

International Deposit Insurance Survey

Section 1: Background Information

1.1 Organization (deposit insurer) responsible for administering the deposit insurance system:

1.1.1 Organization Name:

Banco de la Republica

1.1.2 Organization Address:

Carrera 7 N°14-78, Bogota, D.C., Colombia

1.1.3 Organization Telephone No:

(571) 3431111

1.1.4 Organization Fax No:

1.1.5 Organization Internet Address:

www.banrep.gov.co

1.2 Contact Person(s):

1.2.1 Contact Person(s) Name:

1.2.2 Contact Person(s) Address:

1.2.3 Contact Person(s) Telephone:

1.2.4 Contact Person(s) Fax:

1.2.5 Contact Person(s) E-mail address:

1.2.6 Are there other deposit insurance systems operating in your country ? (i.e. applying to other types of non-bank or non-depository institutions e.g.. insurance, securities) Please state their name(s) and contact information:

1.3 Please provide information on other participants in your financial system safety-net:

1.3.1 Name of Central Bank:

1.3.2 Central Bank Address:

1.3.3 Central Bank Telephone:

1.3.4 Central Bank Fax:

1.3.5 Central Bank Internet Address:

1.3.6 Central Bank Contact Person:

1.4 Financial Supervisor:

1.4.1 Financial Supervisor Name:

Superintendencia Bancaria de Colombia

1.4.2 Financial Supervisor Address:

1.4.3 Financial Supervisor Telephone:

(571) 5940200

1.4.4 Financial Supervisor Fax:

1.4.5 Financial Supervisor Internet Address and contact:

www.superbancaria.gov.co

1.5 Other related entities:

1.5.1 Other Related Entities Name:

1.5.2 Other Related Entities Address:

1.5.3 Other Related Entities Telephone:

1.5.4 Other Related Entities Fax:

1.5.5 Other Related Entities Internet Address:

Section 2: Objectives, Mandates & Powers

2.1.1 When and why was the DIS established (please provide details)?

The Fund of Guarantees of Financial Institutions was created by the Congress of the Republic by means of Law 117 of 1985, with occasion of 1982's Colombian financial crisis.

2.1.2 What are the stated public policy objectives or mandate for your country's DIS? When was the last time they were reviewed and changed?

To protect creditors and depositors' trust in the registered financial institutions, maintaining the equilibrium and economic equity, and avoiding unjustified benefits of stockholders and administrators responsible for damages to the financial institutions. Within this general objective, the Fund shall have the following duties: To act as a tool for the patrimonial strengthening of the registered institutions. To participate temporarily into the capital of the registered financial institutions. To strive to make sure that the registered institutions have the means to give liquidity to financial assets and assets received as payment. To organize and develop the Deposit Insurance System and the system for the purchase of obligations of registered institutions within liquidation procedures, or the system to give provide funding to depositors of the registered institutions within liquidation procedures. To follow up the liquidation procedures of financial institutions ordered by the Banking Superintendence. In the cases of intervention of financial institutions, to designate the receivers or liquidators. To Guarantee private pension funds. 1999's Financial Amendment (Law 510) modified one of the objectives.

2.1.3 What process was used to determine these objectives in your country?

The government designed an Advisor Commission for the Study of an Amendment to the Financial System. This commission analyzed the 1982's crisis and its causes, as well as other situations of the financial institutions. The Congress reviewed different legislative projects, and after that, it approved the Law 117/1985.

2.1.4 What is the legal basis under which the DIS was established? Please provide a copy.

Legislation

2.1.5 Is there a formal process for a periodic review of the policy objectives/mandates?

No

2.1.6 What sort of system do you have?

Government legislated and administered

2.1.7 Who makes decisions to pay depositor claims?

Other

Liquidator recognizes depositor claims and Fogafin set up the procedure to pay those claims.

