ANALYSIS OF THE ROMANIAN PENSION SYSTEM IN THE CONTEXT OF THE NATIONAL RECOVERY AND RESILIENCE PLAN

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Abstract
A new pension law, which aims to increase the small ones and allows the sustainability of the pension system, equity, and compliance with the principle of contribution, must be the desire of the Romanian Government to eliminate the inequities produced by the laws in force in the field of pensions and social insurance. Since there are delays in the calendar agreed with the European Commission in complying with the milestones of the National Recovery and Resilience Program, Romania will no longer receive a single euro from the 5.5 billion euros allocated to 2023, so at least for this year, no amount will no longer be available. According to the European Commission, when the pension system is not substantially reformed, the collapse will be inevitable. In the long term, the only possibility of paying pension rights will be realized only through the devaluation of the national currency or through loans from external sources. According to the Recommendation of the Council regarding the National Reform Program of Romania for 2023, which includes an opinion of the Council regarding the Convergence Program of Romania for 2023, the cost of not reforming the system for Romania's GDP is about 3%.

Keywords
contributory pension; legislative reform; national recovery and resilience program; pension; pension system; reform; special pensions.

Introduction

The landscape of pension systems and their associated legal frameworks has undergone significant transformations in recent years. Two critical aspects have emerged as focal points of discussion and analysis within this evolving paradigm: the modification of special pensions and the situation surrounding contributory pensions. These topics are intertwined with the complex web of legal, economic, and societal considerations surrounding pension reform.

One notable area of concern is the legal interference in modifying the legislative framework pertaining to Special Pensions. As governments strive to adapt to changing demographics and economic challenges, the rules governing special pensions have been subject to reform and alteration. This has raised questions about such modifications' fairness, equity, and sustainability, sparking debates and investigations into their legal implications.

Similarly, the situation surrounding modifying contributory pensions has been a topic of significant interest. Enacted through Law No. 263/2010, the unitary pension system has introduced substantial legal-economic changes to the pension landscape. Furthermore, the overarching reform of the pension system, as outlined in the National Recovery and Resilience Plan, has added a layer of complexity to the discussion. This plan seeks to address not only the immediate fiscal challenges but also the long-term sustainability and adequacy of contributory pension schemes.

The National Recovery and Resilience Plan (NRRP) represents a pivotal policy instrument designed to address pressing economic and social challenges within the European Union, particularly in the context of the COVID-19 pandemic and its far-reaching economic consequences. Like many other EU member states, Romania has formulated its own NRRP tailored to its specific needs and priorities. Central to this plan is a comprehensive reevaluation and reform of the national pension system, a critical component of the broader economic and social structure.

The Romanian pension system, characterized by a complex interplay of legal, economic, and demographic factors, stands at a crossroads. The challenges it faces are emblematic of those experienced by many European nations: an aging population, a shrinking workforce, and the need for fiscal sustainability in the face of rising pension expenditures. Against this backdrop, the NRRP has emerged as a vital mechanism for driving transformative change in the Romanian pension system. It seeks to enhance its resilience and adaptability in the face of contemporary and future challenges.

This academic exploration of this paper aims to dissect and critically analyze the intersection between the National Recovery and Resilience Plan and the pension system in Romania. By examining the proposed reforms, their legal and economic underpinnings, and their potential implications for pension beneficiaries and the broader society, this study seeks to contribute to a deeper understanding of the intricate dynamics at play. Furthermore, it aims to provide insights into the overarching goals of the NRRP and their alignment with the imperatives of pension system sustainability and long-term viability in the Romanian context.

In this context, it is imperative to delve into the multifaceted dimensions of these two critical aspects – special and contributory pensions – to understand better the ongoing modifications' legal, economic, and social ramifications. This exploration will shed light on the intricacies of pension reform, helping stakeholders, policymakers, and researchers alike navigate the evolving landscape and make informed decisions regarding the future of pension systems.

Literature review

The need for reform in the pension system and the National Recovery and Resilience Plan (NRRP) is a critical and timely topic that has gained significant attention from policymakers, economists, and scholars. This discussion concerns the imperative for reform in the pension system and the broader economic recovery plan. One of the foremost challenges facing many countries, including Romania, is the sustainability of their pension systems. These systems are strained by several interrelated factors, notably demographic shifts characterized by an aging population and a dwindling workforce. As retirees increasingly outnumber the working-age population, the financial burden on pension funds escalates, raising concerns about their viability and adequacy.

