



## Foro de Seguro de Depósitos de las Américas Americas Deposit Insurance Forum

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## Session 4: Case study on bank resolution

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**SEDESA  
ARGENTINA**

# Case study on bank resolution



Foro de Seguro de Depósitos de las Américas  
Americas Deposit Insurance Forum

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# BANCO FINANSUR: INITIAL SITUATION

- ❖ **February 2016**: The institution began to record recurrent losses as a result of the loss of business and deposits, with consequent effects on SOLVENCY, LIQUIDITY AND PROFITABILITY.
- ❖ **July 2016** The justice decreed a general assets restraining order to Indalo Group, owner of 69.8% of the shares of the mentioned institution.
- ❖ **January 2017**: Finansur presented a Regularization and Reorganization Plan.

The Financial Institutions Law establishes in its Sec. 34 that institutions must present a Regularization and Reorganization Plan when they :

- Have their solvency or liquidity affected.
- Record deficiencies of minimum cash.
- Repeatedly show unfulfillment of established boundaries or technical relationships.
- Do not have the minimum patrimonial responsibility required for their class, location or characteristics.



- ❖ **May 2017:** As a result of the failure of the measures adopted by the institution, the Superintendency required to reformulate the previously presented plan, under the terms of Sec. 34 of the Law on Financial Institutions. **(F.I.L.)**
- ❖ **June 2017:** Auditors with **RIGHT OF VETO** were appointed.

In addition to the Regularization and Reorganization Plan, the B.C.R.A. may :

- Appoint Auditors with **right of veto.**
- Require the constitution of guarantees and limit or prohibit the distribution of **profits.**
- Grant **temporary exceptions** to the fulfillment of the technical relations and **exempt or defer payment of the charges and fines** provided in the F.I.L. to facilitate compliance with the Regularization and Reorganization Plan.

- ❖ **September 2017** the institution recorded accumulated losses of \$ 78.3 million, which were equivalent to four times its net worth.
- ❖ **November 2017:** a considerable reduction in the deposits of the companies within the Indalo Group was reflected , placing the liquid assets of the institution at risk.

## REGULARIZATION AND REORGANIZATION PLAN PRESENTED BY THE INSTITUTION:

- Restructuring of the retail business that would lead to a reduction of administrative expenses and obtain extraordinary results, due to the change of the institution that pays the social security to its beneficiaries.
- Sale of easily cashable assets.
- Reduction of fixed assets.
- Issuance of subordinated negotiable obligations convertible into shares.
- Irrevocable capital contribution.



## COMPARISON WITH THE REST OF THE FINANCIAL SYSTEM

	BANCO FINANSUR	RESTO SISTEMA FINANCIERO
ASSETS	26,2%	14,9%
DEPOSITS	33,1%	13,7%
MINIMUM PAYING-IN CAPITAL	71 % of the requirement	88% of the requirement

\*term between Jan- Aug 2017



## ❖ November 2017:

I. By resolution of the Superintendency, the **suspension of Banco Finansur's operations** in the terms of Sec. 49 of the Organic Charter of the B.C.R.A. was ordered.

II. According to **Board Resolution**, the Regularization and Reorganization **Plan** presented by Banco Finansur was **rejected**. Likewise, the institution was **framed** in Sec. **35 bis of the F.I.L.**

III. Banco Finansur presented an alternative solution within those foreseen in section 35 bis Subsec. I of the F.I.L.



I. By resolution of the Superintendency, the **suspension of Banco Finansur's operations** in the terms of Sec. 49 of the Organic Charter of the B.C.R.A. was ordered.

The aforementioned suspension measure was adopted as necessary preservation of the institution's net worth, providing the needed time for application of any of the restructuring alternatives within Sec. 35 bis of the F.I.L..

### Sec. 49 of the Organic Charter of the B.C.R.A.

- The Superintendent may, with the prior authorization of the President of the B.C.R.A., order the temporary suspension, total or partial, for a maximum period of 30 days (extendable to further 90 days).
- **No precautionary measures may be settled**, as well as, **perform acts of forced execution** against the institution.
- The commitments that **increase liabilities** will be declared **null** and their **enforceability will be suspended**, as well as the **accrual of interest**, except for those that refer to debts with the B.C.R.A.
- **Direct Revocation.**





II. According to **Board Resolution**, the Regularization and Reorganization **Plan** presented by Banco Finansur **was rejected**. Likewise, the institution was **framed in Sec. 35 bis of the F.I.L.**

### **Restructuration Scheme of Sec. 35 bis of the F.I.L.**

Applicable in following cases in which the revocation of the authorization is suitable :

- a) At the request of the legal or statutory authorities of the institution.
- b) In cases of dissolution foreseen in the Commercial Code or in the laws that govern its existence as a legal person.
- c) By affecting the solvency liquidity of the institution that, in the opinion of the B.C.R.A., could not be resolved by means of a Regularization and Reorganization Plan.