2.2 Which of the following powers has been provided to the DIS in order to carry out its mandate?

2.3 Authority to

2.3.1 Enter into contracts

2.3.2 Set regulations or by-laws for conduct of its business

2.4 Authority over entry and exit of member deposit taking institutions

2.4.1 Establish terms and conditions of membership

No

2.4.2 Authority to terminate the insured status of a member institution

Yes

2.5 Depositor reimbursement

2.5.1 Affect reimbursement of depositors claims

2.5.2 Access to depositor information

Yes

2.5.3 Use various methods of reimbursing depositors claims

Yes

2.6 Funding

2.6.1 How funding is provided

Yes

2.6.2 Terms and conditions of premiums or levies

2.6.3 Borrowing authorities and limits

Yes

2.7 Information Requirements

2.7.1 Access to information directly from member deposit taking institutions or its auditors

Yes

2.7.2 Access to information through supervisory authorities

2.8 Enforcement and intervention

2.8.1 Authority to conduct examinations and/or reviews

2.8.2 Ability to set standards or guidelines for member institutions

2.8.3 Authority to take enforcement actions against members (i.e. such as the authority to require a change in institutional control and/or behaviour).

No

2.8.4 Authority to cancel deposit insurance of a member institution

2.8.5 Authority to hold officers and directors of failed institutions legally liable for the failure of the institution

No

2.9 Failure resolution

2.9.1 Authority to decide on appropriate form of failure resolution

Yes

2.9.2 Authority to provide financial assistance (e.g. in the form of a loan -- with or without security -- by purchasing assets from the institution or through some other process).

Yes

2.9.3 Authority to guarantee deposits with member institutions or guarantee loans to an institution by other parties

2.10 Authority to:

2.10.1 Undertake formal liquidation

2.10.2 Purchase and assumption (sale and merger)

2.10.3 Open assistance (bridge bank)

2.10.4 Other forms of failure resolution

2.11 Optimizing recoveries

2.11.1 Ability to act as a receiver

2.11.2 Ability to act as a liquidator

No

Section 3: Governance Arrangements

3.1.1 Is the DIS a legally separate organization from other public or private bodies? (e.g. central bank, supervisor, industry association)

Yes

3.1.2 What is the form of governance used by the DIS organization?

Board of Directors

null|null|null|null|null|

3.1.3 How is the governing body selected?

Composition of the Board of Directors is determined by Law

3.1.4 What is the composition of the governing body?

The Minister of Finance and Public Credit or the Deputy Minister acting as deputy, who is appointed by the minister. The Governor of the Central Bank, or the Technical Manager, as his alternate. The Superintendent of Securities. Two members appointed by the President of the Republic, that one of them shall be nominated amongst people from the financial sector. The Superintendent of Banks who shall attend the meetings of the Board of directors, but does not have the right to vote any decision.

3.1.5 What are the duties and responsibilities of the governing body?

To regulate the terms and conditions in which FOGAFIN purchases loans of financial institutions or for lending money to financial institutions or their stockholders. To set fees, premiums, rates and prices for all services. To regulate the Deposit Insurance. To set the general conditions of the assets that may be acquired or negotiated by the Fund, including distressed assets. To inform to the Superintendent of Banks at any time that there are situations that may jeopardize the level of confidence in the financial system, or in which financial institutions fail to fulfil any legal obligation, in order to allow the Superintendence to take all the corresponding measures. To determine the conditions of bonds and any other kind of securities issued by the Fund, as well any authorized investment. To authorize the constitution of all reserves necessary for the financial strengthening of the Fund. To approve the annual budget and the contracts and agreements set forth in the by-laws. To submit to the Government a project of by-laws amendment. To order, prior report of the Superintendence of Banking, the nominal reduction of the capital of a member institution. To determine the fee that must be charged to the pension funds. To determine the officers of the Fund that may represent it, and to determine their duties.

3.1.6 Is there any direct or indirect representation in the management of the DIS by member insured institutions?

Yes

3.1.7 Is there any direct or indirect representation in the management of the DIS by the central bank?

3.1.8 Is there any direct or indirect representation in the management of the DIS by the regulator?

3.1.9 Is there any direct or indirect representation in the management of the DIS by the supervisor?

3.1.10 Is there any direct or indirect representation in the management of the DIS by other?

3.1.11 Please provide a breakdown of the management structure of the DIS

1. Board of Directors 2. CEO 3. General Counselor, CFO, Operations Deputy Director, Financial Institutions Deputy Director, Assets Recovery Deputy Director

3.1.12 Do you have an internal control and audit systems

Yes

3.1.13 Are directors and officers of the DIS and/or supervisors personally liable for their decisions in the normal course of their activities?

