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Progress report and written analysis by the
Secretariat of Core Recommendations¹

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¹ Second 3rd Round Written Progress Report Submitted to MONEYVAL

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This is the second 3rd Round written progress report submitted to MONEYVAL by the country. This document includes a written analysis by the MONEYVAL Secretariat of the information provided by Romania on the Core Recommendations (R.1, R.5, R.10, R.13, SR.II, and SR.IV) in accordance with the decision taken at MONEYVAL's 32nd plenary in respect of progress reports.

Romania

Second 3rd round Written Progress Report Submitted to MONEYVAL

1. Written analysis of progress made in respect of the FATF Core Recommendations

1.1. Introduction

1. The purpose of this paper is to introduce Romania's second progress report back to the plenary concerning the progress that it has made to remedy the deficiencies identified in the third round mutual evaluation report (MER) on selected Recommendations.
2. Romania was visited under the third evaluation round from 6 to 12 May 2007 and the mutual evaluation report (MER) was examined and adopted by MONEYVAL at its 27th plenary meeting (7 – 11 July 2008). According to the procedures, Romania submitted its first year progress report to the 30th plenary in September 2009.
3. This paper is based on MONEYVAL's Rules of procedure as revised in March 2010 which require a secretariat written analysis of progress against the core Recommendations¹. The full progress report is subject to peer review by the plenary, assisted by the rapporteur country and the secretariat (Rules 38-40). The procedure requires the plenary to be satisfied with the information provided and the progress undertaken in order to proceed with the adoption of the progress report, as submitted by the country, and the secretariat written analysis, both documents being subject to subsequent publication.
4. Romania has provided the secretariat and plenary with a full report on its progress, including supporting material, according to the established progress report template. The secretariat has drafted the present report to describe and analyse the progress made for each of the core Recommendations.
5. Romania the following ratings on the core Recommendations:

R.1: Money laundering offence	LC
SR.II: Criminalisation of terrorist financing	PC
R.5: Customer due diligence	PC
R.10: Record Keeping	PC
R.13: Suspicious transaction reporting	PC
SR.IV: Suspicious transaction reporting related to terrorism	PC

6. This paper provides a review and analysis of the measures taken by Romania to address the deficiencies in relation to the core Recommendations (Section II) together with a summary of the main conclusions of this review (Section III). This paper should be read in conjunction with the annexed written Progress Report Questionnaire (PRQ) and annexes submitted by Romania.

7. It is important to note that the present analysis only focuses on the core Recommendations R.1, SR.II, R.5, R.10, R.13 and SR.IV and thus only a part of the AML/CFT system is assessed. Furthermore, when assessing progress made, effectiveness was taken into account, to the extent possible in a paper based desk review, on the basis of the information and statistics provided by Romania, and as such the assessment made does not confirm full effectiveness.

¹ The core Recommendations as defined in the FATF procedures are R.1, R.5, R.10, R.13, SR.II and SR.IV.

1.2 Detailed review of measures taken by Romania in relation to the Core Recommendations

A. Main changes since the adoption of the MER and the First Progress Report

8. Since the First Progress report in September 2009, Romania has taken a number of measures to develop and strengthen its AML/CFT system, several of which are relevant in the context of addressing the deficiencies identified in respect of the core Recommendations and their effective implementation. These include:

- Further amendments in 2011 to the AML/CFT Law N° 656/2002, which were adopted by the Parliament in November 2011 have been promulgated by the President's office were published in the Romanian Official Gazette (no.861/07.12.2011) on the 7th of December and put into force the same day. Therefore, these amendments provide both simplified and enhanced CDD to address various levels of risks, including stricter measures for the identification of beneficial owners and record keeping.

9. Reform of the AML/CFT national legal framework. A new Civil Code was adopted in 2009 and came into force in October 2011. Furthermore, the Criminal Code, adopted in July 2009, the Criminal Procedure Code and the Civil Procedure Code, both adopted in July 2010, will probably enter into force in 2012.

10. Adoption of legislative measures taken by the supervisory and control authorities in order to cover all aspects of the primary legislation related to AML/CFT.

11. Adoption in June 2010 of the National strategy for prevention and combating ML and FT including an action plan, enhancing, optimising and consolidating the national capacity for prevention and combating of ML and FT.

12. New legislative measures were adopted in respect to the power of the FIU to postpone transactions at the request of a foreign FIU providing harmonisation with the Warsaw Convention (ratified in 2005).

13. Amendments to achieve a higher degree of harmonisation with the European Commission Directive 2005/60/EC and the FATF Recommendations.

14. Romania has also taken additional measures to address deficiencies identified in respect of the key and other Recommendations, as indicated in the progress report. However these fall outside of the scope of the present report and are thus not reflected in the text of the following analysis.

B. Review of measures taken in relation to the Core Recommendations

Recommendation 1 - Money laundering offence (rated LC in the MER)

15. Deficiency 1 identified in the MER (*Ineffective implementation resulting in low number of final convictions.*) According to the latest statistical data provided by the authorities, the number of ML indictments is increasing, with 230 individuals indicted in the 11 months to November 2011.

16. The MER reported that there had only been final convictions in five ML cases. The statistics in the Progress Report indicate that on average there has been over 8 cases per year with ML convictions involving on average 23 persons. This is a considerable improvement.

17. It is noted that measures have been introduced to speed up the judicial process and that there have been extensive training initiatives involving law enforcement, prosecutors and the judiciary.

18. The Progress Report cites one case of an autonomous offence prosecuted in 2011. The accused person was caught while selling 1.5 kg of heroine to an accomplice. The subsequent investigation revealed that during the same period, he had bought land in Bucharest and a car. The judgement considered that the legal income was insufficient to support such purchases. It was concluded that the goods were purchased from the benefits obtained from previous non-identified heroin transactions and constituted a ML offence, for which he was convicted and the properties confiscated.

19. One other case is cited in which 27 persons were indicted, some of whom were charged with a ML offence although there was no direct link to the predicate offences.

Effectiveness

20. Although the number of convictions remains low there has been a clear improvement in the number of indictments and convictions with two cases involving autonomous offences.

Special Recommendation II - Criminalization of terrorist financing (rated PC in the MER)

21. The separate criminal offence of terrorist financing was introduced in Romania in 2004. The evaluators concluded that the offence appeared to be only partially in line with the 1999 UN Convention for the Suppression of the Financing of Terrorism. Furthermore, the evaluators did not consider that they were in a position to comment with certainty on whether Article 36 covered legitimate funds.

22. The Romanian judicial system is passing through a re-modernisation process. Amendments to the Criminal Code, Criminal Procedure Code and related normative acts modifying the TF offences have been introduced but are awaiting approval by Parliament; it is anticipated by the authorities that these amendments will probably come into force in 2012. The Romanian authorities consider that amendments under discussion should implement the recommendations made in the MER.

23. Deficiency 1 identified in the MER (*The Law on preventing and fighting terrorism needs to be amended to cover all elements of SR II, to explicitly provide for the offence also covers legitimate funds and that “funds” cover the terms as defined in the Terrorist Financing Convention. The provisions should furthermore provide that knowledge can be inferred from objective factual circumstances.*) As the relevant legislation is still under consideration by the Romanian authorities and drafts have not been provided with the Progress Report. The First Progress Report stated that:

In August 2009, the Romanian Intelligence Service finalized the drafting of a normative act for modifying Law no. 535/2004 on preventing and combating terrorism.

The new text of TF offence from the aforementioned draft provides:

“Art. 38. (1) It shall be a crime and shall be punished by imprisonment from 15 to 20 years and interdiction of certain rights the followings: making available, achieving, providing or collecting of funds and logistical resources in every way, directly or indirectly, with the aim of supporting or committing terrorist acts, as well as any financial and/or banking operations made for or on behalf of natural or legal persons who are subjects of international sanctions or are listed in the national list for preventing and combating terrorism.

(2) Logistical resources and funds made available, achieved, provided or collected with the aim of supporting or committing terrorist acts, shall be confiscated, and if they cannot be found, the convicted shall be obliged to the payment of their equivalent in money

(3) Attempt shall be punished.

(4) The production or acquisition of means or instruments, and the taking of measures in view of committing the offences in para. (1) shall be considered attempt.”

Romanian authorities consider that the new definition of TF offence is fully in line with Terrorist Financing Convention.

The draft also provides a new definition of funds in art. 3, point 8: “funds – assets, whether tangible or intangible, movable or immovable, financial means and benefits in every form, acquired or collected, directly or indirectly, with the aim of financing terrorist acts.”

The wording does not specifically cover “terrorist organisations” or “individual terrorists”, merely referring to “with the aim of supporting or committing terrorist act” and “.natural or legal persons who are subjects of international sanctions or are listed in the national list for preventing and combating terrorism”. Furthermore, the definition of “funds” does not cover

the full definition as set out in the Terrorist Financing Convention. Therefore this deficiency has not been remedied.

24. Deficiency 2 identified in the MER (*Attempt to commit the offence of terrorist financing should also be an offence.*) As above, in the absence of draft legislation, it is not possible to assess whether this deficiency has been remedied.

25. Deficiency 3 identified in the MER (*There have been no terrorist financing cases and consequently it is not possible to assess whether the offence is effectively implemented.*) The statistics provided indicate that there have been STRs submitted relating to FT. Furthermore, in the period covered by the Progress Report, three investigations into FT have been commenced although, to date, there have been no convictions. This is an improvement in the situation as reflected in the MER where the evaluators noted that no investigations into FT had taken place.

Effectiveness

26. The law concerning FT is still in the process of being amended so it is not possible to assess the effectiveness of implementation of the revised laws. It is however noted that, in the period covered by the Progress Report, three investigations into FT have been commenced although there have been no convictions.

Recommendation 5 - Customer due diligence (rated PC in the MER)

27. The first amendments of the AML/CFT Law in 2008 provided for an explicit definition of beneficial ownership, the implementation of measures to verify the identity of beneficial owners and CDD measures applied to existing customers particularly in the case of non-banking financial institutions. Further amendments in 2011 to the AML/CFT Law N° 656/2002, which were adopted by the Parliament in November 2011 have been promulgated by the President's office were published in the Romanian Official Gazette (no.861/07.12.2011) on the 7th of December and put into force the same day.

28. Deficiency 1 identified in the MER (*No explicit definition of beneficial ownership.*) Article 2 of the AML/CFT Act amended in 2008 defines the beneficial ownership as follows:

(1) *For the purposes of the present law, beneficial owner means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf or interest a transaction or activity is being conducted, directly or indirectly.*

(2) *The beneficial owner shall at least include:*

a) *in the case of corporate entities:*

1. *the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership over a sufficient percentage of the shares or voting rights sufficient to ensure control in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards. A percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;*

2. *the natural person(s) who otherwise exercises control over the management of a legal entity;*

b) *in the case of legal entities, other than those referred to in para (a), and other entities or legal arrangements, which administer and distribute funds:*

1. *The natural person who is the beneficiary of 25 % or more of the property of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined;*

2. *Where the natural persons that benefit from the legal person or entity have yet to be determined, the group of persons in whose main interest the legal person, entity or legal arrangement is set up or operates;*

3. *The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement.*

29. This amendment appears to remedy the identified deficiency.

30. Deficiency 2 identified in the MER (*The requirement to take reasonable measures to verify the identity of the beneficial owner, as required by the FATF standards, is not adequately implemented.*) Article 8 of the AML/CFT Act, amended in 2008, requires that:

In performing their activity, the persons referred to in article 8 are obliged to adopt adequate measures on prevention of money laundering and terrorism financing and, for this purpose, on a risk base, apply standard customer due diligence measures, simplified or enhanced, which allow them to identify, where applicable, the beneficial owner.

31. Although this amendment requires obligors to identify the beneficial owner it does not require them to verify the identity of the beneficial owner. This requirement is, however, set out in Article 5 (1) b) of The Regulation for application of the provisions of the AML/CFT Law (Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts) and requires:

identifying, where applicable, the beneficial owner and taking risk-based and adequate measures to verify his identity.

32. Article 19 of the Regulation sets out sanctions for breach of the Article 6 (3) and (4) which require keeping records of the verification process under Article 5. Unfortunately, there do not appear to be sanctions that specifically cover the failure to verify the identity of the beneficial owner. Therefore the requirement under Article 5 (1) b) cannot be considered to be law or regulation.

33. Therefore, this deficiency is not fully remedied.

34. Deficiency 3 identified in the MER (*Further consideration should be given to the extent that reporting entities have applied CDD measures to existing customers particularly in the case of non-banking financial institutions.*) This has been addressed since Article 91 of the AML/CFT Act amended in 2008, states:

The persons referred to in the article 8 shall apply standard customer due diligence measures to all new customers and also, as soon as possible, on a risk base, to the existing clients.

35. This amendment appears to remedy the identified deficiency.

Effectiveness

36. Apart from the lack of sanctioning on verification of beneficial owners the amendments to the AML/CFT Law appear to have remedied the identified deficiencies. With regard to effectiveness, all non-credit institutions were subject to a comprehensive off-site/on-site cycle of supervision activities in the period of 2009 - 2010. Several sanctions were applied. In this respect, 228 non-banking financial institutions (NFIs) were controlled in 2009 and 33 NFIs in 2010 with an aggregate value of fines over € 300 000.

Recommendation 10 - Record-keeping (rated PC in the MER)

37. Deficiency 1 identified in the MER (*Apart from the capital market there is no requirement of keeping transactions records for a longer period even if requested by a competent authority in specific cases.*) Art. 18 of the NSC Regulation no 5/2008 states that

regulated entities must keep all the documents and records related to the customers transactions and operations for at least 5 years or even more since the transaction has been concluded, to be available at the request of the Office or other authorities, irrespective whether the account has been closed or the client relationship has been terminated.

38. Likewise, NBR Regulation no.9/2008 (applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register): requires in Article 22(2) that

The institutions shall, at the express request from the National Bank of Romania or from other authorities according to the law, keep, in adequate form in order to be used as evidences in

court proceedings, the identification data of the customer, the secondary or operational documentation and the records of all the financial operation that occur in a business relationship, for a time longer than five years from the ending of the business relation with the customer. The request of the authority shall clearly indicate the transactions and/or customers and also, the extended amount of time the institution is to keep the relevant information and documents

39. This deficiency appears to be remedied.

40. Deficiency 2 identified in the MER (*Criterion 10.1.1 is not fully met with reference to the insurance sector. Apart from the capital market there are no provision on keeping identification data, account files and business correspondence for longer than 5 years if necessary, when properly required to do so by a competent authority in specific cases upon proper authority. The requirement to provide information “on a timely basis” as required in Criterion 10.3 is not met. For financial institutions registered in the General and Evidence Register, as well as for the insurance sector the record keeping requirements do not cover account files and business correspondence.*) In the Progress Report the authorities state that essential criterion 10.1.1 has been addressed in article 24 paragraph 2 of the AML/CFT Law as amended in 2008. The quoted text does not, however appear to cover the requirement that records should be sufficient to permit reconstruction of individual transactions. This requirement does, however, appear to be set out in Article 18 (2) of Regulation no. 5/2008 on the prevention and control of money laundering and terrorist financing through the capital market which requires that:

These records shall be sufficient to allow a reconstruction of the the individual transaction, including the amount and type of currency, to provide evidence in court, if necessary.

41. The requirement to keep documents for more than 5 years when requested is dealt with under deficiency 1 above.

42. With regard to the requirement to provide information on a timely basis, Article 18 (3) of the Romanian National Securities Commission’s Regulation no. 5/2008 on the prevention and control of money laundering and terrorist financing through the capital market requires that:

The regulated entities are required to have internal procedures and dispose of systems which enable the prompt submission of the information about the identity and the nature of the relationship for the customers specified in the request with whom they are in business relationship or have had a business relationship for the last 5 years, at the request of the Office, respectively N.S.C. and / or criminal investigation bodies

This does not satisfy essential criteria 10.3* as it is limited to *information about the identity and the nature of the relationship for the customers specified* does not explicitly include transaction records and information.

43. National Bank of Romania Regulation No. 9 on know your customer on scope of prevention money laundering and terrorism financing which applies to “*credit institutions Romanian legal entities, Romanian legal entities for payment institutions, institutions who issue electronic money, Romanian legal entities and non-banking financial institutions Romanian legal entities entered in the Special Register kept by the National Bank of Romania*” requires that

The institutions shall ensure the access of the personnel with responsibilities in the field of customer due diligence in the prevention of money laundering and terrorism financing, including of the designated persons in accordance with the provisions of art. 14 para. (1) of the Law no. 656/2002, with subsequent modifications and completions, as well as to the external auditor, of National Bank of Romania or of other authorities in accordance with the provisions of the law, to all the evidences and documents related to the clients and the operations performed for them, including any analyses performed by the institution for detecting the unusual or suspect transactions or for determining the level of the associated risk to a transaction or a client, by putting at the their disposal the necessary documents/information in due time.

44. There does not appear to be a requirement to retain account files and business correspondence. The Insurance Supervisory Commission consider that the requirement under Order no.24/2009 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market to “*maintain appropriate secondary or operational records of all the financial operations conducted by the client*” covers this requirement for the insurance market. As this requirement only relates to “*financial operations*” this requirement does not appear to meet the requirements of the essential criteria.

45. Deficiency 3 identified in the MER (*The requirement to ensure that all customer and transaction records and information are available to domestic competent authorities “on a timely basis” as required in Criterion 10.3 is not met.*) This deficiency has been covered under deficiency 2 above.

Effectiveness

46. From the information provided in the PRQ, it does not appear that breaches of the AML/CFT Law with regard to the record keeping provisions have been detected so far.

Recommendation 13 – Suspicious transaction reporting (rated PC in the MER)

47. Deficiency 1 identified in the MER (*Requirement to broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, Para 2).*) This has been addressed by adding a new paragraph to article 4 of the AML/CFT Law in 2008 by the draft law for approval of the Governmental Emergency Ordinance no. 53/2008 on prevention and sanctioning money laundering which states:

The persons referred to in the Art. 8 immediately notifies the Office, when it is ascertained that for one or several operations performed into the account of the customer there are suspicions that the funds aims to money laundering or terrorism financing.

48. Deficiency 2 identified in the MER (*Attempted suspicious transactions are not covered.*) This has been addressed through article 3 (1) of the of the AML/CFT Law amended in 2008 which states:

As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering.

49. This wording although not explicitly referring to attempted suspicious transactions would appear to be sufficiently comprehensive to cover attempted transactions.

50. Deficiency 3 identified in the MER (*The reporting obligation should also cover funds suspected to be linked to or related to or to be used for terrorism, terrorist acts or by terrorist organisations.*) This has been addressed through article 3 (1) of the AML/CFT Act (see Deficiency 2 above) which includes “terrorism financing”. “Terrorism financing” is itself defined in Article 2 a¹) as “the offence referred to in the Art. 36 of the Law no. 535/2004 on the prevention and combating terrorism”.

51. Deficiency 4 identified in the MER (*Low level of reporting outside the banking sector raises effectiveness questions.*) There has been a steady increase in the number of STRs submitted from outside credit institutions to the extent that in the first nine months of 2011 more STRs were submitted by non-credit institutions (1,075) than from credit institutions (1,031) .

Effectiveness

52. Overall the level of STRs submitted has remained at roughly the same level over the reporting period, however, the level of STRs from non-credit institutions has risen significantly. Over the period since the MER referrals to law enforcement and prosecutors has been on average 17%.

Special Recommendation IV (rated PC in the MER) – Suspicious transaction reporting related to terrorism

53. Deficiency 1 identified in the MER (Clarify and broaden the reporting obligation to also cover terrorist financing if the suspicious transaction has been performed (beyond article 4 paragraph 2 - see Recommendation 13).)

54. See Deficiency I under R.13 above.

55. Deficiency 2 identified in the MER (Attempted suspicious transactions are not covered.) See Deficiency 2 under R.13 above.

56. Deficiency 3 identified in the MER (The reporting obligation should also cover funds suspected to be linked to or related to or to be used for the terrorism, terrorist acts or by terrorist organisations.) See Deficiency 3 under R.13 above.

57. Deficiency 4 identified in the MER (Relatively low number of reports on financing of terrorism raises question of effectiveness.) The overall number of STRs relating to TF remains low although reports have been received each year, apart from 2005 and 2008. Furthermore, TF reports have been received from non-credit institutions.

Effectiveness

58. As stated under Deficiency 4 above, the overall number of STRs relating to TF remains low although reports have been received each year, apart from 2005 and 2008. Furthermore, TF reports have been received from non-credit institutions. During the period under review a number of reports on TF cases have been submitted to law enforcement.

1.3. Main conclusions

59. There is some progress on clarifying the legal issues raised in respect of R.1 and some jurisprudence in respect of ML criminalisation. Furthermore there has been a clear improvement in the number of indictments and convictions with two cases involving autonomous offences.

60. With regard to SR.II the authorities indicate that the Criminal Code and Criminal Procedure Code are currently undergoing review and revision. However, as these revisions were not provided it is not possible to comment whether the identified deficiencies had been remedied.

61. With regard to R.5, R.10, R.13 and SR.IV there have been a number of amendments to law and regulation that have remedied many of the identified deficiencies although some still remain.

62. Further amendments to the AML/CFT Law have now been promulgated by the President's Office and have been put into force.

63. Further amendments to the Criminal Code and Criminal Procedure Code and related normative acts are currently undergoing review and revision and have not yet been approved by the Parliament; although it is anticipated by the authorities that these will be put into force in 2012.

64. In conclusion, as a result of the discussions held in the context of the examination of this second progress report, the plenary was satisfied with the information provided and the progress being undertaken and thus approved the progress report and the analysis of the progress on the core Recommendations. Pursuant to Rule 41 of the Rules of procedure, the progress report will be subject of an update in every two years between evaluation visit (i.e. December 2013), though the plenary may decide to fix an earlier date at which an update should be presented.

MONEYVAL Secretariat

2. Information submitted by Romania for the second progress report

2.1 General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field

Position at date of first progress report (22 September 2009)

a. Legislative developments:

Having regard the quality of Romania as EU Member State and having regard the existing acquis communautaire, during 2007 and 2008, it was made a significant progress in drafting and adopting normative acts in the AML/CTF field needed to fully transpose the provisions of Directive 2005/60/EC of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing and the Commission Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, and to implement the recommendations included by the experts in the Third Round Detailed Assessment Report on Romania on anti-money money laundering and combating the financing of terrorism.

On this respect it is to be underlined the support of the Romanian Government in adopting the Emergency Ordinance no.53/April 21, 2008 on amending and completing the Law no. 656/2002 for prevention and sanctioning money laundering, as well as for prevention and combating terrorism financing acts (**integrated version of the Law is attached in the Annex no. 2.1**), as well of the Governmental Decision no. 594/June 4, 2008 on approval of the Regulation for applying the provisions of the Law no. 656/2002 (**Annex no. 2.3**), and of the Governmental Decision no.1.599/December 4, 2008 on approval of the Regulations for Organizing and Functioning of the National Office for Prevention and Control of Money Laundering (**Annex no. 2.4**).

The main amendments to the Law no. 656/2002 brought by GEO no. 53/2008 (**Annex no. 2.2**) are:

- Strict definitions of the concepts „the beneficial owner”, “connected operations”, “shell bank”, “third parties”, “external transfers”;
- Defining the concept “Politically Exposed Persons” and the PEPs categories, as well as new provisions for the reporting entities;
- Increasing the reporting threshold, from Euro 10.000 to Euro 15.000, in case of cash and external operations in and from accounts, related to the KYC standards and to the reporting obligations;
- The modality of providing by the Romanian FIU of the feedback related to the clients, natural and/or legal persons, exposed to the risk of money laundering and terrorism financing;
- Redefinition of the list of the reporting entities category;
- Simplified and enhanced measures for customer due diligence;
- Specific provisions related to business relationships with entities from EU and EEA or from third equivalent countries;
- Interdiction to open and to operate anonymous accounts, as well as to initiate and to continue a business relationship with a shell bank;
- Setting up the competence of the authorities in the supervision and control field, related to the activities performed by the reporting entities;
- Establishing the competent supervisory authorities responsible with the compliance of the provisions of the EC Regulation no. 1781/2006, namely National Bank of Romania, for credit institutions, and the Office for other legal persons who performs fund transfer services;
- Establishing more obligations for the National Customs Authority, for compliance to the EC Regulation no. 1889/2005, namely, to monthly report to the Office all the available information

in relation with the declarations of natural persons regarding cash in foreign currency and/or national one, which exceed the threshold of Euro 10.000, in accordance with the communitarian act.

- Inserting the measure of “controlled delivery on funds”, this can be used by prosecutors for obtaining proofs.

Currently, the draft law for approval of the Governmental Emergency Ordinance no. 53/2008 on amending and completing the Law no. 656/2002 for prevention and sanctioning money laundering, as well as for prevention and combating terrorism financing acts, is submitted to the Romanian Parliament for adoption, the draft being already approved by the Senate and by the Budget, Finance and Banks Commission within the Deputies Chamber (decisional chamber). Starting with September 2009, new amendments will be discussed within the Legal, Discipline and Immunities Chamber, and draft is to be submitted for debating and adoption to the Plenum of the Deputies Chamber.

In addition, we would like to mention that the prudential supervisory authorities in the financial field issued during the year 2008, sectorial regulations/norms setting up obligations for drafting procedures and concrete measures for prevention and combating money laundering and terrorism financing by the regulated reporting entities.

These normative are:

- i. National Bank of Romania Regulations no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention;
- ii. National Securities Commission Regulations no. 5/2008 for setting up measures for prevention and combating money laundering and terrorism financing acts through capital market;
- iii. Insurance Supervision Commission’ Order no.24/2009 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market;
- iv. Supervision Commission of the Private Pension System’ Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts in the private pensions system.

Other secondary legislation generated for applying the new legal framework in the AML/CFT field refers to:

- v. Governmental Decision no. 1437/2008 for the approval of the List of third countries imposing similar requirements as those provided by the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing acts;
- vi. NOPCML Board Decision no.673/2008 on the approval of the Working Methodology for submitting the Cash Transactions Reports and External Transfers Reports (Annex no. 2.6).
- vii. NOPCML Board Decision no.674/2008 regarding the form and the content of the Suspicion Transaction Reports (Annex no. 2.7).
- viii.

The adopted primary and secondary normative acts, totally transposing the 3rd Directive and Commission Directive 2006/70/EC and ensuring measures for implementation of art. 15 of the EU Regulations no. 1781/2006, as well as of the EU Regulations no. 1889/2005, were officially notified by the National Office for Prevention and Control of Money Laundering, through the letters no. 2782/30.04.2008, no. 4936/07.08.2008 and no. 8551/19.12.2008, sent to the European Commission, via European Affairs Department.

On the same time, it is to be mentioned the steps forward made for assuring a new legal framework for applying the international sanctions regime in Romania. In this respect, the Governmental Emergency Ordinance no. 202/2008 on the application of international sanctions (adopted by the Romanian Parliament through the Law no. 217/2009) institutes some important measures as:

- ix. regulates the modality of applying at national level the international sanctions mandatory or non-mandatory issued by international organizations;
- x. creates the Inter-institutional Council of ensuring the general framework of cooperation at

national level in the field of applying international sanctions; the Council is formed public authorities (including also the FIU) and institutions that regulate, authorize and supervise the financial sector, the legal professions associations, etc.;

- xi. sets up the obligations of the natural and private legal persons and of the public domestic authorities and institutions, for applying international sanctions;
- xii. sets up the attributions for public authorities and institutions for supervising the internal application of international sanctions.
- xiii. In respect with the legal professions and money transfers companies, there were made steps forward in improving the cooperation between the FIU and the legal professions associations, as well as with the National Company Post Office, by means of:
- xiv. updating cooperation protocols for an effective implementation and drafting specific guidelines;
- xv. pro-active discussions held within the framework of the training sessions, jointly organized by NOPCML and these association;
- xvi. controls performed to the regulated entities for verifying the conformity to the Law no. 656/2002 consequently amended and completed;

As regards the special procedures for the application of GEO no. 202/2008, we would like to mention the Insurance Supervision Commission's Order no. 13/2009 for the implementation of the Regulations on supervision, in the insurance field, of the implementation of international sanctions (Annex no. 9), as well as the Norms no.11/2009 of the Supervision Commission of the Private Pensions System regarding supervision procedure of the implementation of international sanctions in the private pension system (Annex no. 10).

Additionally, the gambling sector was recently specially regulated, also in respect with the AML/CTF field, by the adoption of very important piece of legislation:

- Governmental Emergency Ordinance no. 77/2009 on the organization of gambling activities;
- Governmental Decision no. 870/30.07.2009 on the approval of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities.

b. Institutional developments:

One of the main recommendations included in the Assessment Report was referring to the supervision field and the need to clearly delimitate the sphere of competence between supervisory authorities and the FIU which was granted also with supervision and control tasks over some non-banking financial institutions and DNFBPs.

On this respect, having regard the recommended actions to increase the human resources of the FIU, considered inadequate to perform in optimal conditions two of its specific activities (analysis and supervision), by adoption of the Governmental Decision no. 1599/2008 for the approval of the Regulations for Organizing and Functioning the National Office for Prevention and Control of Money Laundering, there were initiated measures for enhancing the new created structured within the Office (Supervision and Control Directorate, Legal and Methodology Directorate and IT and Statistics Directorate) and the existing ones.

Therefore, starting with January 01, 2009, the maximum number of positions allocated to the FIU increased to 130, out of which currently 104 are hired.

In the same context, by view of experts' recommendations and following discussions between the NOPCML, National Bank of Romania, Ministry of Public Finance and Ministry of Justice and Citizenships Liberties, it was agreed to define the authority which authorizes and supervises the exchange houses, respectively the Ministry of Public Finance. The amendments to the Law no. 656/2002 have been submitted to the Romanian Parliament.

In reference to the aspect of elimination the pending STRs, the NOPCML adopted several solutions on this respect:

- the pending STRs from 2005 were solved;
- by adopting GD no. 1599/2002 and based on the Board Decision no. 225/2009, in the new Internal methodology of analysis and processing information, it was inserted a case prioritization

system based on identified risk indicators, this organizing and speeding up the analysis process;

- by contracting EU funds within the PHARE 2006 programming, the IT system of the Office will be optimized. Within the project, it was also developed a case management system for the administration (processing and analysis) of information regarding suspicious transactions that allows to submit electronically the notifications including ML and FT solid grounds to the competent law enforcement authorities. The testing of the connection functionality is to be soon started.

For a further coordination of the AML/CTF system at national level, the Romanian competent authorities (FIU, law enforcement authorities, financial control and supervision authorities, other actors involved in the field) envisaged to develop adequate mechanisms and to ensure and efficient coordination of the national politics, in particular, on enhancing strategic coordination and systematically review the vulnerabilities to money laundering and terrorism financing.

In this respect, during the period 2008-2009, there were paid efforts for enhancing the implementation of the Action Plan for inter-institutional cooperation, by:

- xvii. concluding a Cooperation Protocol between the General Prosecutor's Office by the High Court of Cassation and Justice and the NOPCML, having as purpose organizing regional seminars in the AML/CTF field. To the 7 training sessions organized during 2009 a number of 70 prosecutors attended.
- xviii. Concluding cooperation protocols between the NOPCML and National Integrity Agency and Fight against Fraud Department;
- xix. Participation of the NOPCML experts to the twinning project RO07/IB/JH/03 entitled „Enhancing the investigation capacity of the National Anticorruption Directorate”, having as main purpose improving the cooperation and coordination systems by adopting the best working practices within anticorruption investigation;

On the same time, an important tool for coordinating national politics in the AML/CTF field it will be represented by the implementation of the Twinning Project within the Transition Facility RO /2007-IB/JH/05, entitled “*Increasing the capacity of the institutional system for prevention and combating money laundering and terrorism financing*”, approved by the European Commission with reference no. 2007/19343.01.14, which has as main objectives:

- xx. drafting the National Strategy on Money Laundering and Terrorism Financing;
- xxi. elaboration of a Handbook on ML and TF for guidance and training of the financial and non-financial reporting entities under direct NOPCML supervision,
- xxii. developing of relevant documents concerning working procedures for off-site supervision, norms of control and inspection, standard model of the control work plan, compliance programme, compliance questionnaire, report on the pilot control;
- xxiii. training of prosecutors, police officers and Financial Guard commissioners.

On the same time, it is to be underlined the important institutional developments registered within the National Bank of Romania, by setting up of *Department for Monitoring the Application of International Sanctions, Prevention of Money Laundering and Terrorism Financing*, a new specialized structure whose responsibility is monitoring and supervising credit institutions, Romanian legal entities and non-bank financial institutions, Romanian legal entities registered in the Special Register held by the National Bank of Romania in the AML/CTF field, as well as supervising the applying of international sanctions for blocking funds (further details are described in the Annex 8).

New developments since the adoption of the first progress report

- Strategic Coordination Mechanism in the Anti-Money Laundering and Countering Terrorism Financing Field

Romania created the mechanism for policies and inter-institutional coordination in the fight against money laundering and countering terrorism financing, by adoption, in June 2010, of the **National Strategy for Prevention and Combating Money Laundering and Terrorism Financing**, by Decision of Supreme Council for State Defense (attached in the **Annex 1**). The main objectives of the Strategy consist in:

Objective I. Enhancement of the national capacity of prevention and combating money laundering and terrorism financing;

Objective II. Optimization of the available tools and enhancement of the specialization level of the personnel from relevant institutions in the field;

Objective III. Consolidating Romania's role in international mechanisms and bodies in the field of preventing and combating money laundering and terrorism financing.

The national mechanism of cooperation in the area of preventing and combating money laundering and terrorism financing has in view the *acquis communautaire* in the field, the FATF international standards and conventions in the field, as well as all the means, regulations, and the national public authorities and institutions with attributions in the area.

An **Action Plan**, aimed to be a proactive tool and a programmatic document for the implementation of the objectives included in the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, was approved, in September 2010, by all competent authorities in the field, in a Cooperation Protocol.

The document comprises measures, activities and deadlines over which the Romanian authorities have the responsibilities. Among the most important directions of actions, it is to be mentioned:

- Analysis of the legal framework and of the functionality of the cooperation mechanism in prevention and combating money laundering and terrorism financing;
- Intensification of operative evaluation and updating activities of the risk profiles and of specific risk indicators, depending on the evolutions registered in reality, through conjugated efforts of institutions/authorities with competences in this area;
- Strengthening the analysis, investigation and criminal prosecution capacity on prevention and combating money laundering and terrorism financing;
- Increasing the possibilities of disseminating information, in order to strength the proactive investigations based on financial information;
- Strengthening the cooperation with private sector through consolidation of the training and awareness level of reporting entities, which are component of the national cooperation mechanism;
- Strengthening the supervision and control capacity of authorities with attributions in this area, including of NOPCML, having regard its quality of supervision authority for categories of reporting entities which are not under supervision of other authorities;
- Increasing the level of informing and public awareness as regard associated risks to money laundering and terrorism financing;
- Active participation at development of international mechanisms regarding prevention and combating money laundering and terrorism financing.