**Foreseen alternatives:** any of them, or a combination, sequential, staggered or direct, choosing the most suitable alternative according to merit and convenience opportunity judgments

**I) Reduction, increase and alienation of the share equity.**

**II) Exclusion of assets and liabilities and their transfer.**



## EQUITY DISPOSAL

III. Banco Finansur presented an alternative solution within those foreseen in **section 35 bis Subsec. I of the F.I.L.**

### DESCRIPTION OF THE OFFER:

- Incorporate new shareholders by making an irrevocable equity contribution.
- Compensate monthly losses.
- Cancel the debt balance of a property's sale.
- Credit funds as deposits.

By Resolution of the Board, the proposal was rejected due to the **General Assets Restraining Order** of the controlling group and the disqualification of the proposed shareholders pursuant to Sec. 41 inc. 5) of the F.I.L.. The suspension was also extended for a **term of 30 calendar days**.

❖ **December 2017:** The Superintendency **decided internally** that, without prejudice to the evaluation of possible solution alternatives - within the framework of the provisions of Subsection I of Sec. 35bis-, a restructuring proposal should be developed in the terms of Subsection II of said Section **due to the time of its implementation**.

Different financial intermediaries made presentations expressing their interest, being the only viable offer the one submitted by the ***Banco de Galicia y Buenos Aires***.



## GALICIA'S OFFER:

- The assumption of bank deposits at sight and privileged term.
- The hiring of a total of 73 workers, after dismissal compensation of the entire staff of Banco Finansur.
- Requirement of support to Seguro de Depósitos S.A. (SEDESA) for the sum of 150 million Argentine pesos.
- Constitution of a trust with all the assets of the institution.

## OFFER IMPROVEMENT

All of the institutions that are part of the financial system were invited to present an improving offer :

	BANCO GALICIA	BANCO COMAFI
Number of Workers taken over	54,5%	26,1%
Contribution required to SEDESA	150 M.	135 M.
Advanced value of assets	Market Value	Accounting Value



## LEGAL INSTANCE

- ❖ **February 2018:** It was decided to inform the Court where the case entitled "*LOPEZ CRISTOBAL et all on defrauding the public administration*" is located and the scheme foreseen for the restructuring of the institution.
  
- ❖ **March 2018:** In view of the presentation made by B.C.R.A. the Judge resolved
  - I. To remove the General Assets Restraining Order of Banco Finansur, for the purpose of the application of the procedure promoted by the B.C.R.A. in the terms of Sec. 35 bis of the F.I.L..
  - II. Inform the institution about the resolution and also inform the court of the assets and liabilities that were excluded.
  - III. To require Banco Finansur to provide the records of the transfer of services and properties.



## THE BOARD OF DIRECTORS OF B.C.R.A. DETERMINED TO:

1. Authorize the creation of a Trust with all the assets of Banco Finansur.
2. Set the exclusion of Banco Finansur's privileged liabilities authorizing their transfer to Banco de Galicia y Buenos Aires.
3. Establish the exclusion of the assets available in Banco Finansur as of today.
4. Authorize the transfer of excluded assets to Banco de Galicia y Buenos Aires pursuant to the conditions established in the stated offer.
5. Request the competent Commercial Court to appoint court auditors of Banco Finansur.
6. To request the Trustor of the trust to be created with the assets of Banco Finansur to submit a financial statement as of the date of the trust's creation.
7. Order Banco Finansur to cancel all the privileged labor debts.
8. State that all the taken measures be conditioned to the assumption of excluded liabilities by Banco de Galicia y Buenos Aires.
9. Consider the right to be heard granted to Banco Finansur as exercised .
10. Revoke Banco Finansur's authorization to act as bank.
11. Notify this resolution to SEDESA.
12. Inform this Resolution to the judge hearing the case entitled "*LOPEZ CRISTOBAL et all on defrauding the public administration*"