Yes

3.1.14 Is there an advisory committee to the DIS?

No

3.1.15 Has the DIS ever taken legal action against directors of failed member institutions? Or others? What position did the person(s) hold?

No

3.1.16 Please indicate which of the following tools are used as part of your accountability regime.

Section 4: Human Resources & Infrastructure

4.1.1 What is the total number of employees at the DIS (e.g. full-time, part-time and contract) ?

100

4.1.2 Are the majority of DIS employees dedicated staff or do they come from other organizations (i.e. government, central bank, private sector)?

Yes

4.1.3 Does the DIS train and develop its own staff? If so, briefly describe programs which have been put in place for training and development?

Yes

The training is developed by sending people to take courses designed by Universities in Colombia or abroad and by participating in several seminars celebrated in Colombia or abroad.

4.1.4 Is there shared training and development between the staff of the DIS and other authorities involved in financial sector supervision or regulation? (i.e. central bank, supervisor, regulator, other)

No

4.1.5 Are compensation and incentives offered sufficient to attract and retain skilled staff? Please elaborate.

4

4.1.6 Are confidentiality provisions for employees provided for?

Yes

4.1.7 Do employees of the DIS receive legal protection against lawsuits for their actions taken in good faith and acting in the best interests of the DIS?

Other

Directive personnel which include members of the Board of Directors, CEO, CFO, General Counselor, Operations Deputy Director, Financial Institutions Deputy Director, Assets Recovery Deputy Director are covered by an insurance policy against civil responsibility derived from actions taken in good faith.

4.1.8 What percentage of the budget is spent on training and development and information technology?

Training 0.18% and Information Technology 1.58%

Section 5: Information Sharing & Interrelationship Among Safety-Net Players

5.1.1 Who performs examinations of DIS member institutions?

5.1.2 Please describe the examination process that is used to evaluate member institution performance?

FOGAFIN does not perform audits or examinations of its member institutions. The supervisor authority in Colombia is the Superintendent of Banks which realizes examinations when considers that exists evidence of irregular practices or at any time with the purpose to get a whole knowledge of the financial institution. One of the main tools used by this entity is the methodology CAMEL.

5.1.3 What information is collected from member institutions for the DIS and other parties?

FOGAFIN does not receive reports from its member institutions different to the ones required to verify the compliance with the agreement subscribed with FOGAFIN when those institutions have received some loans or any economical support. Superintendent of Banks requires several informs related, among others, to the financial statements, the solvency ratio, rates of interest and risks. These informs are filed electronically on regular basis, generally monthly.

5.1.4 What arrangements (i.e. formal or informal) are in place between organizations responsible for deposit insurance and other parties comprising the safety-net (e.g. central bank, supervisor, regulator) regarding the sharing of information concerning member institutions? Please provide details of these agreements.

The Minister of Finance and Public Credit, Central Bank, Superintendent of Banks and FOGAFIN subscribed an agreement to cooperate in the process of sharing information.

5.2 On a scale from 1 to 5, 1 being low and 5 being high, please rate both the accessibility (i.e. access to all necessary information for the DIS to fulfill its mandate) and timeliness (i.e. information is received when needed) of information that is shared amongst members of the safety net.

5.2.1 accessibility

4

5.2.2 timeliness

3

5.2.3 Is there a consistent definition/classification across authorities of problem institutions

No

5.2.4 When policy regarding the DIS and financial sector is developed or amended, are other bodies consulted and/or advised (e.g. central bank, supervisor, regulator, government, industry associations) ? If you do consult and/or advise what bodies do you do it with?

5.2.5 Is discussion with other bodies encouraged prior to the implementation of new policy?

5.2.6 How often do you contact other DIS?

Occasionally

5.2.7 Is the DIS consulted when the regulator, supervisor or central bank enters into an agreement with a financial institution that is experiencing problems?

No

Section 6: Membership

6.1.1 What types of institutions are covered in your DIS?

Commercial Banks, Mortgage Banks, commercial financing companies ordinaries and specialized in leasing, capitalization companies.