The measures included in this Action Plan are implemented with the support of:

- The Inter-institutional Working Group formed by the designated specialists of the authorities with responsibilities in the field, which ensures a permanent monitoring of the status of the actions. The IWG participates to periodical and extraordinary meetings, whenever the case;
- The Secretariat ensured by the representatives of the Romanian FIU, which coordinates the performance of the activities under the Action Plan umbrella, assures direct communication between the partners, and elaborates periodical reports on the status of the activities.

Based on the measures included in the Action Plan, studies, guidelines and analysis on detecting vulnerabilities and risks to ML/TF are elaborated and periodical meetings between the main actors involved in prevention and combating money laundering and terrorism financing field are taking place.

- National Legislative Developments:

1. Adoption of New Codes:

During the last 2 years a substantial reform of national legal framework was carried out, four new codes being adopted:

- Civil code – adopted in 2009 (Law no 287/17 July 2009) entered into force in October 2011, this is the only one new code in force;
- Criminal Code – adopted in 2009 (Law no 286/17 July 2009);

- Criminal Procedure Code - adopted in 2010 (Law no 135/ 1 July 2010);
- Civil Procedure Code – adopted in 2010 (Law no 134/1July 2010);

Last three codes are envisaged to enter into force in 2012.

This represents an unprecedented legislative reform given its complexity and amplitude. The four new codes are the **fundamental pillars** of the Romanian legislation. The simultaneous drafting and adoption of essential legislation, substantial and procedural, both in civil and commercial matters, undoubtedly proves **the will of the entire political spectrum for advancing the reform process**.

2. The laws ensuring the application of the codes:

In addition to the four new Codes, we have elaborated the laws for implementation of the Codes, different to the codes themselves, but necessary for the technical application of the new Codes. They ensure compatibility of the Codes with the rest of the Romanian legal system.

- The law for the application of the Civil Code was published in the Official Journal in June 2011.
- The draft law for the implementation of the new Criminal Code is currently in an advanced stage of the parliamentary adoption procedures (under analysis by the Legal Committee of the Chamber of Deputies, which is the decisional chamber in this case).
- The draft laws for the application of the two procedural codes, as well as the 3 additional laws in criminal matters (two draft laws on different aspects concerning the execution of penalties and a draft law on the organization and functioning of the probation service) have been subjected to public debates and are currently pending endorsement by the competent authorities.

3. Law no. 202/2010 (“Small Reform Law”) entered into force in October 2010. Small reform Law represents a transition until all four new codes are in force and the main reason for adopting it was to accelerate procedures in criminal and civil cases before courts.

4. The law for modifying the Law no. 47/1992 on the Constitutional Court entered into force in October 2010. Exceptions of unconstitutionality are no more suspending the procedures before court until the exception is checked by the Constitutional Court.

5. The draft law for adoption of the Governmental Emergency Ordinance no. 53/2008 for amending and completing the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing acts, following its approval by the Senate and by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, **was adopted in the Plenary of the Chamber of the Deputies (decisional chamber), on November 22, 2011. The normative act brings a series of amendments to the AML/CTF Law, taking into account the Moneyval experts recommendations included in the Third Round Detailed Evaluation Report of Romania in the Anti-Money Laundering and Countering Terrorism Financing Field, as adopted on July 08, 2008.** Please see the details included in the questionnaire.

6. The Governmental Emergency Ordinance no.26/2010, as approved by the Law no. 231/2011, is amending and supplementing Governmental Emergency Ordinance no.99/2006 on credit institutions and capital adequacy and of other acts. The act transposes provisions of the Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions, amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC. G.E.O. no. 26/2010 brings important amendments to the AML/CTF legislation in respect to definition of “financial institutions” and to the supervisory authorities designated to verify the implementation of the EC Regulations 1781/2006 on the information on the payer accompanying transfers of funds.

On the same time, **the Law no. 127/2011 on the activity of electronic money** was adopted by the Romanian Parliament in order to transpose art. 1, 2 para 1-3, art. 3 para. 1 and 3-5, art. 4, art. 5 para 1 and 2 and para 5-7, art. 6, 7 para 1 and para 3-4, art. 8-13, art. 18 and art. 22 of the Directive 2009/110/CE.

7. The Governmental Decision no. 1100/2011 amending the Regulation for applying the provisions of the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, approved by Governmental Decision no. 594/2008. The normative act was modified for implementing art. 19 para 2 from Directive 2009/110/EC. **On November 14, 2011, the NOPCML, through the Ministry of European Affairs, notified electronically the full transposition into the national legislation of dispositions of art. 19 of Directive 2009/110/CE, modifying the Directive 2005/60/CE.**

8. The Governmental Emergency Ordinance no. 113/2009 on payment services, consequently amended and completed, transposes provisions of Directive 2007/64/CE of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market, amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC.

9. Based on the Common Understanding of the EU Member States, adopted on June 15, 2011, by the Committee for Prevention of Money Laundering and Terrorism Financing of the European Commission, the Government of Romania adopted the **Decision no. 885/2011 on amending the List of equivalent third countries**. The list was previously approved by the Government Decision no. 1.437/2008.

10. During the reference period, **significant initiatives were adopted in respect to the implementation of international sanctions regime**, as follows:

- The Governmental Emergency Ordinance no. 128/2010 completed and modified the provisions of the Governmental Emergency Ordinance no. 202/2008 on implementing the international sanctions regime. By including the concept of restrictions adopted with the purpose of prevention the nuclear proliferation it was set up a national mechanism of notifications and authorizations in respect to financial services and funds transfers subject to restrictive measures.
- Minister of Public Finances adopted the Order no. 1865 from 05.04.2011 regarding the procedure of the issuance of the order for blocking the funds and economic resources in the field of international sanctions or the recalling of the disposed measures;
- By Governmental Decision no.603/2011 the Norms regarding supervision by the National Office for Prevention and Control of Money Laundering of the methods of application of the international sanctions were approved;
- NOPCML' President issued the Order no. 95/2011 on the approval of the Methodological Norms for making notifications and processing requests for authorization to carry out certain financial transactions;
- National Bank of Romania issued the Regulation no.28/2009 on overseeing the enforcement of international sanctions imposing the freezing of funds, with subsequent modifications;
- Insurance Supervision Commission' Order no. 13/2009 regards the implementation of the Regulations on supervision, in the insurance field, of the implementation of international sanctions;
- National Securities Commission issued the Regulation no. 9/2009 on the supervision of the enforcement of international sanctions on the capital market;
- Supervision Commission of the Private Pension Funds' Norms no. 11/2009 regards the procedure of supervision the implementation of international sanctions regime in the private pension sector, as amended by the Norms no. 4/2010.

11. Other important legislative measures were taken by the supervisory and control authorities involved in the field, in order to cover all aspects included in the primary legislation related to AML/CTF field. Among these, it is to be mentioned:

- Governmental Decision no. 150/2011 for the modification and completion of the Romanian Tax Code and modification and completion of the GD no. 870/2009 on the approval of the Methodological

Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities. In this case new rules are introduced as far as it concerns the obligation of the economic operators to declare to the relevant tax office, prior to the payment deadline, the amount of taxes paid as license for organizing such activities, as well the access fee. The economic operator will also have to note the date and the hour of the issuance of the access ticket and to properly archive this information and documents. There are also provisioned legal measures for not complying with these legal provisions.

- Governmental Decision no. 823/2011 for modification and completion of the G.D. no. 870/2009 on the approval of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities. These legal provisions introduce new activities as far as it regards the gambling activities such as lottery, mutual gambling activities, bingo, on-line betting, all organized by electronic means. The legal act provides the legal frame for these new activities.

-National Bank of Romania' Regulation no. 9/2008 on customer due diligence for prevention money laundering and terrorism financing, with subsequent amendments and completions brought by NBR' Regulations no. 16/2009, no. 27/2009 and no.7/2011;

- Insurance Supervision Commission' Order no. 24/2008 to apply the Regulations concerning the prevention and control of money laundering and terrorism financing through the insurance market, consequently amended by ISC' Order no. 5/2011;

- Supervision Commission of the Private Pension Funds' Norms no.12/2010 regarding set up a pension company and licensing of administrators of privately managed pension funds;

- Supervision Commission of the Private Pension Funds' Norms no.13/2010 regarding set up a pension company and licensing of voluntary pension administration companies.

- Main Institutional Developments:

National Office for Prevention and Control of Money Laundering (NOPCML – FIU Romania)

Important steps were taken by the FIU Romania, during the period January 2009- November 2011, in order to strengthen the capacity of the institution and of the national AML/CTF system – as part of it, in an operative and efficient direction of activity. On this respect, it is to be mentioned:

- Adoption of a more proactive approach in respect to the analysis performed within the FIU:

In this context, the relationship between the FIU Romania and the General Prosecutor's Office by the High Court of Cassation and Justice encountered new valences, dedicated especially to increase the quality of notifications submitted by the Office to the GPOHCCJ and the percentage of confirmed investigations on the ML/TF cases.

The new direction of the proactive use of legislative means assigned to the FIU (here, referring to request for information concluded by the prosecution units which are competent based on provisions of the art. 6 para 4 and art. 5 from the Law no. 656/2002, consequently amended and completed, and to submission of notifications to the GPOHCCJ, comprising solid grounds of money laundering and terrorism financing, according to the art. 6 para 1 from the Law no. 656/2002 as amended and completed), is representing one of the effects of implementation of **the Cooperation Protocol concluded between the General Prosecutor's Office by the High Court of Cassation and Justice and the National Office for Prevention and Control of Money Laundering, finalized in 2010.**

Based on this initiative, the FIU made significant efforts for:

- ✓ reevaluation of the risk indicators used within the analysis process;
- ✓ amending the internal methodology of analysis and processing of information;
- ✓ establishing a **Preliminary Analysis Department (PAD).**

PAD was set up in August 2010, with the aim to streamline the financial analysis process by selecting STRs according to their risk level. PAD acts actually, on a risk based approach, as an advanced tool for filtering large number of STRs received by the Office. The result adds a plus of efficiency to the FIU' operative activity, because only STRs with a high risk level are distributed to the Detailed Financial Analysis Departments. If the preliminary analysis reveals solid grounds of other offences than money laundering or terrorism financing, FIU notifies the competent body. If, during the preliminary analysis of a STR, the scoring system indicates a high rank, the STR is directed to one of Financial Analysis Departments, in order to perform, with priority, the detailed analysis. The in-depth analysis is imposed in case of transactions identified as having a high risk and it requires additional

resources which allows a more complex approach of STRs (for example collecting and processing of data and information which exceed the preliminary analysis), the final scope being identification of existence or inexistence of solid grounds of ML or TF. On the same time, PAD is the structure created with the purpose to speed up the solving process of the punctual requests addressed by the prosecutor's office, in accordance with provisions of art. 6 para (4) and (5) of the Law no. 656/2002, consequently amended and completed.

-The information above-mentioned is supported by the following statistical data available at the level of FIU Romania:

- During the period 01.01.2009-01.11.2011, the NOPCML (the Romanian FIU) received a total number of 8.355 STRs and notifications of money laundering and terrorism financing from the reporting entities and by the competent authorities involved in the field.

- In the reference period, a total of 15 cases was disposed the suspension of transactions, out of which 11 were related to money laundering suspicious (in total value of 6.468.876 euro and 2.700.000 RON) and 4 were related to suspicions of terrorism financing (in total value of 42.622 USD, 102.300 euro and 234.104 RON).

- During the reference period, based on the punctual requests of the Prosecutor's Office, submitted in accordance with art. 6 para 4 and 5 of the Law no. 656/2002, the Office supported the investigation of the penal cases by submitting additional information in 646 cases;

- The NOPCML submitted, from January 2009 till November 01, 2011, to the General Prosecutor's Office by the High Court of Cassation and Justice a total number of 711 notifications identifying solid grounds of money laundering and to the GPOHCCJ and the Romanian Intelligence Service a number of 37 notifications related to solid grounds of terrorism financing.

- For supporting the operative analysis, within the mentioned period, the FIU submitted a total number of 658 requests of information to the foreign FIUs. On the same time, many of the requests received by FIU Romania from abroad (in the period 01.01.2009-01.11.2011, there were received 532 requests) included elements of suspicions that supported the current analysis of the Office or that constituted indicators to start ex-officio new ML/TF analysis, based on provisions of art. 19 para 2 of the Law no. 656/2002, consequently amended and completed.

Here, it is to be mentioned that, in the draft of law approving the Governmental Emergency Ordinance no. 53/2002, which has been adopted on November 22, 2011, by the Romanian Parliament, **new legislative measures were adopted in respect to the power of the FIU to postpone a transaction by the request of a foreign FIU: Art. 19 para (2) – The Office may dispose, at the request of the Romanian judicial authorities or of the foreign institutions with similar attributions and with the obligation of keeping the secrecy in similar conditions, the suspension of performing of a transaction, which has as purpose money laundering or terrorism financing acts, art. 3 para. (2) – (5) being applied accordingly, taking into consideration the motivations presented by the requesting institution, as well as the fact that the transaction could have been suspended if would have been the subject of a suspicious transaction report submitted by one of the natural and legal persons provided at art. 8.**

By this adoption, Romania took the necessary legislative measures to put in place the mechanism provided by the art. 47 of the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism, adopted in Warsaw, in May 2005 (Romania ratified the 2005 Warsaw Convention, by Law no. 420/2006.)

- In order to improve the **efficiency of the supervision activities**, NOPCML elaborated and implemented a new version of the analytical system used in the off-site supervision activity (MAINSET 2). This new system represents an advanced and adapted version of the old one (MAINSET), and includes a complex analytical process with two new filters (General Risk Indicators - GRI / Specific Risk Indicators - SRI) that covers more indicators, risk categories and analytical variables. Furthermore, MAINSET 2 includes also an analytical process in relation with the legal and

physical persons which are connected to the initial entities which are supervised (shareholders / associates and administrators).

Analytical components	OFF SITE SUPERVISION SUPERVISION AND CONTROL DIRECTORATE (NOPCML)	
	MAINSET SYSTEM	MAINSET 2 SYSTEM
Capacity to cover all entities registered within an activity sector	✓	✓
Risk based indicators	7	17
Risk based sub-indicators	-	20
Filters	-	2
Risk categories	5	7
General risk indicators	7	8
Specific risk indicators	-	9
Operational stages	-	3
Analytical variables	21	75
Connected persons - physical	-	✓
Connected persons – legal	-	✓
Scoring intervals	1 - 3	1-5 (F1) / 1-10 (F2)
Biggest ratings (off /on site)	62%	94%

The process of developing this system lasted for several months, being subject to many testing work sessions afterwards. MAINSET 2 is a proprietary system of the NOPCML, representing the main technical tool used in the off-site supervision. The results of this developing process were considered a real success for the off-site supervision activity, since the confirmation degree (off / on site) scored values up to 94% (per session). Taking into consideration the need to cover all the entities which are registered in a specific activity sector (also considering territorial coverage), MAINSET 2 is a viable tool in relation with the resources of the NOPCML for supervision activities.

Moreover, the informational support of the supervision activity is more comprehensive, covering also relevant data from FATF / ICRG (including also the NCCTs List), PEPs specific databases, open sources, etc. In the same time, the analytical system includes relevant data related to financial activity of the supervised entities (transactional profile, authorized accounts, group financial operations, etc).

Other components of the off-site supervision are covering the transactional flows performed by the supervised entities (cash, cross-border, etc), being directly linked also to the results of the analytical process of the NOPCML (STRs).

The main on site supervision activities performed by the NOPCML are based on the results of the MAINSET 2 System, in accordance with the working process and the specific procedures adopted by the Board of the NOPCML. Other grounds for starting a controlling session are related to the request of other authorities (mainly Financial Guard or NATA), or by internal request (submitted by the analytical components of the FIU). On the other hand, the findings of the on-site supervision led to referral to other authorities, in principal the ones that are connected to tax evasion or unreachable companies.

Taking into consideration the need to have a solid growth of the compliance degree, NOPCML (SCD) introduced a new component in the controlling activity, which is *on site training*. This component is very important for the prevention side of the supervision activities, especially by presenting all the requirements included in the AML / CFT legal framework, and methods to improve the compliance.

Based on the amendments brought to the Governmental Emergency Ordinance no. 202/2008, by adoption of the Governmental Emergency Ordinance no. 128/2010, the FIU was empowered with

the new attribution to *receive notifications and to solve the requests of authorization in respect to financial services and funds transfers subject to restrictive measures.*

- On February 2011, the NOPCML adopted the Order **no. 95/2011 regarding the approval of Methodological Norms for performing notifications and solving the requests for authorizing financial transactions, act which was published in the Official Gazette of Romania no. 87/02.02.2011.**

- A new structure within the FIU was created. **At the level of Supervision and Control Directorate, it was established the *Compartment for Notification and Approval of Transfers for preventing the nuclear proliferation***, which is the empowered unit to analyze all the requirements regarding the transfers to or from Iran, for applying the Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007.

Another component of the supervision activities performed by the NOPCML is *the supervision for implementing the international sanctioning regime*, as a new task allocated to the FIU through the disposals of the Emergency Governmental Ordinance no. 202 / 2008 (with subsequent modifications).

Thus, the on-site inspections cover also these specific CFT requirements in relation to the activity performed by the reporting entities (which are in the responsibility of the NOPCML for supervision). Furthermore, the NOPCML (SCD) started a working process in order to include this type of supervision in the MAINSET 2, either by adapting the system or by developing a new one.

- **During the year 2010, FIU Romania implemented the Twinning Project 2007/19343.01.14 “Fight against money laundering and terrorism financing”**, together with the Ministry of Finance from Poland – General Inspector of Financial Information (the Polish Financial Intelligence Unit).

The results of this successful project were envisaged to materialize the main recommendations of the Moneyval experts as included in the Third Round Detailed Evaluation Report of Romania. The results are the following:

✓ Elaboration of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, as coordination mechanism of policies in this area, this strategy being approved by Decision of Superior Council for State Defense, no. 72/28 June 2010. The Action Plan for implementation of the objectives and measures established within the Strategy, was approved through a Protocol on organization of cooperation, the document being signed in September 2010, by all authorities which are components of the national mechanism of prevention and combating money laundering and terrorism financing.

✓ Increased capacity of the Office for supervision of reporting entities and improvement of professional training of the financial analysts within the Office as regard recovery/analyses of data and information connected with suspected transactions.

✓ Improved investigation/criminal prosecution capacity of law enforcement agencies as regards cases of money laundering and terrorism financing, this objective permitting the organization of 6 activities of “internship” type, in EU Member States, on a period of two weeks each, dedicated for training prosecutors within the Public Ministry, commissioners within the Financial Guard and police officers within the General Inspectorate of Romanian Police.

✓ The Regional Conference on New Trends and Techniques of Money Laundering and Terrorism Financing was organized during the period 22 – 23 November 2010. This event was a premiere as regards this type of actions in the area of combating money laundering and terrorism financing, representing also the closing event of the project. The Conference benefited by participation of managers and experts within the Financial Intelligence Units of the EU Member States and candidate countries (22 foreign experts), experts within international organizations (Council of Europe – Moneyval Committee and FIU.NET Bureau), representatives of the Romanian Presidency and the Romanian Government and also officials within diplomatic missions from Romania, as well as foreign experts of law enforcement authorities and authorities of financial control, experts within prudential supervision authorities, professional associations and other institutions with competences in this area (over 100 Romanian experts).

Another important achievement within the project was the elaboration, during the year 2010, of the *Manual on Risk based Approach and Indicators of Suspicious Transactions*. The Manual is addressed to the all categories of reporting entities and includes references to main conceptual elements of money laundering and terrorism financing and typologies and indicators related to combating these two phenomena. The Manual was disseminated during 6 training seminars organized at the territorial level, where more than 260 representatives of reporting entities attended.

For dissemination purposes, the Manual on risk based approach and indicators of suspicious transactions was published on the Office's website (www.onpcsb.ro), in the English and the Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities, in order to be used by employees and specialists with competences in this area.

Moreover, the compliance to the AML/CTF legal requirements and ensuring a general feedback to the reporting entities, based on presentation of the typologies and methods for ML/TF, were among the subjects met in the training sessions organized by the NOPCML (during January 2009 - November 2011, a number of 93 seminars were organized, in which approximately 4.220 representatives of the reporting entities participated).

Ministry of Justice:

In line with the Council Decision 845/2007, the Romanian Government designated by Governmental Decision 32/2011 a specialized unit within the Ministry of Justice as **National Asset Recovery Office**. The Office is operational and notified to EU starting with May 2011. Main tasks of the Office:

1. exchange of data and information with other EU AROs but also with CARIN contact points and UNCAC focal points (Pre-MLA procedures).

The office has access to various databases as for instance: land register, commercial trade register, bank account register, passports, IDs including driving license, vehicles register, weapons register, ships register and aircrafts register. Deadlines for submitting answers to requests: between 8 hours and 14 days. Between January and November 2011, the Romanian Office for Assets Recovery (ARO RO) solved 74 requests on exchange of information regarding assets.

While the large majority of requests are from abroad, Romanian ARO started to receive requests for info from national authorities, especially National Anticorruption Directorate and the Directorate for Investigating Organized Crime and Terrorism.

2. dissemination of best practices

The Office conducts periodic trainings for judges, prosecutors, police, public officials and experts from various agencies. For instance we currently implement a technical assistance project with EU financial support on money laundering and asset recovery. This includes trainings thorough the country together with counterparts from EU AROs (Germany, Spain and France)

We are currently seeking support from various international organizations and partner countries in order to expand our portfolio of training programs. (Please find a more detailed description under Recommendation 1)

3. developing National Public Policy on Crime Prevention

The Romanian MoJ drafted a New Anticorruption Strategy 2011 – 2014, which underlines the importance of asset recovery and connection with anti-money laundering and tax evasion strategies. Importance of money laundering as autonomous crime is highlighted in the document as well as the need for improving the institutional capacity to trace and recover proceeds of crime. The document is expected to be adopted until the end of 2011.

As part of this approach MoJ promoted two draft laws, currently under debate in Parliament

- First one introduces the concept of **extended confiscation**². This measure can be taken in case of conviction for committing an offence for which law provides punishment with imprisonment for more than 5 years. The draft law has been sent to the Parliament and the Government asked for the application of the emergency adoption procedure.

² Implementing the Council Framework Decision 2005/212/JHA on Confiscation of Crime-Related Proceeds, Instrumentalities and Property.

- The second draft law establishes the possibility of early **selling of seized movable goods**, prior to a final decision of the court. The draft law has been adopted by the Senate in April 2011, as the first chamber and sent to the Deputy Chamber for debates.

Prosecutor's Office by the High Court of Cassation and Justice -GPOHCCJ

An amendment to the Criminal Procedure Code changed the legal competence for investigating money laundering cases. Since October 2010 these cases can be investigated by the police, under the supervision of a prosecutor, not by the prosecutors themselves. This amendment will allow reducing timeframe between the start and the end of an investigation.

In order to increase the efficiency in prosecuting money laundering cases, the Romanian Public Ministry implemented a model aimed toward achieving a proactive approach towards this type of criminality. This approach was based on the need to have specialized prosecutors who can identify patterns and develop specific investigative strategies, by identification of the areas with high risk of money relevant and their monitoring, in order to obtain relevant information.

In 2010 the General Prosecutor of Romania adopted an order, deciding that all prosecutor's offices should designate prosecutors specialized in investigating money laundering cases, tax fraud and smuggling, who were to be included in dedicated training programs, and should draw up local strategies to fight corruption crimes. These strategies represented a reflection of the concept of intelligence-led policing, requesting a strategic approach in order to induce a significant decline of the phenomenon. According to the order, the strategy would necessarily include a risk analysis, a definition of the priority sectors, an indication of the methods used to monitor such sectors and the expected results following the implementation of the strategy.

The risk analysis took into account the predictability of the economic related crimes by examining the risk factors and the specific problems, taking into account the particularity of the area determined, for instance, by its location near the border or the prevailing economic activities in the respective county.

The assessment was based on the data gathered by the prosecutor's office following the analysis of the statistic information, of the information communicated by the structures specialized in gathering and processing intelligence, of the local and national studies regarding this criminal phenomenon and of the information provided by the mass media, nonexclusively.

Based on the risk analysis, each prosecutor's office determined the priority sectors, in order to direct the available resources mainly to them.

Each prosecutor's office determined and implemented methods enabling the monitoring of priority sectors, by systematically using open information sources such as articles in the media, Internet, data provided by public institutions, data bases accessible to the public, as well as closed sources of information such as wiretapping or human sources, so as to obtain relevant information regarding the possible perpetration of crimes. Monitoring focused on identifying both patterns related to the priority sectors, as well as actual crimes.

The expected result was an increase in the number of investigations regarding the perpetration of money laundering cases within the priority sectors, and thus an increased number of indictments and convictions. The assessment benchmarks for the results obtained included the number of indictments prepared, the complexity of the cases, the preventive measures decided in the respective case and the amount of money frozen.

This order was complemented by the establishment a complex reporting system for the prosecutor's offices in order to ensure the accuracy of the statistical data and a review is done every three months by specially designated prosecutors within the Prosecutor's Office attached to the High Court of Cassation and Justice.

A common order of the General Prosecutor and the Ministry of Interior of Romania established a standardized procedure to be applied in all criminal cases in order to identify assets that could be frozen through a checklist questionnaire covering the main steps of a financial investigation.

A training program for prosecutors³ has been developed in the area of asset recovery and a best practices manual has been drafted and distributed to all prosecutor's offices.

Another program⁴, aiming at training financial investigators, is currently undergoing. The program wishes to develop financial investigators by specializing prosecutors, police officers and public

³ TF2007/19343.07.01/IB/JH- 23 TL, Consolidating the Romanian legal and practical framework in the field of assets recovery.

servants that currently investigate financial offences and by introducing specialized financial investigation curriculum in the initial training of future magistrates and police officers, thus facilitating unitary understanding of financial investigations.

Ministry of Administration and Interior (MAI)

At the level of the Ministry of Administration and Interior there are two specialized structures in countering money laundering, the Directorate for Combating Organized Crime (an institution that cooperates with the Directorate for the Investigation of Organized Crime and Terrorism Offences of the General Prosecutor's Office by the High Court of Cassation and Justice, basis on the concept of delegation) and the Fraud Investigation Directorate, respectively (with tasks in investigating money laundering, both through delegation of competence, but also directly, according to Law no. 202/2010). The Directorate for Combating Organized Crime has 169 judiciary police officers with tasks on countering money laundering (22 officers within a service at central level, 15 services within brigades with 8 officers each and one officer within the 27 county services). The Fraud Investigation Directorate has 97 judiciary police officers specialized in countering money laundering, of which 84 are at territorial level, 12 at the General Directorate of Bucharest Police and one at the level of the General Inspectorate of Romanian Police.

The Police promoted the strengthening of cooperation relations with institutions having responsibilities in the supervision and control of the money laundering phenomenon in Romania, through the Cooperation Protocol concluded between the General Inspectorate of Romanian Police and the National Office for the Prevention and Control of Money Laundering, the National Bank of Romania, the National Customs Authority, the General Inspectorate of Border Police, the National Committee of Stocks and Shares, the Romanian Association of Banks, the Committee for the Supervision of Insurances aimed at preventing and fighting money laundering fraud and pursuing further joint activities within the actions initiated.

Measures regarding the strengthening of the institutional capacity to combat the money laundering phenomenon:

- Regular meetings between the representatives of the institutions tasked with preventing and combating money laundering: the National Office for the Prevention and Control of Money Laundering, the Public Ministry, the Ministry of Administration and Interior, with the view to always identifying drawbacks and establishing measures to improve the legislative and institutional framework;
- Annual courses for the officers of the territorial structures of the Ministry of Administration and Interior tasked with preventing and combating money laundering;
- Setting up joint working groups prosecutor- police officer- analyst within the National Office for the Prevention and Control of Money Laundering, for a timely decision to be offered in money laundering cases;
- Permanently analyzing and monitoring the manner in which the officers within territorial structures run their criminal prosecution activities in this domain, in order to take rapid decisions on identifying and blocking illegal transfers of funds.

Ministry of Public Finances – National Agency of Tax Administration (NATA)

Internal procedures for blocking funds in the respect of international sanctions

The Minister of Public Finances' Order No. 1865 from 05.04.2011 "The procedure of the issuance of the order for blocking the funds and economic resources in the field of international sanctions or the recalling of the disposed measures."

This Order stresses the following aspects:

- a) monitoring the international documents where international sanctions are provisioned;
- b) publicity and communication of the international documents where international sanctions are provisioned;

⁴ HOME/2010/ISEC/AG/FINEC/022 - Developing professional financial investigators in Romania.

- c) the management of the information and/or the communication regarding the persons and/or entities under the regime of international sanctions;
- d) identification of the persons and/or entities under the regime of international sanctions and the identification of their funds and economic resources;
- e) analyzing the gathered information concerning the persons and/or entities under the regime of international sanctions;
- f) issuance of the order for the blocking of the funds and economic resources;
- g) application of the above mentioned Order;
- h) periodical monitoring of the provisioned measures imposed by the order for the blocking of the funds and economic resources;

National Bank of Romania:

In 2009 the *Emergency Government Ordinance no.113/2009 on payment services* was enacted in order to transpose the Directive 2007/64/EC on payment services in the internal market. The new legislation empowered the National Bank of Romania to license and to supervise the payment institutions – as a distinct category of payment services providers. Considering these new prudential competences, the NBR became the authority responsible with AML/CTF supervision of payment institutions (including money remittance service providers) and the KYC NBR regulation was consequently amended – Regulation no.27/2009 amending Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.

In 2011 the Directive 2009/110/EC on the taking up, pursuit and prudential supervision of the business of electronic money institutions was transposed into the national legislation through the *Law no.127/2011 on the activity of issuing electronic money*. According to the law, the National Bank of Romania has maintained its competences relating to the licensing and supervision of the electronic money institutions (formerly considered credit institutions), as well as the AML/CTF supervision competences – Regulation no.7/2011 which amends Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.

As regards the international sanctions implementation, at national level, it was adopted the Governmental Emergency Ordinance no.128/2010 amending and supplementing the Governmental Emergency Ordinance no. 202/2008 with regard to the enforcement of international sanctions. As secondary legislation, NBR issued Regulation no.28/2009 *on overseeing the enforcement of international sanctions imposing the freezing of funds, with subsequent modifications*. This Regulation establishes the way in which the credit institution, the non-bank financial institutions registered in the Special Register, the payment institutions and the electronic money institutions, have to operate in order to demonstrate to the NBR their compliance with the legal obligations in relation to the international sanctions regime.

Romanian National Securities Commission (NSC/CNVM)

Since the adoption of the first progress report, the Romanian National Securities Commission has implemented capital market specific rules for applying the international sanctions regime in Romania. In this respect, Romanian National Securities Commission issued Regulation no. 9/2009 on the supervision of the enforcement of international sanctions on the capital market. The regulation was approved by Romanian National Securities Commission's Order no. 70/16.12.2009 and published in the Official Gazette of Romania no. 916/28.12.2009.

At the same time, new steps were made forward by Romanian National Securities Commission in order to increase the level of awareness of the capital market entities and public investors of the decisions made by international organizations in the AML/CFT field, by issuing the Executive Order no. 8/11.03.2010, published on the NSC official bulletin and website.

Additionally, in order to speed up the process of applying CDD requirements to the existing clients, Romanian National Securities Commission issued Executive Order no. 2/09.02.2011, also published on the NSC official bulletin and website.

Taking into account the recommendations made by MONEYVAL in the third round evaluation regarding the inspections and sanctions for some components of the financial sector (although capital market sector was not mentioned with deficiencies in this area) Romanian National Securities Commission has continued to develop complex on site inspections and apply proportionate and dissuasive sanctions, made public on the website of the Commission and in the Official Bulletin of the

NSC. Statistics provided demonstrate that very important steps were made in order to increase the level of compliance of the regulated entities in the AML/CFT field.

Insurance Supervision Commission:

Since the adoption of the first progress report Insurance Supervisory Commission issued the Order no.5/2011 for amending and completion of Insurance Supervision Commission’ Order no.24/2009 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market. The completion of the Order no.24/2008 not followed the changes in substance but a better structuring of information for a better understanding of the provisions of this Order, mainly on customer due diligence measures.

Starting with 2009, the Insurance Management Institute, which is an entity specialized in professional training, established by the Insurance Supervisory Commission, has organized professional training and specialization of the persons employed in the insurance sector regarding AML/CFT activity. By 2011 it has been concluded a number of 10 training courses of 2-3 days each.

In 2009 a training program for ISC personnel involved in on-site inspection has been performed.

In order to improve the quality of inspections for compliance with AML/CFT, in the Control Department of ISC had been disseminated to the staff involved in on-site inspections guidance on the issues to be examined in connection with the entities’ obligation to comply with legal provisions related to AML/CFT.

In March 2010 Insurance Supervisory Commission organized a seminar for the insurance market regarding the provisions of the Order 24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market, for a better understanding and correct application of the ISC Order.

The number of 65 sanctions for noncompliance with the legal provisions on AML/CFT from 128 on-site inspections performed in 2010, respectively 32 sanctions from 45 on-site inspections performed in the first semester of 2011, demonstrate that the control actions have had a high degree of complexity.

Private Pension System Supervisory Commission (CSSPP)

Based on the new adopted sectorial regulations adopted by CSSPP, this authority elaborated the procedure of monitoring the implementation of international sanctions in private pensions system. On the same time, the CSSPP performs supervision on the private pension funds in respect to the compliance of the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing acts, as amended and completed.

2.2 Core Recommendations

Please indicate improvements which have been made in respect of the FATF Core Recommendations (Recommendations 1, 5, 10, 13; Special Recommendations II and IV) and the Recommended Action Plan (Appendix 1).

Recommendation 1 (Money Laundering offence)	
Rating: largely compliant	
Recommendation of the MONEYVAL Report	<i>Autonomous money laundering still needs to be successfully prosecuted in the case of a domestic predicate offence.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	Ministry of Justice and Citizenships Liberties (MJCL) The Romanian authorities consider the statistics provided after the on-site visit are relevant to show the commitment to combat ML and TF. Just an example to prove the previous position is the number of 4 indictments against legal persons in 2008 for ML offence, as a direct consequence of introducing criminal liability in the Romanian Criminal Code in 2006. Table of statistics on ML indictments and final convictions between 2007 and 2009:

	2007	2008	2009 (1 st semester)
Indictments - files	23	14	7
- persons	96	71	16
Convictions - files	12	6	5
- persons	27	18	16

Measures taken to implement the recommendations since the adoption of the first progress report.