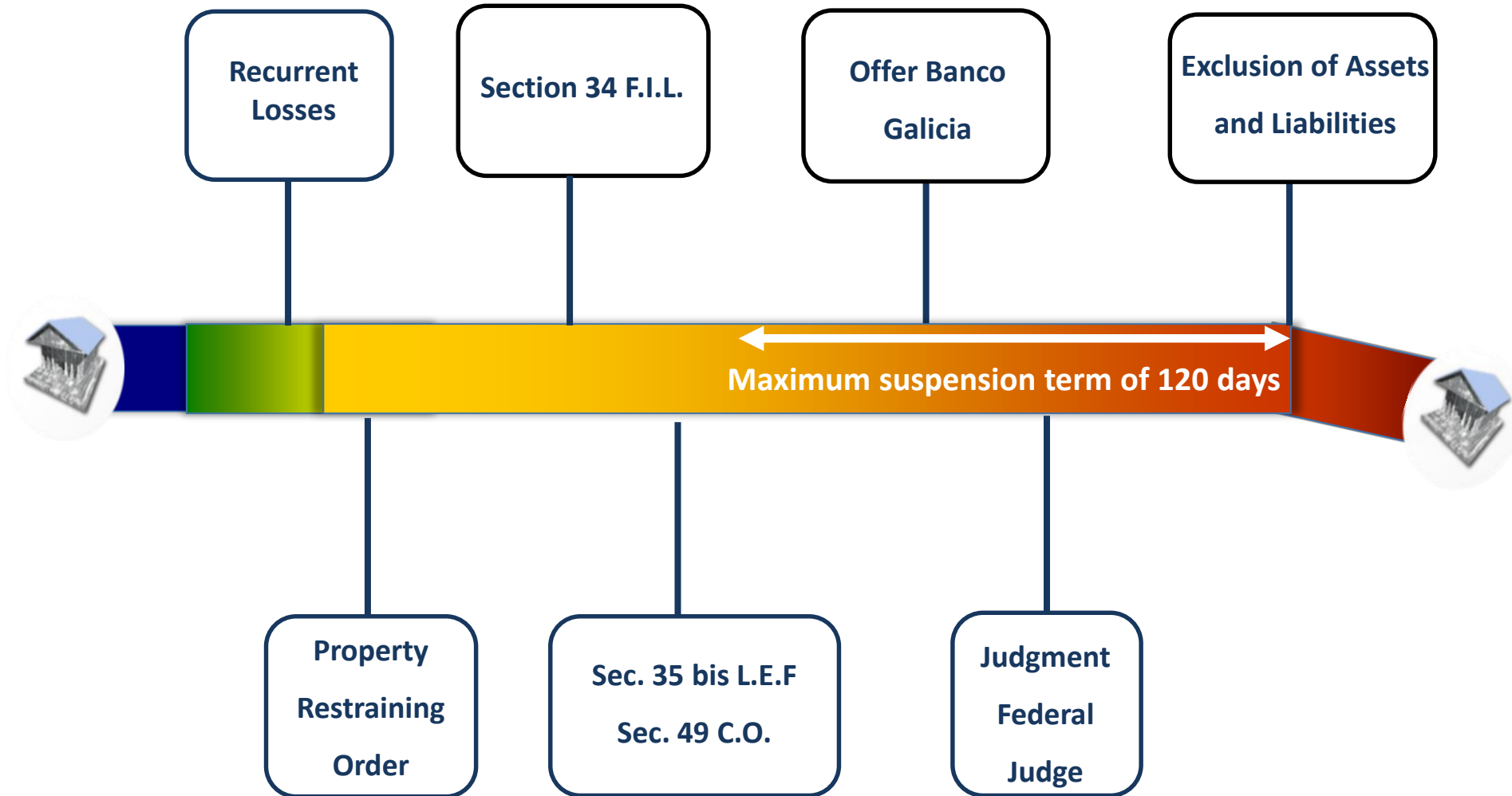


## CURRENT SITUATION

- Trust and collection management agreements were entered into.
- Main Office and branches taking of possession.
- The Bankruptcy of the Institution was ordered.
- Branches were opened to return deposits.
- All the employees were dismissed upon payment of the pertinent compensation and pursuant to agreements approved in the S.E.C.L.O. (Mandatory Labor Settlement Service)
- The remove of the Assets Restraining Order is still pending, in order to transfer the assets to the trust.



# BANCO FINANSUR



# Thank you! Gracias!

Alejandro López, CEO - SEDESA



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