convergence

February 23, 2007

Mr. Florin Georgescu
First-Deputy Governor
National Bank of Romania
Bucharest
ROMANIA

Mr. Bogdan Dragoi
Secretary of State
Ministry of Public Finance
Bucharest
ROMANIA

Dear Mr. Georgescu and Dear Mr. Dragoi,

Proposal for knowledge transfer of Regulatory Impact Assessment techniques

An important side-effect of the SPI Program for Financial Sector Modernization is the development of local analytical skills to sustain continuous financial sector fine-tuning reforms. It is also the main area of the Convergence Program's involvement in support of SPI Secretariat activities.

We have been transferring to the SPI Secretariat and the Project Working Groups a set of analytical methodologies, such as regulatory impact assessment (RIA), to help prepare evidence-based regulatory change proposals. Public-private Working Groups make now routine use of RIA techniques in their analytical work.

While an evidence-based culture is the necessary foundation for an effective public-private regulatory dialogue, it is important to bear in mind that regulatory making is the authorities' responsibility and that, according to European Union recommendations, they should base their decisions on an adequate analytical cost-benefit framework.

It seems therefore important that National Bank of Romania and Ministry of Public Finance have the necessary RIA capabilities to provide intellectual leadership to the public-private regulatory design work that Romania has committed to promote. Through the RIA tool, authorities will also be able to monitor the existing regulatory framework to ensure that its benefits justify the costs they create.

It is in response to this challenge, and based on extensive conversations that our SPI Secretariat colleagues have had with several of your respective staff, that the Convergence Program is pleased to bring to your attention a RIA knowledge transfer program. The program, which could run from the spring through the end of 2007, is independent from the decision that Romanian stakeholders will take about the proposed second phase of the SPI Program itself.

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Managed by Riccardo Brogi, our Senior Regulatory Economist, the proposed program would consist of the following four phases:

i) <u>Building a RIA Team:</u> to familiarize a small team of designated RIA experts (the RIA team) nominated by the relevant departments of your institutions (regulatory, supervisory or legal departments) with the RIA approach;

ii) <u>Applying RIA to an ongoing regulatory proposal:</u> to make the RIA team execute RIA on an already enacted regulation;

iii) <u>Introducing RIA in the official regulatory process:</u> to support the RIA team in performing RIA on a draft regulation.

iv) <u>RIA capacity building:</u> to help establish a specialized unit within your institution, responsible for, and capable of, undertaking RIA.

At the completion of this program, we expect that your institutions will be able to rely on a small group of specialists ready to support with evidence-based policy analyses those departments dealing with regulatory measures.

Given the importance of the RIA approach for improving financial sector regulatory quality, we intend to roll-out the program designed for the National Bank of Romania and the Ministry of Public Finance to other interested institutions in the region, in association with the Ljubljana-based Center of Excellence in Finance.

I would be grateful if you could direct your designated colleagues to contact Ms. Oana Nedelescu and Mr. Riccardo Brogi who will be delighted to discuss this concept further and finalize the program based on your needs and priorities.

Sincerely,

Luigi Passamonti
Senior Advisor World Bank and Head Convergence Program

<u>Attachment</u>: Draft RIA Program

cc: SPI Committee members; SPI Secretariat.

Convergence Romania Financial Sector Modernization

Special Projects Initiative Public-Private Steering Committee

ANNEX

A Knowledge Transfer & Capacity-Building Program To Establish Regulatory Impact Assessment Skills In Romania

Summary and Rationale

There is wide consensus that regulatory design has a key role in promoting a business-friendly regulatory framework that fosters competitiveness, growth and employment performance.

The European Union has set, among its main objectives, to ensure that regulatory environment is simple and of high quality, and several countries, worldwide, have in place a well-established practice to deal with effective regulation.

Effective and efficient regulation needs assessment policies and proper tools to undertake them. In recent years, growing attention has been given to *impact assessment analysis* that is, an evidence-based approach that allows for the systematic acknowledgment and appraisal of the benefits and costs resulting from a regulation proposal to the economic system and society.

Why this program?

As a result of EU accession, Romania authorities will continue to produce good-quality regulation for financial sector modernization.

This capacity building program has been designed to provide a broad Regulatory Impact Assessment (RIA) background, analytical steps and toolkit to staff currently engaged in, or likely to be engaged in, regulatory proposals.

The staff involved in this program will also practice an important phase of regulatory design and its related impact assessment activity, namely consultation of interested parties during impact assessment. This will allow the regulator to fine-tune the policy development process in order to ensure that proposed regulation is practically workable and efficient also from the point of view of its users.

At the end of the program, regulatory Authorities will have expert staff which will assist departments involved in the regulatory design in preparing impact assessment documents accompanying regulatory proposals, according to EU best practice.

Program launch

Timeline	Event/Action	Background documents/Output	Time requirement (Full Time Equivalent days)
Early April	➢ <u>Presentation of the knowledge transfer and capacity building program to Romanian authorities (NBR, MOPF)</u> Main content of the presentation: • What-> Improvement of regulatory quality (e.g. OECD, UE, IIF); • Why-> To enhance economic performance; • How-> Impact Assessment; • Who-> Organizational set up of RIA units across Europe (with emphasis on regulators); • A couple of examples drawn from SPI projects (1 preliminary RIA and AML full RIA); • Capacity building proposal.	<u>Background document:</u> - PPT presentation prepared by Convergence	
Second half of April	<u>NBR/MOPF appoints a small Team of RIA experts (here in after TR), possibly led by a "RIA Champion" (hereinafter RC)</u> TR will transfer the knowledge acquired to their institutions (potentially part of a RIA unit - preferred background: law and finance as well as working experience in regulatory, supervision and financial departments).		

Phase 1 – Building a RIA Team	**Time requirement: max [2] staff days***

Timeline	**<u>Event/Action</u>**	**Background documents/Output**	**Nature of Activity & Time requirement** **(Full Time Equivalent days)**
Second half of April	➢ <u>Kick-off and regulatory impact assessment meetings</u> **Day 1 (Introduction to RIA & Case Studies Part I)** • <u>Part I</u>: Better regulation and policy dialogue through RIA across European Union (at EU level): - European Commission; - The UK (Better Regulation Executive); - Ireland. • <u>Part II</u>: Getting to know Impact Assessment: - Main procedural and analytical steps in impact assessment; - How regulation produces which impact. Costs and benefits; - Micro-analysis approach: measuring the economic regulatory impact on the target industry. • <u>Part III</u>: RIA case studies (**NBR)**: - Impact assessment of the Proposal for a Directive of the European Parliament and of the Council on the capital adequacy of investment firms and credit institutions; - Impact assessment of the proposal for a Directive of the European Parliament and of the Council on Payment Services in the internal Market. RIA case studies (**MOPF**): - UK impact assessment: Corporation Tax Reform;	<u>Background documents</u>: - Documents prepared by Convergence, European Commission , Ireland and the UK Treasury	**Class Work** 1.0 FTE

Timeline	**Event/Action**	Background documents/Output	Nature of Activity & Time requirement (Full Time Equivalent days)
	Day 2 (Strengthening RIA Skills – Case Studies Part II) • Part I: RIA case studies (**NBR**) : - UK Impact assessment: A consultation on proposed changes to the Financial Services and Markets Act 2000. RIA case studies (**MOPF**) : - Standard Cost Model measurement of the Danish Ministry of Taxation; - Dutch Ministry of Finance: Focus on Administrative Burdens; - UK Impact assessment: A consultation on proposed changes to the Financial Services and Markets Act 2000. • Part II: Romania RIA case studies: - Review of 12 preliminary RIA on SPI projects; - The AML full RIA.	Background documents: - Documents prepared by Convergence, the UK Treasury, Danish Ministry of Taxation and Dutch Ministry of Finance	**Class Work** 1.0 FTE

Phase 2 – Applying RIA to an existing regulation	**Time requirement: max [4] staff days***

Timeline	**<u>Event/Action</u>**	**Background documents/Output**	**Nature of Activity & Time requirement** **(Full Time Equivalent days)**
First half of May	➢ <u>Applying RIA techniques to an existing regulation: bridging the legal viewpoint with the economic approach</u> • <u>Part I</u>: TR identify 1 existing regulation eligible for applying RIA methodology (regulatory process fits the time needed to undertake RIA). Overview of the regulatory workflow applying to this case (How people are working on that, which background, which iterations and interactions are envisaged, steps upstream and downstream); • <u>Part II</u>: Brainstorming over the identified regulation for applying RIA methodology; *(Brainstorming could be extended to all staff involved in the drafting process of the discussed regulation)* • <u>Part III</u>: Drafting of a RIA-preparatory paper (consultation paper) of the identified regulation (what needs to be measured, which data are needed, how to deal with information gathering, how to shape final findings) and questionnaire identifying all information needed for impact assessment (as consultation tool) and definition of information gathering action plan and timeline.	<u>Output:</u> - Consultation paper (Purpose, intended effect, Options, Costs and Benefits); - Attached Document listing all information needed (e.g. questionnaire, expert groups hearings).	**Class Work** 1.0 FTE
Second half of May	➢ <u>Information gathering Phase (and elaboration)</u>		**Desk Work** 1.0 FTE
Early June	➢ <u>Drafting of RIA Paper</u>	<u>Output:</u> - Draft RIA Paper	**Desk Work** 1.0 FTE
Late June	➢ <u>Internal peer review:</u> TR (and Convergence Program) presents the draft RIA paper to the Economic Department and to the team involved in the regulatory process of the text of regulation chosen (feedback by 1 week)		**Seminar** 0.5 FTE
Early July	➢ <u>RIA Paper Presentation</u> TR and Convergence Program finalize and present RIA paper to colleagues involved in the regulatory process and to management.	<u>Output:</u> - Fine-tuning of RIA Paper after internal peer review	**Seminar** 0.5 FTE

Phase 3 – Introducing RIA in the official regulatory process   Time requirement: max [6] staff days*

Timeline	Event/Action	Background documents/Output	Nature of Activity & Time requirement (Full Time Equivalent days)
Early September	➢ Identification of a RIA-eligible regulatory draft and impact assessment briefing meeting The management identify a drat text of regulation eligible for full active RIA application. The team working on the chosen draft regulation (hereinafter DRT) will be part of the project and the TR will provide DRT with active assistance with RIA expertise. DRT, TR and Convergence Program gather to approach the draft regulation under way from a RIA perspective.		**Class Work** 0.5 FTE
Mid September	➢ Approaching consultation phase TR drafts a consultation paper about the text of regulation which is shared and approved by all DRT members. Consultation plan is prepared.	Output: - Consultation paper.	**Desk Work** 1 FTE
Early October	➢ Consultation process Consultation with interested parties takes place according to the most appropriate tool (e.g. questionnaire, expert groups) in order to gather information needed. All DRT members take part in the consultation which is lead by RC (supported by TR). At the end of this phase TR, assisted by Convergence Program, prepare a detailed report of consultation which is shared and approved by all DRT members.	Output: - Summary report of the findings drawn from consultation.	**Desk & Field Work** 1.5 FTE
Mid October	➢ Regulatory process acknowledgment of consultation activity (+ elaboration) DRT members might fine tune the text with remarks/suggestions/evidence drawn from the consultation process. TR, assisted by Convergence Program, drafts the RIA paper bound to be attached to the draft regulation text.	Output: - Fine-tuned draft regulation text; - Draft RIA paper.	**Desk Work** 1.5 FTE
Mid October	➢ Internal peer review: TR (and Convergence Program) presents the draft RIA paper to the Economic Department (feedback by 1 week).		**Seminar** 0.5 FTE
End October	➢ Regulatory text is presented along with RIA DRT members present the regulatory proposal along with the related RIA which is illustrated by RC (and Convergence Program).		**Seminar** 1 FTE

Phase 4 – RIA Capacity Building	**Time requirement: max [2] staff days***

Timeline	**<u>Event/Action</u>**	**Background documents/Output**	**Nature of Activity & Time requirement** **(Full Time Equivalent days)**
November	➢ An action plan could be drafted in order to make RIA compulsory for the initiators of a set of regulatory measures as well as internal solutions could be foreseen in order to establish a Unit responsible for, and capable of, undertaking RIA.		**Class Work & Seminar**

(*)= in order to create an adequate "knowledge and operational critical mass" it would be advisable that RIA team is composed of 2-3 people. In order to make this program more flexible, overall FTEs required might be split among the members of the RIA Team.

RIA Knowledge Transfer and Capacity Building Program

Preparatory discussion (Phase 0)
Presentation of the whole program and design of Phase I

Bucharest, 16th April, 2007

Venue:
National Bank of Romania

This is the first knowledge transfer program organized in Romania for financial sector regulators that focuses on Regulatory Impact Assessment (RIA).

The workshop is aimed at supporting the National Bank of Romania and the Ministry of Public Finance sharpen their internal RIA capabilities to provide intellectual leadership to the public-private regulatory design work that Romania has committed to promote. Through the RIA tool, authorities will also be able to regularly monitor the existing framework to ensure that its benefits justify the costs they create

Seminar Objectives

The seminar objectives are:

1. to familiarize the designated RIA experts nominated by the NBR and the MOPF with the RIA process;
2. to focus on impact assessment application to financial industry;
3. to start building on the RIA skills of participants by performing several RIA case studies on relevant international and domestic regulations.

Panel of participants designated by Romania's Authorities

National Bank of Romania

Legal Department

- Ms. Cristina Lacatus, Legal Advisor;
- Ms. Raluca Cristofor, Legal Advisor;

Financial StabilityDepartment

- Ms. Antoneta Alexe Padina, Head of Section;

Regulation and Licensing Department

- Ms. Ana Mesea, Expert;
- Mr. Gabriel Valvoi, Expert;

Supervision Department

- Mr. Onetiu Dorel, General Inspector.

Ministry of Public Finance:

Personal Advisor to State Secretary

- Ms. Elena Georgescu*;*

General Department for Reform and International Cooperation

- Andreea Serbanoiu, Assistant Expert;

DGFPE

- Ms. Aura Tudor, Advisor;

Financial Markets Division

- Ms. Simona Butoi, Principal Expert, UMTS.

Program

14.00	Introduction *Ms. Oana Nedelescu, SPI Secretariat*
14:10	The Context: Better regulation and policy dialogue through RIA *Presentation by Mr. Riccardo Brogi, Senior Regulatory Economist, Convergence Program and South-East Europe Regional RIA Program Director*
14.50	RIA knowledge-transfer program presentation *Mr. Riccardo Brogi, Convergence Program*
15:20	Open discussions with participants on how to design Phase I *Mr. Riccardo Brogi, Convergence Program*
16.00	Conclusion of the meeting

Convergence Romania Financial Sector Modernization

Special Projects Initiative Public-Private Steering Committee

RIA Capacity Building Program

Introductory Remarks

Oana Nedelescu

SPI Director for Analytics and Policy

Bucharest

16 April 2007

National Bank of Romania

What we do - SPI Projects

1. *Expansion of Positive Information Sharing*
2. *Electronic Processing of Debit Instruments*
3. *Amendment of the anti-money laundering (AML) law*
4. *Policy Implications of the Roland Berger study*
5. *Loan loss provisioning in view of IFRS application*
6. *Mortgage loan servicing database*
7. *Rural lending*
8. *Law on bank guarantees*
9. *Loss given default database*
10. *Rating Agencies Development*
11. *Methodological aspects of stress test for households and firms*
12. *Ombudsman*
13. *Consumer education*
14. *Amendment of the law on goods safeguard, values and persons protection*
15. *Improving the banknotes structure for ATM use*

How we do it – the SPI Process

Preliminary Regulatory Impact Assessment

Identification of relevant stakeholders and PWG Setting Up

Analytical activities of PWG supported by full RIA

Solution identification (Technical Consensus)

Regulatory solutions presented to SPI Committee (Political Consensus)

Implementation

Regulatory Impact Assessment

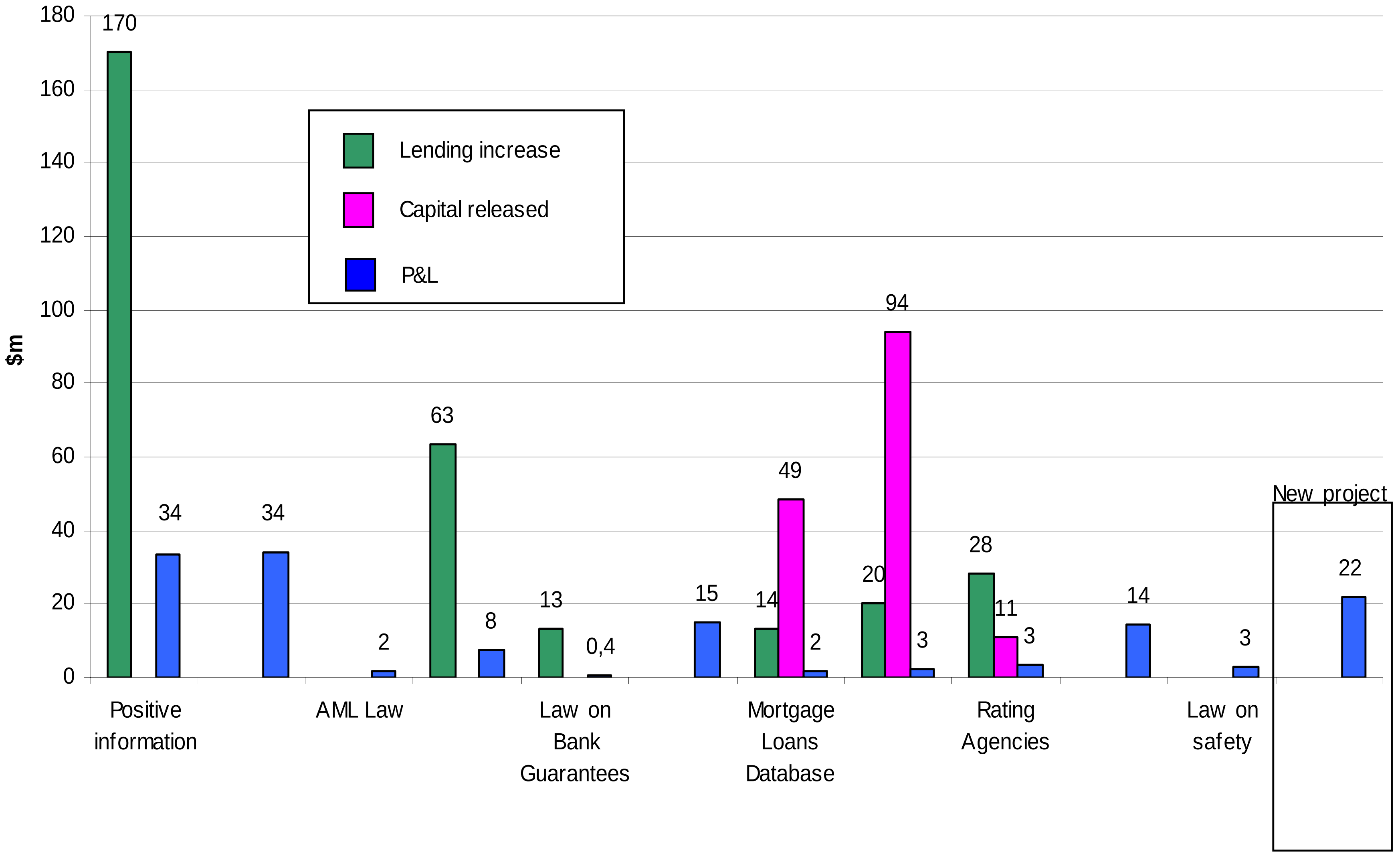
A key tool providing sound analysis supporting the decision-making process for policy options.

RIA Importance:

A. Systemically examines selected potential impacts on the banking industry and the economic system

B. Communicates the appropriate information to decision-makers

A. Evidence of potential impacts on the banking industry and the economic system (I)



A. Evidence of potential impacts on the banking industry and the economic system (II)

Impact on Balance Sheet – Breakdown of contributions

	Business development *(3 Projects)*	**Industry competitiveness** *(9 Projects)*	*Total*
i) Lending increase	***$ 247 million***	***$ 61 million***	***$ 308 million***
ii) Capital released	-	***$ 154 million***	***$ 154 million***

Impact on P&L – Breakdown of contributions

	Business development *(3 Projects)*	**Industry competitiveness** *(9 Projects)*	*Total*
i) Interest Margin	***$ 16 million***	***$ 7 million***	***$ 23 million***
ii) Operational costs	***-***	***$ 62 million***	***$ 62 million***
iii) Loan Loss Provisions	***$ 26 million***	***$ 29 million***	***$ 55 million***
Overall impact	***$ 42 million***	***$ 98 million***	***$ 140 million***

B. RIA communicates the appropriate information to decision-makers

- RIA information embedded in SPI documents that are submitted to public/private decision makers for promoting legislative and institutional changes

Success stories: positive information sharing, AML law amendments, electronic processing of debit instruments, etc.

RIA is also useful from the regulators' point of view ("better regulation" approach)

More …

to follow

RIA Knowledge Transfer and Capacity Building Program

Better Regulation and Policy Dialogue through RIA

Kick-off Meeting

National Bank of Romania

April 16th, 2007

Outline

- Attention to Quality of Regulation;
- Some Quantitative Evidence of the Cost of Regulation;
- Tools of Better Regulation;
- Regulatory Impact Assessment (RIA) as the Key Tool in Delivering Better Regulation;
- Effective Regulation Needs Strategic Dialogue Among Stakeholders.

I.

Attention to Quality of Regulation

Quality of Regulation on International Agenda

- When: The first international standard on regulatory quality was produced in 1995;

- Why: OECD took initiative based on the evidence that quality of regulation has a causal-effect link with establishment of conditions for sustainable global economic growth.

Regulatory Policy from OECD Angle*

- Regulatory quality is the driving principle behind reform today;

- Greater homogeneity across OECD countries for “ good” regulation:
  - Quality regulation, not just de-regulation;
  - Incentive-based regulation in place of command-and-control.

(*): Josef Konvitz, Head of OECD Regulatory Policy Division, *International Trends in Regulatory Reform*, ABI Conference on Better Regulation Rome, 14 March 2007.

Codifying Regulation Management

Objectives set by OECD's Recommendation were the following*:

- To improve the quality of regulation;
- To support the development of more effective management of the regulatory system;
- To promote alternative instruments;
- To strengthen the effectiveness and legitimacy of the international regulatory system.

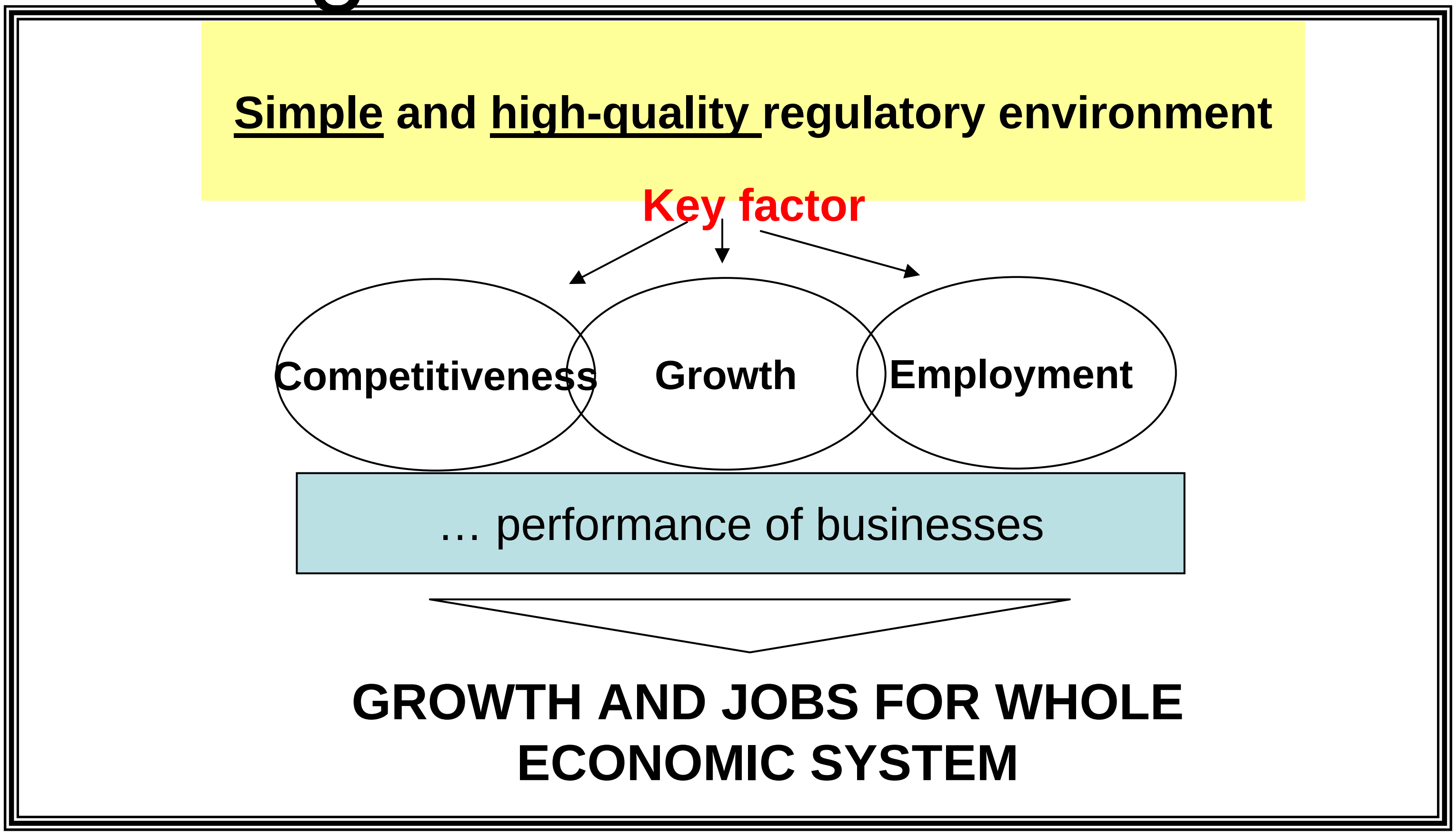
(*): OECD, *Recommendation Of the Council Of The OECD On Improving The Quality Of Government Regulation*, March 1995

European Commission's Commitment to Better Regulation

Lisbon Strategy set the improvement of regulatory quality as key factor for growth and employment;

After renewal of 'Lisbon Strategy', Better Regulation has become a main driver for competitiveness.

Where EU Approach to Better Regulation is Grounded



Some EU Countries Engaged in High-Quality Regulation: Ireland

- "*Regulating Better*": Government White Paper aimed at enhancing competitiveness through the regulatory lever;

- How this can improve competitiveness?
  - Inappropriate regulation can produce adverse effects;
  - Public services not snarled up in red tape;
  - Businesses not to comply with unnecessary or unduly regulation.

Some EU Countries Engaged in High-Quality Regulation: the UK

- Better Regulation Executive (BRE): it works across government to support and challenge departments and regulators as they reduce and remove regulation;

- FSA and Treasury are strongly committed to assessing the benefits of regulation.

Some EU Countries Engaged in High-Quality Regulation: Denmark

- In 2002, the Danish Government set “The Danish Growth Strategy” mainly aimed at achieving a reduction of up to 25 percent of administrative burden faced by recipients;
- The underpinning reason was that Danish companies and citizens considered themselves hard hit by legislative and administrative regulation.

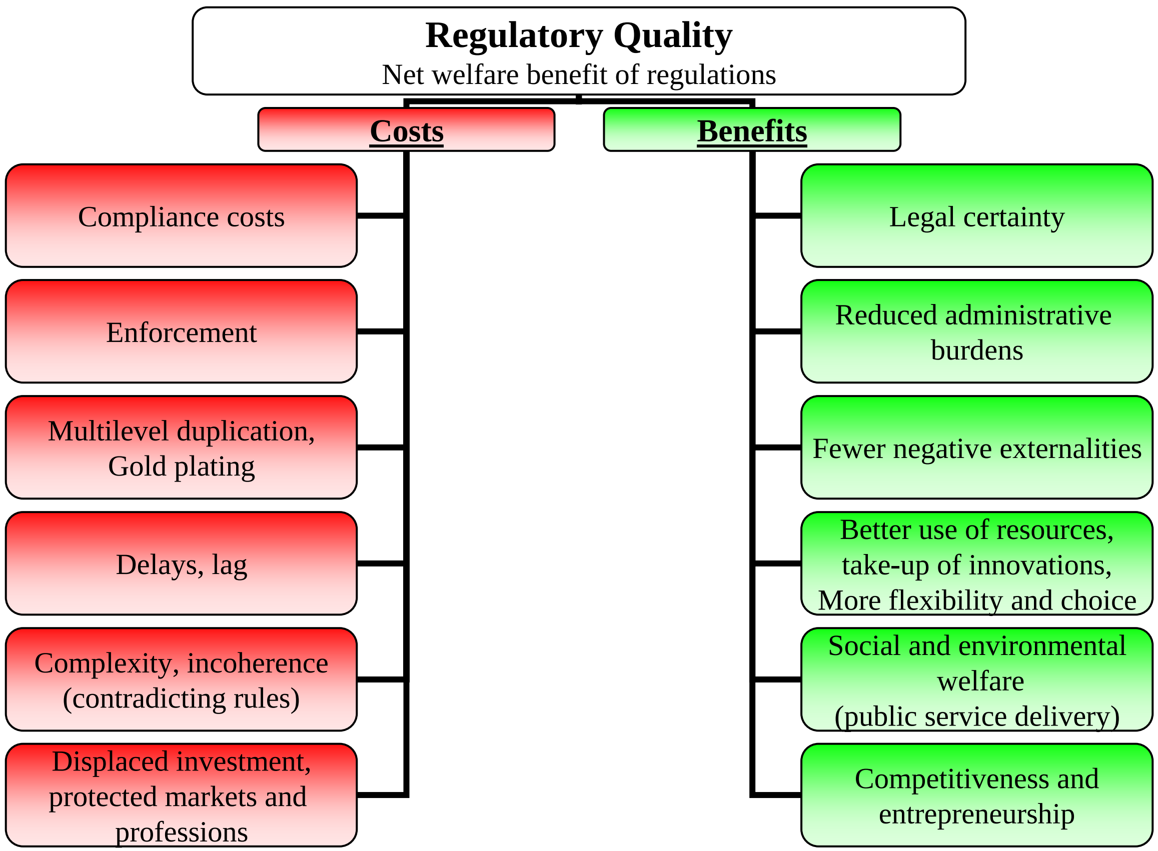
Some EU Countries Engaged in High-Quality Regulation: the Netherlands

- In 2003, Ministry of Finance took action for determining the administrative burden of businesses;

- "*In the last few decades, the Dutch system of rules has become increasingly complex (...). This hampers compliance and is unnecessarily time-consuming and expensive (…). The balance must be reinstated. This is why the Cabinet has declared tackling red tape and regulatory creep as one of its most important themes*"(*)

(*): Ministry of Finance/Interministerial Project Unit for Administrative Burdens (IPAL), *Reducing Administrative Burdens: Now Full Steam* Ahead, The Hague, June 2005

Costs and Benefits: Tipping the Scales for Better Regulation*

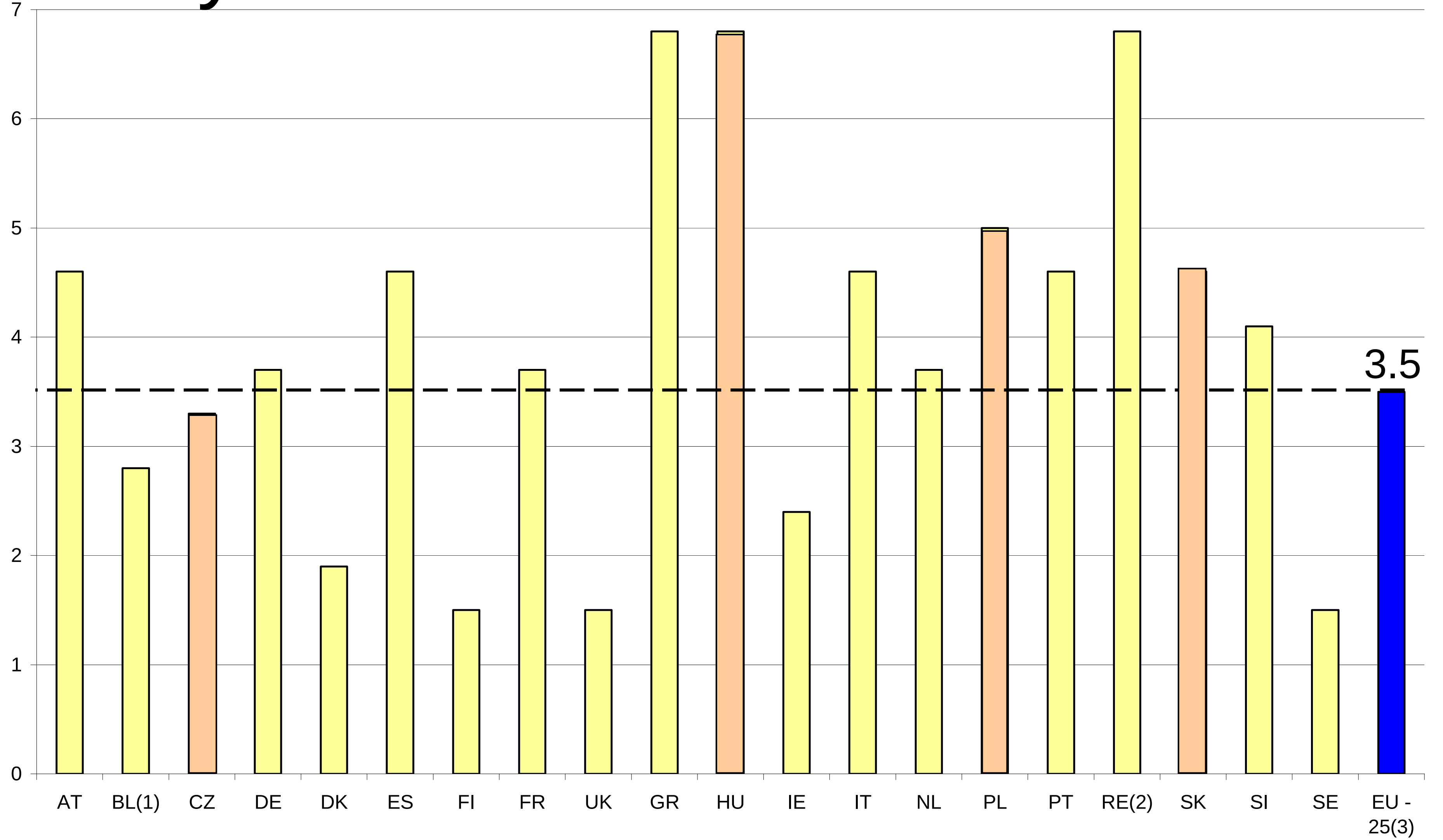


(*): Josef Konvitz, Head of OECD Regulatory Policy Division, *International Trends in Regulatory Reform*, ABI Conference on Better Regulation Rome, 14 March 2007.

II.

Some Quantitative Evidence of the Cost of Regulation

Heavy Administrative Burden on Board



(*): European Commission, *Impact Assessment accompanying the "Action Programme for Reducing Administrative Burden in the European Union", 2007. (1): BL combines Belgium and Luxemburg. (2): Combines the Baltic member States, Malta and Cyprus. (3): EU-25 are GDP-weighted.*

Better Regulation Drives Growth

- A 25% reduction of administrative burden would yield a GDP increase of 1.4 to 1.8%;
- SEE countries can benefit above the average growth (Table 1 below).

Table 1 - Reduction of administrative burdens and gains in labour efficiency (*)

Member State	Efficiency increase (%)
AT	2.2
BL(1)	1.1
CZ	1.6
DE	1.6
DK	0.8
ES	2.1
FI	0.7
FR	1.8
UK	0.6
GR	2.9
HU	3.5

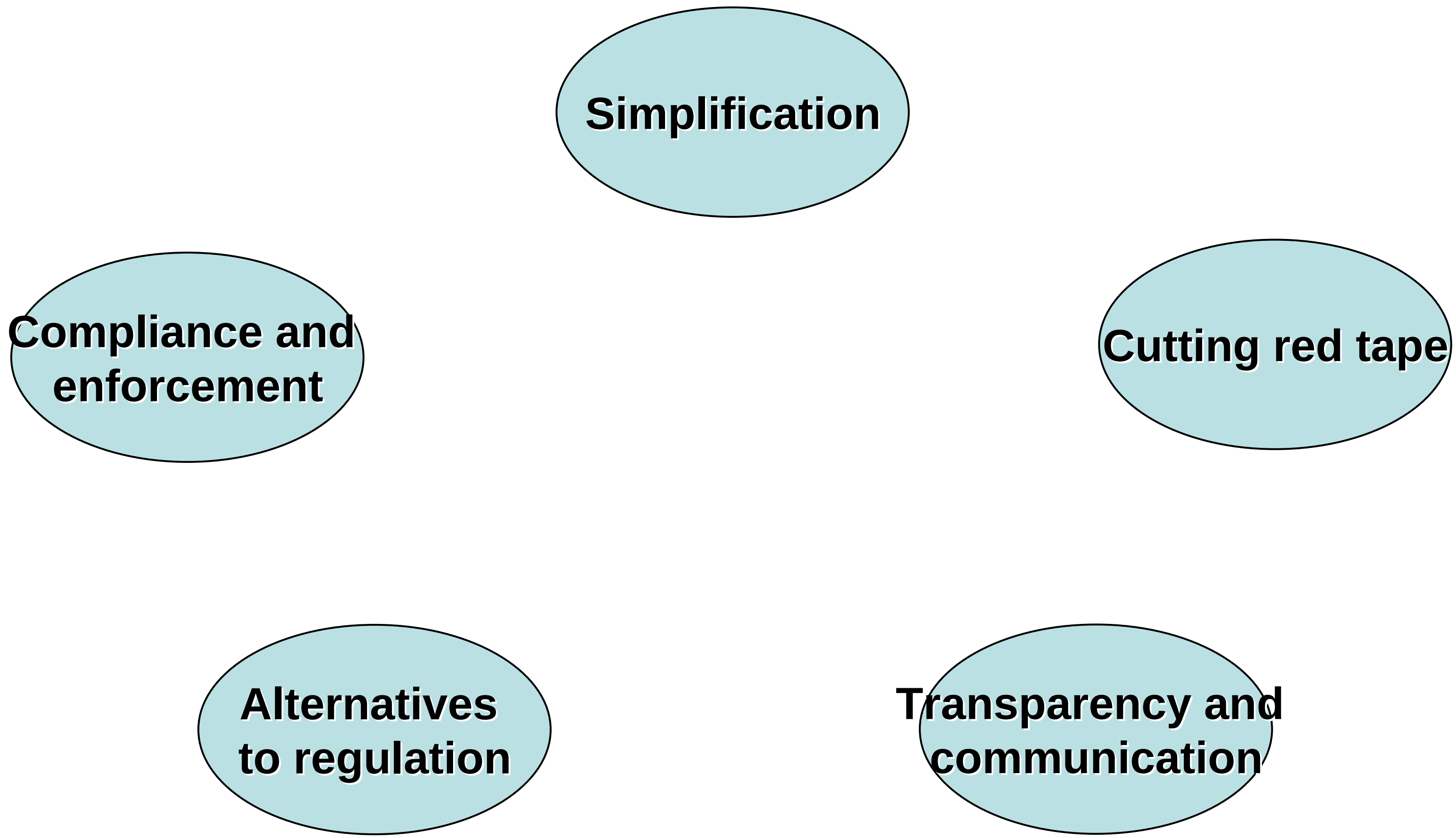
Member State	Efficiency increase (%)
IE	1.1
IT	2.3
NL	1.6
PL	2.4
PT	1.9
RE(2)	3.3
SK	2.6
SI	1.6
SE	0.6
EU - 25(3)	1.6

(*): European Commission, *Impact Assessment accompanying the "Action Programme for Reducing Administrative Burden in the European Union", 2007. (1): BL combines Belgium and Luxemburg. (2): Combines the Baltic member States, Malta and Cyprus. (3): EU-25 are GDP-weighted.*

III.

