



Law amendment proposals for Law no. 656/2002 Ministry of Justice

SPI Secretariat Comments

October 3, 2007

The SPI Secretariat, that supports the activities of the SPI Romania (for more details, please consult the website: www.spi-romania.eu), is pleased to have the opportunity to provide comments in the course of the public consultations, organized by the Ministry of Justice, in view of the proposed enactment of the above mentioned law amendments.

Context

It is recognized that the current law on anti-money laundering needs to be amended in order to be brought into line with the provisions of the EU Third Directive, to align the Romanian AML monitoring tools with international practice, to reduce the legal, reputational and financial risks incurred by banks under the current legislation and to rationalize the AML reporting requirements for banks.

These were the coordinates under which the SPI Committee has assembled a public – private working group gathering representatives of banks, of the National Bank of Romania, of the Ministry of Economy and Finance and of the AML Office had worked in reaching solutions suitable to all involved parties. The Ministry of Justice was invited to join the working group. The SPI Committee sent the summary of these deliberations to the MoJ on September 24.

While the draft amendment posted on the Ministry of Justice website for public consultations has some commonalities with the changes proposed by the public –private working group, it would be strengthened considerably if it would include important modifications agreed at the technical level by the working group deserve to be brought to the Ministry's kind consideration as they are meant to rationalize more the reporting system and to better cover the legal, reputational and financial risks for the reporting entities.

Discussion

The public – private working group, gathering 12 members representing the main stakeholders, had 8 meetings in the period November 2007 – March 2007 in order agree at the technical level on the commonly acceptable solutions serving the above mentioned objectives. In order to reach an agreement on the proposed amendments, the WG was supported by the SPI Secretariat in respect of international experience and by a World



Bank specialist in the AML area. The issue remained opened at the WG level was escalated to a higher level, in a meeting with the high-level representatives of RBA and of AML Office. Details about these discussions could be found on the following webpage: <http://www.spi-romania.eu/program-2007/anti-money-laundering-law/>.

The Working Group final report was endorsed by the SPI Committee, a public – private partnership consisting of National Bank of Romania, Romanian Banking Association, Ministry of Economy and Finance and National Authority for Consumer protection. It was also separately endorsed by the Board of the Romanian Banking Association, after a large consultation process with RBA members. The Ministry of Economy and Finance, as a SPI Committee member undertook the responsibility of promoting the law amendment proposal, in cooperation with your Ministry.

Comments

The SPI Secretariat notes that some of the changes agreed by the WG and as a consequence of the bilateral meeting could be included in the proposed law amendment. These are referring to:

- **an increase the reporting threshold for external transfers** to from EUR 10,000 to EUR 50,000 for external transfers with EU and OECD countries to be indicated by the AML Office and from EUR 10,000 to EUR 15,000 for external transfers with non-EU and non-OECD countries;
- **excluding from reporting some low-risk categories of transactions:** the transactions between banks and NBR and Treasury and the NBR's transactions with the Treasury
- **submitting to the AML Office only the suspicions reasonably motivated;**
- **improving the feedback received from the AML Office** through a bi-annual information of each bank, under confidentiality, through a secure communication network, on the suspicious transactions reported and analyzed by the AML Office that did not end in signs of money laundering offence;
- **including the risk-based approach** in the law and secondary regulations.

We would like to suggest a meeting between the public – private WG and the initiators of the law amendment proposals in order give us the opportunity to present in more details the above mentioned proposals and their reasoning.

Ramona Vali Bratu
SPI Director for Bank Products and Services

Oana Maria Nedelescu
SPI Director for Analytics and Policy