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Resolution tools and powers

National Bank of Moldova as resolution authority

Banking resolution is the restructuring process of a bank that the National Bank of Moldova (hereinafter - NBM) carries out as a resolution authority[1], by using resolution tools and powers, in order to ensure the continuity of the bank's critical functions, to restore viability, in whole or in part, and to liquidate its residual part through the forced liquidation procedure provided by Law no.550 of July 21, 1995 on the liquidation of banks.

Law no.232 of 03.10.2016 on the recovery and resolution of banks (Official Monitor of the Republic of Moldova no.343-346, art.707 of 04.10.2016, hereinafter - Law no.232/2016) partially transposes into national law the provisions of Directive 2014/59/EU, a document which materializes the European Union's efforts to create an effective crisis management framework for financial institutions.

As resolution authority, the National Bank of Moldova has responsibilities in the following areas: - resolution planning; - undertaking resolution actions.

The National Bank of Moldova, as resolution authority, develops a resolution plan for each bank. The resolution plan shall mainly contain the following elements:

- information on the bank's financial situation – the financial situation at the end of the last management year, the findings of the last thematic/complex audit, the adjustment;
- balance sheet data as a result of applying stress testing;
- conditions that could trigger the resolution procedure;
- intervention strategies, with a detailed description of the resolution tools that can be applied;
- the manner in which critical functions and core business lines could be separated from other functions, in order to ensure their continuity in case of major difficulty of the bank;
- estimation of the timetable for implementing important aspects of the plan;
- assessment of the possibility of solving the bank's situation and description of any measures required by law to address or remove obstacles to resolvability;
- the possibility of financing resolution options without resorting to extraordinary financial support;
- description of options for maintaining access to payment and clearing services and other infrastructures; etc.

The plan shall be reassessed and updated at least once a year and whenever there are significant changes in the organizational or legal structure, of the economic activity or financial position of the bank which may have a major impact on the effectiveness of the resolution plans or which would require an amendment to them.

Undertaking resolution actions

The National Bank of Moldova shall undertake a resolution action with regard to a bank only if it considers that three conditions are met cumulatively:

1. the bank enters or is likely to enter a state of major difficulty;
2. there is no reasonable prospect that the state of major difficulty could be prevented, within a reasonable period, by alternative measures;

3. the resolution action is necessary from the public interest perspective.

Resolution actions, comprising resolution tools and powers, shall aim to achieve any of the following objectives:

— ensuring the continuity of critical functions;
— avoiding significant adverse effects on financial stability, in particular by preventing contagion, including on market infrastructures, and by maintaining market discipline;
— protecting public funds by minimizing reliance on extraordinary public financial support;
— protection of depositors covered by deposit guarantee legislation;
— protecting client funds and assets.

The resolution tools that can be used, individually or in any combination, are:

— the sale of business tool;
— the bridge bank tool;
— the assets separation tool;
— the bail-in tool.

Organization of banking resolution

In accordance with the provisions of Law no. 232/2016, The National Bank of Moldova shall ensure, within the organization of its internal activity, operational independence and avoidance of conflict of interest between the structure exercising the resolution function and the structure exercising the supervisory function, distinct lines of reporting and structural separation from the staff exercising supervisory tasks or from the staff involved in the exercise of other functions of the National Bank of Moldova. The resolution function is organized within the Banking Resolution Directorate.

Note:
1. resolution authority – authority empowered to apply resolution tools and to exercise resolution powers in accordance with Law no.232 of 03.10.2016 on the recovery and resolution of banks.

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