

Convergence Romania Financial Sector Modernization

Special Projects Initiative Public-Private Steering Committee



MEMO

To: Project Management Group - Bank letters of guarantee
From: SPI Secretariat
CC: Luigi Passamonti, Convergence Head
Date: March 30, 2007
Re: **Project status and further steps**

A. Project objective and deadline

Project objective: to prepare a bank guarantee law proposal that would meet the interest of the banking industry to improve the enforceability of banking contracts, supported by a legal comparison of similar laws in other EU countries and a RIA on the costs met by banks under the current practice and the possible benefits if a law is enacted.

Initial deadline: end of March, 2007

B. Actions taken so far

B1. Project Strategy Meeting

In the strategy meeting held on January 16th, 2007, the Project Management Group (PMG) acknowledged the mandate received from the SPI Committee to prepare a proposal for a law on bank letters of guarantee.

PMG decided to entrust the law drafting activity to a working group gathering members of the RBA Legal Commission and the NBR Legal Department, under the leadership of the President of the RBA Legal Commission.

PMG agreed that the working group drafting the law uses as starting point the terms, principles and conditions prepared by the RBA Settlement Commission so that the Romanian law be aligned with the provisions of the ICC Publication no. 458. The law drafting working group had to agree on the outline of the law and each member to contribute and propose the provisions for some chapters.

SPI Committee Secretariat:

Ms. Oana Nedelescu, SPI Committee Secretary and SPI Director of Analytics and Policy

Ms. Ramona Bratu, SPI Director of Bank Products and Services

Tel: 021- 323.66.10

oana.nedelescu@convergence-see.eu

ramona.bratu@convergence-see.eu

The estimated delivery term of the law draft to the SPI PWG was established at the end of February.

B2. Law drafting working group activity

The working group succeeded until now to finish the first chapter of the law regarding the definitions to be used within the law. These were approved by the RBA Legal Commission in its meeting on March 27. The members of the RBA Legal Commission were asked to provide opinions on the law outline.

C. Assessment of the project status

Taking into account that two months were necessary in order to prepare the first chapter, it is unlikely to have the law proposal presented, as planned, in the next SPI Committee meeting in April. It seems necessary to adopt *a more structured approach* and to take *supportive measures* if the proposal is to be brought to the SPI Committee June meeting.

D. Proposed further measures and actions

Based on an assessment done with the Convergence Program, the SPI Secretariat suggests to hire the following experts: a) *a local independent* expert (LIE), funded by the Convergence budget (as an exception to the RBA-Convergence June 2006 MoU) and reporting to the PM, to draft the law; and b) *a foreign peer reviewer (PR)* whose role would be not only to revise the draft law to ensure its alignment with international experience and practice, but also the methodology used to generate the legal draft.

In order to have a more structured approach, the SPI Secretariat has developed a proposed in Appendix 1an *action plan* with clear terms and responsibilities for the drafting activity, in which the SPI PWG should be involved on different stages of the law drafting. Convergence experience in dealing with the preparation of a law, attached in Appendix 2, could serve as a model for the project development steps.

E. Next Steps

The SPI Secretariat will organize a PMG meeting with the following agenda:

1. to discuss and approve the proposed new action plan;
2. to discuss and establish the professional profile for the LIE;
3. to identify a short list of eligible person(s) to act as LIE;
4. to agree on the next steps for the SPI Secretariat.

Proposed date for the meeting: April 3.

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Appendix 1

Proposed action plan

No.	Action	Responsible	Deadline	Comments
1.	Prepare the invitation letter and the LIE's ToRs	SPI Secretariat /Convergence / PMG	April 2	According to the usual procedure
2.	Select/identify of the local independent expert (LIL)	PMG and President of the RBA Legal Commission	April 3	SPI Secretariat will facilitate the process
3.	Prepare and sign the STC contract	Convergence/WB Bucharest Office	April 13	
4.	Prepare a first issues paper with the main business and jurisprudence goals of the proposed law - and an appropriate background section on the Romanian and international experience.	LIE	April 18	SPI Secretariat and RBA will offer LIE the entire available documentation and support
5.	Prepare a methodology for drafting the law	LIE	April 18	If considered necessary by the PMG
6.	Get PR's opinion on the methodology	LIE/SPI Secretariat/ Convergence	April 20	
7.	Get NBR and MoPF representatives' opinion on the methodology	LIE	April 20	
8.	Prepare the law outline	LIE	April 20	
9.	Get PWG agreement on the law outline	LIE/SPI Secretariat	April 25	PMG will have to ensure that the PWG gives the

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				necessary feedback in due time
10.	Prepare the draft law	LIE	May 25	
11.	Submit the draft law for PWG consultations	SPI Secretariat	May 25	
12.	Ask for PR's opinion on the draft law	LIE/SPI Secretariat/ Convergence	June 4	
13.	Get the NBR approval on the draft law	PM	June 8	
14.	Get the RBA approval on the draft law	PO/DPM	June 8	
15.	Get the MoPF legal drafting unit approval	PWG member	June 8	
16.	Discuss and include the suggestions and comments made in the draft law	PWG/LIE/SPI Secretariat	June 11	
17.	Submit the draft law for SPI Committee endorsement	PWG/SPI Secretariat	June 15	

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