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Challenges Facing Deposit Insurers on Cross-Border Cooperation in Resolution and Crisis Preparedness Taiwan Experience

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Preface



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- A real case occurred in Sep. 2008
 - ➤ Home country-Taiwan
 - ➤ Host country-Country A
 - > Key Attributes (KAs) had not been released yet
- A Non-GSIB, neither a D-SIB; but a small and mediumsized
- To illustrate the extent of linkages between the case and the KAs



Outline



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- Briefly description of the failed Bank (CF Bank) & implementation process used by Taiwan in 2008
- Description the process of the interaction between Taiwan & Country A; What barriers encountered? How to overcome?
- Items consistent with KAs
- Items departed from KAs



Part I



Introduction to CF Bank

Aug.31, 2008

USD 0.1Billions,

	Assets	Liabilities	Net Worth	Branches (Unit)	Employees
Taiwan	13.29	21.39	-8.1	37	1,055
Country A	0.17	0.12	0.05	2	77
Total	13.46	21.51	-8.05	39	1,132



Resolution Mechanism in Taiwan (2008)

- the Financial Restructuring Fund (FRF)
 - > to respond to potential domestic financial crises.
- 5 pillars of the FRF

Legal System

 Drafting of the FRF Statute, Financial Holding Companies Law, Merger of Financial Institutions Law
 Amendment of the Banking Act,

Insurance Act, and Business Tax

Deposit

Law

Funding Sources

- Business tax paid by the financial industry
- Deposit insurance premiums

Blanket Guarantee

•Expired on Dec. 2011

Market & Tax Incentives

- •To facilitate Assets Management Company to establish
- •Relief on some merger-related taxes

Authorities

- The decision making authorities: the management committee of FRF & FSC
- The enforcement authority: CDIC Taiwan



Process of Bank Resolution

On-Sight Guidance

- PCA scheme triggered; FSC orders the bank to improve its financial and business conditions; 90 days at most.
- CDIC Taiwan is often appointed to provide on-site guidance to help the bank recover by its own means.

Conservatorship

- If self-recovery measures fail, the FSC would designate a conservator to takes over the bank's management rights and property management disposition rights.
- CDIC is generally appointed as the conservator. CDIC stations a conservatorship team of six to nine people at the failed bank to facilitate the execution of its powers.

P & A Transaction

- The resolution team from CDIC's head office begins to plan the P&A transaction.
- The entire process from the guidance stage to transaction completion takes 12 to 18 months.



Part II



Cross-Border Cooperation —Guidance Stage

- Cooperation grounding
 - A document on banking regulatory information exchange
 - -FSC vs. the competent authority
 - An investment protection protocol
 -government vs. government
 - A memorandum of understanding (MOU)-CDIC Taiwan vs. DI
- CDIC stationing staff at the local branches, visiting the local authorities
- A Vice Chairperson of the FSC with a delegation to Country A to explain the resolution framework to the competent authority-2 months before conservatorship



Cross-Border Cooperation —Guidance Stage(cont'd)

- The conclusions of the cross-border discussions
 - The conservator will keep all the bank's branches and offices operating normally and there will be no influence on the providing of financial services to customers
 - The Bank is fully protected by the FRF, all the bank deposit and interbank placements will be fully paid by the FRF
 - The conservator will designate the Bank of Taiwan to operate CF Bank- a subsidiary of a state-owned financial holding company in Taiwan
 - Liquidity will be adequately supported by the Central Bank and other banking institutions in Taiwan
 - FSC and CDIC will formulate Qualifications for CF Bank acquirer in accordance with Regulation of country A



Cross-Border Cooperation —Guidance Stage(cont'd)

- Consulting with the local authorities to provide assistance
 - Maintaining the confidence of the local public in CF Bank to alleviate concern among other banks in Country A over the operations of the CF Bank branches.
 - Ensuring the smooth operation of CF Bank in Country A to avoid repercussions to customer interests.
 - Handling any jurisdictional barriers to the transfer of liquidity and solvency capital to Country A .



Cross-Border Cooperation -Conservatorship and P&A Stage

- Splitting-up strategy being effective
 - Splitting the branches of Country A from the other portfolio
- A small hiccup
 - The bank winning the bid hit an obstacle when applying for a bank charter
 - Branch or sub-branch?
 - Compliance to the local law



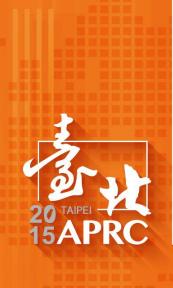
Cross-Border Cooperation -Conservatorship and P&A Stage(cont'd)

- Beneficial to the employee of Country A
 - > Additional compensation : about half month salary
 - ➤ The retention of 100% employee : nationals of Country A
 - Continuation of all labor conditions stipulated in the original labor contract
 - Once unwilling to stay: paying the pension or severance payment plus unemployment compensation(about one month's salary)



Cross-Border Cooperation -Conservatorship and P&A Stage(cont'd)

- A case of employee fraud
 - Perpetrated over a period of up to three years, being discovered during the conservatorship, approximately US\$116,000
 - The FRF has the civil right to claim damages resulting from illegal acts.
 - The local court intuitively concluded that the right belonged to the acquiring bank.
 - ➤ The CDIC therefore negotiated with **the acquiring bank to serve as litigant** in place of the FRF and CDIC to seek civil recoveries
 - The recovered funds were returned to the FRF and CDIC after deducting the related costs.



Part III



Key Attributes Assessments - Conformance

- Powerful statutory mandate : the home country had a strong statutory mandate - KA7.1
- No discrimination against creditors on the basis of their nationality: impartial treatment of creditors in Country A-KA7.4
- No triggering automatic action: the resolution authority in Country A did not initiate the resolution procedures -KA7.2



Key Attributes Assessments - Conformance (cont'd)

- Crisis management groups (CMGs): though not formally named, the constituent members & the topics of mutual discussion being consistent (including resolution objectives, processing steps, liquidity and solvency capital support, assistance with currency conversion, establishment of communication windows, and flexibility for resolution of contingencies)—KA8.1,KA9.1
- institution-specific cross-border cooperation agreement: though just meeting minutes, in substance, it covered commitment to maintain confidentiality, procedure of information sharing-KA Appendix 1 Annex 2



Part IV



Key Attributes Assessments - Divergence

- Recovery and Resolution Plans (RRPs)
 - > the principle of RRPs in cross-border cooperation did not apply in this case.
- Occurred in the context of a blanket guarantee
 - > a relative lack of formal systems and frameworks
- May be limited to small and medium commercial banks on the basis of bilateral relationship



Key Attributes Assessments - Perspective

- What if a SIB with multiple jurisdictions being failed?
 - ➤ A more detailed legal framework : a multilateral protocol on cross-border cooperation in resolution formulated at the government level
 - Deeper involvement: allowing non-CMG member host countries to promptly express opinions on resolution, or at least informing them a bit earlier. What can and should they do when a G-SIB crisis occurs? And what changes are needed in their originally envisaged approach?





Thank You!

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