Statistical data provided by the General Prosecutor's Office by the High Court of Cassation and Justice (GPOHCCJ), Ministry of Justice (MJ) and Superior Council of Magistrates (SCM):

		2009	2010	Jan. - Nov. 2011
Investigations	Cases	559	518	259
Indictments ⁵	Cases	24	21	49
	Persons	77	89	230
Convictions / first instance	Cases	6	28	6
	Persons	16	33	14
Convictions ⁶ / final	Cases	9	7	8
	Persons	20	11	N/A

Prosecutor's Office attached to the High Court of Cassation and Justice:

In respect to the case of autonomous offence, as an example, there is the Penal Sentence no. 1024/F/2009 of the Bucharest Tribunal (with definitive decision of the High Court of Cassation and Justice in the penal disposition 1020/16.03.2011), in which the accused person was caught into act while selling to his accomplice the quantity of 1,5 kg heroine. In the same period, this person purchased a land in Bucharest and an auto.

From the evidence presented in front of the court, it resulted that the legal incomings were not enough to allow the person to procure such goods, and the declarations of the accused person related to the modality in which he obtained the funding for acquisitions were eliminated.

It was noted that the goods were purchased from the amounts of money obtained from other sells of heroine, non-individualized, and the transactions constitute the money laundering offence, for which he was convicted. The court disposed the confiscation of the goods.

MoJ:

On the same time, in 2010, an important indictment was issued by a territorial service of DIICOT-GPOHCCJ. In this very complex case of organized crime, in which 27 people were sent to trial, the case prosecutor indicted some of them also for ML, as an autonomous offence. These were the heads of the organized crime group. They received during the period 2003 – 2009 amounts of money from EU and also other countries from their "lieutenants", using them for buying and building immovable goods.

MoJ/NOPCML (FIU):

⁵ The difference between the number of investigations and prosecutions is determined by the number of cases where proceedings have been discontinued because not enough evidence was gathered to establish beyond any reasonable doubt that a crime has been committed.

⁶ The discrepancy between the number of final and non-final convictions is determined by the fact that in the specific year, the court decisions initially issued in several previous years may become final.

	<p>This issue was constantly on focus by the Romanian law enforcement authorities. The main conclusions of the final report of Project “Improving the Romanian anti-money laundering system” (Project FT 2007/19343.07.01/IB/JH- 14 TL) financed by European Union by Transition Facility Programme, having as main beneficiary the Ministry of Justice, indicated that: “Transposition of the supranational law in the Romania legislation was realized in an exemplar manner. It is to be said, without fearing of mistake, that Romania totally fulfills the international standards in the field.” In respect to the autonomous money laundering, “the problem lies in the application in practice and this was noticed during the meeting the experts had with the FIU, GPOHCCJ, DIOCT and NAD, and from the statistics provided on site. It is a constant practice during the practitioners in the legal field to request always a previous conviction or a simultaneous one for the main offence in order to person to be also accused for money laundering. The situation might be like this due to the recent entrance into force of the paragraph related to the indirect proof (para. 5 of art. 23 from the Law no. 656/2002, consequently amended and completed) and from a lack of specific information regarding modern techniques and doctrine structured related to the autonomy of money laundering and the use of indirect proof.”</p> <p>These recommendations were disseminated to practitioners (prosecutors and judges), at national level.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The procedure for ensuring final convictions needs urgent reconsideration. The evaluators are seriously concerned that the timeframe between indictment and final conviction appears unreasonably long.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MJCL:</p> <p>One of the main reasons for which trials in Romania are lengthy is the use of frequent defense attorneys` requests for delays. Exceptions of unconstitutionality are frequently raised, as are requests to transfer trials from one court to another, sometimes on multiple occasions. If admitted by the trial court – and they routinely are – trials are currently suspended whilst such issues are determined by the competent court, even though suspensions are only currently mandatory when exceptions of unconstitutionality are admitted. A draft law that would have removed the suspension of trials whilst the Constitutional Court deliberates on exceptions of unconstitutionality was rejected by the Senate on 4 May 2009. The draft law had been widely supported by the judiciary and had been presented previously by the Government as a significant reform measure to accelerate and enhance the performance of the judiciary. It would have cut down the abusive usage of constitutional exceptions given 98% are currently rejected. A new draft law with the same objective adopted recently by the Government will give the opportunity to the Parliament to redress this issue.</p> <p>In the draft of the new Criminal Procedure Code, it was introduced a simplified procedure in front of the court, the trial based on the evidence gathered during criminal investigation phase. The condition for applying this procedure is that until the judicial investigation starts, the defendant recognizes the indictment made by the prosecutor and also requests the trial to be based on the evidence gathered during criminal investigation phase.</p> <p>Also with the aim of reducing the judicial proceedings, in the same draft of CPC, it was introduced the possibility for the parties to ask the trial shall take place in their absence, in this case the parties not being summoned anymore. These are only two measures to reduce the timeframe between the indictment and the final conviction.</p> <p>Besides all above, we increased measures for specializing the magistrates in ML field, the National Institute of Magistracy (NIM) organized in 2008 and 2009 the following training seminars for judges and prosecutors:</p>

	<ul style="list-style-type: none"> ▪ During March – April 2008 a total number of 3 seminars, within the Phare Project 2004 /016-772.01.04-08 – “Further assistance to NIM”, the following <i>organized crime</i> topics were discussed: <i>money laundering, cyber crime, fight against human trafficking, fight against terrorism, fight against drugs and border checks</i>. A total number of 22 judges, 29 prosecutors, 1 expert from the Superior Council of Magistracy (SCM) and 1 expert from the MJCL attended these seminars; ▪ During September – November 2008 NIM organized 3 seminars on “<i>Investigative techniques for economic and financial crimes</i>”, attended by 45 magistrates (7 judges and 38 prosecutors); ▪ In April and October 2008, within the Phare Project 2005/017–553.01.04.02 – “Further assistance provided to the NIM” 2 seminars focused on “<i>Issues and trends in the fight against the international organized crime and corruption: white collar crimes, corruption, money laundering</i>”, attended by 30 magistrates (13 judges and 17 prosecutors); ▪ In May 2009, NIM organized a seminar on countering financial–economic crime, one of the themes being countering money laundering, attended by 11 prosecutors. <p>Having regard to the importance of the cooperation relationships between law enforcement authorities and the Office, in the beginning of 2009, a Cooperation Protocol was concluded between the General Prosecutor’s Office by the High Court of Cassation and Justice (GPOHCCJ) and the National Office for Prevention and Control of Money Laundering (NOPCML), on the implementation of the Action Plan. Within the framework of this protocol, 7 regional training seminars, in the field of prevention and combat of money laundering, were organized, and these sessions were attended by over 70 prosecutors from the Prosecutor’s Offices within the Courts of Appeal, Tribunals and the Directorate for the Investigation of Organized Crimes and Terrorism Offences, as well as its territorial branches.</p> <p>At the same time, we would like to highlight on this occasion, the active involvement of the National Office for Prevention and Control of Money Laundering, in the activities of the experts within the Twinning Project RO07/IB/JH/03, named “<i>Increasing the investigative capacity of the National Anti-Corruption Directorate (NAD)</i>”, which has the benefit of British experience and is aimed at improving the cooperation and coordination systems, by adopting the Best Practices in the case of an anti-corruption investigation.</p> <p>The subjects addressed within the project, are aimed at:</p> <ul style="list-style-type: none"> ○ The identification and proving methods for money laundering schemes perpetrated by using off-shores and fiscal paradises; ○ The discovering and proving of the fraudulent mechanisms used in the capital market.
<p>Measures taken to implement the recommendations since the adoption of the first progress report.</p>	<p>MoJ: - Law no.202/2010 regarding certain measures for speeding up the judicial proceedings (The Small Reform Law) has introduced general measures for simplifying and rendering more efficient the trial of cases, advancing the application of institutions from the procedural codes. Provisions relevant for AML/CTF:</p> <ul style="list-style-type: none"> √ Police received competences for investigating, under prosecutor’s oversight, minor money laundering offences which are not in competence of DIICOT; √ Introduction of simplified procedures for trial in case of pleading guilty; √ Eliminating one of the reasons that generated frequent delays in criminal proceedings, that is invoking the exception of illegality (in this case, the

criminal courts used to suspend procedures and refer the issue envisaged by the exception of illegality to the administrative contentious court);

√ Amendments regarding representation in criminal cases. The modifications refer to criminal cases with a large number of aggrieved parties or civil parties. In the case in which these parties do not have contrary interests, they can designate one person to represent all of them in the course of trial. If the parties do not use this option, the prosecutor or the court may appoint a lawyer *ex officio* to represent their interests.

√ Amendments regarding the criminal investigation phase: The modifications aim at reducing the workload of prosecutor's offices by: raising the efficiency of preliminary acts, in the case in which the beginning of the criminal investigation is not opportune; ensuring the flexibility and efficacy of prosecutor's acts which render a *nolle-prosequi* solution; harmonizing legal provisions regarding the presentation of the criminal investigation documents to the defendant.

√ Right of direct access of courts and prosecutor's offices to electronic data bases of the public administration: The courts and prosecutor's offices shall have the right of direct access to electronic data bases managed by the public administration (e.g. the Service for Keeping the Electronic Population Records; the National Office of the Trade Register; the National Administration of Penitentiaries; the National Agency for Cadastre and Land Registration) with a view to ensuring the swiftness of the citation procedure, of the service of procedural deeds and of the procedure of bringing a person with an obligatory mandate to take part in the proceedings.

The Law for modifying Law no. 47/1992 on the Constitutional Court speeded up judicial proceedings, by eliminating the *de jure* the suspension of the case when the constitutionality of a legal text is challenged during trial. This was one of the most frequent causes of delay in the trial of files.

NOPCML (FIU):

During the period 2009-2011, the relationship between the FIU Romania and the General Prosecutor's Office by the High Court of Cassation and Justice encountered new valences, pointing out to **a more proactive analysis**. Therefore, NOPCML performed analyses of cases solved by prosecution unit as regards money laundering offences, starting from notifications of the Office. Also, an analysis of the statistical data of the last years, indicated a discrepancy between the number of notifications submitted to the prosecutors by NOPCML and number of indictments for money laundering offences, this analysis having as purpose increasing the percentage of notifications submitted by the Office, which are positively confirmed by prosecutors, during investigations.

Also, the approaching way on the modality of concluding the notifications by the Office had in mind that these documents must constitute an important source of information regarding to money laundering and must conduct to increasing the quality of information submitted by the Office and also the ability of the prosecutors to transform them into evidence means/indictments.

The statistical comparison between the number of notifications submitted previously to the year 2010, by the FIU to GPOHCCJ, is regarding the quantitative aspect of this institutional relations, which was criticized in the past by prosecutors, fact for which the new approach on techniques and methods of analysis, based on experience of other states from European Union, permitted that analysis of suspicious transaction reports and of information of the competent authorities, to be performed at the level of the Office by taking into consideration only the quality of notifications and decreasing the period for processing information.

The new direction of the proactive use of legislative means assigned to the FIU (we are here referring to request for information concluded by the prosecution

units which are competent based on provisions of the art. 6 para 4 and art. 5 from the Law no. 656/2002, consequently amended and completed, and to submission of notifications to the GPO, comprising solid grounds of money laundering and terrorism financing, according to the art. 6 para 1 from the Law no. 656/2002 as amended and completed), is representing one of the effects of implementation of **the Cooperation Protocol concluded between the General Prosecutor's Office by the High Court of Cassation and Justice and the National Office for Prevention and Control of Money Laundering, finalized in 2010.**

On February 2010, the Final Conference sealed the Cooperation Protocol between the FIU Romania and GPOHCCJ, which was implemented during the year 2009. A total number of **7 seminars on prevention and combating money laundering and terrorism financing were organized regionally for more than 70 prosecutors** from the Court of Appeals and Tribunals Prosecutor's Offices, as well as DIOCT prosecutors from the central and territorial services, who attended these sessions.

Based on this document, important for enhancing the cooperation relations between the two institutions, the Office had the objective to strengthen the role of GPO as main beneficiary of the supplied information, by a concrete adoption of institutional measures with significant impact for positive quantifying of notifications sent to the Office by the competent prosecution bodies, meaning:

- re-evaluation of the risk indicators used within the analysis process simultaneous with amending the internal methodology of analysis and processing of information;
- establishing a preliminary analysis compartment for sorting the suspicious transactions reports depending on the level of risk identified, established based on risk indicators on money laundering and terrorism financing, and on the other side,
- operatively submission of answers at request for data and information addressed to the National Office for Prevention and Control of Money Laundering by the prosecution units, based on the art. 6 para 4 and 5 from the Law no. 656/2002, as amended and completed.

The information above-mentioned is supported by the following statistical data available at the level of FIU Romania:

- During the period 01.01.2009-01.11.2011, the NOPCML (the Romanian FIU) received a total number of 8.355 STRs and notifications of money laundering and terrorism financing from the reporting entities and by the competent authorities involved in the field.
- In the reference period, a total of 15 cases was disposed the suspension of transactions, out of which 11 were related to money laundering suspicious (in total value of 6.468.876 euro and 2.700.000 RON) and 4 were related to suspicions of terrorism financing (in total value of 42.622 USD, 102.300 euro and 234.104 RON).
- For supporting the operative analysis, within the mentioned period, the FIU submitted a total number of 658 requests of information to the foreign FIUs. On the same time, many of the requests received by FIU Romania from abroad (in the period 01.01.2009-01.11.2011, there were received 532 requests) included elements of suspicions that supported the current analysis of the Office or that constituted indicators to start ex-ufficio new ML/TF analysis, based on provisions of art. 19 para 2 of the Law no. 656/2002, consequently amended and completed.
- During the reference period, based on the punctual requests of the Prosecutor's Office, submitted in accordance with art. 6 para 4 and 5 of the Law no. 656/2002, the Office supported the investigation of the penal cases by

	<p>submitting additional information in 646 cases;</p> <ul style="list-style-type: none"> - The NOPCML submitted, from January 2009 till November 01, 2011, to the General Prosecutor's Office by the High Court of Cassation and Justice a total number of 711 notifications identifying solid grounds of money laundering and to the GPOHCCJ and the Romanian Intelligence Service a number of 37 notifications related to solid grounds of terrorism financing. <p>MAI:</p> <p>In the period of reference, a number of 310 officers specialized in money laundering attended 8 training courses:</p> <ul style="list-style-type: none"> -2009 two training courses attended by 90 officers ; -2010 three training courses attended by 135 officers; -2011 three training courses attended by 85 officers; <p>In this period, officers in the domain of combating money laundering participated in five exchanges of experience (three in the year 2011 in Great Britain, Poland and Spain and two in 2011 Hungary and Montenegro).</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives</p>	<p>In addition to the above-mentioned measures, important developments were taken during the implementation of EU funded programmes, having among the main objectives, to accomplish the Moneyval experts' Recommendations addressed in the Third Detailed Assessment Report of Romania in the AML/CTF field, adopted in July 2008.</p> <p>The main projects implemented during the period 2009-2011 in the AML/CTF field were the following:</p> <p>MoJ: - Projects implemented, under implementation and in contracting phase at the level of the Romanian Ministry of Justice in the field of fighting against money laundering (September 2009 → present)</p> <p>I. Project FT 2007/19343.07.01/IB/JH- 14 TL -"Improving the Romanian anti-money laundering system"</p> <p>Objective: Consolidating the Romanian anti-money laundering system by improving the procedure for ensuring final convictions and by further specializing the actors involved in the prosecution and trial of money laundering offences</p> <p>Implementing period: December 2009 – June 2010</p> <p>Partners: Romania - Ministry of Justice and Spain - Spanish Institute for Fiscal Studies</p> <p>Target group: judges, prosecutors and representatives of the Romanian Ministry of Justice</p> <p>Activities:</p> <ul style="list-style-type: none"> - 2 consultation meetings were organized in view of identifying and discussing key legislative and institutional aspects, best legal practices in Spain and Bulgaria in the field of ensuring final convictions in money laundering cases, the main legal aspects influencing the duration of the prosecution and trial of money laundering offences, from indictment until final conviction and formulation of solutions; - an assessment report regarding the state of play of the legal procedures regulating the prosecution and trial of money laundering offences in Romania was elaborated; - A written description of the anti-money laundering systems existing in Spain and Bulgaria was elaborated; - 3 workshops for discussing the assessment report, the best legal practices in Spain and Bulgaria in the field of prosecution and trial of money laundering offences with a view on the duration of the whole procedure from indictment until final conviction, best legal practices in the field of prosecution and trial of autonomous money laundering in the case of domestic predicate offences and in the field of prosecution and trial of complex money laundering cases and possible solutions for adapting the

	<p>best practices to the national legal framework;</p> <ul style="list-style-type: none"> - A final report comprising a comparative study of Spain and Bulgaria’s best legal practices and recommendations on improving the procedure for ensuring final convictions and on reducing the duration of the prosecution and trial of money laundering offences was elaborated. <p>II. EU Programme ISEC 2010 “Prevention and fight against crime”, Project HOME/2010/ISEC/AG/FINEC-012 “Enhancing the efficiency and effectiveness in the field of Money Laundering and assets recovery”</p> <p>Objective: Improving the prevention and fight against economic and financial crime in the European Union</p> <p>Implementing period: March 2011 – September 2012</p> <p>Partners: Romania - Ministry of Justice, National Anticorruption Directorate, Prosecutor’s Office attached to the High Court of Cassation and Justice, General Inspectorate for the Romanian Police, Germany - German Foundation for International Judicial Cooperation (IRZ), Spain - Spanish Institute for Fiscal Studies, France - Ecole Nationale de la Magistrature</p> <p>Target group: Practitioners involved in fighting money laundering and assets recovery from all the MS partners - judges, prosecutors, police officers and experts working in Central Authorities</p> <p>Activities:</p> <ul style="list-style-type: none"> - Launching conference; - 6 common training sessions in view of exchanging experience and best practices and on identifying viable solutions for the main problems related to the enforcement of Directive no. 2005/60/EC of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, EU framework Decision 2003/577 on the execution in the EU of orders concerning the freezing of assets or evidence and other relevant connected legislation, discussing international and European standards and legislation in preventing and fighting Money Laundering and asset recovery, money laundering offense, procedural issues in relation to proving the money laundering offences, confiscation and sequester of assets derived from money laundering: new developments in the investigation of money laundering offence, international cooperation etc; - A final report on the use in the future of the most efficient mechanisms identified in view of enforcing the European legislation in the field of fighting Money Laundering and strengthening assets recovery will be elaborated including also recommendations on further steps that have to be followed for increasing the efficiency of the fight against money laundering in the partner MS and at a European level; - Final conference. <p>III. The Swiss – Romanian Cooperation Programme – Project proposal “Enhancing the investigation capacities of the Romanian judiciary by improving the fight against money laundering and the assets recovery competences”</p> <p>Objective: Improvement of the international judicial cooperation in the field of money laundering and asset recovery by improving the knowledge and exchanging of best practices between the practitioners in these fields</p> <p>Implementing period: 2011 – 2013</p> <p>Partners: Romania - Ministry of Justice, Switzerland</p> <p>Target group: Practitioners - judges, prosecutors, police officers and experts working in the Central Authorities of Romania, involved in fighting money laundering, the Romanian ARO’s specialists</p> <p>Activities:</p>
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- Organizing 2 study visits for the Romanian ARO's specialists;
- 4 workshops for discussing specific and concrete aspects regarding the methods of investigating and judging of cases in the field of the project, the cooperation between the involved institutions at national and international level and possibly on the practical application of the EU and other international instruments;
- Elaboration of an analysis and evaluation report on aspects concerning the asset recovery in Romania;
- Organizing 2 workshops in order to discuss the evaluation report;
- Purchasing IT equipment necessary for the functioning of the Romanian ARO.

GPOHCCJ:

I. EU 2007 Transition Facility Twinning Light Project TF 2007/19343.07.01/IB/JH-23TL "Consolidating the Romanian practical and legal framework in the field of assets recovery", initiative implemented by the General Prosecutor's Office by the High Court of Cassation and Justice, in partnership with Northern Ireland Public Sector Enterprises Limited (NI-CO).

Overall Objective: Efficient fight against economic and financial crime and organized crime

Objective: The project aims at strengthening the effectiveness of the justice system in national and international cooperation in the area of assets recovery in relation to criminal offences, likely to generate substantial profits, mainly trafficking of persons, illicit drug trafficking, fraud, corruption and money laundering offences.

Implementing period: December 2009 – June 2010

Beneficiaries: Public Ministry-Prosecutor's Office attached to the High Court of Cassation and Justice (POHCCJ), General Inspectorate of Romanian Police (GIRP) within the Ministry of Administration and Interior, Ministry of Justice (MoJ), National Integrity Agency (NIA), National Office for Prevention and Control of Money Laundering (NOPCML), Financial Guard (FG) and National Agency for Fiscal Administration (NATA) within the Ministry of Finance.

Target group: The Romanian Practitioners involved in fighting money laundering and assets recovery

Activities:

1. Enhancing the capacity of the Romanian law enforcement authorities' to ensure asset recovery is pursued effectively in relevant cases

1.1.1. Drafting an analysis report comprising the Romanian legal and operational investigative tools and freezing, seizure and confiscation mechanisms, with a view in identifying the potential of the existing framework and detecting blockages, including in relation to international cooperation on assets recovery;

1.1.2. Drafting a comparative analysis of the Romanian and European legislation in the field, with proposals aiming to adapt the Romanian legislative framework:

1.2. Elaborating recommendations and guidelines aiming to support the drafting of a national strategy regarding the assets recovery. (e.g. setting out the operational and legal framework in place and proposing any changes needed to ensure effective liaison between all partners and the pursuit of asset recovery in all suitable cases);

1.3. Using the information provided by the above mentioned report and analysis, to draft a manual of good practices at national and international level: guidelines for the investigation, the collection of evidence, the confiscation and the management of seized assets aimed at enhancing the capacity of police officers, magistrates and other specialists/experts involved in assets recovery, and the communication between them (e.g. practical tool: collaboration with

financial institutions, such as banks or investment companies. What kind of relevant information to be required from them and on what legal basis; which is the entitled state institution to ask for this information etc.?).

2. Ensuring Romanian Assets Recovery Office operates in line with EU best practice and co-operates effectively with other EU Member States

2.1. One week study visit for 14 staff members involved in the set-up and working of the RARO (4 police officers from the General Inspectorate of Romanian Police, for 5 prosecutors from the Public Ministry and for 5 judges and experts from Ministry of Justice, National Integrity Agency, National Office for Prevention and Control of Money Laundering) and 1 project manager in the Member State.

2.2. Delivering 5 practical-oriented workshops attended by approximately 75 staff members from the target group (30 prosecutors, 20 policemen, 20 experts, 5 judges).

Results:

R.1. Enhanced capacity of the Romanian law enforcement authorities' to ensure asset recovery is pursued effectively in relevant cases

R.1.1.1 Analysis report comprising the Romanian legal and operational investigative tools and freezing mechanisms drafted and endorsed by the beneficiaries

R.1.1.2 Comparative analysis on the Romanian and European legislation with proposals to adapt Romanian legislation drafted

R.1.2 Recommendations and guidelines aiming to support the drafting of a national strategy elaborated

R.1.3 Manual of good practices drafted, approved by beneficiaries, and disseminated

R.2. Romanian Assets Recovery Office operating in line with EU best practice and co-operates effectively with other EU member states

R.2.1 15 personnel of which 4 police officers from GIRP working within RARO, 5 prosecutors from Public Ministry and 5 judges/experts from Ministry of Justice, National Integrity Agency and National Office for Prevention and Control of Money Laundering and 1 project manager participated in study visit.

R.2.2 5 workshops x 3 days/workshop finalized and approximately 75 staff members from the target group trained (30 prosecutors, 20 policemen, 20 experts, 5 judges).

II. Twinning Project RO07-IB/JH-03 “Increasing the investigation capacity of the National Anticorruption Directorate”, which benefited by the UK expertise for strengthening the cooperation mechanisms and coordination, by adoption of the best practices within an anticorruption investigation.

Objective: Increasing the efficiency of the Romanian institutions involved in the fight against corruption

Purpose: Exchanging experience with other EU Member States with the purpose of identifying the best practices in investigating serious corruption offences and serious economic criminal offences assimilated or connected to corruption and adapting them to the Romanian investigative practice

Implementing period: June 2009 – July 2010

Beneficiaries: Public Ministry-General Prosecutor's Office by the High Court of Cassation and Justice - National Anticorruption Directorate and Directorate for Investigation of Organized Crime and Terrorism Offences, High Court of Cassation and Justice, Ministry of Justice, National Office for Prevention and Control of Money Laundering (NOPCML), Financial Guard (FG), National Integrity Agency, Insurance Supervisory Commission, National Securities Commission, National Evaluators Association, Romanian Trade Registry.

Target group: The Romanian Practitioners involved in combating corruption

1.4 Activities result 1:

1. Regular meetings with representatives of the relevant Romanian authorities with the purpose to provide the foreign experts with relevant information regarding the current Romanian institutional and legal framework in the field of

- “Detecting and proving fraudulent mechanisms used in the stock market”;
- “Techniques for identifying and proving money-laundering schemes using off shore centers and tax heavens”;
- “Detecting and proving fraudulent mechanisms used in the insurances market”;
- “Assets evaluation methods. Practical approach regarding corruption offences and frauds related to public procurement, privatization”;
- “Criminal liability of legal persons”;
- “Using of IT tools in proving corruption offences or corruption related offences”.

2. Organizing of six workshops for 12 experts, one workshop for each of the six topics mentioned at activity 1

3. Drafting the guidelines in each of the six fields mentioned at activity 1

1.3.1 Drafting the guidelines in the field of “*Detecting and proving fraudulent mechanisms used in the stock market*”

1.3.2 Drafting the guidelines in the field of “*Techniques for identifying and proving money-laundering schemes using off shore centers and tax heavens*”

1.3.3 Drafting the guidelines in the field of “*Detecting and proving fraudulent mechanisms used in the insurances market*”

1.3.4 Drafting the guidelines in the field of “*Assets evaluation methods. Practical approach regarding corruption offences and frauds related to public procurement, privatization*”

1.3.5 Drafting the guidelines in the field of “*Criminal liability of legal persons*”

1.3.6 Drafting the guidelines in the field of “*Using of IT tools in proving corruption offences or corruption related offences*”

Activities result 2:

1. Organizing of six training seminars for 15 participants, one seminar for each of the six topics mentioned at activity 1

2.1 Training in the field of “*Detecting and proving fraudulent mechanisms used in the stock market*”

2.2 Training in the field of “*Techniques for identifying and proving money-laundering schemes using off shore centers and tax heavens*”

2.3 Training in the field of “*Detecting and proving fraudulent mechanisms used in the insurances market*”

2.4 Training in the field of “*Assets evaluation methods. Practical approach regarding corruption offences and frauds related to public procurement, privatization*”

2.5 Training in the field of “*Criminal liability of legal persons*”

2.6 Training in the field of “*Using of IT tools in proving corruption offences or corruption related offences*”

III. Transition Facility 2007/19343.07.01/IB/JH 10 TL “Support for exchanging best practices in the field of investigating and solving cases of (high-level) corruption”

Overall Objective(s): Improving the investigation and solving of (high-level) corruption cases in Romania through improved methods and practices applied by more efficient magistrates.

Project purpose: Exchange of best practices in the field of investigating and solving cases of (high-level) corruption between Romanian magistrates and

their counterparts from EU Member States, through organizing joint actions, such as conferences and workshops.

Activities under Result 1:

1.1. Organization of **4 workshops of 2 days each**, with the participation of 20 judges and prosecutors at each event, from the courts and prosecutors' office throughout Romania, dealing with cases of (high-level) corruption and their EU counterparts, in order for the Romanian participants to get acquainted to the EU Member States' practices in investigating, prosecuting and delivering penalties in the field of (high-level) corruption, as well as to exchange experience in this area. The topics for the workshops will be jointly decided with the twinning partner, in accordance with the selected Member State's best practices, and will refer to current issues which respond to the actual needs in the area of investigating and solving of (high-level) corruption.

1.2. Organization of **1 conference of 2 days** with the participation of 50 judges and prosecutors, from the courts and prosecutors' office throughout Romania, dealing with cases of (high-level) corruption and their EU counterparts, in order to present the conclusions, recommendations and best practices resulted from the workshops, evaluate the project outcomes, and make recommendations for future improvements in the field. **Activities under**

Result 2:

2.1. Elaboration, by the MS experts who moderated the workshops, of a report comprising conclusions, recommendations and best practices in the field of investigating, prosecuting and judging cases of (high-level) corruption, based on the observations drawn from the workshops organized for the magistrates.

2.2. The report will be submitted for approval to the beneficiaries, printed in 60 copies and disseminated to judges and prosecutors attending the conference organized after the finalization of the workshops. The report is to be posted on the BC web site thus disseminated among a larger number of legal practitioners.

IV. Project HOME/ISEC/2010/AG/FINEC-022 "Developing professional financial investigators in Romania"

Project purpose: Enhancing the financial forensic in Romania by developing a professional body of financial investigators to deal with all financial crimes, with particular focus on serious and organized crime cases.

Partners: Public Ministry - Prosecutor's Office attached to the High Court of Cassation and Justice (Romania) – leading partner; IRZ Foundation (Germany); Associated partners (Romania): MAI - Anticorruption General Directorate; MAI - General Inspectorate of the Romanian Police; MAI-Police Academy "Al. I Cuza"; Superior Council of Magistracy-National Institute of Magistracy; National Office for Prevention and Control of Money Laundering.

Implementation period: August, 1st 2011 – September, 30th 2012

Project objectives:

O1. Developing financial investigators through training based on scenarios and practical issues encountered in real cases

O2. Drafting a best practice guide detailing the steps of financial investigation

O3. Configuring a national training programme for financial investigators through the development of curriculum (to be included in the initial training of the National Institute of Magistracy and the Police Academy) and the training of trainers

NOPCML (FIU):

I. Twinning Project 2007/19343.01.14 "Fight against money laundering and terrorism financing", implemented by the FIU Romania together with Ministry of Finance from Poland – General Inspector of Financial Information (the Polish Financial Intelligence Unit), **under the Facility Transition Programme**, financed by European Union with 530.000 euro.

Implementation period: January - December 2010
General objective of the project: Strengthening the capacity of institutional system on fighting against money laundering, according with international standards, by improving the capacity of the National Office for Prevention and Control of Money Laundering:

Results:

- Elaboration of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, as coordination mechanism of policies in this area, this strategy being approved by Decision of Superior Council for State Defense, no. 72/28 June 2010. The Action Plan which comprises the necessary measures for implementation of the objectives and measures established within the strategy, with terms, responsible institutions and evaluation indicators for the measures which will be adopted, was approved through a Protocol on organization of cooperation for implementation of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, document signed in September 2010, by all authorities which are components of the national mechanism of prevention and combating money laundering and terrorism financing.
- Increasing the capacity of the Office for supervision of reporting entities and improvement of professional training of financial analysts within the Office as regard recovery/analyses of data and information connected with suspected transactions – within these objectives were organized training seminars at the national level and internships in EU Member States, as follows: 5 three days seminars for 15 financial analysts within Supervision and Control Directorate, 4 two weeks internships organized for financial analysts within the Office, at the FIU and law enforcement authorities within Portugal, Poland, Bulgaria and Cyprus, within which 16 financial analysts have been trained within the Office and performing two seminars on strategic analyses through IT instruments and statistical methods, each of them having the length of three days. At these training sessions all specialists within the Directorate of Information Technology and Statistics and Directorate of Analysis and Processing of Information, meaning 41 persons, participated.
- Increasing the investigation/criminal prosecution capacity of law enforcement agencies as regards cases of money laundering and terrorism financing, this objective permitting the organization of 6 activities of “internship” type, in EU Member States, on a period of two weeks each, dedicated for training prosecutors within the Public Ministry, commissioners within the Financial Guard and police officers within the General Inspectorate of Romanian Police. Thus, as result of these activities, we can mention training of 16 prosecutors (at the law enforcement authorities from Spain – 2 internships, Portugal – 1 internship and France – 1 internship), 4 commissioners of Financial Guard and 4 police officers (the internship were organized at law enforcement authorities from Poland).
- Elaboration of new guidelines regarding risk based approach and training for personnel belonging to reporting entities, this objective being performed through elaboration and dissemination of the Manual on risk based approach and indicators of suspicious transactions, which represents a useful tool for the conformity activity of compliance officers within the reporting entities. The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (lawyers, expert accountants, financial auditors, real estate agents, fiscal consultants, casinos, non-banking financial institutions, associations and foundations, compliance officers within real estate agencies from Constanta, Galati, Brasov, Ilfov.

Girgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office's website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area. Another important activity within this objective had as result the training of independent legal professions, reporting entities provided at the art. 8 letter f) from the Law no. 656/2002, as amended and completed, during 6 training seminars which were organized at territorial level, in Brasov, Timisoara, Iasi, Bucuresti, Constanta. The total number of participants was of 170 notaries and lawyers, in an equal proportion.

- Organizing, in Bucharest, on the period 22 – 23 November 2010, of the Regional conference on New Trends and Techniques of Money Laundering and Terrorism Financing, an activity with special impact as regard visibility of the Twinning Project RO/2007-IB/JH/05 "Fight against money laundering and terrorism financing", financed by European Commission, through Transition Facility Programme 2007 for Romania. This event was a premiere as regards this type of actions in the area of combating money laundering and terrorism financing, representing also the closing event of the project. The Conference benefited by participation of managers and experts within the Financial Intelligence Units of the EU Member States and candidate countries (22 foreign experts), experts within international organizations (Council of Europe – Moneyval Committee and FIU.NET Bureau), representatives of the Romanian Presidency and the Romanian Government and also officials within diplomatic missions from Romania, as well as foreign experts of law enforcement authorities and authorities of financial control, experts within prudential supervision authorities, professional associations and other institutions with competences in this area (over 100 Romanian experts).

II. Project Proposal "Anti-Money Laundering and Combating the Financing of Terrorism" (under approval), within the Swiss – Romanian Financing Programme

Planned project duration: 2 years (from the start of implementation).

Beneficiaries, target groups: The specialized personnel of NOPCML and the personnel with competence in this area from law enforcement authorities, reporting entities, general public.