Tools of Better Regulation

The Virtuous Road Map to High-Quality Regulation*



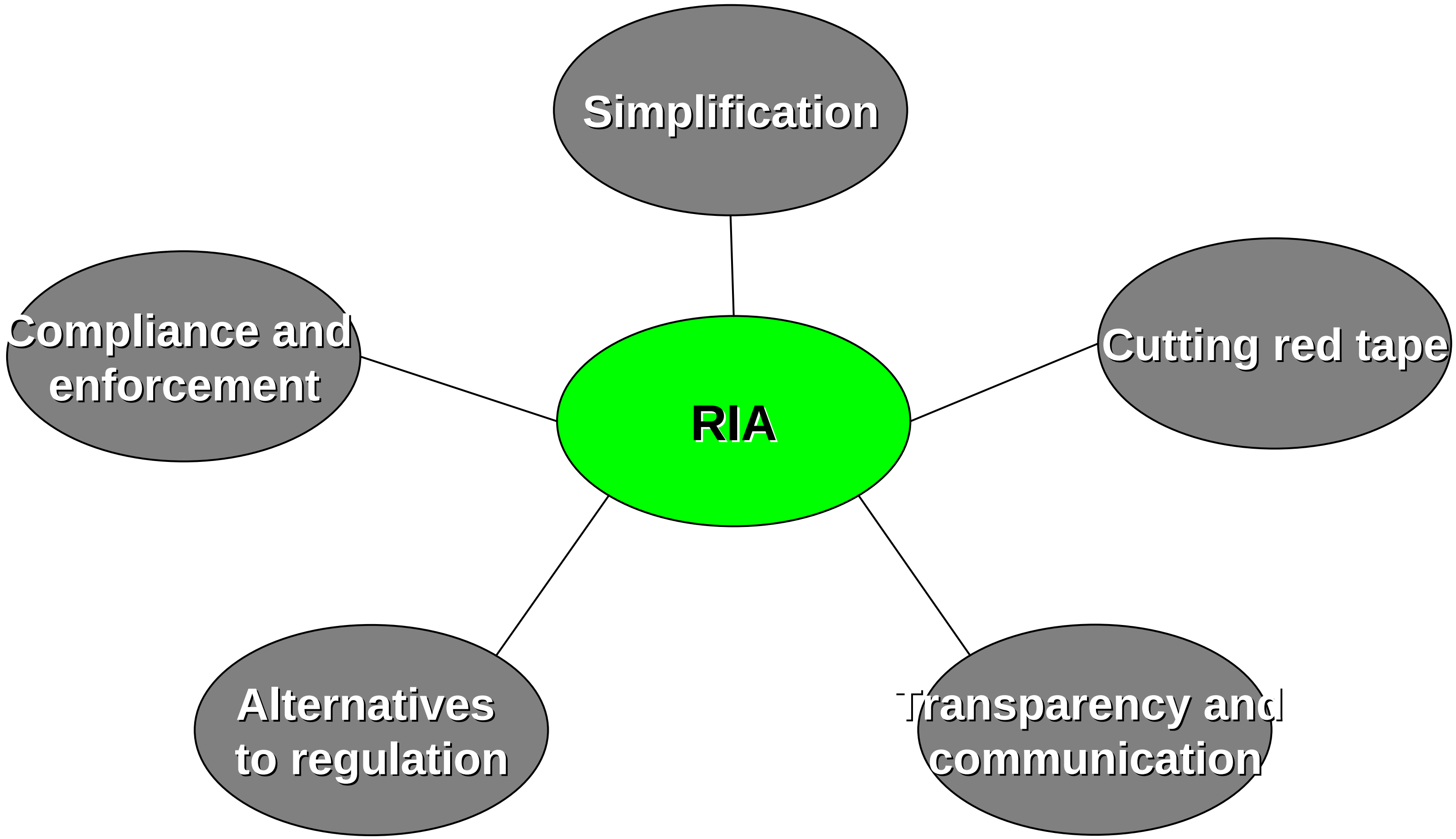
(*): OECD-UE, *Conference on Regulatory Impact Assessment*, Ankara, April 2006.

IV.

Key Tool in Delivering Better Regulation:

Regulatory Impact Assessment (RIA)

Introducing Evaluation Culture in Regulatory Process



OECD Reference Checklist for Regulatory Decision-Making (1)

<u>Question # 1</u>
Is the problem correctly defined?

- Problem precisely stated;
- Nature and magnitude;
- Identification of incentives of affected entities.

<u>Question # 2</u>
Is government action justified?

- Evidence-based intervention;
- Likely benefits and costs;
- Alternative mechanisms for addressing the problem.

<u>Question # 3</u>
Is regulation the best form of government action?

- Informed comparison of policy instruments;
- Regulatory/non-regulatory solution;
- Early in the regulatory process.

<u>Question # 4</u>
Is there a legal basis for regulation?

- Explicit responsibility;
- Consistency with higher-level regulations;
- Certainty, proportionality and applicable procedural requirements.

Source: OECD, *Recommendation Of the Council Of The OECD On Improving The Quality Of Government Regulation*, March 1995

OECD Reference Checklist for Regulatory Decision-Making (2)

Question # 5
What is the appropriate level of gov. for this action?

- Most appropriate level should be chosen;
- If multiple levels: effective coordination should be designed.

Question # 6
Do the benefits of regulation justify the costs?

- Total expected costs-benefits estimate;
- Regulatory proposal/feasible alternatives;
- Costs should be justified by benefits.

Question # 7
Is the distribution of effects across society transparent?

- Government intervention can affect distributive and equity values across social groups;
- Distribution of regulatory costs/benefits should be made transparent.

Source: OECD, *Recommendation Of the Council Of The OECD On Improving The Quality Of Government Regulation*, March 1995

OECD Reference Checklist for Regulatory Decision-Making (3)

<u>Question # 8</u>
Is the regulation clear, consistent, comprehensible and accessible to users?

- Rules understood by likely users;
- Clear text and structure.

<u>Question # 9</u>
Had all interested parties had the opportunity to present their views?

- Open and transparent regulatory process;
- Effective and timely input from interested parties.

<u>Question # 10</u>
How will compliance be achieved?

- Assessment of incentives and institutions through which the regulation will take effect;
- Design of responsive implementation strategies.

Source: OECD, *Recommendation Of the Council Of The OECD On Improving The Quality Of Government Regulation*, March 1995

Ireland - Chart of Regulatory Principles and Actions

1. NECESSITY

We will require higher standards of evidence before regulating
We will strengthen policy making and the quality of regulations through impact analysis, better training and awareness-raising and better quality data on which to base decisions.

We will reduce red tape
The burden of red tape will be reduced through customer service initiatives, IT-enabled improvements and Statute Law Revision.

We will keep our regulatory institutions and framework under review
The requirement for sectoral regulatory institutions will be regularly reviewed in the light of sectoral dynamics, competition, convergence and market change.

2. EFFECTIVENESS

We will target our new regulations more effectively
The objectives of regulation will be stated clearly in explanatory guides. We will more frequently use regulation that sets out the goals to be achieved but which leaves maximum flexibility as to the means of achieving them.

We will make sure that regulations can be adequately enforced and complied with
We will frame regulations so that they achieve the greatest levels of compliance without excessive enforcement and compliance costs.

We will ensure that existing regulations in key areas are still valid
We will systematically review existing regulations governing key areas of the economy and society.

3. PROPORTIONALITY

We will regulate as lightly as possible given the circumstances, and use more alternatives
We will promote the use of a wider range of alternatives by Government Departments/Offices.

We will ensure that both the burden of complying and the penalty for not complying are fair
Penalties in regulations will be more proportionate. We will also monitor the burden of compliance on business and SMEs.

We will use Regulatory Impact Analysis appropriately when making regulations
We will pilot and then mainstream a system of RIA in Government Departments and Offices.

4. TRANSPARENCY

We will consult more widely before regulating
Consultation processes will be improved and made more consistent across Government Departments and Offices.

There will be greater clarity about Public Service Obligations
We will ensure that Public Service Obligations are made more explicit when regulating, in terms of costs and service levels.

Regulations will be straightforward, clear and accessible
Regulations will be as straightforward, clear and accessible as possible, with guidance in plain language.

5. ACCOUNTABILITY

We will strengthen accountability in the regulatory process
Regulators and enforcement agencies should be clearly accountable to citizens, through the Houses of the Oireachtas and Government.

We will improve appeals procedures
There should be well publicised, accessible and equitable appeals procedures that balance rights of appeal with the need for speedy action, in a fair manner. Where regulatory decisions are referred to the courts, there are particular requirements of speed and expertise.

6. CONSISTENCY

We will ensure greater consistency across regulatory bodies
As far as possible, there should be greater similarity in the remit, responsibilities, structure and approaches of regulatory institutions.

We will ensure that regulations in particular sectors/areas are consistent
Legislation in linked or connected areas will be consistent, and kept up to date and accessible through processes of simplification, consolidation and restatement.

Source: http://www.betterregulation.ie/upload/Regulating_Better_html/chartreg.html

Added Value of RIA

- Impact assessment is the process of systematic analysis of the likely impacts of a proposed intervention by regulatory authorities as well as the range of its alternative feasible options;

- RIA for policy analysis and as aid to decision-making (not a substitute for political judgment).

Valuable support for policy analysis

- RIA not necessarily provides clear-cut conclusions and recommendations;
- It offers a very helpful fact-based input;
- Effective communication tool for consultation with interested parties.

V.

Effective Regulation Needs Strategic Dialogue Among Stakeholders

Regulation Makers and Recipients Sit at a Common Table

- Involvement of stakeholders is a key factor to increase regulatory quality;

- Consultation is inherently and strongly linked to RIA;

- Guiding Principles on dialogue on effective financial regulation, recently produced by Institute of International Finance(*).

(*): IIF, *Proposal for a Strategic Dialogue on Effective* Regulation, December 2006.

Reference Documents and Web links

• Danish Government, *The Danish Growth Strategy*, August 2002;

• Dutch Cabinet letter 2005, *Reducing administrative burdens: now full steam ahead*, Ministry of Finance/Interministerial Project Unit for Administrative Burdens (IPAL), The Hague, June 2005;

• European Commission and Better Regulation: *http://ec.europa.eu/enterprise/regulation/better_regulation/index_en.htm*

• Ireland and Better Regulation: http://www.betterregulation.ie/

• UK and Better Regulation:

- http://www.cabinetoffice.gov.uk/regulation/index.asp;
- http://www.hm-treasury.gov.uk./documents/enterprise_and_productivity/better_regulation/ent_regulation_index.cfm ;
- http://www.fsa.gov.uk/pubs/other/better_regulation.pdf .

• OECD, *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*, March 1995.

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- Dutch Cabinet letter 2005, *Reducing administrative burdens: now full steam ahead*, Ministry of Finance/Interministerial Project Unit for Administrative Burdens (IPAL), The Hague, June 2005;
- European Commission and Better Regulation: *http://ec.europa.eu/enterprise/regulation/better_regulation/index_en.htm*
- Ireland and Better Regulation: http://www.betterregulation.ie/
- UK and Better Regulation:
  - http://www.cabinetoffice.gov.uk/regulation/index.asp;
  - http://www.hm-treasury.gov.uk./documents/enterprise_and_productivity/better_regulation/ent_regulation_index.cfm ;
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- OECD, *Recommendation of the Council of the OECD on Improving the Quality of Government Regulation*, March 1995.

Part 1: Assembling a RIA team in Romania

Wednesday, May 16, 2007 at 9:00
National Bank of Romania

AGENDA

9:00	Introduction *Ms. Oana Nedelescu, SPI Director of Analytics and Policy*
9.20	Key steps in a standard Financial Sector RIA *Mr. Riccardo Brogi, RIA Program Director* (Based on the RIA Handbook prepared by Convergence)
10.30	*Break*
10.45	A framework for assessing the costs and benefits of financial regulation *Mr. Paul Gower, Senior Advisor - Oxera*
12.15	Open discussion on issues previously illustrated
13.00	*Lunch break*
14.00	Experience on executing Impact Assessment in Germany *Mr. Claus-Michael Happe, Head of Better Regulation Unit - German Ministry of Finance*
15.15	Open discussion on German experience
15.45	*Break*
16.00	Review of 12 SPI Projects RIA – Part I *Ms. Ramona Bratu, SPI Director of Bank Products and Services*
17.00	Wrap up and Program design of Phase II
17.30	End of session

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Romania RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Thursday, May 17, 2007 at 9:00
National Bank of Romania

AGENDA

9:00 Recap of previous day's discussion
Ms. Ramona Bratu

9.10 Case studies: Session I
- ✓ Extended Impact Assessment on the Proposal for a EU Directive on the capital adequacy of investment firms and credit institutions;
- ✓ UK Treasury – Transposition of the Capital Requirements Directive: Consultation and Partial Regulatory Impact Assessment.

Mr. Velimir Sonĵe – Croatian RIA expert and RIA Program Deputy Director

12.00 Review of 12 SPI Projects RIA – Part II
Ms. Oana Nedelescu

13.00 *Lunch break*

14.00 Case studies: Session II
- ✓ Impact Assessment on the Proposal for a EU Directive on Payment Services;
- ✓ Impact Assessment on Anti Money Laundering SPI Project.

Mr. Velimir Sonĵe
Mr. Riccardo Brogi

16.00 *Break*

16.15 Wrap up

16.45 Finalization of Program design of Phase II
Mr. Riccardo Brogi

17.30 End of session and feedback
Ms. Ramona Bratu

Note:
1. Mr. Alberto Bazzan will be attending the 2-day workshop as facilitator.
2. Each case studies session will be structured as follows:
- Group discussion (*Participants will be given advance information of the two case studies and a list of questions. Two working groups to discuss the cases will be formed and a spokesperson per group will be identified*);
- Plenary discussion (*Case studies will be discussed in depth on a plenary basis by the two spokespersons acting as discussion leaders*).

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Romania RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Phase I
Assembling a RIA Team in Romania

Bucharest, 16-17 May 2007

Venue:
National Bank of Romania

List of participants designated by Romanian stakeholders (1/2)

Prime Minister's Office

- Mr. Dragos Negoita;
- Mr. Ionut Pavel.

Ministry of Economy and Finance

Personal Advisor to State Secretary
- Ms. Elena Georgescu*;*

Public Management
- Ms. Mihaela Nedelecu;
- Ms. Elena Timofte;
- Mr. Emanuel Constantin.

General Department for Reform and International Cooperation
- Ms. Andreea Serbanoiu, Assistant Expert;

DGFPE
- Ms. Aura Tudor, Advisor;

Financial Markets Division
- Ms. Simona Butoi, Principal Expert, UMTS.

National Securities Commission

Legal Department
- Ms. Camelia Oprea, Legal advisor;

Regulatory Department
- Mr. Albert Schreiber, Head of Department.

National Bank of Romania

Legal Department
- Ms. Cristina Lacatus, Legal Advisor;
- Ms. Raluca Cristofor, Legal Advisor;

Financial StabilityDepartment
- Ms. Antoneta Alexe Padina, Head of Section;

Regulation and Licensing Department
- Ms. Ana Mesea, Expert;
- Mr. Gabriel Valvoi, Expert;

Supervision Department
- Mr. Onetiu Dorel, General Inspector.

Insurance Supervision Commission

General Direction for Strategies-International Affairs
- Ms. Beatrice Verdes, Expert;

General Direction for Regulation
- Ms. Anabela Ruse, Adjunct Director General;

General Direction for Licensing
- Ms. Dana Alecu, Head of Division;

Regulatory Department
- Mr. Mihai Anton, Inspector;
- Mr. Bogdan Ion, Inspector.

Phase I
Assembling a RIA Team in Romania

Bucharest, 16-17 May 2007

Venue:
National Bank of Romania

List of participants designated by Romanian stakeholders (2/2)

Commission for the Supervision of the Private Pension System

Regulatory Direction

- Ms. Adina Dragomir, Director;
- Ms. Anca Petre, legal advisor

General Direction for Regulation

- Ms. Anabela Ruse, Adjunct Director General;

General Direction for Licensing

- Ms. Dana Alecu, Expert;

Regulatory Department

- Mr. Mihai Anton, Inspector;
- Mr. Bogdan Ion, Inspector.

National Authority for Consumer Protection

- Mr. Mihai Meiu, *Director*

* * *

Romania RIA Knowledge Transfer and Capacity Building Program

Phase I
Assembling a RIA Team in Romania

Bucharest, 16-17 May 2007

Venue:
National Bank of Romania

Minutes

List of Participants

#	National Bank of Romania
1	Ms. Oana Mesea
2	Ms. Madalina Mortici
3	Ms. Antoaneta Alexe
4	Ms. Andra Pineta
5	Mr. Gabriel Valvoint
	Ministry of Economy and Finance
6	Ms.Mihaela Nedelcu
7	Ms. Simona Butoi
8	Mr. Emanuel Constantin
	Insurance Supervision Commission
9	Ms. Beatrice Verdes
10	Mr. Bogdan Ion
11	Mr. Mihai Anton

#	National Securities Commission
12	Ms. Oana Marinoiu
13	Ms. Camelia Oprea
14	Mr. Albert Schreiber
	Commission for Supervision of Private Pensions System
15	Ms. Adina Dragomir
16	Ms. Anca Petre
	National Authority for Consumer Protection
17	Mr. Mihai Meiu
	General Secretariat of Goverment
18	Mr. Dragos Negoita
19	Mr. Ionut Pavel

List of Instructors

Speakers
Mr. Paul Gower, Senior Adviser - Oxera (UK)
Mr. Claus-Michael Happe Head of Better Regulation Unit - Ministry of Finance (Germany)
Ms. Ramona Bratu, SPI Director of Bank Products and Services
Ms. Oana Nedelescu, SPI Director of Analytics and Policy
Mr. Riccardo Brogi - Convergence Program - RIA Program Director
Facilitator
Mr. Alberto Bazzan, HR Advisor

Workshop Highlights

❖ What?

- RIA is the process of systematic analysis of the likely impacts of a proposed intervention by regulatory authorities as well as the range of alternative options.

❖ When?

- Impact Assessment can be ex-ante while designing a regulatory intervention or ex-post to review implementation;
- The case for regulatory action may arise from market failures, risks and incentive problems.

❖ How?

- Impact Assessment can be approached in a systematic way;
- Incremental costs can be classified in direct/indirect, one-off/ongoing ones;
- Measurement of incremental benefits is more difficult and can be done in terms of market outcomes can be measured directly, even if it is difficult, but better results may be obtained from indirect measures;
- Standard Cost Model is a tool which measures administrative burden;
- Assessment can also be performed with regard to social and environmental impact other than economic one.

❖ Who?

- At EU level and both across Europe and world-wide the use of RIA has been spreading;
- Romanian Government has already using RIA methodology for some policy initiatives;
- It is a core element of the Convergence Romania Financial Sector Modernization Program.

Wednesday, May 16th

Introductory remarks

The workshop was opened by the SPI Technical Secretariat (SPI), who acknowledged the broad participation of financial markets regulators and other relevant authorities and made a brief description of the objective of the program offered by Convergence.

SPI has highlighted that the quality of regulation issue is part of the international agenda since 1995, when OECD produced the first international standard for regulatory quality.

In the EU, the regulatory quality was integrated in the Lisbon Strategy and became the centerpiece of the European Commission regulatory activity towards the “Better Regulation” aim. The importance given to regulatory quality started from the recognition that a simple and high-quality regulatory environment is a key factor of competitiveness, growth, employment, and economic growth.

Improving regulatory quality implies that a better trade-off between the costs and benefits of regulation can be achieved. Regulatory Impact Assessment (RIA) is one of the key tools for optimizing regulation by putting the evaluation culture of regulation at the core of policy design.

SPI has illustrated the benefits of RIA by providing examples from the Romanian experience with projects being undertaken under the Romania SPI Committee auspices.

Finally, SPI has outlined the objectives and structure of the Convergence RIA Knowledge Transfer and Capacity Building Program and has made a description of the main parts of the first 2-day first phase of the program.

Presentation: Key steps in as standard RIA process (by Convergence)

Convergence has then taken the floor in order to go through the steps that should be taken to perform a RIA, drawing from international relevant practice followed by the European Commission, the UK and Ireland.

Firstly, Convergence has drawn attention to the stages of the regulatory management and how RIA can support each of them. It was outlined that RIA has to be performed at the very beginning, when the need for regulatory design rises. After having clarified that **ex-ante RIA** takes place before any regulatory action is started, Convergence has gone through the 2 stages for ex-ante RIA:

- Initial/preliminary RIA: to be prepared as soon as a policy idea arises;
- Full/final RIA: this document builds on information contained in initial RIA and includes feedback received during the consultation phase.

Once the regulatory intervention has been enacted, an **ex-post RIA** (also called evaluation) should be fulfilled during the implementation phase of the regulation considered.

The Ministry of Economy and Finance representatives also pointed that a dedicated staff are performing RIA within the Ministry. The RIA team receives requests from other departments and performs RIA on the legislative acts that they promote.

Finally, a review of the existing regulation is highly suggested in order to verify whether the regulation is still meeting its intended effects or not. This last step would result in the confirmation/modification/revoke of the regulation itself.

Secondly, Convergence has stressed when RIA is needed and what the value added of RIA is. With regard to the former, among others, RIA opens the regulatory design to the stakeholders involved as well as determines whether or not benefits are justified by costs. As for the latter, it is important that RIA be performed as early as possible of the regulatory of the regulatory proposal.

After that, the RIA process that should be undertaken at the inception of a regulatory proposal has been illustrated step by step. Before going into detail, it has been stressed that RIA is a highly iterative process rather than a linear one. The main messages delivered per each step are the following:

1. Identification of the problem: it has to be identified and described as clearly as possible. Check list from EC RIA Guidelines has been provided;
2. Definition of the objective and the intended effect: drawn from EC RIA Guidelines, objective definition should be specific, measurable, accepted, realistic and time dependent;
3. Identification and definition of options: “do nothing” option has always to be considered among the alternative options taken into account;
4. Impact analysis of options identified: costs and benefits should be quantified and monetized. The most used analytical tools for a RIA are the cost-benefit analysis, the sensitivity analysis and scenario analysis. Qualitative approach adds a key complementary assessment tool based on best professional judgment rather than actual figures;
5. Enforcement and monitoring arrangements: costs from such arrangements pertaining to each option can significantly affect the choice of the selected option;
6. Comparison of the options: positive and negative impacts of each option should be compared and, where possible and appropriate, a preferred option should be identified.
7. Outline of policy monitoring and evaluation: once the option has been chosen, much more detailed enforcement and monitoring arrangements has to be figured out;
8. Consultation with stakeholders: several benefits come from this step. Among them, that to surface possible unintended consequences from the regulatory proposal.

Presentation: A framework for assessing the costs and benefits of financial regulation (by Mr. Paul Gower - Oxera)

Mr. Gower has made a presentation about the methodological framework that Oxera has implemented for the assessment of costs and benefits of financial regulation.

Other than reminding the importance of performing a RIA as soon as possible, it has been first stressed that market failure analysis is vital at an early stage. In fact, regulatory intervention might be considered provided that a market failure occurs. All potential government interventions have to be considered among the options, including the “no action” solution.

It is important that RIA scope be determined in terms of several items, among them the relevant markets and the identification of affected parties. The parties affected may include those who incur direct/indirect costs and those who benefit directly/indirectly. Baseline/counterfactual must be meaningful and time scale chose may affect net impact.

Benefits of government intervention are improvements in market outcomes compared with a situation without intervention. With no intervention, adverse effects in the provision of financial services may arise from market failures (asymmetric information, market power and externalities), risks (operational, default, systemic) and incentive problems.

There might be also considered both unintended consequences as well as how behaviors of markets participants may change when government intervention occurs.

Then Mr. Gower has talked about the assessment and quantification of costs. Direct costs can emerge for all parties involved, including the regulator, whilst compliance costs instead are likely to be incurred by financial firms rather than customers. Costs can be also classified as policy and administrative ones. The former refer to way in which a firm changes its behavior or strategy. The latter refer to the need to comply with third-party information requirements to statutory bodies. Administrative costs are usually measured using Standard Cost Model which equates time taken on a task with the unit cost of the task.

Only incremental costs do have to be considered. Costs can also be split into one-off/ongoing.

Mr. Gower’s illustration has then gone ahead to financial benefits whose measurement is a difficult practical exercise. It needs to think in terms of improvements in market outcomes seen from the perspective of consumers/firms, whole economy. Market outcomes can be measured directly, even if it is difficult, but better results may be obtained from indirect measures.

Policy interventions can affect either the competitive structure of markets or ways in which firms compete (dimensions of competition)

Following Oxera's presentation, participants have been grouped and have been asked to think about some domestic regulation that might be improved and then that might need a RIA. Participants pointed out the Fiscal Code and some other regulations which would benefit from a RIA.

After lunch the session has started with groups that have briefed on their previous brainstorming.

Presentation: Experience on executing Impact Assessment in Germany (by Mr. Claus Happe – German Ministry of Finance)

Mr. Happe has taken the floor with the purpose to illustrate his working experience in dealing with regulatory measurement.

Firstly, Mr. Happe has set the context where at European level the Council invites Member States to put their own national targets by 2008 with regard to reduction of 25% of administrative costs.

In Germany, a centralized program for the reduction of bureaucracy and better regulation was implemented along the following pillars:

- Appointment of a Regulatory Control Council as independent body under the auspices of the chancellory;
- Creation of a political Steering Committee to monitor the work in progress;
- Standard Cost Model as obligatory measure tool.

The National Regulatory Control Council has been assigned the tasks of screening existing bureaucracy and preventing new bureaucracy.

Specificity of German approach consists in focusing on payroll costs without taking into account overheads, comparing scenario to status quo (baseline) and assuming homogeneity of companies.

Focus has been drawn on information obligations on federal and EU-level; exchange of experiences and knowledge with the Federal States has been undertaken in order to ensure common methodology and discuss simplification.

Ministries reported more than 10,000 information obligations for entrepreneurs, whilst similar monitoring for citizens and administration will follow. Commitment has been made to a national reduction of 25% by 2005.

In January 2007, a second measurement round started as a full scale SCM-baseline valuation as object. Federal Statistical Office measures the administrative burden of 20% information obligations that should cover about 80% of the costs. The method applied for such measurement comprises questionnaires, surveys or on-the-spot interviews.

Mr. Happe stressed that according to the new framework, new legal obligation must be examined in advance to determine new bureaucracy costs and that the new established Council is part of the legislative procedure.

Finally, Mr. Happe stressed that the costs saved in designing new Investment law due to this measurement procedure amounted in more than EUR 5 Mln.

Mr. Happe's presentation was followed by an interactive session where participants raised questions regarding to the presentations made. Among these, one of the main issues raised was related to the imperfection of RIAs and, in this context, their relative usefulness for policy makers. Some participants pointed out that impact assessment could help just a little since that each parameter underpinning it can be doubted and the overall appraisal is likely to give the real picture as thinks really are. Mr. Happe replied that although he is not keen on this methodology he is not even so pessimistic since this tool can be useful if properly used as it provides important information enabling the regulator to make a better decision ex-ante. Mr. Gower followed by saying that some estimation is better than no estimation at all. SPI and Convergence also added that the more RIA is based on consultation with other stakeholders the more reliable are the data shared and assumptions discussed.

Presentation: Review of 12 SPI Projects RIA – Part I (by SPI)

After a break, SPI illustrated, triggering involvement of participants, preliminary RIA fulfilled on some projects that are undertaken under Romania SPI public-private partnership.

Program design of Phase II

Convergence finally discussed with participants the outline of next Phase II consisting in applying RIA to an existing regulation. Convergence presented the course objective and presented the invited facilitators who will help groups of participants to perform a RIA on an identified regulation or procedure and to redraft the regulation/procedure itself as a result of the ex-post assessment.

Participants were also told in detail the methodology and the steps comprised in the second phase and agreed on the structure outlined.

End of first day.

* * *

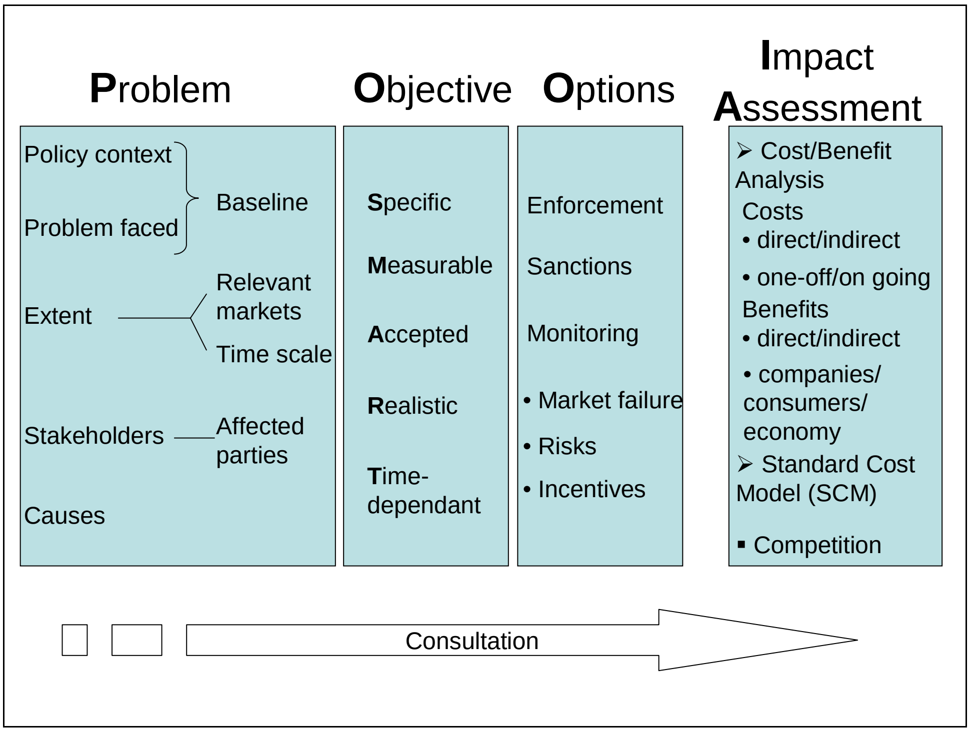
Thursday, May 17th

Recap of Previous Day

The second session started with SPI recapping previous day's discussion. SPI outlined how the 3 respective presentations made on the previous day (namely that on RIA steps, Gower's and Happe's) fit each other within a common framework and pattern.

Therefore, SPI illustrated and outlined the main items being represented by Problem, Objective, Options/Intervention and Impact Assessment and showed how and which of the categories above illustrated Gower's approach and Happe's experience suit the general framework (see Table 1).

Table 1



<u>Presentation: continuation of Review of 12 SPI Projects RIA – Part I</u> (by SPI)

Following that, SPI reviewed the remaining of the first slot RIA of Romania SPI projects, explaining in detail the context of each project, the drivers of impact on financial statements of banking sector and how the impact was worked out.

After this presentation, the formal seminar would has come to an end due to the sudden absence, for health reasons, of Mr. Sonje, the instructor who was expected to lead the two case studies of RIA undertaken by the EC on Basel II and Payment Services.

<u>Finalization of Phase II Design and Concluding Remarks</u>

This discussion was then followed with the finalization of Phase II design. Participants from NBR and Ministry of Economy and Finance already identified possible pieces of regulation/regulatory procedures that could be used for a RIA exercise. Participants also agreed on the tentative dates envisaged for the steps which Phase II is composed of. The first step is likely to take place on June 4th with a 1 full day of class work.

Convergence and SPI have outlined the main conclusions of the first phase of the RIA program, namely:

- the importance of performing RIA, even in a simpler format, to provide evidence for policy choices and regulatory design;
- the importance of the consultation process with various stakeholders when performing a RIA for validating assumptions, data used and findings;
- how RIA actively supports the policy discussions and regulatory design.

Convergence and SPI have stated their availability to remain in touch with participants on any further questions they may have related to RIA.

<u>Informal session</u>

The session continued informally asking participants to simulate a RIA exercise based on an extract of a questionnaire prepared within the Romania SPI Project about Anti-Money Laundering. Participants received a document containing four amendments.

The exercise consisted in brainstorming about the impact that each proposed amendment could have on the banking industry and on consumers respectively, in terms of additional costs/benefits. In case some impact was figured out, the next step was to shape a proper question in order to gather the expected quantitative/qualitative feedback from recipients.

Extra-program hours, also comprising a round of table where all participants expressed their views and promoted a discussion, have resulted beneficial for the next phases of the course because they have allowed the following inputs and feedback to surface:

- ✓ <u>Linking legal with economic perspectives</u>

The process of deriving economic implications from a given legal context/proposal is not an easy task and need to be practiced step by step.

- ✓ Impact assessment is not a scientific exercise

RIA execution does not provide undisputable results. It is rather an evidence-based exercise underpinned by data and assumptions. For this reason it is important that data and assumptions are solid as much as possible. This outcome can be achieved better by approaching RIA on a systematic basis and run an effective consultation process with main stakeholders involved.

- ✓ A Romanian RIA practice has already established

Participants have talked about how the Government has already resorting to RIA to back policy initiatives. Depending on the kind of regulation and the stage of the process, current Government practice towards RIA has been outlined as follows:

- Preliminary RIA performed for all policy options outlined in policy documents of the Government;
- Preliminary RIA performed once the legislative act is prepared, outlining the impact resulting from the possible options in order to enable the decision making;
- Final RIA performed on the final legislative act to accompany it during the legislative enactment process

The Ministry of Economy and Finance representatives also pointed that a dedicated staff are performing RIA within the Ministry. The RIA team receives requests from other departments and performs RIA on the legislative acts that they promote.

- ✓ Designing an effective regulation before its enactment is more efficient (to meet the intended effect) than intervening afterwards

Regulators can find it beneficial to invest on the regulatory design phase, also resorting to RIA, in order to make policy interventions that are as much tailored as possible to the context in which they will have to work.

- ✓ RIA activity does not finish with the regulatory intervention

A review of the existing regulation is highly suggested in order to verify whether the regulation is still meeting its intended effects or not. This last step would result in the confirmation/modification/revoke of the regulation itself.

- ✓ Social and environmental impact add to the economic one

Impact analysis should be performed with the aim of appraising the social and environmental effects.

After the final wrap up, the 2 –day long Phase I course ended.

Romania RIA Knowledge Transfer and Capacity Building Program

Phase II:
Applying RIA to an existing regulation

<u>Step I</u>
Consolidation of international RIA knowledge
and
launch of RIA on identified domestic regulation

Monday, June 4, 2007 at 9:00
National Bank of Romania

AGENDA

9.00 - 9.05 Introduction
Ms. Ramona Bratu, SPI Director of Bank Products and Services

9.05 - 9.20 Presentation of Impact Assessment Guidelines prepared by CEBS, CESR and CEIOPS
Mr. Riccardo Brogi, RIA Program Director

9.20 - 10.45 <u>RIA case study</u>: an application by the Irish financial Regulator to the Consumer Protection Code
Mr. John Pyne, Senior Regulator, Irish Financial Services Authority

Q&A

10.45-11.00 *Coffee break*

11.00 – 12.15 <u>RIA case study</u>: soft commissions and bundled brokerage arrangements
Mr. Stephen Dickinson, Senior Regulator, UK Financial Services Authority

Q&A

12.15 - 12.45 Representatives from Ministry of Economy and Finance will talk about their experience with RIA

12.45 - 13.30 *Lunch* break

13.30 - 14.20 Review of the identified regulation to which apply RIA
Groups are set up and assigned to each facilitator. Within each group a spokesperson will be identified. Assisted by other member of the group, the spokesperson will illustrate to the facilitator the main parts of the regulation which they will be working on (if any, spokesperson will also illustrate the RIA already performed on the regulation under discussion).

14.20 - 16.30 Preparatory RIA work: approach and work plan
Facilitator will organize the work to be done by each group (by end of June/early of July) on the respective identified and assigned regulatory proposal:
Among other things:

- *Identification of the problem;*
- *Definition of the objective and the intended effect;*
- *Brainstorming on identification and definition of options (stating a minimum set of options and maybe letting the group to figure out additional options);*
- *Outlining of impact analysis of option identified (and planning of work to be executed until accomplishment);*
- *Outlining and planning the consultation process which the group should go through;*
- *Outlining of enforcement and monitoring arrangements (and planning of work to be executed until accomplishment);*
- *Outline of final RIA template.*

16.30 - 16.40 Wrap up and acknowledgement of work plan for remaining steps pertaining to each group.
Ms. Oana Nedelescu, SPI Director of Analytics and Policy

16.40 End of session

*= Committee of European banking Supervision; **= Committee of European Securities Regulators; ***= Committee of European Insurance and Occupational Pensions Supervisors

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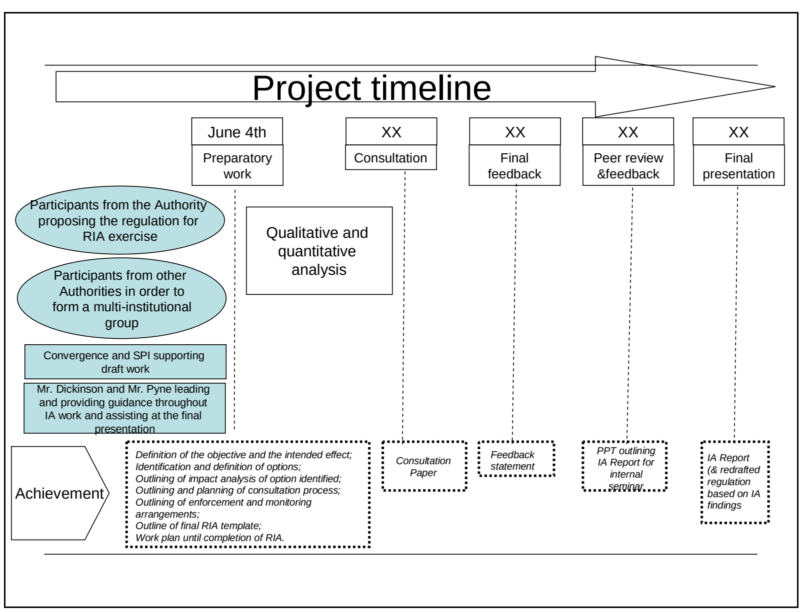
Romania RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Remaining Steps of Phase II

Step	2	3	4	5
Action – Item	**Consultation process, information gathering and elaboration Phase**	**Drafting of RIA paper**	**Internal peer review**	**RIA paper presentation**
Action – Description	Groups will be engaged in the tasks ecompassing information gathering based on the approach outlined with facilitators and will perform calculations accordingly	Based on the consultation carried out, data gathered an calculations elaborated, each group will draft the RIA Paper pertaining to the assigned regulation. . SPI Romania staff will be available to support draft work.	Each RIA group will present the preliminary findings of (drawn from drat RIA paper) to Economic Department colleagues as well as to the team involved in drafting the selected regulation. Director of RIA program will participate in the presentation	Based also on the feedback received from internal peer review, each group will finalize the RIA paper and will present it, assisted by its respective instructor. . The outcome will consist in a RIA accompanying a redraft of the regulation analysed based on RIA findings.
Nature of Activity	Desk work	Desk work	Internal seminar	Seminar
Tentative date	Tent. early to mid June	Tent. early/mid June	Tent. mid to late June	Tent. late June/early July

Work plan of the remaining steps (to be defined with the facilitator)



Romania RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Phase II
Applying RIA to an existing regulation

Step I
Consolidation of international RIA knowledge and launch of RIA on identified domestic regulation

Bucharest, 4 June 2007

Venue:
National Bank of Romania

List of invited participants

#	**National Bank of Romania**	#	**National Securities Commission**
1	Ms. Oana Mesea		
2	Ms. Madalina Mortici		
3	Ms. Antoaneta Alexe	13	Ms. Oana Marinoiu
4	Ms. Andra Pineta	14	Ms. Camelia Oprea
5	Mr. Gabriel Valvoi	15	Mr. Albert Schreiber
	Ministry of Economy and Finance		**Commission for Supervision of Private Pensions System**
6	Ms.Mihaela Nedelcu	16	Ms. Adina Dragomir
7	Ms. Simona Butoi	17	Ms. Anca Petre
8	Mr. Emanuel Constantin		
	Insurance Supervision Commission		**General Secretariat of Government (GSG)**
9	Ms. Beatrice Verdes	18	Mr. Claudiu Craciun
10	Ms. Anabella Ruse	19	Mr. Dragos Negoita
11	Mr. Bogdan Ion	20	Mr. Ionut Pavel
12	Mr. Mihai Anton		
	National Authority for Consumer Protection		
21	Mr. Mihai Meiu	22	Ms. Laura Radut

PHASE II

APPLYING RIA TO AN EXISTING REGULATION

Step I

Consolidation of international RIA knowledge

And

Launch of RIA on identified domestic regulation

Bucharest, 4 June 2007

Venue:
National Bank of Romania

Minutes

List of Participants

#	National Bank of Romania	#	National Securities Commission
1	Ms. Oana Mesea		
2	Ms. Antoaneta Alexe		
3	Ms. Andra Pineta		
4	Mr. Dorel Onetiu	10	Ms. Camelia Oprea
5	Mr. Gabriel Valvoi	11	Mr. Albert Schreiber
	Ministry of Economy and Finance		**General Secretariat of Government (GSG)**
6	Ms.Mihaela Nedelcu	12	Mr. Dragos Negoita
7	Mr. Emanuel Constantin	13	Mr. Ionut Pavel
	Insurance Supervision Commission		**National Authority for Consumer Protection**
8	Ms. Beatrice Verdes	14	Mr. Mihai Meiu
9	Mr. Bogdan Ion	15	Ms. Laura Radut

List of Instructors

Main speakers and facilitators: Mr. Stephen Dickinson, Senior Regulator - British Financial Services Authority
Mr. John Pyne , Senior Regulator, Irish Financial Services Authority
Chair of the whole session: Ms. Ramona Bratu, SPI Director of Bank Products and Services
Organizational Unit; Ms. Ramona Bratu, SPI Director of Bank Products and Services
Ms. Oana Nedelescu, SPI Director of Analytics and Policy
Mr. Riccardo Brogi, Convergence Program, RIA Program Director

- Consolidation of international RIA knowledge -

Introductory remarks

The session was opened by the SPI Technical Secretariat (SPI), who acknowledged the broad participation of financial market authorities represented by attendants, praised the active role they undertook for Phase II, by either sharing their experience or by proposing cases for exercising RIA, and made a brief description of the program of the Phase II.