The economic landscape of Romania, like that of many European nations, is grappling with significant challenges that necessitate comprehensive reforms in its pension system and the strategic implementation of the National Recovery and Resilience Plan (NRRP). This article underscores the compelling need for reform in the Romanian pension system and how aligning it with the NRRP is essential for achieving economic sustainability in the country. Some challenges in the Romanian pension system face demographic shifts because Romania is confronted with a rapidly aging population and a declining workforce, resulting in an imbalance between pensioners and contributors to the system. The strain on pension funds is palpable, raising concerns about the system's long-term viability. Also, Romania is facing continuous fiscal pressure: the financial burden on the state budget due to pension payments is escalating. The current trajectory is unsustainable, necessitating reforms to alleviate budgetary pressures and ensure the system's stability. Also, another challenge faces equity and adequacy: Disparities in pension benefits and coverage persist, undermining the system's ability to provide adequate and equitable support to retirees. Reform is needed to address these disparities and enhance the social safety net.

According to Croitoru, Alexandru, and Toader (2014), Romania is facing problems regarding social policies, particularly in the social security pension, due to the deficit of the state social insurance budget (Croitoru, Alexandru, & Toader, 2014, p. 179). So, there is a need for a reform in the Romanian pension system. Croitoru (2015) states that Romania manifests severe demographic problems: birth and fertility rates decrease drastically, and the population's average age is steadily growing. In other words, the population is declining and faces an increasingly aging demographic aspect that seriously challenges Romania's pension system. Free movement of labor of workers is the main reason for migration, even if it is one of the fundamental values of the European community. It has become a significant phenomenon with implications for the pension system (Croitoru, 2015, p. 144).

Authors Sredkova and Velikova-Stoyanova (2022) sustain the same idea of the need for reform: "...important to adapt the pension system to the emerging demographic and socio-economic conditions, as well as to secure the sustainable growth of pension income in accordance with economic growth" (Sredkova&Velikova-Stoyanova, 2022, p.5). The need for reform in the pension system and the NRRP lies at the intersection of these two pressing issues. Reforming the pension system can mitigate the strain on public finances and ensure that retirees receive adequate support. At the same time, aligning pension reform with the objectives of the NRRP can create a synergistic effect, where investments in areas such as technology, education, and healthcare not only stimulate economic growth but also enhance the long-term viability of pension funds. Reform in the pension system should encompass measures to adapt to changing demographics, strengthen the sustainability of pension funds, and ensure equitable access to retirement benefits. Moreover, these reforms should be thoughtfully integrated into the broader framework of the NRRP, aligning with its economic recovery and resilience goals.

Some authors state that to gain access to the Recovery and Resilience Facility, the Member States (MSs) have to set out the investments and reforms to which the funds will be assigned in their national recovery and resilience plans (RRPs) and which must be aimed fundamentally at responding to climate change-related challenges, digitalization, the strengthening of human capital and public sector efficiency. (Soto, Rosa, Llanos, 2021, p.7). To make these investments, all countries, including Romania, need funds. Unfortunately, Romania doesn't do well in this chapter. Some authors state that Romania has a history of being a late absorber of funds, which may give rise to a certain skepticism (Dumitriu, 2022, p. 10).

Reforming the Pension System and the National Recovery and Resilience Plan: A Necessity for Economic Sustainability of Romania

The 21st century has ushered in a wave of unprecedented challenges that are transforming the economic and social landscapes of nations worldwide. In this context, the need for comprehensive reforms in the pension system and the implementation of a robust National Recovery and Resilience Plan (NRRP) have become imperatives for ensuring long-term economic sustainability.

In response to the crises instituted by the Coronavirus pandemic and the war in Ukraine, the adoption and implementation of the Recovery and Resilience Mechanism constituted the basic pillars to guarantee economic growth at a sustainable and predictable pace for the purpose of fiscal sustainability, as well as the corrections of some social inequities. At the EU level, it was calculated that going at the current pace and without a real reform that would guarantee the modernization of the pension system in Romania, in accordance with digitization, the equalization of the retirement age, and the financial stability of the II pillar of pensions, Romania loses 3% of its GDP every year (European Commission, 2023).