Objectives:

a. Within the Project Preparation Facility:

I. Assessing the efficiency of the current IT system within the NOPCML.

b. Within the Final Project:

I. Elaborating a Technical Study on the specific IT investments and training activities to implement the recommendations included in the assessment;

II. Procurement of a high-performing software for analysis of financial information, with the related hardware, and a software to detect and analyze possible money laundering cases by scanning NOPCML databases, with the related hardware, as well as procurement/development of an IT product (e-learning type) for training and certification of the personnel with AML/CFT responsibilities in reporting entities, based on the Technical Study;

III. Setting up an unitary concept and practice in the implementation of policies in the field of preventing and combating ML/FT, at the level of law enforcement bodies;

IV. Consolidating and improving of professional training of NOPCML staff

	and of personnel with responsibilities in the field from law enforcement authorities, V. Raising the reporting entities and public awareness concerning the risks of money laundering and terrorism financing.
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Recommendation 5 (Customer due diligence)	
I. Regarding financial institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Explicit definition of beneficial ownership should be provided.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>National Office for Prevention and Control of Money Laundering (NOPCML) Art. 2^{2*)} of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>(1) For the purposes of the present law, <i>beneficial owner</i> means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf or interest a transaction or activity is being conducted, directly or indirectly.</p> <p>(2) The beneficial owner shall at least include:</p> <p>a) in the case of corporate entities:</p> <ol style="list-style-type: none"> 1. the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership over a sufficient percentage of the shares or voting rights sufficient to ensure control in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards. 2. A percentage of 25 % plus one share shall be deemed sufficient to meet this criterion; 2. the natural person(s) who otherwise exercises control over the management of a legal entity; <p>b) in the case of legal entities, other than those referred to in let. (a), and other entities or legal arrangements, which administer and distribute funds:</p> <ol style="list-style-type: none"> 1. The natural person who is the beneficiary of 25 % or more of the property of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined; 2. Where the natural persons that benefit from the legal person or entity have yet to be determined, the group of persons in whose main interest the legal person, entity or legal arrangement is set up or operates; 3. The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement. <p>Insurance Supervision Commission (ISC) Art. 3. para (1) of the Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market (Annex no.2.12)</p> <p>(1) For the purposes of these Regulations, the terms and expressions below shall have the following meanings:</p> <p>i) <i>beneficial owner</i> – any natural person who holds or ultimately controls the client and/or the natural person in whose name or in whose behalf a transaction or operation is directly or indirectly performed. This definition shall be supplemented with the provisions of art. I point 3, art. 22 of Government Emergency Ordinance no. 53/2008</p>
Measures taken to implement the recommendations since the adoption of the first progress report.	<p>NATIONAL BANK OF ROMANIA</p> <p>The applicability of NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention was extended to payment institutions and e-money institutions.</p> <p>Art.1 para.(1) and (2) of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention, with subsequent modifications and completions:</p> <p><i>Art. 1.- (1) This Regulation shall apply to credit institutions Romanian legal entities, payment institutions Romanian legal entities, electronic money institutions Romanian</i></p>

	<p><i>legal entities and non-banking financial institutions Romanian legal entities entered in the special Register kept by the National Bank of Romania, and stipulate the minimum standards for the preparation of their rules of know of customers as key part of the management of the risk of money laundering and financing of terrorism and issues relating to their implementation.</i></p> <p><i>(2) This Regulation shall apply as appropriate, for the purposes referred to in paragraph (1), also to the branches of credit institutions foreign legal persons in Romania, branches of payment institutions foreign legal persons in Romania, branches of electronic money institutions foreign legal persons in Romania and branches of foreign financial institutions in Romania, foreign legal persons entered in the special Register kept by the National Bank of Romania. Art.2 of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.</i></p> <p>Art. 2. - <i>The terms and expressions used in this Regulation have the meaning provided for in Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, as modified and supplemented, and in the Regulation for the application of the provisions of Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, approved by Government Decision no.594/2008.</i></p> <p>The on-site and off-site inspection activities had as objective the verification of the appropriate implementation of the incident laws regarding the beneficial owner identification throughout the amending of internal rules of financial institutions for the purposes of introducing the concept of real beneficiary and the proper training of personnel responsible with the beneficial owner identification. Thus, we found situations in which the beneficial owner was not identified and/or verified according to the provisions of the law, and for these situations corrective measures were applied.</p> <p>NOPCML (FIU):</p> <p>The explicit definition of beneficial ownership was already in force when Romanian authorities submitted the first progress report (2009). Furthermore, the identification of the beneficial ownership (by the reporting entities) was considered a distinct task within the controlling activities performed by the NOPCML.</p> <p>In addition, the requirements and methods for identifying the beneficial ownership were introduced in the training sessions of the NOPCML (during Jan. 2009 – Nov. of 2011, a number of 93 seminars were organized, in which approximately 4.220 representatives of the reporting entities participated.</p> <p>Among the financial reporting entities participating to these seminars were credit institutions, non-banking financial institutions, insurance and private pensions companies, securities companies, money remitters, payments services, etc).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The requirement to take reasonable measures to verify the identity of the beneficial owner, as required by the FATF standards, should be adequately implemented.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU) Art.8^{1*)} of the Law no. 656/2002, with subsequent modifications and completions, brought by G.E.O. no. 53/2008</p> <p>In performing their activity, the persons referred to in article 8 are obliged to adopt adequate measures on prevention of money laundering and terrorism financing and, for this purpose, on a risk base, apply standard customer due diligence measures, simplified or enhanced, which allow them to identify, where applicable, the beneficial owner.</p> <p>Art. 3 of the GD no. 594/2008</p> <p>The persons provided for in article 8 of the Law no. 656/2002 shall adopt, during the performance of their activity, adequate measures for prevention money laundering and terrorism financing acts, and, in this purpose, based on risk, shall apply standard, simplified or enhanced customer due diligence which shall allow also the identification, by case, of the beneficial owner.</p> <p>Art. 4 para 4 of GD no. 594/2008</p> <p>The credit institutions and financial institutions shall not open and perform anonymous accounts, respectively accounts for which the identity of the holder or of the beneficial</p>

owner is not known and highlighted properly.
 Art. 5 of the GD no. 594/2008

(1) Standard customer due diligence measures are:

b) identifying, where applicable, the beneficial owner and taking risk-based checks on customer's identity so that the information obtained by the person covered by the article 8 of the Law no. 656/2002 are satisfactory and it allows to understand the ownership and control structure of the customer – legal person;

(2) The identification data of the customers shall include at least:

a) as regards natural persons - the data of civil status mentioned in the documents of identity provided by the law;

b) as regards legal persons - the data mentioned in the documents of registration provided by the law, as well as the proof that the natural person who manages the transaction, legally represents the legal person.

(4) When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.

(6) The persons provided for in the article 8 of the Law no. 656/2002 have the obligation to verify the identity of the customer and of the beneficial owner before establishing business relationship or carrying out the occasional transaction.

We mention that in the training activities organized in the NOPCML or to the ones to which our institution was invited to participate, was presented modalities and procedures for identifying the real beneficiary.

On the same aspect, it is underlined the fact that within the control activities performed by NOPCML was verified if these procedures for identifying the real beneficiary was introduced in the AML internal norms, and where it was the case was issued recommendations..

Within the verifications and control actions were applied sanctions, compliance terms and/or recommendations related to the violations of these measures. *(Please see NOPCML contribution on the Recommendation 17, regarding the off-site and on-site supervision activity, including the sanctions applied on the occasion of performed controls. Also, please see the answer for special question 4.5 regarding the type of infringements to the provisions of the Law no. 656/2002, with subsequent modifications and completions, identified by NOPCML control teams at the reporting entities).*

National Securities Commission (NSC) The new regulation on the prevention and control of money laundering and terrorist financing through the capital market (N.S.C. Regulation no 5/2008 – Annex no.2.11) also has introduced specific requirements regarding reasonable measures to verify the identity of the beneficial owner. According to this regulation, regulated entities are required to identify, verify and record the identity of the clients and beneficial owners before concluding any business relationship or performing transactions on behalf of their client / beneficial owner (art.4 (3)). Regulated entities are required to adopt, during the performance of their activity, adequate measures to prevent money laundering and terrorist financing, and, for this purpose, based on risk, shall apply standard, simplified or enhanced customer due diligence measures which shall allow identification, where applicable, of the beneficial owner. (art.7 (1)). The regulated entity are obliged not to keep anonymous accounts, respectively accounts for which the identity of the holder or of the beneficial owner is not known and highlighted properly (art.10 (1)). Also, regulated entities must record the information regarding the name of the beneficial owner (if applicable) with respect to each customer (art. 11 (1) m.) and art. 12 (1) l.)).

National Bank of Romania (NBR) NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention (Annex no. 2.10 - applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register)

Art.10 – The procedures established in art.8 and art.9 for the customer identification and identity verification shall be accordingly applicable for the purpose of the beneficial

	<p>owner identification and identity risk-based verification.</p> <p>Insurance Supervision Commission (ISC): Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 5. - (1) Entities shall develop and implement adequate policies, procedures and mechanisms for due diligence purposes, as well as in order to report, keep records, ensure adequate internal control, access and manage risks, and to prevent their involvement in operations which raise suspicions of money laundering and terrorism financing, at the same time ensuring the adequate training of its own personnel as well as of the personnel which provides services on a contract basis.</p> <p>(8) Entities shall establish, verify and record the identity of clients and beneficial owners before entering into any business relationship or performing any transactions in the name of the client/beneficial owner.</p> <p>Art. 15. - (1) Entities shall record the following information with respect to legal person clients or clients without legal personality, as appropriate:</p> <p>i) shareholder/associate structure;</p> <p>l) name of the beneficial owner.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report.</p>	<p>NATIONAL BANK OF ROMANIA:</p> <p>Given that at the time of the first progress report the NBR had already ensured the legal framework for the implementation of the recommendation, the inspections carried out off-site and on-site in 2010 and 2011 had as objective the scrutiny of the application of art.10 of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention throughout the verification whether the internal rules of financial institutions proper indicate the obligation of the liable personnel to identify and verify the beneficial owner. The inspections shown that the level of regulatory requirements has been met and proved the interest of financial institutions regarding the accurate implementation of these regulations. In this respect, the staff training activity was also verified, as part of the inspections thematic, resulting that all financial institutions elaborated instructions plans concerning the AML/CFT activity and evaluating procedures of the knowledge assimilated by the trained staff.</p> <p>Art.10 from NBR Regulation no.9/2008: <i>Art. 10. – The procedures established in art.8 and art.9 for the customer identification and identity verification shall be accordingly applicable for the purpose of the beneficial owner identification and identity risk-based verification.</i></p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>After the implementation at the national level of the third Directive, explicit definition of beneficial ownership is provided in the primary legislation, as it is mentioned above. Since the adoption of the first progress report, supervision and on-site inspections carried out by NSC were focused also in the area of AML/CFT. Inspections carried out by NSC targeted complex elements and proved that regulated entities implemented internal procedures in order to identify, verify and record the identity of the clients and beneficial owners. In all the cases in which NSC considered that the internal procedures were not adequate, NSC applied appropriate sanctions and obliged regulated entities to reconsider their internal procedure and to report about the removal of the deficiency.</p> <p>On-site inspections and training seminars were good opportunities for regulated entities to have a dialogue with NSC specialists in order to better understand and apply all the requirements of the Commission, including the ones related to beneficial owner.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>- Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system</p> <p><i>Art.5-(1) Customer due diligence policies and procedures, issued by each legal person administrators/marketing agents, must correspond to the nature, volume, complexity and extent of their activity and must be adapted to the risk level associated with the categories of clients they provide services for.</i></p> <p><i>(2) For the purpose of para (1), customer due diligence policies and procedures must</i></p>

	<p>include at least the following elements:</p> <p>a) Procedures for the identification and permanent monitoring of the clients, in order to include them in the appropriate category of clients, respectively for moving them from one category to another;</p> <p>b) The content of standard, simplified and enhanced customer due diligence measures for each category of clients and products or transactions, that constitute the subject of such measures;</p> <p>c) Permanent monitoring procedures for the operations carried out by clients in order to detect unusual and suspicious transactions;</p> <p>d) The modalities for dealing with transactions and clients in and/or from jurisdictions that do not impose customer due diligence and record keeping procedures, equivalent to those provided for by the Law no. 656/2002, with subsequent modifications and completions, and Government's Decision no. 594/2008, when their enforcement is not supervised for in a similar manner with the one regulated by the specified legislation;</p> <p>e) Modalities for the preparation and keeping of adequate records, as well as for the access to these records;</p> <p>f) Procedures for the verification of issued policies and procedures implementation and for evaluating their efficiency;</p> <p>g) Employment and training programs standards for the personnel, in the field of customer due diligence;</p> <p>h) Internal report procedures, as well as procedures for reporting to competent authorities.</p> <p>PPSSC as supervisory authority, during controls on site and off site to the entities they supervise, administrators/ marketing agents requires them to prove the measures taken to fulfill all obligations described in article 5 paragraph 2. Failure to fulfill these obligations by the supervised entities entitles the Commission to apply sanctions.</p> <p>INSURANCE SUPERVISION COMMISSION</p> <p>Checking the implementation of this measure is part of the control topics and is subject of on-site inspections to the reporting entities.</p> <p>NOPCML (FIU)</p> <p>The requirement to take reasonable measures to verify the identity of the beneficial owner was already enforced at the time the Romanian authorities submitted the first progress report (2009). The measures adopted by the reporting entities in this respect were the subject of several sanctions (fines, warnings, but also recommendations) within the controlling activities performed by the NOPCML.</p> <p>In addition, the requirements and methods for verifying the identity of the beneficial owner were introduced in the training sessions of the NOPCML (during January 2009 - November 2011, a number of 93 seminars were organized, in which approximately 4.220 representatives of the reporting entities participated. Among the financial reporting entities participating to these seminars were credit institutions, non-banking financial institutions, insurance and private pensions companies, securities companies, money remitters, payments services, etc).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Further consideration should be given to the extent that reporting entities have applied CDD measures to existing customers particularly in the case of non-banking financial institutions</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): Art. 9¹ of the Law no. 656/2002, with subsequent modifications and completions, brought by GEO NO. 53/2008</p> <p>The persons referred to in the article 8 shall apply standard customer due diligence measures to all new customers and also, as soon as possible, on a risk base, to the existing clients.</p> <p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 22 para 1 lett. b of the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The following deeds shall be deemed as contraventions:</p> <p>b) the failure to comply with the obligations referred to in art. 3 para. 2 third thesis, art. 5</p>

	<p>para. (2), art. 8¹, art. 8², art. 9, art. 9¹, art. 9², art. 12, art. 12¹ para. (1), art. 13 - 15 and art. 17.</p> <p>Art. 4 para. 3 of GD no. 594/2008</p> <p>(3) The persons provided for in the art. 8 of the law no. 656/2002 shall apply the standard customer due diligence to all new customers as well as, as soon as possible, based on the risk, to all existent customers.</p> <p>The acts and documents specific to the controls (ascertain notes) was modified in order to directly specify the level of compliance of the reporting entities to the measures stipulated by the Law no. 656/2002, with subsequent modifications and completions.</p> <p>Also, having regard the Moneyval experts' recommendations to define the limit between the supervision of the NBR and the supervision of the NOPCML, related to the non-banking financial institutions, the Office started an important action in which was specially verified the compliance level with the KYC measures over those non-banking financial institutions that are supervised for by the central bank, respectively the Non Financial institutions in the General and the Evidence register. In this respect, during 2008-2009, within the off-site supervision activity, a total number of 1.611 Non-financial institutions were verified, and later, based on the results of this supervision and the high risk level identified, NOPCML ascertaining agents carried out control actions on a number of 181 non-financial institutions.</p> <p>NSC - Although the recommendation does not refer to the capital market sector, it is important to mention that the new regulation on the prevention and control of money laundering and terrorist financing through the capital market (N.S.C. Regulation no 5/2008, art. 8 Para 2) requires to regulated entities to apply the standard customer due diligence measures to all new customers as well as to all existent clients, based on the risk, as soon as possible. The on-site inspections conducted in the last year by National Securities Commission indicated that inspected regulated entities understand and apply this requirement.</p> <p>NBR - Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention (applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register) provides a new longer period for the application to the existing customers by the credit institutions and non-bank financial institutions supervised by NBR of the CDD measures in accordance with legislation harmonized with the EU acquis communautaire in the field</p> <p>Art.28 – The institutions shall apply the due diligence measures imposed by the Law no. 656/2002, as modified, Government Decision no.594/2008 and present regulation to all existing clients as soon as possible, on a risk basis, but not later than one year after the approval of the know-your-customer norms elaborated according to Chapter II of present regulation.</p> <p>ISC - Art. 5. of Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>2) Mechanisms as well as implementation measures shall allow the identification of the categories of clients, products and services, of operations and transactions which entail potential higher risks, on the basis of certain risk indicators.</p> <p>3) Entities shall prepare their own risk-based review procedures and shall subsequently classify clients into at least 3 classes of risk.</p> <p>4) For existing clients, this classification shall be performed within 18 months as of the date when these Regulations become effective.</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>NOPCML (FIU) Art. 9¹ of the Law no. 656/2002, with subsequent modifications and completions, brought by GEO NO. 53/2008</p> <p>The persons referred to in the article 8 shall apply standard customer due diligence measures to all new customers and also, as soon as possible, on a risk base, to the existing clients.</p> <p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 22 para 1 lett. b of the Law no. 656/2002, with subsequent modifications and</p>

	<p>completions</p> <p>(1) The following deeds shall be deemed as contraventions:</p> <p>b) the failure to comply with the obligations referred to in art. 3 para. 2 third thesis, art. 5 para. (2), art. 8¹, art. 8², art. 9, art. 9¹, art. 9², art. 12, art. 12¹ para. (1), art. 13 - 15 and 17. Art. 4 para. 3 of GD no. 594/2008</p> <p>(3) The persons provided for in the art. 8 of the law no. 656/2002 shall apply the standard customer due diligence to all new customers as well as, as soon as possible, based on the risk, to all existent customers.</p> <p>The acts and documents specific to the controls (ascertain notes) was modified in order to directly specify the level of compliance of the reporting entities to the measures stipulated by the Law no. 656/2002, with subsequent modifications and completions.</p> <p>Also, having regard the Moneyval experts' recommendations to define the limit between the supervision of the NBR and the supervision of the NOPCML, related to the non-banking financial institutions, the Office started an important action in which was specially verified the compliance level with the KYC measures over those non-banking financial institutions that are supervised for by the central bank, respectively the Non Financial institutions in the General and the Evidence register. In this respect, during 2008-2009, within the off-site supervision activity, a total number of 1.611 Non-financial institutions were verified, and later, based on the results of this supervision and the high risk level identified, NOPCML ascertaining agents carried out control actions on a number of 181 non-financial institutions.</p> <p>NSC - Although the recommendation does not refer to the capital market sector, it is important to mention that the new regulation on the prevention and control of money laundering and terrorist financing through the capital market (N.S.C. Regulation no 5/2008, art. 8 Para 2) requires to regulated entities to apply the standard customer due diligence measures to all new customers as well as to all existent clients, based on the risk, as soon as possible. The on-site inspections conducted in the last year by National Securities Commission indicated that inspected regulated entities understand and apply this requirement.</p> <p>NBR - Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention (applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register) provides a new longer period for the application to the existing customers by the credit institutions and non-bank financial institutions supervised by NBR of the CDD measures in accordance with legislation harmonized with the EU acquis communautaire in the field</p> <p>Art.28 – The institutions shall apply the due diligence measures imposed by the Law no. 656/2002, as modified, Government Decision no.594/2008 and present regulation to all existing clients as soon as possible, on a risk basis, but not later than one year after the approval of the know-your-customer norms elaborated according to Chapter II of present regulation.</p> <p>ISC - Art. 5. of Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>2) Mechanisms as well as implementation measures shall allow the identification of the categories of clients, products and services, of operations and transactions which entail potential higher risks, on the basis of certain risk indicators.</p> <p>3) Entities shall prepare their own risk-based review procedures and shall subsequently classify clients into at least 3 classes of risk.</p> <p>4) For existing clients, this classification shall be performed within 18 months as of the date when these Regulations become effective.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>According to art. 8 Para 2 of the Regulation no. 5/2008, regulated entities are required to apply the standard customer due diligence measures to all new customers, as well as to all existent clients, based on the risk, as soon as possible. In order to speed up the process of applying CDD requirements on the existing clients, Romanian National Securities</p>

Commission issued Executive Order no. 2/09.02.2011, also published on the NSC official bulletin and website.

Within 6 months after entry into force of the act, intermediaries and asset management companies were required to update customer identification data and within 7 months from the date of entry into force of the act, regulated entities were obliged to report on this obligation.

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The NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention was amended at the end of 2009 by extending the period to 18 months in which the regulated entities under the NBR supervision have to apply the KYC rules to existing clients. This extension was requested by the institutions and was justified by the large number of clients and by the fact that they have to wait for the client to present the documents - the legal obligation is not applicable directly to the clients.

Art. 28 of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention, with subsequent modifications:

Art. 28. - The institutions shall apply the due diligence measures imposed by the Law no. 656/2002, as modified, Government Decision no.594/2008 and present regulation to all existing clients as soon as possible, on a risk basis, but not later than 18 months after the approval of the know-your-customer norms elaborated according to Chapter II of present regulation.

From the inspection activities carried out, it was found that the institutions have shown a strong interest in updating the clients' data on expected legal term. Nevertheless, in 2010, there were identified only a few situations in which such information were not updated, for which concrete corrective measures were imposed. Now, the term of 18 months is perished, entailing that all data ought to be updated.

Though, for those clients for which at the expire of the 18 months period the information were not reviewed in accordance with the new rules, the financial institutions have the following manner to proceed at the first transaction requested by the client: either they obtain the necessary information before the transaction being executed, or, if the information is not provided, they stop the relation with the client and consequently, they inform the FIU.

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Checking the implementation of this measure is part of the control topics and is subject of on-site inspections to the reporting entities.

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Taking into consideration that these requirements were enforced at the time the Romanian authorities submitted the first progress report (2009), all non-banking financial institutions were subject to a comprehensive off site / on site cycle of supervision activities in the period of 2009 - 2010 (referring only to the ones that are in the supervision responsibility of the NOPCML).

In the case of breaching the legal obligations as regards the applying of CCD measures, several sanctions were applied by the ascertaining agents of the NOPCML.

In this respect, 228 NFIs (non-banking financial institutions) were controlled in 2009 and 33 NFIs in 2010, many sanctions being applied for non-compliance with the AML legal requirements (most of them were fines, with an aggregate value that was over 300.000 EUR).

Furthermore, the NOPCML organized several training sessions for NFIs (2009-2011), in order to raise the awareness in relation with the legal obligation which derives from the AML normative framework. More than 10 training sessions were organized with the participation of the NFIs, thus being covered most of the non-banking financial institutions which are included in the supervision of the NOPCML.

As regards the proposed measures (legislative) assumed by the Romanian authorities (in 2009), in accordance with the recommendations stipulated by evaluators a new legislative amendments were introduced in the process of elaborating the draft law for adoption of the

	<p>Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber), on November 22, 2011.</p> <p>The amendments were assumed by the Parliamentary Committees and by the Chamber of the Deputies, being the subject for modification of art. 22 para (1) let. b) of the Law no 656 / 2002: Art. 22 para (1) let. b) - failure to comply with the obligations referred to in art. 3 para (2) 3rd thesis, art. 5 para. (2), art. 8¹, 8², 9, 9¹, 9², art. 12¹ para. (1), art. 13-15 and in art. 17.</p>
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008 has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, being also adopted in the Plenary of the Chamber of the Deputies (decisional chamber).</p>
<p>Recommendation 5 (Customer due diligence)</p> <p>II. Regarding DNFBP⁷</p>	
Recommendation of the MONEYVAL Report	<p><i>Adequate and enforceable measures for linking the CDD information with transactions performed in casinos should be established.</i></p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Art. 9^{*)} of the Law no. 656/2002⁷ with subsequent modifications and completions brought by GEO no. 53/2008</p> <p>(1) The persons referred to in the article 8 are obliged to apply standard customer due diligence measures in the following situations:</p> <p>e) When purchasing or exchanging casino chips with a minimum value, in equivalent RON, of 2000 EUR.</p> <p>Art. 4 para. 1 leter. e) of GD no. 594/2008</p> <p>(1) The persons provided for in article 8 of the Law no. 656/2002 shall apply the standard customer due diligence in the following situations:</p> <p>e) when purchasing or exchange in casinos gambling chips with a minimum value of the equivalent of EUR 2 000.</p> <p>Ministry of Public Finances (MPF):</p> <p>In accordance with the provisions of GD no. 870/30.07.2009 on the approval of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities:</p> <p>“(1) The organizers shall perform the evidences of the access of the gamblers inside the casino only in electronic format.</p> <p>(2) The evidences of the access shall contain the identification data of the participants, at least the name, first name and date of birth, the type of the document, the number and the series of the legal identifications documents, presented by the holder, as such:</p> <p>a) for the citizens who are not belonging to a Member State of the European Union, the passport, the diplomatic or consular identification card, the temporary identification card;</p> <p>b) for the Romanian citizens or for the citizens belonging to one of the Member States of the European Union: identification card or other documents issued by the police bodies, which must have a photograph and the signature of the holder.</p> <p>(3) The organizers had the obligation to not allow the access of the persons who do not have the identity documents presented above.</p> <p>(4) The data base of the organizer related to the evidences of the access of the gamblers is achieved by this one and is kept for at least 5 years. The organizers are obliged to put at the disposal of the control bodies of the Ministry of Public Finances, the National Agency for Fiscal Administration and their subordinated structures, the Ministry of the Administration and Interior and of the National Office for Prevention and Control of Money Laundering.”</p> <p>In accordance with the provisions of art. 39 of the GD no. 870/30.07.2009 on the approval</p>

⁷ i.e. part of Recommendation 12.

	<p>of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities:</p> <p>„(1) Through internal decision, the organizers have the right to stop the access of the undesirable persons.</p> <p>(2) The lists containing the persons who, motivated, by internal casino’s decisions were declared as undesirable persons and to whom were stop the access in the casino shall be communicated to the police bodies, together with the motivation of these measure, in 5 working days starting with the date of issuing the Authorization for exploit the gambling activities or starting with the date when this is modified by decision of the organizer.”</p> <p>In accordance with the provisions of art. 41 of GD no. 870/30.07.2009 on the approval of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities:</p> <p>„(1) The organizer has the obligation to designate and to communicate to the commission a person from the executive management in order to ensure the compliance with the authorizing conditions related to [...]:</p> <p>c) the implementation of the control procedures for testing the verification, reregistering and security system.</p> <p>(2) the executive management has the obligation to ensure by the person stipulated in para (1) or to other person or structure the establishment of adequate politics and procedures related to the KYC measures, registering and evidences [...] in order to prevent and combat the suspected operations of money laundering and terrorism financing, ensuring on the same time the adequate training of the personnel.”</p> <p>In accordance with the provisions of art. 41 of GD no. 870/30.07.2009 para (4)_For the personnel presented in para. (3) shall be requested the approval of the district police inspectorate/ General Police Directorate of Bucharest where the casino has the headquarters, in the most 3 working days from the data of the employment.</p> <p>In accordance with the provisions of art. 15 para. (1) letter. c) of the Emergency Government Decision no. 77/2009 on the organization of gambling activities:</p> <p>“the legal representatives of the legal person shall present the criminal records certificates or other documents issued by the competent authorities taking into account the last know address/headquarters, in order to result that none of the legal representation for the natural persons do not have a definitive court decision for which do not interfere the rehabilitation in Romania or other state for an offence provided by the present ordinance or for another offence for which was applied a punishment of at least 2 years with the imprisonment.”</p> <p>In accordance with the points 5 and 6 of the Annex no. 2 of the GD no. 870/2009 in order to obtain the license for organizer gambling activities, the economic operators shall present the judicial criminal records certificate or other documents issued by the competent authorities taking into account the last know address/headquarters of the legal representative (in case there are more than one representatives shall be presented the judicial criminal records certificate issued by the competent authorities for each person), from which must result that none of the legal representation for the natural persons do not have a definitive court decision for which do not interfere the rehabilitation in Romania or other state for an offence provided by the present ordinance or for another offence for which was applied a punishment of at least 2 years with the imprisonment; Also, the economic operator must present the solemn declaration of the legal representative (in case there are more than one representatives shall be presented the each solemn declarations) from which must results:</p> <p>xxiv. The economic operator does not have a definitive court decision for which do not interfere the rehabilitation;</p> <p>xxv. The legal representative is not into a incompatibility situation, as it is regulated by the law;</p> <p>xxvi. The legal representative has experience in the field of organizing and exploiting the gambling activities;</p> <p>The legal representative knows the specific legislation in the field.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The 3000 Euros threshold for casinos should be addressed in law, regulation or other</i></p>

	<i>enforceable means</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	Please see the previous requirements.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>Taking into consideration that these legal requirements were already in force when Romania submitted the first progress report (2009), the on-site supervision activities performed by NOPCML included also the tasks of controlling the level of compliance of the casinos (in this respect). Furthermore, being an institutional member of the Romanian Gambling Licensing Commission, NOPCML was focused on indentifying the measures implemented by casinos in order to develop adequate measures for applying appropriate CDD requirements for their clients.</p> <p>As regards the modification of the gambling legal framework (2010 - 2011), several amendments were introduced at the request of the NOPCML, in order to implement specific AML legal requirements in the sectoral regulations of this domain.</p> <p>In this perspective, several casinos were sanctioned during the controlling activities performed by the NOPCML or the Financial Guard, being subject of the analyses submitted to the Romanian Gambling Licensing Commission. As a result of applying these measures, the level of compliance of casinos has significantly increased. At this moment, a considerable number of reports are submitted to NOPCML by this type of entities.</p> <p>In accordance with dispositions of the specific legal framework of casinos, they are obliged to identify all the clients at the entrance in their facilities. In this respect, we mention the requirements of the special law of gambling in Romania:</p> <ul style="list-style-type: none"> - Governmental Emergency Ordinance no. 77/2009, adopted through the Law no. 246 /2010, with subsequent modifications and competitions: <p><i>Art.15 para (6) let d) The organizers of the casino activity shall keep the records of the identification data of persons entering the premises locations where this activity is operated, only in electronic format. Databases established by the organizer shall be stored by its care and shall be kept for a period of at least 5 years;</i></p> <ul style="list-style-type: none"> - Governmental Decision no. 870/2009, for approval of the Methodological Norms for applying E.O.G. no. 77/2009: <p><i>Art. 38 - (1) The organizers shall keep the records of the access of players in the casino premises, only in electronic format.</i></p> <p><i>(2) The records regarding the access shall include the identification data of the participants, at least name, surname, date and place of birth, document, series and number of the legal identification documents, presented by the holder, thus:</i></p> <ul style="list-style-type: none"> <i>a) for the non-citizens of one of the European Union Member States: passport, diplomatic or consular identity card, temporary/provisional pass;</i> <i>b) for the Romanian citizens or the citizens of one of the European Union Member States: identity card or other documents issued by the police bodies, having a photo and a signature of the holder.</i> <p><i>(3) The organizers are obliged not to allow access of the persons who do not have the above mentioned identification documents.</i></p> <p><i>(4) The databases established by the organizer regarding the records of the players' access into the casino premises shall be stored by its care and shall be kept for a period of at least 5 years. The organizers are obliged to put the databases at the disposal of the control authorities from the Ministry of Public Finances, the National Agency of Tax Administration and its subordinated units, the Ministry of Administration and Interior and the National Office for Prevention and Control of Money Laundering, by their request.</i></p> <p><i>Art. 39 - (1) By internal decisions, the organizers have the right to forbid the access of the undesirable persons.</i></p> <ul style="list-style-type: none"> <i>(2) The lists including the persons who, by grounded internal decisions of the casinos, have been declared undesirable and who were denied the access to the casino, shall be communicated to the police bodies, together with the reasons of this measure, within 5</i>

	<p><i>working days from the date of issuing the authorization to operate gambling activities or from the date on which they are amended by internal decision of the organizer.</i></p> <p>Furthermore, as regards the controlling capabilities on the gambling sector, the G.E.O. no. 77/2009 is stipulating the requirements of other authorities in relation with NOPCML:</p> <p><i>Art. 77 - (1) The competent bodies within the Ministry of Public Finances, the National Agency of Tax Administration and its subordinated bodies and the Ministry of Administration and Interior – General Inspectorate of the Romanian Police and its subordinated bodies have the right to ascertain the contraventions and to apply the contravention sanctions, to control the financial-accounting records, the functioning of the gambling activity, the players access in the casino premises, as well as other aspects related to the conduct of the gambling activity, established by the emergency ordinance or by this decision.</i></p> <p><i>(2) The National Office for Prevention and Control of Money Laundering has the right to control, according to its competencies provided by the current specific legislation in the field of prevention and combating money laundering and terrorist financing.</i></p> <p><i>(3) During the verifications and controls performed as regards the compliance with the provisions of the emergency ordinance and of this decision, the competent bodies mentioned in the paragraph (1) shall notify the National Office for Prevention and Control of Money Laundering on the suspicions related to money laundering operations and on any breach of the obligations provided by the Law no. 656/2002, with the subsequent modifications and completions.</i></p> <p>MINISTRY OF ADMINISTRATION AND INTERIOR (MAI)</p> <p>In the domain of preventing and fighting against illegalities in the field of gambling, the following activities occurred:</p> <ul style="list-style-type: none"> - Legislative proposals, participation in the drafting and amendment of new legislative acts in the field (GEO No. 77/26.06.2009 Government Decision No. 870/29.07.2009 amended in 2010 and 2011- as approved by the Minister of Administration and Interior); - Participation on the basis of membership in the monthly meetings of the Committee for the Authorization of Gambling, with competence in licensing and authorizing gambling in Romania; - Checking whether gambling organizers comply with the authorization conditions, through initiating and coordinating specific control actions at national level (<i>examples: „SLOT” operation in 2009, „GAMES” operation in 2010, as well as an action under development in 2011</i>) with significant results. For example, in the stage of the action initiated on 20.08.2011 a number of 410 gambling rooms were inspected, with 145 contravention sanctions applied worth a total of 761.900 RON (1 euro = approx. 4.3 RON) and 65 gambling crimes ascertained; - The procedure for the approval of legal representatives and personnel of casinos was drafted, as well as the procedure regarding the activities performed by the Romanian Police to prevent and combat illegalities in the gambling domain; - A training course was organized in 2011, attended by 54 officers. <p>At the level of the Romanian Police in 2010, a total number of 96 offences were ascertained, for which 86 persons were investigated, and in the first 9 months of 2011, a total number of 71 offences in the gambling domain was ascertained, for which 61 persons were investigated.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p>“Dealers” and “any other natural or legal person, for acts and deeds, committed outside the financial-banking system” in article 8 in the AML/CFT Law should be clarified.</p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 8 letter k) of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <ul style="list-style-type: none"> - other natural or legal persons that trade goods and/or services, provided that the operations are based on cash transactions, in RON or foreign currency, whose minimum value represents the equivalent in RON of 15000EUR, indifferent if the transaction is performed through one or several linked operations.