Presentation: Impact Assessment Guidelines prepared by CEBS, CESR and CEIOPS (by Convergence)

Convergence has given a concise illustration of the IA Guidelines jointly produced by CEBS-CESR-CEIOPS (hereinafter the Guidelines) and recently posted on the CEBS' website for consultation.

The Guidelines could be used as template of RIA Program Phase II (consisting in executing RIA on existing domestic regulations proposed by participants) for the two following reasons:

i - they represent the latest effort at EU level to systematize the IA process consistently in pace with already established EU practice and to strike the balance between not overloading the reader with information and providing sufficient practical detail and advice in the execution of IA work successfully;

ii - at the completion of IA work, participants will be able to contribute the consultation process launched by CEBS (more info can be found at www.c-ebs.org/press/24052007.htm) and send their comments by 24th August 2007 through the SPI Secretariat.

The two RIA experts acting as workshop facilitators (Mr. Dickinson and Mr. Pyne) were members of the small CESR group in charge of drafting the Guidelines.

Convergence went through the main parts of the Guidelines, as follows:

- Step 1: Identification of the problem;
- Step 2: Development of main policy options;
- Step 3: Definition of policy objectives;
- Step 4: Analysis of impacts (from the consumers and regulated firms perspective respectively);
- What do to for consultation;
- How to prepare IA report;
- Keeping policy under review;
- Standard working tools.

Participants' views:

- Representatives from MEF outlined that they use a similar standard when running IA, but in a simplified form;
- ANPC Director pointed out that from consumers' perspective, "do nothing" should not be considered as an option itself and also said that ANPC is aware that although "do something" implies incurring costs, it is important it is important to analyze how they are split among different stakeholders affected.

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<u>RIA case study presentation: An application by the Irish Financial Regulator to the consumer protection code</u> (by Mr. John Pyne – Irish FSA)

In his first part, Mr. Pyne presented the context in which the Irish Financial Regulator is set: what the strategic approach is, regulated institutions and the strength of their mandate for protecting and informing consumers. Irish FSA is half financed by the central bank and half by regulated firms.

Then Mr. Pyne went into details of the consumer protection code, outlining that main goal was to help consumers to make informed choices through education and codes of practice in a fair financial services market and that this goal would have been achieved, among other things, by ensuring that financial services providers act in a fair and transparent manner.

As the work on the consumer protection code was proceeding, in the meantime in January 2004 the government issued a "Better Regulating White Paper" containing the commitment to the introduction of RIA. This brought about the execution of IA on the Code.

Mr. Pyne outlined the structure of the Code (i.e. principles based, containing general principles, common rules applicable to all services, some sector specific rules and how advertising is conceived) and then illustrated its underpinning rationale which comprises asymmetric information, long-term nature of financial contracts and financial services susceptibility to fraud, malpractice and misrepresentation.

The policy options considered were the following:

- i - do nothing;
- ii - self regulation;
- iii - statutory regulation.

Pros and cons of each policy option were illustrated and then attention was drawn to costs and benefits pertaining to consumers and financial industry respectively. In this regard, Mr. Pyne highlighted how difficult is to quantify benefits, so that they usually tend to use a qualitative approach in benefits identification and assessment.

Mr. Pyne also outlined the main categories of costs, which categories faced them and cost definition:

- Direct costs to industry: costs borne in the first instance by the Financial Regulator, of designing, monitoring and enforcing the Code;
- Compliance costs to industry: costs to regulated firms of performing activities required by the Code;
- Costs to consumers: they were not deemed quantifiable nonetheless the following two categories were identified:
    - the possibility that a Code will deter potential market participants from entering the market and/or cause current participants to leave the market, with follow-

on consequences for the level of competition in the market;
- The possibility that the Code will engender product harmonization across product providers, leading to a reduction in choice.

Mr. Pyne then focused on implementation timeframe by saying that a new regulation should be introduced as soon as necessary but on the other hand the shorter the timeframe is the greater implementation costs are to industry.

Presentation ended with a view on competition assessment.

Participants' views:

- ANPC Director was positively impressed by the presentation and the way in which Authorities address the consumer perspective in the financial services area. He also talked about the "Youngest Consumer", a nationwide contest that ANPC is going to organize.

What participants have learnt from the presentation:

- How a financial regulator can be strongly committed to consumer protection and information;
- With regard to the consultation process:
  i - which questions were asked;
  ii - how the consultation was structured (dialogue with Consultative Industry and Consumer Panels).
- Which policy options were concretely considered and on which reasoning each of them was scrutinized;
- Types of costs incurred/benefits gained by consumers and industry.

* * *

RIA case study presentation: Soft commissions and bundled brokerage arrangements (by Mr. Stephen Dickinson – British FSA)

Mr. Dickinson gave a preliminary introduction about the Bank of England and Financial Services Authority. British FSA is wholly financed by regulated firms.

Then Mr. Dickinson started going through the presentation by highlighting the 2 main differences in comparison with the previous case study: a) focus on wholesale rather than retail market; b) voluntary measure instead of a compulsory one.

Main attention was paid to the following items:

- Where the problem lies;
- Importance of identifying market and regulatory failures;
- Cost-Benefit Analysis (CBA) run on each of the 3 options considered and explanation of how direct and compliance costs were identified and quantified.

Drawing from his working experience Mr. Dickinson outlined that it is crucial to think properly about the problem and that it would be advisable that the transition/implementation period be between 6 months and 1 year, namely when a new (self-)regulation is going to be enacted, it had better give the regulated recipients no less than half/one year to adapt to and comply with the new framework in a smooth manner.

Participants' views:

- ANPC Director asked why in this case FSA opted for a voluntary measure instead of a compulsory one. Mr. Dickinson explained that although in retail market voluntary codes might not be the best solution, in a wholesale market that is much smaller in terms of the number of practitioners and well represented by an industry association, a voluntary solution could be easy to be implemented, monitored and enforced.

What participants have learnt from the presentation:

- How problem identification and market failure analysis have been carried out;
- How the consultation process was managed over time and with which outputs;
- How quantitative CBA has been applied to the 3 options under consideration.

* * *

Romanian experience with RIA (by representatives from General Secretariat of Government - GSG - and by representatives from Ministry of Economy and Finance - MEF)

The GSG participants started the presentation by outlining the main facts on how Romanian government is engaged in RIA to date. The Public Policy Unit was established in late 2003 to elaborate and implement public policies.

Among other tasks, this Unit was vested with procedures for monitoring and evaluating policies at central level. Preliminary Impact Assessment is undertaken to policy documents and a more extensive IA is applied to regulatory documents. Currently, the procedure to elaborate both regulatory documents and policy documents is under review.

Also, GSG is implementing IA tools like CBA as well as creating mechanisms to improve monitoring and evaluation. In the near future, they would like to develop sectorial IAs like social issues and to push forward IA on economic and financial domain.

GSG is currently dealing with IA on administrative burden with assistance from a Dutch consultant firm.

The implementation calendar for this better regulation initiative also envisages the possibility in the future to get EU funds.

After GSG presentation, MEF colleagues took the floor and presented the following four concrete regulatory cases to which MEF applied IA:

- Guarantee Funds;
- Duty free;
- Gambling taxation;
- Public debt.

They pointed out that the approach used is similar to that discussed previously even though the analysis is not so much deep and detailed. A relevant problem that they told is that of gathering quantitative information which if limited can add little value to the IA exercise.

After this presentation a discussion between participants and instructors has taken place. The main points surfaced:

- Identification indicators: especially quantitative ones so that a quantitative observation and monitoring is possible;
- Quantitative and qualitative analysis: a participant asked if quantitative analysis is more important than qualitative. Instructors highlighted that the important aspect is to comply with the IA process properly; qualitative and quantitative tools come after and have to be used on a case by case basis also complementary;
- Lack of available data: how to consult with industry associations, how to explore alternative ways to get quantitative data and figure out, when appropriate, proxy parameters that could be used in place of data that are missing and difficult to be obtained;
- Regulatory authority and IA process: a participant said that as Romanian cultural habit regulators know what is best so that they do not need consultation and go through the IA process as shown by FSAs and the Guidelines. Instructors noticed how important for the design of a better regulation is undertaking an IA as openly as possible.

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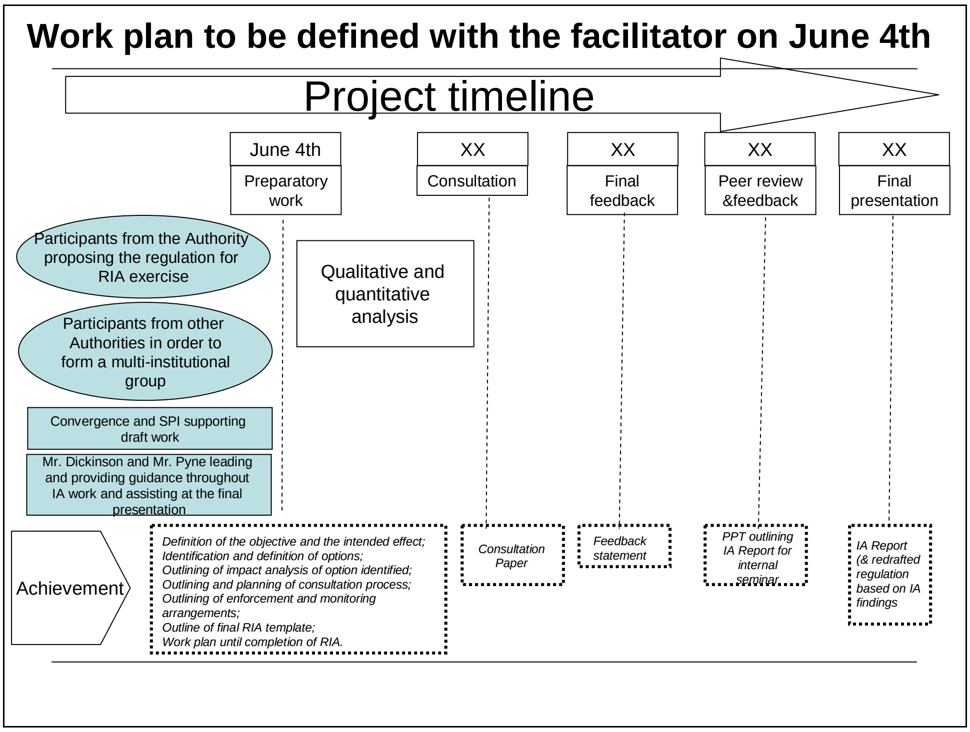
- Launch of RIA on identified domestic regulation -

Convergence illustrated the work plan, both for the initial class work and for the remaining steps, of the RIA exercise applied to proposed regulations. The work plan is as follows:



SPI Secretariat acknowledged that the following 2 regulations had been proposed respectively by NBR and National Securities Commission.

Name of Regulation proposed	Proponent Authority
Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals	National Bank of Romania
Regulation no. 14/2006 modifying Regulation no. 2/2006 on regulated markets and alternative trading systems	National Securities Commission

According to the following 2 multi-institutional groups were formed accordingly:

Regulation:	Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals

Group composition

Participants	Authrority
Mr. Gabriel Valvoi - reference person	NBR
Ms. Oana Mesea	NBR
Mr. Dorel Onetiu	NBR
Mr. Emanuel Constantin	MEF
Ms. Beatrice Verdes	ISC
Ms. Camelia Oprea	NSC
Mr. Dragos Negoita	GSG
Mr. Laura Radut	NACP

Facilitator:Mr. John Pyne

Regulation:	Regulation no. 14/2006 modifying Regulation no. 2/2006 on regulated markets and alternative trading systems

Group composition

Participants	Authrority
Mr. Albert Schreiber - reference person	NSC
Ms. Antonaneata Alexe	NBR
Ms. Andra Pineta	NBR
Ms. Mihaela Nedelcu	MEF
Mr. Bogdan Ion	ISC
Mr. Ionut Pavel	GSG

Facilitator: Mr. Stephen Dickinson

The 2 groups, separately, discussed and filled out the IA template that had been circulated and built on the Guidelines illustrated in the morning.

At the end of this initial live RIA execution, the two facilitators observed that IA will allow Romanian regulators to undertake a more detailed and precise problem identification and market/regulatory failure analysis than that one that they perceived was performed with regard to the 2 regulations under discussion.

Next immediate steps:

Unanimity was reached on the next immediate steps which are the following:

a) by Friday 8 June, the reference persons of the 2 groups gathered a more detailed and advanced version of the PPT template and send it to Convergence and SPI Secretariat;
b) SPI Secretariat and/or Convergence will forward the 2 PPT to Mr. Dickinson and Mr. Pyne;
c) Facilitators will review the templates and send them back to Convergence/SPI Secretariat with suggestions and instructions in order for the 2 groups to carry out the consultation process;
d) Convergence/SPI Secretariat will forward the PPTs to the 2 reference persons.

Tentative time line for the remainder of Phase II:

		1	2	3	4	5
Action	**Item**	**Identification of regulation, tasks assignment, RIA work action plan and RIA template outline**	**Consultation process, information gathering and elaboration Phase**	**Drafting of RIA paper**	**Internal peer review**	**RIA paper presentation**
	Description	Instructors and participants will identify the regulations. Instructors will lead a brainstorming on how to approach the RIA on the assigned regulation. Definition of RIA steps action plan and timeline. A RIA-preparatory paper will be drafted (e.g. what needs to be measured, which data are needed, how to deal with information gathering and consultation process, how to shape final findings).	Groups will be engaged in the tasks ecompassing information gathering based on the approach outlined with facilitators and will perform calculations accordingly	Based on the consultation carried out, data gathered an calculations elaborated, each group will draft the RIA Paper pertaining to the assigned regulation. . SPI Romania staff will be available to support draft work.	Each RIA group will present the preliminary findings of (drawn from drat RIA paper) to Economic Department colleagues as well as to the team involved in drafting the selected regulation. Director of RIA program will participate in the presentation	Based also on the feedback received from internal peer review, each group will finalize the RIA paper and will present it, assisted by its respective instructor. . The outcome will consist in a RIA accompanying a redraft of the regulation analysed based on RIA findings.
Nature of Activity		Class work	Desk work	Desk work	Internal seminar	Seminar
Tentative date		June 4th	June 13-22	June 25-29	June 25-29	July 9-13

End of the Session:

SPI Secretariat wrapped up the whole working day and closed the session.

PHASE II – APPLYING RIA TO AN EXISTING REGULATION

Step I
Consolidation of international RIA knowledge
And
Launch of RIA on identified domestic regulation

(June 4, 2007)

AGGREGATE RESULTS OF THE EVALUATION

Total participating institutions:		**6**
Total respondent institutions:		**5**
Total participants:		**15**
Total respondents:		**8**
Responding rate	**- institutions:**	**83%**
	- participants:	**53%**

Evaluation

Question 1 – What makes this Seminar useful for you and your job:

	%
Acquired Knowledge	87.5
Exchange of experience with other participants	85
Practical case studies	80
Other (Please describe below)	

Question 2 – Would you recommend this Capacity Building Program to your colleague?:

a. Yes	50%
b. Yes, with minor adjustments	37.5%
c. Yes, with major adjustments	12.5%
d. No	0
e. Other	0

Question 3 – Please indicate any suggestions and remarks to make about the Phase II – step I session.

-	The case study was not presented in a clear way, so I still do not know what the problem to be solved is. Also, I lack the relevant knowledge in the field of the CNVM. This, combined with lack of availability during phase II and III will conduct to no real benefit from the case study.
-	My personal opinion is that we run out of time at the end of the 1 day session and I would have enjoyed a longer period of time allocated to the Existing Regulation Case Study.
-	I appreciate the high professional status of the speakers -Mr. John Pyne –FSA Ireland and Mr. Stephen Dikinson FSA UK. It was a great opportunity to benefit from their expertise.
-	In those cases presented during the seminar, it would have been more interesting and useful for us, to be described in detail the tools and concrete steps of the applied methodology during the research stage of IA.

Question 4 – Given your response to Q3, what steps would you recommend to the organizer

4.a. for the remainder of Phase II (also taking into account the work plan discussed and agreed on June 4th):

- Given our busy schedules, I think you should organize the work only during the seminar hours.
- As I remember we were supposed to accomplish a step each week of June. I would recommend a longer period of time between the Phase II steps in order to have o better RIA on the identified domestic regulation (it seemed to be a little bit difficult for the members of the team/s to “communicate” in order to comply with the deadlines).
- If possible, I would suggest to reschedule as to shorten a bit Phase II.
- I think that the work plan discussed on June 4th is OK.
- A relevant study case, developed in an MS, mainly focused on the “research” stage, with a component of externalizing the research, covering the inputs from the stakeholders in the consultation phase, the exchange of information between the policy maker and the external market researcher, the description of the methodology used during the research and of the results.
- as a part of RIA, it would be of great interest for us, to make a simulation on how to measure the administrative costs implied by a specific new piece of legislation , covering all necessary steps in quantifying the administrative costs (starting with splitting the normative acts in information obligations, selecting the administrative activities generating the costs, selecting the targets, research stage (that could be in brief explained by OXERA or other consultant) and validation of results. A study-case of applying the Standard Cost Model would be very useful, taking into consideration the further preoccupation of Romanian CoG and line ministries for coming years.

4.b. for the remainder of the Capacity Building Program:

- If you plan more study cases, make sure that more relevant information is available.

- I personally would prefer to carry on the final presentation after 10th of July.
- If possible, I would suggest rescheduling as to shorten a bit the whole RIA program.

Question 5 – How much useful you found the following parts of the session?:

	%
RIA Case Study: An application by the Irish Financial Regulator to the Consumer Protection Code	87.5
RIA Case Study: Soft commissions and bundled brokerage arrangements	87.5
Launch of RIA exercise applied to regulations proposed by participants	81.25

Question 6 – Do you think that Impact Assessment Guidelines by CEBS-CESR-CEIOPS represent a proper and useful template for the RIA exercise on the proposed Romanian regulations?

a. Yes	75%
b. Yes, with minor adjustments	25%
c. Yes, with major adjustments	0
d. No	0
e. Other	0

Question 7 – In the afternoon session, the facilitators launched the RIA application to Romanian existing regulations. Do you think that the documents and instructions were adequate?

a. Yes	50%
b. Yes, with minor adjustments	37.5%
c. Yes, with major adjustments	0
d. No	12.5%
e. Please enter below your suggestions to prepare Phase II launch more adequately	

The case study was not presented in a clear way, so I still do not know what the problem to be solved is. Also, I lack the relevant knowledge in the field of the CNVM. This, combined with lack of availability during phase II and III will conduct to no real benefit from the case study.

Question 8 – Do you think that you will be able to use the knowledge acquired at the session at your work
(select an answer closest to your opinion)

a. YES, totally	0
b. Partially	75%
c. No	0

d. Plan to use it in the future	12.5%
e. Not relevant for my job	12.5%

Question 9 – Convergence is organizing such RIA Program at regional level (namely, addressed to all South-East European countries).

9.a. Would you think that a session similar to the one under assessment should be also set in the regional seminar?

a. Yes	62.5%
b. Yes, with minor adjustments	25%
c. Yes, with major adjustments	12.5%
d. No	0

9.b. Would you suggest to your colleague to attend the regional seminar?

a. Yes	87.5%
b. Yes, with minor adjustments	12.5%
c. Yes, with major adjustments	0
d. No	0

Organizer comments:

The following actions below illustrated would like to address most of your suggestions:

- **Newsletter # 1** sent to all RIA Program participants to share practical information about the tools and concrete steps to be taken from a methodological point of view to apply IA knowledge.
- **Minutes** of the meetings which took place on July 27 an 28 with the 2 WG representatives are going to be distributed to all of you. They will retrace in detail, step by step, intermediate outputs prepared by Working Groups and contribution provided to them by facilitators. This also will help to strengthen a common understanding among participants of each respective WG. As a result each participant might feel more at ease to get relevant knowledge from other members of the same WG;
- **Rescheduling for the remaining Part II** over a longer period of time will be proposed in order to enable you to extract a higher value from the consultation process.

Romania RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

CNVM-Proposed Regulation Working Group

Reference facilitator: Mr. Stephen Dickinson (UK FSA)

Minutes
of
Meeting to prepare the document to be discussed over the consultation process within the RIA exercise on a selected regulation

REGULATION No. 14/2006 MODIFYING REGULATION No. 2/2006 ON REGULATED MARKETS AND ALTERNATIVE TRADING SYSTEMS

Bucharest, 27th June 2007

Venue:
SPI Office

Time:
From 14.30 pm to 16.40 pm.

Participants:

Representatives of the Multi-institutional WG: Mr. Albert Schreiber - reference person *(CNVM)* Ms. Atonaneta Alexe *(NBR)*
SPI Secretariat: Ms. Oana Nedelescu
Convergence Program: Mr. Riccardo Brogi

M I N U T E S

A. Context

The WG is in the process of undertaking an ex-post RIA under the guidance of Mr. Stephen Dickinson.

The regulation analyzed is the following: CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems.

To start this exercise the multi-institutional Working Group has filled a PPT template drawn from *Impact Assessment Guidelines* produced by CESR-CEBS-CEIOPS. By doing that, the WG has faced, for the first time, the sequential approach and reasoning that a regulator is expected to go through when considering a policy action. It has also prepared a consultation questionnaire. After review by and input from the facilitator, the WG is now in the position to launch the consultation process.

Following is an explanation of the steps taken to prepare for this activity.

Step I*:* The WG has filled the PPT template here attached in **Annex 1**.

The table of content of the PPT template was structured as follows:

- Problem identification (market/regulatory failure analysis);
- Development of main policy options;
- Definition of policy objectives;
- Analysis of impacts.

Step II*:* The facilitator has reviewed the PPT Template and has provided suggestions and remarks as they are represented here below:

Comments on RIA template prepared by Romania's National Securities Commission

Step 1
i) market failure?
The first sentence isn't really an example of market failure – what it is suggesting is that market confidence might be affected by a failure to implement the regulation but it doesn't justify why the regulation should be imposed in the first place.

The second sentence is fair enough – it is hard to assess these things in the absence of evidence. But this should be downplayed as it doesn't justify regulatory intervention.

The third sentence appears to represent a plausible source of market failure – ie that market confidence would be undermined by a shortage of investor information and that information can only be provided by the market operator.

But, there are two challenges that can be made here: firstly that the market operator is the only plausible source of market information (couldn't third party providers produce the relevant information?); and secondly that even if the market operator is the only possible information provider, why do they have to have a minimum capital requirement imposed on them? Couldn't the market operator generate the appropriate level of information some other way? These are questions for the consultation.

And it would be very helpful if the information in question could be described in some detail so we all know exactly what we're talking about.

Furthermore, is it really more than just information? Perhaps this section should focus on the question of whether or not an exchange has to be of a minimum size in order to function at all and that the capital requirement reflects that minimum level. But, ideally we would want evidence and the evidence suggests that the exchange was functioning with only 150,000 euro of capital. Or was this not a sustainable position? If not, why not?

But, there is a clear regulatory failure which is the restriction that prevents new investors from contributing new capital. This does act to prevent market growth.

The consultation should address the various questions raised above.

<u>ii) market-led solution?</u>
All I would say here is that the challenge to what is asserted is this: why did it need regulation to ensure that the market operator was adequately capitalised? The existing shareholders could have provided the necessary finance as and when it was required, or new investors might have come forward with the necessary funds. And of course the answer in part is that new investors were prevented from coming forward and the regulation removes that barrier.

<u>iii) effects of intervention?</u>
Yes, this is what should be considered.

All I would add is that it will be important to ask stakeholders exactly what has driven narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments etc. Is it wholly due to the increase in capital held by the exchange or are other factors at work. Hard figures always help so spreads have narrowed from X to Y, volumes from A to B etc…so what are AB, X and Y for example?

Step 2

i) do nothing option

The response to this question should begin by abstracting from reality. Begin by simply imagining there is no capital limit prescribed anywhere and that the exchange exists with whatever capital resources it has. So what? Why is there a problem? As considered in the market failure analysis what is being asserted is that really not much would have happened, ie that the market would have continued to function but that perhaps it would not have had any ability to grow – both deeper (increased liquidity) and wider (new instruments) – and market confidence would have been constrained.

But that scenario assumes that the capital needed to grow could not be provided by the market but requires regulation instead. And so long as you can show that existing shareholders were not able to increase funding then the restriction on new investors getting involved does create a barrier to growth that justifies intervention.

ii) option chosen and iii) alternative options

These are both good answers but there are other options: for example the capital level could have been required to be achieved in only one step either at 2m euro or at 5m euros by end-2007.

Step 3

i) general ii) specific and iii) operational objectives

No real comments here.

Step 4

CBA of options

Riccardo's latest template might help here.

It is not necessary to strive for detailed quantitative responses. What is needed is sufficient evidence that the benefits of the chosen option can reasonably be expected to outweigh the costs.

In terms of the do nothing option, high level CBA suggests that although there are no costs because the market operator does not have to find additional capital, the disbenefit of doing nothing is that the regulator fails to meet one or some of its statutory objectives (as listed in 3. i)

The chosen option should be considered alongside the alternatives identified (including the one-step options I mentioned above). Benefits should all be broadly similar in that the market's growth potential will be realised (and there is evidence of the scale of these benefits as in 1. iii) which the consultation process should attempt to identify as far as possible).

In terms of costs, stakeholders should be asked how the costs of raising capital are affected by a) the level of capital required and b) the speed with which a given level of capital has to be raised. Any differences identified will therefore help illustrate why for example the staged three step option is less costly (if indeed it is) than the two-stage option or one-stage option.

<u>Consultation process</u>
Step 1. Identify who you need to contact: the exchange, its shareholders, potential new shareholders, investors and their representatives

Step 2. Arrange meetings – given time it might be easiest to convene a single meeting for all, rather than a series of individual meetings.

Step 3. Circulate questions to which you are seeking answers in advance of the meetings. I have tried to identify the sorts of questions to be asked. The group could draft a questionnaire and forward for me to comment beforehand. The questionnaire should clearly identify its purpose and provide scope for quantitative and qualitative responses. I do not think it would be a problem if much of the material was qualitative.

Step 4. Hold meetings and complete questionnaire from perspective of each shareholder as best as possible. As this is an exercise it seems inappropriate to request too much detailed information.

If anyone cannot attend a meeting then they should be allowed to respond to the questionnaire by email followed by a phone call to clarify any unclear responses.

<u>Step III</u>*:* the WG has drafted a consultation questionnaire addressed to the main stakeholders. The draft questionnaire prepared by the WG is attached as **Annex 2**.

<u>Step IV</u>*:* The facilitator has reviewed the document and made changes. Basically, the main contributions and suggestions were the following:

- Mr. Dickinson drafted a covering letter that should accompany the consultation questionnaire;

- Mr. Dickinson highlighted that the questionnaire should also have questions in connection with the market failure analysis;

- Mr. Dickinson outlined a tabular format for Cost-Benefit Analysis;

The questionnaire containing facilitator's contributions is attached in **Annex 3**.

B. Meeting of June 27

The WG members attending the meeting acknowledged all the suggestions that the facilitator had proposed. The discussion consisted in reviewing and sharing each part of the draft questionnaire in view of its finalization for consultation purpose. As reference document, the brainstorming was based on a document containing suggestions prepared by Convergence and mainly based on facilitator's input (**Annex 4**).

Romania RIA Knowledge Transfer and Capacity Building Program

Annex 1

Phase II

- Applying RIA to an existing regulation(*) -

Proposed Existing Regulation

CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems

Proposing Authority

National Securities Commission

(*)= Template for RIA execution based on Draft Impact Assessment Guidelines prepared by CESR, CEBS, CEIOPS

Authority: National Securities Commission

Proposed Regulation:

CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems

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Table Of Content

- Step 1: Identification of the problem;
- Step 2: Development of main policy options;
- Step 3: Definition of policy objectives;
- Step 4: Analysis of impacts.

Step 1 – Identification of the problem (1)

i) Was there a significant market failure and/or regulatory failure and what was its nature?

As the set level of capital was not likely to be reached by B, one of the market operators before the imposed deadline, it could be anticipated that the possible failure would affect market and investment confidence, as well as financial soundness standards, which are among CNVM main objectives.

Externalities may also occur, but it is difficult to assess them, since the domestic capital market is still in an early development stage and no failures have occurred so far.

One of the reasons for setting a minimum capital level was the need for having information available for investors, that cannot be provided without a minimum level of resources of the market operator, the main provider of specialised information.

Step 1 – Identification of the problem (2)

ii) If no intervention or further intervention would have taken place, would the market have corrected the failure by itself in the short term?

No, in the absence of a new regulation, the market would not have corrected the failure by itself. However, in the short term, the market has been functioning with the same efficiency without intervention. Apparently, in the short term, the existing regulatory framework was incurring costs, without tangible benefits. It was feared that market failure might show later, in the medium term, so a regulatory intervention was deemed necessary.

Step 1 – Identification of the problem (3)

iii) Has regulatory intervention improved the situation in a way such that the benefits obtained are larger than the costs generated?

After the new regulation came into force, a first step of capital increase could be achieved, and there are indications that the performance of B is improving. This may be assessed in terms of:

• quality (the spread is narrowing and hence the liquidity is increasing, more investors being attracted to perform hedging);

• quantity (a spectacular increase in the trading volumes was reported during Q3 and Q4, especially in the futures market); and

• variety (the capital increase has encouraged research and innovation; new instruments were designed and offered to the public, such as futures on gold.)

Concepts of step 1 are explained further in *Impact Assessment Guidelines*, at pp. 20-25, Appendix 2 p. 48

Step 2 – Development of main policy options (1)

i) Please illustrate how the option to "do nothing" would have looked like?

The "do nothing" option would have been equivalent to wait for market operators to report reaching the prescribed high capital level by Jan. 1, 2007 (Romania's admission date to EU), at the latest. Most likely, this target could not have been attained by B, also given the provision that the majority voting rights should belong to shareholders-intermediaries. That provision was preventing potential investors, other than intermediaries, from contributing more capital. It is likely that, sooner or later, possibly after enforcing sanctions for non-compliance with existing regulations, an intervention would have been necessary to allow B to continue functioning.

Step 2 – Development of main policy options (2)

ii) Please illustrate the option that has been implemented in the Regulation

Regulation 14/2006, amending Regulation 2/2006 changed two of its provisions:

• keeping the rule according to which the majority voting rights shall be hold by intermediaries, yet allowing intermediaries to hold less, provided an adequate change in the articles of incorporation of the market operators is approved by the Shareholders Meeting, and thus opening the way for raising capital from investors, other than intermediaries; and

• allowing market operators to reach the set capital by three yearly steps (€750 000; €2M; €5M), by end-2008.

Step 2 – Development of main policy options (3)

iii) In case that option(s) additional to that one implemented in the Regulation were considered, please illustrate the alternative policy option(s)

Another option that was considered was a different amendment of Regulation 2/2006, as follows:

• allowing intermediaries to hold less than the majority voting rights, if an adequate change in the articles of incorporation of the market operators is approved by the Shareholders Meeting, thus opening the way for investors, other than intermediaries, as for the adopted option; and, unlike that option

• allowing market operators to reach a lower set capital, but sooner, only by two yearly steps (€750 000; €2M), by end-2007.

This option could be adopted as a general rule, to be applied to all market operators, or as a waiver from the already set rule, for operator B.

Step 3 – Definition of policy objectives (1)

i) **General objectives** (*examples include a- financial stability, b- the proper functioning of markets, and c- consumer protection)*

The fundamental objectives of C.N.V.M., as set by its legal statutes, are:
• to set and maintain the framework required for the development of regulated markets;
• to **promote confidence in regulated markets** and investments in financial instruments;
• to provide operator and investor protection against unfair, abusive and illegal practices;
• to **promote the adequate and transparent functioning** of regulated markets;
• to prevent fraud and market manipulation and ensure the integrity of regulated markets;
• to establish standards for financial strength and fair practices on regulated markets;
• to take adequate measures to prevent systemic risk on regulated markets;
• to prevent situations of asymmetric information and unfair treatment of investors and their interests.

Step 3 – Definition of policy objectives (2)

ii) **Specific objectives** [*examples (which link respectively to the general objective examples above) include a- capital adequacy provisions that align the economic and regulatory capital of banks and investment firms, b- disclosure regimes, and c- conduct of business rules*]

• to set capital standards for market operators in line with similar standards set by supervision authorities in other Member States, that could reasonably be achieved, given the financial strength of elligible investors;

• to enable market operators to have resources to comply with more demanding disclosure requirements arising from EU regulations becoming mandatory for domestic firms after accession.

Step 3 – Definition of policy objectives (2)

iii) **Operational objectives** [*examples (which link respectively to the specific objective examples above) include a- specific rules relating to the use of credit evaluation models, b- rules on the publication of prospectuses, and c- rules setting out specific terms of business requirements*]

• reaching a first prescribed capital level by market operators before end-2006 (€750 000), easier to attain if the firms decide to implement statutory changes allowing a wider range of investors;

• ensuring compliance with European transparency requirements in force for Romania as early as January 1st, 2007.

Concepts of step 3 are explained further in *Impact Assessment Guidelines*, at p. 27

Step 4 – Analysis of impacts (Consumers - 1)

i) **Costs to consumers** (Please think about the incremental costs incurred by customers after the regulation was enacted in comparison with the baseline before the enactment)

- Direct/compliance/indirect costs:
- Fixed/variable costs:
- One-off/on-going costs:

Concepts of cost assessment are explained further in *Impact Assessment Guidelines*, at pp. 31-32 and in Appendix 3

Step 4 – Analysis of impacts (Consumers - 2)

ii) **Benefits to consumers** (Please think about the incremental benefits obtained by consumers after the regulation was enacted in comparison with the baseline before the enactment)

Concepts of benefit assessment are explained further in *Impact Assessment Guidelines*, at pp. 33-34 and in Appendix 4

Step 4 – Analysis of impacts (Regulated firms - 1)

i) **Costs to regulated firms** (Please think about the incremental costs incurred by regulated firms after the regulation was enacted in comparison with the baseline before the enactment)

- Direct/compliance/indirect costs:
- Fixed/variable costs:
- One-off/on-going costs:

Concepts of cost assessment are explained further in *Impact Assessment Guidelines*, at pp. 31-32 and in Appendix 3

Step 4 – Analysis of impacts (Regulated firms - 2)

ii) **Benefits to regulated firms** (Please think about the incremental benefits obtained by regulated firms after the regulation was enacted in comparison with the baseline before the enactment)

Concepts of benefit assessment are explained further in *Impact Assessment Guidelines*, at pp. 33-34 and in Appendix 4

Consultation questionnaire

Prepared by

[Name of Organization]

Attn:

- CEO, Market Operator A (A)
- CEO, Market Operator B (B)
- CEO, A Market Operator shareholder (investment firm) M (X)
- CEO, B Market Operator shareholder (investment firm) N (Y)
- CEO, Market Operator potential shareholder (investment firm) P (V)
- CEO, Market Operator potential investor (institutional) R (W)

Romania Regulatory Impact Assessment Exercise

Dear Sir,

The Romanian regulators are participating in an Impact Assessment (IA) training initiative organized by World Bank administered *Convergence Program*[1].

The purpose of this initiative is to strengthen our ability to use the disciplines of IA in order to improve the way in which we make policy. IA does this by requiring policy makers to use evidence and economic analysis to justify and explain their proposals. Consultation with stakeholders is a key part of the IA process because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process.

The IA training exercise involves us undertaking a retrospective IA on an existing piece of legislation. In this case we are looking at **CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems**. We are writing to you in your capacity as one of the key stakeholders affected by this piece of legislation. We have attached to this letter a questionnaire and we would be most grateful if you could arrange for its completion.

[1] Participants in this knowledge transfer and capacity building program are the following: Prime Minister's office, Ministry of Economy and Finance, National Bank of Romania, National Securities Commission, Insurance Supervision Commission, Commission for Supervision of Private Pensions System and National Authority for Consumer Protection.

The questionnaire is designed to provide us with evidence relating to:

a) the nature of the problem that the regulation was seeking to address and

b) the costs and benefits of the regulation and of two alternative policy options that in theory could have been chosen instead (this recognises the fact that in a "live" IA exercise we would be expected to consider different policy responses to the same policy problem).

Once the evidence has been gathered we will complete a final IA report setting out in a clear and transparent fashion what the problem was and why the regulatory response was the best means for addressing the problem.

Clearly, since this is a theoretical consultation exercise being undertaken over a shortened period of time, we would not expect you to be able to devote a large amount of resource to this exercise. Nevertheless, we will be following this up with a face-to-face meeting to quality check all stakeholder responses and enhance our understanding of your answers. And, since we do intend to consult with stakeholders in the future, we regard this as a useful exercise for you too, so are looking forward to hearing from you. We very much value your cooperation.

If you have any questions regarding this exercise please contact Mr. Albert Schreiber on tel. 3266713/1326:

We would appreciate having your written response by October 4, 2007. We plan the face-to-face consultation meetings in the week of October 8.

Yours sincerely,

Albert Schreiber	Ionut Pavel
National Securities Commission	General Secretariat of the Government
Working Group Member	Working Group Member

ANNEX A: Impact Assessment questionnaire

This questionnaire is part of an Impact Assessment (IA) simulation exercise being carried out by functions of the Romanian authorities in concert with the World Bank Convergence Program and external IA experts from the UK and Ireland. Its purpose is to provide us with information about a problem to which a regulatory solution was found and information on the costs and benefits of the regulatory solution and of two alternative options that could in principle have been chosen instead.

Section 1: What is the problem?

In this section we consider what the rationale for a particular regulatory intervention might have been.

We are looking at CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems.

In our view, the problem being addressed by this regulation is that in the absence of regulatory intervention, market operators would not have been able to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, as well as to provide comprehensive market information and secure market participants' confidence. In other words, there was a market failure due to insufficient supply of a public good (ie the supply of capital required to allow the market to function efficiently).

In addition, we believe that this is also a case of regulatory failure as restrictive ownership rules imposed by the old regulation exacerbated the problem by preventing fresh capital from entering the market.

Question 1: do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible. For example, what evidence do you think would demonstrate or in fact does demonstrate that there was a shortage of capital, and what sort of evidence suggests that capital was prevented from entering the market?

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Question 2: In your opinion, what are the factors that can contribute to ensuring the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence:

Factors	Important for securing the above mentioned objectives? (please mark with "x")	
	Yes	No
Market operators capitalization		
Trading and other types of commissions earned by market operators		
Increase of diversity of services offered by market operators		
Affiliation to international professional bodies (e.g. World Federation of Exchanges WFE, Federation of European Securities Exchanges FESE)		
Mergers with other market operators (e.g. NYSE Euronext)		
Other factors (please describe and explain)		

Question 3: Please estimate the importance of the above mentioned factors for securing the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence: strut

Factors	Importance for securing the above mentioned objectives? (please mark with "x")		
	High	Medium	Low
Market operators capitalization			
Trading and other types of commissions earned by market operators			
Increase of diversity of services offered by market operators			
Affiliation to international professional bodies (e.g. ~~Euronet~~ World Federation of Exchanges WFE, Federation of European Securities Exchanges FESE)			
Mergers with other market operators (e.g. NYSE Euronext)			
Other factors (please			

explain)			

Question 4: We assume that the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence. Do you think that third party providers (e.g. professional associations, etc.) could ensure some of the above mentioned objectives? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

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Question 5: The enactment of Regulation no. 14/2006 has had the following effects: narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments, etc. Do you think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 5a: The enactment of Regulation no. 14/2006 has had the following effects: narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments, etc. Please, provide the data pertaining to the items in the table below to give evidence how your firm has been affected.