6.1.2 Is membership in the DIS mandatory for designated deposit taking

institutions?

Yes

6.1.3 Do you have terms and conditions of membership? (i.e. laws, regulations or agreements which member institutions have to abide by) If so, please explain the application process used and any conditions of membership imposed on institutions by the DIS.

6.1.4 Is the membership of foreign institutions (i.e. foreign bank branches and/or subsidiaries) covered in the same way as domestic institutions? If not, please describe the difference.

Other

Colombia considers as foreign institution only Offices of Representation, however they are not authorized to be a retail deposit-taker; in consequence they are not requested to be members of FOGAFIN. Any other Financial Institution which is a retail deposit-taker to be established in Colombia is considered domestic, even if stockholders are foreign, and is subject to be a member of FOGAFIN.

6.1.5 If more than one safety-net organization is responsible for the application process for membership, how is the application process coordinated between the parties responsible?

As described in point three after applying for a license in the Superintendence of Banks, the institutions need to apply for a membership to the DIS because is mandatory.

6.1.6 Are deposit-taking institutions required to re-apply for membership after a certain period of time?

No

6.1.7 How many member institutions do you have?

108

6.1.8 What is the total level of assets, deposits and insurable deposits of all DIS member institutions?

As of April 2002 level of assets US dollars \$36.613 millions, total member deposits US Dollars \$23.273, and total insured deposits US dollars \$7.164 millions.

Section 7: Coverage

7.1.1 Is there a formal definition of a deposit and or insured deposit used by your DIS? If so what is it?

7.1.2 What types of deposits are eligible for coverage in your DIS?

Savings account, Chequing account, Annuity contracts, Certificates of deposit, Other special saving accounts, constant value saving accounts, constant value saving certificates, account pending to be paid, centralized account, special deposits, collecting banking services. |null|null|null|null|null|null|null|null|null|null|

7.1.3 Is coverage

Other

Per deposit per institution up to 20 million Colombian pesos.

7.1.4 What is the coverage limit per depositor?

20 million Colombian pesos with a deductible (co-payment) of 25%. It means US dollars \$8361.24 (1: 2336.11)

7.1.5 How was this figures arrived at?

The IMF provided recommendations through a technical assistance programs and analysis made by FOGAFIN.

7.1.6 For eligible financial instruments with maturity dates, what is the longest contract term covered by the DIS?

No limit.

7.1.7 What types of depositors are not eligible for coverage in your DIS?

Foreign (non-residents),Corporations (domestic),Corporations (foreign)

There is no differantiation among deposits covered as long as they are taken in a financial institution established in Colombia.|null|null|null|null|

7.1.8 Is the coverage amount indexed?

No

7.1.9 What is it indexed to?

No apply

7.1.10 Does your DIS use coinsurance? If coinsurance is used please describe the approach used.

No

7.1.11 Is the public widely aware of the presence of coinsurance?

7.1.12 Are coverage levels affected by resolution methods? If so, please explain.

No

7.1.13 To what extent, is there a public expectation that the DIS coverage limit would be extended to 100% coverage in the event of a banking crisis or the failure of a very large institution? Please provide recent examples, if applicable.

No

7.1.14 How is a decision made on the insurance eligibility of new financial products?

Some new financial products must be approved by a decree issued by the Minister of Finance and Public Credit. After that, the board of directors of FOGAFIN must amend the resolution in which establishes the deposits insured including this new financial product, as long as it is legally defined as deposit.

7.1.15 When member institutions merge how are insured deposits treated?

FOGAFIN's deposit insurance coverage goes up to \$20.000.000 Colombian pesos with a deductible of 25% and deposits are covered by person by entity. Regulations about deposit insurance do not have any special treatment of deposits proceeding from merging process.

7.2 Does your country offer the following?

7.2.1 Islamic banking

7.2.2 Islamic deposit insurance

Section 8: Funding & Fund Management

8.1.1 What type of funding is used by the DIS?

8.1.2 Is the DIS funded by levying insurance premium assessments against member institutions or, by some other means such as general tax revenues?