Since the regulation on accessing the available funds stipulates that two funding requests be sent to the Commission each year, the risk of losing or postponing the amounts available through the National Recovery and Resilience Program is a foreseeable one, especially since the Romanian Government has not completed the necessary milestones from Program C8-Reform of the pension system. These milestones had to be met before October 2023, so before the last available funding request was formulated according to the agreed schedule.

1. Aspects related to the Situation of the Modification of Special Pensions - Legal interference in modifying the legislative framework regarding Special Pensions.

Since at the level of Constitutional Jurisprudence in Romania, there is a judicial practice established by Decision No. 61/2020, Decision 153/2020, and Decision 467/2023, the Constitutional Court of Romania has established through definitive and generally binding considerations what are the guidelines that should govern in terms of good practices regarding the change in special pensions legislation.

Legislative changes to create a unified framework for occupational pensions must take into account:
a) The adoption of a normative framework to repeal the amendment of the seven existing laws in the matter of special laws must be achieved through a normative text

that allows the use of clear terms under which pension rights will be established. In the last amendment of the Law for the amendment and completion of some normative acts in the field of service pensions and of Law no. 227/2015 on the Fiscal Code, non-unitary terms were used that could create confusion, for example, "average gross monthly employment allowances, the amount of the due income, the average net income related to the calculation month." It can be observed that to respect the constitutional principles, the amendment act must be unitary and not heterogeneous.
b) The changes regarding the legislation on service pensions must be carried out by the appropriate notification of the Parliament Chamber so that there is no possibility of finding unconstitutionality. If, in the case of magistrates, for their service pensions, the referred chamber must be the Chamber of Deputies and the decision-making chamber must be the Senate, in the case of modification of other categories of pensions, the situation of the legislative modification is decided in the opposite way than for persons active in the field of justice. The Government of Romania acted contrary to the Constitutional provisions when it proposed the assumption of responsibility regarding the pension reform, especially when there were changes between the versions adopted by the Chamber of Deputies and the amendments adopted in the Senate.
c) The imposition of certain conditions of age and seniority in the profession must be done in stages, as there is a systemic risk that some indispensable services in a state of law can no longer be effectively carried out. Thus, from Decision No. 900/ December 15, 2020. The Constitutional Court established that the Principle of Judicial Independence is carried out in terms of the material security of the magistrate and the security of institutional competence. In other words, any change in the legislation must consider the situation of not allowing a significant number of people to retire, leaving them without a workforce capable and qualified to fulfill the duties of the service. Any increase in the retirement age should be done in stages and in such a way as not to affect the interests of society and the people who have to call on state service, as is the case with those who work in the justice field. In this regard, the legislator's margin of appreciation regarding the amendments is a limit of constitutional principles.
d) Regarding the duration of seniority in the field of activity, of 25 years, for example, in each case of modification, it should be mentioned how an assimilated internship is also established for professions carried out in another object of activity, especially as in some professions you can meet the retirement age but not the required seniority in that profession. Transitional situations must be expressly provided for in the normative act of amendment, a contrary situation affecting the legality of the constitutional origin.
e) Any normative act amending the legislation in the field of pensions must respect the principle of legal security by creating a clear, predictable, generally accepted mechanism that is not likely to affect the security of legal relations in a state of law. Any amendment to the legislation must ensure the Supremacy of the Constitution and the laws, without the security of the justice system and people's trust in the activity of state institutions being affected, especially in the case of the Parliament, a body with legislative powers.
f) The law amending the pension system must not create discrimination between citizens. Regarding Law 303/2022, it was proposed and adopted that some people born before 1975 would have the possibility to retire at 50, and those born in 1976 could retire at 60, so discrimination and violation of the provisions of art. 16 of the Romanian Constitution appears obvious; the legislator has the role of reducing this phenomenon, not adopting it.
g) The recalculation of service pensions cannot affect pension payments. According to the principle according to which the law provides only for the future, the pensions

already granted cannot be subject to modification. Their eventual amount can only be affected based on taxation, not recalculations. At the level of the mandatory jurisprudence of the CCR, in the situation where the law would be imposed on the conversion of service pensions into contributory pensions, it has already been clearly established that such a provision cannot be incidental to the benefits already obtained, which constitute the fact the past See in this regard Decision no. 871 of June 25, 2010, published in the Official Gazette of Romania, Part I, no. 433 of June 28, 2010.

h) The law amending the Fiscal Code must impose four objective criteria to standardize the pension system: equity, proportionality, reasonableness, and non-discrimination, the failure to fulfill a taxation condition attracting the illegality of the amending normative act.