Item	Before (new regulation was introduced)	After (to date)
Spreads		
Liquidity		

No. of new investors		
Trading volumes		
No. of new instruments		

Question 5b: Do you think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

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Question 6: Please estimate the influence of the market operators' capital increase over the mentioned capital market indicators:

Item	Influence of increased market operators' capital over the indicators (please mark with "x"):		
	High	Medium	Low
Spreads			
Liquidity			
No. of new investors			
Trading volumes			
No. of new			

instruments			

Section 2: What are the possible policy solutions?

In this section we identify 3 possible policy solutions to the problem identified in section 1 above. Clearly other options could have been considered.

Option 1. This is the option that was chosen in practice. A mandatory equity level of € 5M is imposed on market operators which must be reached by the end of 2008. Also, if the Market Operator's instruments of incorporation do not provide otherwise, it will no longer be mandatory to have majority voting rights being held by intermediaries that have access to trading on the relevant market/markets.

Option 2. ("do nothing"). Under this option, there is no regulatory intervention at all and the market is left on its own (under the baseline regulation, which requires market operators to reach a capital of EUR 5 mil. by the end of 2007).

Option 3. Under this option, changes to the regulation in force on Regulated Markets and Multilateral Trading facilities would allow Market Operators to gradually reach a lower mandatory equity level of € 2M, but in a shorter time, by the end of 2007. Also, it would no longer be mandatory to have majority voting rights being held by intermediaries that have access to trading on the relevant market/markets, if instruments of incorporation allow it.

TABLE 1 – Summary of options considered

Options	Main policy drivers		
	Shareholder composition	Majority voting rights	Equity level
Option 2 (do nothing)	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries	EUR 5 mln by the end of 2007 mandatory
Option 1	No single	With intermediaries, or	Gradual and mandatory equity

	shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	increase (Eur 750,000 by 2006, Eur 2Mln by 2007, Eur 5 Mln by 2008)
Option 3	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory approach based on 2 yearly steps (Eur 750,000 by 2006, Eur 2 Mln by 2007)

Considering each of these options, please prepare answers to the questions in the following Cost Benefit Analysis (CBA) Template, to be later discussed during a meeting with our representative. For each answer, please provide a qualitative and, if possible, a quantitative assessment with a monetary value attached.

Please refer to Appendix to find further details on costs and benefits assessment

CBA template

OPTION 1: Euro 5m by 2008; no mandatory majority voting rights		
A. Quantitative costs		
A.1. Compliance costs[2]	**One-off compliance costs** (costs with general assembly meeting, cost with new capital level notification at the Trade Register, etc.)	**Ongoing compliance costs per year** (costs with reporting, monitoring, etc.)

[2] Compliance costs are the costs incurred by a regulated entity and persons in order to comply with the proposed regulation, in the case of Option 1, 2 or 3. (for example, the costs of setting up a new structure for the administrative organization and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

	...	...
A.2. Costs for meeting equity compliance[3]	**Target level of capital** (how the costs of raising capital are affected by the level of capital required under the current option?)	**Speed of meeting the target level of equity** (how the costs of raising capital are affected by the speed at which the target level of capital has to be raised?)
	Please mention the types of costs your entity would incur in order to reach a level of capital of 5 mil. - - -	Please mention how the speed of raising the capital is affecting your entity: - - -
	Please make an estimation of the level of costs for raising the capital: The costs of raising the capital to 5 mil. are with ...% higher than the costs of raising capital with no regulatory intervention.	Please make an estimation of the level of costs for raising the capital by 2008: The costs of raising the level of capital to 5 mil. by 2008 are with ...% higher than the costs of raising capital with no regulatory intervention.
B. Qualitative costs		
	One-off (please mention)	**Ongoing** (please mention)
	...	...

[3] Both quantitative and qualitative perspective can be provided.

C. Market impacts		
	On the quality, quantity and variety of goods or services	**Competition**
	C.1. Trading volumes - Has the option increased trading volumes (yes / no)? ------- If answer is yes, please estimate how this option impacted on the trading volume: High impact ______ Medium impact____ Low impact_______ **C.2. Product innovation** - Has the option increased product innovation (yes / no)? ------- If answer is yes, please estimate how this option impacted on the product innovation: High impact ______ Medium impact____ Low impact_______ **C.3. New investors** - Has the option increased	a) For example, do you think the proposal will encourage new investment in the exchange or in rival exchanges and increase competition? ------------------------------- ------------------------------- b) Do you think that this option can result in other impacts on competition? Please specify. ------------------------------- -------------------------------

	the number of new investors (yes / no)? ------- If answer is yes, please estimate how this option impacted on the number of new investors: High impact ______ Medium impact____ Low impact_______	
D. Benefits Section		
Please describe what you consider the main benefits of this option, quantifying if possible[4])		
Do you have any other suggestion and opinion pertaining to Option 1 as for the CBA perspective? Please advice.		
Option 2: no intervention at all (do nothing) [Euro 5m by 2007; mandatory majority voting rights with intermediaries]		

[4] For instance, market operator can have fewer expenses for raising capital whilst market operator shareholder can also benefit from additional investment opportunities. Market operator potential investor can have investment opportunities and asset allocation benefits.

A. Quantitative costs		
A.1. Compliance costs[5]	**One-off compliance costs** (if any)	**Ongoing compliance costs per year** (if any)
A.2. Costs for meeting equity compliance[6]	**Target level of capital** (N/A)	**Speed of meeting the target level of equity** (N/A)
B. Qualitative costs		
	One-off (please mention)	**Ongoing** (please mention)
C. Market impacts		
	On the quality, quantity and variety of goods or services	**Competition**
	C.1. Trading volumes - Can the option increase trading volumes (yes / no)? ------- If answer is yes, please estimate how this option	a) For example, do you think the proposal will encourage new investment in the exchange or in rival exchanges and increase competition? -------------------------------

[5] Compliance costs are the costs incurred by a regulated entity and persons in order to comply with the proposed regulation, in the case of Option 1, 2 or 3. (for example, the costs of setting up a new structure for the administrative organization and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

[6] Both quantitative and qualitative perspective can be provided.

	impacts on the trading volume: High impact ______ Medium impact____ Low impact_______ **C.2. Product innovation** - Can the option increase product innovation (yes / no)? ------- If answer is yes, please estimate how this option impacts on the product innovation: High impact ______ Medium impact____ Low impact_______ **C.3. New investors** - Can the option increase the number of new investors (yes / no)? ------- If answer is yes, please estimate how this option impacts on the number of new investors: High impact ______ Medium impact____ Low impact_______	-------------------------------- b) Do you think that this option can result in other impacts on competition? Please specify. -------------------------------- --------------------------------

D. Benefits Section		
Please describe what you consider the main benefits of this option, quantifying if possible[7])		
Do you have any other suggestion and opinion pertaining to Option 2 as for the CBA perspective? Please advice.		
OPTION 3: Euro 2m by 2007; no mandatory majority voting rights		
A. Quantitative costs		
A.1. Compliance costs[8]	**One-off compliance costs** (costs with general assembly meeting, cost with new capital level notification at the Trade Register, etc.)	**Ongoing compliance costs per year** (costs with reporting, monitoring, etc.)
A.2. Costs for meeting equity compliance[9]	**Target level of capital** (how the costs of raising capital are affected by the	**Speed of meeting the target level of equity** (how the costs of raising

[7] For instance, market operator can have fewer expenses for raising capital whilst market operator shareholder can also benefit from additional investment opportunities. Market operator potential investor can have investment opportunities and asset allocation benefits.

[8] Compliance costs are the costs incurred by a regulated entity and persons in order to comply with the proposed regulation, in the case of Option 1, 2 or 3. (for example, the costs of setting up a new structure for the administrative organization and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

	level of capital required under the current option?)	capital are affected by the speed which the target level of capital has to be raised?)
	Please mention the types of costs your entity would incur in order to reach a level of capital of 2 mil. - - -	Please mention how the speed of raising the capital is affecting your entity: - - -
	Please make an estimation of the level of costs for raising the capital: The costs of raising the capital to 2 mil. are with ...% higher than the costs of raising capital with no regulatory intervention.	Please make an estimation of the level of costs for raising the capital by 2007: The costs of raising the level of capital to 2 mil. by 2007 are with ...% higher than the costs of raising capital with no regulatory intervention.
B. Qualitative costs		
	One-off (please mention)	**Ongoing** (please mention)
C. Market impacts		
	On the quality, quantity and variety of goods or services	**Competition**

[9] Both quantitative and qualitative perspective can be provided.

	C.1. Trading volumes - Can the option increase trading volumes (yes / no)? ------- If answer is yes, please estimate how this option impacts on the trading volume: High impact ______ Medium impact____ Low impact_______ **C.2. Product innovation** - Can the option increase product innovation (yes / no)? ------- If answer is yes, please estimate how this option impacts on the product innovation: High impact ______ Medium impact____ Low impact_______ **C.3. New investors** - Can the option increase the number of new investors (yes / no)? ------- If answer is yes, please	a) For example, do you think the proposal will encourage new investment in the exchange or in rival exchanges and increase competition? -------------------------------- -------------------------------- b) Do you think that this option can result in other impacts on competition? Please specify. -------------------------------- --------------------------------

	estimate how this option impacts on the number of new investors: High impact ______ Medium impact____ Low impact_______	
D. Benefits Section		
Please describe what you consider the main benefits of this option, quantifying if possible[10])		
Do you have any other suggestion and opinion pertaining to Option 3 as for the CBA perspective? Please advice.		

[10] For instance, market operator can have fewer expenses for raising capital whilst market operator shareholder can also benefit from additional investment opportunities. Market operator potential investor can have investment opportunities and asset allocation benefits.

ANNEX B: Some assessment criteria for costs and benefits

- **Costs** may be assessed using such distinctions as:
  - **Fixed costs** are costs which do not vary with output. In the long run, all costs can be considered variable;
  - **Variable costs** are costs which vary directly with the output. Variable costs are associated with productive work, and naturally rise and fall with business activity.

    *   *   *
  - **Set-up (or one-off) costs** are costs which are incurred at the beginning of a project only;
  - **On-going costs** are costs which are incurred again and again during a project or an investment. Usually set-up costs are very large in comparison to ongoing-costs each time the latter occur.

- **Benefits** may be assessed using one of the following techniques:
  - **Comparison to a relevant historical case**: In many cases, an incident or series of incidents over time will be part of the reason to regulate. In order to make an estimate of the expected benefits, the losses in a number of historical cases can be used as an indicator for how much of the loss could have been prevented through the proposed regulation;
  - **Evaluation by a proxy**: This approach uses observable variables which are linked to the unobservable variable - e.g. when there exists a known correlation structure - or focuses on simulations of the unobservable variable;
  - **Use of a break-even approach**: The third possible approach is what can be called the break-even approach. This approach consists of calculating the amount of benefit needed - for example a reduction in loss needed - to cover the costs incurred, which are quantifiable. With this approach, the loss prevention is separated into the risk of loss and the extent of loss which allows one to capture the impact on the market. The potential loss for each market participant and the risk that a market participant will actually suffer loss are then estimated. It will then be possible to determine by how much the loss, risk of loss or a combination of these elements needs to be reduced in order to cover the costs of regulations and supervision. For this break-even assumption, one can examine whether this would be a realistic expectation. The impact of incidents can often be estimated with the help of event studies. The significance of the impact of incidents can be calculated and an estimate of the extent can be given. In the break-even approach, one can calculate by how much the risk of an incident must be reduced in order to cover the costs.

Source: CESR-CEBS-CEIOPS, Impact Assessment Guidelines, May 2007.

Consultation questionnaire

Summary of Questionnaire Results

ANNEX A: Impact assessment questionnaire

This questionnaire is part of an IA simulation exercise being carried out by functions of the Romanian authorities in concert with the Convergence Program and external IA experts from the UK and Ireland. Its purpose is to provide us with information about a problem to which a regulatory solution was found and information on the costs and benefits of the regulatory solution and of two alternative options that could in principle have been chosen instead.

Section 1: What is the problem?

In this section we consider what the rationale for a particular regulatory intervention might have been.

We are looking at regulation CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems.

In our view, the problem being addressed by this regulation is that in lack of regulatory intervention, market operators would have not been able to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, as well as to provide comprehensive market information and secure market participants' confidence. In addition, we believe that this is also a case of regulatory failure as restrictive ownership rules imposed by the old regulation exacerbated the problem by preventing fresh capital from entering the market.

Question 1: do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

- ***Respondent 2:***

The text regarding the rationale on the baseline of Regulation No. 14/2006 is not complete. At the moment of enactment of Law 297/004 regarding the capital market, law representing the starting point in the elaboration of Regulation No. 2/2006 regarding the Regulated Markets and alternative trading systems, a normative framework that regulated the set up and functioning of regulated markets of derivatives already existed. This framework was composed of the Government Order no. 27/2002 regarding the regulated markets of commodities and derivatives, based on which the CNVM issued the regulation no. 4/2002 regarding the regulated markets of commodities and derivatives.

The set of norms pre-existing at the enactment of the CNVM Regulation no. 2/2006 imposed a particular organization model of the regulated commodities and derivatives markets. Within this model, 'The Council of the Exchange' was the body that elaborated all regulations, even if the decisions regarding the activity of the regulated markets were taken by the General Assembly of the Shareholders. The same model provided that the exchange members could form a "The Exchange Association". This association was comprised also of intermediaries who did not have the status of shareholder of the exchange company.

In my opinion, another reason of the issue of Regulation no. 14/2006 was to repair the lack of provisions regarding the transition procedures in the Regulation no. 2/2006 with respect to the means to transform the organization of the exchange company in a market operator (provisions regarding the type of shareholders with voting rights, and the minimum capital level of the market operator).

The Regulation no. 2/2006 was prepared taking into account the organization of the market operator, on the model of the Bucharest Stock Exchange, without considering that the Sibiu Monetary-Financial and Commodities Exchange (SMFCE) was organized as an exchange company. The restrictions regarding the status and structure of the shareholders of a market operator are necessary, taking into consideration the fact that it is the General Assembly of the Shareholders who decides on the operations of the market operator.

A situation that is not dealt by the present provisions of the Regulation no 2/2006 can be caused by the organization of a market operator as a open stock company or the merger by takeover of a Romanian market operator by a foreign market operator, with a different form of organization. A *question which might be raised is: What are the restrictions and to which category of market operator shareholders do these restrictions apply to?*

The Regulation no 14/2006 had effects only on the Sibiu Monetary-Financial and Commodities Exchange because the Bucharest Stock Exchange complied with the stipulations of the Regulation no 2/2006.

Question 2: In your opinion, what are the factors that can contribute to ensuring the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence:

Factors	Important for securing the above mentioned objectives? (please mark with "x")	
	Yes	No
Market operators capitalization		**Respondent 1**: X **Respondent 2**: X
Trading and other types of commissions earned by market operators	**Respondent 1**: X **Respondent 2**: X	
Increase of diversity of services offered by market operators	**Respondent 1**: X **Respondent 2**: X	
Affiliation to international professional bodies (e.g. Euronet)	**Respondent 1**: X	**Respondent 2**: X
Mergers with other market operators	**Respondent 2**: X	**Respondent 1**: X
Other factors (please describe and explain)	**Respondent 2**: *The degree of involvement of the foreign intermediaries and issuers in the market operations (intermediation and quotation).*	

<u>Question 3</u>: Please estimate the importance of the above mentioned factors for securing the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence:

Factors	Importance for securing the above mentioned objectives? (please mark with "x")		
	High	Medium	Low
Market operators capitalization		Respondent 1: X	Respondent 2: X
Trading and other types of commissions earned by market operators		Respondent 1: X Respondent 2: X	
Increase of diversity of services offered by market operators	Respondent 1: X Respondent 2: X		
Affiliation to international professional bodies (e.g. Euronet)		Respondent 1: X	Respondent 2: X
Mergers with other market operators	Respondent 1: X Respondent 2: X		
Other factors (please explain)	**Respondent 2:** *The degree of involvement of the foreign intermediaries and issuers in the market operations (intermediation and quotation).*		

Question 4: We assume that the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence. Couldn't third party providers (e.g. professional associations, etc.) ensure some of the above mentioned objectives? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

- **Respondent 1**:

In our opinion, the market operator is the most important entity to secure and maintain the infrastructure on a financial market. Almost equally, the Central Depositary and the Romanian Clearing House have the same responsibilities.

- **Respondent 2**:

*The market operator **can not be** the only entity to secure the maintenance and development of the trading infrastructure on a derivatives market.*

*Considering this, a more important role in maintaining and developing the market is assigned to the **post-transaction operator**, respectively to the Central Depositary or to the Clearing House/Central counterpart. In the case where the market operator will be transformed in an open stock company or in the case of a merger by takeover of a Romanian market operator, I consider that the **"Association of Intermediaries" should be the new decision-making body** of the market operator, taking over these prerogatives from the General Assembly of the shareholders.*

Question 5: The enactment of Regulation no. 14/2006 has had the following effects: narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments, etc. Do you think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Item	Before (new regulation was introduced)	After (to date)
Spreads	**Respondent 1**: No influences **Respondent 2**: no influence	**Respondent 2**: Collateral influences
Liquidity	**Respondent 1**: No influences **Respondent 2**:no influence	**Respondent 2**: Collateral influences
No. of new investors	**Respondent 1**: No influences **Respondent 2**: no influence	**Respondent 2**: Collateral influences
Trading volumes	**Respondent 1**: No influences **Respondent 2**: no influence	**Respondent 2**: Collateral influences
No. of new instruments	**Respondent 1**: no influences **Respondent 2**: no influence	**Respondent 2**: Collateral influence

No. of new intermediaries	**Respondent 1**: Influences **Respondent 2**: Major influence	**Respondent 2**: Major influence

- **Respondent 2**:

The increases registered at XXX in the liquidity, the number of investors, the transaction volume and the number of instruments, have been generated by the involvement of the intermediaries in the derivatives market, without being encouraged or obstructed by the capital increase.

Question 6: Please estimate the influence of the market operators' capital increase over the mentioned capital market indicators:

Item	Influence of increased market operators over the indicators (please mark with "x"):		
	High	Medium	Low
Spreads			**Respondent 1**:X **Respondent 2**: X
Liquidity			**Respondent 1**: X **Respondent 2**:
No. of new investors			**Respondent 1**: X **Respondent 2**: X
Trading volumes			**Respondent 1**: X **Respondent 2**: X

No. of new instruments			**Respondent 1**: X **Respondent 2**: X
No. of new intermediaries	**Respondent 2**: X	**Respondent 1**: X	

Section 2: What are the possible policy solutions?

In this section we identify 3 possible policy solutions to the problem identified in section 1 above. Clearly other options could have been considered.

Option 1. This is the option that was chosen in practice. A mandatory equity level of € 5M is imposed on market operators which must be reached by the end of 2008. Also, if the Market Operator's instruments of incorporation do not provide otherwise, it will no longer be mandatory to have majority voting rights being held by intermediaries that have access to trading on the relevant market/markets.

Option 2. ("do nothing"). Under this option, there is no regulatory intervention at all and the market is left on its own (under the baseline regulation, which requires market operators to reach a capital of EUR 5 mil. by the end of 2007).

Option 3. Under this option, changes to the regulation in force on Regulated Markets and Multilateral Trading facilities would allow Market Operators to gradually reach a lower mandatory equity level of € 2M, but in a shorter time, by the end of 2007. Also, it would no longer be mandatory to have majority voting rights being held by intermediaries that have access to trading on the relevant market/markets, if instruments of incorporation allow it.

Options	Main policy drivers		
	Shareholder composition	Majority voting rights	Equity level
Option 2 (do nothing)	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries	EUR 5 mln by the end of 2007 mandatory
Option 1	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory equity increase (Eur 750,000 by 2006, Eur 2Mln by 2007, Eur 5 Mln by 2008)
Option 3	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory approach based on 2 yearly steps (Eur 750,000 by 2006, Eur 2 Mln by 2007)

Considering each of these options, please prepare answers to the questions in the following Cost Benefit Analysis (CBA) Template, to be later discussed during a meeting with our representative. For each answer, please provide a qualitative and, if possible, a quantitative assessment with a monetary value attached.

Please refer to Appendix to find further details on costs and benefits assessment

CBA template

OPTION 1: Euro 5m by 2008; no mandatory majority voting rights		
A. Quantitative costs		
A.1. Compliance costs[1]	**One-off compliance costs** (costs with general assembly meeting, cost with new capital level notification at the Trade Register, etc.) • **Respondent 1**: The reunion of the General Assembly and the implied costs raise to about 1500 EUR. Register the XXX at the Trade Register (about 300 EUR) Notify CNVM (about 300 EUR) • **Respondent 2**: - Organizing the General	**Ongoing compliance costs per year** (costs with reporting, monitoring, etc.) • **Respondent 1**: An intermediary authorised by CNVM to deal with all objects of activity must pay two persons for the internal control (costs up to about 50000 EUR/year) • **Respondent 2**: No costs

[1] Compliance costs are the costs incurred by a regulated entity and persons in order to comply with the proposed regulation, in the case of Option 1, 2 or 3. (for example, the costs of setting up a new structure for the administrative organization and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

	Assembly of the shareholders – 5.000 RON (newspaper announcements, mails, distribution of materials and also renting the space and the equipment) - Register in the National Trade Register Office – 500 RON/page - Notification to the CNVM of the modifications of the autorisation documents-1.000 RON	
A.2. Costs for meeting equity compliance[2]	**Target level of capital** (how the costs of raising capital are affected by the level of capital required under the current option?) • **<u>Respondent 2</u>**: - Market research to find out the perception of the intermediaries on the activity of the market operator (50.000 RON) - Promotion of the activity of the market operator for the intermediaries through seminaries, conferences, promotion materials (20.000 RON) - The activity of the market	**Speed of meeting the target level of equity** (how the costs of raising capital are affected by the speed which the target level of capital has to be raised?) • **<u>Respondent 2</u>**: - The capital increase over a short period, together with the fact that the voting rights can be held mainly by authorized intermediaries supposes important and concentrated efforts of the market operator. With this respect, the

[2] Both quantitative and qualitative perspective can be provided.

	operator is a niche business. It is addressed to a qualitatively and quantitatively well defined target (intermediaries, maximum 100 companies). Bilateral meetings with the intermediaries that could participate at the capital increase (20.000 RON)	capital increase of a market operator cannot be made through a public offer but through a private offer targeted to a limited number of potential shareholders or to the existing shareholders. The decision of the intermediaries to subscribe to the capital increase of a market operator cannot be taken in a very short period. - One should mention also the fact that the CNVM regulation issued in the application of Law 297/2006 imposed costs for the intermediaries also, therefore they have to make efforts to comply with the new regulations.
	Please mention the types of costs your entity would incur in order to reach a level of capital of 5 mil. • **<u>Respondent 1</u>**: Advertising is almost a luxury that very few intermediaries can afford (about 20000 EUR/year)	Please mention how the speed of raising the capital is affecting your entity: • **<u>Respondent 1</u>**: The capital increase of an intermediary implies notifications to the CNVM, approvals from the CNVM, notary, Trade Register etc

	• **<u>Respondent 2</u>**: - Market research - promotion of the activity - aligning the moment of the capital increase with the moment where the intermediaries can take such decisions.	(about 1000 EUR) • **<u>Respondent 2</u>**: - the length of the marketing research cannot be longer than2 months; - The promotion of the activity must be analysed through the effectiveness of such an action. The assimilation of a service promoted by the market operator is not a spontaneous process. - the intermediaries must make financial efforts firstly to satisfy their own needs, then they will analyze the opportunity of financial investments to participate at the capital increase of the market operator.
	Please make an estimation of the level of costs for raising the capital: The costs of raising the capital to 5 mil. are with (**<u>Respondent 1</u>**)100% - **<u>Respondent 2</u>**) 200 % higher than the costs of raising capital with no regulatory intervention.	Please make an estimation of the level of costs for raising the capital by 2008: The costs of raising the level of capital to 5 mil. by 2008 are with (**<u>Respondent 1</u>**) 20% - **<u>Respondent 2</u>**) 30 % higher than the costs of raising capital with no regulatory intervention.

B. Qualitative costs		
	One-off (please mention)	**Ongoing** (please mention)
C. Market impacts		
	On the quality, quantity and variety of goods or services	**Competition**
	C.1. Trading volumes - Has the option increased trading volumes (yes / no)? • **<u>Respondent 1</u>**: Yes • **<u>Respondent 2</u>**: Yes If answer is yes, please estimate how this option impacted on the trading volume: High impact ___ Medium impact__X **<u>(Respondent 1)</u>** Low impact___X **<u>(Respondent 2)</u>** **C.2. Product innovation** - Has the option increased product innovation (yes / no)?	a) For example, do you think the proposal will encourage new investment in the exchange or in rival exchanges and increase competition? • **<u>Respondent 2:</u>** This proposal affected the competition by discouraging the set up of a new market operator. The Romanian Commodities Exchange stopped the procedures to transform itself from an exchange company in a market operator due to the establishment of the capital level for a market operator at 5 mil EUR, by Regulation no. 2/2006. Regulation no. 14/2006 allowed the capital increase only for the Sibiu Monetary-Financial and Commodities Exchange because the Bucharest

	<u>Respondent 1</u>: Yes **<u>Respondent 2</u>**: Yes If answer is yes, please estimate how this option impacted on the product innovation: High impact ______ No Medium impact__X (**<u>Respondent 1</u>**)__ Low impact___X **<u>(Respondent 2)</u>** **C.3. New investors** - Has the option increased the number of new investors (yes / no)? **<u>Respondent 1</u>**: Yes **<u>Respondent 2</u>**: Yes If answer is yes, please estimate how this option impacted on the number of new investors: High impact ______ Medium impact___X (**<u>Respondent 1</u>**) Low impact____X **<u>(Respondent 2)</u>**	Stock Exchange already attained this capital level. b) Do you think that this option can result in other impacts on competition? Please specify. There are no other implications.

D. Benefits Section		
Please describe what you consider the main benefits of this option, quantifying if possible[3])	• **Respondent 1**: Not for the intermediary. Eventually for the market operator. • **Respondent 2**: This option allowed that the capital increase of the market operator to be produced after (in 2008) the capital increase of the intermediaries.	
Do you have any other suggestion and opinion pertaining to Option 1 as for the CBA perspective? Please advice.		
Option 2: no intervention at all (do nothing)		
A. Quantitative costs		
A.1. Compliance costs[4]	**One-off compliance costs** (if any)	**Ongoing compliance costs per year** (if any)

[3] For instance, market operator can have fewer expenses for raising capital whilst market operator shareholder can also benefit from additional investment opportunities. Market operator potential investor can have investment opportunities and asset allocation benefits.

[4] Compliance costs are the costs incurred by a regulated entity and persons in order to comply with the proposed regulation, in the case of Option 1, 2 or 3. (for example, the costs of setting up a new structure for the administrative organization and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

	• **<u>Respondent 2</u>**: Costs related to the XXX loss of the market operator authorization and the modification of the object of activity (approximately 300.000 RON)	
A.2. Costs for meeting equity compliance[5]	**Target level of capital** • **<u>Respondent 1:</u>** (N/A) • **<u>Respondent 2:</u>** (N/A)	**Speed of meeting the target level of equity** • **<u>Respondent 1:</u>** (N/A) • **<u>Respondent 2:</u>** (N/A)
B. Qualitative costs		
	One-off (please mention)	**Ongoing** (please mention)
C. Market impacts		
	On the quality, quantity and variety of goods or services	**Competition**
	C.1. Trading volumes - Has the option increased trading volumes (yes / no)?	a) For example, do you think the proposal will encourage new investment in the exchange or in rival

[5] Both quantitative and qualitative perspective can be provided.

	• **<u>Respondent 1:</u>** <u>Yes</u> • **<u>Respondent 2:</u>** Yes If answer is yes, please estimate how this option impacted on the trading volume: High impact __X X (**<u>Respondent 1 and 2</u>**) Medium impact____ Low impact_______ **C.2. Product innovation** - Has the option increased product innovation (yes / no)? • **<u>Respondent 1:</u>** <u>Yes</u> • **<u>Respondent 2:</u>** Yes If answer is yes, please estimate how this option impacted on the product innovation: High impact ____X X (**<u>Respondent 1 and 2</u>**) Medium impact____ Low impact_______ **C.3. New investors** - Has the option increased the number of new investors	exchanges and increase competition? -------------------------------- -------------------------------- b) Do you think that this option can result in other impacts on competition? Please specify. -------------------------------- --------------------------------

	(yes / no)? • **<u>Respondent 1:</u>** <u>Yes</u> • **<u>Respondent 2:</u>** Yes If answer is yes, please estimate how this option impacted on the number of new investors: High impact _____X X (**<u>Respondent 1 and 2</u>**) Medium impact____ Low impact_______	
D. Benefits Section		
Please describe what you consider the main benefits of this option, quantifying if possible[6])	• **<u>Respondent 1:</u>** We do not consider the option has any benefits • **<u>Respondent 2:</u>** No benefits would have existed.	
Do you have any other suggestion and opinion pertaining to Option	• **<u>Respondent 2:</u>** If CNVM had not issued Regulation 14/2006, XXXX	

[6] For instance, market operator can have fewer expenses for raising capital whilst market operator shareholder can also benefit from additional investment opportunities. Market operator potential investor can have investment opportunities and asset allocation benefits.

2 as for the CBA perspective? Please advice.	would have not complied with the capital requests and would have lost the market operator authorization.	
OPTION 3: Euro 2m by 2007; no mandatory majority voting rights		
A. Quantitative costs		
A.1. Compliance costs[7]	**One-off compliance costs** (costs with general assembly meeting, cost with new capital level notification at the Trade Register, etc.) • **<u>Respondent 1</u>**: Advertising is almost a luxury that very few intermediaries can afford (about 20000 EUR/year). Training internships for the personnel inside or outside the country. Courses for analysts (CFA), for the accounting department (ACCA), for the risk management department etc. 10000 EUR/year.	**Ongoing compliance costs per year** (costs with reporting, monitoring, etc.) • **<u>Respondent 1</u>**: The capital increase of an intermediary implies notifications to the CNVM, approvals from the CNVM, notary, Trade Register etc (about 1000 EUR)

[7] Compliance costs are the costs incurred by a regulated entity and persons in order to comply with the proposed regulation, in the case of Option 1, 2 or 3. (for example, the costs of setting up a new structure for the administrative organization and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

	• **Respondent 2**: - Organizing the General Assembly of the shareholders – 5.000 RON (newspaper announcements, mails, distribution of materials and also renting the space and the equipment) - Register in the National Trade Register Office – 500 RON/page - Notification to the CNVM of the modifications of the authorisation documents- 1.000 RON	
A.2. Costs for meeting equity compliance[8]	**Target level of capital** (how the costs of raising capital are affected by the level of capital required under the current option?) • **Respondent 1**: See option 2	**Speed of meeting the target level of equity** (how the costs of raising capital are affected by the speed which the target level of capital has to be raised?) • **Respondent 2**: The same as under the first option

[8] Both quantitative and qualitative perspective can be provided.

	• **Respondent 2**: The same as under the first option	
	Please mention the types of costs your entity would incur in order to reach a level of capital of 2 mil. • **Respondent 1**: See option 2 • **Respondent 2**: Double, as compared to the first option	Please mention how the speed of raising the capital is affecting your entity: • **Respondent 1**: See option 2 • **Respondent 2**: - Double, as compared to the first option
	Please make an estimation of the level of costs for raising the capital: The costs of raising the capital to 2 mil. are with (**Respondent 1**) 100% - **Respondent 2**) 150 % higher than the costs of raising capital with no regulatory intervention.	Please make an estimation of the level of costs for raising the capital by 2007: The costs of raising the level of capital to 2 mil. by 2007 are with (**Respondent 1**) 30% - **Respondent 2**) 60 % higher than the costs of raising capital with no regulatory intervention.
B. Qualitative costs		
	One-off	**Ongoing**

	(please mention)	(please mention)
C. Market impacts		
	On the quality, quantity and variety of goods or services	**Competition**
	C.1. Trading volumes - Has the option increased trading volumes (yes / no)? • **<u>Respondent 1:</u>** <u>Yes</u> • **<u>Respondent 2:</u>** Yes If answer is yes, please estimate how this option impacted on the trading volume: High impact ______ Medium impact__X (**<u>Respondent 1</u>**)__ Low impact___X (**<u>Respondent 2</u>**) **C.2. Product innovation** - Has the option increased product innovation (yes / no)? • **<u>Respondent 1:</u>** <u>Yes</u>	a) For example, do you think the proposal will encourage new investment in the exchange or in rival exchanges and increase competition? -------------------------------- -------------------------------- b) Do you think that this option can result in other impacts on competition? Please specify. -------------------------------- --------------------------------

	• **<u>Respondent 2: </u>** Yes If answer is yes, please estimate how this option impacted on the product innovation: High impact ______ Medium impact_ X (**<u>Respondent 1</u>**)_ Low impact___X (**Respondent 2**) **C.3. New investors** - Has the option increased the number of new investors (yes / no)? • **<u>Respondent 1: </u>** Yes • **<u>Respondent 2: </u>** Yes If answer is yes, please estimate how this option impacted on the number of new investors: High impact ______ Medium impact____ Low impact___X X (**<u>Respondent 1</u>** <u>and</u> **<u>2</u>**)	

D. Benefits Section		
Please describe what you consider the main benefits of this option, quantifying if possible[9])	• **<u>Respondent 2</u>**: This option allows the outline of an intermediary step in the capital increase of the market operator.	
Do you have any other suggestion and opinion pertaining to Option 3 as for the CBA perspective? Please advice.		

[9] For instance, market operator can have fewer expenses for raising capital whilst market operator shareholder can also benefit from additional investment opportunities. Market operator potential investor can have investment opportunities and asset allocation benefits.

Consultation questionnaire

Attn:

- CEO, Market Operator A (A)
- CEO, Market Operator B (B)
- CEO, A Market Operator shareholder (investment firm) M (X)
- CEO, B Market Operator shareholder (investment firm) N (Y)
- CEO, Market Operator potential shareholder (investment firm) P (V)
- CEO, Market Operator potential investor (institutional) R (W)

Romanian Government/World Bank impact assessment exercise

Dear Sir,

The Romanian Government is participating in a series of World Bank-funded projects that are designed to improve the quality of various internal governmental processes. One of the projects aims to strengthen our ability to use the disciplines of impact assessment (IA) in order to improve the way in which we make policy. IA does this by requiring policy makers to use evidence and economic analysis to justify and explain their proposals. Consultation with stakeholders is a key part of the IA process because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process.

As part of this project the central bank, securities commission etc are participating in an IA training exercise that involves us undertaking a retrospective IA on an existing piece of legislation. In this case we are looking at regulation X and are writing to you in your capacity as one of the key stakeholders affected by this piece of legislation. We have attached to this letter a questionnaire and we would be most grateful if you could arrange for its completion.

The questionnaire is designed to provide us with evidence relating to a) the nature of the problem that the regulation is seeking to address and b) the costs and benefits of the regulation and of two alternative policy options that were not but in theory could have been chosen instead (this recognizes the fact that in a "live" IA exercise we would be expected to consider different policy responses to the same policy problem). Once the evidence has been gathered we will complete a final IA report setting out in a clear and transparent fashion what the problem was and why the regulatory response was the best means for addressing the problem.

Clearly, since this is a theoretical consultation exercise being undertaken over a shortened period of time we would not expect you to be able to devote a large amount of resource to this exercise. Nevertheless, we will be following this up with a face-to-face meeting to quality check all stakeholder responses and enhance our understanding of your answers. And, since we do intend to consult with stakeholders in the future, we regard this as a useful exercise for you too, so are looking forward to hearing from you. We very much value your cooperation.

If you have any questions regarding this exercise please contact ......on tel:

Yours sincerely

ANNEX A: Impact assessment questionnaire

This questionnaire is part of an IA simulation exercise being carried out by functions of the Romanian government in concert with the World Bank and external IA experts from the UK and Ireland. Its purpose is to provide us with information about a problem to which a regulatory solution was found and information on the costs and benefits of the regulatory solution and of two alternative options that could in principle have been chosen instead.

Section 1: What is the problem?

In this section we consider what the rationale for a particular regulatory intervention might have been.

We are looking at regulation X – insert detail about this regulation.

In our view, the problem being addressed by this regulation is........I think the template I commented on has suitable material to insert here. I think the problem could be expressed in terms of the market left alone not providing sufficient capital to ensure basic provision of market information etc without which the exchange can't function so its therefore all about market confidence. Restrictive ownership rules exacerbate the problem by preventing fresh capital from entering the market. Etc...

Question: do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Section 2: What are the possible policy solutions.

In this section we identify 3 possible policy solutions to the problem identified in section 1 above. Clearly other options could have been considered.

Option 1. This is the option that was chosen in practice. A mandatory equity level of € 5M is imposed on market operators which must be reached by the end of 2008. Also, if the Market Operator's instruments of incorporation do not provide otherwise, it will no longer be mandatory to have majority voting rights being held by intermediaries that have access to trading on the relevant market/markets.

Option 2. ("do nothing").Under this option, there is no regulation at all and the market is left on its own.

Option 3. Under this option, changes to the regulation in force on Regulated Markets and Multilateral Trading facilities would allow Market Operators to gradually reach a lower mandatory equity level of € 2M, but in a shorter time, by the end of 2007. Also, it would no longer be mandatory to have majority voting rights being held by intermediaries that have access to trading on the relevant market/markets, if instruments of incorporation allow it.

Considering each of these options, please prepare answers to the following questions, to be later discussed during a meeting with our representative. For each answer, please provide a qualitative and, if possible, a quantitative assessment with a monetary value attached.

1. What are your estimated compliance costs? (i.e. the costs incurred by your company in order to comply with the proposed regulation, in the case of Option 1, 2 or 3) (for example, the costs of setting up a new structure for the administrative organisation and internal control, new computer programs or systems or following training courses). It may be appropriate to consider as compliance costs only costs which are above what corresponds to best (or existing) practice in the market.

Note In assessing your compliance costs, please remember you have to consider such distinctions as:

- **Fixed costs** are costs which do not vary with output. In the long run, all costs can be considered variable;
- **Variable costs** are costs which vary directly with the output. Variable costs are associated with productive work, and naturally rise and fall with business activity.

* * *

- **Set-up (or one-off) costs** are costs which are incurred at the beginning of a project only;
- **On-going costs** are costs which are incurred again and again during a project or an investment. Usually set-up costs are very large in comparison to ongoing-costs each time the latter occur.

2. How would each of the three options described above influence the products offered, in terms of:
   - quantity?
   - quality?
   - variety?

3. What are the benefits of each of the three regulatory options for your organization?

Note Benefits may be assessed using one of the following techniques:

- **Comparison to a relevant historical case**: In many cases, an incident or series of incidents over time will be part of the reason to regulate. In order to make an estimate of the expected benefits, the losses in a number of historical cases can be used as an indicator for how much of the loss could have been prevented through the proposed regulation;
- **Evaluation by a proxy**: This approach uses observable variables which are linked to the unobservable variable - e.g. when there exists a known correlation structure - or focuses on simulations of the unobservable variable;
- **Use of a break-even approach**: The third possible approach is what can be called the break-even approach. This approach consists of calculating the amount of benefit needed - for example a reduction in loss needed - to cover the costs incurred, which are quantifiable. With this approach, the loss prevention is separated into the risk of loss and the extent of loss which allows one to capture the impact on the market. The potential loss for each market participant and the risk that a market participant will actually suffer loss are then estimated. It will then be possible to determine by how much the loss, risk of loss or a combination of these elements needs to be reduced in order to cover the costs of regulations and supervision. For this break-even assumption, one can examine whether this would be a realistic expectation. The impact of incidents can often be estimated with the help of event studies. The significance of the impact of incidents can be calculated and an estimate of the extent can be given. In the break-even approach, one can calculate by how much the risk of an incident must be reduced in order to cover the costs.

