

Convergence Romania Financial Sector Modernization

Special Projects Initiative Public-Private Steering Committee



TERMS OF REFERENCE

Project: Amendment of the law on goods safeguard, values and persons protection

Project Owner: George Michelis (on behalf of RBA)

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Deputy Project Manager: ... (a Ministry of Internal Affairs senior staff)

Technical Anchor: TBD

PROJECT WORKING GROUP (PWG)

I- Background

At present, Law no. 333/2003 regulates the goods safeguard, values and persons' protection, whose provisions apply to all commercial companies, including banks. Banks are confronted with some practical difficulties in applying the provisions of the law, of which the most important are:

1. Each territorial unit of banks has to draw up safeguard plans, which are subject to a complicated and lengthy approval procedure by the police. This can delay the setting up of new territorial units by two months. Also, any subsequent modification of the safeguard plans has also to get the approval of the police that can request new safety measures resulting in additional costs for banks;
2. Each territorial unit of banks has to draw up transportation plans for valuables, which are also subject to police approval, regardless the fact that in some cases banks have externalized the transport of valuables to specialized companies. Any change in the transportation plans for valuables has also to be approved by the police;
3. The banks have to dispose of non-stop video monitoring in each of the territorial units. The full records of the monitoring have to be archived for 30 days, even if monitoring sensors have not been activated during this time, resulting in the storing of a large amount of "blank" records;
4. The requirements for the physical security of the banks' managers are cumbersome (*to be further clarified*);
5. The provisions of the law do not provide clear guidance on how to correlate the security requirements with the degree of criminality corresponding to the location of the territorial units of banks.

The provisions of the law apply to all territorial units of banks, estimated at 4000 units at the end of July 2006 (the growth rate of the banking network is of 24%/year). In practice,

the above mentioned drawbacks of the law generate additional costs for banks and complicate their organizational structures. In this context, RBA wants to propose amendments to the current law to reduce the cost of compliance to the banking system.

II - Project Objective

To prepare a draft law amendment to the relevant legislation, which will reduce the operational costs of banks and help improve their organizational structure, while adequately substantiating alternative risk-mitigation measures that the banking system will undertake on a self-regulatory basis in order to address the authorities' concern about maintaining high standards on goods safeguard, values and persons protection.

III – Intended Strategy

The project management group (Project Owner, Project Manager, Deputy Project Manager, supported by the SPI Secretariat) acts based on the mandate received from the SPI Committee to prepare the law amendment proposals, supported by benchmarking with existing international practices and a RIA highlighting the costs and the risks arising from the current and proposed regulatory changes, together with alternative risk-mitigation measures that the banking system could undertake on a self-regulatory basis.

The project management group (PMG) should build a common understanding on the drawbacks perceived by banks (problems, costs, and risks) in the application of the current legislation on goods safeguard, values, and persons protection. On behalf of the PMG, the SPI Secretariat will ask for any information compiled by the RBA Bank Security Technical Commission and will arrange for interviews with a representative sample of banks.

The PM/DPM will ask the NBR to provide a supervisory perspective on the internal regulations that the banks should have in place in order to mitigate and monitor the operational risk pertaining to bank security. Also, the PM/DPM will ask the Ministry of Internal Affairs to provide an overview on how it solves the requests received from banks and the problems encountered in the application of the law.

The project working group (PWG) will analyze the costs and risks incurred by banks in applying the current legislation and will outline possible ways to mitigate them and their implied effects in terms of costs and risks for banks. The point of view of the Ministry of Internal Affairs representative on how the present situation could be changed in order to make the process of solving the requests from banks more efficient would greatly help the identification of solutions that would meet both public and business sector requirements.

These inputs should provide adequate background for agreeing on possible law amendments and a parallel set of measures that the banking community could undertake on a self-regulatory basis, meant at mitigating the authorities concerns about maintaining high standards on goods safeguard, values and persons protection.

The PWG will need to support the law amendments proposals by a benchmarking with existing international practices and a RIA highlighting the costs the risks arising from the current and proposed regulatory changes as provided by the SPI Secretariat.

IV- Methodology: from kick off to the accomplishment of the project

Preparation of PWG 1st meeting (PM/DPM and SPI Secretariat) - October (23 - 27)

PM/DPM/SPI Secretariat will ask the RBA to provide insights on the issues outlined in the discussions on the matter held within the RBA Bank Security Technical Commission. Likewise, the PM/DPM/SPI Secretariat will meet with a sample of banks (with large territorial networks) in order to determine the drawbacks perceived by banks (problems, costs and risks) in the application of the current legislation.

