer a matter of doctrinal preference. It is a structural necessity demonstrated repeatedly across jurisdictions, legal traditions, and stages of economic development. Where the boundary has been respected, financial systems have proven more resilient, more credible, and more governable. Where it has been blurred or ignored, supervisory paralysis, delayed loss recognition, and politicised monetary policy have followed with near-mechanical regularity.

The foundational reason is functional incompatibility. Central banks are institutions of macro-discretion. They must act pre-emptively, probabilistically, and at speed, often on incomplete information, to stabilise expectations and liquidity. Regulators, by contrast, are institutions of micro-judgment. They must act ex post, evidentially, and coercively, grounding their decisions in statute, enforceability, and due process. To combine these mandates is to force a single authority to be simultaneously expansive and punitive, accommodative and disciplinarian. International experience demonstrates that, under stress, one function inevitably dominates and it is almost always forbearance.

Japan offers a particularly instructive example. After the prolonged banking crisis of the 1990s, policymakers concluded that excessive intimacy between banks, supervisors, and the Bank of Japan had materially delayed insolvency recognition. The institutional response was decisive. Prudential supervision was consolidated under the Financial Services Agency, deliberately marginalising the central bank from licensing and enforcement. The objective was explicit: to ensure that monetary accommodation could not be used, even

subconsciously, to justify supervisory delay. Subsequent clean-up of bank balance sheets would have been politically impossible had the same authority been responsible for both liquidity provision and institutional triage.

A different but equally compelling logic is visible in Switzerland. The Swiss National Bank is among the world's most conservative monetary authorities, yet prudential supervision rests with FINMA. This separation proved critical during the forced resolution of Credit Suisse. The central bank provided extraordinary liquidity to prevent systemic contagion, while the regulator exercised coercive resolution powers without having to defend the monetary consequences of that decision. Had these functions been fused, the credibility of both would have been impaired, either by hesitation in resolution or by politicisation of liquidity support.

Singapore illustrates the model in a city-state context. The Monetary Authority of Singapore formally combines central banking and regulation, yet does so through internal statutory compartmentalisation that mirrors separation in practice. Distinct divisions, legal mandates, and escalation pathways ensure that supervisory enforcement is insulated from monetary strategy. The reason is telling: even where scale and governance allow unification, separation of decision rights remains indispensable. Functionally, Singapore behaves as if the roles were institutionally separate, because the alternative would erode international confidence in both.

The comparative record is unequivocal. In the United States, the Federal Reserve retains macroprudential oversight and lender-of-last-resort authority, yet granular supervision, licensing, and enforcement reside with distinct agencies. This dispersion is not accidental inefficiency; it is constitutional engineering designed to ensure that monetary accommodation does not become an implicit guarantee of institutional survival. Europe followed a different path but arrived at the same destination. The European Central Bank, even while supervising systemically significant banks, operates under rigid legal firewalls that separate supervisory decision-making from monetary policy. Information flows are constrained by statute, precisely to prevent policy contamination. The United Kingdom, having experienced the consequences of over-centralisation first-hand, reconstructed its framework so that prudential judgment and monetary policy coexist institutionally yet remain functionally distinct within the Bank of England.

These models demonstrate a shared doctrinal conclusion: banks report to regulators because regulators alone possess coercive legal authority over institutional behaviour. Capital add-ons, licence withdrawal, management removal, dividend prohibitions, and resolution triggers are legal acts, not monetary instruments. Central banks, by contrast, require data to calibrate system-wide liquidity and confidence. Their informational needs are aggregative, probabilistic, and forward-looking. Forcing banks to report primarily to central banks would blur accountability, politicise monetary policy, and introduce moral hazard by embedding supervisory discretion within an institution whose primary mandate is stability, not sanction.

Emerging markets provide further corroboration by counterexample. In jurisdictions where the central bank retains unchecked supervisory dominance, regulatory forbearance is empirically more common, especially where fiscal capacity is weak. Political pressure to maintain banking system “stability” translates into tolerance of undercapitalised institutions, misreporting, and evergreen lending. International financial institutions have repeatedly documented that crisis costs in such systems are higher and recovery slower precisely because the authority empowered to declare failure is also the authority tasked with preserving calm. Separation is therefore not a luxury of advanced economies; it is a precondition for credible financial development.

This logic bears directly on contested or hybrid arrangements such as offshore and sub-sovereign regulatory regimes. As documented in the Anjouan material, the central dispute was not whether a central bank should control currency or domestic stability, but whether every form of financial licensing must collapse into monetary authority. Comparative practice demonstrates that it need not, and often must not. Offshore, non-domestic, or functionally segregated banking regimes around the world operate under specialised regulators precisely to prevent contamination of the central bank’s mandate. Where this distinction is ignored, disputes rapidly become constitutional and political rather than supervisory, as the Anjouan case illustrates.

The international offshore and federal experience reinforces this logic. Numerous jurisdictions operate parallel regimes in which offshore or non-domestic financial entities are licensed and supervised by specialised regulators, while the central bank retains exclusive control over currency, payments, and domestic stability. This division does not weaken sovereignty; it preserves it by ensuring that monetary credibility is insulated from supervisory dispute. As documented in the uploaded material on the Anjouan Offshore Finance Authority, the central tension was never monetary competence but jurisdictional clarity. The dispute illustrates how conflating monetary authority with licensing power invites political conflict, legal ambiguity, and international scepticism, whereas clearly delineated competences allow systems to mature, integrate, and ultimately gain legitimacy.

The separation is therefore imperative for three non-negotiable reasons. First, it preserves monetary credibility by insulating policy from enforcement conflict. Second, it enforces supervisory integrity by ensuring that licence decisions are not subordinated to macro-stability narratives. Third, it protects systemic trust, because markets understand that liquidity support does not imply regulatory indulgence.

International finance has learned this lesson the hard way. The division between regulator and central bank is not an academic construct; it is the institutional memory of failure encoded into law.

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