	<p>The „dealers” sintagme is not longer in the content of the art. 8 of the Law no. 656/2002, with subsequent modifications and completions, this category being include in art. 8 letter k of the special law.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The above mentioned legal requirements were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>Art 8 of the Law no. 656/2002, consequently amended and completed:</p> <p>Art. 8 let. k) - other natural or legal persons that trade goods and/or services, provided that the operations are based on cash transactions, in RON or foreign currency, whose minimum value represents the equivalent in RON of 15000EUR, indifferent if the transaction is performed through one or several linked operations.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p>The recommendations in the implementation of Recommendation 5 apply equally to DNFBP [i.e. a) Explicit definition of beneficial ownership should be provided; b) The requirement to take reasonable measures to verify the identity of the beneficial owner, as required by the FATF standards, should be adequately implemented; c) Further consideration should be given to the extent that reporting entities have applied CDD measures to existing customers particularly in the case of non-banking financial institutions.</p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>DEFINITION OF THE REAL BENEFICIARY</p> <p>Art. 22*) of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>(1) For the purposes of the present law, beneficial owner means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf or interest a transaction or activity is being conducted, directly or indirectly.</p> <p>(2) The beneficial owner shall at least include:</p> <p>a) in the case of corporate entities:</p> <ol style="list-style-type: none"> 1. the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership over a sufficient percentage of the shares or voting rights sufficient to ensure control in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards. 2. A percentage of 25 % plus one share shall be deemed sufficient to meet this criterion; 2. the natural person(s) who otherwise exercises control over the management of a legal entity; b) in the case of legal entities, other than those referred to in para (a), and other entities or legal arrangements, which administer and distribute funds: <ol style="list-style-type: none"> 1. The natural person who is the beneficiary of 25 % or more of the property of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined; 2. Where the natural persons that benefit from the legal person or entity have yet to be determined, the group of persons in whose main interest the legal person, entity or legal arrangement is set up or operates; 3. The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement. <p>Art.81*) of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>In performing their activity, the persons referred to in article 8 are obliged to adopt adequate measures on prevention of money laundering and terrorism financing and, for this purpose, on a risk base, apply standard customer due diligence measures, simplified or enhanced, which allow them to identify, where applicable, the beneficial owner.</p> <p>Art. 3 of the GD no. 594/2008</p> <p>The persons provided for in article 8 of the Law no. 656/2002 shall adopt, during the performance of their activity, adequate measures for prevention money laundering and terrorism financing acts, and, in this purpose, based on risk, shall apply standard,</p>

	<p>simplified or enhanced customer due diligence which shall allow also the identification, by case, of the beneficial owner.</p> <p>Art. 5 of GD no. 594/2008</p> <p>(1) Standard customer due diligence measures are:</p> <p>b) identifying, where applicable, the beneficial owner and taking risk-based checks on customer's identity so that the information obtained by the person covered by the article 8 of the Law no. 656/2002 are satisfactory and it allows to understand the ownership and control structure of the customer – legal person;</p> <p>(2) The identification data of the customers shall include at least:</p> <p>a) as regards natural persons - the data of civil status mentioned in the documents of identity provided by the law;</p> <p>b) as regards legal persons - the data mentioned in the documents of registration provided by the law, as well as the proof that the natural person who manages the transaction, legally represents the legal person.</p> <p>(6) The persons provided for in the article 8 of the Law no. 656/2002 have the obligation to verify the identity of the customer and of the beneficial owner before establishing business relationship or carrying out the occasional transaction.</p> <p>STANDARD MEASURES</p> <p>Art. 91 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>The persons referred to in the article 8 shall apply standard customer due diligence measures to all new customers and also, as soon as possible, on a risk base, to the existing clients.</p> <p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 22 para 1 lett. b of the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The following deeds shall be deemed as contraventions:</p> <p>b) the failure to comply with the obligations referred to in art. 3 para. 2 third thesis, art. 5 para. (2), art. 81, art. 82, art. 9, art. 91, art. 92, art. 12, art. 121 para. (1), art. 13 - 15 and art. 17.</p> <p>Art. 4 para. 3 of the GD no. 594/2008</p> <p>(3) The persons provided for in the art. 8 of the law no. 656/2002 shall apply the standard customer due diligence to all new customers as well as, as soon as possible, based on the risk, to all existent customers.</p> <p>Similarly to the ones presented above related to the non-banking financial institutions, we mention that the verification and controls actions of the NOPCML have in regard the level of compliance to the legal obligations, in this sense being applied sanctions, compliance terms and/or recommendations. Having regard that, during 2008 – 2009, within the off-site supervision activity, a total number of 7953 non-financial institutions were verified, through the MAINSET system, and later, based on the results of this supervision and the high risk level identified, NOPCML ascertaining agents carried out control actions on a number of 377 entities of this type.</p> <p>National Union of Public Notaries from Romania (NUPNR)</p> <p>The duties of the notary include the determination of identity of the parties. Verifying this identity implies customer due diligence measures. In 2009 was signed the Collaboration Protocol between the Ministry of the Administration and Interior, the Special Telecommunications Service and the National Union of Public Notaries in Romania, on verification of the identity of persons resorting to public notaries for concluding notarial acts. Although we approached the Ministry of the Administration and Interior four years ago, the Protocol was only signed in 2009.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>All the above mentioned legal requirements were in force at the time the Romanian authorities submitted the first progress report (2009).</p> <p>As regards the proposed measure (legislative) assumed by the Romanian authorities (in 2009), a new legislative amendment was introduced in the process of elaborating the draft</p>

	<p>law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber).</p> <p>The amendment was assumed by the Parliamentary Committees and by the Chamber of the Deputies, being the subject for modification art. 22 para (1) let. b) of the Law no 656 / 2002: Art. 22 para (1) let. b) - failure to comply with the obligations referred to in art. 3 para (2) 3rd thesis, art. 5 para. (2), art. 81, 82, 9, 91, 92, art. 121 para. (1), art. 13-15 and art. 17.</p> <p>In addition, the measures adopted by the reporting entities (DNFBPs) in this respect were the subject of the on-site supervision performed by the NOPCML. Moreover, the AML legal requirements and the methods for complying with these obligations represented distinct topics for the training sessions organized by the NOPCML (during January 2009 - November 2011, a number of 93 seminars were organized, in which approximately 4.220 representatives of the reporting entities participated). All categories of DNFBPs participated to these seminars, as well as the non-banking financial institutions, NPOs, money remitters, payments services, etc.</p> <p>In consideration of the methods for identifying the beneficial ownership and applying the CDD measures, the guidance (RBA) and the materials elaborated by the NOPCML addressed all these requirements.</p> <p>In particular for NFIs (non-banking financial institutions), we mention that 228 NFIs were controlled in 2009 and 33 NFIs in 2010, many sanctions being applied for non-compliance with the AML legal requirements (most of them were fines, with an aggregate value that was over 300.000 EUR). In the same time, 1611 NFIs were introduced in the off-site supervision process during 2009.</p> <p>Furthermore, the NOPCML organized several training sessions for NFIs (2009-2011), in order to raise the awareness in relation with the legal obligation which derives from the AML normative framework. More than 10 training sessions were organized with the participation of the NFIs, thus being covered most of the non-banking financial institutions which are included in the supervision of the NOPCML.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p>Further guidance should be developed for assisting DNFBP to implement an adequate risk based approach and to define an adequate mitigation procedure.</p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>One of the main objectives of the Twinning Project RO /2007-IB/JH/05, within the Transition Facility, approved at the European Commission level no, 2007/19343.01.14, is the Objective no. 4. -The elaboration of a guidelines and organization of training sessions dedicated to the financial and non-financial reporting entities which are under the direct supervision of the NOPCML.</p> <p>Within this objective shall be followed the achievements of the below activities:</p> <p>4.1 The editing of a Handbook regarding the risk based approach of the suspicious transactions indicators dedicated to reporting entities;</p> <p>4.2 The presentation and dissemination to the different reporting entities on two days /6 training sessions, organized at territorial level;</p> <p>4.3 The organization of two days/ six training session, at territorial level for legal persons.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>In 2010, the Romanian FIU elaborated the Manual on Risk based Approach and Indicators of Suspicious Transactions. The Manual is addressed to the all categories of reporting entities and includes references to main conceptual elements of money laundering and terrorism financing and typologies and indicators related to combating these two phenomena.</p> <p>The Manual was disseminated during 6 training seminars organized at the territorial level, where more than 260 representatives of reporting entities attended. For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office's</p>

	website (www.onpcsb.ro), in the English and the Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities, in order to be used by employees and specialists with competences in this area.
Recommendation of the MONEYVAL Report	Secondary and implementing regulation should be provided for legal professions under supervision of SRO.
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>Also, as we mentioned above, within the Objective no. 4 of the Twinning Project RO /2007-IB/JH/05, within the Transition Facility, which was approved at the level of European Commission no. 2007/19343.01.14 one of the activities shall be dedicated to the organization of two days/six training session, at territorial level, for independent legal professions, having as themes:</p> <ul style="list-style-type: none"> • The legislative impact over the behavior of the independent legal professions; • How to detect the unusual transactions suspected of money laundering and terrorism financing; • The reporting obligations: providing precise and valuable information in the reports submitted to the NOPCML; • Trends and indicators of money laundering; • The role of the independent legal professions in the fight against money laundering. <p>National Union of Public Notaries from Romania (NUPNR) Decision no. 44/2006 establishing measures and working procedures for improving the implementing methods for the provisions of Law no. 656/2002 and the Implementation Rules for the Protocol between NUPNR and NOPCML is adopted. (Annex no. 4)</p> <p>National Union of Bar Associations (NUBR): Guidelines with best practices in the reporting phase soon to be drafted by NUBR and assisted by NOPCML.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>In order to ensure a proper implementation of the AML/CTF Law, the Romanian FIU got involved, also in these sectors, in order to raise the awareness and the level of compliance of the legal professions, by organizing training sessions and by elaborating and disseminating of the Manual.</p>
(Other) changes since the last evaluation	<ul style="list-style-type: none"> - Governmental Emergency Ordinance no. 77/2009, adopted through the Law no. 246 /2010, with subsequent modifications and competitions; - Governmental Decision no. 870/2009, for approval of the Methodological Norms for applying E.O.G. no. 77/2009;

Recommendation 10 (Record keeping)

I. Regarding Financial Institutions

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>To develop requirements (apart from the capital market) of keeping <u>transactions</u> records for a longer period if requested by a competent authority in specific cases.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Art. 14 of GD no. 594/2008</p> <p>(2) The persons provided for in article. 8 of Law 656/2002 shall keep, in an adequate format so it can be used as evidence in court, secondary or operative evidence and recordings of all the financial transactions within the business relationship or occasional transaction, for a period of at least 5 years from the termination of the business relationship, respectively of performing the occasional transaction.</p> <p>Art. 16 of GD no. 594/2008</p> <p>Credit and financial institutions are obliged to keep in place internal procedures and to have systems which allow the promptly transmission, by Office's or prosecution bodies request, of the information regarding the identity and the nature of the relationship for the customers specified in the request, with which a business relationship is or has been in progress in the last 5 years.</p>

	<p>NSC: Although the recommendation does not refer to the capital market sector, it is important to mention that the new regulation on the prevention and control of money laundering and terrorist financing through the capital market (N.S.C. Regulation no 5/2008) has strengthened the provision of keeping the records for a longer period if requested by a competent authority in specific cases.</p> <p>Art. 18 of the NSC Regulation no 5/2008 states that regulated entities must keep all the documents and records related to the customers transactions and operations for at least 5 years or even more since the transaction has been concluded, to be available at the request of the Office or other authorities, irrespective whether the account has been closed or the client relationship has been terminated. These records must be sufficient to allow a reconstruction of the individual transaction, including the amount and type of currency, to provide evidence in court, if necessary.</p> <p>The regulated entities are required to have internal procedures and dispose of systems which enable the prompt submission of the information about the identity and the nature of the relationship for the customers specified in the request with whom they are in business relationship or have had a business relationship for the last 5 years, at the request of the Office, respectively N.S.C. and / or criminal investigation bodies.</p> <p>NBR: NBR Regulation no.9/2008 (applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register): “Art.22(2) - The institutions shall, at the express request from the National Bank of Romania or from other authorities according to the law, keep, in adequate form in order to be used as evidences in court proceedings, the identification data of the customer, the secondary or operational documentation and <u>the records of all the financial operation that occur in a business relationship, for a time longer than five years from the ending of the business relation with the customer.</u> The request of the authority shall clearly indicate the transactions and/or customers and also, the extended amount of time the institution is to keep the relevant information and documents.”</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions (G.D. no.594/2008) were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>As regards the recommendations stipulated by the evaluators, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 13 of the Law no 656/2002:</p> <p><i>Art. 13 - (1) In each case where the identity is required according to this law, legal person or natural person referred to in art. 8, which is obliged to identify the client shall keep a copy of the document as proof of identity, or identification references for a minimum of 5 years starting with the date when the customer relationship ends.”</i></p> <p><i>(2) The persons referred to in art. 8 shall keep secondary or operative records and also shall keep all the registrations of all the financial transactions arising from the performance of a business relationship or occasional transaction for a period of a minimum 5 years after the end of the business relationship, and from the occasional transaction, in a appropriate form, in order to be used as evidence in court”</i></p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>After the implementation of the Regulation no. 5/2008 which strengthened the record keeping obligations, secondary legislation in the capital market field is in full compliance with the FATF requirement and the competent authority has been focusing its efforts in supervision of the observance by the regulated entities of the relevant provision related to</p>

	<p>record keeping. Inspections proved that regulated entities implemented internal procedures and have systems which enable the adequate record keeping of all the data related to a customer for at least five years and the prompt submission of the information to competent authorities.</p> <p>NATIONAL BANK OF ROMANIA Given that at the first progress report the NBR had already established the legal framework for the implementation of the recommendation (through the provisions of art.22 para.(2) of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention), the inspections carried out off-site and on-site in 2010 and 2011 focused on whether the internal rules of financial institutions provide these obligations, on the way of placing these rules into practice and on the training activity of the staff involved in such activities. According to art.22 (2) from NBR Regulation no.9/2008: <i>Art. 22. - (2) - The institutions shall, at the express request from the National Bank of Romania or from other authorities according to the law, keep, in adequate form in order to be used as evidences in court proceedings, the identification data of the customer, the secondary or operational documentation and <u>the records of all the financial operation that occur in a business relationship, for a time longer than five years from the ending of the business relation with the customer.</u> The request of the authority shall clearly indicate the transactions and/or customers and also, the extended amount of time the institution is to keep the relevant information and documents.</i></p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system – <i>Art. 16 - (2) Legal person administrators/marketing agents are obliged to have internal procedures and systems that would allow the prompt submission, at the Office, Commission and law enforcement bodies' request, of the information on the identity and relationship nature for the clients who are specified in the request and with whom they are involved in a business relationship, or with whom they had a business relationship in the last 5 years prior to the request, information which shall be kept, in an adequate form, for a period of 5 years from the performing of each operation.</i></p> <p>CSSPP as supervisory authority, during controls on site and off site to the entities they supervise, administrators/ marketing agents requires them to prove the measures taken to fulfill all obligations described in article 5 paragraph 2. Failure to fulfill these obligations by the supervised entities entitles the Commission to apply sanctions.</p> <p>INSURANCE SUPERVISORY COMMISSION Order no.24/2009 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market: <i>Art.24 (2) Entities shall maintain appropriate secondary or operational records of all the financial operations conducted by the client for a period of time of at least 5 years or even more, at the request of the Office or of other authorities, as of the date when each operation was conducted, irrespective whether the insurance contract expired, or the insured event took place, or the insurance contract was revoked, terminated or cancelled. Evidence shall be sufficient to allow tracing each individual transaction, including the amount and type of currency, in order to be used as evidence in court, when appropriate.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Criterion 10.1.1 should be fully met with reference to the insurance sector.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market Art. 24. - (1) Entities shall maintain all the information concerning client identification for a period of time of at least 5 years, as of the date when the relationship with the client was terminated. (2) Entities shall maintain appropriate secondary or operational records of all the financial operations conducted by the client for a period of time of at least 5 years or even more, at the request of the Office or of other authorities, as of the date when each operation was</p>

	<p>conducted, irrespective whether the insurance contract expired, or the insured event took place, or the insurance contract was revoked, terminated or cancelled. Evidence shall be sufficient to allow tracing each individual transaction, including the amount and type of currency, in order to be used as evidence in court, when appropriate.</p> <p>(3) Entities shall have in place internal procedures and systems which shall allow the immediate transmission at the request of the Office or CSA and/or judicial bodies of the information concerning the identity and the nature of the business relationships which are currently conducted or have been conducted in the past 5 years.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>INSURANCE SUPERVISORY COMMISSION According to art.24 the regulated entities have to maintain secondary or operational records and the records of all the financial operations conducted by the client for a period of time of at least 5 years or even more, at the request of the NOPCML or other authorities. This requirement is subject to the on-site inspection conducted by Insurance Supervisory Commission.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>To implement provisions (apart from the capital market) on keeping <u>identification data, account files and business correspondence</u> for longer than 5 years if necessary, when properly required to do so by a competent authority in specific cases upon proper authority. For financial institutions registered in the General and Evidence Register, as well as for the insurance sector the record keeping requirements do not cover account files and business correspondence.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML: Art. 14 of HG 594/2008 (1) When the application of the customer due diligence measures is mandatory, the persons provided for in article. 8 of Law 656/2002 shall keep a copy of the document used, as proof of identity or identity reference, for a period of at least 5 years, starting with the termination date the relationship with the customer. (2) The persons provided for in article. 8 of Law 656/2002 shall keep, in an adequate format so it can be used as evidence in court, secondary or operative evidence and recordings of all the financial transactions within the business relationship or occasional transaction, for a period of at least 5 years starting from the termination of the business relationship, respectively of performing the occasional transaction. Art. 16 of GD no. 594/2008 Credit and financial institutions are obliged to keep in place internal procedures and to have systems which allow the promptly transmission, by Office’s or prosecution bodies request, of the information regarding the identity and the nature of the relationship for the customers specified in the request, with which a business relationship is or has been in progress in the last 5 years. NSC: Although the issue does not refer to the capital market sector, in addition to the information provided above at the first recommendation of the MONEYVAL Report, we reiterate that N.S.C. Regulation no 5/2008 has strengthened the record keeping provisions already in place. Thus, art. 18 states that the regulated entities are required to keep all information about the customer due diligence measures for at least 5 years, starting with the date when the relationship with the client is terminated. Supervision Commission of Private Pension System (CSSPP): According to CSSPP Norm no. 5/2008 (Annex no.2.13), private pension fund administrators have to create and keep documents attesting their current activity and their operations as private pension fund administrators, including records of the participants to and beneficiaries of their private pension funds. NBR: NBR Regulation no.9/2008 (applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register): “Art.22(2) - The institutions shall, at the express request from the National Bank of Romania or from other authorities according to the law, keep, in adequate form in order to be used as evidences in court proceedings, the <u>identification data of the customer, the secondary or operational documentation and the records of all the financial operation that occur in a business relationship, for a time longer than five years from the ending of the</u></p>

	<p><u>business relation with the customer</u>. The request of the authority shall clearly indicate the transactions and/or customers and also, the extended amount of time the institution is to keep the relevant information and documents.”</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 24 para. (2) Entities shall maintain appropriate secondary or operational records of all the financial operations conducted by the client for a period of time of at least 5 years or even more, at the request of the Office or of other authorities, as of the date when each operation was conducted, irrespective whether the insurance contract expired, or the insured event took place, or the insurance contract was revoked, terminated or cancelled. Evidence shall be sufficient to allow tracing each individual transaction, including the amount and type of currency, in order to be used as evidence in court, when appropriate.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions (G.D. no.594/2008) were already in force at the time the Romanian authorities submitted the first progress report (2009).</p> <p>As regards the recommendations stipulated by the evaluators, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 13 of the Law no 656 / 2002:</p> <p><i>Art. 13 - (1) In each case where the identity is required according to this law, legal person or natural person referred to in art. 8, which is obliged to identify the client shall keep a copy of the document as proof of identity, or identification references for a minimum of 5 years starting with the date when the customer relationship ends.”</i></p> <p><i>(2) The persons referred to in art. 8 shall keep secondary or operative records and also shall keep all the registrations of all the financial transactions arising from the performance of a business relationship or occasional transaction for a period of a minimum 5 years after the end of the business relationship, and from the occasional transaction, in a appropriate form, in order to be used as evidence in court”</i></p> <p>NATIONAL BANK OF ROMANIA</p> <p>Given that at the first progress report the NBR had already set up the legal framework for the implementation of the recommendation (by means of the provisions of art.22 para.(2) of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention), the inspections carried out off-site and on-site in 2010 and 2011 pointed that the internal procedures of financial institutions are providing these obligations and that the staff in charge with their enactment is well trained. According to art.22 (2) from NBR Regulation no.9/2008:</p> <p><i>Art. 22. - (2) - The institutions shall, at the express request from the National Bank of Romania or from other authorities according to the law, keep, in adequate form in order to be used as evidences in court proceedings, the identification data of the customer, the secondary or operational documentation and <u>the records of all the financial operation that occur in a business relationship, for a time longer than five years from the ending of the business relation with the customer</u>. The request of the authority shall clearly indicate the transactions and/or customers and also, the extended amount of time the institution is to keep the relevant information and documents.</i></p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system - Art. 16 – (1) For the purpose of art. 13 para (1) of the Law no. 656/2002, legal person administrators/marketing agents are</p>

	<p>obliged to keep at least copies of the clients' identification documents, or identification references, in the case of randomly distribution procedure of the participants. (2) Legal person administrators/marketing agents are obliged to have internal procedures and systems that would allow the prompt submission, at the Office, Commission and law enforcement bodies' request, of the information on the identity and relationship nature for the clients who are specified in the request and with whom they are involved in a business relationship, or with whom they had a business relationship in the last 5 years prior to the request, information which shall be kept, in an adequate form, for a period of 5 years from the performing of each operation.</p> <p>CSSPP as supervisory authority, during controls on site and off site to the entities they supervise, administrators/ marketing agents requires them to prove the measures taken to fulfill all obligations described in article 5 paragraph 2. Failure to fulfill these obligations by the supervised entities entitles the Commission to apply sanctions.</p> <p>INSURANCE SUPERVISORY COMMISSION</p> <p>The appropriate translation into English of the article 24 is as follows:</p> <p><i>Art. 24. - (1) Entities shall maintain all the information concerning client identification for a period of time of at least 5 years, as of the date when the relationship with the client was terminated.</i></p> <p><i>(2) Entities shall maintain appropriate secondary or operational records and the records of all the financial operations conducted by the client for a period of time of at least 5 years or even more, at the request of the Office or of other authorities, as of the date when each operation was conducted, irrespective whether the insurance contract expired, or the insured event took place, or the insurance contract was revoked, terminated or cancelled. Evidence shall be sufficient to allow tracing each individual transaction, including the amount and type of currency, in order to be used as evidence in court, when appropriate.</i></p> <p><i>(3) Entities shall have in place internal procedures and systems which shall allow the immediate transmission at the request of the Office or CSA and/or judicial bodies of the information concerning the identity and the nature of the business relationships which are currently conducted or have been conducted in the past 5 years.</i></p> <p>In our opinion these requirements cover the account files and business correspondence. These requirements are subject to the on-site inspection conducted by the Insurance Supervisory Commission.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION:</p> <p>Although the issue does not refer to the capital market sector (where adequate legal provision were in force regarding record keeping), we underline that since the adoption of the first progress report, on-site inspections carried out by NSC and training seminars for regulated entities were focused also in the area of record keeping obligations.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The requirement to ensure that all customer and transaction records and information are available to domestic competent authorities "on a timely basis" as required in Criterion 10.3 should be implemented.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 16 of GD no. 594/2008</p> <p>Credit and financial institutions are obliged to keep in place internal procedures and to have systems which allow the promptly transmission, by Office's or prosecution bodies request, of the information regarding the identity and the nature of the relationship for the customers specified in the request, with which a business relationship is or has been in progress in the last 5 years.</p> <p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 5 para. 2 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>The persons provided for by art. 8 shall submit to the Office the requested data and information, taking into consideration the urgency character of the request, in 15 days from receiving the request, at most, in a format established by Office's Board Decision.</p> <p>NSC: The recommendation of the report was also addressed in secondary legislation for capital market sector. Art. 18 (3) of the NSC Regulation 5/2008 states that regulated entities are required to have internal procedures and dispose of systems which enable the</p>

	<p>prompt submission of the information about the identity and the nature of the relationship for the customers specified in the request with whom they are in business relationship or have had a business relationship for the last 5 years., at the request of the Office, respectively N.S.C. and / or criminal investigation bodies.</p> <p>NBR: NBR Regulation no.9/2008 (applicable to credit institutions, Romanian legal entities and to non-bank financial institutions, Romanian legal entities, registered in the Special Register): “Art.23 – The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para(1) of Law 656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, <u>by providing them on a timely basis the documents/information.</u>”</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 24 (3) Entities shall have in place internal procedures and systems which shall allow the immediate transmission at the request of the Office or CSA and/or judicial bodies of the information concerning the identity and the nature of the business relationships which are currently conducted or have been conducted in the past 5 years.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>Inspections performed by the Romanian National Securities Commission, during the 2009-2011 period, proved that, in most cases, regulated entities have implemented adequate internal procedures and have systems, which enable the adequate record keeping of all the data related to a customer for at least five years and the prompt submission of the information to competent authorities (the Office, respectively NSC and / or criminal investigation bodies).</p> <p>In all the cases in which the Romanian National Securities Commission considered that the internal procedures were not adequate, NSC applied appropriate sanctions and obliged regulated entities to reconsider their internal procedure and to report about the removal of the deficiency.</p> <p>NATIONAL BANK OF ROMANIA</p> <p>At the time of the first progress report, the NBR had already adopted the legal framework for the implementation of the recommendation (thru the provisions of art.23 of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention). Consequently, during the on-site inspections undertaken in 2010 and 2011, the inspection teams verified the manner in which financial institutions applied the provisions of art.23 by looking at the correspondence carried between these institutions and the competent authorities to require information and no breaches of law were thus detected.According to art.23 from NBR Regulation no.9/2008:</p> <p><i>Art. 23. – The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para.(1) of Law 656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, by providing them on a timely basis the documents/information.</i></p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system –</p> <p><i>Art. 16 – (1) For the purpose of art. 13 para (1) of the Law no. 656/2002, legal person administrators/marketing agents are obliged to keep at least copies of the clients’</i></p>

	<p>identification documents or identification references, in the case of randomly distribution procedure of the participants.</p> <p>(2) Legal person administrators/marketing agents are obliged to have internal procedures and systems that would allow the prompt submission, at the Office, Commission and law enforcement bodies' request, of the information on the identity and relationship nature for the clients who are specified in the request and with whom they are involved in a business relationship, or with whom they had a business relationship in the last 5 years prior to the request, information which shall be kept, in an adequate form, for a period of 5 years from the performing of each operation.</p> <p>PPSSC as supervisory authority, during controls on site and off site to the entities they supervise, administrators/ marketing agents requires them to prove the measures taken to fulfill all obligations described in article 5 paragraph 2. Failure to fulfill these obligations by the supervised entities entitles the Commission to apply sanctions.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>The measures was implemented by the time of the adoption of the first progress report: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market: Art.24 (3) Entities shall have in place internal procedures and systems which shall allow the immediate transmission at the request of the Office or CSA and/or judicial bodies of the information concerning the identity and the nature of the business relationships which are currently conducted or have been conducted in the past 5 years.</p>
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008 has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, being also adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22 nd of November 2011.
Recommendation 10 (Record keeping) II. Regarding DNFBP⁸	
Recommendation of the MONEYVAL Report	<i>The weaknesses described for financial institutions are equally valid for DNFBP as regards R. 10 and should be addressed.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>Art. 14 of GD no. 594/2008</p> <p>(1) When the application of the customer due diligence measures is mandatory, the persons provided for in article. 8 of Law 656/2002 shall keep a copy of the document used, as proof of identity or identity reference, for a period of at least 5 years, starting with the termination date of the relationship with the customer.</p> <p>(2) The persons provided for in article. 8 of Law 656/2002 shall keep, in an adequate format so it can be used as evidence in court, secondary or operative evidence and recordings of all the financial transactions within the business relationship or occasional transaction, for a period of at least 5 years starting from the termination of the business relationship, respectively of performing the occasional transaction.</p> <p>Art. 16 of GD no. 594/2008</p> <p>Credit and financial institutions are obliged to keep in place internal procedures and to have systems which allow the promptly transmission, by Office's or prosecution bodies request, of the information regarding the identity and the nature of the relationship for the customer specified in the request, with which a business relationship is or has been in progress in the last 5 years.</p> <p>We specify the fact that within the control actions carried out by NOPCML, the existence of secondary evidence record keeping politics and/or procedures was verified. Following the verification and control actions, a series of sanctions, deadlines for compliance and/or recommendations regarding the non-compliance with these measures, have been applied.</p>

⁸ i.e. part of Recommendation 12.

	<p>(Please see Recommendation no. 17, on the off-site and on-site supervision activity, including the sanctions applied on the occasion of controls performed. Also, please see the answer for special question 4.5 regarding the type of infringements to the provisions of the Law no. 656/2002, with subsequent modifications and completions, identified by NOPCML control teams at the reporting entities).</p> <p>Lawyers and public notaries also are bound to report to the Office, within 10 working days at the most, on the conduct of cash operations, in Lei or foreign currency, above a threshold that is the equivalent in Lei of 15.000 Euros.</p> <p>For instance, notarial acts on the constitution or transmission of real rights on securities of high value and real estate irrespective of value are kept permanently in notarial archives that are the property of the State.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions (G.D. no.594/2008) were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>As regards the recommendations stipulated by the evaluators, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 13 of the Law no 656 / 2002:</p> <p><i>Art. 13 - (1) In each case where the identity is required according to this law, legal person or natural person referred to in art. 8, which is obliged to identify the client shall keep a copy of the document as proof of identity, or identification references for a minimum of 5 years starting with the date when the customer relationship ends.”</i></p> <p><i>(2) The persons referred to in art. 8 shall keep secondary or operative records and also shall keep all the registrations of all the financial transactions arising from the performance of a business relationship or occasional transaction for a period of a minimum 5 years after the end of the business relationship, and from the occasional transaction, in a appropriate form, in order to be used as evidence in court”</i></p>
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008 has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, being also adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22th of November 2011.</p>

Recommendation 13 (Suspicious transaction reporting)

I. Regarding Financial Institutions

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Romanian authorities should broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, Para 2).</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>LEGISLATIVE MODIFICATIONS</p> <p>New para to the art. 4 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>The persons provided for in the art. 8 shall notify at once the Office, when they find out that an operation or more operations are performed in the account of a client there are suspicions that the funds can be the result of some criminal activities, with the purpose of money laundering or terrorism financing.</p>

	<p>CSSPP: When the private pension fund administrators/ market agents have information regarding a suspicious transaction, they must notify NOPCML and CSSPP.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 25. - (1) Entities shall have in place procedures to identify the suspicious transactions or the types of suspicious transactions conducted in the name of their clients.</p> <p>(2) When suspicions arise that an operation is sought for money laundering or terrorism financing purposes, the entity shall provide the Office and CSA with a suspicious transaction report within no more than 24 hours.</p> <p>Article 18 from GEO no. 202/2008 on the implementation of international sanctions</p> <p>Obligation of identification and reporting of frozen funds and economic resources</p> <p>(1) Natural and moral persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Attempted suspicious transactions should be covered.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 5 para. 4 of GD no. 594/2008</p> <p>When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.</p> <p>CSSPP: The CSSPP Norms no. 9/2009 regarding the customer acknowledgement for the purpose money laundering and terrorist financing in the private pension system covers the suspicious transaction cases.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 25. - (1) Entities shall have in place procedures to identify the suspicious transactions or the types of suspicious transactions conducted in the name of their clients.</p> <p>(2) When suspicions arise that an operation is sought for money laundering or terrorism financing purposes, the entity shall provide the Office and CSA with a suspicious transaction report within no more than 24 hours.</p> <p>MJCL: Art. 3 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008</p> <p>(1) As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as <i>the Office</i>. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification.</p> <p>The legal provision asks for reporting the ML/FT suspicions in relation to a transaction which is on the way to be performed, without being necessary for the transaction to be carried out.</p> <p>Art. 4 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008</p> <p>(1) The persons provided for in the Art. 8, which know that an operation that is to be carried out has as purpose money laundering, may carry out the operation without previously announcing the Office, if the transaction must be carried out immediately or if by not performing it, the efforts to trace the beneficiaries of such money laundering suspect operation could be hampered. These persons shall compulsorily inform the Office immediately, but not later than 24 hours, about the transaction performed, also specifying the reason why they did not inform the Office, according to the Art. 3.</p>

	<p>(2) The persons referred to in the Art. 8, which ascertain that a transaction or several transactions carried out on the account of a customer are atypical for the activity of such customer or for the type of the transaction in question, shall immediately notify the Office if there are suspicions that the deviations from normality have as purpose money laundering or terrorist financing.</p>
Recommendation of the MONEYVAL Report	<p><i>The reporting obligation should also cover funds suspected to be linked to or related to or to be used for terrorism, terrorist acts or by terrorist organizations.</i></p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>MJCL: Law Art. 3 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008</p> <p>(1) As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as <i>the Office</i>. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification.</p> <p>The actual Romanian specific law on preventing and combating terrorism was adopted in 2004. In August 2009, the Romanian Intelligence Service finalized the drafting of a normative act for modifying Law no. 535/2004 on preventing and combating terrorism.</p> <p>The new text of TF offence from the aforementioned draft provides: “Art. 38. (1) It shall be a crime and shall be punished by imprisonment from 15 to 20 years and interdiction of certain rights the followings: making available, achieving, providing or collecting of funds and logistical resources in every way, directly or indirectly, with the aim of supporting or committing terrorist acts, as well as any financial and/or banking operations made for or on behalf of natural or legal persons who are subjects of international sanctions or are listed in the national list for preventing and combating terrorism.</p> <p>(2) Logistical resources and funds made available, achieved, provided or collected with the aim of supporting or committing terrorist acts, shall be confiscated, and if they cannot be found, the convicted shall be obliged to the payment of their equivalent in money</p> <p>(3) Attempt shall be punished.</p> <p>(4) The production or acquisition of means or instruments, and the taking of measures in view of committing the offences in para. (1) shall be considered attempt.”</p> <p>Article 18 from GEO no. 202/2008 on the implementation of international sanctions Obligation of identification and reporting of frozen funds and economic resources</p> <p>(1) Natural and moral persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions (^{GD no. 594/2008}) were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>As regards the recommendations stipulated by the evaluators and the measures assumed by the Romanian authorities in 2009, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 4 of the Law no 656 / 2002 (<i>adding a new paragraph</i>):</p>

Art. 4 para (3) - *The persons referred to in art. 8 immediately notify the Office when it is found that with regards to an operation or several operations which were carried out on the account of a client, there are suspicions that the funds aims to money laundering aimed at terrorism financing.*”

As regards the attempted transactions, during the period 01.01.2009-01.11.2011, the NOPCML received a total number of 13 STRs of this type, out of which 10 were related to suspicions of money laundering and 3 were related to terrorism financing suspicions. All STRs were received by the FIU from the financial institutions.

