



The Resolution Framework in Romania: search for the (right) way

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I. Legal framework for Romanian DGS;

II. Parties involved in resolution mechanism and their role;

III. The resolution measures: a few highlights

1. P&A transactions;
2. Activity of delegated administrator and, as the case may be, having the capacity of shareholder of a credit institution;
3. Having the capacity of sole shareholder and exercise the tasks of the supervision committee of a bridge – bank.

IV. Concerns

V. Challenges

VI. Lessons (to be) learned

I. Legal framework for Romanian DGS



FGDB was set up
as **a pay-box**

**Government
Ordinance No
39/1996** regarding
the setting up and
the operation of the
Bank Deposit
Guarantee Fund
(FGDB)



FGDB got
responsibilities in
P&A transaction
when a credit
institution is placed
in conservatorship

**Government
Ordinance No
13/2011** of
24/08/2011



FGDB was
empowered **to**
finance stability
measures in
banking resolutions

**Government
Ordinance No
1/2012** of
11/01/2012

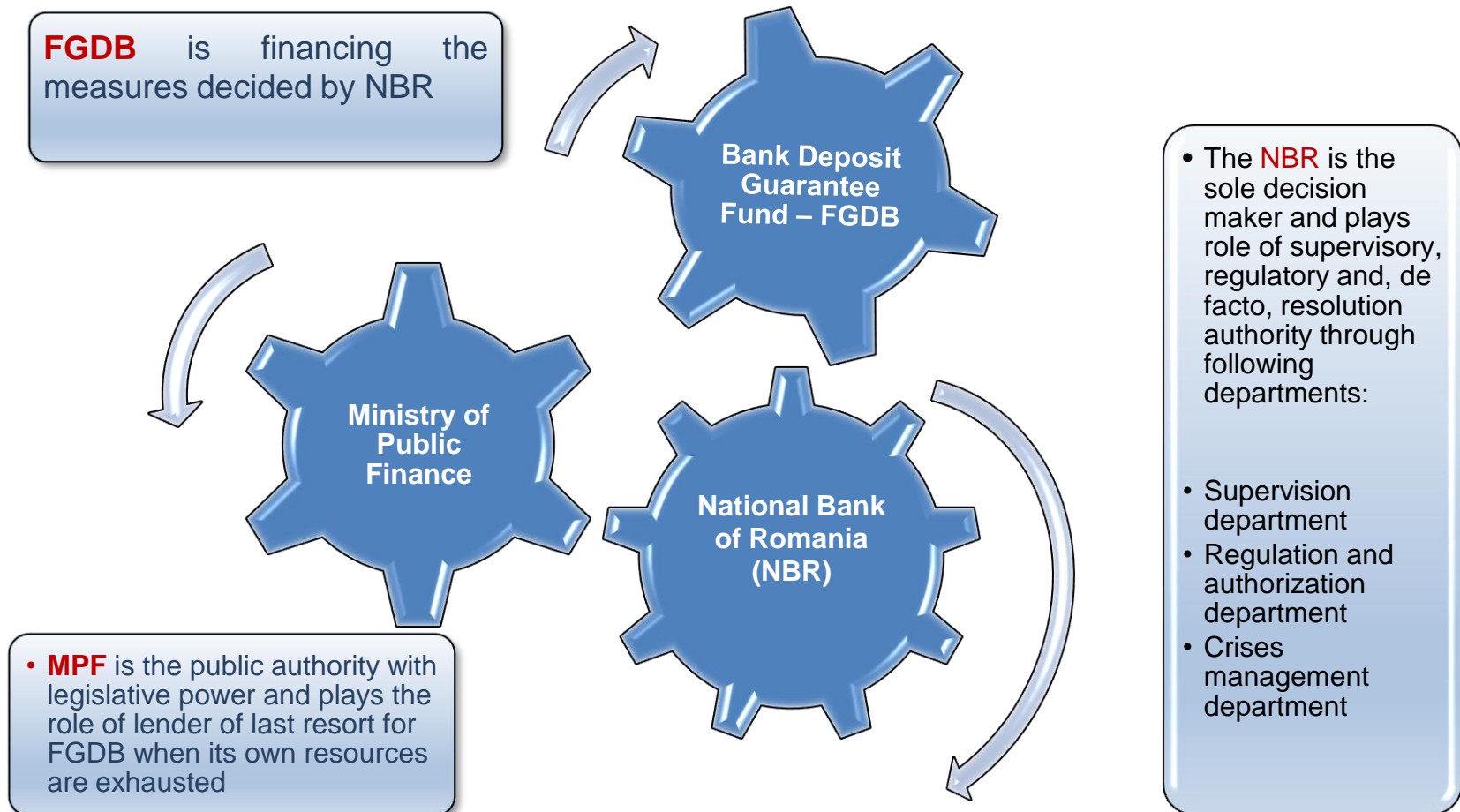


Supervisory Authority
assumes early
intervention by taking
the liberty to set
resolution measures to
any bank on the ground
of safeguarding the
financial stability

Law 272/2013 of
25/10/2013

When financial crises has emerged banks from almost all ill patients of Europe were in Romania: Portugal, Italy, Greece, Austria, Cyprus. IMF and EU were called for help, including for the design of banking resolution regulation.