All these modifications are necessary due to the cost of the special pensions. According to Figure 1, the most significant special pensions are those paid to magistrates, especially military magistrates. For example, the average pension for former judges and prosecutors is 21,404 Ron in 2022. Of this amount, 4,758 Ron represents the pension due according to social contributions and 19,945 Ron, the subsidy from the state budget, an amount that supplements the pension to reach the provision of the law, according to which the pension of a former magistrate is calculated as 80% of the average salary gross for 12 consecutive months, at your choice, from the last five years, including permanent increases. Also, the civil aviators had in 2022 a special pension of 11.484 Ron, with 50% lower than the magistrates. The Court of Auditors is in third place, with 8.504 Ron in 2022. The other three categories, diplomatic and consular staff, parliamentary civil servants, and auxiliary staff from justice, had an amount between 5.096 Ron and 5.799 Ron. An interesting thing to note is that in the case of magistrates and civil aviators, more than half are paid by the subsidiary from the state. Regarding diplomatic and consular staff, parliamentary civil servants and auxiliary staff from justice are paid around 50%. The only case where the pensions are paid majority due on the contribution rate is the segment of the Court of Auditors.

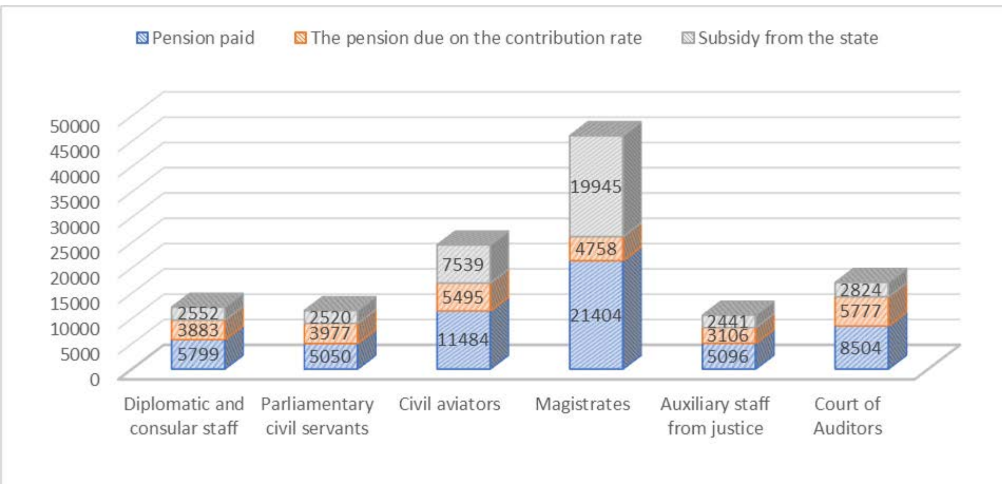

Figure 1. The composition of special pensions, 2022
(Source: Authors' research results)

Analyzing the subsidy for special pensions in 2018-2022, we can see from Figure 2 that until 2019, this represented approximately 80% of the total subsidy granted. After 2020, the percentage dropped below 50%. In 2022, the total subsidy from the budget for the payment of pensions in Romania was 22,924 billion lei, i.e., almost 21% of the expenditure on all pensions, normal plus special (109.16 billion Ron).

The amount is divided into 11,974 billion Ron to complete the CNPP requirement (the difference between the funds collected from employees through social contributions, which were 86.23 billion Ron, and the pensions that had to be paid for the 4,685 million retirees and 1,724 billion Ron was - the subsidy granted to the pension houses of the Ministry of Internal Affairs and Ministry of National Defense for the payment of the almost 200,000 pensioners from the Army, Police, Romanian Information Service, Special Telecommunication Service, Security and Protections Service, External Information Service and other secret services of Romania and for the category from the CNPP called pensions service.