NATIONAL BANK OF ROMANIA:

In 2009, after the adoption of the first progress report, pursuant to article 18 of GEO 202/2008, NBR issued Regulation no.28/2009 on overseeing the enforcement of international sanctions imposing the freezing of funds, with subsequent modifications, according to which:

Art. 3. - *To ensure the conduct of business in accordance with the requirements of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, institutions must adopt internal rules for the implementation of international sanctions imposing the freezing of funds.*

Art. 4. - *The institutions internal rules for the implementation of international sanctions imposing the freezing of funds must include at least:*

a) *procedures for detecting designated persons or entities and operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, applicable to potential customers and applicants for occasional transactions;*

b) *a policy regarding the acceptance as a customer and the occasional transactions regime for designated persons or entities or for persons or entities that require the performing of operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009;*

c) *procedures for screening designated persons or entities and operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, applicable to existing customers in the context of changing and / or supplementing the international sanctions regimes imposing the freezing of funds;*

d) *the regime for the customers that have been tracked as designated persons or entities applicable from the date on which they are found subject to international sanctions imposing the freezing of funds and the rules applicable to persons or entities who have requested operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009;*

e) *methods of preparing and keeping records on designated persons or entities or individuals and entities who have requested operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009;*

f) *the access of competent persons in this field to the records of the institution to examine the operations performed in the past with persons or entities identified as designated persons or entities;*

g) *the competences of persons responsible with the implementation of internal procedures regarding the enforcement of international sanctions imposing the freezing of funds according to art. 6;*

h) *reporting procedures, internal and to competent authorities.*

Art 7. - *Institutions use in order to detect designated persons or entities the data, including those regarding the real beneficiary, obtained by applying customer due diligence measures under domestic rules intended for the prevention of money laundering and terrorist financing.*

Consequently, the provision of NBR Regulations no.28/2009 have set up the obligation for the financial institutions supervised by the central bank to draft their own rules in the field, no later than June 2010. Also, the inspection teams verified the financial institutions mechanisms of implementing the internal rules and regulations and in case some were not written clearly enough, corrective measures were applied. Moreover, if the random checks

	<p>of STRs revealed certain situations of non-reporting, sanctions were applied. Still, such cases of non-compliance with the reporting regulatory framework were few, and the remediation measures imposed discouraged their recurrence.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system - Art.17 para. (2) If administrators/marketing agents have suspicions that an operation which is about to be carried out has as a purpose money laundering or terrorist financing, they shall immediately submit to the Office and to the Commission the suspicious transaction reports.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>After the implementation at the national level of the third Directive, adequate and explicit legal provisions are in place regarding reporting obligation.</p> <p>According to art.4 of the NSC Regulation no. 5/2008, regulated entities are required to prepare, establish and implement adequate policies, procedures and mechanisms including inter alia reporting obligations, in order to prevent and hamper the involvement of regulated entities in suspicious activities of money laundering and terrorist financing. Since the adoption of the first progress report, on-site inspections and training seminars were focus also in this area. In all the cases in which NSC considered that the internal procedures were not adequate, NSC applied appropriate sanctions and obliged regulated entities to reconsider their internal procedure and to report about the removal of the deficiency.</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<ul style="list-style-type: none"> - The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008 has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, being also adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22th of November 2011. - The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in July 2010)

Recommendation 13 (Suspicious transaction reporting) II. Regarding DNFBP⁹	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Requirement to broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, letter g in Norms 496/2006) should be provided.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 2 letter. c of the Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008</p> <p>(c) <i>suspicious transaction</i> means the operation which apparently has no economical or legal purpose or the one that, by its nature and/or its unusual character in relation with the activities of the client of one of the persons referred to in Article 8, raises suspicions of money laundering or terrorist financing.</p> <p>LEGISLATIVE MODIFICATION</p> <p>New para to the art. 4 (of the Law no. 656/2002, with subsequent modifications and completions) The persons provided for in the art. 8 shall notify at once the Office, when they find out that an operation or more operations are performed in the account of a client there are suspicions that the funds can be the result of some criminal activities, with the purpose of money laundering or terrorism financing.</p> <p>Article 18 from GEO no. 202/2008 on the implementation of international sanctions</p> <p>Obligation of identification and reporting of frozen funds and economic resources</p> <p>(1) Natural and moral persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include</p>

⁹ i.e. part of Recommendation 16.

	designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU) The above mentioned legal provisions (^{GD no. 594/2008}) were already in force when Romanian authorities submitted the first progress report (2009). As regards the measures assumed by the Romanian authorities in 2009, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008. The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011. The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 4 of the Law no 656 / 2002 (<i>adding a new paragraph</i>): Art. 4 para (3) - <i>The persons referred to in art. 8 immediately notify the Office when it is found that with regards to an operation or several operations which were carried out on the account of a client, there are suspicions that the funds aims to money laundering aimed at terrorism financing.</i>”</p>
Recommendation of the MONEYVAL Report	<i>Attempted suspicious transactions should be covered.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Art. 5 para. 4 of the GD no. 594/2008 When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office. MJCL: Art. 3 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008 (1) As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as <i>the Office</i>. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification. The legal provision asks for reporting the ML/FT suspicions in relation to a transaction which is on the way to be performed, without being necessary for the transaction to be carried out. Art. 4 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008 (1) The persons provided for in the Art. 8, which know that an operation that is to be carried out has as purpose money laundering, may carry out the operation without previously announcing the Office, if the transaction must be carried out immediately or if by not performing it, the efforts to trace the beneficiaries of such money laundering suspect operation could be hampered. These persons shall compulsorily inform the Office immediately, but not later than 24 hours, about the transaction performed, also specifying the reason why they did not inform the Office, according to the Art. 3. (2) The persons referred to in the Art. 8, which ascertain that a transaction or several transactions carried out on the account of a customer are atypical for the activity of such customer or for the type of the transaction in question, shall immediately notify the Office if there are suspicions that the deviations from normality have as purpose money laundering or terrorist financing.</p>
Measures taken to implement the recommendations since	<p>NOPCML (FIU) The above mentioned legal provisions were already in force when Romanian authorities</p>

the adoption of the first progress report	submitted the first progress report (2009). The NOPCML receives STRs related to attempted transactions. Please see the similar comments on the financial institutions.
Recommendation of the MONEYVAL Report	<i>All required aspects of terrorism financing should be included in the scope of the reporting requirement.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Draft amendments to the Law no. 535/2004</p> <p>Art. 38 (1) Represent the terrorism financing offence and it is sanctioned with imprisonment from 15 to 20 years and the forbidden of some rights, the putting at the disposal, the realization, the delivering, the providing or the collection of funds and logistical resources, in any ways, directly or indirectly, in order to support or to commit the terrorist acts, as well as any financial or/and banking operations performed in the account of the natural and legal persons which are subject of the international sanctions or are included in the national List in the prevention and combating terrorism.</p> <p>LEGISLATIVE MODIFICATION</p> <p>New para to the art. 4 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>The persons provided for in the art. 8 shall notify at once the Office, when they find out that an operation or more operations are performed in the account of a client there are suspicions that the funds can be the result of some criminal activities, with the purpose of money laundering or terrorism financing.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>As regards the measures assumed by the Romanian authorities in 2009, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 4 of the Law no 656 / 2002 (<i>adding a new paragraph</i>):</p> <p>Art. 4 para (3) - <i>The persons referred to in art. 8 immediately notify the Office when it is found that with regards to an operation or several operations which were carried out on the account of a client, there are suspicions that the funds aims to money laundering aimed at terrorism financing.</i>”</p> <p>As regards the attempted transactions, during the period 01.01.2009-01.11.2011, the NOPCML (FIU) received 3 STRs related to attempt to perform transactions for terrorism financing.</p>
Recommendation of the MONEYVAL Report	<i>Improved outreach and guidance on STR needed for all DNFBP and especially for real estate agents and legal and accountancy professionals who are considered to be particularly vulnerable to ML/TF</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>One of the main objectives of the Twinning Project RO /2007-IB/JH/05, within the Transition Facility, approved at the European Commission level no, 2007/19343.01.14, is the Objective no. 4. - The elaboration of a guidelines and organization of training sessions dedicated to the financial and non-financial reporting entities which are under the direct supervision of the NOPCML.</p> <p>Within this objective shall be followed the achievements of the below activities:</p> <p>4.1 The editing of a Handbook regarding the risk based approach of the suspicious transactions indicators dedicated to reporting entities;</p> <p>4.2 The presentation and dissemination to the different reporting entities on two days /6 training sessions, organized at territorial level;</p> <p>4.3 The organization of two days/ six training session, at territorial level for legal persons having as themes:</p> <ul style="list-style-type: none"> • The legislative impact over the behavior of the independent legal professions;

	<ul style="list-style-type: none"> • How to detect the unusual transactions suspected of money laundering and terrorism financing; • The reporting obligations: providing precise and valuable information in the reports submitted to the NOPCML; • Trends and indicators of money laundering; • The role of the independent legal professions in the fight against money laundering. <p>On this occasion we specify that the Project File named “<i>Combating Money Laundering and Terrorism Financing</i>”, within the Transition Facility, was approved in 2007, and NOPCML communicated its option on the partner Member State (FIU Poland), in March 2008. The delays in signing the twinning agreement, which resulted independently of the actions taken by NOPCML, were the result of the necessity to modify the Project File, in accordance with European Commission Request. It is estimated that the implementation of this project will start in November 2009.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU) The FIU’s specialists developed new guidelines regarding risk based approach and training for personnel belonging to reporting entities, In this respect, NOPCML elaborated and disseminated the <i>Manual on risk based approach and indicators of suspicious transactions</i>, which represents a useful tool for the conformity activity of compliance officers within the reporting entities.</p> <p>The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (lawyers, expert accountants, financial auditors, real estate agents, fiscal consultants, casinos, non-banking financial institutions, associations and foundations, compliance officers within real estate agencies from Constanta, Galati, Brasov, Ilfov, Girgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office’s website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area.</p> <p>Another important activity within this objective had as result the training of independent legal professions, reporting entities provided at the art. 8 letter f) from the Law no. 656/2002, as amended and completed, during 6 training seminars which were organized at territorial level, in Brasov, Timisoara, Iasi, Bucuresti, Constanta. The total number of participants was of 170 notaries and lawyers, in an equal proportion.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Awareness rising of some DNFBP about their vulnerability and/or appearance to be reluctant to report (lawyers, notaries, real estate agents, accountants).</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): <i>Following NOPCML initiative, during August 2009, several meetings with the independent legal professions associations took place, in order to update the existing cooperation protocols and to effectively implement them. We highlight the fact that these meetings took place, subsequent to the presentation on different occasions, of the recommendations afferent to these activity domains included in the MONEYVAL report, as well as to the NOPCML requests for updating the existing cooperation protocols and the pro-active discussions held within the framework of the training sessions, jointly organized by NOPCML and these association.</i></p> <p><i>Having regard that, during the meeting of NOPCML representatives with those of UNBR it was established that, by the implementation of the cooperation protocols, the following objectives to be aimed at:</i></p> <p><i>-Taking into consideration the small number of STRs, raising the awareness of every lawyer in respect of the submission of the reports provided for by the Law no. 656/2002,</i></p>

with subsequent modifications and completions, is necessary;

- In order to elaborate the secondary sectorial legislation, in the field of preventing and combating money laundering, a set of reporting, client identification and internal procedure Good Practices is necessary, and the Office's assistance was requested for drawing up a set of norms which are to be consulted by all bars; the Good Practices set will be an Annex to the Additional Act for the modification of the Protocol;
- The possibility of using the on-line reporting system;
- Performing joint controls, by teams comprised of NOPCML and UNBR ascertaining agents, wherever necessary.

The meeting's Minute constitutes an Annex to the present questionnaire (Annex nr.3.1.)
The following aspects have been established on the occasion of the meeting between the representatives of NOPCML and UNNPR:

- Taking into consideration the cooperation that exists between UNNPR and MAI, in order to identify the persons that use the notaries' services and the fact that this aspect represents an important point in the specific procedure imposed by the Law no. 656/2002, with subsequent modifications and completions, in respect of client identification, it would be extremely useful for the secondary legislation to comprise the specific aspects on this subject:
- The continuation of the control actions carried out by UNNPR, in accordance with the Law no. 656/2002, with subsequent modifications and completions, and maintaining statistical data on this controls;
- The elaboration by UNNPR, in cooperation with NOPCML of the internal norms on preventing and combating money laundering and terrorism financing;
- The submission of Cash Transaction Reports in a specific form and NOPCML access to the updated database of UNNPR;
- The possibility to use the on-line reporting system;

The meeting's Minute constitutes an Annex to the present questionnaire (Annex nr.3.2.)
Also, we highlight the fact that the Enforcement Norms of the cooperation protocol between NOPCML and UNNPR (concluded in 16.09.2004) have been updated.
Supplementary to the afore-mentioned facts, we would like to highlight the measures adopted by NOPCML in respect of raising the awareness of certain DNFPBs, as regards the fulfillment of AML/CTF obligations, respectively:

- Carrying out off-site supervision activities, for the identification of the vulnerable sectors, which present a high risk for money laundering and terrorism financing;

Results:

In 2008, the off-site supervision was performed on 7.295 reporting entities, respectively: 1.329 gambling operators, 990 real estate agents, 3.338 foundations, 1.638 commercial companies with accounting, financial audit, and fiscal consultancy line of business. As a result of the off-site supervision and having regards to the good cooperation relations with the financial control authorities, the office requested the General Commissariat and the County Offices of the Financial Guard to carry out specialized on-site inspections, in the field of preventing and combating money laundering and terrorism acts, for 531 reporting entities, out of which 249 commercial companies are gambling operators, 153 foundations, 127 real estate agents, 2 commercial companies with accounting, financial audit, and fiscal consultancy line of business.

Also, during January – August 2009, a number of 2269 entities have been off-site supervised for, out of which 658 originate in financial sectors supervised for by NOPCML.

- The planning and unfolding of the controlling actions, that cover the high risk evaluated domains;

Results:

During 2008-2009, verification and control actions on the following non-financial institutions and independent legal professions:

- o Real estate sector: 120 controls
- o Accountants, auditors, experts and fiscal consultants: 160 controls;
- o NGOs - 63 controls (the findings of the controlling actions show that the majority of

controlled foundations comply with the AML/CTF legal obligations, and serious deficiencies were not ascertained);

- o Gambling operators: 34 controls (Having regard to the recent coming into force of the new framework for the regulation and authorization of gambling operators, this sector will be totally controlled in the second semester of 2009, in accordance with the approved Action Plan – Annex no.5);

The liberal legal professions (notaries and lawyers) have been comprised in the on-site supervision activity, for the second semester of 2009, based on the afore-mentioned Plan for carrying out the verification and control actions.

We highlight the fact that, during the period January – August 2009 alone, NOPCML performed a number of 318 controls on the regulated entities, 139 of which are in non-financial sectors, as follows:

Number of controlled entities	Main line of business
20	Foundations
84	Accounting, financial audit, and fiscal consultancy
Real estate sector	
3	Real estate developers
25	Buying and selling owned real estate goods
4	Letting of owned real estate goods

Note: The quantum of applied sanctions, subsequent to the 318 verification and control actions, reaches 1.180.000 RON (equivalent of 287.000 Euro (the exchange rate is 1 Euro = 4.1 RON), amount that exceeded the sanctions applied by NOPCML during its five out of six years of control activity. Also, although the on-site supervision activity depends on the personnel resources (in total 4 control teams), a considerable number of control actions have been carried out. In this context, we highlight the fact that NOPCML has well exceeded the number of control actions carried out in the previous years, fact that indicates the efficiency of the off-site and on-site supervision system adopted and implemented by the FIU, since 2006.

The organization of a considerable number of training sessions, in this activity domains;

Year	Number of training sessions organized by NOPCML	Number of representatives from the reporting entities	Main line of business of the reporting entities
2008	31	13 categories of entities/1100 participants	Credit institutions Non-banking financial institutions Insurance and Re-insurance companies Financial Services Companies Casinos Exchange Houses Associations and foundations Money remittance services Public Notaries Lawyers Natural and legal persons that provide fiscal or accounting consultancy Accounting experts and authorized accountants Real estate agents

	Jan-Aug 2009	22	13 categories of entities /838 participants	Insurance and Re-insurance companies/insurance brokers Non-banking financial institutions Real estate agents Credit institutions Financial Services investment Companies Casinos Private pension funds companies Lawyers Auditors Associations and foundations Money remittance services Public Notaries
<p><i>Note: On the occasion of these training sessions, Office's lectors held presentation on the legislative modifications in the field of preventing and combating money laundering and terrorism financing, introduced by the G.E.O. no. 53/2008 and by G.D. no. 594/2008, on the aspects related to the implementation of the international sanctions regime, on the supervision activity carried out by the National Office for Prevention and Control of Money Laundering, as well as case studies/typologies of money laundering and terrorism financing acts.</i></p> <p><i>After concluding the seminars, the participants filled in evaluation forms regarding the quality and utility of the information presented, as well as proposals for the improvement of these activities. In accordance with the evaluation forms, participants in the seminars have rated the information presented by the Office's representatives as being complete and well structured within the presentation. The information was to be disseminated to the collaborators within the companies.</i></p> <p><i>The training plan for the 2nd semester of the year 2009 is attached in the Annex no. 6.</i></p> <p><i>b. Providing a general feedback by NOPCML, to the reporting entities:</i></p> <ul style="list-style-type: none"> <i>• Within the training sessions, by presenting certain typologies and case studies;</i> <i>• By publishing on the NOPCML website (www.onpcsb.ro) of certain presentation/information materials, in the field of preventing and combating money laundering and terrorism financing, as well as of typologies and case studies;</i> <i>• By presenting evolutions, indicators and typologies within the NOPCML annual activity reports, which are also published on the official site (www.onpcsb.ro).</i> <p><i>We highlight the fact that NOPCML Activity Report for 2008, both in Romanian and English version, is published on the website www.onpcsb.ro.</i></p> <p><i>UNNPR: Notaries participate at least twice a year in training sessions on preventing and combating money laundering and terrorism financing; after financial institutions, they are among those reporting the largest number of transactions. UNNPR organizes yearly a National Congress, where the FIU's representatives are invited to present recent developments in the field.</i></p>				
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>Measures implemented (continuation of the ones detailed in the first progress report):</p> <ul style="list-style-type: none"> - Identification measures – off-site supervision; - Strategical measures – adoption and implementation of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (as a national risk assessment); - Targeted measures – on-site supervision performed in order to diminish the risks and vulnerabilities to ML / FT risks, mostly related to low level of compliance and reporting; - Guiding measures – training session, guidance and materials elaborated in order to increase the level of awareness and compliance of specific sectors (especially DNFBPs). 			

OFF SITE SUPERVISION Main activity sectors supervised by the FIU Romania (S.C.D. – Supervision and Control Directorate)				
2011	MAINSET 2 SYSTEM			
	Transferred ¹ from NTRO	Included ² in MAINSET 2	HIGH RISK ³	Connected persons ⁴
TCSPs	3964	3363	496	1407
Real Estate	744	712	6	13
NPOs	212	212	(working process)	
Dealers of precious metals / stones	220	160	(working process)	
TOTAL	4708 + 432	4075 + 372	502	1420
2010	MAINSET SYSTEM			
TCSPs	8537			
2009	MAINSET SYSTEM			
NPOs	111			
Accountants / auditors	418			
NFIs	1611			
TCSPs	129			
2008	MAINSET SYSTEM			
NPOs	3338			
Accountants / auditors	1638			
Gambling operators	1329			
Real estate	990			
TOTAL = 23.241 entities included in off site supervision				

¹ represents all the entities registered on this activity sector (BV / CT / SB / IS / TM / BUC)

² represents the number of entities which are effectively included in the supervising system (being excluded authored physical persons, entities with temporary business interruption, entities in insolvency, etc)

³ represents the number of entities which are included in High Risk Category (1st / 2nd / 3rd degree)

⁴ represents the number of connected entities (both legal and physical) which are supervised because of the connection with the initial supervised entities.

In 2010, the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, was elaborated, as a coordination mechanism of policies in this area, being approved by Decision of Supreme Council for State Defense, no. 72/2010.

The Action Plan which comprises the necessary measures for implementation of the objectives and measures established within the strategy, with terms, responsible institutions and evaluation indicators for the measures which will be adopted, was approved through a Protocol on organization of cooperation for implementation of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, document signed in September 2010, by all authorities which are components of the national mechanism of prevention and combating money laundering and terrorism financing (thus being included specific measures for awareness rising of several activity sectors about their vulnerability to ML / FT risks)

ON SITE SUPERVISION Main activity sectors controlled by the FIU Romania (S.C.D. – Supervision and Control Directorate)				
	2008	2009	2010	2011 ¹
NFIs	5	228	33	-

TCSPs	-	43	98	238
Real Estate	88	-	-	3
Money remitters	-	3	-	-
Casinos	-	-	16	-
Gambling operators	34	-	-	-
Accountants / auditors	76	84	8	-
NPOs	43	20	-	-
Others	-	14	6	1
TOTAL	246	392	161	233
SANCTIONS² (Fines applied by SCD)	275.000³	1.550.000	625.000⁴	1.585.000
TOTAL = 4.035.000				

¹ the statistics are referring to period until November 2011

² the value of fines is represented in RON (1 EUR = approx. 4.3 RON)

³ because of the limited resources of SCD, most of the sanctions were applied by the Financial Guard, at the request of the NOPCML (thus the low number of sanctions)

⁴ in the second semester of 2010, all the financial analysts within SCD were involved in the process of elaborating and implementing the MAINSET 2 System

From a different perspective, the FIU's specialists developed new guidelines regarding risk based approach and training for personnel belonging to reporting entities. In this respect, NOPCML elaborated and disseminated the Manual on risk based approach and indicators of suspicious transactions, which represents a useful tool for the conformity activity of compliance officers within the reporting entities.

The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (lawyers, expert accountants, financial auditors, real estate agents, fiscal consultants, casinos, non-banking financial institutions, NPOs, compliance officers within real estate agencies from Constanta, Galati, Brasov, Ilfov, Giurgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office's website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area.

Another important activity within this objective had as result the training of independent legal professions, reporting entities provided at the art. 8 letter f) from the Law no. 656/2002, as amended and completed, during 6 training seminars which were organized at territorial level, in Brasov, Timisoara, Iasi, Bucuresti, Constanta. The total number of participants was of 170 notaries and lawyers, in an equal proportion.

(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives

The National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, as coordination mechanism of policies in this area, approved by Decision of Supreme Council for State Defense, no. 72/2010 (including the Action Plan).

Special Recommendation II (Criminalisation of terrorist financing)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The legal provisions concerning the criminalization of the TF offence should be amended in order to ensure fully cover of the Terrorist Financing Convention.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>MJCL: The actual Romanian specific law on preventing and combating terrorism was adopted in 2004. In August 2009, the Romanian Intelligence Service finalized the drafting of a normative act for modifying Law no. 535/2004 on preventing and combating terrorism. The new text of TF offence from the aforementioned draft provides: “Art. 38. (1) It shall be a crime and shall be punished by imprisonment from 15 to 20 years and interdiction of certain rights the followings: making available, achieving, providing or collecting of funds and logistical resources in every way, directly or indirectly, with the aim of supporting or committing terrorist acts, as well as any financial and/or banking operations made for or on behalf of natural or legal persons who are subjects of international sanctions or are listed in the national list for preventing and combating terrorism. (2) Logistical resources and funds made available, achieved, provided or collected with the aim of supporting or committing terrorist acts, shall be confiscated, and if they cannot be found, the convicted shall be obliged to the payment of their equivalent in money (3) Attempt shall be punished. (4) The production or acquisition of means or instruments, and the taking of measures in view of committing the offences in para. (1) shall be considered attempt.” Romanian authorities consider that the new definition of TF offence is fully in line with Terrorist Financing Convention. The draft also provides a new definition of funds in art. 3, point 8: “<i>funds – assets, whether tangible or intangible, movable or immovable, financial means and benefits in every form, acquired or collected, directly or indirectly, with the aim of financing terrorist acts.</i>” On the other hand, the draft provides that the attempt of TF shall be punished. <u>As regard to statistical data, it is important to mention that in 2007 there was 1 case of FT and 2 persons were convicted for this offence.</u></p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MoJ The draft Law on applying the new Criminal Code and for modification of several normative acts which modifies also TF offence, is still under debate in the Parliament. The draft was approved by the Senate in March 2011 and is currently being discussed in the specialized committees from Chamber of Deputies, as decisional chamber. The offence will be modified in order to implement recommendations made in Moneyval 3rd round evaluation report, as presented in the 1st progress report in 2009.</p>
Recommendation of the MONEYVAL Report	<i>The legislation does not provide a definition of “funds” in relation to terrorism financing. It should be ensured that “funds” fully covers that term as defined in the Terrorist Financing Convention.</i>
Measures taken to implement the recommendations since the adoption of the first progress report	Please see previous comments
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MoJ In the draft Law previously presented, there will be also introduced a new definition of “funds”.</p>
Recommendation of the MONEYVAL Report	<i>The attempt to commit a terrorist financing offence is not punished. The evaluators strongly recommend attempt to commit a terrorist financing offence to be criminalized.</i>
Measures taken to implement the	Please see previous comments.

Recommendation of the Report	
Measures taken to implement the recommendations since the adoption of the first progress report	MoJ The attempt of TF offence was introduced in the draft Law on applying the new Criminal Code.
Recommendation of the MONEYVAL Report	<i>Terrorist financing offences should apply, regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist organization is located or the terrorist act occurred. There is no provision to ensure this requirement.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	Romanian authorities consider that there are legal provisions to ensure the requirement above. In regard to Romanian citizens or stateless persons residing in Romania, the Criminal Code sets in art. 4 the principle of personality: Criminal law shall apply to offences perpetrated outside the Romanian territory, if the perpetrator is a Romanian citizen or if he/she, while having no citizenship, resides in this country. So in this situation, the Romanian citizen or stateless person residing in Romania that committed TF offence will be criminally responsible, irrespective of the terrorist organization location or the place of committing the terrorist act. Another general principle promoted by the CC is the principle of universality (art. 6): Criminal law shall apply also to offences other than those in Art. 5 para.(1) (offences committed outside Romanian territory, against the security of the Romanian State or against the life of a Romanian citizen, or which have caused serious injury to the corporal integrity or health of a Romanian citizen), committed outside Romanian territory, by a foreign citizen or by a person with no citizenship who does not resides on Romanian territory, if: a) the act is provided as an offence also by the criminal law of the country where it was perpetrated; b) the perpetrator is in our country. In this case, the perpetrator, foreign citizen or stateless person not residing in Romania, will be judged for TF offence, with the two conditions fulfilled: TF is an offence also in that country in which the criminal act took place and also the perpetrator is on Romanian territory. However, there will be a proposal to introduce a provision for specifically providing this requirement in the draft for modifying Law on preventing and combating terrorism, elaborated by RIS.
Measures taken to implement the recommendations since the adoption of the first progress report	MoJ The Romanian judicial system is currently passing through a re-modernization process, this including the adoption of the four Codes: Penal Code, penal Procedural code, Civil Code, and Civil Procedural Code. The main aims for revolutionizing the judicial system were based on: - setting up a legislative framework for speeding up the cases during the penal and civil processes; - to ensure a conceptual harmonization and a more unitary implementation of the legislation. In this respect, it is to be mentioned that, as regards the “ <i>Terrorist financing offences should apply, regardless of whether the person alleged to have committed the offence is in the same country or a different country from the one in which the terrorist organization is located or the terrorist act occurred</i> ”, the new Penal Code re-confirms the principles of universality, personality and territoriality of the law, applicable also to terrorism financing.
Recommendation of the MONEYVAL Report	<i>The legislation does not address the issue whether the intentional element can be inferred from objective facts and circumstances. As there is no practice on terrorist financing offences such an inference cannot have applied in practice as Romania informed was the case in money laundering cases.</i>

Measures reported as of 22 September 2009 to implement the Recommendation of the report	In the draft for modifying Law on preventing and combating terrorism, elaborated by RIS, there will be a proposal for introducing a provision similar to the one introduced in 2008 in AML Law (art. 23 para 5): Knowledge, intent or purpose required as an element of the activities mentioned in paragraphs (1) may be inferred from objective factual circumstances. This proposal will be made by the Ministry of Justice and Citizens' Liberties.
Measures taken to implement the recommendations since the adoption of the first progress report	MoJ The draft Law on applying the new Criminal Code and for modification of several normative acts is introducing this provision regarding the intentional element of ML offence, similar to the one introduced in 2008 in AML Law.
(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives	

Special Recommendation IV (Suspicious transaction reporting)	
I. Regarding Financial Institutions	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Romanian authorities should broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, Para 2).</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	NOPCML (FIU): LEGISLATIVE MODIFICATIONS New para to the art. 4 (of the Law no. 656/2002, with subsequent modifications and completions) The persons provided for in the art. 8 shall notify at once the Office, when they find out that an operation or more operations are performed in the account of a client there are suspicions that the funds can be the result of some criminal activities, with the purpose of money laundering or terrorism financing. ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market Art. 25. para. (2) When suspicions arise that an operation is sought for money laundering or terrorism financing purposes, the entity shall provide the Office and ISC with a suspicious transaction report within no more than 24 hours. Article 18 from GEO no. 202/2008 on the implementation of international sanctions Obligation of identification and reporting of frozen funds and economic resources (1) Natural and moral persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.
Measures taken to implement the recommendations since the adoption of the first progress report	NOPCML (FIU): The provisions made subject of amendments of the Governmental Emergency Ordinance no. 53/2002 amending and completing the Law no. 656/2002 for prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, which was submitted under a draft of law for the approval of the Parliament of Romania. The draft law has been approved by the Senate, by the Committee for Budget,

Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber), on November 22, 2011.

The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 4 of the Law no 656 / 2002 (*adding a new paragraph*):

Art. 4 para (3) - *The persons referred to in art. 8 immediately notify the Office when it is found that with regards to an operation or several operations which were carried out on the account of a client, there are suspicions that the funds aims to money laundering aimed at terrorism financing.*”

NATIONAL BANK OF ROMANIA:

In 2009, after the adoption of the first progress report, pursuant to article 18 of GEO 202/2008, NBR issued Regulation no.28/2009 on overseeing the enforcement of international sanctions imposing the freezing of funds, with subsequent modifications, according to which:

Art. 3. - To ensure the conduct of business in accordance with the requirements of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, institutions must adopt internal rules for the implementation of international sanctions imposing the freezing of funds.

Art. 4. - The institutions internal rules for the implementation of international sanctions imposing the freezing of funds must include at least:

a) procedures for detecting designated persons or entities and operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, applicable to potential customers and applicants for occasional transactions;

b) a policy regarding the acceptance as a customer and the occasional transactions regime for designated persons or entities or for persons or entities that require the performing of operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009;

c) procedures for screening designated persons or entities and operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, applicable to existing customers in the context of changing and / or supplementing the international sanctions regimes imposing the freezing of funds;

d) the regime for the customers that have been tracked as designated persons or entities applicable from the date on which they are found subject to international sanctions imposing the freezing of funds and the rules applicable to persons or entities who have requested operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009;

e) methods of preparing and keeping records on designated persons or entities or individuals and entities who have requested operations involving goods within the meaning of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009;

f) the access of competent persons in this field to the records of the institution to examine the operations performed in the past with persons or entities identified as designated persons or entities;

g) the competences of persons responsible with the implementation of internal procedures regarding the enforcement of international sanctions imposing the freezing of funds according to art. 6;

h) reporting procedures, internal and to competent authorities.