CBA template – they've already had examples of what this could look like and this is an example and not necessarily the right design

OPTION 1: Euro 5m by 2008; no mandatory voting rights		
Quantitative costs	One-off compliance costs	Ongoing compliance costs per year
Qualitative costs (please describe the nature of the costs you think you would incur – this cold be footnoted)	One-off	Ongoing
Market impacts	On the quality, quantity and variety of goods or services	Competition
	For example, will (or in this HAS) the option increased trading volumes? Resulted in product innovation – remembering that these effects are judged against what would have happened in the absence of any regulation	For example, do you think the proposal will encourage new investment in the exchange or in rival exchanges and increase competition etc???
Benefits (please describe what you consider the main benefits of option 1, quantifying if possible)		

Option 2: no intervention at all		

SUMMARY OF CONSULTATION FEEDBACK

Consultation Period	Start: end June 2007	End: early October 2007

Name of regulation	CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems

Stakeholders participating in the consultation process
Market operator
Market operator shareholder

This document summarizes feedback provided by stakeholders answering to a written consultation questionnaire and was drawn up following the consultation meeting between the RIA WG and the involved stakeholders. The aim of the consultation meeting was to learn more about the stakeholders' views so as to incorporate them into the proposed policy recommendation.

1. Reasons for consulting stakeholders

Representatives of Romanian regulators are participating in an Impact Assessment (IA) training initiative organized by World Bank administered *Convergence Program*[1].

Since consultation with stakeholders is a key part of the IA process, because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process, an explanatory cover letter and an attached questionnaire were designed, and they were sent to a set of selected stakeholders.

The cover letter started by explaining that the IA training exercise was undertaking a retrospective IA – *ex-post* - on an existing piece of legislation. In this case we are looking at **CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems**. Key stakeholders were identified as being affected by this piece of legislation.

The questionnaire was designed to provide evidence relating to:

a) the nature of the problem that the regulation was seeking to address, and

b) the costs and benefits of the regulation and of two alternative policy options that in theory could have been chosen instead (this recognises the fact that in a "live" IA exercise we would be expected to consider different policy responses to the same policy problem).

Stakeholders were also ask to help after the questionnaire-answering phase was completed by attending a face-to-face meeting to quality check all stakeholder responses and enhance the WG's understanding of their answers.

2. Methods used

From a variety of possible methods available, as recommended by the *Impact Assessment Guidelines for EU level 3 Committees* jointly issued by CESR, CEBS and CEIOPS in May 2007, such as concept releases, calls for evidence, publication of consultation papers, public hearings and roundtables, written and

[1] Participants in this knowledge transfer and capacity building program are the following: Prime Minister's office, Ministry of Economy and Finance, National Bank of Romania, National Securities Commission, Insurance Supervision Commission, and Commission for Supervision of Private Pensions System and National Authority for Consumer Protection.

internet consultations, public disclosure and summary of comments, feedback statements, national and/or European focused consultation, the WG decided to use a very limited set of methods. These methods were chosen as being the most appropriate for the scope of the exercise, the limited resources of the WG in terms of time, human resources and expenses. The questionnaire was circulated using internet and other means of communication, while telephone calls and personal calls were used as additional methods.

3. MAIN ISSUES INVOLVED

In our Working Group (WG) view, the problem being addressed by this new regulation, **CNVM Regulation no. 14/2006,** is that in the absence of regulatory intervention, market operators would not have been able to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, as well as to provide comprehensive market information and secure market participants' confidence. In other words, there was a market failure due to insufficient supply of a public good (i.e. the supply of capital required to allow the market to function efficiently.)

In addition, we believe that this is also a case of regulatory failure as too restrictive ownership rules imposed by the previous regulation exacerbated the problem by preventing fresh capital from entering the market.

In our opinion, Regulation 14/2006 had a significantly positive impact on the **factors** listed below, which are key to address the **objectives** set by the regulator (to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, to provide comprehensive market information and to secure market participants' confidence):

a) Market operators' capitalization;

b) Trading and other types of commissions earned by market operators;

c) Increase of diversity of services offered by market operators

d) Affiliation to international professional bodies;

e) Mergers with other market operators.

We also assumed that the market operator is the sole entity which can secure the specific objectives set by the regulator, as listed above.

In the WG's opinion, the **main objectives addressed by the new regulation** are the following:

- **General objectives of the regulator**

• to set and maintain the framework required for the development of regulated markets;
• to **promote confidence** in regulated markets and investments in financial instruments;
• to provide operator and investor protection against unfair, abusive and illegal practices;
• to **promote the adequate and transparent functioning** of regulated markets;
• to prevent fraud and market manipulation and ensure the integrity of regulated markets;
• to establish standards for financial strength and fair practices on regulated markets;
• to take adequate measures to prevent systemic risk on regulated markets;
• to prevent situations of asymmetric information and unfair treatment of investors and their interests.

- **Specific objectives**

• to set **capital standards for market operators in line with similar standards** set by supervision authorities in other Member States, that could reasonably be achieved, given the financial strength of eligible investors;
• to enable market operators to have **resources** to cope with more **demanding disclosure requirements** arising from EU regulations becoming mandatory for domestic firms after accession.

- **Operational objectives**

• to reach a **first prescribed capital level** by market operators before end-2006 (€750 000), **easier to attain** if the firms are permitted to decide to implement statutory changes allowing a wider range of investors;
• to ensure **compliance with European transparency requirements** in force for Romania as early as January 1st, 2007.

4. RESTATEMENT OF QUESTIONS

The questionnaire that was submitted to selected stakeholders was preceded by a brief presentation of the reasons for issuing *CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems*:

In our view, the problem being addressed by this regulation is that in the absence of regulatory intervention, market operators would not have been able to ensure the adequate maintenance and development of the trading

infrastructure, to cover for potential operational risks, as well as to provide comprehensive market information and secure market participants' confidence. In other words, there was a market failure due to insufficient supply of a public good (i.e. the supply of capital required to allow the market to function efficiently).
In addition, we believe that this is also a case of regulatory failure as restrictive ownership rules imposed by the old regulation exacerbated the problem by preventing fresh capital from entering the market.

Stakeholders were asked to provide answers as detailed and as reasoned as possible to the following questions:

Question 1: do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible. For example, what evidence do you think would demonstrate or in fact does demonstrate that there was a shortage of capital, and what sort of evidence suggests that capital was prevented from entering the market?

Question 2: In your opinion, what are the factors that can contribute to ensuring the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence?

Respondents were asked to assess the importance of some factors, as suggested below, or to pinpoint other factors:

- Market operators capitalization;
- Trading and other types of commissions earned by market operators;
- Increase of diversity of services offered by market operators;
- Affiliation to international professional bodies (e.g. World Federation of Exchanges WFE, Federation of European Securities Exchanges FESE);
- Mergers with other market operators (e.g. NYSE Euronext).

Question 3: Please estimate the importance of the above mentioned factors for securing the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence.

Respondents were required to rank the factors' importance as high, medium or low.

Question 4: We assume that the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence. Do you think that third party providers (e.g. professional associations, etc.) could ensure some of the above mentioned objectives? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 5: The enactment of Regulation no. 14/2006 has had the following effects: narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments, etc. Do you think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Under this question, respondents were asked:

a) to provide details on how their firm was affected by the effects of the enactment of the new regulation before and after it was issued; and

b) if they think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions. They were also asked to explain their answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 6: Please estimate the influence of the market operators' capital increase over the mentioned capital market indicators.

Respondents were required to rank the influences of the prescribed capital increase over the listed effects as high, medium or low.

5. SUMMARY OF RESPONSES (MAIN COMMENTS)

One of the respondents remarked that the stated rationale on the baseline of Regulation No. 14/2006 is not complete. In his opinion, another reason of the issue of Regulation no. 14/2006 was to repair the lack of provisions regarding the transition procedures in the Regulation no. 2/2006 with respect to the means to transform the organization of an "exchange company" to a market operator (provisions regarding the type of shareholders with voting rights, and the minimum capital level of the market operator).

This remark is reasonable, yet that was not one of the rationales of the new regulation. Indeed, according to previous legislation, commodity exchanges could establish and manage derivatives markets, too. Entities that were authorized to establish and operate commodity exchanges (regulated by CNVM under Government Emergency Ordinance 27/2002) were the so-called *exchange companies* ("societăţi de bursă") and had to comply with specific rules. Under the new regulations in force, they had to become market operators, in order to be authorized to establish derivatives (as financial instruments) regulated markets. This was the case for BMFM Sibiu S.A. - the other market operator, Bucharest Stock Exchange (BVB S.A.) had followed a different path, having never been an exchange company, but a public institution, later on being corporatised by law as a joint stock company owned by investment firms. However, when the new regulation was issued, the transition period was over and both entities were authorized as Market Operators.

The respondent further remarked that Regulation no. 2/2006 was prepared taking into account the organization of the market operator, on the model of the Bucharest Stock Exchange, without considering that the Sibiu Monetary-Financial and Commodities Exchange (BMFMS) was organized as an "exchange company". The restrictions regarding the status and structure of the shareholders of a market operator are necessary, taking into consideration the fact that it is the General Assembly of the Shareholders that decides on the operations of the entity. He also admitted that Regulation no 14/2006 had effects only on the Sibiu Monetary-Financial and Commodities Exchange because the Bucharest Stock Exchange already complied with the capital requirements of the Regulation no 2/2006.

In our opinion, Regulation 14/2006 had a significantly positive impact on the factors listed under Question 2, which are key to address the objectives set by the regulator (to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, to provide comprehensive market information and to secure market participants' confidence).

Stakeholders estimate that market operators' capitalization is not very important to achieve the objectives above indicated. Moreover, also market operators' affiliation to international professional bodies is not rated high.

When asked if the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence, Stakeholders agreed that the market operator cannot be the only entity but rather that other players should have a role (e.g. post-trading operators, such as CRC - Romanian Clearing House Sibiu.)

This is true, yet it leads to another story – there are very demanding capital requirements for post trading entities, too, and they are the object of other regulations.

Stakeholders asked to assess the impact of the regulation on narrower spreads, increased liquidity, increase in number of new investors, increase in trading volumes, and introduction of new financial instruments, answered it had a low influence with regard to all the above factors, except the number of new intermediaries.

Given the three options considered, as summarized in the table below, stakeholders were asked to help with their own estimate of costs for each of the options.

Options	Main policy drivers for market operators		
	Shareholder composition	Majority voting rights	Equity level
Option 1	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory equity increase (Eur 750,000 by 2006, Eur 2Mln by 2007, Eur 5 Mln by 2008)
Option 2 (do nothing)	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries	EUR 5 mln by the end of 2007 mandatory
Option 3	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory approach based on 2 yearly steps (Eur 750,000 by 2006, Eur 2 Mln by 2007)

We summarize hereafter their cost assessments for the options:

A) <u>Quantitative costs</u>

Stakeholders have identified, also providing quantitative assessment, one-off and ongoing compliance costs stemming from option 1. Costs for meeting equity compliance are also foreseen for this option.

Stakeholders' feedback for the do-nothing option (no. 2) says that some one-off compliance costs may be incurred whilst neither ongoing compliance costs nor other kinds of costs are expected on a significant basis.

When assessing option 3, stakeholders interviewed draw the attention on their belief of incurring compliance costs (both one-off and ongoing) as well as costs for meeting equity compliance. Quantification of such costs was also provided.

B) Qualitative costs

For all three options, significant qualitative costs are not foreseen.

C) Market impact

C.1. Trading volumes

Market participants agree that options no. 1 and no. 3 would have an impact on trading volumes at medium to low level, while option no. 2 would generate high impact on trading volumes.

C.2. Quality/quantity/variety of goods and services

Market participants agree that options no. 1 and no. 3 would have such an impact at medium-to-low level, while option no. 2 would generate high impact on quality/quantity/variety of goods and services.

C.3. Product innovation

Stakeholders assess that option no. 1 would generate a medium-to-low impact on product innovation, while option no. 2 would generate high impact, and option no. 3 would generate a low impact on product innovation.

Competition

According to stakeholders, option no. 1 affects the competition by discouraging the set up of a new market operator. Apparently one of the former *Exchange Companies*, the Romanian Commodities Exchange (BRM) stopped the procedures to turn from an exchange company in a market operator, due to the setting of the capital level for a market operator at 5 mil EUR, by Regulation no. 2/2006. Regulation no. 14/2006 set new capital increase terms only for the Sibiu Monetary-Financial and Commodities Exchange, because the Bucharest Stock Exchange had already exceeded this capital level.

For options no. 2 and no. 3 stakeholders interviewed do not envisage competition-related issues.

D) Benefits section

While assessing option no. 1, respondents say that some benefit might arise for the market operator rather than for intermediaries. Moreover, this option allows the capital increase of the market operator to be produced (in 2008) after the capital increase of the intermediaries.

Stakeholders interviewed do not think option no. 2 can bring benefits.

In our respondents' view, option no. 3 allows the outline of an intermediary step in the capital increase of the market operator.

As additional input that would need to be discussed with more attention in terms of cost-benefit-analysis it is worth mentioning that if CNVM had not issued Regulation 14/2006, Sibiu Commodity Exchange BMFMS would have not complied with the capital requirements and would have lost its market operator authorization, and as a consequence should have changed its line of business, thus resulting in a temporary closing of an important financial instruments regulated national market – the derivatives market.

6. Conclusions

Under this heading we are trying point out some of the main conclusions shared by questioned stakeholders and by WG members.

It is generally agreed that **Option 2** would be detrimental, since it would mean the loss of one of the two Market Operators and subsequently a temporary closing of the domestic derivatives market, which already has a tradition and an infrastructure. This infrastructure (post-trading institution, CRC) would have been adversely affected, too.

Option 1 is still seen as better than **Options 2 and 3**, although it involves some costs, and its market impact is perceived as rather low in terms of trading volumes, quality, quantity and variety of goods and services, product innovation, and high only as regards competition. Anyway, the aim of ensuring the survival of a Market Operator was of essence to the regulator.

Finally, given these, the WG supports the decision of issuing a new regulation according to option no. 1 – actually, this happened in fact.

However, this exercise is giving us food for thought, since we found out that stakeholders do not always share regulators' views and surprising conclusions may arise from a consultation, possibly leading to a change of policies, with the aim of getting an optimized result. Had regulators not been pressed by time, an impact assessment could have helped in many instances and we believe it should be used whenever possible.

Romania RIA Knowledge Transfer and Capacity Building Program

CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems

Policy Recommendations

Stakeholders consulted

Market operator
Market operator shareholder

Team Composition

Participants	Authority
Mr. Albert Schreiber	National Securities Commission
Ms. Camelia Oprea	National Securities Commission
Ms. Antoaneta Alexe	National Bank of Romania
Ms. Andra Pineta	National Bank of Romania
Ms. Mihaela Nedelcu	Ministry of Economy and Finance
Mr. Bogdan Ion	Insurance Supervision Commission
Mr. Ionut Pavel	General Secretariat of the Government

Facilitator

Mr. Stephen Dickinson, Senior Regulator, British Financial Services Authority

Bucharest, October 2007

This document is a report summarizing feedback provided by consulted stakeholders and policy recommendations for the regulator, arising from a comparison of options and an analysis of their impacts. The report was drawn up by a joint working group (RIA WG) consisting of representatives of authorities involved in this exercise. Though RIA WG members have worked in good faith and best efforts were made to analyze selected potential stakeholders opinions, this document shall not be construed as a real IA report, and its authors have no liabilities whatsoever deriving from it.

EXECUTIVE SUMMARY

The World Bank administered *Convergence Program* has organized in 2007 in Romania a knowledge transfer and capacity building program, designed to help participants from various regulation and supervision authorities to get acquainted with the basics of Regulatory Impact Assessment (RIA).

After an introductory session, where presentations were made by experienced speakers from EU authorities and their consultants, participants joined in Working Groups (WG) and they took part in a training exercise, designed to develop basic skills in undertaking a RIA.

One of the WGs, consisting of representatives from Prime Minister's Office, Ministry of Economy and Finance, National Bank of Romania, National Securities Commission, Insurance Supervision Commission, Commission for Supervision of Private Pensions System and National Authority for Consumer Protection has chosen to set up an *ex-post RIA* on an existing piece of legislation, namely **CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems**. Some categories of key stakeholders were identified as being affected by this regulation, then they were contacted and a consultation was organized (written questionnaire and face-to face interviews.)

Under the guidance of experts from the World Bank Convergence Programme and facilitators, the WG performed the main steps recommended by the *Impact Assessment Guidelines for EU Level 3 Committees* jointly issued by CESR, CEBS and CEIOPS in May 2007, drafting the suitable documents related to each step.

These documents included:
- a consultation document;
- a summary of consultation feedback; and finally
- a policy recommendations document.

The present document is a summary of all the activities described, and it ends with a comparison of the proposed options and policy recommendations resulting from an analysis of qualitative and quantitative impact of each of them.

SECTION I – PROCEDURAL ISSUES AND CONSULTATION OF INTERESTED PARTIES

This document is the outcome of an Impact Assessment (IA) knowledge transfer and capacity building program organized by the World Bank administered *Convergence Program*. The participants of the Working Group are representatives of some Romanian authorities involved in regulation of financial markets issues (Prime Minister's Office, Ministry of Economy and Finance, National Bank of Romania, National Securities Commission, Insurance Supervision Commission, Commission for Supervision of Private Pensions System and National Authority for Consumer Protection).

The IA training exercise was undertaking a retrospective IA – *ex-post RIA* - on an existing piece of legislation, namely **CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems**. After discussions some categories of key stakeholders were identified as being affected by this piece of legislation.

Since consultation with stakeholders is a key part of the IA process, because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process, an explanatory cover letter and an attached questionnaire were designed, and they were sent to a set of selected stakeholders.

The questionnaire was designed to provide evidence relating to:

a) the nature of the problem that the regulation was seeking to address, and

b) the costs and benefits of the regulation and of two alternative policy options that in theory could have been chosen instead of it, thus recognizing the fact that in a "live" IA exercise different policy responses could be considered to address the same policy problem.

Stakeholders were also asked to help after the questionnaire-answering phase was completed by attending a face-to-face meeting to quality check all stakeholder responses and enhance the WG's understanding of their answers.

After reception of answers from stakeholders, a summary of questionnaire results was drafted, then these were processed into a consultation document. The consultation document, including more in-depth issues that were raised during the meeting with stakeholders, became the basis for drafting a summary of consultation feedback, which was used in its turn as the underlying evidence for this report, summarizing all findings gathered during the process.

From a variety of possible methods available, as recommended by the *Impact Assessment Guidelines for EU Level 3 Committees* jointly issued by CESR, CEBS and CEIOPS in May 2007, such as concept releases, calls for evidence, publication of consultation papers, public hearings and roundtables, written and internet consultations, public disclosure and summary of comments, feedback statements, national and/or European focused consultation, the WG was forced to use a very limited set of methods. These methods were chosen as being the most appropriate for the scope of the exercise, the limited resources of the WG in terms of time, human resources and expenses. The questionnaire was circulated using internet and other means of communication, while telephone calls and personal calls were used as additional methods.

The report was drafted with a view to follow the format as prescribed by the *Guidelines* and their relevant recommendations; however, given the limited resources available to the WG, it is but an outline of what should be such a real report. The WG acknowledges the valuable support and guidance received during the whole process from SPI-Convergence, through experts and facilitator who were always available for help and advice.

SECTION II – PROBLEM IDENTIFICATION

In our Working Group (WG) view, the problem being addressed by this new regulation, **CNVM Regulation no. 14/2006,** is that in the absence of regulatory intervention, capital market operators (as defined by MiFID) would not have been able to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, as well as to provide comprehensive market information and secure market participants' confidence. In other words, there was a market failure due to insufficient supply of a public good (i.e. the supply of capital required to allow the market to function efficiently.)

In addition, we believed that this was also a case of regulatory failure as too restrictive ownership rules imposed by the previous regulation exacerbated the problem by preventing fresh capital from entering the market.

In our opinion, the previous regulation, Regulation No. 14/2006, had a significantly positive impact on the **factors** listed below, which are key to address the **objectives** set by the capital market regulator (to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, to provide comprehensive market information and to secure market participants' confidence):

a) Market operators' capitalization;

b) Trading and other types of commissions earned by market operators;

c) Increase of diversity of services offered by market operators

d) Affiliation to international professional bodies;

e) Mergers with other market operators.

We also assumed that the market operator is the sole entity which could secure the specific objectives set by the regulator, as listed above.

The questionnaire that was submitted to selected stakeholders was preceded by a brief presentation of the reasons for issuing *CNVM Regulation no. 14/2006 modifying CNVM Regulation no. 2/2006 on regulated markets and alternative trading systems*.

Stakeholders were asked to provide answers as detailed and as reasoned as possible to the following questions:

Question 1: Do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible. For example, what evidence do you think would demonstrate or in fact does demonstrate that there was a shortage of capital, and what sort of evidence suggests that capital was prevented from entering the market?

Question 2: In your opinion, what are the factors that can contribute to ensuring the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence?
Respondents were asked to assess the importance of some factors, as suggested below, or to pinpoint other factors:

- Market operators capitalization;
- Trading and other types of commissions earned by market operators;
- Increase of diversity of services offered by market operators;
- Affiliation to international professional bodies (e.g. World Federation of Exchanges WFE, Federation of European Securities Exchanges FESE);
- Mergers with other market operators (e.g. NYSE Euronext).

Question 3: Please estimate the importance of the above mentioned factors for securing the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence.
Respondents were required to rank the factors' importance as high, medium or low.

Question 4: We assume that the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence. Do you think that third party providers (e.g. professional associations, etc.) could ensure some of the above mentioned objectives? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 5: The enactment of Regulation no. 14/2006 has had the following effects: narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments, etc. Do you think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.
Under this question, respondents were asked:

a) to provide details on how their firm was affected by the effects of the enactment of the new regulation before and after it was issued; and
b) if they think that this is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions. They were also asked to explain their answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 6: Please estimate the influence of the market operators' capital increase over the mentioned capital market indicators.
Respondents were required to rank the influences of the prescribed capital increase over the listed effects as high, medium or low.

Feedback from consulted stakeholders on this specific issue:
This reasoning was generally supported by respondents, however one of the respondents remarked that the stated rationale on the baseline of Regulation No. 14/2006 was not complete. In his opinion, another reason of the issue of Regulation no. 14/2006 was to repair the lack of provisions regarding the transition procedures in the Regulation no. 2/2006 with respect to the means to transform the organization of an "exchange company" to a market operator (provisions regarding the type of shareholders with voting rights, and the minimum capital level of the market operator).
The respondent further remarked that Regulation no. 2/2006 was prepared taking into account the organization of the market operator, on the model of the

Bucharest Stock Exchange (BVB), without considering that the Sibiu Monetary-Financial and Commodities Exchange (BMFMS) was organized as an "exchange company". The restrictions regarding the status and structure of the shareholders of a market operator are necessary, taking into consideration the fact that it is the General Assembly of the Shareholders that decides on the operations of the entity, while intermediaries are those entitled to make the best decisions regarding the governance of the market operator. He also noted that Regulation no 14/2006 had effects only on BMFMS because BVB already complied with the capital requirements of the Regulation no 2/2006.

Our response was that the respondent's remark is reasonable, yet that was not one of the rationales of the new regulation. Indeed, according to previous legislation, commodity exchanges could establish and manage derivatives markets, too. Entities that were authorized to establish and operate commodity exchanges (regulated by CNVM under Government Emergency Ordinance 27/2002) were the so-called *exchange companies* ("societăţi de bursă") and had to comply with specific rules. Under the new regulations in force, they had to become market operators, in order to be authorized to establish derivatives (as financial instruments) regulated markets. This was the case for BMFMS, while the other market operator, BVB had followed a different path, having never been an exchange company, but a public institution, later on being corporatised by law as a joint stock company owned by investment firms. When the new regulation was issued, the transition period was over and both entities were authorized as Market Operators.

SECTION III – OBJECTIVES

In the WG's opinion, the **main objectives addressed by the new regulation** are the following:

- **General objectives of the regulating authority** (as stated by law)

• to set and maintain the framework required for the development of regulated markets;

• to **promote confidence** in regulated markets and investments in financial instruments;

• to provide operator and investor protection against unfair, abusive and illegal practices;

• to **promote the adequate and transparent functioning** of regulated markets;

• to prevent fraud and market manipulation and ensure the integrity of regulated markets;

• to establish standards for financial strength and fair practices on regulated markets;
• to take adequate measures to prevent systemic risk on regulated markets;
• to prevent situations of asymmetric information and unfair treatment of investors and their interests.

➢ **Specific objectives**

• to set **capital standards for market operators in line with similar standards** set by supervision authorities in other Member States, that could reasonably be achieved, given the financial strength of eligible investors;
• to enable market operators to have **resources** to cope with more **demanding disclosure requirements** arising from EU regulations becoming mandatory for domestic firms after accession.

➢ **Operational objectives**

• to reach a **first prescribed capital level** by market operators before end-2006 (€750 000), **easier to attain** if the firms are permitted to decide to implement statutory changes allowing a wider range of investors;
• to ensure **compliance with European transparency requirements** in force for Romania as early as January 1st, 2007.

Feedback from consulted stakeholders on that specific issue
Stakeholders estimated that market operators' capitalization was not very important to achieve the objectives above indicated. Moreover, also market operators' affiliation to international professional bodies was not rated high.

Our response was that in our opinion, the new regulation, 14/2006 had a significantly positive impact on the factors listed under *Problem identification*, which are key to address the objectives set by the regulator - to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, to provide comprehensive market information and to secure market participants' confidence.

SECTION IV – POLICY OPTIONS

Three policy options were taken into consideration, one of them being the option actually chosen by the regulator in 2006 (option no. 1), while option no. 2 was the "do-nothing" option and the option no. 3 was a version of option no. 1, whereby the final capital threshold was lower, yet it had to be reached in two years. Both active options allowed a possible change in the majority voting rights, if shareholders decided so and included such a provision in the articles of incorporation of the company.

The options are summarized in the table below:

Options	Main policy drivers for market operators		
	Shareholder composition	Majority voting rights	Equity level
Option 1	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory equity increase (Eur 750,000 by 2006, Eur 2Mln by 2007, Eur 5 Mln by 2008)
Option 2 (do nothing)	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries	EUR 5 mln by the end of 2007 mandatory
Option 3	No single shareholder (whether an intermediary or not) may hold more than 5% (as provided by Law)	With intermediaries, or with any investors, if so allowed by Articles of Incorporation (that could be modified to include such a provision)	Gradual and mandatory approach based on 2 yearly steps (Eur 750,000 by 2006, Eur 2 Mln by 2007)

SECTION V – ANALYSIS OF QUALITATIVE AND QUANTITATIVE IMPACTS

A summary of the impact of the three options considered, as assessed by stakeholders and accepted by the WG after discussions and analysis is given below. Costs were divided into subcategories, as this was an easier task for the WG, and they are supported mostly by the regulated firms. We could collect no

evidence from consumers as to their prospective costs derived from policy options considered, and this is a significant deficiency of our work that could be mitigated by more extensive consultation. Even though some figures were provided by stakeholders, we chose to keep them only in our draft papers, since they are quite dispersed and we found it difficult to check and match them.
Possible side effects and unintended consequences of the policy options should have been considered, too, but we couldn't go into more depth and such issues were left for a more advanced exercise.

A) Quantitative costs

Stakeholders have identified (also providing quantitative assessment) one-off and ongoing compliance costs stemming from option 1. Costs for meeting equity compliance are also foreseen for this option.

Stakeholders' feedback for the do-nothing option (no. 2) says that some one-off compliance costs may be incurred whilst neither ongoing compliance costs nor other kinds of costs are expected on a significant basis.

When assessing option 3, stakeholders interviewed draw our attention on their belief of incurring compliance costs (both one-off and ongoing) as well as costs for meeting equity compliance. Quantification of such costs was also provided.

B) Qualitative costs

For all three options, significant qualitative costs are not foreseen.

C) Market impact

C.1. Trading volumes

Market participants agree that options no. 1 and no. 3 would have an impact on trading volumes at medium to low level, while option no. 2 would generate high impact on trading volumes.

C.2. Quality/quantity/variety of goods and services

Market participants agree that options no. 1 and no. 3 would have such an impact at medium-to-low level, while option no. 2 would generate high impact on quality/quantity/variety of goods and services.

C.3. Product innovation

Stakeholders assess that option no. 1 would generate a medium-to-low impact on product innovation, while option no. 2 would generate high impact, and option no. 3 would generate a low impact on product innovation.

Competition

According to stakeholders, option no. 1 affects the competition by discouraging the set up of a new market operator.

For options no. 2 and no. 3 stakeholders interviewed do not envisage competition-related issues.

D) Benefits section

While assessing option no. 1, respondents say that some benefit might arise for the market operator rather than for intermediaries. Moreover, this option allows the capital increase of the market operator to be produced (in 2008) after the capital increase of the intermediaries.

Stakeholders interviewed do not think option no. 2 can bring benefits.

In our respondents' view, option no. 3 allows the outline of an intermediary step in the capital increase of the market operator.

When asked if the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence, a majority of questioned stakeholders answered that the market operator cannot be the only entity but rather that other players should have a role (e.g. post-trading operators, such as CRC - Romanian Clearing House Sibiu.)

This is true, yet it leads to a different matter – there are very demanding capital requirements for post trading entities, too, and these are the object of other regulations.

Stakeholders asked to assess the impact of the regulation on narrower spreads, increased liquidity, increase in number of new investors, increase in trading volumes, and introduction of new financial instruments, answered it had a low influence with regard to all the above factors, except the number of new intermediaries.

Feedback from consulted stakeholders on impact over competition While assessing competition impact of option no. 1, a stakeholder said that, in his opinion, one of the former *Exchange Companies*, the Romanian Commodities Exchange (BRM) stopped the procedures to turn from an *exchange company* into a market operator, due to the setting of the capital level for a market operator at 5 mil EUR, by Regulation no. 2/2006. Actually, Regulation no. 14/2006 set new capital increase terms only for BMFMS, because BVB had already exceeded this capital level.

Our response
In our view, BRM temporarily gave up getting authorized as a market operator not because of the mandatory capital level, but since it saw better business opportunities in a different area, namely commodity auctions and subsequently getting in line with other legal provisions. The second remark seems reasonable, however the regulation was not targeted to a certain entity and compliance was required from all operators.

SECTION VI – COMPARISON OF THE OPTIONS

Under this heading we are trying to point out some of the main opinions shared by questioned stakeholders and by WG members.

As additional input that would need to be scrutinized with more attention in terms of cost-benefit-analysis it is worth noticing that, had Regulation 14/2006 not been issued, BMFMS would have not complied with the capital requirements of Regulation 2/2006 and would have lost its market operator authorization, and as a consequence it should have changed its line of business, thus resulting in a temporary closing of an important financial instruments regulated national market – the derivatives market.

It is generally agreed that **Option 2** would be detrimental, since it would mean the loss of one of the two Market Operators and subsequently a temporary closing of the domestic derivatives market, which already has a tradition and an infrastructure. This infrastructure (post-trading institution, CRC) would have been adversely affected, too.

Option 1 is still seen as better than **Options 2 and 3**, although it involves some costs, and its market impact is perceived as rather low in terms of trading volumes, quality, quantity and variety of goods and services, product innovation, and high only as regards competition. Anyway, the aim of ensuring the survival of a Market Operator was of essence to the regulator.

We deemed as unfeasible a quantitative evaluation of the options considered, mainly because of the lack of data regarding possible costs. Though a certain comparison of costs was done, options were mainly compared in a qualitative manner, in terms of benefits, and as stated above, the benefit of keeping afloat a valuable market operator was paramount.

SECTION VII – POLICY RECOMMENDATIONS (OUTCOME OF COMPARISONS; CONCLUSIONS/RECOMMENDATIONS)

Having in mind the policy options listed under Section IV, the relevant impact analysis described under Section V, and the subsequent comparison of the options included in Section VI, the WG supports the decision of issuing a new regulation according to **option no. 1** – actually, it happened in fact, this being an ex-post impact assessment.

In this particular case, we may consider that the policy proposal (option no. 1) was properly implemented and achieved its objectives. Its effects were not obvious at the outset, and it should have been kept under review. The review resulting in the present RIA confirms that the option adopted was adequate.

However, this exercise is at least resulting in a warning signal, since we found out that stakeholders do not always share regulators' views and surprising conclusions may arise from a consultation, possibly leading to a change of policies, with the aim of getting an optimized result. Had regulators not been pressed by time, an impact assessment could have helped in many instances and we believe it should be applied whenever possible.

RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Regulatory Impact Assessment*

- Main Findings and Policy Recommendations -

CNVM Regulation no. 14/2006
modifying CNVM Regulation no. 2/2006
on regulated markets and alternative trading systems

National Bank of Romania
November 1, 2007

(*)= based on Draft Impact Assessment Guidelines prepared by CESR, CEBS, CEIOPS

Working Group Composition

Participants	Authority
Mr. Albert Schreiber	National Securities Commission
Ms. Camelia Oprea	National Securities Commission
Ms. Antoaneta Alexe	National Bank of Romania
Ms. Andra Pineta	National Bank of Romania
Ms. Mihaela Nedelcu	Ministry of Economy and Finance
Mr. Bogdan Ion	Insurance Supervision Commission
Mr. Ionut Pavel	General Secretariat of the Government

Facilitator

Mr. Stephen Dickinson, Senior Regulator,
UK Financial Services Authority

Main Steps of Process

- Problem identification
- Statutory goals at risk
- Proposed regulatory actions
- Policy options
- Stakeholder consultation - questions asked
- Consideration of feedback
  - problem identification and Cost Benefit Analysis of policy options
- Comparison of options and final policy recommendation

Problem identification

The **problem:** a previous attempt to address a market failure (insufficient capital in a securities exchange) had not been successful

- The original **market failure:** was an inadequate supply of capital which was threatening the maintenance and development of trading infrastructure on a securities exchange, heightening potential operational risks, and undermining market participants' confidence, for example due to limited market information.
- The subsequent **regulatory failure**: the regulation that attempted to address the market failure by setting minimum levels of capital was not enforced as it did not give the exchange enough time in which to reach the limit. The regulation also included restrictive ownership rules that preventing fresh capital from entering the market.
- **Market failure compounded by regulatory failure creates a challenging problem.**

Statutory goals at risk

➢ The problem identified poses risks to the following general goals of the regulating authority

» to **promote confidence** in regulated markets and investments in financial instruments;

» to **promote the adequate and transparent functioning** of regulated markets;

» to **prevent fraud and unfair practices** on regulated markets.

Proposed regulatory actions

Broad principles:

1. To address regulatory failure that prevents addressing market failure
   - To set a feasible time horizon for capital raising given market realities
   - To remove unnecessary restrictions on sources of capital for exchanges
2. To address market failure
   - To review minimum capital levels
     - Adequate resources to comply with transparency requirements following EU accession

Policy options

Option 1. (“**Do nothing**”). Under the baseline regulation, market operators need to reach a capital of EUR 5 mil. by the end of 2007 with market intermediaries holding majority voting rights.

Main option: **“Remove capital source restrictions”** and

either

Option 2. (“**Time extension**”) A mandatory equity level of EUR 5M to be reached in three steps, by the end of 2008. Also, it will no longer be mandatory to have majority voting rights being held by intermediaries.

or

Option 3. (“**Lower capital requirement**”) Market operators allowed to reach a lower mandatory equity level of EUR 2M in two steps by the end of 2007. Also, it will no longer be mandatory to have majority voting rights being held by intermediaries.

Stakeholder consultation

- ➢An explanatory cover letter and questionnaire were sent to selected stakeholders:
- Market Operator;
- Market Operator shareholder (Intermediary).

- ➢ Main issues in questionnaire:

  a) the nature of the problem,
  b) identification of the costs and benefits of the regulation and of two alternative policy options.

➢ Last step: face-to-face meeting to quality check all stakeholder responses and enhance the Working Group (WG)'s understanding of their answers.

Feedback Goals

- Have we diagnosed the problem correctly or are we missing other elements that place statutory goals at risk?
  - To minimize regulatory failure risk

- Are there other factors at play, in addition to capital, that affect trading efficiencies?
  - Their respective relative importance may help determine minimum level of capital and time needed to reach it.
    - Policy flexibility helps address regulatory failure risk and identify other tools to address market failure.

Questions Asked (1)

Question 1: ***"Problem accurately represented"***

Do you agree with us that the problem is as described?
Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 2: "***Does trading efficiency require a particular level of capital*** "

In your opinion, **what are the factors that can contribute to ensuring the adequate maintenance and development of the trading infrastructure**, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence?

The questionnaire suggested some factors:

- Market operators capitalization;
- Trading and other types of commissions earned by market operators;
- Increase of diversity of services offered by market operators;
- Affiliation to international professional bodies (e.g. World Federation of Exchanges WFE, Federation of European Securities Exchanges FESE);
- Mergers with other market operators (e.g. NYSE Euronext).

Questions Asked (2)

Question 3: "*Factors other than capital affecting trading efficiency*"

Please estimate the importance of the above mentioned factors for securing the adequate maintenance and development of the trading infrastructure, covering for potential operational risks, providing comprehensive market information and securing market participants' confidence.

Respondents were required to rank the factors' importance as high, medium or low.

Question 4: "***Is market operator sole provider of trading efficiencies***"

We assume that the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence.

Do you think that third party providers (e.g. professional associations, etc.) could ensure some of the above mentioned objectives? Respondents were required to explain their answers, including evidence.

Questions Asked (3)

Question 5: “***Through which channels does capital affect trading efficiencies***”

The **enactment of Regulation no. 14/2006 has coincided with the following effects: narrower spreads, increased liquidity, increase in new investors, increase in trading volumes, introduction of new instruments, etc**. Do you think that this **is wholly due to the increase in capital held by the exchange or can other factors explain these evolutions?**

Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Under this question, respondents were asked:

a) to provide details on how their firm was affected by the new regulation before and after it was issued; and

b) if they think that this is wholly due to the increase in capital held by the exchange, or can other factors explain these evolutions.

Stakeholders were also asked to explain their answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Questions Asked (4)

Question 6: ***"…And how would you quantify impact of capital level on market indicators***"

Stakeholders were asked **to estimate the influence of the market operators' capital increase on the aforementioned capital market indicators.**

Respondents were required to rank the influences of the prescribed capital increase over the listed effects as high, medium or low.

Feedback & Response: Statutory goals at risk

Feedback from consulted stakeholders

Stakeholders estimated that market operators’ capitalization was not very important to achieve the objectives above indicated. In addition market operators’ affiliation to international professional bodies was not rated high.

Our response was that the regulation under scrutiny had a significantly positive impact on the factors identified, which are key to address the objectives set by the regulator - to ensure the adequate maintenance and development of the trading infrastructure, to cover for potential operational risks, to provide comprehensive market information and to secure market participants’ confidence.

Cost/Benefit Analysis – feedback and review

When asked if the market operator is the only entity which can secure the adequate maintenance and development of the trading infrastructure, cover for potential operational risks, provide comprehensive market information and secure market participants' confidence, stakeholders answered that **the market operator cannot be the only entity** but rather that other players should have a role (e.g. **post-trading operators**, such as clearing houses.)

When asked to consider the extent to which the regulation was responsible for the observed narrowing of spreads, increased liquidity, increase in number of new investors, increase in trading volumes, and introduction of new financial instruments, respondents answered it had a low influence with regard to all the above factors, save for the number of new intermediaries.

In our view, this is true, yet it leads to a different matter – there are very demanding capital requirements for post trading entities, too, and these are the object of **different regulations**.

There were also remarks on competition being discouraged, since one entity gave up getting authorized as a market operator; we believe this was not caused by the mandatory capital level, but since it saw better business opportunities in a different area and subsequently getting in line with other legal provisions. The new regulation was **not targeted** to a certain entity and compliance was required from all operators.

Comparison of the options

Comparison of the three options was difficult because they represented close variations of the same basic approach (ie the adoption of a capital requirement by a specified point in time). This meant that stakeholders' responses weren't clearly differentiated. Since the CBA case was not clear we made the following judgment:

Option 1 - "do-nothing" would be definitely detrimental, since it would bring about the loss of one Market Operator and subsequently a temporary closing of a domestic market, which already has a tradition and its own infrastructure. This infrastructure (post-trading institution) would have been adversely affected, too.

Option 2 is seen as better than **Option 1 and 3**, although it involves some costs, and its market impact is perceived as rather low in terms of trading volumes, quality, quantity and variety of goods and services, product innovation, and high only as regards competition.

Option 3 , with minimum capital set at 40% of the present minimum, was judged to weaken market confidence, even though capital level is not seen as the overwhelming factor affecting market confidence.