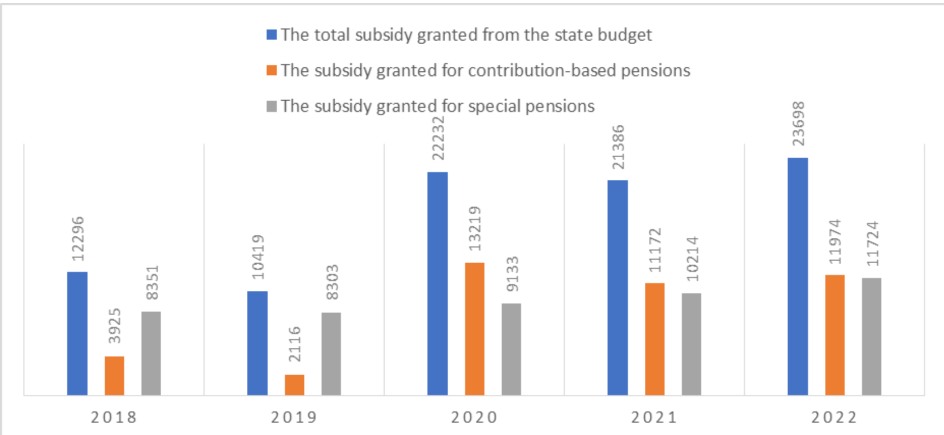

Figure 2. Subsidies granted from the state budget with allowances related to pensions
(Source: Authors' research results based on data from MFP, CNPP, MAI, and MaPN)

2. Aspects related to the Situation of Modification of Contributory Pensions - Legal-economic aspects established by Law no. 263/2010 regarding the Unitary Pension System and through the Reform of the Pension System as mentioned in the National Recovery and Resilience Plan.

Regarding the amendment of Law no. 263/2010 regarding the Unitary Pension System, the benchmarks assumed by Romania must have the following characteristics as a target to achieve a fair, efficient, and sustainable system.
a) Eliminating the possibility of early retirement. Regarding this aspect, the number of contributors relative to the number of beneficiaries of this pension right will be important.
b) Increasing the standard retirement age until 2035. It is now 65 for men and 63 for women. It would be correlated with life expectancy. Although there is no standard retirement age at the European level, this being left to the discretion of the member states, an objective criterion must be represented by the period in which a person can

enjoy the right to a pension after leaving the activity under the conditions in which has the full contribution period and in full compliance with the principle of social solidarity. This principle only applies if the retirement age in a state is not excessively increased.
c) Stability of pensions at the current level, but with targeted increases for minimum pensions; It is true that to have a viable pension system based on contribution, to be in full agreement with the people who retired under another pension law that had as its object contribution, a calculation formula must be found in which for equal work and similar seniority, there should be no discrepancies between pension rights because there were different pension laws.
d) Changing the method of calculating the pension, based on a stable formula and an automatic indexation, with the mention in the normative text of the growth criteria as a result of inflation and the economic growth index.
Approaching the 9.4% of GDP target for public expenditure on pensions constitutes a severe financing problem. This depends on the consolidated general budget's collection rate and revenues relative to GDP (Table 1).

Table 1 displays financial data related to GDP, contributory pensions, special pensions, and the National Recovery and Resilience Plan (NRRP) contributions as a percentage of GDP for the years 2018 through 2022 in Romania. A summary of the key data points: in 2018, the GDP amounted to 951,729 million units, constituting 100% of the total. Over the subsequent years, the GDP increased steadily, reaching 1,317,300 million units in 2022.

Regarding contributory pensions: contributory pensions as a percentage of GDP ranged from 6.61% in 2018 to 7.76% in 2021. The absolute value of contributory pensions increased from 62,885 million units in 2018 to 101,548 million units in 2022. Special pensions, as a percentage of GDP, fluctuated between 0.83% in 2019 to 0.94% in 2022. The absolute value of special pensions increased from 8,432 million units in 2018 to 12,383 million units in 2022. The NRRP contributions as a percentage of GDP remained relatively constant at 9.40% from 2018 to 2022. The absolute value of NRRP contributions increased from 89,462 million units in 2018 to 123,826 million units in 2022. As shown in Table 1, the percentage of special pensions in GDP is less than 1% every year. Conversely, the rate of contributory pensions from GDP in the analyzed period is between 6,61% in 2018 and 7,71% in 2022.