Premium assessment

Premium assessment, recently and due to the severity of the crises lived in 1998 there have been transfers from the Central Government.

8.1.3 If insurance premiums are assessed, are they assessed as a flat rate or are they differential in some way, please explain? (e.g. risk based)

The premium is assessed as a differential rate based on liabilities of financial entities that collect retail savings and based on mathematical reserves on annuities societies. The differential rate is conformed after imposing a flat rate in the first year and after returning some part of the premiums or imposing additional premiums at the beginning of the second year.

8.1.4 What is the current premium rate? If there have been changes to this rate, details would be appreciated.

Until August 1998 the general rate was 0.15% and it was raised to 0.3%. In December 2000, the rate was raised to 0.6%. From January 1st of 2002 to December 31st of 2006 the rate for all entities is 0.5% on all deposits and since January 1st of 2007 the rate for all entities will be 0.3%. The rate is charged based on the criteria above mentioned.

8.1.5 How often is the premium assessed?

One way to answer this question is that the assessment is done depending on the evaluation of the level of reserves. The other way is to calculate the premium based on financial statements of each quarter of year it must be paid the latest business day of April, July, October and January of each year.

8.1.6 Is the premium assessed on total deposits, insured deposits or something else?

Total deposits

8.1.7 Are premiums paid by member institutions tax deductible as a business expense?

No

8.1.8 For premiums that are differentiated please explain the risk assessment system that is used to ascertain a premium assessment.

The differential premiums are assessed on the basis of the CAMEL system developed by the Superintendence of Banking.

8.1.9 Does the DIS have a target with respect to the optimal size of the DIS fund? (Yes is chosen go to question 8.10 otherwise Skip the next 2 questions)

8.1.10 How is the optimum level (i.e. target) of the fund determined?

When financial institutions reach the level established by regulations.

8.1.11 What investment policies (i.e. safeguards against abuse) exist concerning the use of the fund?

Yes

8.1.12 If a fund is not maintained, is an assessment levied on institutions after the failure of a financial institution has occurred? If so, please explain how the levies are determined and losses distributed among institutions.

8.1.13 Which of the following sources of additional funding, for emergency or liquidity purposes, does the DIS have access to?

8.1.14 Are member institutions required by law to issue, on a regular basis, subordinated debt?

No

Section 9: Reimbursing Depositors

9.1.1 Please describe the procedure for reimbursing depositors used by your DIS?

Once liquidator has approved credits in favor of depositors he will pay to them, according to availability of resources. For that purpose, in first instance, the DIS disburses the money corresponding to the Deposit Insurance to the entity which is being liquidated.

9.1.2 Are depositors required to file a claim when a member institution fails? If so, what is the process?

Yes

Yes, on first hand, depositors must file a claim; second, liquidator issues a resolution recognizing savings; third liquidator pays to depositors according to availability of sources. The DIS provides the sources to the liquidator in order to pay insurance deposit.

9.1.3 When is the DIS obligated to reimburse insured depositors?

Resolution recognizing savings is subject to revision, due to any claim filed by any other depositor. Once all revisions are decided FOGAFIN will pay insurance deposit to recognized depositors.

9.1.4 Is there an established legal basis upon which to base the reimbursement process? Please explain.

Yes

Yes, procedure to reimburse is established in a decree issued by the Minister of Finance and Public Credit.

9.1.5 Is the DIS subject to explicit standards for prompt reimbursement? If so what are they?

Yes

FOGAFIN must pay insurance deposit once any revision filed against the resolution that recognizes

depositors is decided. Furthermore, several resolutions issued by the Board of Directors of FOGAFIN establish the timing in which insurance deposit must be paid.

9.1.6 What methods of payment can be used and under what circumstances are they used?

FOGAFIN pays insurance deposit in ordinary basis through the subscription of an agreement with a bank as payment agent, transfers throughout the banking system and by checks.

9.1.7 Are the rules regarding clearing, set-off, trust accounts, and related issues well defined (through the legal system or formal agreement)? Please explain.

Other

Regulation about liquidation process does not allow clearing, set-off or trust accounts.

