

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

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.

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)

Minutes

Seventh Meeting

April 4th, 2007 – Transfond Premises

Participants: Constantin Rotaru , DPM
George Carabasan, member
Ileana Velicu, member
Iuliana Dumitrescu, Alpha Bank
Marina Dragoi, replacing Maria Sheikh Ahmad
Ionel Dumitru, TransFond
Angela Apetrei, TransFond
Doina Cristea, TransFond
Liliana Popa, TransFond
SPI Secretariat (Ramona Bratu, Director for Bank Products and Services;
Oana Nedelescu, Director for Analytics and Policy)

Agenda

1. discussions on the draft Government Emergency Ordinance to amend the Law on check;
2. discussions on the draft Government Emergency Ordinance to amend the Law on drafts and promissory notes;
3. discussions on the motivation note for promoting the law amendments;
4. next steps.

1. Discussions on the draft Government Emergency Ordinance (GEO) to amend the Law on check

- 1.1. **Art. I. point 1.** of the GEO was proposed in order to emphasize the need that NBR provides a standard format for checks in the norms issued in application of the law. NBR's representative outlined that NBR is going to change the respective norms further to the law amendments and banks are welcome to ask for and co-operate to the creation of a standard format for checks, without being necessary this new article in the law. The other PWG members agreed to withdraw the proposal.
- 1.2. **Art. I. point 8** of the GEO introducing **Art. 32²(a)** in the law regarding the obligations of the beneficiary's bank – this has been proposed because the check in original will not be sent anymore to the paying bank, which will have to decide the payment based on the received image. The beneficiary's bank will have to pay attention especially to the details that can be noticed only on the original such as erasures, corrections, etc. The proposal was accepted in a short version, the participants deciding that the details of the verification procedure to be provided in the norms.
- 1.3. **Art. I. points 9 and 10 of the GEO** – Participants agreed to withdraw them, as the norms will further detail on the subject.
- 1.4. **The delayed payment** issue was re-raised. Participants agreed that such cases in which a payment could be postponed until a certain situation is clarified (for example, a fraud suspicion) are too marginal to be treated in the law. A more suitable solution would be to refuse the payment and to clarify the case, but the Regulation on the payment incidents has to be modified accordingly by expanding the reasons for refusal and by clarifying the status of this kind of refusals (reported incidents or not).
- 1.5. **Art. II** on the entering into force of the GEO and the time for amending NBR regulations accordingly – the concern is to ensure the simultaneous entering into force of the GEO and of the norms, taking into account also that banks need a period of time for implementing some of the new requirements (for example, the standard format of the checks). Participants agreed that point 1 addresses their concern and the proposal made at point 2 can be dropped, as the instructions for the transition period to the new check format and the procedure regarding the checks released and not presented for payment within a certain period (6 months) after GEO entered into force could be better detailed in the NBR norms.

2. Discussions on the draft Government Emergency Ordinance to amend the Law on drafts and promissory notes

According to a survey performed by Transfond, banks didn't opt for the truncation of drafts. As the Law on drafts and promissory notes has common provisions for drafts and promissory notes (for which truncation is intended by banks), the result was that the amended law will allow both drafts and promissory notes truncation.

The issues agreed by the participants for the amendment of the Law on checks are valid also for the Law on drafts and promissory notes.

3. Discussions on the motivation note for promoting the law amendments

The issues stated by Transfond's representatives in the draft motivation note could be largely incorporated in the SPI actionable paper to be presented for endorsement to the SPI Committee.

According to the provision of the Government Decision no. 1361/2006, in order to promote the legislative initiative, a set of presentation documents has to be prepared.

4. Next steps

SPI Secretariat will send the amendment proposals to NBR Legal Department for opinion. SPI Secretariat will incorporate NBR Legal Department's opinions in the amendment proposals and share the new draft with PWG members and ask for their feedback.

SPI Secretariat will prepare the SPI actionable document and will send it to the PWG members for approval – estimated time April 17. The document will refer to the law amendment proposals and to the next steps for both the enactment of the legislative initiative (the identification of the legislative initiator and the SPI Committee members' responsibilities) and for the amendment of the secondary regulations (RBA Board to request NBR to agree on preparing the respective amendments within the existing PWG and to provide in these norms a standard format for the check).

The SPI actionable document will be further sent to RBA Board for endorsement – estimated date April 19 – and will be presented to the SPI Committee meeting on April 27.

Transfond, with SPI Secretariat and MoPF representative's support, will co-operate with the legal consultants "Musat & Asociatii" for preparing the set of presentation documents to promote the legislative initiative – **to be presented in the SPI Committee meeting on April 27.**