Policy Recommendations

After reviewing the findings of this RIA exercise, the Working Group recommends issuing a new regulation according to **option no. 2** – actually, such were the provisions of the examined regulation, this being an ex-post impact assessment.

We may consider that the relevant policy proposal was properly implemented and achieved its objectives. Its effects were not obvious at the outset, and it should have been kept under constant review. The review resulting in the present RIA confirms that the option adopted was adequate.

As a final remark, we found out that stakeholders do not always share regulators' views and new conclusions may arise from a consultation, possibly leading to a change of policies, with the aim of getting an optimised result.

Annex

Cost/Benefit Analysis - findings

Impact on regulated firms

Costs were divided into subcategories, as recommended by the *Guidelines*, and they are supported mostly by the regulated firms. We could collect no evidence from consumers as to their prospective costs derived from policy options considered, and this is a shortcoming of our work that could be mitigated by more extensive consultation. Though some figures were provided by consulted stakeholders we did not use them, since they are quite dispersed and we found it difficult to check and match them for the purpose of this exercise.

We chose to assess the regulation impact only on the side of regulated firms, on a qualitative basis.

Cost/Benefit Analysis - findings (1)

Impact on regulated firms

A) Quantitative costs

Stakeholders identified (including quantitative assessments) **one-off and ongoing compliance costs** stemming from **option 1.**

Stakeholders' feedback for the **do-nothing option** (no. 2) says that **some one-off compliance costs** may be incurred whilst neither ongoing compliance costs nor other kinds of costs are expected on a significant basis.

When assessing **option 3**, stakeholders identified some compliance costs (both **one-off and ongoing**) as well as **costs for meeting equity compliance**.

B) Qualitative costs

For all three options, significant qualitative costs are not foreseen.

Cost/Benefit Analysis - findings (2)

Impact on regulated firms

C) Market impact

C.1. Trading volumes: Market participants agree that **options no. 2 and no. 3** would have a positive impact on trading volumes at **medium to low** level, while **option no. 2** would generate **high impact** on trading volumes.

C.2. Quality/quantity/variety of goods and services: Market participants agreed that **options no. 2 and no. 3** would have a **medium-to-low level impact**, while **option no. 1** would generate a **high impact.**

C.3. Product innovation: Stakeholders assessed that **option no. 2** would generate a **medium-to-low impact** on product innovation, while **option no. 1** would generate **high impact,** and **option no. 3** would generate a **low impact** on product innovation.

Cost/Benefit Analysis - findings (3)

Impact to regulated firms

C.4. Competition: According to stakeholders, **option no. 2** affects competition by discouraging the setting up of a new market operator.

For **options no. 1 and no. 3** stakeholders interviewed did not envisage competition-related issues.

D) Benefits section

While assessing **option no. 2**, respondents said that some benefit might arise for the market operator rather than for intermediaries. Moreover, this option allows the capital increase of the market operator to take place (in 2008) after the capital increase of the intermediaries.
Stakeholders interviewed did not think **option no. 1** could bring benefits.

In our respondents' view, **option no. 3** allows the outline of an intermediary step in the capital increase of the market operator.

Final text of regulation

"(2) The majority of the voting rights of the market operator shareholders shall be held by the intermediaries who are admitted to trading on a regulated market(s) managed by it, unless the instruments of incorporation stipulates otherwise."

2. Article 89 shall be amended as follows:

"Bucharest Stock Exchange and Financial Monetary and Commodities Exchange Sibiu shall respect the provision of art 7, as follows:

a) By 31 December 2006, the RON equivalent of minimum Euro 750,000 calculated at the reference rate announced by the National Bank of Romania on the date of submitting the request to increase the share capital;

b) By 31 December 2007, the RON equivalent of minimum Euro 2,000,000 calculated at the reference rate announced by the National Bank of Romania on the date of submitting the request to increase the share capital;

c) By 31 December 2008, the RON equivalent of minimum 5,000,000 calculated at the reference rate announced by the National Bank of Romania on the date of submitting the request to increase the share capital;

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

NBR-Proposed Regulation Working Group

Reference facilitator: Mr. John Pyne (Irish FSA)

Minutes
of
Meeting to prepare the document to be discussed over the consultation process within the RIA exercise on a selected regulation

REGULATION No. 3/2007 ON RESTRICTIONS OF THE CREDIT RISK ON CREDITS GRANTED TO INDIVIDUALS

Bucharest, 28th June 2007

Venue:
SPI Office

Time:
From 09.30 pm to 11.40 am.

Participants:

Representatives of the Multi-institutional WG: Mr. Gabriel Valvoi - reference person *(NBR)* Ms. Oana Mesea *(NBR)* Mr. Dorel Onetiu *(NBR)*
SPI Secretariat: Ms. Ramona Bratu
Convergence Program: Mr. Riccardo Brogi

M I N U T E S

A. Context

The WG is in the process of undertaking an ex-post RIA under the guidance of Mr. John Pyne.

The regulation analyzed is the following: NBR Regulation no. 3/2007 on restrictions of the credit risk on credits granted to individuals.

To start this exercise the multi-institutional Working Group has filled a PPT template drawn from *Impact Assessment Guidelines* produced by CESR-CEBS-CEIOPS. By doing that, the WG has faced, for the first time, the sequential approach and reasoning that a regulator is expected to go through when considering a policy action. It has also prepared a consultation questionnaire. After review by and input from the facilitator, the WG is now in the position to launch the consultation process.

Following is an explanation of the steps taken to prepare for this activity.

Step I: The WG has filled the PPT template here attached in **Annex 1**.

The table of content of the PPT template was structured as follows:

- Problem identification (market/regulatory failure analysis);
- Development of main policy options;
- Definition of policy objectives;
- Analysis of impacts.

Step II*:* The facilitator has reviewed the PPT Template and has provided suggestions and remarks as they are represented here below:

Comments on RIA template

Step 1

i) market failure?
If I recall correctly, the Regulation 3/2007 replaced an earlier regulation from 2005 that imposed limits (based on income) on the levels of borrowing that consumers could draw down.

To my mind therefore there are two distinct elements to be considered:
- *a) The grounds for the repeal of the 2005 regulation, and*
- *b) The grounds for the introduction of the 2007 regulation.*

The 2005 regulation needed to be repealed because of EU competition, as identified above, however the market/regulatory failure that necessitated the 2007 regulation remains unclear. I recall from our discussion that there may be a concern among policy-makers that were the 2005 regulation to be repealed without some sort of "step-down" regulation that there was a risk that a lending free-for-all might take place. Perhaps this should be mentioned and explored?

ii) market-led solution?
Regarding Part ii), the regulatory failure caused by the 2005 regulation could not have corrected itself without intervention, however we may also need to comment on whether or not the policy concerns that gave rise to the 2007 regulation would have been corrected by the market in the short term

Step 2
i) do nothing option
Regarding i) above, perhaps we could look at the option of repealing the 2005 regulation but not having the 2007 regulation?

Step 4
CBA of options

Benefits to consumers:
1. Consumers on higher incomes will be able to borrow greater amounts for, for example, property investment.
2. It is likely that for those consumers competition may increase, resulting in lower prices (interest rates).

Costs to regulated firms:
- Given that the level and type of lending that firms can engage in may be restricted is it therefore likely that the opportunities for those firms to maximise revenues and profits will be reduced?
- I'm not sure about the relevance of the variable costs cited above, perhaps this needs to be expanded?

Benefits to regulated firms:
1. The validation of norms may facilitate some planning and investment decisions within firms,
2. Firms may benefit from the "halo effect" of regulation by the NBR,
3. The harmonisation of lending norms may reduce competition between firms.

Consultation process

These comments are offered in the context of this particular exercise which can, of necessity, only involve a limited consultation.

I would suggest that the ppt and the consultation paper template be sent to a senior economist or policy expert in the consumer agency and in the body representing the Romanian banks with a request for an informal meeting, perhaps a week later, at which they might give a reaction. In any event I would suggest that each should be sent the same documents and questions, and they should also be aware that feedback will be given to both parties in relation to both meetings – in other words, the consumers will get feedback on their views and will also be briefed on the views expressed by the banks and the feedback the banks received, and vice versa. It is important that the consultation process be open and transparent.

Step III*:* the WG has drafted a consultation questionnaire addressed to the main stakeholders. The draft questionnaire prepared by the WG is attached as **Annex 2**.

Step IV*:* The facilitator has reviewed the document and made the following remarks to implement the consultation questionnaire:

I think this is a good document and represents a systematic approach to obtaining the views of the consultation partners to the costs and benefits. As such this is both its strength and its weakness!

I would not change anything in the document, it seems appropriate, however the focus is exclusively on costs and benefits.

Other issues on which views might be sought are:
1 What, if any, unintended consequences (both positive and negative) may flow from each policy option?
2 What are the implications for competition of each of the proposals (competition between Romanian firms, and competition between Romanian firms and other passporting EU firms). This is a very important issue in the context of this particular regulation.
3 What are likely to be the social impacts of the regulation (possible issues include restriction of access to regulated credit sources, potential inflation of house prices, etc.? Are there particular impacts on socially excluded/vulnerable groups?

I believe these issues should also be addressed in the consultation process, and there should be an explicit invitation to the consultation parties to raise impacts that have not been identified in the consultation paper.

B. Meeting of June 28

The WG members attending the meeting acknowledged all the suggestions that the facilitator had proposed. The discussion consisted in reviewing and sharing each part of the draft questionnaire in view of its finalization for consultation purpose. As a result of the brainstorming a further Working Document was shaped (**Annex 3**). This incorporates amendments raised during the meeting, most of them triggered by facilitator's input. Further suggestions (those in track changes) have been entered by Convergence as a proposal. In order to finalize the questionnaire and make it ready for stakeholders, the Working Group is invited to discuss the current version and if possible make further improvements to come to a final version.

Romania RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Consultation questionnaire

Attn:

- Representative of the banking community
- Representative of consumers association

Romania Regulatory Impact Assessment Exercise by Convergence Program

Dear Sir,

The Romanian regulators are participating in an initiative organized by World Bank administered *Convergence Program*. The purpose of this initiative is to strengthen our ability to use the disciplines of impact assessment (IA) in order to improve the way in which we make policy. IA does this by requiring policy makers to use evidence and economic analysis to justify and explain their proposals. Consultation with stakeholders is a key part of the IA process because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process.

Participants in this knowledge transfer and capacity building program are the following: National Bank of Romania, Prime Ministry's Unit, Ministry of Economy and Finance, National Securities Commission, Insurance Supervision Commission, Commission for Supervision of Private Pensions System and National Authority for Consumer Protection.

Such IA training exercise involves us undertaking a retrospective IA on an existing piece of financial regulation. In this case we are looking at NBR Regulation no. 3/2007 on restrictions of the credit risk on credits granted to individuals. We are writing to you in your capacity as one of the key stakeholders affected by this piece of regulation. We have attached to this letter a questionnaire and we would be most grateful if you could arrange for its completion.

The questionnaire is designed to provide us with evidence relating to:

a) the nature of the problem that the regulation is seeking to address and

b) the costs and benefits incurred to banks and consumers taking into consideration four options.

Once the evidence has been gathered we will complete a final IA report setting out in a clear and transparent fashion what the problem was and why the regulatory response was the best means for addressing the problem.

Clearly, since this is a theoretical consultation exercise being undertaken over a shortened period of time we would not expect you to be able to devote a large amount of resource to this exercise. Nevertheless, we will be following this up with a face-to-face meeting to quality check all stakeholder responses and enhance our understanding of your answers. And, since we do intend to consult with stakeholders in the future, we regard this as a useful exercise for you too, so are looking forward to hearing from you. We very much value your cooperation.

If you have any questions regarding this exercise please contact

- Ms. Oana Mesea, Regulation and Licensing Department, National Bank of Romania, on tel: 307 01 71

- Mr. Gabriel Valvoi, Regulation and Licensing Department, National Bank of Romania, on tel: 313 o4 10/1229

- Mr. Onetiu Dorel, Supervision Department, National Bank of Romania, on tel. 313 04 10/1344

Yours sincerely

ANNEX A: Impact assessment questionnaire

Project SPI:
Proposed regulation: Regulation nr. 3/2007 on restriction of the credit risk on credits granted to individuals

Questionnaire for banks and consumers on restriction of the credit risk on credits granted to individuals

This questionnaire is part of an IA simulation exercise being carried out by functions of the Romanian government in concert with the World Bank and external IA experts from the UK and Ireland. Its purpose is to provide us with information about a problem to which a regulatory solution was found and information on the costs and benefits of the regulatory solution and of two alternative options that could in principle have been chosen instead.

Section 1: What is the problem?

In this section we consider what the rationale for a particular regulatory intervention might have been.

We are looking at NBR Regulation no. 3/2007 on restrictions of the credit risk on credits granted to individuals

In our view, the problem being addressed by this regulation is as follows: there are two distinct elements to be considered:

a) the repeal of the 2005 regulation, and

b) the introduction of the 2007 regulation.

The 2005 regulation needed to be repealed because of EU competition. Instead 2007 regulation was introduced in order to manage potential market failure consisting in not properly managing credit risk.

Question 1: do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

Question 2: the regulatory failure caused by the 2005 regulation could not have corrected itself without intervention. Do you think that the policy concerns that gave rise to the 2007 regulation would have been corrected by the market in the short term? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant, for instance statistics from other similar foreign experiences) where at all possible.

Section 2: What are the possible policy solutions.

In this section we identify 4 possible policy solutions to the problem identified in section 1 above. Clearly other options could have been considered.

The Options analyzed are the following:

I. Do Nothing Option - Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals;

II. Option 1 – The new Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals.

III. Option 2 - Self Regulation (e.g. A Voluntary Code elaborated by Lenders Professional Association)

IV. Option 3 – Bring amendments to Norms no. 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes)

Considering each of these options, please prepare answers to the questions in the following Cost Benefit Analysis (CBA) Section, to be later discussed during a meeting with our representative. For each answer, please provide a qualitative and, if possible, a quantitative assessment with a monetary value attached.

Section 3: Cost-Benefit Analysis

I. Do Nothing Option – Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals

Costs to regulated banks		
	Questions	**Answer**
1.	The repealed regulation prevented banks from granting higher volumes of loans. Do you think that maintaining the old norms would have significantly prevented an increase of lending/access to credit without impairing the quality of credit?	

Benefits to regulated banks		
	Questions	**Data**[1]
1	We think that "do nothing option" would have affected credit activity. Please provide information on the following items	
a.	- Annual Growth Rate of Credits granted to individuals	
b.	- NPL rate	
c.	- Market Share	
2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer**

[1] Please provide data regarding the period before the implementation (by the end of 2006) of Regulation 3/2007

Market impact – *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that "do nothing option" would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	
1.	Quality of products offered *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease _____ c) no significant effect_____
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease____ c) no significant effect_____
3.	Efficiency of competition *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____

Costs to consumers		
	Questions	**Answer**
1.	Do you think that consumers' access to lending is limited under these circumstances?	
2	Do you think the current option can bring other costs to consumers? Please write if any.	

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that the lending limits could protect consumers against over-indebtedness?	
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative)?	

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Further impacts not considered		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

II. Option 1 – Elaboration of a new regulation (Regulation no. 3/2007)

Costs to regulated banks		
	Questions	**Data**
Compliance costs		
We think that Option I results in compliance costs incurred by banks both for elaboration of internal norms and for procedural and IT changes. Please provide an approximate estimate of the following itemized cost categories.		
1. Elaboration of internal norms		
1.1.	- no. of persons that worked at the elaboration of norms	
1.2.	- no. of days worked by all the persons indicated in 1.1 for the elaboration of norms	
1.3.	- average monthly salary of people involved in the elaboration of norms	
2. IT Costs		
2.1	- the total no. of persons that worked at the implementation of IT system	
2.2	- no. of days worked by all the persons indicated in 2.1 for the elaboration/installation of new software	
2.3	- average monthly salary of an IT person in the bank	
2.4	- *new soft acquisition*	
3. Training of personnel costs		
3.1	- no. of training sessions held for the new norms	
3.2	- no. of hours of a training session	
3.3.	- average monthly salary for a trainer	
4. Validation Costs		
4.1	- no. of persons collaborating with NBR in the process of validation	
4.2	- no. of days worked by all persons indicated in 4.1 for the validation process of norms	
4.3	- average monthly salary of people	

Costs to regulated banks		
	Questions	**Data**
	involved in the elaboration of norms	
Indirect costs[2]		
1.	- There are indirect costs to banks produced by option 1 that you may deem should be considered?	

Other direct costs		
	Questions	**Answer**
1.	Do you that this option can produce other direct costs that have not been taken into account? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible	

Benefits to regulated banks		
	Questions	**Data**[3]
1	We think that "Option I" has affected credit activity. Please provide information on the following items	
a.	- Annual Growth Rate of Credits granted to individuals	
b.	- NPL rate	
c.	- Market Share	
2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer**

[2] Namely, those costs which are negative effects of a regulatory policy in the market. Indirect costs are usually divided further into the costs resulting from a change in the quantity, the quality and the variety of products sold, as well as a change in the effectiveness of competition.

[3] Data referring to 1 year implementation period.

Market impact– *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that "Option I" would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	
1.	Quality of products offered *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____
3.	Efficiency of competition *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____

Costs to consumers		
	Questions	**Answer**
1	Do you think that consumers' access to lending is limited under these circumstances?	
2.	Do you think that lending costs will increase?	
3.	Do you think that lower income consumers will be disadvantaged because of taking in consideration the deductible expenses (living)?	
4	Do you think the current option can bring other costs to consumers? Please write if any.	

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that consumers' access to lending is improved under these circumstances?	
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative)[4]?	

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices,)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

[4] For banks, an example could be the losses registered within the period between the elaboration and validation of internal norms.

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	.

III. Option 2 Self Regulation (e.g. Voluntary Code)

Costs to regulated banks		
	Questions	**Answer**
Compliance costs		
1	**Elaboration of the Voluntary Code**	
1.1.	Should a self-regulatory solution have been adopted, do you think that banks would have incurred additional[5] significant costs? If yes, please explain some example of costs.	
2. Elaboration of internal norms		
2.1.	In comparison to your reply to Question 1 under Option 1, how do you assess the elaboration of self-regulatory norms (e.g. Voluntary Code) in terms of staff required?	
.a)	Option 2 would have been significantly more expensive than option 1 in terms of staff required	
b).	Option 2 would have been significantly less expensive than option 1 in terms of staff required -	
c).	Option 2 would have been not significantly different from option 1 in terms of staff required	
3. IT Costs *(to prepare and implement adequate software programs with different parameters on indebtedness, scoring and other internal procedural rules related to lending activity)*		

[5] In comparison with "do nothing option".

Costs to regulated banks		
	Questions	**Answer**
3.1	In comparison to your reply to Question 2 under Option 1, how do you assess the elaboration of self-regulatory norms (e.g. Voluntary Code) in terms of implied IT costs?	
a)	Option 2 would have been significantly more expensive than option 1 in terms of implied IT costs	
b)	Option 2 would have been significantly less expensive than option 1 in terms of implied IT costs	
c)	Option 2 would have been not significantly different from option 1 in terms of implied IT costs	
4. Training of personnel costs		
4.1	In comparison to your reply to Question 3 under Option 1, how do you assess the elaboration of self-regulatory norms (e.g. Voluntary Code) in terms of implied training costs?	
a)	Option 2 would have been significantly more expensive than option 1 in terms of implied training co sts	
b)	Option 2 would have been significantly less expensive than option 1 in terms of implied training costs	
c).	Option 2 would have been not significantly different from option 1 in terms of implied training costs	

Benefits to regulated banks		
	Questions	**Data**[6]
1	We think that "Option II" has affected credit activity. Please provide information on the following items	
a.	- Annual Growth Rate of Credits granted to individuals	
b.	- NPL rate	
c.	- Market Share	
2	Do you think that there are other benefits that have not been	**Answer**

[6] Data referring to 1 year implementation period.

	considered? Please suggest	

Market impact– *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that “Option I” would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	
1.	Quality of products offered *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	a) significant increase______ b) significant decrease_____ c) no significant effect_____
3.	Efficiency of competition *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____

Costs to consumers		
	Questions	**Answer**
1.	Do you think that lending costs will increase?	
2.	Do you think that self – regulation could lead to arbitrary decision in lending to individuals?	

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that consumers’ access to lending is improved under these circumstances?	
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending	- Distortion of competition;

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative) [7]?	

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Social impact		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being	

[7] For banks, an example could be the losses registered within the period between the elaboration and validation of internal norms.

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

IV. Option 3 – Bring amendments to Norm 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes)

Costs to regulated banks		
	Questions	**Data**
Compliance costs		
We think that Option 3 results in compliance costs for banks. Please provide an approximate estimate of the following itemized cost categories.		
1	**Elaboration of new internal norms**	
1.1	In comparison to your reply to Question 1 under Option 1, how do you assessOption 3 solution in terms of staff required?	
.a)	Option 3 would have been significantly more expensive than option 1 in terms of staff required	
b).	Option 3 would have been significantly less expensive than option 1 in terms of staff required -	
c).	Option 3 would have been not significantly different from option 1 in terms of staff required	
2. IT Costs *(to prepare and implement adequate software programs with different parameters on indebtedness, scoring and other internal procedural rules related to lending activity)*		
2.1	In comparison to your reply to Question 3 under Option 1, how do you assess Option 3 solution in terms of implied IT costs?	
a)	Option 3 would have been significantly more expensive than option 1 in terms of implied IT co sts	
b)	Option 3 would have been significantly less expensive than option 1 in terms of implied	

Costs to regulated banks		
	Questions	**Data**
	IT costs	
c).	Option 2 would have been not significantly different from option 1 in terms of implied training costs	
3. Training of personnel costs		
3.1	- no. of training sessions held for the new norms	
3.2	- no. of hours of a training session	
3.3.	- average monthly salary for a trainer	

Other direct costs		
	Questions	**Answer**
1.	Do you that this option can produce other direct costs that have not been taken into account? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible	

Benefits to regulated banks		
	Questions	**Data**[8]
1	We think that "Option 3" has affected credit activity. Please provide information on the following items	
a.	- Annual Growth Rate of Credits granted to individuals	
b.	- NPL rate	
c.	- Market Share	
2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer**

[8] Data referring to 1 year implementation period.

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that “Option I” would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	
1.	Quality of products offered *(Please choose among the proposed options)*	a) significant increase__ b) significant decrease_____ c) no significant effect_____
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	a) significant increase______ b) significant decrease_____ c) no significant effect_____
3.	Efficiency of competition *(Please choose among the proposed options)*	a) significant increase_____ b) significant decrease_____ c) no significant effect_____

Costs to consumers		
	Questions	**Answer**
1.	Do you think that lending costs will increase?	
2.	Do you think that lower income consumers will be disadvantaged because of taking in consideration the deductible expenses (living)?	

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that consumers’ access to lending is improved under these circumstances?	
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative)?	

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being taken into account of and which	No.

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	

III. General questions

A. Do you consider Regulation no. 3 is the best option for your interest?

Yes ☐ No ☐

B. Do you think that the new norms validated by NBR will improve credit quality?

Yes ☐. No ☐

C. Do you think that the new norms validated by NBR will improve the portfolio of clients?

Yes ☐ No ☐

Summary of Questionnaire Results

Project SPI:
Proposed regulation: Regulation nr. 3/2007 on restriction of the credit risk on credits granted to individuals

Questionnaire for banks and consumers on restriction of the credit risk on credits granted to individuals

This questionnaire is part of an IA simulation exercise being carried out by functions of the Romanian government in concert with the World Bank and external IA experts from the UK and Ireland. Its purpose is to provide us with information about a problem to which a regulatory solution was found and information on the costs and benefits of the regulatory solution and of two alternative options that could in principle have been chosen instead.

Section 1: What is the problem?

In this section we consider what the rationale for a particular regulatory intervention might have been.

We are looking at NBR Regulation no. 3/2007 on restrictions of the credit risk on credits granted to individuals

In our view, the problem being addressed by this regulation is as follows: there are two distinct elements to be considered:

a) the repeal of the 2005 regulation, and

b) the introduction of the 2007 regulation.

The 2005 regulation needed to be repealed because of EU competition. Instead 2007 regulation was introduced in order to manage potential market failure consisting in not properly managing credit risk.

Question 1: do you agree with us that the problem is as described above? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.

CONSUMERS: Yes.

BANK 1: Yes, we agree to the description above

NBFI 1 : Yes, we agree with your assessment of the problem. However, please note that the replacement of the 2005 regulation by the 2007 regulation does not create a free competitive market due to the fact that NBR, when approving crediting norms for the players, still limits the debt to income ratio applicable to consumer lending according to internal rules which are not transparent to the market.

NBFI 2 : Yes, it needed correction, but lack of proper consultation resulted in a new regulation that is very unclear and introduces divisions in the market. These divisions are anticompetitive in that large NBFI’s (in the Special Register) are subjected to strict lending controls that smaller NBFI's (in the General Register) do not have to comply with. On top of this, an NBFI that has passported into the country using their European parent banking licence does not have to comply with any lending regulations imposed by the NBR at all, irrespective of their size.

Question 2: the regulatory failure caused by the 2005 regulation could not have corrected itself without intervention. Do you think that the policy concerns that gave rise to the 2007 regulation would have been corrected by the market in the short term? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant, for instance statistics from other similar foreign experiences) where at all possible.

CONSUMERS: Concerning EU competition - a measure should have been taken. There is still the risk of distortion of competition as Norm 3/2007 does not apply to all credit institutions.

BANK 1: The market would have corrected some of the concerns, but it is hard to estimate if this would have happened on short term (say 1 year) or medium term (say 2-3 years). Anyway, it is hard to believe that the market would have corrected AALL of the concerns in a short term

NBFI 1: Indeed, the issues generated by the 2005 regulation could not have been corrected by the market itself. Therefore, we believe that an intervention was needed however, we do not believe that the way the 2007 regulation approached the issue was appropriate. It is important to understand that the main driver for the players in the market is the development of profitable activity, which implies inter alia also a proper risk management.

We admit that some heretic movements in the market of some players with high risk appetite could lead to isolated unbalances, but these players are monitored by NBR in their general behaviour, including but not limited to their financial performance.

NBFI 2: As shown by ALB, our trade Association, credit restrictions, such as imposing maximum credit limits have unintended consequences on the financial market, and, consequently, a negative impact on consumers.

The restrictions introduced in 2005 generated distortions on the financial market such as:

- There is a tendency to grant credits on longer terms, so that the monthly repayments observe the allowed limits, the consequence being more expensive credits for customers.
- Lenders are encouraged to grant loans at the maximum value allowed, over the amount the customer needs, aiming at excluding competition. Consequently, customers may end up contracting credits that exceed their financial needs.

- The customers on low income are financially excluded, because they will not have access to loans any longer. In this case, the consequence is encouraging the illegal crediting.

As regards the consumer credit, the latest developments have shown that the market immediately reacted and found alternatives very fast. For example, the “credit with ID” – a concept widely mentioned in the media, but which didn’t exist in reality (creditors applied their own system of verifying the potential customers) – has been replaced by flexible instruments, such as credit cards.

Credit restrictions limit this growth potential, and more seriously, affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term.

There are also studies showing that a too low level of credit create debt problems. Although it looks surprising at first glance, the *ORC Macro Study of the problem of Consumer Indebtedness* conducted for the European Commission in 2001 shows that in **countries** (Austria, Germany, Greece, Spain, Italy and Portugal) **credit level is low** *there is a high proportion of indebted households with debt problems”*. One explanation is that *“households in countries with restricted access to credit are severely constrained in their ability to borrow and to smooth out fluctuations in income and other adverse impacts” (ORC Macro Study of the problem of Consumer Indebtedness).*

Maintaining lending restrictions considerably affects the process of credit sector liberalization and does not lead to the results expected. As mentioned above, concrete data show that economies without credit restrictions operate more efficiently than the ones where such restrictions exist.

Section 2: What are the possible policy solutions.

In this section we identify 4 possible policy solutions to the problem identified in section 1 above. Clearly other options could have been considered.

The Options analyzed are the following:
I. Do Nothing Option - Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals;
II. Option 1 – The new Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals.
III. Option 2 - Self Regulation (e.g. A Voluntary Code elaborated by Lenders Professional Association)
IV. Option 3 – Bring amendments to Norms no. 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes)

Considering each of these options, please prepare answers to the questions in the following Cost Benefit Analysis (CBA) Section, to be later discussed during a meeting with our representative. For each answer, please provide a qualitative and, if possible, a quantitative assessment with a monetary value attached.

Section 3: Cost-Benefit Analysis

I. Do Nothing Option – Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals

Costs to regulated banks		
	Questions	**Answer**
1.	The repealed regulation prevented banks from granting higher volumes of loans. Do you think that maintaining the old norms would have significantly prevented an increase of lending/access to credit without impairing the quality of credit?	**BANK 1:** No. We think that the quality of credit isn`t in direct relationship with the old repayment rule. The customers capacity of repayment is not correctly appreciated and this thing generate bad debts. **NBFI 1:** We agree that Norm 10 significantly prevented an increase of lending access to credit, and as a consequence preserved the quality of credit. According to G.O. no. 28/2006 our company started to be supervised by NBR at the end of 2006 and started to apply Norm 10 immediately. In 7 month the consumer portfolio decreased with 71 %. **NBFI 2:** As stated by our trade association, ALB, the implementation of the old norms had some unintended consequences that caused distortions on the market: - Lending on longer terms (to ensure that the monthly repayment rate is under the maximum limit), with a negative impact on costs and credit risk (NBR statistics could be available) - Increased bureaucracy - Financial exclusion of low income

Costs to regulated banks		
	Questions	**Answer**
		categories - Anti-competitive market – unfavorable treatment for NBFI's compared with banks. In addition, the current regulation creates discriminatory conditions between NBFIs in the Special Registry and those in the General Register. Moreover, the passporting rules will favor NBFIs set up by credit institutions based in other EU countries, which do not have to observe the credit restrictions. In effect consumers were charged higher interest rates for this option as they often repaid the loans earlier than term in order to borrow again.

Benefits to regulated banks		
	Questions	**Data**[1]
1	We think that "do nothing option" would have affected credit activity. Please provide information on the following items	**NBFI 1:** Comment: Many non banking financial institution, including our company, which implemented Norm 10 after the registration in the Special Register and did not obtain yet the approval of a new credit policy from NBR, are still falling within a situation very similar to the "Do Nothing Option" **NBFI 2:** Not applicable due to the fact the **NBFI 2** started its operations at the beginning 2006.
a.	- Annual Growth Rate of Credits granted to individuals	**BANK 1:** 40.25% in 2006 **NBFI 1:** - decrease with 71% in 7 months **NBFI 2:**
b.	- NPL rate	**BANK 1:** 0.90% (off-balance sheet individuals loans and past due individual loans more than 90 days) **NBFI 1:** Mid 2007 – 0.0538 % **NBFI 2:**

[1] Please provide data regarding the period before the implementation (by the end of 2006) of Regulation 3/2007

c.	- Market Share	**BANK 1 :** 6.45% for individuals loans at 31.05.2007 **NBFI 1:** decreasing from 0.55 % to 0.17 % in 7 months (percentages as of total leasing market, including corporate) **NBFI 2:**
2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer** **BANK 1:** Cannot evaluate **NBFI 1:** We did not perceive any benefits whatsoever in the “:Do Nothing Option” **NBFI 2:** Not the case

Market impact – *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that “do nothing option” would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	**NBFI 2:** This option created an anticompetitive environment for NBFI’s, who were treated like banks, even though they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products. The conditions for NBFIs were discriminatory also because they did not have access to overdrafts, which were exempted from the credit restrictions. The credit insurance element could have also caused problems, increasing the costs for the consumers (this requirement has been eventually removed from the regulation). As regards the competitive aspect, one consequence of the N10/2005 was that lenders were encouraged to rule out competitors by granting loans up to the maximum limit, without properly evaluating the customer’s solvency. We can not answer this question more specifically, because **NBFI 2** provides a single product.
1.	Quality of products offered *(Please choose among the proposed options)*	**CONSUMERS:** a) significant increase_____ b) significant decrease – probably c) no significant effect_____

		BANK 1 : a) significant increase_____ b) significant decrease_____ c) no significant effect_X____ **NBFI 1:** a) significant increase_____ b) significant decrease_____ c) no significant effect_YES____ **NBFI 2:**
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	**CONSUMERS:** a) significant increase_____ b) significant decrease_yes____ c) no significant effect_____ **BANK 1:** a) significant increase_____ b) significant decrease__ X _ c) no significant effect__ ___ **NBFI 1:** a) significant increase_____ b) significant decrease_____ c) no significant effect_YES____ (compared to the 2005 situation) **NBFI 2:**
3.	Efficiency of competition *(Please choose among the proposed options)*	**CONSUMERS:** a) significant increase_____ b) significant decrease__ yes ___ c) no significant effect_____ **BANK 1:** a) significant increase_____ b) significant decrease__ X__ c) no significant effect___ _ **NBFI 1:** a) significant increase_____ b) significant decrease_YES____ c) no significant effect_____ **NBFI 2:**

Costs to consumers		
	Questions	**Answer**
1.	Do you think that consumers' access to lending is limited under these circumstances?	**CONSUMERS:** For some categories of consumers access to lending is limited. **BANK 1:** Yes, since the monthly repayment value is limited to max 40% of the monthly income, no matter if it is a 300 EUR or 5000 EUR monthly income. **NBFI 1:** Yes, significantly limited.

Costs to consumers		
	Questions	**Answer**
		NBFI 2: Lower income groups found (and still find) it much harder to meet the minimum threshold imposed by lenders (banks and NBFIs in the Special Registry), according to the Norm 10 and the existing regulations. Such restrictions affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term.
2	Do you think the current option can bring other costs to consumers? Please write if any.	**CONSUMERS:** No. **BANK 1:** A shift of costs from interest rate to loan fees and commissions **NBFI 1:** Yes, because compliance with any regulation would induce additional costs for the players (to be transferred to the consumers). **NBFI 2:** By maintaining the limits on credit restrictions, the current regulation continues to favor lending on longer terms, which increases the costs for the consumers. Categories of consumers on low income are financially excluded, which could encourage illegal lending.

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that the lending limits could protect consumers against over-indebtedness?	**CONSUMERS**: Yes, lending limits to prevent consumers' over-indebtedness are necessary. **BANK 1:** No, as long as there is no nationwide database containing all the granted loans, and banks have to rely more or less on individual statements regarding indebtness. **NBFI 1:** In a certain measure, but this should be assessed by the client and the lender considering the risk profile of the consumer

Benefits to consumers		
	Questions	**Answer**
		NBFI 2: Studies conducted in highly developed financial markets show that the main causes of over-indebtedness are life events (unemployment, marriage breakdown, childbirth). Arrears are also generated by household bills, rather than credit (e.g. UK – the Kempson study on over-indebtedness in Britain conducted for the Department of Trade and Industry in 2002 DTI). As mentioned before, credit restrictions affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term. There are also studies showing that a too low level of credit create debt problems. Although it looks surprising at first glance, the *ORC Macro Study of the problem of Consumer Indebtedness* conducted for the European Commission in 2001 shows that in **countries** (Austria, Germany, Greece, Spain, Italy and Portugal) where **credit level is low** *there is a high proportion of indebted households with debt problems"*. One explanation is that *"households in countries with restricted access to credit are severely constrained in their ability to borrow and to smooth out fluctuations in income and other adverse impacts"*.
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	**CONSUMERS:** No. **BANK 1:** No **NBFI 1:** No benefits foreseen. **NBFI 2:** NA

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to	**CONSUMERS:** No.

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative)?	**BANK 1:** Negative consequences: Limits the acces of customers to mortgage loans (the regulated 25 % downpayment) Limits the acces of medium to high income customers to loans with higher value. Positive consequences: None **NBFI 1:** We agree that the development of responsible lending practices is important in a healthy market. However, 2005 regulation introduces significant distortions in the market due to: i) timing differences between the registration of certain NBFIs with the Special Register (and hence the application of the crediting constraints); ii) the existence of two level of supervision for different players (those in the Special Register and those in the General Register) iii) the existence of other passporting EU firms which do not fall under the NBR supervision **NBFI 2:** In the UK, a highly developed financial market, responsible lending practices are ensured through **strong industry codes of practice, debt advice systems and networks** (e.g. Citizens' Advice have about 2,000 or so outlets), **legal rules** to give the customer a breathing space (e.g. time orders and default notices), **insolvency systems** to deal with irretrievable problems (e.g. bankruptcy, administration orders & IVAs), and **devices within the credit product itself** (e.g. minimum payment on credit cards; e.g. the new **flexible** mortgages). Shock absorption systems within modern credit products are often overlooked but are vitally important. **The unintended consequences** of the old and current credit restrictions in Romania are: - Lending on longer terms, with a

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		negative impact on costs and credit risk - Increased bureaucracy - Financial exclusion of low income categories - Anti-competitive market (see above).

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS:** Yes, distortion of competition. **BANK 1:** All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy. Competition on the market is affected. **NBFI 1:** Yes, passporting EU firms (not being supervised by NBR) have an important competitive advantage compared to supervised institution. Also, Romanian NBFIs which are not supervised by NBR due to the delays in the registration procedure, as well as the NBFIs that qualified only for the registration in the General Register, have an important competitive advantage compared to players qualified for the Special Register. **NBFI 2:** According to the current regulation, credit restrictions apply only to banks and NBFIs in the Special Registry. Firstly, NBFIs shall no be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products. Secondly, the current regulations are discriminatory also because NBFIs in the Special Registry have to comply with stricter rules that those in the General Register. Thirdly, the passporting rules are likely to

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		increase unfair competition, because credit restrictions do not apply to the NBFIs set up in Romania by credit institutions based in other EU countries.

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS:** No. **BANK 1:** Medium to high income customers have limited aces to loans of high nominal value. Prices oh houses could not increase too much, because customers were not able to access large value loans. **NBFI 1:** The restriction of access to regulated credit sources will lead the clients to non-regulated, expensive and (from social perspective) riskier markets. **NBFI 2:** Categories of consumers on low income are financially excluded, which could encourage illegal lending. As mentioned before, credit restrictions affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term. There are also studies showing that a too low level of credit create debt problems (*the ORC Macro Study of the problem of Consumer Indebtedness).*

Further impacts not considered		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being	**CONSUMERS:** No.

Further impacts not considered		
	Questions	**Answer**
	taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**BANK 1:** Nothing we can identify at this moment, apart of those described in the answers above . **NBFI 1:** In order to comply with the DTI ratio constraints, the players in the market would try to find alternative solutions, most of them leading to higher risks to be assumed by the lender (e.g. longer tenors, non-commercial interest rates). Finally, this would end up in higher costs for the system (although the short term effects would be beneficial for the consumers). **NBFI 2:**

II. Option 1 – Elaboration of a new regulation (Regulation no. 3/2007)

Costs to regulated banks		
	Questions	**Data**
Compliance costs		
We think that Option I results in compliance costs incurred by banks both for elaboration of internal norms and for procedural and IT changes. Please provide an approximate estimate of the following itemized cost categories.		**NBFI 2:** NBFI 2 has been included in the General Registry of NBFIs. The company will have to submit the internal lending policies to the NBR once it will be included in the Special Registry, possibly in the second half of 2008. The rough estimate of the costs for drafting the new internal policies is approx 120,000 Euro.
1. Elaboration of internal norms		
1.1.	- no. of persons that worked at the elaboration of norms	**BANK 1**: 6 persons for CC and OD regulation and 2 persons for individual loans regulation **NBFI 1**: 3 **NBFI 2:** NA
1.2.	- no. of days worked by all the persons indicated in 1.1 for the elaboration of norms	**BANK 1**: 5 days worked by the persons implicated in CC and OD norms elaboration and 30 days worked by the other mentioned persons. **NBFI 1:**

Costs to regulated banks		
	Questions	**Data**
		30 **NBFI 2:** NA
1.3.	- average monthly salary of people involved in the elaboration of norms	**BANK 1:** 1.000 EUR **NBFI 1:** EURO 1800 (net) **NBFI 2:** NA
2. IT Costs		
2.1	- the total no. of persons that worked at the implementation of IT system	**BANK 1:** 5 **NBFI 1**: 3 **NBFI 2:** NA
2.2	- no. of days worked by all the persons indicated in 2.1 for the elaboration/installation of new software	**BANK 1**: 10 **NBFI 1**: 120 **NBFI 2:** NA
2.3	- average monthly salary of an IT person in the bank	**BANK 1**: 1500 EUR **NBFI 1**: **NBFI 2:** NA
2.4	- *new soft acquisition*	**BANK 1:** **NBFI 1**: EURO 900 (net) **NBFI 2:** NA
3. Training of personnel costs		
3.1	- no. of training sessions held for the new norms	**BANK 1**: Not available yet **NBFI 1**: 10 **NBFI 2:** NA
3.2	- no. of hours of a training session	**BANK 1**: Not available yet **NBFI 1**: 4 **NBFI 2:**

Costs to regulated banks		
	Questions	**Data**
		NA
3.3.	- average monthly salary for a trainer	**BANK 1:** Not applicable because of the two answers above **NBFI 1**: EURO 1000 (NET) **NBFI 2:** NA
4. Validation Costs		
4.1	- no. of persons collaborating with NBR in the process of validation	**BANK 1:** 9 **NBFI 1:** 3 **NBFI 2:** NA
4.2	- no. of days worked by all persons indicated in 4.1 for the validation process of norms	**BANK 1:** 30 **NBFI 1**: 3 **NBFI 2:** NA
4.3	- average monthly salary of people involved in the elaboration of norms	**BANK 1**: 1000 EUR **NBFI 1**: EURO 1800 (net) **NBFI 2:** NA
Indirect costs[2]		
1.	- There are indirect costs to banks produced by option 1 that you may deem should be considered?	**BANK 1**: Amounts payd to service providers for outsourced development of lending systems (e.g. for card related lending) **NBFI 1**: Cost of managing the ongoing relationship with the NBR (e.g. personnel, IT system upgrade) **NBFI 2:** NA

[2] Namely, those costs which are negative effects of a regulatory policy in the market. Indirect costs are usually divided further into the costs resulting from a change in the quantity, the quality and the variety of products sold, as well as a change in the effectiveness of competition.

