

Convergence Romania Financial Sector Modernization

Special Projects Initiative Public-Private Steering Committee



Technical and regulatory requirements for improving clearing and settlement of checks, drafts and promissory notes

WORKING GROUP MEETING: March 1, 2007, 09:30, NBR premises

Project Objective

To prepare a document that would represent a solution acceptable to all stakeholders for transition to final solution on paper-less check and other debit instrument processing on a time-compressed schedule.

Main Problem to Solve

To convince all banks, irrespective of their DI market share, on the necessity and opportunity to get to the electronic processing of DI and to agree on a comprehensive technical and regulatory framework for implementation.

Project Management Team

Project Owner (PO): Gabriela Tudor (RBA Vice President)

Project Manager (PM): Mirela Palade (TransFonD, Deputy General Manager)

Deputy Project Manager (DPM): Constantin Rotaru (BCR, Director)

Attendees: Mirela Palade, PM
Constantin Rotaru, DPM
Ruxandra Avram, member, NBR
Maria Sheikh-Ahmad, member (BRD – GSG)
Ileana Velicu, BCR
George Carabasan, member (Alpha Bank Romania)
Bogdan Nastase, TransFond
Ionel Dumitru, TransFond
Angela Apetrei, TransFond
Mihail Meiu, ANPC
Dragos Constantinescu, Alpha Bank Romania
Ioana Zamfirescu, BCR
Ramona Bratu, Oana Nedelescu - SPI Secretariat

Agenda:

1. discussions on the draft amendment proposal for the Law on checks;
2. discussions the draft amendment proposal for the Law on bills of exchange and promissory notes;
3. set up the next PWG meeting

1. discussions on the draft amendment proposal for the Law on checks proposed by TransFonD

Main topics:

- amendment of art. 11 par. a) and b), concerning the signature, as follows:
 - a. The name and surname of a natural person or the name of the legal person that binds itself must be clearly filled in;
 - b. The signature itself (holographic inscription) of the issuing natural person or, accordingly, of the legal or authorized representatives of the legal person;

Other opinions on this topic (comments from the Alpha Bank representatives): according to the current phrasing of par. b), there will be no specimen signature, as the name is mandatorily clearly written thus constraining the signature. The signature must be holographic, similar to the specimen at the bank and it should be the name and surname of the concerned natural person (accord. to par. a).

- par. 6 is taken out, as provisions at number 1 and 2 are virtually the same; provisions at number 2 have been supplemented with the following provision: “The truncation process has the same effects as the presentment for payment of the original cheque”.
- Following the request by Mr. Meiu, OPC, the reference to “relevant information” has been supplemented by clearly stating which the relevant information is (that at art 1, par 1-5).
- The amendment of art. 32² referring to the obligations of the institution that presents the cheque for payment:
 - (a) It must check whether the cheque complies, as regards its forms and contents, with the applicable legal provisions, including the regularity of the endorsements, except for the authenticity of the drawer’s and endorsers’ signatures;
 - (b) It must warrant the accuracy and compliance of the information relevant for truncation and the compliance of the electronically submitted cheque image with the data on the original cheque and it is accountable for any loss due to the breach of such warranty.
- Art. 32³ has been supplemented with provisions concerning the total or partial payment refusal; thus, if a cheque has been presented for payment in a truncated form, a statement dated and written on the original cheque stating that the cheque has been presented for payment within the legal timeframe stated at article 30, and has been partially or totally refused, and mentioning the date of presentment, shall be the legal equivalent of a protest, upon the condition that it is duly signed by an authorised representative of the presenting bank. *The statement will be based on the partial or total payment refusal by the drawee.*

The article has been supplemented based on the BCR representatives’ opinion: the beneficiary bank has thus marked the cheque as refused following the refusal notice submitted by the drawee.

Discussions with the IFM representative

Starting from 11:00, Mark Skreb, IFM representative, participated at the debates of the working group. Mr. Skreb has been presented: the project's objectives, the issues that the project is aimed to solve out, the project status and the main milestones up to the project completion. Mr. Skreb has observed the working group debates until the end of the meeting (12:30h).

2. discussions on the draft amendment proposal for the Law on **bills of exchange and promissory notes proposed by TransFonD**

Considering that the discussions passed over the set finish hour and because the room was no longer available due to other meetings scheduled to take place in the same location, the discussions concerning the draft amendment proposal for the Law on bills of exchange and promissory notes were postponed to the next meeting.

3. Next PWG meeting: March 9th, TransFonD, 14:00.