Art 7. - Institutions use in order to detect designated persons or entities the data, including those regarding the real beneficiary, obtained by applying

	<p>customer due diligence measures under domestic rules intended for the prevention of money laundering and terrorist financing.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION: Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system Art.17-(2) If administrators/marketing agents have suspicions that an operation which is about to be carried out has as a purpose money laundering or terrorist financing, they shall immediately submit to the Office and to the Commission the suspicious transaction reports.</p> <p>INSURANCE SUPERVISORY COMMISSION: The regulation is in force according to information previously provided and responds to the requirements.</p>
Recommendation of the MONEYVAL Report	<i>Attempted suspicious transactions should be covered.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Art. 5 para. 4 of GD no. 594/2008 When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.</p> <p>MJCL: Art. 3 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008 (1) As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as <i>the Office</i>. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification. The legal provision asks for reporting the ML/FT suspicions in relation to a transaction which is on the way to be performed, without being necessary for the transaction to be carried out. Art. 4 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008 (1) The persons provided for in the Art. 8, which know that an operation that is to be carried out has as purpose money laundering, may carry out the operation without previously announcing the Office, if the transaction must be carried out immediately or if by not performing it, the efforts to trace the beneficiaries of such money laundering suspect operation could be hampered. These persons shall compulsorily inform the Office immediately, but not later than 24 hours, about the transaction performed, also specifying the reason why they did not inform the Office, according to the Art. 3. (2) The persons referred to in the Art. 8, which ascertain that a transaction or several transactions carried out on the account of a customer are atypical for the activity of such customer or for the type of the transaction in question, shall immediately notify the Office if there are suspicions that the deviations from normality have as purpose money laundering or terrorist financing.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU): Measure implemented by art. 5 para. 4 of GD no. 594/2008: “When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.”</p>

	<p>In practice, the Romanian FIU receives Suspicious Transactions Reports in respect to transactions attempted to be performed which present suspicious of money laundering.</p> <p>During the period 01.01.2009-01.11.2011, the NOPCML received a total number of 13 STRs of this type, out of which 10 were related to suspicions of money laundering and 3 were related to terrorism financing suspicions. All STRs were received by the FIU from the financial institutions.</p> <p>NATIONAL BANK OF ROMANIA:</p> <p>Considering that at the time of the first progress report the legislative framework ensuring the implementation of the recommendation was already adopted, the inspections carried out in 2010 and 2011 consistently aimed the verification of the fulfillment of all criteria and conditions regarding the reporting of attempted suspicious transactions.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>The measures was implemented by the time of the adoption of the first progress report: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market:</p> <p>Art. 11. - (3) When the identification of clients in accordance with the provisions laid down in these Regulations is not feasible, entities shall not initiate operations, conduct transactions or shall prohibit any operations or shall terminate business relationships and report such termination to the Office and CSA.</p> <p>(4) An entity may refuse to conduct operations with clients when suspicions arise in respect of money laundering or terrorism financing.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The reporting obligation should also cover funds suspected to be linked to or related to or to be used for terrorism, terrorist acts or by terrorist organizations.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): Draft amendments to the Law no. 535/2004</p> <p>Art. 38 (1) Represent the terrorism financing offence and it is sanctioned with imprisonment from 15 to 20 years and the forbidden of some rights, the putting at the disposal, the realization, the delivering, the providing or the collection of funds and logistical resources, in any ways, directly or indirectly, in order to support or to commit the terrorist acts, as well as any financial or/and banking operations performed in the account of the natural and legal persons which are subject of the international sanctions or are included in the national List in the prevention and combating terrorism.</p> <p>Article 18 from GEO no. 202/2008 on the implementation of international sanctions</p> <p>Obligation of identification and reporting of frozen funds and economic resources</p> <p>(1) Natural and moral persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>The reporting obligation is set up in the art. 18 of Governmental Emergency Ordinance no. 202/2008 on the on the implementation of international sanctions, as approved by Law no. 217 of 2 June 2009, which stipulates that natural and legal persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the</p>

	<p>operations undertaken with their customers involve goods under sanctions regime, including restrictive measures on countering terrorism financing purposes.</p> <p>The reports have a specific model, as approved within the Inter-institutional Committee, and are included by the overseeing authorities in the sectoral regulations on supervision of the implementation the sanctions regime, which are published in the Official Gazette (please see the annexes).</p> <p>The reports are transmitted to the Ministry of Public Finance – National Agency for Tax Administration and the authorities and public institutions referred to in art. 17 para. (1), including to the FIU. The reports include data on persons, contracts and accounts involved, sender, intermediary and beneficiary, as well as the total value of the goods and relevant circumstances.</p> <p>MoJ: In addition, the draft of the <i>Law for the implementation of the Criminal Code and for the amendment and supplementing normative acts which provide penal dispositions</i> brings amendments to the provisions of the Law no. 535/2004.</p> <p>NATIONAL BANK OF ROMANIA: For the implementation of the provisions of art.18 of the GEO no. 202/2008 on the implementation of international sanctions, the NBR has adopted the Regulation no.28/2009 on overseeing the enforcement of international sanctions imposing the freezing of funds, with subsequent modifications. Accordingly to the provisions of art.7 and art.9 of the NBR Regulation no.28/2009, the institutions under the NBR supervision have the following obligations:</p> <p>Art 7. - Institutions use in order to detect designated persons or entities the data, including those regarding the real beneficiary, obtained by applying customer due diligence measures under domestic rules intended for the prevention of money laundering and terrorist financing.</p> <p>Art. 9. – Reports to the National Bank are transmitted to the Supervision Department both electronically and in writing, using the uniform reporting model, drafted according to art. 18 of Government Emergency Ordinance no. 202/2008, approved by Law no. 217/2009, and approved through the order of the governor.</p> <p><i>Taking into account the novelty of the mentioned regulations, during the inspection activities carried out, the NBR verified the financial institutions' level of acquaintance regarding the reporting mechanism and no systemic risks were thus identified.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Taking into account the low level of reporting, further indicators and typologies should be developed on terrorism financing.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): In accordance with the provisions of art. 6 para. 7 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008, NOPCML provide a general feedback to the reporting entities:</p> <ul style="list-style-type: none"> • Within the training session by presenting typologies and case studies; • By posting on the NOPCML site (www.onpcsb.ro) presentation/informing materials in the field of money laundering and terrorism financing, as well as typologies and case studies; • Presentation of some trends, indicators and typologies within the annual reports of the NOPCML, also available on the Office's site (www.onpcsb.ro) <p>NSC: During the last year, National Securities Commission organized 2 seminars for capital market intermediaries. in collaboration with National Office for Prevention and Combating Money Laundering. Also, in May 2009, NSC has organized an international conference (<i>Capital</i></p>

	<p><i>market development, enforcement and oversight training program</i>). These events have incorporated several hypothetical case studies for analysis and audience participation to further illustrate money laundering and terrorist financing schemes and also red flags that signal possible money laundering or terrorist financing operations.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU): In 2010, the Romanian FIU elaborated the Manual on Risk based Approach and Indicators of Suspicious Transactions, within the Twinning Project The Manual is addressed to the all categories of reporting entities and includes references to main conceptual elements of money laundering and terrorism financing and typologies and indicators related to combating these two phenomena. The Manual was disseminated during 6 training seminars organized at the territorial level, where more than 260 representatives of reporting entities attended. For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office’s website (www.onpcsb.ro), in the English and the Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area. In addition, it is to be mentioned that during the FIU’ annual training programmes, there were organized, during January 01, 2009 - November 01, 2011, a total number of 93 seminars, in which approximately 4.220 representatives of the reporting entities participated. Among the financial reporting entities participating to these seminars, we would like to mention: credit institutions, non-banking financial institutions, insurance and private pensions companies, securities companies, money remitters, payments services, etc. The main topics of the seminars were dedicated to: <ul style="list-style-type: none"> - how to include value-added information in the ML/TF reports, - how to report on-line the CTRs, ETRs and STRs related to money laundering and terrorism financing, - indicating the sources of information in respect to terrorism financing (legal acts, international standards, list of persons suspected of terrorism financing, links to the main information, etc.), presenting typologies of money laundering and terrorism financing. NATIONAL BANK OF ROMANIA: To assist the identification of those situations subject to reporting, the reporting entities supervised by the NBR have set up multiple ML/TF risk indicators and typologies within their internal rules. Subsequently, the financial institutions are using specific IT applications that automatically alert when a suspicious transaction is about to occur, based on the scenarios composed of the risk indicators and typologies established in advance. Consequently, during each on-site inspection, the NBR have probed the complexity of the ML/TF scenarios implemented in these IT applications and recommendations were made for improvement, when appropriate. More specifically, the examiners had invariably verified certain persons or entities subject to international sanctions imposing the freezing of funds in these IT systems by simulating complex operations that might involve such persons/entities and no systemic risks were thus identified. ROMANIAN NATIONAL SECURITIES COMMISSION After the adoption of the first progress report, the Romanian National Securities Commission has continued the permanent collaboration with the</p>

	<p>NOPCML in the area of training for regulated entities.</p> <p>In this respect, NSC and NOPCML organized dedicated training seminars for regulated entities (intermediaries, asset management companies and financial investment firms) focused on case studies, typologies, indicators, red flags both for money laundering and terrorist financing).</p> <p>During the training activities, participants received copies of the manual on risk based approach and suspicious transactions indicators issued by NOPCML during the twinning project "<i>The Fight against Money Laundering and Terrorism Financing</i>"(RO 2007/IB/JH/05), a project funded by the European Union, by the Facility Transition Program.</p> <p>Also, after the implementation of the international sanctions regulations on the capital market, NSC actively contributed, together with the National Office, to the preparation of a training seminar on "<i>The obligation to respect the legal framework for international sanctions</i>", organized by the Brokers Association in February 2010.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION, together with NOPCML, has organized during the period 2009-2011, 6 debates and seminars addressed to administrators and marketing agents from the private pension funds sector.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>Starting with 2009 The Insurance Management Institute which is an entity specialized in professional training, established by the Insurance Supervisory Commission, has organized professional training and specialization of the persons employed in the insurance sector regarding AML/CFT activity. By 2011 it has been concluded a number of 10 training courses of 2-3 days each:</p> <ul style="list-style-type: none"> - in 2009: 3 trainings for insurance companies and brokers; - in 2010: 4 trainings for insurance companies and brokers; - in 2011: 3 trainings for insurance companies and brokers. <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>In this respect, CSSPP and NOPCML organized dedicated training seminars for administrators/ marketing agents focused on case studies, typologies, indicators.</p> <p>During the training activities, participants received copies of the manual on risk based approach and suspicious transactions indicators issued by NOPCML during the twinning project "<i>The Fight against Money Laundering and Terrorism Financing</i>"(RO 2007/IB/JH/05), a project funded by the European Union, by the Facility Transition Program.</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft "other enforceable means" and other relevant initiatives</p>	<p>The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010).</p>
<p>Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP</p>	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Requirement to broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, letter g in Norms 496/2006) should be provided.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): LEGISLATIVE MODIFICATION New para to the art. 4 (of the Law no. 656/2002, with subsequent modifications and completions) The persons provided for in the art. 8 shall notify at once the Office, when they find out that an operation or more</p>

	<p>operations are performed in the account of a client there are suspicions that the funds can be the result of some criminal activities, with the purpose of money laundering or terrorism financing</p> <p>Article 18 from GEO no. 202/2008 on the implementation of international sanctions</p> <p>Obligation of identification and reporting of frozen funds and economic resources</p> <p>(1) Natural and moral persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>The above mentioned legal provisions (GD no. 594/2008) were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>As regards the recommendations stipulated by the evaluators and the measures assumed by the Romanian authorities in 2009, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 4 of the Law no 656 / 2002 (<i>adding a new paragraph</i>):</p> <p>Art. 4 para (3) - <i>The persons referred to in art. 8 immediately notify the Office when it is found that with regards to an operation or several operations which were carried out on the account of a client, there are suspicions that the funds aims to money laundering aimed at terrorism financing.”</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Attempted suspicious transactions should be covered.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 5 para. 4 of GD no. 594/2008</p> <p>When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.</p> <p>MJCL:</p> <p>Art. 3 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008</p> <p>(1) As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as <i>the Office</i>. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification.</p> <p>The legal provision asks for reporting the ML/FT suspicions in relation to a transaction which is on the way to be performed, without being necessary for the transaction to be carried out.</p>

	<p>Art. 4 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008</p> <p>(1) The persons provided for in the Art. 8, which know that an operation that is to be carried out has as purpose money laundering, may carry out the operation without previously announcing the Office, if the transaction must be carried out immediately or if by not performing it, the efforts to trace the beneficiaries of such money laundering suspect operation could be hampered. These persons shall compulsorily inform the Office immediately, but not later than 24 hours, about the transaction performed, also specifying the reason why they did not inform the Office, according to the Art. 3.</p> <p>(2) The persons referred to in the Art. 8, which ascertain that a transaction or several transactions carried out on the account of a customer are atypical for the activity of such customer or for the type of the transaction in question, shall immediately notify the Office if there are suspicions that the deviations from normality have as purpose money laundering or terrorist financing.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>The above mentioned legal provisions were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>The NOPCML receives STRs related to attempted transactions. Please see the similar comments on the financial institutions.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>All required aspects of terrorism financing should be included in the scope of the reporting requirement.</i></p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>- The reporting obligation is set up in the art. 18 of Governmental Emergency Ordinance no. 202/2008 on the on the implementation of international sanctions, as approved by Law no. 217 of 2 June 2009, which stipulates that natural and legal persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to establish if their customers include designated persons or entities or if the operations undertaken with their customers involve goods under sanctions regime, including restrictive measures on countering terrorism financing purposes.</p> <p>The reports have a specific model, as approved within the Inter-institutional Committee, and are included by the overseeing authorities in the sectoral regulations on supervision of the implementation the sanctions regime, which are published in the Official Gazette (please see the annexes).</p> <p>The reports are transmitted to the Ministry of Public Finance – National Agency for Tax Administration and the authorities and public institutions referred to in art. 17 para. (1), including to the FIU. The reports include data on persons, contracts and accounts involved, sender, intermediary and beneficiary, as well as the total value of the goods and relevant circumstances.</p> <p>MoJ:</p> <p>In addition, the draft of the <i>Law for the implementation of the Criminal Code and for the amendment and supplementing normative acts which provide penal dispositions brings</i> amendments to the provisions of the Law no. 535/2004.</p>
<p>(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives</p>	<p>The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010)</p>

2.3 Other Recommendations

In the last report the following FATF recommendations were rated as “partially compliant” (PC) or “non compliant” (NC) (see also Appendix 1). Please, specify for each one what measures, if any, have been taken to improve the situation and implement the suggestions for improvements contained in the evaluation report.

Recommendation 6 (Politically exposed persons)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>The requirement to identify a PEP need changing as it is currently too restrictive and only refers to identifying a customers' public position held'.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NSC - G.E.O. no. 53/21.04.2008, published in the "<i>Official Gazette of Romania</i>" no. 53/30.04.2008 introduced an explicit definition of politically exposed persons, in accordance with the 3rd AML/CFT Directive of EU.</p> <p>Art. 21 - (1) For the purposes of the present law, politically exposed persons are natural persons who are or have been entrusted with prominent public functions, immediate family members as well as persons publicly known to be close associates of natural persons that are entrusted with prominent public functions.</p> <p>(2) Natural persons, which are entrusted, for the purposes of the present law, with prominent public functions are:</p> <p>a) Heads of state, heads of government, members of parliament, European commissioners, members of government, presidential councilors, state councilors, state secretaries;</p> <p>b) Members of constitutional courts, members of supreme courts, as well as members of the courts whose decisions are not subject to further appeal, except in exceptional circumstances;</p> <p>c) Members of account courts or similar bodies, members of the boards of central banks;</p> <p>d) Ambassadors, charges d'affaires and high-ranking officers in the armed forces;</p> <p>e) Managers of the public institutions and authorities;</p> <p>f) Members of the administrative, supervisory and management bodies of State-owned enterprises.</p> <p>(3) None of the categories set out in points (a) to (f) of Para (2) shall include middle ranking or more junior officials. The categories set out in points (a) to (f) of Para (2) shall, where applicable, include positions at Community and international level.</p> <p>(4) Immediate family members of the politically exposed persons are:</p> <p>a) The spouse;</p> <p>b) The children and their spouses;</p> <p>c) The parents</p> <p>(5) Persons publicly known to be close associates of the natural persons who are entrusted with prominent public functions, are the natural persons well known for:</p> <p>a) The fact that together with one of the persons mentioned in para (2), hold or have a joint significant influence over a legal person, legal entity, or legal arrangement or are in any close business relations with these persons</p> <p>b) Hold or have joint significant influence over a legal person, legal entity or legal arrangement set up for the benefit of one of the persons referred to in paragraph (2)</p> <p>(6) Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted</p>

	<p>with a prominent public function within the meaning of paragraph (2) for a period of at least one year, institutions and persons referred to in Article 8 shall not consider such a person as politically exposed.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 3. - (1) For the purposes of these Regulations, the terms and expressions below shall have the following meanings:</p> <p>h) politically exposed persons – natural persons who hold or held high level public positions, members of their families, as well as persons publicly known as persons with close links with the natural persons who hold high level public positions. This definition shall be supplemented with the provisions of art. I point. 3, art. 21 of Government Emergency Ordinance no. 53/2008 to amend and supplemented Law no. 656/2002 on the prevention and control of money laundering and terrorism financing;</p> <p>MJCL: Art. 12¹ of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008</p> <p>(1) In addition to the standard customer due diligence measures, the persons referred to in the article 8 shall apply enhanced due diligence measures for the following situations which, by their nature, may pose a higher risk for money laundering and terrorism financing:</p> <p>a) for the situation of persons that are not physically present when performing the transactions;</p> <p>b) for the situation of correspondent relationships with credit institutions from states that are not European Union’s Member States or do not belong to the European Economic Area;</p> <p>c) for the transactions or business relationships with politically exposed persons, which are resident in another European Union Member State or European Economic Area member state, or a third country.</p> <p>(2) The persons referred to in the article 8 shall apply enhanced due diligence measures for other cases than the ones provided by para (1), which, by their nature, pose a higher risk of money laundering or terrorism financing.</p> <p>Art. 12 para (4) of GD 594/2008</p> <p>In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures:</p> <p>a) to have in place risk based procedures which allow the identification of the customers within this category;</p> <p>b) to obtain executive management’s approval before starting a business relationship with a customers within this category;</p> <p>c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or in the occasional transaction;</p> <p>d) to carry out an enhanced and permanent supervision of the business relationship.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008 has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, being also adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22th of November 2011.</p> <p>In the present form of the draft Law no. 656/2002, the definition of PEPs includes all the aspects identified by the evaluators (the legal obligations are in force since the adoption of the Governmental Emergency Ordinance no.</p>

53/2008).

The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 2¹ of the Law no 656 / 2002, consequently amended and completed:

Art. 2¹ - (1) *For the purposes of the present law, politically exposed persons are natural persons who are or have been entrusted with prominent public functions, immediate family members as well as persons publicly known to be close associates of natural persons that are entrusted with prominent public functions.*

(2) Natural persons, which are entrusted, for the purposes of the present law, with prominent public functions are:

a) Heads of state, heads of government, members of parliament, European commissioners, members of government, presidential councilors, state councilors, state secretaries;

b) Members of constitutional courts, members of supreme courts, as well as members of the courts whose decisions are not subject to further appeal, except in exceptional circumstances;

c) Members of account courts or similar bodies, members of the boards of central banks;

d) Ambassadors, charges d'affaires and high-ranking officers in the armed forces;

e) Managers of the public institutions and authorities;

f) Members of the administrative, supervisory and management bodies of State-owned enterprises.

(3) None of the categories set out in points (a) to (f) of para (2) shall include middle ranking or more junior officials. The categories set out in points (a) to (f) of para (2) shall, where applicable, include positions at Community and international level.

(4) Immediate family members of the politically exposed persons are:

a) The spouse;

b) The children and their spouses;

c) The parents

(5) Persons publicly known to be close associates of the natural persons who are entrusted with prominent public functions, are the natural persons well known for:

a) any natural person who it is proved to be the beneficial owner of a legal person or entity, together with any of the persons provided at para. (2), or to have any other privileged business relationship with such a person."

b) Hold or have joint significant influence over a legal person, legal entity or legal arrangement set up for the benefit of one of the persons referred to in paragraph (2)

(6) Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph (2) for a period of at least one year, institutions and persons referred to in Article 8 shall not consider such a person as politically exposed.

NATIONAL BANK OF ROMANIA

The money laundering regulations define PEPs as individuals who are or have, at any time in the preceding year, entrusted with a prominent public function.

The definition extends, in accordance with the recommendation, to such individuals' immediate family members and close associates.

During the on-site inspections, we found that the financial institutions based their PEP definition on the money laundering regulations' definition. In addition, most financial institutions also included Romanian customers holding public office within their PEP definition and often referred to these

customers as domestic PEPs.

Thus, the inspection activities shown that financial institutions have developed sustainable risk management systems that include seeking relevant information from the customers, referring to publicly available information and access to commercial electronic databases of PEPs. Moreover, the financial institutions have implemented the requirement to obtain senior management approval for establishing business relationship with a PEP, even in the situation when a customer that has been accepted or the beneficial owner of a customer is subsequently found to be, or subsequently becomes a PEP. Also, according to the provisions of art.8 para.(1) of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention, with subsequent modifications and completions, and art.12 para.(4) of the GD no.594/2008, the financial institutions have developed the required procedures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs and to conduct enhanced ongoing monitoring on these relationships.

Art.8 para.(1) of the NBR Regulation no.9/2008:

Art.8 – (1) Customer identification for individuals shall pursue obtaining at least the following information:

a) name and surname and, if the case, pseudonym;

b) date and place of birth;

c) unique individual numerical code or, if the case, another similar unique identification element

d) permanent residential address or, if the case, residence;

e) phone number, fax, e-mail, in accordance with the situation;

f) nationality;

g) employment status and, if the case, name of employer or nature of self-employment/business;

h) the important public position held, if the case is;

i) name of the beneficial owner.

Art.12 para.(4) of the GD no.594/2008:

Art. 12. - (4) In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures:

a) to have in place risk based procedures which allow the identification of the customers within this category;

b) to obtain executive management's approval before starting a business relationship with a customers within this category;

c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or in the occasional transaction;

d) to carry out an enhanced and permanent supervision of the business relationship.

ROMANIAN NATIONAL SECURITIES COMMISSION

After the implementation of the third Directive, there are adequate specific legal provisions in place regarding PEPs (as was mentioned in the first progress report). Since the adoption of the first progress report, on-site inspections carried out by NSC and training seminars organized by NSC and NOPCML for regulated entities were focused also in the area of PEPs.

PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION

- Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system

Art.10-(1) The standard customer due diligence measures for natural persons are aimed at obtaining at least the following information:

a) name and first name;

	<p>b) date and place of birth; c) personal identification number, the series and number of the identification card, or by case, other similar unique element for identification; d) domicile address and by case the residency address; e) the phone number, fax number, and by case the e-mail address; f) the nationality; g) the occupation and by case, the name of the employer or the nature of its own activity; h) prominent public function held, by case; Art.13-(2) Administrators/marketing agents apply also enhanced customer due diligence measures in other cases than the one stipulated in art. 12¹ para (1) of the Law no. 656/2002, which by nature present a high risk to money laundering and terrorism financing acts. Art.14. Administrators/marketing agents must hold the following information on the clients that present a high risk: a) the origin country of the client; b) the public position or the prominent position held; c) the activity type performed by the client; d) the origin of the client's funds; e) other risk indicators.</p>
	<p>The requirement to identify a PEP's source of wealth should be clearly stated (beyond those applicable to all customers); the nature and extent of enhanced CDD measures relating to PEPs should be clearly stated.</p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MJCL: Art. 12¹ of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008 (1) In addition to the standard customer due diligence measures, the persons referred to in the article 8 shall apply enhanced due diligence measures for the following situations which, by their nature, may pose a higher risk for money laundering and terrorism financing: a) for the situation of persons that are not physically present when performing the transactions; b) for the situation of correspondent relationships with credit institutions from states that are not European Union's Member States or do not belong to the European Economic Area; c) for the transactions or business relationships with politically exposed persons, which are resident in another European Union Member State or European Economic Area member state, or a third country. (2) The persons referred to in the article 8 shall apply enhanced due diligence measures for other cases than the ones provided by para (1), which, by their nature, pose a higher risk of money laundering or terrorism financing. Art. 12 para (4) of GD no. 594/2008 In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures: a) to have in place risk based procedures which allowed the identification of the customers within this category; b) to obtain executive management's approval before starting a business relationship with a customer within this category; c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or in the occasional transaction; d) to carry out an enhanced and permanent supervision of the business relationship. ISC: Order no.24/2008 on the implementation of the Norms on prevention</p>

	<p>and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 20. (2) Entities shall also have in place adequate measures and procedures in order to establish the source of incomes as well as of other funds used in the business relationship or one-off transaction.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>In the present form of the Law no. 656/2002, <i>the requirements to identify a PEP's source of wealth</i> covers all the aspects identified by the evaluators (the legal obligations are in force since the adoption of the Governmental Emergency Ordinance no. 53/2008).</p> <p>Furthermore, as regards the reporting obligation of the entities, the Decisions no. 673 and 674 of the Board of the NOPCML were modified (regarding the form of the reports and the methodology of reporting to FIU – CTRs / CBTRs / STRs, including also the requirement to specify if the reported client, his representative or the transaction's beneficiary are PEPs)</p> <p>NATIONAL BANK OF ROMANIA</p> <p>According to the provisions of art.12 para.(4) of the GD no.594/2008, the inspection activities shown that financial institutions have settled the required procedures to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs and to apply enhanced CDD measures for these.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>After the implementation of the third Directive, there are in place adequate specific legal provisions regarding PEPs. According to art. 15 of the NSC Regulation no.5/2008, the regulated entities must adopt adequate procedures and measures in order to establish the source of income and the funds involved in the business relationship or the occasional transaction and carry out an enhanced and permanent monitoring and surveillance of the business relationship with the persons in this category.</p> <p>Since the adoption of the first progress report, on-site inspections carried out by NSC and training seminars organized by NSC and NOPCML for regulated entities were focused also in the area of PEPs.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Adequate implementation of Rec.6 (PEPS) should be provided.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>Please see comments above.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 19. – In the case of one-off transactions or of business relationships with politically exposed persons, entities shall have in place risk-based rules and procedures which shall allow the identification of clients/beneficial owners classified as politically exposed persons.</p> <p>Art. 20. - (1) The management of the entity shall give its written approval before establishing a business relationship with clients in this category. When clients are accepted and are subsequently classified as politically exposed persons, the written approval of the management of the entity is also mandatory in order to continue the business relationship with the same clients.</p> <p>(2) Entities shall also have in place adequate measures and procedures in order to establish the source of incomes as well as of other funds used in the business relationship or one-off transaction.</p> <p>(3) Entities shall supervise and monitor on an ongoing basis the way in which business is conducted with this particular category of clients.</p>
<p>Measures taken to implement the recommendations</p>	<p>NATIONAL BANK OF ROMANIA</p> <p>As regards the implementation of the recommendation, by means of complying with the provisions of art.12 para.(4) of the GD no.594/2008, the</p>

<p>since the adoption of the first progress report</p>	<p>inspection activities shown that financial institutions have in place risk-based rules and procedures which allow the identification of clients/beneficial owners ranked as politically exposed persons. Also, the inspection activities shown that financial institutions have developed sustainable risk management systems that compel the personnel in charge with the application of the CDD measures to obtain the senior management approval for establishing business relationship with a PEP, even in the situation when a customer that has been accepted or the beneficial owner of a customer is subsequently found to be, or subsequently becomes a PEP, to establish the source of wealth and the source of funds of customers and beneficial owners identified as PEPs and to conduct enhanced ongoing monitoring on these relationships.</p> <p>Art.12 para.(4) of the GD no.594/2008:</p> <p>Art. 12. - (4) In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures:</p> <p>a) to have in place risk based procedures which allow the identification of the customers within this category;</p> <p>b) to obtain executive management’s approval before starting a business relationship with a customers within this category;</p> <p>c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or in the occasional transaction;</p> <p>d) to carry out an enhanced and permanent supervision of the business relationship.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION: Please see the comments mentioned above.</p> <p>INSURANCE SUPERVISORY COMMISSION: During the on-site inspection the inspection teams examine if the entity has an appropriate risk management systems to determine whether a potential customer, a customer or the beneficial owner is a politically exposed person and to establish the source of income/fund used in transaction.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Provision for senior management approval to establish a relationship with a PEP should be implemented.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>Art. 12 para (4) of GD no. 594/2008</p> <p>In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures:</p> <p>a) to have in place risk based procedures which allowed the identification of the customer within this category;</p> <p>b) to obtain executive management’s approval before starting a business relationship with a customer within this category;</p> <p>c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or in the occasional transaction;</p> <p>d) to carry out an enhanced and permanent supervision of the business relationship</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 20. - (1) The management of the entity shall give its written approval before establishing a business relationship with clients in this category. When clients are accepted and are subsequently classified as politically exposed persons, the written approval of the management of the entity is also mandatory in order to continue the business relationship with the same clients.</p>
<p>Measures taken to</p>	<p>NATIONAL BANK OF ROMANIA:</p>

<p>implement the recommendations since the adoption of the first progress report</p>	<p>Please see the above comments. INSURANCE SUPERVISORY COMMISSION: This measure is subject to the on-site inspection conducted by Insurance Supervisory Commission. ROMANIAN NATIONAL SECURITIES COMMISSION According to art. 15 of the NSC Regulation no.5/2008, the regulated entities must obtain the written approval from the executive management of the regulated entity before establishing a business relationship with a customer from this category. When a client was accepted and subsequently was identified / became customer in this category, a written approval from the executive management of the entity is also required, in order to continue business relationship with the respective client. Since the adoption of the first progress report, on-site inspections carried out by NSC and training seminars organized by NSC and NOPCML for regulated entities were focused also in the area of PEPs.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Provision for senior management approval to continue business relationship where the customer subsequently is found to be or becomes PEP should be implemented.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>Art. 12 para (4) of GD no. 594/2008 In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures: a) to have in place risk based procedures which allowed the identification of the customers within this category; b) to obtain executive management’s approval before starting a business relationship with a customer within this category; c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or in the occasional transaction; d) to carry out an enhanced and permanent supervision of the business relationship NSC: Regarding PEP’s, detailed provisions were also included for capital market sector in NSC Regulation no 5/2008, including this obligation (art. 15 Para 1 letter b.)). Regulated entities are required to obtain the written approval from the executive management before establishing a business relationship with a customer from this category. When a client was accepted and subsequently was identified / became customer in this category, is also required written approval from the executive management of the entity in order to continue business relationship with the respective client. ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market Art. 20. - (1) The management of the entity shall give its written approval before establishing a business relationship with clients in this category. When clients are accepted and are subsequently classified as politically exposed persons, the written approval of the management of the entity is also mandatory in order to continue the business relationship with the same clients.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: Please see the above comments. INSURANCE SUPERVISORY COMMISSION: This measure is subject to the on-site inspection conducted by Insurance Supervisory Commission. ROMANIAN NATIONAL SECURITIES COMMISSION: Please see the comments mentioned above</p>

(Other) changes since the first progress report (e.g. draft laws, draft regulations or draft “other enforceable means” and other relevant initiatives	<p>1. The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008 has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies, being also adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22th of November 2011.</p> <p>2. The modification of Decisions no. 673 and 674 of the Board of the NOPCML (regarding the form of the reports and the methodology of reporting to FIU – CTRs / CBTRs / STRs, including also the requirement to specify if the reported client, its representative or the transaction’s beneficiary are PEPs)</p>
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Recommendation 7 (Correspondent banking)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Obligation to require senior management approval when opening individual correspondent accounts should be implemented.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NBR: Art. 12 of GD no. 594/2008</p> <p>(1) The persons provided for in the art. 8 from the Law no. 656/2002 shall apply, on a risk-sensitive basis, enhanced customer due diligence measures, in addition to the standard customer due diligence in all situations which by their nature can present a higher risk of money laundering or terrorist financing. The applying of the enhanced due diligence measures is mandatory at least in the following situations:</p> <p>b) in case of correspondent relations with credit institutions within third country;</p> <p>(3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures:</p> <p>c) obtain the approval from executive management before establishing a new correspondent relation.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NATIONAL BANK OF ROMANIA</p> <p>Related to the provisions of art.12 of GD no.594/2008, the inspections carried out shown that the financial institutions had implemented the required measures to gather sufficient information about a respondent institution to understand the nature of its business, to determine from publicly available information the reputation of the institution, including whether it has been subject to a money laundering or terrorist financing investigation or regulatory action and to obtain the approval from senior management before establishing new correspondent relationships.</p>
Recommendation of the MONEYVAL Report	<i>Obligation for financial institutions to document respective responsibilities of each institution should be implemented.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>Art. 12 of GD no. 594/2008</p> <p>(1) The persons provided for in the art. 8 from the Law no. 656/2002 shall apply, on a risk-sensitive basis, enhanced customer due diligence measures, in addition to the standard customer due diligence in all situations which by their nature can present a higher risk of money laundering or terrorist financing. The applying of the enhanced due diligence measures is mandatory at least in the following situations:</p> <p>b) in case of correspondent relations with credit institutions within third country;</p> <p>(3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures:</p> <p>d) establish based on documents the responsibilities for each of the two credit institutions.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NATIONAL BANK OF ROMANIA</p> <p>Regarding the provisions of art.12 of GD no.594/2008, the inspections undertaken pointed out that the financial institutions had implemented the required measures to document the respective AML/CFT responsibilities of each institution engaged in correspondent relations.</p>
Recommendation of the MONEYVAL Report	<i>Specific obligations with respect to ‘payable-through accounts’ should be developed.</i>

Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NBR: Art. 12 of GD no. 594/2008</p> <p>(1) The persons provided for in the art. 8 from the Law no. 656/2002 shall apply, on a risk-sensitive basis, enhanced customer due diligence measures, in addition to standard customer due diligence in all situations which by their nature can present a higher risk of money laundering or terrorist financing. The applying of the enhanced due diligence measures is mandatory at least in the following situations:</p> <p>b) in case of correspondent relations with credit institutions within third country;</p> <p>(3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures:</p> <p>e) in case of correspondent accounts directly accessible for the customers of credit institution from third country, it shall ensure that this credit institution has applied standard customer due diligence measures for all the customers who has access to these accounts and that the credit institution is able to provide, upon request, the information on the customer obtained following the application of the respective measures.”</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NATIONAL BANK OF ROMANIA:</p> <p>The on-site inspections carried out shown that in case of correspondent accounts directly accessible for the customers of credit institution from third country, the financial institutions ensured that this credit institution has applied standard customer due diligence measures for all the customers who has access to these accounts and that the credit institution is able to provide, upon request, the information on the customer obtained following the application of the respective measures.</p> <p>Moreover, the inspections assessed the application of the provisions of Regulation (EC) no.1781/2006 of the European Parliament and of the Council on information on the payer accompanying transfers of funds which is directly applicable and binding on the entry into force.</p>

Recommendation 9 (Third parties and introducers)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Romania should review the use of third parties to conduct CDD in all sectors.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>Art. 2 para. 1 lett. d) of GD no. 594/2008</p> <p>d) Third parties – credit and financial institutions, situated in Member States and the similar ones, situated in third country, who meet the following requirements:</p> <ol style="list-style-type: none"> 1. they are subject to mandatory professional registration for the performing of the activity, recognized by law; 2. they apply customer due diligence requirements and record keeping requirements as laid down in the Law no. 656/2002 and this Regulation and their compliance with the requirements of these acts is supervised in accordance with the Law no.656/2002. <p>(2) The specialized entities which perform services regarding money remittance and foreign currency exchange are not considered third parties in accordance with para (1) letter d)</p> <p>GD no. 1437/2008 for the approval of the List comprising third countries that impose similar requirements with those stipulated by the Law no. 656/2002 for the prevention and sanctioning of money laundering, as well as for setting up certain measures for the prevention and combating terrorism financing acts.</p> <p>Art. 18 of GD no. 594/2008</p> <p>(1) The Office shall inform the authorities with similar attribution from other member states and the European Commission about the cases of third countries which are thought not to fulfill the requirements provided for in article 18 para (4) (b)-(d) of Law no. 656/2002.</p> <p>(2) The Office shall inform the European Commission about the cases when a third country is in the situation described in article. 13 para (3).</p> <p>(3) The Office shall inform the authorities with similar attribution from other</p>

	<p>member states and the European Commission about the case of a third country which is thought to impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in article 656/2002 and the present Regulation, and the enforcement of these is supervised in a manner equivalent with that regulated by the Law no. 656/2002 and the present Regulation.</p> <p>NSC: Art. 6 of the regulation approved by Governmental Decision no. 594/2008 states that reporting entities may use in the purpose of applying standard customer due diligence, the information regarding the client obtained from third parties, even the respective information is obtaining based on documents whose form is different to that used on internal level. It is specified that liability for the compliance with all standard customers due diligence measures is on to the persons who use the information obtained from the third party. The third party from Romania which intermediates the contact with the client shall submit to the person who applies standard due diligence measures all the information obtained within own identification procedures, so the requirements provided in the regulation to be respected. It was introduced the obligation that copies of the documents based on which the identification and the verification of the client's or by case beneficial owner's identity was accomplished, will be immediately sent by the third party from Romania, by request of the person to whom the client has been recommended.</p> <p>According to art. 6(5) of the regulation, the reporting entities have the obligation to ensure the application of the provisions of the Law no. 656/2002 and of the regulation also in the case of the externalized activities or those performed by agents. The agents and the entities, through which the externalized activities are performed by the previously mentioned persons, shall not be considered third parties, in the spirit the regulation.</p> <p>Also, the regulation states that the reporting entities shall not use for accomplishing the customer due diligence requirements the customer due diligence measures applied by a third party from a third country, on which the European Commission adopted a decision in this purpose.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 16. - (1) To the purpose of applying standard due diligence measures, entities may use information provided by third parties.</p> <p>(2) When the third party acts as an intermediary, the said third party shall provide the entity which applies standard due diligence measures with all the information which would have been derived in the direct identification process, so that to observe the requirements set out in these Regulations.</p> <p>(3) The copies of the documents on the basis of which the identity of the client or of the beneficial owner, as appropriate, was established and verified shall be immediately submitted by the third party at the request of the person to whom the client was recommended.</p> <p>(4) Ultimate responsibility for the application of all standard due diligence measures shall lie with the persons who use the information provided by the third party.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>- Law nr. 411/2004 on privately administered pension funds:</p> <p>Art.32- A person became participant to a private pension fund by signing an individual adhesion act, at his, her or on will or based on the assigning of the central registry institution.</p> <p>When signing the adhesion act, the participants are informed of the condition of the pension scheme, emphasizing the following: the rights and liabilities of the parties to the pension scheme, the financial technical and other risks as well as on the nature and distribution of these risks.</p> <p>It is forbidden to delegate or to represent somebody at the signing of the adhesion act.</p> <p>According art.18 from Norm no. 2/2011 regarding adhesion and participants' evidence to facultative pensions funds, by signing individual enrolment form, the eligible person</p>