Other direct costs		
	Questions	**Answer**
1.	Do you that this option can produce other direct costs that have not been taken into account? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible	**BANK 1:** Stationary costs (update of credit applications, loan agreements, etc, destroying "old" stationary) **NBFI 1:** No other foreseen direct costs. **NBFI 2:** NA

Benefits to regulated banks		
	Questions	**Data**[3]
1	We think that "Option I" has affected credit activity. Please provide information on the following items	**NBFI 2:** Not applicable due to the fact the **NBFI 2** started its operations in 2006 and is included in the General Registry of NBFIs.
a.	- Annual Growth Rate of Credits granted to individuals	**BANK 1**: Cannot estimate at this moment (our bank has not yet been granted approval for the "new" Loan Norms/procedures **NBFI 1**: No identified yet due to the delays in the new crediting norms approval process **NBFI 2:** NA
b.	- NPL rate	**BANK 1:** Not applicable because of the answer above **NBFI 1**: No identified yet due to the delays in the new crediting norms approval process. **NBFI 2:** NA
c.	- Market Share	**BANK 1**: Not applicable because of the answer above **NBFI 1**: No identified yet due to the delays in the new crediting norms approval process. **NBFI 2:** NA

[3] Data referring to 1 year implementation period.

2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer** **BANK 1:** Cannot estimate **NBFI 1**: No foreseen benefits. **NBFI 2:** NA

Market impact– *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that "Option I" would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	**NBFI 1**: Comment 1: After Regulation 3 enforcement consumers were lead to those financial institutions which: 1. succeeded to obtain an approval for the new credit policy from NBR after Regulation 3 enforcement 2. were not registered in the Special Register (eligible NBFIs which postponed their registration process) 3. not have to be registered in the Special register (other passporting EU financial institutions, NBFIs registered only in the General Regsiter) Comment 2: criteria used in approving the new credit procedure for banks/NBFIs are not transparent to the market and). **NBFI 2:** As already mentioned, according to the current regulation, credit restrictions apply only to banks and NBFIs in the Special Registry. Firstly, NBFIs shall no be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products. Secondly, the current regulations are discriminatory also because NBFIs in the Special Registry have to comply with stricter rules that those in the General Register. Thirdly, the passporting rules are likely to increase unfair competition, because credit restrictions do not apply to the NBFIs set up in Romania by credit institutions based in other EU countries.

1.	Quality of products offered *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__probably b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase_____ b) significant decrease_____ c) no significant effect___X__ **NBFI 1**: a) significant increase__YES b) significant decrease_____ c) no significant effect_____ **NBFI 2:**
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__yes___ b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase_____ b) significant decrease_____ c) no significant effect___ X _ **NBFI 1**: a) significant increase__YES b) significant decrease_____ c) no significant effect_____ **NBFI 2:**
3.	Efficiency of competition *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__yes b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase_____ b) significant decrease___ __ c) no significant effect____ X _ **NBFI 1**: a) significant increase________ b) significant decrease_____YES c) no significant effect_____ **NBFI 2:**

Costs to consumers		
	Questions	**Answer**
1	Do you think that consumers' access to lending is limited under these circumstances?	**CONSUMERS**: - Some categories of consumers (with low incomes) would not have access to lending. - Consumers would have to gather and

Costs to consumers		
	Questions	**Answer**
		assimilate not only large amount of information but also a very diversified one, therefore consumers could have difficulties when comparing the credit offers. **BANK 1**: Yes , for customers whit monthly income below 350 EUR and supporting a family of at least 3 members **NBFI 1**: Yes, we consider that the access is still limited because only a limited number of players are in the categories mentioned above Comment 1 **NBFI 2:** Categories of consumers on low income are financially excluded, which could encourage illegal lending.
2.	Do you think that lending costs will increase?	**CONSUMERS**: It could be possibly, but, at the same time, if competition increases, then this could be surpassed. **BANK 1**: Yes for most of the customers, no for the upper customer segment (say people whit monthly income above 2000 EUR) **NBFI 1**: The lending costs will increase due to implementation and compliance costs **NBFI 2:** The costs will increase due to the fact that the tendency to lend on longer terms in order to comply with the maximum credit exposure will be maintained.
3.	Do you think that lower income consumers will be disadvantaged because of taking in consideration the deductible expenses (living)?	**CONSUMERS**: Yes. **BANK 1**: YES . (customers wiht monthly income below 350 EUR/month, having to support a 3 members family will NOT qualify under the current regulations no 3/2007 for any tipe of bank loans, given that the minimum deductible expenses -living costs - are currently around 100 EUR per family member)

Costs to consumers		
	Questions	**Answer**
		NBFI 1: Yes, thei will be disadvantaged. Even more, the quasi-monetary incomes like meal tickets are not considered as a part of the monthly income, even if these instruments are fully regulated. **NBFI 2:** As mentioned before, credit restrictions affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term. Studies show that in **countries where credit level is low** *"there is a high proportion of indebted households with debt problems"* (*the ORC Macro Study of the problem of Consumer Indebtedness).*
4	Do you think the current option can bring other costs to consumers? Please write if any.	**CONSUMERS**: Consumers would need to use more resources (time, the documents needed to obtain the credit could vary very much form one bank to another, own rules of banks could become stronger) in order to find out and gather information and to obtain the credit. **BANK 1**: YES, at least for customers in the lower segment that still qualify for loans (say between 500-100 EUR monthly income) Banks will probably try to compensate the shrinking of the customer base whit higher fees/commissions (not necessary higher interest rates) applied to loans **NBFI 1**: Probably, some players will adjust their pricing with a risk premium according to the coustomer category. **NBFI 2:** The current credit restrictions considerably affect the process of credit sector liberalization, with a negative impact on the costs and the availability of financial services for consumers.

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that consumers' access to lending is improved under these circumstances?	**CONSUMERS**: Yes, for certain categories of consumers. **BANK 1**: No . Only people whit income of at least 1000-1500 EUR/month will benefit from the new regulation 3/ 2007 **NBFI 1**: If applied consistently and transparently, the Regulation 3 should lead to more flexible crediting norms that will broaden the range of products the individuals would have access to. **NBFI 2:** Not the case.
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	**CONSUMERS**: Diversity of products – qualitative and quantitative. **BANK 1:** Better acces to high value loans for customers whot monthly income higher than 2000 EUR **NBFI 1**: Benefits: - wider range of products - better products for the consumers, due to competition efficiency **NBFI 2:** Not the case.

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative)[4]?	**CONSUMERS**: Yes. It would take time for consumers to familiarize with the new rules. **BANK 1**: Negative consequences: Low to medium income customers will get no or less credit than under the previous regulations. Prices of houses may increase . Positive consequences:

[4] For banks, an example could be the losses registered within the period between the elaboration and validation of internal norms.

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		Above medium income customers will access higher volumes of loans than under the previous regulations. Overall consequences: The number of customers that qualify for loans will decrease, competition between banks to attract ”good” customers will increase, and will probably bring a cost decrease for these customers. The customers that will not have access to bank loans will probably move toward Non Bank financial Institutions, which will ask higher prices for their loans, because there will be no competition against bank. As a result: wealthy people will constantly increase their living standards, people whit below average income will pay more for financial services, especially loans. **NBFI 1**: We agree that the development of responsible lending practices is important in a healthy market. However, 2007 regulation introduces significant distortions in the market due to: i)timing differences between the registration of certain NBFIs with the Special Register (and hence the application of the crediting constraints) ii) timing differences between the approvals of the credit policy for different players iii) the existence of two level of supervision for different players (those in the Special Register and those in the General Register) iv) the existence of other passporting EU firms which do not fall under NBR supervision **NBFI 2:** Credit restrictions (N no 10/2005 and Regulation no3/2007) question, in fact, the capability of lenders to grant loans responsibly. In Romania, the legal framework ensures through monitoring different indicators the health of financial

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		institutions. Credit restrictions of this type are causing distortions on the market, as mentioned before: - Lending on longer terms, with a negative impact on costs and credit risk - Increased bureaucracy - Financial exclusion for persons on low income - Anti-competitive market

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: On one hand it would increase competition between Romanian firms, on the other hand, it would determine distortion of competition between Romanian firms and other passporting EU firms which are not subject to the regulation. **BANK 1**: All Romanian registrated banks will have to get National Bank of Romania approval/advise for their lending norms/procedures. All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy. Competition on the market is affected. **NBFI 1**: All above mentioned issues are arguments for the fact that the free competition on the credit market is impaired. **NBFI 2:** As already mentioned, according to the current regulation, credit restrictions apply only to banks and NBFIs in the Special Registry. Firstly, NBFIs shall no be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		deposits) or in terms of portfolio of products. Secondly, the current regulations are discriminatory also because NBFIs in the Special Registry have to comply with stricter rules that those in the General Register. Thirdly, the passporting rules are likely to increase unfair competition, because credit restrictions do not apply to the NBFIs set up in Romania by credit institutions based in other EU countries.

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices,)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: It is hard to estimate at this stage. **BANK 1**: Low to medium income customers will get no or less loans than under the previous regulations. Above medium income customers will aces higher volumes of loans than under the previous regulations. The number of customers that qualify for loans will decrease, competition between banks to attract ”good” customers will increase, and may bring a cost decrease for the upper segment of customers. The customers that will not have aces to bank loans will move toward Non Bank financial institutions, which will ask higher prices for their loans, because there will be no competition against bank. As a result: wealthy people will constantly increase their living standards, people whit below average income will pay more for financial services, especially loans. Consumer lending will stagnate or only slightly increase (for banks, at least as number of loans granted). **NBFI 1**: 1. The over indeptedness of certain customers, bad debts followed by

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		debit execution 2. Potential inflation of house prices **NBFI 2:** Categories of consumers on low income are financially excluded, which could encourage illegal lending. As mentioned before, credit restrictions affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term. There are also studies showing that a too low level of credit create debt problems (*the ORC Macro Study of the problem of Consumer Indebtedness).*

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: No. **BANK 1**: Nothing we can identify at this moment, apart of those described in the answers above . **NBFI 1**: **NBFI 2:** The current credit restrictions considerably affect the process of credit sector liberalization, with a negative impact on the costs and the availability of financial services for consumers.

III. Option 2 Self Regulation (e.g. Voluntary Code)

Costs to regulated banks		
	Questions	**Answer**
Compliance costs		
1	**Elaboration of the Voluntary Code**	
1.1.	Should a self-regulatory solution have been adopted, do you think that banks would have incurred additional[5] significant costs? If yes, please explain some example of costs.	**NBFI 1**: The elaboration process will engage significant of resources (people, systems, processes) that will be reflected in credit costs. **NBFI 2:** For responsible lenders, the costs will be lower than implementing mandatory legal provisions.
2. Elaboration of internal norms		
2.1.	In comparison to your reply to Question 1 under Option 1, how do you assess the elaboration of self-regulatory norms (e.g. Voluntary Code) in terms of staff required?	**NBFI 1**: The elaboration effort will increase (negotiations), so the resources allocated would increase. **NBFI 2:** Such an Option would involve the efforts of different players on the market, through the ALB (our trade association). The costs of drafting such policies would be shared by the ALB members. So, the costs will be lower than implementing mandatory legal provisions.
.a)	Option 2 would have been significantly more expensive than option 1 in terms of staff required	**BANK 1**:- **NBFI 1**: Probably, yes. **NBFI 2:** Not the case, because the industry will produce the Voluntary Code.
b).	Option 2 would have been significantly less expensive than option 1 in terms of staff required -	**BANK 1**:- **NBFI 1**:- **NBFI 2:** Yes, no extra staff would be required.
c).	Option 2 would have been not significantly	**BANK 1**: X

[5] In comparison with "do nothing option".

Costs to regulated banks		
	Questions	**Answer**
	different from option 1 in terms of staff required	**NBFI 1**: **NBFI 2:** The answer is b)
3. IT Costs *(to prepare and implement adequate software programs with different parameters on indebtedness, scoring and other internal procedural rules related to lending activity)*		
3.1	In comparison to your reply to Question 2 under Option 1, how do you assess the elaboration of self-regulatory norms (e.g. Voluntary Code) in terms of implied IT costs?	**NBFI 1**: It will depend on yhe new Regulations that are to be elaborated and approved **NBFI 2:** Option 1 could require high IT costs for providing the agents with handheld computers and for software development.
a)	Option 2 would have been significantly more expensive than option 1 in terms of implied IT costs	**BANK 1**: - **NBFI 1**: It will dependon the new regulation that are to be elaborated and approved **NBFI 2:** Not the case.
b)	Option 2 would have been significantly less expensive than option 1 in terms of implied IT costs	**BANK 1**: **NBFI 1**: **NBFI 2:** No requirements for extra IT equipment
c)	Option 2 would have been not significantly different from option 1 in terms of implied IT costs	**BANK 1**: X **NBFI 1**: **NBFI 2:** The answer is b)
4. Training of personnel costs		
4.1	In comparison to your reply to Question 3 under Option 1, how do you assess the elaboration of self-regulatory norms (e.g. Voluntary Code) in terms of implied training costs?	**NBFI 1**: It will depend on the new Regulation that are to be elaborated and approved **NBFI 2:** NBFI 2 has in place a responsible lending policy and our staff and representatives have already been provided with compliance training courses. However, new lending policies could require additional training for staff & representatives.

Costs to regulated banks		
	Questions	**Answer**
a)	Option 2 would have been significantly more expensive than option 1 in terms of implied training co sts	**BANK 1**:- **NBFI 1**: It will depend on the new Regulations that are to be elaborated and approved **NBFI 2:** Not the case.
b)	Option 2 would have been significantly less expensive than option 1 in terms of implied training costs	**BANK 1:-** **NBFI 1:-** **NBFI 2:** A Volutary Code of practice would involve lower training costs.
c).	Option 2 would have been not significantly different from option 1 in terms of implied training costs	**BANK 1:** X **NBFI 1:-** **NBFI 2:** The answer is b)

Benefits to regulated banks		
	Questions	**Data**[6]
1	We think that "Option II" has affected credit activity. Please provide information on the following items	**NBFI 1:** Not available information **NBFI 2:** Not applicable due to the fact the **NBFI 2** Financial Romania started its operations in April 2006.
a.	- Annual Growth Rate of Credits granted to individuals	**BANK 1:** Cannot estimate **NBFI 1:** Not available information **NBFI 2:** NA
b.	- NPL rate	**BANK 1:** Cannot estimate **NBFI 1:** Not available information **NBFI 2:** NA
c.	- Market Share	**BANK 1:** Cannot estimate **NBFI 1:** Not available information **NBFI 2:**

[6] Data referring to 1 year implementation period.

		NA
2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer** **BANK 1:** Cannot estimate **NBFI 1:** Not available information **NBFI 2:** NA

Market impact– *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that "Option I" would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	**NBFI 1:** Not available information **NBFI 2:** As already mentioned, according to the current regulation, credit restrictions apply only to banks and NBFIs in the Special Registry. Firstly, NBFIs shall no be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products. Secondly, the current regulations are discriminatory also because NBFIs in the Special Registry have to comply with stricter rules that those in the General Register. Thirdly, the passporting rules are likely to increase unfair competition, because credit restrictions do not apply to the NBFIs set up in Romania by credit institutions based in other EU countries. We can not answer this question more specifically, because **NBFI 2** provides a single product.
1.	Quality of products offered *(Please choose among the proposed options)*	**CONSUMERS:** a) significant increase__probably b) significant decrease_____ c) no significant effect_____ **BANK 1:** a) significant increase___X__ b) significant decrease_____ c) no significant effect_____ **NBFI 1:** a) significant increase_____ b) significant decrease_____ c) no significant effect_____

		NBFI 2:
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__probably b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase____X_ b) significant decrease_____ c) no significant effect_____ **NBFI 1**: a) significant increase_____ b) significant decrease_____ c) no significant effect_____ **NBFI 2:**
3.	Efficiency of competition *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__yes___ b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase___X__ b) significant decrease_____ c) no significant effect_____ **NBFI 1**: a) significant increase_____ b) significant decrease_____ c) no significant effect_____ **NBFI 2:**

Costs to consumers		
	Questions	**Answer**
1.	Do you think that lending costs will increase?	**CONSUMERS**: It could be possibly, but, at the same time, if competition increases, then this could be surpassed. **BANK 1**: No **NBFI 1**: Not available information **NBFI 2:** No
2.	Do you think that self – regulation could lead to arbitrary decision in lending to individuals?	**CONSUMERS**: Not necessary. **BANK 1**: Yes **NBFI 1**: Not available information **NBFI 2:** Regulation in itself is not 100% effective

Costs to consumers		
	Questions	**Answer**
		in preventing companies from breaking or bending the rules. Actually, this is more likely if those impacted by the regulation do not support them in the first place. In reality it would be impossible to adequately police all NBFI's hence the current lending restrictions apply only to NBFIs in the Special Registry, and not to those in the General Registry. This created an anti-competitive environment. If NBFI's agree to a strong code of practice, there is actually less chance of an individual company breaking it. A code of practice could cover all NBFI's

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that consumers' access to lending is improved under these circumstances?	**CONSUMERS**: No. **BANK 1**: Yes **NBFI 1**: Not available information **NBFI 2:** Yes, significantly. Current lending regulations restrict and even financially exclude lower income groups.
2.	Do you think the current option can bring other benefits to consumers? Please write, if any.	**CONSUMERS**: Diversity of products. **BANK 1**: Yes. Banks may develop special loan products for customers whit smaller incomes, if credit behavior assessment would score a good mark (risk scoring, positive data from credit bureau, etc) This option would not disqualify an entire customer segment based only on the low monthly income. A more customer segment tailored approach may be taken, much more related to credit risk assessment. and credit behavior. **NBFI 1**: Not available information

Benefits to consumers		
	Questions	**Answer**
		NBFI 2: • A free market in which the consumer can choose products best suited to their needs • Lower costs • Increased range of products to choose from

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative) [7]?	**CONSUMERS**: - Distortion of competition; - Lowering the level of protection of consumer against over-indebtedness; - Romanian market and consumers not prepared for it yet. **BANK 1**: Positive consequences: More customers have aces to lending. Loan values can be tailored according to the individual income and type of security Negative consequences: Some banks may risk too much, breaking responsible lending practices, in order to gain market share at any cost, but this aspects are in the end regulated by the market mechanism. **NBFI 1**: Not available information **NBFI 2:** In Romania, there is a comprehensive legal framework for NBFIs. We believe that there is no need for lending restrictions, and that self-regulation is a viable option for the financial industry.

[7] For banks, an example could be the losses registered within the period between the elaboration and validation of internal norms.

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS:** Distortion of competition between Romanian firms. **BANK 1**: Competition would be quite fair for both Romanian and non Romanian banks. **NBFI 1**: Not available information **NBFI 2:** This option would ensure a level playing field for all the players: Romanian companies, European companies and other international companies.

Social impact		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**:- **BANK 1**:Inflation of house prices may be a marginal effect, but on short term only. **NBFI 1**: Not available information **NBFI 2:** This option is the least likely to exclude socially disadvantaged individuals.

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: No. **BANK 1:** Cannot estimate at this moment **NBFI 1**: Not available information **NBFI 2:** Not the case

IV. Option 3 – Bring amendments to Norm 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes)

Costs to regulated banks		
	Questions	**Data**
Compliance costs		
We think that Option 3 results in compliance costs for banks. Please provide an approximate estimate of the following itemized cost categories.		**NBFI 2:** See answers for Option 1
1	**Elaboration of new internal norms**	
1.1	In comparison to your reply to Question 1 under Option 1, how do you assessOption 3 solution in terms of staff required?	
.a)	Option 3 would have been significantly more expensive than option 1 in terms of staff required	-
b).	Option 3 would have been significantly less expensive than option 1 in terms of staff required -	-
c).	Option 3 would have been not significantly different from option 1 in terms of staff required	**BANK 1:** X **NBFI 1:** Yes **NBFI 2:**
2. IT Costs *(to prepare and implement adequate software programs with different parameters on indebtedness, scoring and other internal procedural rules related to lending activity)*		
2.1	In comparison to your reply to Question 3 under Option 1, how do you assess Option 3 solution in terms of implied IT costs?	
a)	Option 3 would have been significantly more expensive than option 1 in terms of implied IT co sts	
b)	Option 3 would have been significantly less expensive than option 1 in terms of implied IT costs	
c).	Option 2 would have been not significantly different from option 1 in terms of implied training costs	**BANK 1**: X **NBFI 1**: Yes **NBFI 2:**
3. Training of personnel costs		
3.1	- no. of training sessions held for the new norms	**BANK 1**: Same as for option 1 **NBFI 1**: 10 **NBFI 2:**
3.2	- no. of hours of a training session	**BANK 1**: Same as for option 1

Costs to regulated banks		
	Questions	**Data**
		NBFI 1: 4 **NBFI 2:**
3.3.	- average monthly salary for a trainer	**BANK 1**: Same as for option 1 **NBFI 1**: EURO 1000 (net) **NBFI 2:**

Other direct costs		
	Questions	**Answer**
1.	Do you that this option can produce other direct costs that have not been taken into account? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible	**BANK 1**: Same as for option 1 **NBFI 1**: Not available information **NBFI 2:**

Benefits to regulated banks		
	Questions	**Data**[8]
1	We think that "Option 3" has affected credit activity. Please provide information on the following items	
a.	- Annual Growth Rate of Credits granted to individuals	**BANK 1**: Cannot estimate **NBFI 1**: Not available information **NBFI 2:**
b.	- NPL rate	**BANK 1**: Cannot estimate **NBFI 1**: Not available information **NBFI 2:**
c.	- Market Share	**BANK 1**: Cannot estimate **NBFI 1**: Not available information **NBFI 2:**

[8] Data referring to 1 year implementation period.

2	Do you think that there are other benefits that have not been considered? Please suggest	**Answer** **BANK 1**: Cannot estimate **NBFI 1**: **NBFI 2:**

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
1	We think that "Option I" would have affected the quality and variety of products and efficiency of competition. How do you assess that the following items would have been affected?	
1.	Quality of products offered *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__yes b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase_____ b) significant decrease_____ c) no significant effect___X__ **NBFI 1**: a) significant increase__yes b) significant decrease_____ c) no significant effect_____ **NBFI 2:**
2.	Variety of products (e.g. no. of products offered to individuals) *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__yes b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase__X___ b) significant decrease_____ c) no significant effect_____ **NBFI 1**: a) significant increase_______ b) significant decrease_____ c) no significant effect_ yes ____ **NBFI 2:**
3.	Efficiency of competition *(Please choose among the proposed options)*	**CONSUMERS**: a) significant increase__yes b) significant decrease_____ c) no significant effect_____ **BANK 1**: a) significant increase_____ b) significant decrease_____ c) no significant effect__X___

		NBFI 1: a) significant increase________ b) significant decrease_____ c) no significant effect_ yes ____ **NBFI 2:**

Costs to consumers		
	Questions	**Answer**
1.	Do you think that lending costs will increase?	**CONSUMERS**: Not necessary. **BANK 1**: Yes for medium to low income customers. No for medium to income customers **NBFI 1**: Yes, for high risk categories the banks would charge a higher risk premium **NBFI 2:**
2.	Do you think that lower income consumers will be disadvantaged because of taking in consideration the deductible expenses (living)?	**CONSUMERS**: Yes, they could be disadvantaged. **BANK 1**: Customers whit low monthly income would have very limited acces to loans or no acces at all (people with income of 350 EUR and below, and whit a family of at least 3 persons) **NBFI 1**: Yes, they will be disadvantaged. Even more, the quasi-monetary incomes like meal tickets are not considered as a part of the monthly income, even if these instruments are fully regulated. **NBFI 2:**

Benefits to consumers		
	Questions	**Answer**
1.	Do you think that consumers' access to lending is improved under these circumstances?	**CONSUMERS**: Yes, of some categories. **BANK 1**: Yes, but only for customers whit medium to high monthly income (at least 1000 EUR/month) **NBFI 1**: Depends on the limits imposed by the new regulation. **NBFI 2:**
2.	Do you think the current option can bring other benefits to consumers?	**CONSUMERS**: More protection for consumers against

Benefits to consumers		
	Questions	**Answer**
	Please write, if any.	over-indebtedness. **BANK 1:** Only the above mentioned **NBFI 1**: Probably, the interest rates would go down. **NBFI 2:**

Unintended consequences *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Development of responsible lending practices and access to credit to specific categories of clients are the main specific policy objectives considered by the regulation. Do you think that this option brings unintended consequences (both positive and negative)?	**CONSUMERS**:- **BANK 1**: Cannot elaborate answer without knowing the adjustment rates of loan exposures related to groups of customer income (say for the income group of 2000 - 3000 EUR max exposure is 60 %, , for income group 3004 -5000 EUR max exposure is 65 %, etc) **NBFI 1**: I order to comply with the DTI ratio constraints, the players in the market would try to find alternative solutions, most of them leading to higher risks to be assumed by the lender (e.g. longer tenors, non-commercial interest rates). Finally, this would end up in higher costs for the system (although the short term effects would be beneficial for the consumers). **NBFI 2:**

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that this option brings implication for competition (namely, competition between Romanian firms, and competition between Romanian firms and other passporting EU firms)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: Yes, it affects competition. **BANK 1**: All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy. Competition on the market affected. **NBFI 1**:

Impact on competition *(addressed both to banks and to consumers)*		
	Questions	**Answer**
		Yes, passaporting EU firms (not being supervised by NBR) have an important competitive advantage compared to supervised institutions. Also, Romanian NBFIs which are not supervised by NBR due to the delays in the registration procedure, as well as the NBFIs that qualified only for the registration in the General Register, have an important competitive advantage compared to players qualified for the Special Register. **NBFI 2:**

Social impact *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	What are likely to be, according to your opinion, social impacts of this option (e.g. restriction of access to regulated credit sources, potential inflation of house prices)? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: - **BANK 1**: Cannot elaborate answer without knowing the adjustment rates of loan exposures related to groups of customer income (say for the income group of 2000 - 3000 EUR max exposure is 60 %, , for income group 3004 -5000 EUR max exposure is 65 %, etc) **NBFI 1**: Depends on the limits imposed by the new regulation. **NBFI 2:**

Further impacts not considered *(addressed both to banks and to consumers)*		
	Questions	**Answer**
	Do you think that there are other impacts which are worth of being taken into account of and which have not been identified yet? Please explain your answer, including evidence (or suggesting the type of evidence that would be relevant) where at all possible.	**CONSUMERS**: No. **BANK 1**: Cannot elaborate answer without knowing the adjustment rates of loan exposures related to groups of customer income **NBFI 1**: - **NBFI 2:**

III. General questions

A. Do you consider Regulation no. 3 is the best option for your interest?

CONSUMERS:

Yes ☐ No ☒

BANK 1:

Yes ☐ No X

NBFI 1:

Yes ☐ No X

NBFI 2:

Yes ☐ No ☒

B. Do you think that the new norms validated by NBR will improve credit quality?

CONSUMERS:

Yes, it should. No ☐

BANK 1:

Yes X No ☐

NBFI 1:

Yes X but limited No ☐

NBFI 2:

Yes No ☒

C. Do you think that the new norms validated by NBR will improve the portfolio of clients?

CONSUMERS:

Yes ☒ No ☐

BANK 1:

Yes X☐ No -

- YES in terms of selecting “good” customers (mid to high monthly income), but also
- NO, because it limits the number of loans granted and does not permit the bank to have a flexible loan policy for customers whit mid to low income (because of the impact of monthly living cost)

NBFI 1:

Yes X☐ No ☐

NBFI 2:

Yes ☐ No ☒

Romania RIA Knowledge Transfer and Capacity Building Program

Consultation Document

Consultation Period	Start: 28.06.2007	End: 11.10.2007

Name of regulation	Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals

Participants of consultation process
Consumers
Commercial Banks
Non-bank financial institutions

The Romanian regulators are participating in an initiative organized by World Bank administered *Convergence Program*. The purpose of this initiative is to strengthen the participants' ability to use the disciplines of impact assessment (IA) in order to improve the way in which policy is made. IA does this by requiring policy makers to use evidence and economic analysis to justify and explain their proposals. Consultation with stakeholders is a key part of the IA process because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process.

The participants of this knowledge transfer and capacity building program are the following: National Bank of Romania, Prime Ministry's Unit, Ministry of Economy and Finance, National Securities Commission, Insurance Supervision Commission, Commission for Supervision of Private Pensions System and National Authority for Consumer Protection.

This IA training exercise involves the work group undertaking a retrospective IA on an existing piece of financial regulation. In this case, the financial regulation is *Regulation no. 3/2007 on restrictions of the credit risk on credits granted to individuals*.

One part of the Impact Assessment Exercise on the above mentioned regulation is represented by the **consultation process** which consists in gathering the opinions of all the key stakeholders affected by this piece of regulation.

The working gropu prepared a Consultation Questionnaire (annex 1) and sent it to the stakeholders.

The questionnaire is designed to provide evidence relating to:

A. The nature of the **problem** that the regulation is seeking to address; and

B. The costs and benefits incurred to banks and consumers taking into consideration **four options**.

<u>A. What is the problem?</u>

There are two distinct elements to be considered:

a) the repeal of the 2005 regulation, and

b) the introduction of the 2007 regulation.

The 2005 regulation needed to be repealed because of EU competition. Instead 2007 regulation was introduced in order to manage potential market failure consisting in not properly managing credit risk.

The stakeholders agreed that the **problem** was the one mentioned above but they raised an issue:

- the new regulation does not create a free competitive market.

Regarding the possibility that the policy concerns that gave rise to the 2007 regulation **would have been corrected by the market in the short term**, stakeholders opinions are the following:

- The market would have corrected some of the concerns, but it is hard to estimate if this would have happened on short term or medium term.

- An intervention was needed, but the way the 2007 regulation approached the issue was not appropriate.

- Credit restrictions, such as imposing maximum credit limits have unintended consequences on the financial market, and, consequently, a negative impact on consumers.

- Credit restrictions limit the growth potential, and more seriously, affect low income people capacity of dealing with some temporary difficulties, when they need relatively small amounts, on short term.

- Maintaining lending restrictions considerably affects the process of credit sector liberalization and does not lead to the results expected. As mentioned above, concrete data show that economies without credit restrictions operate more efficiently than the ones where such restrictions exist.

B. The four options

I. Do Nothing Option - Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals;
II. Option 1 – The new Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals.
III. Option 2 - Self Regulation (e.g. A Voluntary Code elaborated by Lenders Professional Association)
IV. Option 3 – Bring amendments to Norms no. 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes)

I. Do Nothing Option - Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals.

<u>Costs to regulated banks</u>

The implementation of the old norms had some unintended consequences that caused distortions on the market:
- Lending on longer terms (to ensure that the monthly repayment rate is under the maximum limit), with a negative impact on costs and credit risk ;
- Increased bureaucracy;
- Financial exclusion of low income categories;
- Anti-competitive market – unfavorable treatment for NBFI's compared with banks.
- In effect consumers were charged higher interest rates for this option as they often repaid the loans earlier than term in order to borrow again.

<u>Benefits to regulated banks</u>

No benefits identified.

<u>Market impact</u>

This option created an anticompetitive environment for NBFI's, who were treated like banks, even though they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products.

- Quality of products offered:
    - ❖ Banks: no significant effect
    - ❖ Consumers: significant decrease – probably
- Variety of products:
    - ❖ Banks: significant decrease
    - ❖ Consumers: significant decrease
    - ❖ NBF: no significant effect
- Efficiency of competition:
    - ❖ Banks, Consumers, NBF: significant decrease

<u>Costs to consumers</u>

- Limited consumers' access to lending;
- A shift of costs from interest rate to loan fees and commissions;
- Favoring lending on longer terms, which increases the costs for the consumers. Categories of consumers on low income are financially excluded, which could encourage illegal lending.

<u>Benefits to consumers</u>

- The lending limits could protect consumers against over-indebtedness:

- Banks: No, as long as there is no nationwide database
- Consumers: Yes
- NBF: Yes/No

Unintended consequences

- Negative consequences:
  - Limits the access of customers to mortgage loans (the regulated 25 % downpayment)
  - Limits the access of medium to high income customers to loans with higher value.
- The unintended consequences of the old and current credit restrictions in Romania are:
  - Lending on longer terms, with a negative impact on costs and credit risk
  - Increased bureaucracy
  - Financial exclusion of low income categories
  - Anti-competitive market .

Impact on competition

- NBFIs shall not be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products.

Social impact

- Categories of consumers on low income are financially excluded, which could encourage illegal lending.
- Prices of houses could not increase too much, because customers were not able to access large value loans.

II. Option 1 – The new Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals.

Costs to regulated banks

Compliance costs to regulated banks.

Benefits to regulated banks

No estimation provided.

Market impact

- Quality of products offered:
  - ❖ Banks: no significant effect
  - ❖ Consumers/NBFI: significant increase
- Variety of products:
  - ❖ Banks: no significant effect
  - ❖ Consumers/NBFI: significant increase
- Efficiency of competition:
  - ❖ Banks: no significant effect
  - ❖ Consumers: significant increase
  - ❖ NBF: significant decrease

Costs to consumers:

- ❖ Limited consumers' access to lending (for customers with monthly income below 350 EUR and supporting a family of at least 3 members)
- ❖ Difficulties when comparing the credit offers
- ❖ Lending costs will increase (due to implementation and compliance costs)
- ❖ Lower income consumers will be disadvantaged because of taking in consideration the deductible expenses (living)
- ❖ Meal tickets are not considered as a part of the monthly income, even if these instruments are fully regulated.
- ❖ Consumers would need to use more resources (time, the documents needed to obtain the credit could vary very much form one bank to another, own rules of banks could become stronger) in order to find out and gather information and to obtain the credit.
- ❖ Banks will probably try to compensate the shrinking of the customer base with higher fees/commissions (not necessary higher interest rates) applied to loans.

Benefits to consumers:

- ❖ Improved access to lending for certain categories of consumers;
- ❖ Wider range of products.

Unintended consequences

- It would take time for consumers to familiarize with the new rules.
- Low to medium income customers will get no or less credit than under the previous regulations. Prices of houses may increase.
- Wealthy people will constantly increase their living standards, people whit below average income will pay more for financial services, especially loans.
- Significant distortions in the market due to:

- timing differences between the registration of certain NBFIs with the Special Register (and hence the application of the crediting constraints);

- the existence of two level of supervision for different players (those in the Special Register and those in the General Register)

- the existence of other passporting EU firms which do not fall under the NBR supervision.

Impact on competition

- On one hand it would increase competition between Romanian firms, on the other hand, it would determine distortion of competition between Romanian firms and other passporting EU firms which are not subject to the regulation.
- NBFIs shall no be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products. The current regulations are discriminatory also because NBFIs in the Special Registry have to comply with stricter rules that those in the General Register. The passporting rules are likely to increase unfair competition, because credit restrictions do not apply to the NBFIs set up in Romania by credit institutions based in other EU countries.

Social impact

- The customers that will not have aces to bank loans will move toward Non Bank financial institutions, which will ask higher prices for their loans, because there will be no competition against bank.
- The over indebtedness of certain customers, bad debts followed by debit execution.

III. Option 2 - Self Regulation (e.g. A Voluntary Code elaborated by Lenders Professional Association)

Costs to regulated banks

- Compliance costs to regulated banks.
- Significant resources (people, systems, processes) engaged in the elaboration process, that will be reflected in credit costs.
- For responsible lenders, lower costs than implementing mandatory legal provisions.

Benefits to regulated banks

No estimation provided.

Market impact

- Quality of products offered:
    - ❖ Consumers, Banks: significant increase
- Variety of products:
    - ❖ Consumers, Banks: significant increase
- Efficiency of competition:
    - ❖ Consumers, Banks: significant increase

Costs to consumers:

- ❖ Regulation in itself is not 100% effective in preventing companies from breaking or bending the rules. If NBFI's agree to a strong code of practice, there is actually less chance of an individual company breaking it. A code of practice could cover all NBFI's.

Benefits to consumers:

- ❖ Diversity of products.
- ❖ A more customer segment tailored approach may be taken, much more related to credit risk assessment and credit behavior.

Unintended consequences

- ❖ Distortion of competition; Lowering the level of protection of consumer against over-indebtedness; Romanian market and consumers not prepared for it yet.

- Loan values can be tailored according to the individual income and type of security
- Some banks may risk too much, breaking responsible lending practices, in order to gain market share at any cost
- This option would ensure a level playing field for all the players: Romanian companies, European companies and other international companies.

Impact on competition

- This option would ensure a level playing field for all the players: Romanian companies, European companies and other international companies.

Social impact

- This option is the least likely to exclude socially disadvantaged individuals.

IV. Option 3 – Bring amendments to Norms no. 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes)

Costs for regulated banks

Option 3 would have been not significantly different from Option 1

Benefits for regulated banks

No estimation provided.

Market impact

- Quality of products offered:
  - ❖ Banks, Consumers: significant increase
- Variety of products:
  - ❖ Banks, Consumers: significant increase
- Efficiency of competition:
  - ❖ Consumers: significant increase

Costs to consumers:

- ❖ Consumers with low monthly income would have very limited acces to loans or no acces at all
- ❖ The quasi-monetary incomes like meal tickets are not considered as a part of the monthly income, even if these instruments are fully regulated

Benefits to consumers:

- ❖ For some categories of consumers the access to lending could be improved
- ❖ More protection for consumers against over-indebtedness.

Impact on competition

- ❖ All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy. Competition on the market affected.

Social Impact

- Depends on the limits imposed by the new regulation.

Further impacts not considered

- Depends on the limits imposed by the new regulation.

GENERAL CONCLUSIONS:

- Regulation no. 3 is not considered the best option for stakeholders interests.
- The NBR validation will improve credit quality.
- The new norms validated by the NBR will improve de portfolio of clients (mid to high monthly income clients).

Romania RIA Knowledge Transfer and Capacity Building Program

Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals

Policy Recommendations

Stakeholders consulted

National Authority for Consumer Protection
Commercial bank
Non banking financial firms

Team Composition

Participant	Authority
Mr. Gabriel Valvoi	National Bank of Romania
Ms. Oana Mesea	National Bank of Romania
Mr. Dorel Onetiu	National Bank of Romania
Mr. Emanuel Constantin	Ministry of Economy and Finance
Ms. Beatrice Verdes	Insurance Supervision Commission
Mr. Dragos Negoita	General Secretariat of the Government
Mr. Laura Radut	National Authority for Consumer Protection

Facilitator

Mr. John Pyne, Senior Regulator, Irish Financial Regulator

Bucharest, October 2007

Executive Summary

The Romanian regulators are participating in an initiative organized by World Bank's administered *Convergence Program*. The purpose of this initiative is to strengthen the participants' ability to use the disciplines of impact assessment (IA) in order to improve the way in which policy is made. IA does this by requiring policy makers to use evidence and economic analysis to justify and explain their proposals. Consultation with stakeholders is a key part of the IA process because it promotes public accountability and provides stakeholders with the opportunity to contribute to the evidence base that should underpin the policy making process.

