

Local banks' treasuries come under scrutiny of competition body



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The recently-started Competition Council investigation into the alleged fixing of interest rates by several banks' treasury departments is one of the first such cases in the financial sector in Romania. While some commentators believe this sends a good signal to investors, others say the financial markets shouldn't be subject to a CC investigation, but that such problems should rather be solved through the administrative ropes of the market regulators.

The Romanian Competition Council (CC) has recently started an investigation into several banks active locally suspected of fixing interest rates. While keeping the presumption of innocence for the banks, if evidence of collusion is found, the investigation could become one of the biggest competition and anti-trust cases in Romania, and certainly a first in the local financial system.

CC inspectors have gone into searching the banks' treasuries and copying e-mails, in order to prove an alleged understanding between dealers in manipulating the exchange prices during what the Romanian Central Bank has called the attack on the local currency. "The investigation is based on suspicions of a possible information exchange, as well as other behaviors in the sector, which were underlined by the media," said Gheorghe Oprea, president of the CC.

Bankers, however, reject the charges of collusion and their involvement in an alleged attack on the Romanian currency. "ING Bank Romania respects the law in force [...]. The volatility of the local interbanking market has not been reflected in the level of interest on loans for our customers," said Misu Negritoiu, general manager of ING Bank Romania. ING says the message exchange between dealers was actually correspondence between members of the Romanian Association of Dealers, and had nothing to do with the banking institutions they work for.

The head of BancPost, Mihai Bogza, says it was not in the bank's interest to push quotations to high levels or transfer the high interest to borrowers. "Between October 20 and 25 we didn't modify the price of any loan, whether corporate or retail," he said.

Raiffeisen Bank says that it provided the information requested by the Competition Council, but that the objectives of the inspection were not strictly defined, while Raiffeisen Bank does not expect the investigation to conclude that it engaged in anti-competition behavior.

The investigation comes during a period of financial downturn, when banks are being backed up by state funding across the world in order to survive the financial distress.

"It is true that situations of economic downturn are conducive to anti-competitive behavior, as the companies may become more desperate in their fight to preserve their market position, customer base and profits in such adverse conditions. Thus, the Competition Council ought to become even more vigilant, not only in respect of the banking sector but also with respect to other industries, in general," says Catalin Grigorescu, managing partner of bpv Grigorescu law firm. "Indeed this may become one of the most important anti-trust cases in Romania so far, because it comes in a period of economic downturn when the Competition Council may find that this structural element of the market has favored this behavior," he continued.

To financial analyst Matei Paun, managing partner with BAC Investment Bank, this investigation is, however, "similar to investigating a number of investors who all decided to sell a particular share on a given day. Yes, they all acted in the same manner and at a similar

time, and indeed the share price declined. They might even have discussed this to an extent prior to making their move. Does this imply collusion? Market inefficiency? Should they be investigated? Financial markets function differently than say the cement or beer markets," Paun tells BR.

Not only does the financial market function differently from the cement market, but in Romania it has never seen a competition investigation, while the cement market has, and witnessed the highest cartel fine in the country so far: the EUR 27 million levied on Holcim, Lafarge and Carpatcement in 2005. The latter had the decision overturned, remembers Georgiana Harapcea, head of the competition practice at law firm Nestor Nestor Diculescu Kingston Petersen (NNDKP).

While both Harapcea and Grigorescu agree it is the CC's duty to conduct such investigations, Paun thinks the council has no business getting itself involved in investigating such issues. "If the NBR has a problem with speculative attacks it should try to deal with them through administrative measures, or better yet, together with the government, impose economic policies which will not invite such attacks to begin with! Did the Bank of England investigate George Soros when he successfully attacked the British Pound in 1992? Should all those speculating against the RON be investigated?" argues Paun.

The signal transmitted is that this is a market subject to competition rules, in which the authority exercises the duties conferred by the law, and the market players cooperate with the authority for this purpose, says Harapcea.

Participation in cartels is a reality not only in Romania, but also in the rest of Europe. "The level of fines levied by the European Commission is increasing as the activity to track down and punish cartel behavior has intensified. The banking sectors in several other European jurisdictions have been investigated and heavily fined so far, a bank cartel in Romania would thus not be a novelty," says Grigorescu. "Such actions are commonplace within all developed countries, thus reducing the element of surprise that this might have on the foreign investors to a minimum," says the NNDKP representative.

The fines levied so far in other member states and at EU level, such as the Lombard Club case, in which fines totaling EUR 124 million were initially imposed on eight Austrian banks, clearly demonstrate that the competition authorities take such matters seriously, argues Catalin Grigorescu. Apart from the Lombard case in 2002, Harapcea remembers the European Commission's sector inquiry into retail banking, which confirmed in January 2007 the existence of certain competition concerns in the markets for payment cards, payment systems and retail banking products, as well as business insurance.

On the other hand, Matei Paun of BAC believes the situation should certainly raise our eyebrows in terms of politically motivated witch hunts. "It puts into question the objectivity and independence of the Competition Council when it appears that their actions are dictated by an agenda imposed from the outside," he says. The biggest problem he sees with this action is that it came within days of a supposed speculative attack on the local currency. "The opening of this investigation should not necessarily be correlated with the recent situation in the financial-banking sector," believes Georgeta Harapcea.

Meanwhile, changes have occurred in UniCredit Tirioc Bank's treasury, as former treasury head Bogdan Mihoc, also head of the dealers' association in Romania, resigned last week and was replaced by Dorin Badea, former deputy chief of the bank's treasury.

By Corina Saceanu