9.1.8 What are financial institutions obligated to hold with respect to deposit records?

Financial entities in liquidation must hold the records of payments done to depositors

9.1.9 When is the DIS given access to an institutions financial and depositor records?

Yes

9.1.10 Does the DIS have the option of making advance payments to depositors in situations of dire need (i.e. in an emergency)?

Yes

But so far, this authority has not been used.

9.1.11 Does the DIS make interest payments to depositors during the time taken for reimbursement? Please explain.

No

In Colombia regulation establishes that the deposits are not paid any interest since the day the liquidation starts and also apply for the DIS payments.

9.1.12 What information is communicated to depositors regarding the reimbursement process?

FOGAFIN publishes in main newspapers the name and identification number of depositors recognized by liquidator; any other information requested by any depositors is provided by written.

9.1.13 What process does the DIS use to ensure that depositor secrecy and confidentiality is maintained during the reimbursement process?

Information regarding deposits is provided by written only to depositors, prior verification of his identity.

9.1.14 What steps are taken to verify, reconcile and settle insured deposit accounts?

Resolution issued by liquidator is verified by auditors.

9.1.15 What steps are taken to ensure that an institutions depositor records are accurate, up to date and accessible?

FOGAFIN realizes a checking in random basis of some credits recognized by liquidator.

9.1.16 Does the DIS document its experiences with respect to each reimbursement action (i.e. lessons learned) in order to allow for continuous improvement?

No

It does not formally document them. However, it tries to introduce modifications on the basis of the lessons learned according to the legislation.

9.1.17 What technologies does the DIS use to facilitate the reimbursement process?
FOGAFIN makes insurance deposit payments through deposit in financial entities subscribed to a certain net So, it uses technological sources of financial institutions through which payments are made.

Section 10: Public Information & Awareness

10.1.1 What obligations are there to inform the public?

Legislation establishes that any citizen has the right to access information produced by FOGAFIN, except the one that is regarded classified in order to permit that some transactions are done with the purpose to solve economical crisis of any financial institution.

10.1.2 Who is responsible for communicating information about the DIS to the general public?

DIS, Government

null|null|null|null|null

10.1.3 Are these explicitly stated in policy or law?

10.1.4 Are the terms and conditions of DIS explained in a manner that the general public can understand fully?

Yes

10.1.5 If so, what methods are utilized?

Website, Other

null|null|null|null

10.1.6 At what point is information disclosed to the public about an institution that is having problems and how is information disclosed?

Financial Institutions are obliged by law to publish their financial statements yearly This publication allow depositors to know any financial information of the entities. However, the entities may ask some reserve in the information to the Securities Superintendence if they are carrying especial operations in order to solve the problems they are having. The possibility of the reserve is analyzed by the Superintendence. Furthermore, legislation establishes the right to access any information which is not considered classified.

10.1.7 Has a survey of public awareness about the DIS been conducted? If so/ what were the results? If not why not? Please include supporting documentation.

10.1.8 Has the DIS ever embarked on a public awareness campaign to increase awareness and knowledge? If yes, how many times has this been done and when was the last time?

Yes

FOGAFIN has its own web site where any information regarding insurance deposit is available to any citizen.

10.1.9 Please describe the approach used; objectives, target audience, communication strategy, and timing results.

No apply

Section 11: Risk Assessment & Intervention

11.1.1 Does the DIS have a risk monitoring function to analyze and assess the risk of member financial institutions?

Yes

partially throughout the analysis of the information of the CAMEL provided by the Superintendence of Banking.

11.1.2 Does the DIS perform examinations of its member institutions? If not, who does?

No

FOGAFIN does not perform examinations. Superintendent of Banks does the examination

11.1.3 Does the DIS receive information/data/statistics directly from its member institutions or from a third party, such as a regulator or supervisor? If so what information is received and how often?

No

The information of the CAMEL is provided by the Superintendency of Banking. It is intended to be monthly but so far it has not been possibly due to changes in the accounting classification being implemented by the Superintendence.

11.1.4 What is the risk assessment approach used by the DIS to monitor financial institutions? Please describe. Please be sure to include the criteria used to determine member institution risk.

FOGAFIN uses the CAMEL index.

