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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 medium-sized
- 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	Funding Sources	Blanket Guarantee	Market & Tax Incentives	Authorities
<ul style="list-style-type: none"><li>•Drafting of the FRF Statute, Financial Holding Companies Law, Merger of Financial Institutions Law</li><li>•Amendment of the Banking Act, Deposit Insurance Act, and Business Tax Law</li></ul>	<ul style="list-style-type: none"><li>•Business tax paid by the financial industry</li><li>•Deposit insurance premiums</li></ul>	<ul style="list-style-type: none"><li>•Expired on Dec. 2011</li></ul>	<ul style="list-style-type: none"><li>•To facilitate Assets Management Company to establish</li><li>•Relief on some merger-related taxes</li></ul>	<ul style="list-style-type: none"><li>• The decision making authorities : the management committee of FRF &amp; FSC</li><li>• The enforcement authority: CDIC Taiwan</li></ul>



# 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 take 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 RRP 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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