PO/PM will send to the PWG members the SPI Committee Mandate Letter together with the following documents before the PWG 1st meeting:

1. PM/DPM/SPI Secretariat: a summary document on the results of the interviews with the banks and the discussion with the RBA Bank Security Technical Commission;
2. NBR: a document outlining a supervisory perspective on the internal regulations that the banks should have in place in order to mitigate and monitor the operational risk pertaining to bank security;
3. Ministry of Internal Affairs: an overview on how it solves the requests received from banks in the application of the law (outlining procedures for solving requests, number and types of requests made by banks, number and types of requests solved, length of solving the requests and practical problems encountered in the application of the current legislation by banks);
4. PM/DPM/ SPI Secretariat: prepare a draft questionnaire for gathering needed data for RIA, based on the information on costs and risks received from the PWG members, to be discussed at the PWG 2nd meeting.
5. Draft TORs prepared by SPI Secretariat and endorsed by PO and PM/DPM.

PWG 1st meeting - November (13-17)

1. PWG members discuss the information collected from banks and RBA and the document prepared by NBR;
2. PWG members take stock of the costs and risks incurred by banks in applying the current legislation;
3. Ministry of Internal Affairs presents the document on how it solves the requests received from banks in the application of the law, outlining its point of view on the problems encountered in the application of the law, followed by discussions;
4. PWG members discuss and approve the questionnaire;
5. PWG members agree on TORs prepared by SPI Secretariat and endorsed by PO and PM/DPM;
6. PM/DPM establish **homework** for PWG members:
Banks: a stock taking of the costs and risks incurred by banks in applying the current legislation, outlining possible ways to mitigate them, implied effects in terms of costs and risks for banks and possible self-regulatory measures; send responses to questionnaire;

Ministry of Internal Affairs: a presentation on how the present situation could be changed in order to make the process of solving the requests from banks more efficient;

SPI Secretariat: prepare a compilation of relevant international laws;

The individual contributions will be sent to the PM/DPM and SPI Secretariat. SPI Secretariat will centralize the contributions and circulate a paper on costs and risks incurred by banks in applying the current and proposed legislation, outlining possible self-regulatory measures, together the presentation of the Ministry of Internal Affairs and a compilation of relevant international laws before the PWG 2nd meeting.

PWG 2nd meeting - January (22-29)

1. PWG members discuss the paper on the costs, risks and possible self-regulatory measures and the presentation of the Ministry of Internal Affairs;
2. PWG members take note of the relevant international practices;
3. PWG members agree on a list of issues that can be translated into law amendments and a parallel set of measures that could be taken by the banking industry on a self-regulatory basis;
4. PWG members will identify the law amendments proposals corresponding to the agreed issues in line with international practices;
5. PWG member from the Ministry of Public Finance provides an opinion on the proposed regulatory changes;
6. PM/DPM establish **homework** for PWG members:

Each PWG member: draft specific law amendments proposals on several issues as decided by PM/DPM.

The individual contributions will be sent to the PM/DPM and SPI Secretariat. SPI Secretariat will prepare a centralized law amendment proposal and circulate it before the PWG 3rd meeting. PM/DPM will draft a position paper to support the agreed law amendments proposals and the proposed self-regulatory measures to be taken by banks and circulate it before the PWG 3rd meeting.

PWG 3rd meeting - February (19-24)

1. PWG members discuss and approve the law amendments proposals;
2. PWG members approve the position paper;
3. PWG members validate RIA findings.

V- Output

PWG 1st meeting

- PWG members send individual contributions;

PWG 2nd meeting

- PWG members agree on a list of issues;
- PWG members identify law amendments proposals;
- PWG members approve questionnaire;
- PM/DPM prepare draft position paper.

PWG 3rd meeting

- PWG members approve centralized law amendments proposals;
- PWG members approve position paper;
- SPI Secretariat sends SPI Committee Actionable Paper to Convergence.

VI - Project Team

The team will be composed of:

- Banks
 - 3 experts from banks with large territorial networks with background on bank security, of which one from the RBA Bank Security Technical Commission;
- National Bank of Romania
 - 1 expert from Supervision Department with operational risk background;
- Ministry of Internal Affairs
 - 1 expert with experience in applying Law 333/2003;
- Ministry of Public Finance
 - 1 expert from the General Department for Legislative Harmonization and European Integration.

The team will be chaired by the Project Manager and co-chaired by the Deputy Project Manager.

PM/DPM have to report to PO at least after each meeting of the PWG.