II. Parties involved in resolution mechanism and their role



III. The resolution measures: a few highlights *P&A transactions (1)*

P&A transactions in conservatorship

- the principle of lower cost applies;
- due to law inconsistency, the effectiveness of measure is doubtful :
 - *the conservatorship measure should be advertized in the Official Gazette and posted at all locations of the troubled bank;*
 - *the timeframe in which the special administrator has to find solutions runs between 60 to 90 days;*
 - *meanwhile, the bank is open and customers enjoy access to their accounts and can withdraw their funds; rumors in the market continue to ruin the creditworthiness of the bank.*
- hence, an operation meant to be confidential becomes public known and can provoke a bank run.

P&A in resolution process

- no cost limit;
- the resolution authority (Central Bank) decides in terms of opportunity and scale;
- the DGS finances the measure from the resolution fund and from the deposit guarantee fund (if the resolution fund is exhausted);
- the deposit guarantee fund was build up from the banks' contributions with the special purpose to protect their depositors; using it for resolution purposes jeopardizes the depositors' interest;
- moral hazard arises: DGS shifts its role from solidarity with the depositors to solidarity with the banks;
- the bail-in looks like a double taxation of unsecured deposits since the resolution fund is levied on the same liabilities.

///. The resolution measures: a few highlights *Recapitalization (2)*

Involvement of **FGDB as delegate administrator** and, if necessary, as a **shareholder of a credit institution (recapitalization)**

An imbalance exists between the definition of the special administrator and that of the delegate administrator

FGDB exit conditions from the bank ownership are not clearly defined in terms of procedures and timing

The opportunity of this measure and the necessary funding level are decided by the resolution authority, while FGDB is hold to provide financing with no possibility to get involved in the decision- making

III. The resolution measures: a few highlights ***Bridge bank with FGDB as a sole shareholder (3)***

FGDB is fully accountable for the use of the deposit guarantee fund, but it may be requested to use it to finance resolution measures without co-decision rights.

Although the bridge bank is supposed to be a special bank, the legislation stipulates that it is created and operates as a normal credit institution, with the exception of:

- It has only one shareholder;
- It has the role of taking assets and liabilities from a failed bank;
- Its shareholder equity can be lower than the usual level.

In terms of governance, FGDB submits proposals for the members of the Supervisory Board, while the Central Bank appoints them and the Executive Directors and sets the business plan for them.



1. If stabilization measures fails and the credit institutions get into bankruptcy, FGDB is still liable to pay out the depositors' compensation, therefore a double payment emerges.
2. The title under which the deposit guarantee fund is used for resolution purposes is not clearly defined by the law (grant, loan). Hence, litigations may appear.
3. Use of DGS funds in bank resolution may be assimilated to State Aid as long as the decision making is done by the State's Authorities, with consequences of distorting the competition in the market.



The legal framework needs reshape, in order to :

clearly define the statute of DGS

what kind of authority should be (management, control, decisions to be made, mandate to finance the resolution measures etc.);

set out its role/responsibilities/attributions, noting the European options for DGS scope & powers and their correlation with the responsibilities;

create a clear, transparent and functional delimitation of institutional links inside the financial stability mechanism;

agree upon the financing measures

in the context of European tendencies, industry expectances and existing resources (including the principle of minimum cost).

VI. Lessons (to be) learned (1)



*When designing a legal framework keep in mind all players, which should be treated as real partners as they are in real life: **the regulator, the supervisor, the industry and the insurer of banking system.***

Market Equilibrium



Democracy recognizes the “Market” as the core lever for progress and competitiveness! This requires that banking industry, regulators and DGS perform the function of securing customers’ deposits by preserving the market rules.



*Banking resolution should be made according to **general interest, nondiscriminatory and avoiding the moral hazard**.*

VI. Lessons (to be) learned (3)

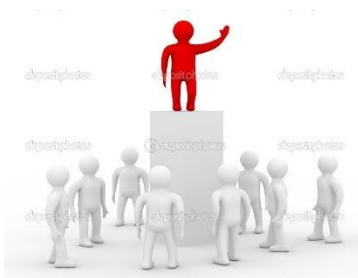


European Single Market is a young construction! It still needs time to find its effective, well built cohesion. To achieve this, national cultures should compromise in adopting what is better for all. National “accents” should make way to common goals, strategies and wordings.





Coordination between policymakers in Brussels and market players is essential in building viable mechanisms. Voices of the last ones should be strong and listened in order to achieve functional systems. Politicians and regulators should be reminded that their prime duty is to serve!





It is an urgent need for a new legal and institutional architecture based on both international/ European viable concepts & local market realities.

This is the rationale behind FGDB's request for World Bank assistance to make it compliant with the customers' expectations.



Thank you!

For further details visit www.fgdb.ro