11.1.5 Please list and describe the actions taken by the DIS in situations where member institutions are causing concern. Please indicate when coordination occurs with other supervisory/regulatory authorities and the mechanisms used.

Decree 663 of 1993 article 113 establishes several actions to be taken to solve concerns in financial institutions but those measures are taken by the Superintendence of Banking. However, in some cases, Fogafin has contributed to the design and implementation of those measures. Section 1. Special Vigilance: This is a preventive action, Superintendent of Banks takes special seizures directed to normalize financial situation of financial institution. Actions are defined at the time when actions are going to be taken. Section 2. Re-capitalization: Superintendent of Banks orders to increase equity of financial institutions in order to return to normal levels. Section 3. Fiduciary Administration: Superintendent of Banks orders that another financial institution administrates the financial institution which is facing economical problems. Section 4. Total or partial assignment of assets, liabilities, agreements and commercial establishments: Superintendent of Banks promotes the transactions named. Section 5. Merger: Superintendent of Banks can order to merge financial institutions. Superintendent must follow the procedure established by law. FOGAFIN must provide a plan where protection to depositors and creditors are assured that their rights are protected. Section 6. Recuperation Program. Financial institution presents to Superintendent of Banks a program to reestablish financial situation. All these seizures are taken in coordination with FOGAFIN. FOGAFIN has authority in relation with article 320 of Decree 663 of 1993

Section 12: Failure Resolution

12.1.1 Is your DIS involved in the failure resolution of member institutions?

Yes

12.1.2 Who determines whether a member institution has failed or is insolvent?

Superintendent of Banks with approval of Ministry of Finance and Public Credit determines that an institution has failed and Superintendent of Banks determines that an institution is insolvent.

12.1.3 Under what conditions can the DIS cancel/terminate the deposit insurance of a member institution?

FOGAFIN can not terminate the deposit insurance to any institution at any time.

12.1.4 How is the failure/non viability of a member institution determined?

Article 114 of Decree 663 of 1993 establishes when an institution has failed. The reasons are the following: 1. Financial Institution does not pay its liabilities. 2. When deny review inspection of files, accounting books and any other document by Superintendent of Banks. 3. When deny to be interrogated under oath in relation with its business. 4. When refuse in several times orders and instructions given by the Superintendent of Banking dully released. 5. When insist to break in-laws or any regulation. 6. When insist to handle business in an unauthorized or unsure way. 7. When net patrimony is reduced below 50% of signed capital. 8. When exist strong inconsistencies in information released to Superintendent of Banks that to its judge does not let to know real financial situation of financial institution. 9. When financial institution does not accomplish minimal equity requirements provided in article 80 of Decree 663 of 1993. 10. When breaks a recuperation plan subscribed. Additionally, Superintendent of Banks orders failure of a Financial Entity when its equity is below of 40% of minimum level and when the time to present recuperation programs is expired.

12.1.5 How many member institutions have failed in your country in the last 20 years?

34

12.1.6 Do banks go through the regular corporate bankruptcy process? If no, what is the process used?

No

No1. Superintendence of Banks orders failure of financial institution.2. FOGAFIN appoints liquidator.3. In the following three days to the order of failure must be notified to anyone who has claims on the institution; Superintendent of Banks and FOGAFIN must put an advertisement on their headquarters to advice about the resolution process of the financial entity.4. Depositors have one month to file reclamation for their deposits.5. At the end of the month all depositors have the right, during ten business days, to know any other claim filed against financial institution and request modifications.6. In the following 30 business days liquidator must decide about any claim filed by depositors. It is important to mention that the liquidation process must be done separating deposits from another claims, and depositors will be paid in first. 7. If any one does not agree about liquidator decision of claims he/she can request that his/her claim be reviewed. 8. After any claim is decided FOGAFIN pays deposit insurance. As a consequence of payment FOGAFIN is subrogated in the amount paid.9. In the following six months after liquidation order is issued liquidator must make the inventory of assets. Creditors and depositors know this inventory and have the right to file any claim in relation with amount or any asset included or not included.10. Liquidator begins to sell assets and with money collected begin to pay to depositors the money not paid by deposit insurance.11. If any depositor does not collect his/her money liquidator must make a special fund, the purpose of this fund is to collect sources to pay any depositor who did not file his/her claim in the period of time given by law.12. After depositors are paid liquidator can make payments to the ones who are recognized by liquidator.13. If there is still any asset it is used to pay the financial effect of inflation to depositors and any other who was recognized in the liquidation process.14. Once the process is finished liquidator meets stockholders to inform about results of the process. If, stockholders do not meet liquidation process finishes, according with law, and the files are given to FOGAFIN.15. At the end of the process liquidator declares that: i) there is not any asset, ii) through a public notary files the final result of liquidation and liquidator files the resolution of the end of the process in the chamber of commerce.