The increase in GDP allows for increased public spending on pensions, but this must be done with caution because the real and final value of GDP is known at the end of the fiscal year. It should be understood that avoiding blockages in the pension system can only be achieved if it is not exceeded in absolute numbers, equivalent to 9.4% of GDP; otherwise, syncopation would occur in the PNRR financing mechanism.

Table 1. The percentage of pensions in GDP (Source: Authors' research results based on data from MFP)

	2018		**2019**		**2020**		**2021**		**2022**	
	Amount	%	Amount	%	Amount	%	Amount	%	Amount	%
GDP	951729	100%	1058973	100 %	1055500	100 %	1190300	10 0%	1317300	10 0%
Contributory pensions	62885	6,61%	70074	6,62 %	81434	7,72 %	92316	7,7 6%	101548	7,7 1%
Special pensions	8432	0,89%	8813	0,83 %	9562	0,91 %	11070	0,9 3%	12383	0,9 4%
Maxim NRRP	89462	9,40%	99543	9,40 %	99217	9,40 %	111888	9,4 0%	123826	9,4 0%

In conclusion, this table illustrates the evolution of key economic indicators in Romania over five years. Notably, there has been growth in GDP, contributory pensions, special pensions, and NRRP contributions during this period, with each category's percentage of GDP fluctuating slightly. The NRRP contributions, in particular, have remained consistent as a percentage of GDP. In summary, the NRRP and pensions intertwine a nation's economic and social policy landscape. While the NRRP primarily focuses on economic recovery and resilience, it can have implications for pension systems regarding fiscal sustainability, demographic challenges, and opportunities for reform. The relationship between these two aspects underscores the importance of a holistic approach to addressing economic and societal challenges.

Conclusions

The Fiscal Reform and the Pension System Reform assumed by the Government of Romania through the National Recovery and Resilience Program will affect the 7 million Romanians, beneficiaries of contributory pensions and pensions established by special laws. The modification of pension rights must consider several principles enshrined in constitutional legislation, doctrine, and judicial practice so that Romania does not risk future laws being declared unconstitutional or rights already won being affected by legislative changes. The increase in the retirement age must be based on life expectancy in Romania and non-discrimination in terms of pension rights for those who have retired and those who will retire and have served under similar conditions and with the same voting status and seniority. Once established, the increase of the pension point must consider objective criteria, so any indexation should be based on objective criteria, for example, the rise in relation to the inflation index or the economic growth index established by the competent bodies.

The Pension System Recovery Plan provides for the amendment of the legislation on special pensions, the recalculation of all pension files, and the development of the information system within the National Pension House so that the pension system operates in the long term, without loans and that allows monthly payments to ensure a constant source of income for those retired from the activity, including for pensions from Pillar 2, a pillar that was conceived from the very beginning as a complementary pillar to the public pension.

The Role of the National Recovery and Resilience Plan (NRRP) is a pivotal initiative designed to stimulate economic recovery, bolster resilience, and drive sustainable development in Romania. It offers a unique opportunity to address the challenges faced by the pension system while simultaneously advancing broader economic goals. On the other hand, the imperative for Reform is based on *sustainability* (pension system reform in Romania must prioritize sustainability by adapting to changing demographics, exploring alternative financing mechanisms, and ensuring the long-term solvency of pension funds), *alignment with NRRP* (aligning pension reform efforts with the objectives of the NRRP is crucial. Investments in infrastructure, education, healthcare, and digitalization, as envisaged by the NRRP, can contribute to economic growth and, indirectly, to pension fund health), *equitable access* (reforms should aim to provide equitable access to pension benefits for all segments of the population, addressing disparities and promoting social cohesion) and *Public-Private Partnerships* (exploring opportunities for public-private partnerships in pension provision can diversify funding sources and enhance the efficiency of pension schemes).

In conclusion, the compelling need for reform in the pension system and the imperative of a robust National Recovery and Resilience Plan are inextricably linked. By addressing the challenges posed by demographic shifts and economic uncertainty through well-considered pension reforms, nations can not only secure the financial future of their retirees but also bolster their economic recovery efforts. In this critical juncture, the synergy between pension reform and the NRRP promises to foster economic sustainability and resilience in an ever-changing world. Moreover, the NRRP, as a comprehensive economic recovery and resilience initiative, presents a unique opportunity to address these challenges while fostering broader economic growth and stability.

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