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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<u>Question 2</u>: 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.

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  - **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.