12.1.7 Is the receiver of failed institutions also the one that disposes of the institutions? If not, who does?

Other

The Superintendent of Banks disposes that financial institution is on failure process. The following step is to appoint a receiver; the function of the receiver is to establish if financial institution can recover its financial status or if it must be liquidated. Once the decision is made about liquidation FOGAFIN appoints liquidator.

12.2 Which methods of failure resolution are used in your country to deal with failures. Also, please indicate the frequency of use of the various methods in the last 20 years.

12.2.1 Formal liquidation

12.2.2 Purchase and assumption (sale and merger)

12.2.3 Open bank assistance (e.g. recapitalization)

12.2.4 Bridge banks and other interim solutions

12.2.5 What criteria are used to determine the method of failure resolution?

The analysis made by the FOGAFIN and Superintendence of Banking where the pros and cons of each method are analyzed.

12.2.6 Is the deposit insurer required to resolve failed or failing insured depository institutions in a manner that is least costly to the DIS?

Yes

According with article 319 section 2 (d). FOGAFIN establishes if the sources used to re-establish equity of financial institution is lower of the amount to be paid by insurance deposit, unless liquidation could affect financial system as a whole or put in risk national economy (too big to fail theory).

12.2.7 Please indicate what kind of private companies, if any, are included in the failure resolution process?

Any private company is included in failure resolution process.

Section 13: Claims, Recoveries & Estate Management

13.1.1 Does the DIS play a role in the claims and recoveries process? If yes please describe this role

No

13.1.2 What is the primary objective of the DIS when dealing with claims and recoveries (i.e.. maximization of nominal and present value recoveries, financial system stability, system discipline)?

No apply

13.1.3 What role does the private sector play in the claims, recovery process?

FOGAFIN does not have notice about this process.

13.1.4 What approaches and strategies are adopted by the deposit insurer to accomplish the objectives of claims and recovery activities?

Strategies are done by liquidator and FOGAFIN does not intervene in it.

13.1.5 By what standard is the DIS judged with respect to performing its function in claims and recoveries (e.g.x. Comparative private sector or DIS benchmarks, internal assessments, past experience)?

No apply.

13.1.6 What assets have you found to be the hardest to recover? Why? What types of strategies have been used to recover different assets?

No apply. The process of the recovering of the assets is carried out by the liquidator directly.

13.1.7 Does the DIS have rights of subrogation (i.e. the subrogation of insurance entity to the rights of insured depositors) or an equivalent arrangement?

Other

Other. FOGAFIN subrogates in the amount of deposit insurance paid to depositors.

13.1.8 Is there depositor priority when banks fail? (i.e. Do depositor claims rank in priority above other unsecured creditors in the liquidation of a bank?)

Yes

13.1.9 Are rights of set-off available or imposed in your countrys legal system? Please describe the various forms set-off can take.

No

Section 14: Other Issues

14.1.1 What is your view on recent trends and emerging issues in the financial sector in your country and the potential impact they might have on the DIS?

The recent trends in the financial sector show that the financial sector is recovering though there are still severe problems in the financial sector dedicated to finance housing . It is necessary to monitor the financial system very carefully because the finances of the Fogafin were weaken a lot due to the severe financial crises we had in 1998-1999.

14.1.2 Are there any issues related to deposit insurance which you would like to see more research in?

The handling of the differential premiums (whether it should be at the beginning of after a returning process). In Colombia the second method has been chosen due to concerns about the general knowledge of the public of the specific risk of financial institutions.