The participants of this knowledge transfer and capacity building program are the following: National Bank of Romania (NBR), Prime Ministry's Unit, Ministry of Economy and Finance (MEF), National Securities Commission, Insurance Supervision Commission, Commission for Supervision of Private Pensions System and National Authority for Consumer Protection.

This IA training exercise involves the work group undertaking a retrospective IA on an existing piece of financial regulation. In this case, the financial regulation is the NBR's *Regulation no. 3/2007 on restrictions of the credit risk on credits granted to individuals*.

Section I – Procedural issues and consultation of interested parties

One phase of the Impact Assessment Exercise on the above mentioned regulation was represented by the consultation process which consisted in gathering the opinions of the key stakeholders affected by this piece of regulation.

The working group prepared a Consultation Questionnaire (Annex 1) and sent it to the stakeholders. The questionnaire was designed to provide evidence relating to: the nature of the problem that the regulation is seeking to address, and the costs and benefits incurred to banks and consumers taking into consideration four options.

The participants to the consultation process that filled-in the questionnaires were: one commercial bank, two non-bank financial institutions and the National Authority for Consumer Protection representing the consumers.

The working group summarised the results of the filled-in questionnaires (Annex 2 - Summary of Questionnaire Results) and elaborated the Consultation document to be discussed in the consultation meeting (Annex 3 - Consultation Document). Representatives of consumers and non-bank financial institutions took part at the consultation meeting and the conclusions ware gathered in the Summary of Consultation Feedback (Annex 4).

Section II – Problem identification

The working group suggested that there were two distinct elements to be considered:

a) the repeal of the 2005 regulation, and
b) the introduction of the 2007 regulation.

The 2005 regulation needed to be repealed because of EU competition. The NBR's 2007 regulation was introduced in order to:

- manage the potential market failure consisting in improper management of credit risk and:
- to ensure financial stability.

The stakeholders agreed that the **problem** was the above mentioned one. However, they raised some issues:

- the new regulation does not create a sound competitive market for credit institutions;
- consumers' interests seemed not to be taken into consideration.

Taking into account the possibility that the policy concerns that gave rise to the 2007 regulation could **have been corrected by the market in the short term**, stakeholders' opinions were the following:

- The market would have corrected some of the concerns, but it is hard to estimate if this would have happened on short or medium term.
- An intervention was needed, but the 2007 regulation's approach was not appropriate.
- Credit restrictions, such as imposing maximum credit limits had unintended consequences on the financial market, and, consequently, a negative impact on consumers.

- Credit restrictions are limiting the growth potential, and are affecting low income people's capacity of dealing with temporary difficulties, when they need small amounts, on short term.

- Maintaining credit restrictions affects the process of credit sector liberalization and does not lead to the results expected. Furthermore, statistical data show that economies without credit restrictions operate more efficiently than the ones where such restrictions exist.

Section III – Objectives

The working group identified the following objectives:

- **general objectives:**
  - the financial stability; and
  - the proper functioning of the credit sector.
- **specific objectives:**
  - developing responsible lending practices; and
  - provide enhanced access to credits to specific categories of clients.
- **operational objectives**:
  - banks' internal norms shall provide: specific rules regarding the risk profile of the clients, the eligible categories of clients, rules setting out the eligible incomes and the deductible expenses, the main criteria the internal norms should be based on; and
  - the NBR's validation process of the lenders' internal norms.

Section IV – Policy Options

1. Do Nothing Option - Maintaining the provisions of Norms No. 10 of July 27th, 2005 on mitigation of the credit risk related to credits granted to individuals. There would have been maintained restrictions imposed by NBR, the banks could not develop their own policies in this field.

2. Option 1 – The new Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals. The provisions of this new regulation included:

- responsible lending principles based on consumers' risk profile and risk management;
- no specified levels for indebtedness (lenders shall provide their own levels within their internal norms for each category of clients);

- the maximum indebtedness level is differentiated among eligible categories of clients; eligible category shall be assigned for each client based on default risk;
- categories of deductible expenses: at least living expenses and payment obligations other than credit agreements.

3. Option 2 - Self Regulation (e.g. A Voluntary Code elaborated by Lenders Professional Association).

4. Option 3 – Bring amendments to Norms no. 10 / 2005 in order to keep uniform limits at the level of all financial institutions, but at the same time, adjusted to different categories of consumers (incomes).

Section V – Analysis of qualitative and quantitative impact

Taking in consideration the options outlined before, the related impacts in terms of **costs and benefits** were identified and described by the stakeholders. The relevant issues are summarised in this section.

1. Do Nothing Option

Costs to regulated banks

The implementation of the old norms had some unintended consequences that caused distortions on the market:
- Lending on longer terms (to ensure that the monthly repayment rate is under the maximum limit), with a negative impact credit risk;
- Bureaucracy - reference point 100;
-Asymmetric impact – especially on NBFIs – some are treated like banks;
- Some market segments (low income) could not be served;
- Limited offer for high income market segments.

Benefits to regulated banks

Theoretically, there was a lower credit risk because of the maximum indebtedness levels, but has to be taken into consideration that banks did not report positive information.

Market impact

This option created an unfair competitive environment for NBFI's, who were treated like banks, even though they can not be compared to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products.

- Quality of products offered:
    - ❖ Banks: low

- ❖ Consumers: low

- Variety of products:
  - ❖ Banks: low
  - ❖ Consumers: low
  - ❖ NBFIs: low

- Efficiency of competition:
  - ❖ Banks, Consumers, NBFIs: low

<u>Costs to consumers</u>

- Limited consumers' access to lending; - A shift of costs from interest rates to loan fees and commissions;
- Favored lending on longer terms, which increased the costs for the consumers;
-Low income consumers were excluded, which encouraged illegal lending;
- Low competition meant higher costs to consumers.

<u>Benefits to consumers</u>

- The lending limits could protect consumers against over-indebtedness:
  - ❖ Banks: No, as long as there is no nationwide database
  - ❖ Consumers: Yes
  - ❖ NBFIs: Yes

<u>Unintended consequences</u>

- Negative consequences:
  - ❖ Limited the access of consumers to mortgage loans (the regulated 25 % downpayment)
  - ❖ Limited the access of medium and high income customers to loans with higher value.
- The unintended consequences of the old and current credit restrictions in Romania are:
  - ❖ Lending on longer terms, with a negative impact on costs and credit risk
  - ❖ Financial exclusion of low income categories
  - ❖ Anti-competitive market.

<u>Impact on competition</u>

- All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy. Competition on the market is affected.
- NBFIs should not be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products.

<u>Social impact</u>

- Categories of consumers on low income are financially excluded, which could encourage illegal lending.
- Prices of houses could not increase too much, because customers were not able to access large value loans.

2. Option 1

Costs to regulated banks

- Compliance costs (elaboration of internal norms, IT costs, training and personnel costs, validation costs):
  - ❖ Banks: 21.800 EUR
  - ❖ NBFIs: 43.200 EUR.
- Bureaucracy – 200 (one-off); 100(ongoing).

Benefits to regulated banks

- More responsible lending.
- Risk management improved.

Market impact

- Quality of products offered:
  - ❖ Consumers/NBFIs: medium
- Variety of products:
  - ❖ Consumers/NBFIs: low
- Efficiency of competition:
  - ❖ Consumers: medium
  - ❖ NBFIs: low

Costs to consumers:

- ❖ Limited consumers' access to lending (for customers with monthly income below 350 EUR and supporting a family of at least 3 members)
- ❖ Difficulties when comparing the credit offers
- ❖ Lending costs will increase (due to implementation and compliance costs)
- ❖ Lower income consumers will be disadvantaged because of taking in consideration the deductible expenses (living)
- ❖ Meal tickets are not considered as a part of the monthly income, even if these instruments are fully regulated.
- ❖ Consumers would need to use more resources (time, the documents needed to obtain the credit could vary very much form one bank to another, own rules of banks could become stronger) in order to gather information and to obtain the credit.
- ❖ Banks will probably try to compensate the shrinking of the customer base with higher fees/commissions (not necessary higher interest rates) applied to loans.

Benefits to consumers:

- ❖ Improved access to lending for certain categories of consumers;

- ❖ Wider range of products.

Unintended consequences

- ❖ It will take time for consumers to familiarize with the new rules.
- ❖ Low to medium income customers will get no or less credit than under the previous regulations. Prices of houses may increase.
- ❖ Significant distortions in the market due to:

- timing differences between the registration of certain NBFIs with the Special Register (and hence the application of the crediting constraints);
- the existence of two level of supervision for different players (those in the Special Register and those in the General Register)
- the existence of other passporting EU firms which do not fall under the NBR supervision.

Impact on competition

- ❖ On one hand it would increase competition between Romanian credit institutions, on the other hand, it would determine the distortion of competition between Romanian credit institutions and other passporting EU firms which are not subject to the regulation.
- ❖ NBFIs shall no be subject to the same regulations as banks, as they do not compare to banks in terms of assets (NBFIs are not allowed to attract deposits) or in terms of portfolio of products. The current regulations are discriminatory also because NBFIs in the Special Registry have to comply with stricter rules that those in the General Register. The passporting rules are likely to increase unfair competition, because credit restrictions do not apply to the NBFIs set up in Romania by credit institutions based in other EU countries.

Social impact

- ❖ The over indebtedness of certain customers, bad debts followed by debit execution.

3. Option 2

Costs to regulated banks

- Compliance costs to regulated banks.
- Significant resources (people, systems, processes) engaged in the elaboration process, that will be reflected in credit costs.
- For responsible lenders, lower costs than implementing mandatory legal provisions – this is already a benefit

Benefits to regulated banks

No estimation provided.

Market impact

- Quality of products offered:
  - ❖ Consumers, Banks: medium
- Variety of products:
  - ❖ Consumers, Banks: medium
- Efficiency of competition:
  - ❖ Consumers, Banks: medium

Costs to consumers:

- ❖ Lending costs could increase, but, at the same time, if competition increases, then this could be surpassed.

Benefits to consumers:

- ❖ Diversity of products.
- ❖ A more customer oriented approach may be taken, more related to credit risk assessment and credit behavior.
- ❖ Banks may develop special loan products for customers with smaller incomes, if the credit behavior assessment would score a good mark (risk scoring, positive data from credit bureau, etc).

Unintended consequences

- ❖ Distortion of competition: lowering the level of protection of consumer against over-indebtedness;
- ❖ Loan values can be adjusted according to the individual income and risk management;
- ❖ Some banks may risk too much, breaking responsible lending practices, in order to gain market share at any cost;
- ❖ Regulation in itself is not 100% effective in preventing companies from breaking or bending the rules. If NBFIs agree to a strong code of practice, there is actually less chance of an individual company breaking it. A code of practice could cover all NBFI's.
- ❖ Romanian market and consumers are not prepared for a Self Regulation at the moment.

Impact on competition

- ❖ This option would ensure a fair market for all the players: Romanian credit institutions, European credit institutions

Social impact

- ❖ This option is the least likely to exclude socially disadvantaged individuals.

4. Option 3

Costs for regulated banks

Option 3 would have not been significantly different from Option 1

Benefits for regulated banks

No estimation provided.

Market impact

- Quality of products offered:
    - ❖ Banks, Consumers: low
- Variety of products:
    - ❖ Banks, Consumers: medium
- Efficiency of competition:
    - ❖ Consumers: low

Costs to consumers:

- ❖ Consumers with low monthly income would have had very limited access to loans or no access at all
- ❖ The quasi-monetary incomes like meal tickets are not considered as a part of the monthly income, even if these instruments are fully regulated

Benefits to consumers:

- ❖ For some categories of consumers the access to lending could be improved
- ❖ More protection for consumers against over-indebtedness.

Impact on competition

- ❖ All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy. Competition on the market affected.

Social Impact

- Depends on the limits imposed by the new regulation.

Further impacts not considered

- Depends on the limits imposed by the new regulation.

Section VI – Comparison of the options

Impacts	Do Nothing Option	Option 1	Option 2	Option 3
Costs to regulated banks	• Lending on longer terms (to ensure that the monthly repayment rate is under the maximum limit), with a negative impact credit risk. • Limited offer for high income market segments. • Bureaucracy – 100	• Estimated compliance costs (elaboration of internal norms, IT costs, training and personnel costs, validation costs): Banks: 21.800 EUR NBFIs: 43.200 EUR. • Bureaucracy – 200 (one-off); 100(ongoing).	• Compliance costs to regulated banks • For responsible lenders, lower costs than implementing mandatory legal provisions – this is already a benefit	• Option 3 would have not been significantly different from Option 1
Benefits to regulated banks	• Lower credit risk because of the maximum indebtedness levels.	• More responsible lending. • Risk management improved.	• No estimation provided	• No estimation provided
Market impact	• Quality of products offered: ❖ Banks: low ❖ Consumers: low • Variety of products: ❖ Banks: low ❖ Consumers: low ❖ NBFIs: low • Efficiency of competition: ❖ Banks, Consumers, NBFIs: low	• Quality of products offered: ❖ Consumers/NBFIs: medium • Variety of products: ❖ Consumers/NBFIs: low • Efficiency of competition: ❖ Consumers: medium ❖ NBFIs: low	• Quality of products offered: ❖ Consumers, Banks: medium • Variety of products: ❖ Consumers, Banks: medium • Efficiency of competition: ❖ Consumers, Banks: medium	• Quality of products offered: ❖ Banks, Consumers: low • Variety of products: ❖ Banks,Consumers: medium • Efficiency of competition: ❖ Consumers: low
Costs to consumers	• Limited consumers' access to lending • Low income consumers were excluded, which encouraged illegal lending • Low competition meant higher costs to consumers	• Lending costs will increase (due to implementation and compliance costs). • Limited consumers' access to lending (for customers with monthly income below 350 EUR and supporting a family of at least 3 members)	• Lending costs could increase, but, at the same time, if competition increases, then this could be surpassed	
Benefits to consumers	The lending limits could protect consumers against over-indebtedness	• Improved access to lending for certain categories of	• Diversity of products. • Banks may develop special	• For some categories of consumers the access

		consumers; • Wider range of products.	loan products for customers with smaller incomes, if the credit behavior assessment would score a good mark (risk scoring, positive data from credit bureau, etc).	to lending could be improved. • Protection for consumers against over-indebtedness.
Unintended consequences	Lending on longer terms, with a negative impact on costs and credit risk	• Significant distortions in the market due to: - timing differences between the registration of certain NBFIs with the Special Register (and hence the application of the crediting constraints); - the existence of other passporting EU firms which do not fall under the NBR's supervision. • House prices may increase	• Some banks may risk too much, breaking responsible lending practices, in order to gain market share at any cost. • Romanian market and consumers are not prepared for a Self Regulation at the moment.	**-**
Impact on competition	• All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy.	• On one hand it would increase competition between Romanian credit institutions; on the other hand, it would determine the distortion of competition between Romanian credit institutions and other passporting EU firms which are not subject to the regulation.	• Competition could be quite fair for both Romanian and non Romanian banks.	• All the non Romanian banks (branches of foreign banks) will not be legally bound to observe the NBR regulations, and will grant loans according to their mother bank risk policy.
Social impact	• Consumers were not able to access large value loans.	• Low to medium income customers will get no or less loans than under the previous regulations. • Above medium income customers will aces higher volumes of loans than under the previous regulations	• This option is the least likely to exclude socially disadvantaged individuals.	• Depends on the limits imposed by the new regulation.

Section VII – Policy recommendations

Based on the evidence shown above, on the feed-back provided by stakeholders, and taking into account the objectives of this policy: financial stability and improved consumer access to credits, the recommended policy option is Option 1.

The reasons that stand behind this decision are:

- in terms of costs incurred by regulated credit institutions:
  - Option 1 seems to be more expensive than the other options but this is due also to the fact that the main stakeholders did not provide the relevant information needed to assess the costs for Option 2 and Option 3.
- in terms of benefits of regulated credit institutions:
  - Option 1 offers more responsible lending and improved risk management than the other options;
- in terms of market impact:
  - Option 1 generates a low variety of products, the efficiency and the quality of products offered is low as well;
  - Option 2 seems to be offering an improved quality and variety of products, and a more efficient competition. However, Option 2 seems unlikely to be favored at this moment due to a different mentality necessary to implement "voluntary regulations";
- in terms of costs supported by the customers:
  - Option 1 may lead to increased credit costs (due to implementation and compliance costs). However, the increased competition between regulated credit institutions may reduce these costs in long term;
- in terms of benefits to consumers:
  - Option 1 provides improved access to lending for certain categories of consumers and a wider range of products then the other options;
- in terms of impact on competition:
  - Option 1 increases the competition on the credit market, and in the end the consumers are the main beneficiaries.

There is no doubt that the NBR's Regulation nr. 3/2007 has brought an improvement in terms of access to credit, risk management, development of the credit market. However, there are still some aspects that need to be corrected like creating the conditions for a sound competitive market for credit institutions, and an enhanced emphasis on consumers' needs and protection. Taking into consideration the objective of maintaining financial stability, the problems related to the distortion of competition can not be corrected at the moment. Regarding the consumers' needs and protection, this issue can be corrected if the internal norms calculate the amount of living expenses according to the different categories of consumers.

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Regulatory Impact Assessment*

Main Findings and Policy Recommendations

Regulation no. 3/2007 on restriction of the credit risk on credits granted to individuals

National Bank of Romania
November 1, 2007

(*)= based on Draft Impact Assessment Guidelines prepared by CESR, CEBS, CEIOPS

Working Group Composition

Participant	Authority
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Mr. Laura Radut	National Authority for Consumer Protection

Facilitator

Mr. John Pyne, Senior Regulator, Irish Financial Regulator

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2. Statutory goals at risk

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5. Stakeholders consulted

6. Feedback goals

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9. Cost Benefit Analysis

10. Comparison of the options

11. Policy recommendation.

1. Problem identification

- The repeal of the 2005 norms nr. 10 ("individual lending restrictions"), justified by its partial regulatory failure, created the potential for market failure arising from improper credit risk management.
  - Addressing regulatory failure creates potential market failure!

2. Statutory goals at risk

The working group identified the following **statutory goals at risk**:

- ***General goals:***
  - financial stability; and
  -proper functioning of the credit sector.

- ***Specific goals:***
  - developing responsible lending practices; and
  - provide enhanced access to credits to specific categories of clients.

3. Proposed regulatory action

- To enable credit institutions to grant loans based on their own internal risk management tools rather than abiding by the NBR-set maximum indebtedness level.
  - All credit institutions have developed internal risk management models which are validated by NBR.

4. Policy options

Do Nothing Option	Option 1	Option 2	Option 3
- Maintaining the provisions of Norms no. 10/2005 . -There would have been **maintained restrictions** imposed by NBR, the banks could not develop their own policies in this field.	-The new Regulation no. 3/2007. - **responsible lending** principles based on consumers' risk profile and risk management - no specified levels for indebtedness - lenders shall provide their own levels within their **internal norms** for each category of clients - the internal norms are subject to NBR's validation	- **Self Regulation** (e.g. A Voluntary Code elaborated by Lenders Professional Association).	- Bring amendments to Norms no. 10/2005 in order to keep **uniform limits** at the level of all financial institutions, but adjusted to different categories of consumers (incomes).

5. Stakeholders consulted

- Banks – one commercial bank;
- Non-banking financial institutions – two;
- The National Authority for Consumer Protection - representing the consumers.

6. Feedback goals

- Have we defined the problem properly that is, are we right in identifying a significant risk of market failure?
- What unintended consequences might arise from addressing this market failure and how should we mitigate them?

7. Questions Asked – *credit institutions and consumers (1)*

"Market failure and unintended consequences from addressing it"

- Do you agree that the problem is as described?
- Do you think that the policy concerns that gave rise to the Regulation no.3/2007 would have been corrected by the market in the short term?
- How do you assess that the quality and the variety of products offered and the efficiency of competition would have been affected? (each option)

7. Questions Asked – *credit institutions and consumers (2)*

- **Which are, in your opinion, the unintended consequences? (each option)**
- **What are likely to be, according to your opinion, the impact on competition and the social impact? (each option)**

7. Questions Asked – *credit institutions (3)*

"Are unintended consequences more serious than under old regulation"

- Do you think that maintaining the old norms would have significantly prevented an increase of lending/access to credit without impairing the quality of credit?
- Please provide an estimate of the compliance costs incurred taking into consideration the three regulatory options for replacing the old norms.
- Please indicate the benefits foreseen. (each option)

7. Questions Asked – *consumers (4)*

"Impact on access to credit from proposed market failure remedies"

- Do you think that consumers' access to lending is limited under these circumstances? (each option)
- Do you think that lending costs will increase? (each option)

- Do you think that lower income consumers will be disadvantaged because of taking into consideration the deductible expenses – living expenses? (option 1)

8. Feedback: Problem identification

- The stakeholders agreed that the **problem** was the above mentioned one. However, they raised some issues:

- the new regulation does not create a sound competitive market for credit institutions;

- consumers' interests seemed not to be taken into consideration.

8. Response to feedback

Competition and access to finance were more restricted under the old regulation, as banks had weaker incentives to set their **own risk management systems, th**us

- preventing a **higher level of competitiveness** and
- **restraining some categories of consumers** from obtaining bigger credits.

9. Cost/Benefit Analysis - Consumers

	Do nothing option	Option 1	Option 2	Option 3
Costs	Increased fees and commissions, lending on longer terms, limited access to lending	More time spent on comparing options; higher fees; living expenses deducted from the available resources	Fees and commissions even higher than in the other 2 previous options	limited access for some consumers
Benefits	Protection to overindebtness	Increased variety of products; more opportunities for certain categories	Diversity of products; customer oriented approach; better credit risk management	Increased access to lending for some consumers, protection to overindebtedness
Net Benefits	Difficult to estimate	Difficult to estimate	Difficult to estimate	Difficult to estimate

9. Cost/Benefit Analysis – credit institutions

	Do nothing option	**Option 1**	**Option 2**	**Option 3**
Costs	Asymmetric impact; limited offer	Estimated compliance costs: banks: 21.800 Euro NBFIs: 42.000 Euro	Compliance costs to regulated banks	same as Option 1
Benefits	Lower credit risk because of maximum indebtedness level	More responsible lending; risk management improved	Lower costs than implementing mandatory legal provisions	No estimation provided
Net Benefits	Difficult to estimate	Difficult to estimate	Difficult to estimate	Difficult to estimate

10. Comparison of the options (1)

- Based on the evidence shown above, on the feed-back provided by stakeholders, and taking into account the objectives of this policy: financial stability and improved consumer access to credits, the recommended policy option is **Option 1**

- **The reasons that stand behind this decision are:**

❖ in terms of **benefits and costs for regulated firms**:
- Option 1 offers the highest benefit among the options considered consisting in more responsible lending and improved risk management;
- Although the cost of Options 2 and 3 were not quantified, we do not believe that they would impose significantly lower costs than Option 1;

10. Comparison of the options (2)

- in terms of **benefits and costs for consumers**:

  - Option 1 provides improved access to lending for certain categories of consumers and a wider range of products then the other options;

  - Option 1 may lead to increased credit costs (due to implementation and compliance costs). However, the increased competition between regulated credit institutions may reduce these costs in long term;

10. Comparison of the options (3)

- in terms of **market impact**:

  - Option 1 generates a low variety of products, the efficiency and the quality of products offered is low as well;

  - Option 2 seems to be offering an improved quality and variety of products, and a more efficient competition. However, Option 2 seems unlikely to be favored at this moment due to a different mentality necessary to implement “voluntary regulations”,

- in terms of **impact on competition**:

  - Option 1 increases the competition on the credit market, and in the end the consumers are the main beneficiaries.

11. Policy Recommendations

- There is no doubt that the NBR's Regulation nr. 3/2007 has brought an improvement in terms of access to credit, risk management, development of the credit market

- However, the Regulation does not apply to pass-porting entities, which may or may not distort competition,

- Nor does it address a separate problem relating to access to credit, namely the banks' assumption that all consumers' living costs are the same (implying that poorer consumers are assumed to be less able to repay loans than is actually the case)

Thank you for your attention!

RIA Knowledge Transfer and Capacity Building Program

COMISIA DE SUPRAVEGHERE A ASIGURĂRILOR

Regulatory Impact Assessment*

- Main Findings and Policy Recommendations -

IFRS Provisioning SPI Project

National Bank of Romania

November 1, 2007

(*)= based on Draft Impact Assessment Guidelines prepared by CESR, CEBS, CEIOPS

Working Group Composition

Participant	Authority
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- *Mr. Riccardo Brogi (Convergence Program).*

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- Problem identification
- Policy objective
- Questions asked
- Policy options
- Stakeholders consulted
- Cost/Benefit analysis
- Comparison of the options
- Policy recommendations.

Problem identification

Two regulatory failures:

*1) The current provisioning NBR Regulation no. 5/2002 is **not allowing for a calculation of provisions based on a true and fair value of assets (as determined, for example, under International Financial Reporting Standards)**.*

The regulatory framework should be reconsidered in order to ensure a more accurate measure of credit risk.

2) Also, at present, banks calculate provisions based on International Financial Reporting Standards (IFRS) for reporting to mother entities.

*This situation leads to **double reporting costs by banks** and **different profitability results**.*

Policy objective

To make prudential requirements more sensitive to fair value of financial assets.

<u>Stakeholders' positions related to policy objective</u>:

- *NBR: a sound and prudent credit risk management*
- *Banks: a framework that allows a sound risk management and minimizes compliance costs*
- *MEF: a regulatory framework with a neutral (or positive) impact on the state budget (at present, provisions are fully deductible, thus affecting the level of taxable profit).*

Main Questions To Explore

1. Is the current level of RAS-provisions in accordance with the needs of a sound risk management system and of financial stability?
   - Rationale for regulatory intervention
2. How best to link the prudential framework to IFRS accounting to meet the purpose of having a sound bank risk management?
   - Regulatory design options
3. What regulatory options could minimize the possible negative impact on the state budget?
   - Costs/benefits for stakeholders

Policy options

Option 1:

“Do nothing” option in terms of accounting standards – keep the current calculation of provisions based on RAS

- with NBR Regulation no. 5/2002 unchanged or
- with amendment of NBR Regulation no. 5/2002.

Option 2:

a) Elaboration of the new IFRS provisioning regulatory framework that will apply to credit institutions once they receive approval from NBR Supervision Department on IFRS provisioning internal models;
b) Amendment of current NBR provisioning regulations (Regulation no. 5/2002) as a transition (and RAS disincentive) rule.

Option 3:

Application of the new IFRS provisioning regulation starting with a determined point in time (e.g., starting with 2010).

Stakeholders consulted

A tri-partite working group (NBR, MEF and banks) designed the 13-page 10-question impact assessment questionnaire that was sent to all banks.

Responses received from 19 banks.

NBR sent anonymous responses to SPI Secretariat for processing and assessment.

Main Feedback

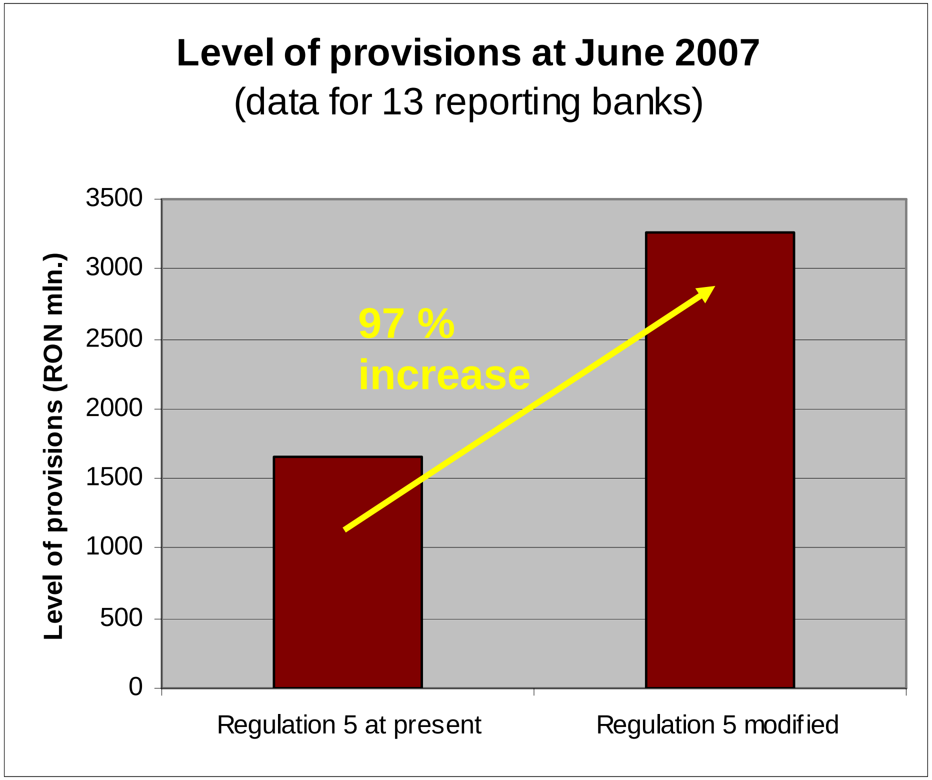
- Current Regulation 5 does not provide satisfactory measure of loan loss risk
  - Loan loss risks are understated
  - Tighter Regulation 5 is an option
- IFRS data adequate to meet prudential requirements with no adjustments
- Costs and net income are restated in transition from RAS to IFRS accounting
  - Shareholder and tax implications
  - Perhaps a temporary effect (limited data)?

Option 1 Discussion

“No accounting standards changes”

- To calibrate Regulation 5 to better reflect the actual risks carried by banks would entail almost a doubling of the loan loss reserve.

➢ The cost of tightening Regulation 5 is very high

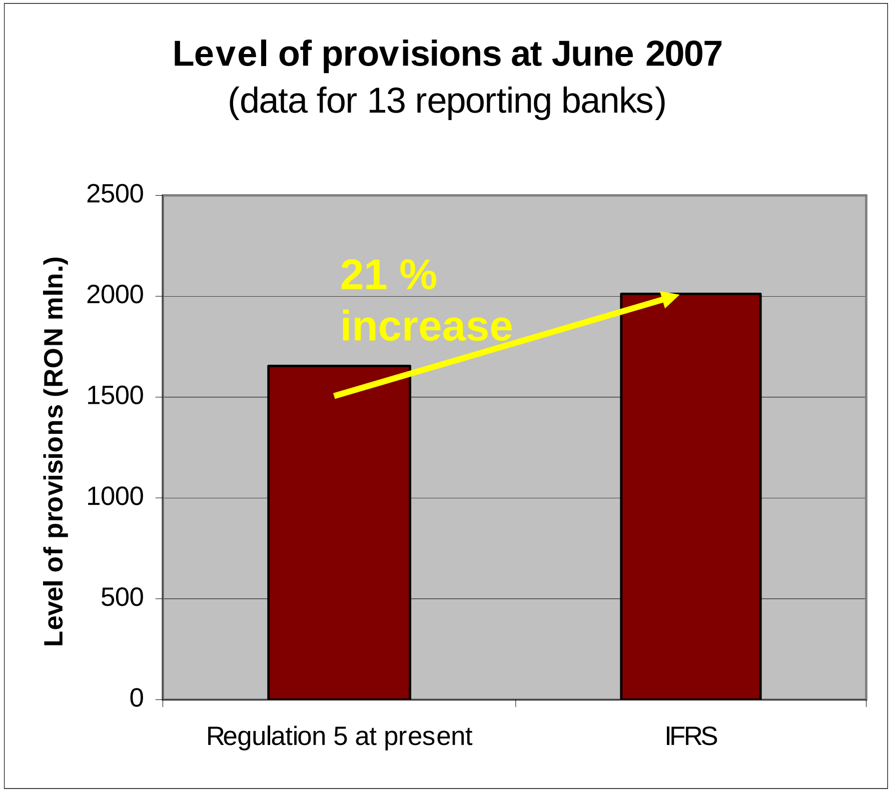


Option 2 Discussion

"IFRS Provisions + RAS disincentives"

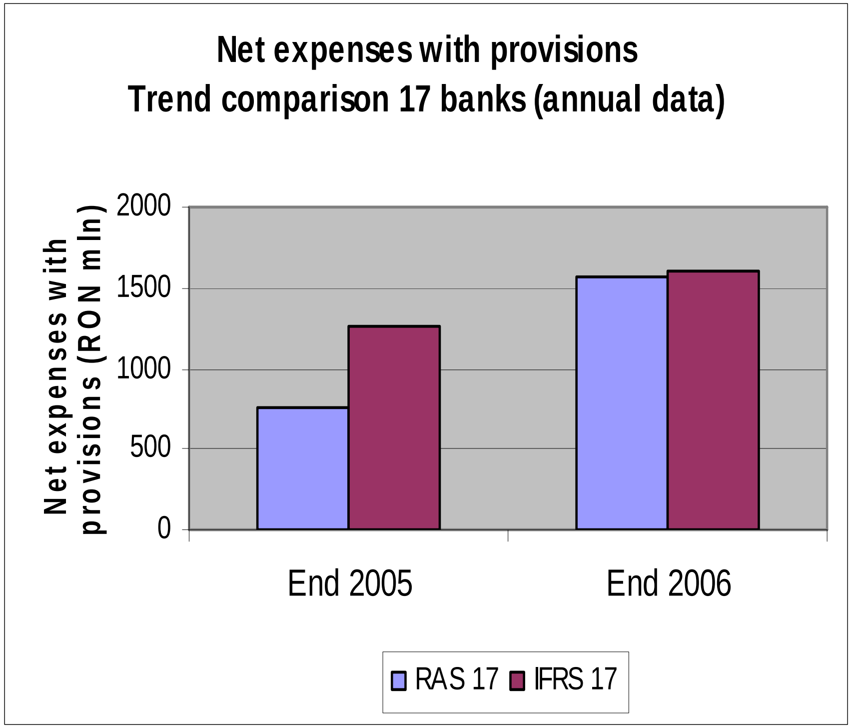
- IFRS use would allow to reach adequate calibration of provisions at reasonable cost to shareholders and MEF.
- To promote IFRS use, a tighter Regulation 5 could be introduced in the interim.

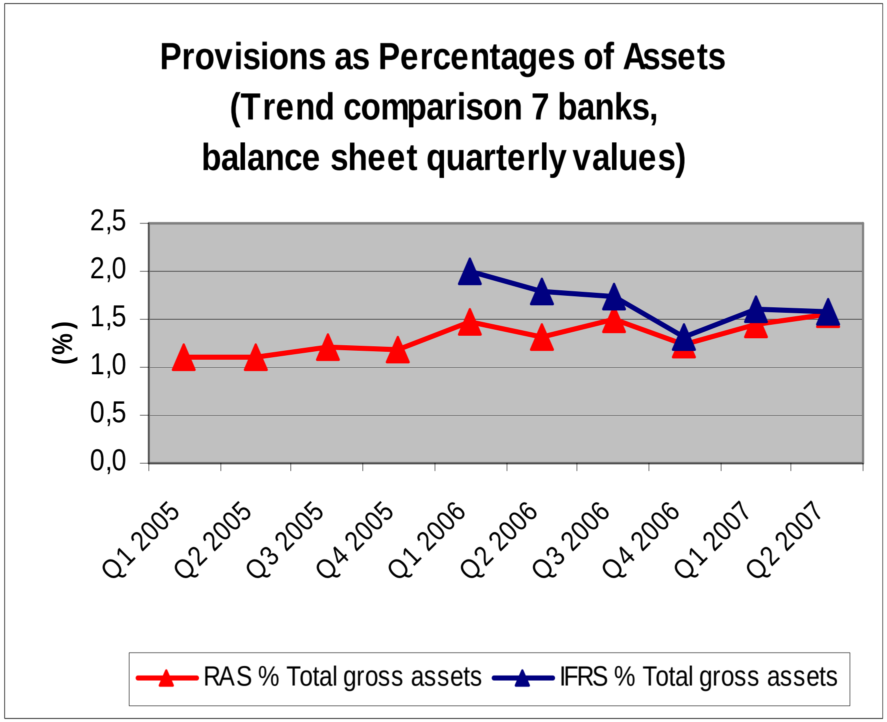
➢ Can IFRS conversion be timed to minimize costs to shareholders and MEF?



Option 2 Discussion (II)

Other important findings from survey with banks:



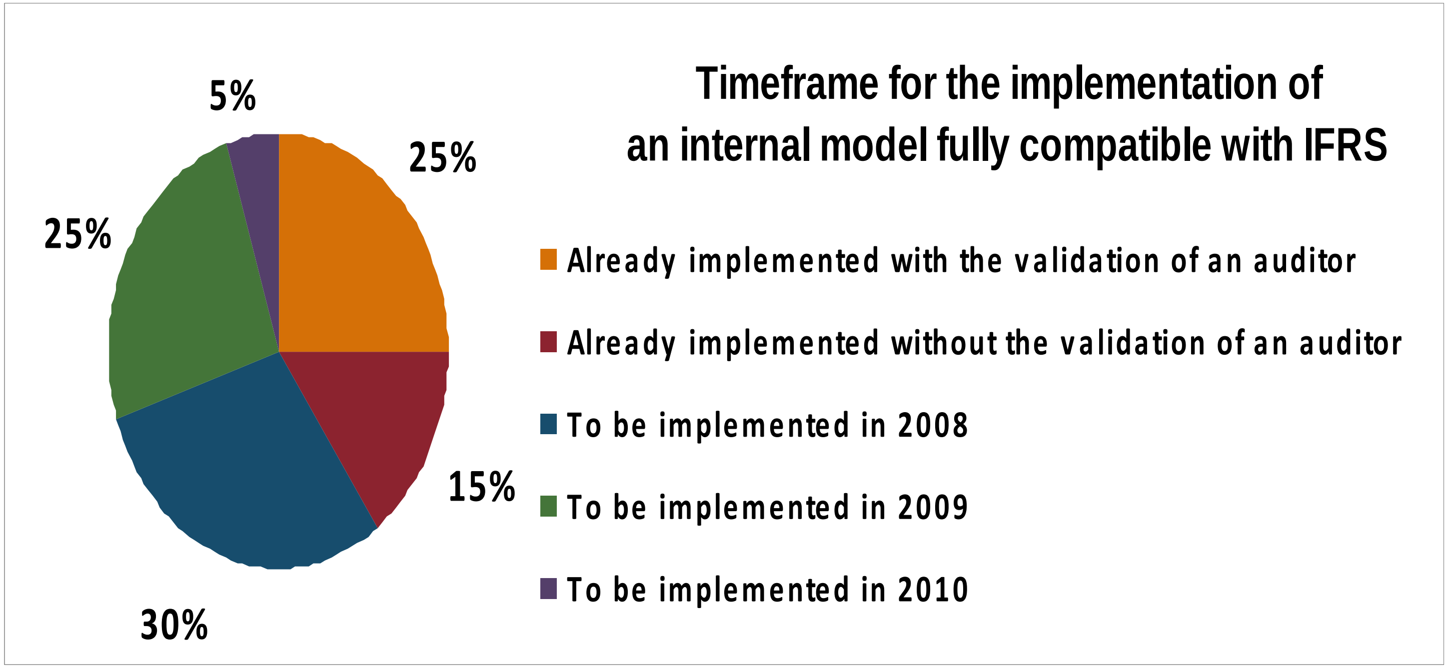


Conclusion: Provisions are already substantially similar for banks well advanced in applying IFRS provisioning requirements, reflecting single management prudential standards.

Option 3 Discussion

“Deferred IFRS Provisions”

- 70% of the banks expect to implement IFRS by 2008.
- 95% of the banks expect to implement IFRS by 2009.
- ➢ Regulations should support sound market practices.



Comparison of the options

"No accounting standards changes " (RAS & Regulation 5 modified)

Everything else being equal, progressively stricter prudential treatment of collateral under current Regulation 5 will create larger RAS provisioning for Romanian banks. The total additional provisioning requirement for a sample of 13 banks is estimated to total RON 1.6 billion. The tax revenue loss of this measure for this sample is RON 240 million (June 2007).

IFRS provisioning regulation

Implementation of IFRS provisioning requirements would allow a substantial reduction in this tax impact. Assuming a parallel introduction of the new IFRS Provisioning Regulation with the modified Regulation 5, enforcement of the former would generate tax revenue loss of RON 60 million for the same sample of 13 banks (June 2007) (one-fourth of Regulation 5 modified).

Policy Recommendations

- ❖ "Doing nothing" is too costly
- ❖ Immediate IFRS adoption not feasible
  - •Costly (Regulation 5 modified)
  - •Ahead of market developments
- ❖ Deferred IFRS adoption desirable
  - •Enforcement: 2010
  - •No adverse tax implications.