	<p>expresses his will to become participant to a facultative pension fund, to be part of the civil contract, part of administration contract and part of the prospect of the facultative pensions.</p> <p>The individual enrolment form is filled in by the eligible person or by the marketing agent, physical person, on the base of information given by the eligible person and it is signed by the respective person in the presence of the marketing agent.</p> <p>Under the sanction of absolute nullity, it is forbidden to delegate, to empower or to represent the eligible person in relation with the marketing agent in order to sign the individual enrolment form.</p> <p>Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system</p> <p>Art.12(2) For the clients who have been randomly distributed to a private pension fund, simplified customer due diligence measures shall apply, based on the identity references submitted by the evidence institution.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>As we stated in the first progress report, specific provisions regarding capital market sector were implemented by NSC Regulation no. 5/2008 (art. 13). Despite the fact that from on-site and off-site supervision of NSC we may conclude that reliance on a third party is not an emerging feature of the Romanian Capital Market, since the adoption of the first progress report, NSC continued to address this issue during seminars organized for regulated entities.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>If the use of third party reliance is an emerging feature within Romania, then competent authorities should ensure that any appropriate guidance deemed necessary is issued to all sectors.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>One of the main objectives of the Twinning Project RO/2007-IB/05, within the Facility Transition, approved by the European Commission under the reference no. 2007/19343.01.14, is Objective 4 – Preparing guidelines and organizing training sessions for the financial and non-financial reporting entities, directly supervised for by the Office.</p> <p>Within the framework of this objective the goal is to carry out the following activities:</p> <p>4.1. Editing a Manual on risk based approach and suspicious transactions indicators for the reporting entities;</p> <p>4.2. Presenting and disseminating the Manual to different reporting entities, within the framework of six two-day training sessions, organized at territorial level;</p> <p>4.3. Organizing six two-day training sessions, at territorial level, for the independent legal professions</p> <p>NSC: Specific provisions regarding capital market sector were implemented by NSC Regulation no5/2008. Art. 13 of the NSC regulation states that during the activity performed, a regulated entity may use, in the purpose of applying standard customer due diligence measures, the information regarding the client, obtained from a third party. The third party which intermediates the contact with the client, shall submit to the person who applies standard customer due diligence measures, all the information obtained within own identification procedures, in order to meet the requirements in Section II of this Regulation. Copies of the documents based on which the identification and the verification of the client’s or by case beneficial owner’s identity was accomplished, will be immediately sent by the third party, upon the request of the person to whom the client has been recommended. The ultimate responsibility for fulfilling all standard customers due diligence measures is belonging to persons who use the third party.</p> <p>Although the use of third party reliance is not an emerging feature within Romanian Capital Market, during seminars organized by National Securities Commission in the last year for capital market intermediaries, there were discussions with market intermediaries regarding the correct application of NSC Regulation no 5/2008, including issues related to third party reliance.</p>

	NBR: The use of third parties in the Romanian banking sector is not an emerging issue, being actually regulated since February 2002 for credit institutions (NBR Norms no.3/2002 on customers due diligence) and since November 2006 for non-bank financial institutions supervised by the central bank (NBR Regulation no.8/2006 on non-bank financial institutions customers due diligence).
Measures taken to implement the recommendations since the adoption of the first progress report	NATIONAL BANK OF ROMANIA: During its inspection activities, the NBR verifies whether the financial institutions, within their activity, make use of information obtained from third parties (as defined thru the provisions of the mentioned regulations) for know-your-customers purposes and if the case, the NBR ensures that financial institution are consequently applying the incident legislative requirements. INSURANCE SUPERVISORY COMMISSION: Please see comments on general description. ROMANIAN NATIONAL SECURITIES COMMISSION: See the comments mentioned above.
Recommendation of the MONEYVAL Report	<i>Clarification on whether relying on third party to perform elements of the CDD process is allowed for DNFBP. Norms No. 496/2006 is silent on this aspect and the evaluators advise that this issue be addressed in the Norms.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	NOPCML (FIU): Art. 6 of GD no. 594/2008 (1) The persons provided for in the article 8 of the Law no. 656/2002 may use in the purpose of applying standard customer due diligence measures provided for in the art. 5 para (1) letter a) - c) of this Regulation, the information regarding the customer obtained from third parties, even the respective information is obtaining based on documents whose form is different to that used at internal level. (2) In the situation provided for in the para 1 the liability for the compliance with all standard customers due diligence measures is on to the persons who use the information obtained from the third party. (3) The third party from Romania which intermediates the contact with the customer shall submit to the person who applies standard due diligence measures all the information obtained within own identification procedures, so the requirements provided for in art. 5 para (1) letter a)- c)of this Regulation to be respected. (4) Copies of the documents based on which the identification and the verification of the customer's identity or, by case, beneficial owner's identity was accomplished, shall immediately be sent by the third party from Romania, by request of the person to whom the customer has been recommended.
Measures taken to implement the recommendations since the adoption of the first progress report	NOPCML (FIU) The above mentioned legal provisions were already in force when Romanian authorities submitted the first progress report (2009). The clarifications for the reliance on the third parties are detailed in the Manual on risk based approach and indicators of suspicious transactions, elaborated in 2010. Among the theoretical and practical aspects, the manual presents elements of interest in respect to: <i>cash control at entrance or exit from European Community; information on the payer accompanying funds transfers; third countries equivalence and third parties; countries assessed with deficiencies in the anti-money laundering and countering terrorism financing regime; implementation of international sanctions regime.</i>
(Other) changes since the last evaluation	

Recommendation 12 (DNFBP)

Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>Provisions for DNFBP to examine the background and purpose of complex, unusual large transactions, or unusual patterns of transactions and setting forth their findings in writing should be implemented. Explicit requirement to keep the finding available</i>

<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p><i>for competent authorities and auditors for at least five years should be provided.</i></p> <p>NOPCML (FIU): Art. 2 of the Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008 (c) <i>suspicious transaction</i> means the operation which apparently has no economical or legal purpose or the one that, by its nature and/or its unusual character in relation with the activities of the client of one of the persons referred to in Article 8, raises suspicions of money laundering or terrorist financing Art. 15^{of the} Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008 The persons designated according to the Art. 14 para (1) and the persons provided for in the Art. 8 shall draw up a written report for each suspicious transaction, in the pattern established by the Office, which shall be immediately sent to it. Art. 5 of GD no. 594/2008 (1) Standard customer due diligence measures are: d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that these transactions are consistent with the information about the customer, his business and risk profile, including, by case, the source of funds and ensuring that the documents, data or information held are kept up-to-date. Art. 12 of GD no. 594/2008 (5) The persons referred to in article 8 of Law no. 656/2002 shall pay a enhanced attention to the transactions and procedures which, by their nature, may favor anonymity or which may be linked with money laundering or terrorism financing Art. 14 of GD no. 594/2008 (1) When the application of the customer due diligence measures is mandatory, the persons provided for in article. 8 of Law 656/2002 shall keep a copy of the document used, as proof of identity or identity reference, for a period of at least 5 years, starting with the termination date of the relationship with the customer. (2) The persons provided for in article. 8 of Law 656/2002 shall keep, in an adequate format so it can be used as evidence in court, secondary or operative evidence and recordings of all the financial transactions within the business relationship or occasional transaction, for a period of at least 5 years starting from the termination of the business relationship, respectively of performing the occasional transaction. Art. 12 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities (Annex no. 2.5) (1) There are suspicions in the following situations, but not limited to these: <ul style="list-style-type: none"> o when the customer mandates a person, with which obviously has no close relationship, to perform operations; o when the amounts of funds or of the assets involved in an operation ordered by a customer is disproportionate, compared to its financial situation, known by the regulated entity; (2)The provisions of para. 1 shall be applied also when the regulated entity notice other unusual situations during its relationships with a customer. Art. 19 para. 2 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities The regulated entities shall obtain all information necessary for establishing the identity of each new customer, the purpose and nature of the services or operations which may be performed. The requested information shall depend of the type of the potential customer, the nature and volume of transactions/operations which may be</p>
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	<p>performed through the regulated entity Art. 24 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities</p> <p>(1) The monitoring procedure must focus on a classification of the customers in more categories, having in regard the factors, such as:</p> <ul style="list-style-type: none"> a) the type of the transactions/operations performed through the regulated entity; b) the number and the volume of transactions/operations performed through the regulated entity; c) the risk of an illegal activity, associated to the different types of transactions/operations performed through the regulated entity. <p>(2) The suspicious transactions/operations may include, without being restrictive:</p> <ul style="list-style-type: none"> a) the transactions/operations that are not regular (usual), including due to the unusual frequency of the operations; b) the complex transactions/operations, with a significant value, which involve big amounts; c) the involvement of a customer and the circumstances which are connected to his/her status or to other features of the customer; d) the transactions/operations which do not seem to have an economical, commercial or legal meaning, including the ones which are not corresponding to the statutory activity of the customer or which are ordered by customers who are not involved in the statutory activity. <p><u>Note:</u> During the 27th MONEYVAL Plenary Reunion, in July 2008, on the occasion of the debates and adoption of the detailed Report of the third evaluation round of Romania, on combating money laundering and terrorism financing, the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities, was accepted and taken into consideration as a secondary normative act.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions were already in force when Romanian authorities submitted the first progress report (2009).</p> <p>As regards the recommendations stipulated by the evaluators, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 13 of the Law no 656 / 2002:</p> <p><i>Art. 13 - (1) In each case where the identity is required according to this law, legal person or natural person referred to in art. 8, which is obliged to identify the client shall keep a copy of the document as proof of identity, or identification references for a minimum of 5 years starting with the date when the customer relationship ends.”</i></p> <p><i>(2) The persons referred to in art. 8 shall keep secondary or operative records and also shall keep all the registrations of all the financial transactions arising from the performance of a business relationship or occasional transaction for a period of a minimum 5 years after the end of the business relationship, and from the occasional transaction, in a appropriate form, in order to be used as evidence in court”</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Further guidance should be developed for assisting DNFBP to implement an adequate risk based approach and to define an adequate mitigation procedure.</i></p>
<p>Measures reported as of 22 September 2009 to</p>	<p>NOPCML (FIU):</p>

<p>implement the Recommendation of the report</p>	<p>One of the main objectives of the Twinning Project RO/2007-IB/05, within the Facility Transition, approved by the European Commission under the reference no. 2007/19343.01.14, is Objective 4 – Preparing guidelines and organizing training sessions for the financial and non-financial reporting entities, directly supervised for by the Office.</p> <p>Within the framework of this objective the goal is to carry out the following activities:</p> <p>4.1. Editing a Manual on risk based approach and suspicious transactions indicators for the reporting entities;</p> <p>4.2. Presenting and disseminating the Manual to different reporting entities, within the framework of six two-day training sessions, organized at territorial level;</p> <p>4.3. Organizing six two-day training sessions, at territorial level, for the independent legal professions.</p> <p>UNNPR:</p> <p>Related to this aspect, the drafting of certain guidelines shall be taken into account upon the Renegotiation of the Protocol between the UNNPR and NOPCML and upon the re-update of the internal legislation.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>On this perspective, the FIU’s specialists developed new guidelines regarding risk based approach and training for personnel belonging to reporting entities, In this respect, NOPCML elaborated and disseminated the <i>Manual on risk based approach and indicators of suspicious transactions</i>, which represents a useful tool for the conformity activity of compliance officers within the reporting entities.</p> <p>The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (lawyers, expert accountants, financial auditors, real estate agents, fiscal consultants, casinos, non-banking financial institutions, NPOs, compliance officers within real estate agencies from Constanta, Galati, Brasov, Ilfov, Girgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office’s website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area.</p> <p>Another important activity within this objective had as result the training of independent legal professions, reporting entities provided at the art. 8 letter f) from the Law no. 656/2002, as amended and completed, during 6 training seminars which were organized at territorial level, in Brasov, Timisoara, Iasi, Bucuresti, Constanta.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Secondary and implementing regulation should be provided for legal professions under supervision of SRO.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Following NOPCML initiative, during August 2009, several meetings with the independent legal professions associations took place, in order to update the existing cooperation protocols and to effectively implement them.</p> <p>In this respect, on the occasion of the meetings between the representatives of NOPCML and those of UNBR and UNNPR, it was discussed that, the elaboration of sectoral secondary legislation, in the field of preventing and combating money laundering, and the elaboration of Reporting and Client Identification Good Practices and internal procedures, to be aimed at, by the implementation of the cooperation protocols. The Minutes of these meetings are attached to this questionnaire.</p> <p>Also, we highlight the fact that the Enforcement Norms of the cooperation protocol between NOPCML and UNNPR (concluded in 16.09.2004) have been updated.</p>
<p>Measures taken to</p>	<p>NOPCML (FIU)</p>

implement the recommendations since the adoption of the first progress report	In order to ensure a proper implementation of the AML/CTF Law, the Romanian FIU got involved, also in these sectors, in order to raise the awareness and the level of compliance of the legal professions, by organizing training sessions and by elaborating and disseminating of the Manual.
(Other) changes since the last evaluation	The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010)

Recommendation 14 (Protection and no tipping-off)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>The "safe harbour" provision in the AML/CFT Law should explicitly include directors, officers and employees (permanent and temporary).</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 7 of the Law no. 656/2002, with subsequent modifications and completions: The application in good faith of the provisions of articles (3)-(5), by the natural and/or legal persons, including those provided for by art. 8, may not attract their disciplinary, civil or penal responsibility.</p> <p><u>Note:</u> We highlight the fact that within the adoption process of the draft law for the approval of GEO no.53/2008, debates were held in the Parliamentary Commissions in respect of an explicit introducing, in this article, of certain categories of persons that would be the subject of the provisions regarding the legal person. However, in order to avoid the risk that certain categories would be missed (for example members of the management board that hold prominent functions in a company and are considered to be its employee), the solution of an extensive interpretation of the legal text was preferred, as this would also cover future legislative evolutions.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>Art. 7 of the Law no. 656 / 2002 - <i>The application in good faith, by the natural and/or legal persons, of the provisions of articles (3)-(5) may not attract their disciplinary, civil or penal responsibility.</i></p> <p>Thus, the provision covers all natural and legal persons (at the time of the third round evaluation, the provisions covered only the legal persons and persons designated in relation with the FIU).</p>
Recommendation of the MONEYVAL Report	<i>The AML/CFT Law should explicitly prohibit the disclosing to a third person of the fact that a report has been made to the NOPMCL.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>LEGISLATIVE AMENDMENT:</p> <p>Art. 18 para. 2 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>The persons provided for by art. 8 and their employees are bound to the obligation not to transmit, outside their legal obligations, information held on money laundering and terrorism financing acts, and not to tip off the clients or third parties, in respect of the drawing up and submitting of a suspicious transaction report to the Office.</p> <p>NSC:</p> <p>For capital market sector, the NSC Regulation no 5/2008 has implemented a specific prohibition regarding this issue.</p> <p>Thus, art.19 (3) of the regulation states that the regulated entities, directors, administrators, representatives and their staff have the obligation not to transmit, out of the legal conditions, the information held about the money laundering and terrorist financing and not to warn the involved customers or other third parties about the fact that a reporting about a suspicious transaction or the related information were / will be submitted to the Office and N.S.C.</p> <p>UNNPR: Within training seminars, notaries were informed of the prohibition to disclose to third parties the fact that, in a certain situation, a report was transmitted to NOPCML.</p>

	<p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 25. (3) The directors/members of the supervisory board, managers, representatives and personnel of the entity shall not provide the information concerning money laundering or terrorism financing operations in the absence of the conditions set out in the law and shall not warn the clients involved or the third parties with respect to the issuing or foreseen issuing of a suspicious transaction report to the Office and ISC.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>Inspections performed by NSC since the adoption of the first progress report revealed that regulated entities have internal procedures in place in order to prohibit the transmission, except when it is legal, of the information held about the money laundering and terrorism financing and the warning of the involved customers or other third parties about the fact that a reporting about a suspicious transaction or the related information were / will be submitted to the Office and NSC. In the same time, the training seminars for regulated entities have addressed also this issue.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION - Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system</p> <p>Art.17(3)- Administrators/marketing agents hold the obligation not to disseminate, outside the conditions stipulated by the law, information held on money laundering or terrorism financing and not to tip off the involved clients or other third parties about the fact that a suspicious transaction or information related to that, were/will be forwarded to the Commission and the Office.</p> <p>Art. 18 – The confidentiality provisions stipulated by contracts, legislation or the professional secrecy provisions, may not be invoked for restricting the administrators/marketing agents’ obligation to report the suspicious transactions.</p>
<p>(Other) changes since the last evaluation</p>	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Partially compliant	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>General requirement that the compliance officer should be designated at the management level should be provided.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): LEGISLATIVE AMENDMENT</p> <p>Art. 14 para 1 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>The legal persons referred to in the article 8 (a)-(d) and (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f), shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities. Credit and financial institutions are obliged to designate a compliance officer, subordinated to the executive body of the legal person, who coordinates the implementation of the internal policies and procedures, for the application of the present law.</p> <p><u>Note:</u> The modification of art. 14 of the Law no. 656/2002, with subsequent modifications and completions, is necessary in order to avoid any ambiguities and misinterpretations of the law by the reporting entities. This is also a measure meant to guarantee the enforcement accuracy of the legal sanctions, within the control actions performed by NOPCML, but also to prevent the admissibility of reporting entity' appeal in court.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the</p>

	<p>insurance market</p> <p>Art. 6. - (1) Entities shall appoint one or several persons among their own personnel who shall have responsibilities in the application and observance of the legal provisions in force concerning money laundering and terrorism financing.</p> <p>(2) The persons appointed following the entry into force of these Regulations shall be adequately trained in the field of the prevention and control of money laundering and terrorism financing.</p> <p>(3) The persons referred to under paragraph (1) shall have direct and permanent access to the management of the relevant entity as well as to all relevant records prepared in line with the provisions laid down in these Regulations and in the relevant legislation.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: The inspections performed by the National Bank of Romania assessed the accurate application of the provisions of art.14 para.(1¹) of the Law no. 656/2002, according to which the assigned compliance officer directly reports to the executive management of the financial institutions.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION According to art. 5 of the NSC Regulation no. 5/2008, regulated entities are required to appoint by an internal act a compliance officer which coordinates the implementation of policies and internal procedures. The regulated entities are obliged to notify to NSC and NOPCML any replacement of the compliance officer within 15 days from the date of such changes. Inspections carried out by NSC were also focused on this issue and adequate measures (including sanctions) were taken in non-compliance cases, as it was mentioned in the table with administrative sanctions.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION - Norms 12/2010 and Norms 13/2010 regarding authorization the administrator of private pension, mandatory and voluntary system. In order to be authorized as an administrator of private pensions, the company is obliged to appoint a person to hold the internal control function. The person appointed to occupy this position must obtain individual authorization also from the authority.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>General legal obligation to secure the compliance officers direct and timely access to the relevant data should be provided.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): LEGISLATIVE AMENDMENT Art. 14 para 4 and 5 of the Law no. 656-2002, with subsequent modifications and completions</p> <p>(4) The persons designated in accordance with para 1 and 2 shall have a direct and in due time access to the relevant information and data.</p> <p>(5) The provisions of para 1, 3 and 4 are applicable to the natural and legal persons provided for by art. 8 lett. k), which market goods and/or services, only to the extent that they perform cash operations, in lei or foreign currency, whose minimum threshold represent the lei equivalent of 15.000 Euro, regardless of the fact that the transactions is carried out in one or several operations which seem to be linked to each other, as well as in the case of operations provided for in art. 3 Para. 1.</p> <p>Art. 16 of HG 594/2008 Credit and financial institutions are obliged to keep in place internal procedures and to have systems which allow the promptly transmission, by Office's or prosecution bodies request, of the information regarding the identity and the nature of the relationship for the customers specified in the request, with which a business relationship is or has been in progress in the last 5 years.</p>

	<p>NSC: The recommendation was accordingly addressed for capital market sector, when the National Securities Commission drafted Regulation no 5/2008. Art. 5 of the regulation states that the designated persons are responsible for carrying tasks set out in the Law no. 656/2002 and the regulation and, in fulfilling their tasks, these persons have permanent and direct access to all records of the regulated entity drafted in compliance with the regulation and other legal provisions.</p> <p>NBR: NBR Regulation no.9/2008: “Art.23 – The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para(1) of Law 656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, by providing them in a timely manner the documents/information.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 6. (3) The persons referred to under paragraph (1) shall have direct and permanent access to the management of the relevant entity as well as to all relevant records prepared in line with the provisions laid down in these Regulations and in the relevant legislation.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions (G.D. no 594 / 2008) were already in force when Romanian authorities submitted the first progress report (2009). As regards the recommendations stipulated by the evaluators, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008. The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011.</p> <p>The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 14 of the Law no 656 / 2002 (<i>adding a new paragraph</i>):</p> <p>Art. 14 para (5) - <i>The persons designated in accordance with para. (1¹) and (2) will have direct and promptly access to relevant data and information necessary to fulfill the obligations under this law.</i></p> <p>NATIONAL BANK OF ROMANIA:</p> <p>The inspections performed by the National Bank of Romania assessed the proper application of the provisions of art.23 of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention. Accordingly, the inspection teams cross-examined the internal rules of financial institutions and the appointed compliance officers’ job descriptions to provide their access to the required information.</p> <p>According to art.23 from NBR Regulation no.9/2008:</p> <p>Art. 23. – <i>The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para(1) of Law</i></p>

	<p>656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, by providing them in a timely manner the documents/information.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>As we mentioned also in the first progress report, the recommendation was accordingly addressed for capital market sector. During on-site supervision, NSC inspectors have reviewed the policies drafted by regulated entities. The policies revealed that in fulfilling their tasks, compliance officers have permanent and direct access to all records of the regulated entity.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION -</p> <p>Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system</p> <p><i>Art.6 Legal person administrators/marketing agents are obliged to designate, by an internal document, one or several persons with responsibilities in enforcing the legal provisions on the prevention and combat of money laundering and terrorism financing acts, and their names will be communicated, in accordance with the form established by Government's Decision no. 594/2008, to the Commission and the National Office for Prevention and Control of Money Laundering, hereinafter "The Office", together with the nature and limits of the mentioned responsibilities.</i></p> <p><i>Art.7(4) The persons designated in accordance with art. 6 are responsible for completing the tasks established in the application of the Law no. 656/2002 and of the present norms. For the purpose of completing their tasks, these persons will have a direct and permanent access to all the records of the administrators/ marketing agents, in accordance with the provisions of the present norms and of the other incidental legal provisions.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Specific provisions on employee screening should be provided.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>LEGISLATIVE AMENDMENT</p> <p>Art. 14 para 3 of Law no. 656/2002, with subsequent modifications and completions – The persons provided for in para. 1 and 2 shall establish adequate know your customer, reporting, secondary and operative record keeping, internal control, risk evaluation and management, communication and conformity management policies and procedures, in order to prevent and deter money laundering and terrorism financing operations. These policies and procedures shall ensure high standards and an adequate selection in recruiting, the proper training and periodical verification, of the entity's personnel.</p> <p>Art. 30 para. 2 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities</p> <p>The internal control and/or internal audit shall assess periodically the efficiency of procedures and policy established including the professional level of the personnel, proposals for addressing the deficiencies and monitoring the modality of implementing the conclusions and proposals formulated.</p> <p>NSC: For capital market sector, the recommendation was implemented by N.S.C. Regulation no 5/2008 (art. 6 Para (1)). In this respect, regulated entities have the obligation to implement procedures for verification</p>

	<p>(screening) to ensure high standards when persons are hired. NBR: NBR Regulation no.9/2008: Art.24 – (1) Institutions shall impose high standards for the employment of the staff, inclusively regarding the reputation and honorability and to verify the information supplied by the candidates. (2) The institutions shall ensure the permanent training of the staff, in such a manner so the persons with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing to be adequately trained. The training program shall include information about the requirements of the legal framework in this field and also practical specific aspects, especially in order to enable the staff to recognize suspect transactions related to the money laundering and terrorism financing operations and also in order to adopt adequate measures. The staff will be periodically trained and tested in order to ensure the knowledge of its responsibilities and to ensure its up-dating with the latest developments in the field. ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market Art. 8. – Entities shall implement screening procedures to the purpose of ensuring high standards for their own personnel and for the natural/legal persons empowered to act on their behalf, when appropriate.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU) <i>Art. 14 para (1¹) of the Law no. 656 / 2002 - The persons referred to in the article 8 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. (...)</i> NATIONAL BANK OF ROMANIA Regarding the application of the provisions of art.24 of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention, the inspections carried out assessed the setting up by the financial institutions of definite AML/CFT training strategies and, furthermore, the consistency of the training subject matters, the frequency of the training sessions, the percentage of the staff trained and the subsequent testing of the instructed personnel were subject to verification. According to art.24 from NBR Regulation no.9/2008: Art. 24. – (1) <i>Institutions shall impose high standards for the employment of the staff, inclusively regarding the reputation and honorability and to verify the information supplied by the candidates.</i> (2) <i>The institutions shall ensure the permanent training of the staff, in such a manner so the persons with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing to be adequately trained. The training program shall include information about the requirements of the legal framework in this field and also practical specific aspects, especially in order to enable the staff to recognize suspect transactions related to the money laundering and terrorism financing operations and also in order to adopt adequate</i></p>

	<p><i>measures.</i></p> <p>The staff is periodically trained and tested in order to ensure the knowledge of its responsibilities and to ensure its up-dating with the latest developments in the field.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system - Art.8</p> <p>Legal person administrators/marketing agents must ensure the proper training of the personnel regarding the prevention and combat of money laundering and terrorism financing acts. (2) Legal person administrators/marketing agents shall communicate to all employees the policies and procedures established for the prevention and combat of money laundering and terrorism financing acts.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market:</p> <p><i>Art. 7. - (1) Entities shall ensure the training of their own personnel as well as of the personnel which provide services on a contract basis with respect to the prevention and control of money laundering and terrorism financing.</i></p> <p><i>(2) Training programmes shall ensure that the relevant persons:</i></p> <p><i>a) are aware of the laws, rules, regulations and procedures concerning the prevention and control of money laundering and terrorism financing;</i></p> <p><i>b) are competent enough to review in an adequate manner all transactions to the purpose of identifying money laundering and terrorism financing operations;</i></p> <p><i>c) are fully aware of reporting requirements.</i></p> <p><i>(3) Entities shall communicate to all the persons referred to in paragraph (1) the procedure concerning the prevention and control of money laundering and terrorism financing.</i></p> <p><i>Art. 8. – Entities shall implement screening procedures to the purpose of ensuring high standards for their own personnel and for the natural/legal persons empowered to act on their behalf, when appropriate.</i></p> <p>Note: These provisions were already in force by the time of the adoption of the first progress report. This measure is subject to the on-site inspection conducted by Insurance Supervisory Commission</p>
(Other) changes since the last evaluation	

Recommendation 16 (DNFBP)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>Improved outreach and guidance on STR needed for all DNFBP and especially for real estate agents and legal and accountancy professionals who are considered to be particularly vulnerable to ML/TF.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>One of the main objectives of the Twinning Project RO/2007-IB/05, within the Facility Transition, approved by the European Commission under the reference no. 2007/19343.01.14, is Objective 4 – Preparing guidelines and organizing training sessions for the financial and non-financial reporting entities, directly supervised for by the Office.</p> <p>Within the framework of this objective the goal is to carry out the following activities:</p> <p>4.1. Editing a Manual on risk based approach and suspicious transactions indicators for the reporting entities;</p> <p>4.2. Presenting and disseminating the Manual to different reporting entities, within the</p>

	<p>framework of six two-day training sessions, organized at territorial level;</p> <p>4.3. Organizing six two-day training sessions, at territorial level, for the independent legal professions</p> <p>UNNPR: Training sessions were organized regarding STRs for notaries; also, the drafting of certain guides on the occasion of re-analyzing the internal legislation shall be considered.</p> <p>UNBR: It was agreed Guidelines regarding Best Practices in the reporting phase.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The Romanian FIU developed new guidelines regarding risk based approach and training for personnel belonging to reporting entities, this objective being performed through elaboration and dissemination of the <i>Manual on risk based approach and indicators of suspicious transactions</i>, which represents a useful tool for the conformity activity of compliance officers within the reporting entities. The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (lawyers, expert accountants, financial auditors, NPOs, real estate agents, fiscal consultants, casinos, non-banking financial institutions, compliance officers within real estate agencies from Constanta, Galati, Brasov, Ilfov, Girgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office's website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area. Another important activity within this objective had as result the training of independent legal professions, reporting entities provided at the art. 8 letter f) from the Law no. 656/2002, as amended and completed, during 6 training seminars which were organized at territorial level, in Brasov, Timisoara, Iasi, Bucuresti, Constanta.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Awareness rising of some DNFBP about their vulnerability and/or appearance to be reluctant to report (lawyers, notaries, real estate agents, accountants).</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>It is necessary to make reference to the measures that NOPCML adopted for covering the vulnerable sectors, in order for them to comply with the AML/CTF provisions, previously described in the recommendation 13.II. which refer to:</p> <p>Following NOPCML initiative, during August 2009, several meetings with the independent legal professions associations took place, in order to update the existing cooperation protocols and to effectively implement them. We highlight the fact that these meetings took place, subsequent to the presentation on different occasions, of the recommendations afferent to these activity domains included in the MONEYVAL report, as well as to the NOPCML requests for updating the existing cooperation protocols and the pro-active discussions held within the framework of the training sessions, jointly organized by NOPCML and these association.</p> <p><u>Having regard that, during the meeting of NOPCML representatives with those of UNBR it was established that, by the implementation of the cooperation protocols, the following objectives to be aimed at:</u></p> <ul style="list-style-type: none"> -Taking into consideration the small number of STRs, raising the awareness of every lawyer in respect of the submission of the reports provided for by the Law no. 656/2002, with subsequent modifications and completions, is necessary; - In order to elaborate the secondary sectorial legislation, in the field of preventing and combating money laundering, a set of reporting, client identification and internal procedure Good Practices is necessary, and the Office's assistance was requested for

drawing up a set of norms which are to be consulted by all bars; the Good Practices set will be an Annex to the Additional Act for the modification of the Protocol;

- The possibility of using the on-line reporting system;
- Performing joint controls, by teams comprised of NOPCML and UNBR ascertaining agents, wherever necessary.

The meeting's Minute constitutes an Annex to the present questionnaire.

The following aspects have been established on the occasion of the meeting between the representatives of NOPCML and UNNPR:

- Taking into consideration the cooperation that exists between UNNPR and MoAI, in order to identify the persons that use the notaries' services and the fact that this aspect represents an important point in the specific procedure imposed by the Law no. 656/2002, with subsequent modifications and completions, in respect of client identification, it would be extremely useful for the secondary legislation to comprise the specific aspects on this subject:

- The continuation of the control actions carried out by UNNPR, in accordance with the Law no. 656/2002, with subsequent modifications and completions, and maintaining statistical data on this controls;
- The elaboration by UNNPR, in cooperation with NOPCML of the internal norms on preventing and combating money laundering and terrorism financing;
- The submission of Cash Transaction Reports in a specific form and NOPCML access to the updated database of UNNPR;
- The possibility to use the on-line reporting system;

The meeting's Minute constitutes an Annex to the present questionnaire.

Also, we highlight the fact that the Enforcement Norms of the cooperation protocol between NOPCML and UNNPR (concluded in 16.09.2004) have been updated.

Supplementary to the afore-mentioned facts, we would like to highlight the measures adopted by NOPCML in respect of raising the awareness of certain DNFPBs, as regards the fulfillment of AML/CTF obligations, respectively:

- Carrying out off-site supervision activities, for the identification of the vulnerable sectors, which present a high risk for money laundering and terrorism financing;

Results:

In 2008, the off-site supervision was performed on 7.295 reporting entities, respectively: *1.329 gambling operators, 990 real estate agents, 3.338 foundations, 1.638 commercial companies with accounting, financial audit, and fiscal consultancy line of business.* As a result of the off-site supervision and having regards to the good cooperation relations with the financial control authorities, the office requested the General Commissariat and the County Offices of the Financial Guard to carry out specialized on-site inspections, in the field of preventing and combating money laundering and terrorism acts, for 531 reporting entities, out of which 249 commercial companies are gambling operators, 153 foundations, 127 real estate agents, 2 *commercial companies with accounting, financial audit, and fiscal consultancy line of business.*

Also, during January – August 2009, a number of 2269 entities have been off-site supervised for, out of which 658 originate in financial sectors supervised for by NOPCML (FIU).

- The planning and unfolding of the controlling actions, that cover the high risk evaluated domains;

Results:

During 2008-2009, verification and control actions on the following non-financial institutions and independent legal professions:

- o Real estate agents: 120 controls
- o Accountants, auditors, experts and fiscal consultants: 160 controls;
- o Foundations: 63 controls (the findings of the controlling actions show that the majority of controlled foundations comply with the AML/CTF legal obligations, and serious deficiencies were not ascertained);

- o Gambling operators: 34 controls (Having regard to the recent coming into force of the new framework for the regulation and authorization of gambling operators, this sector will be totally controlled in the second semester of 2009, in accordance with the approved Action Plan;

The liberal legal professions (notaries and lawyers) have been comprised in the on-site supervision activity, for the second semester of 2009, based on the afore-mentioned Plan for carrying out the verification and control actions.

We highlight the fact that, during the period January – August 2009 alone, NOPCML performed a number of 318 controls on the regulated entities, 136 of which are in non-financial sectors, as follows:

Number of controlled entities	Main line of business
20	Foundations
84	Accounting, financial audit, and fiscal consultancy
3	Real estate developers
25	Buying and selling owned real estate goods
4	Letting of owned real estate goods

Note: The quantum of applied sanctions, subsequent to the 318 verification and control actions, reaches 1.180.000 RON (equivalent of 287.000 Euro, exchange rate 1 Euro = 4,1 RON), amount that exceeded the sanctions applied by NOPCML during its five out of six years of control activity. Also, although the on-site supervision activity depends on the personnel resources (in total 4 control teams), a considerable number of control actions have been carried out. In this context, we highlight the fact that NOPCML has well exceeded the number of control actions carried out in the previous years, fact that indicates the efficiency of the off-site and on-site supervision system adopted and implemented by the FIU, since 2006.

- The organization of a considerable number of training sessions, in this activity domains;

Year	Number of training sessions organized by NOPCML	Number of representatives from the reporting entities	Main line of business of the reporting entities
2008	31	13 categories of entities/1100 participants	Credit institutions Non-banking financial institutions Insurance and Re-insurance companies Financial Services Companies Casinos Exchange Houses Associations and foundations Money remittance services Public Notaries Lawyers Natural and legal persons that provide fiscal or accounting consultancy Accounting experts and authorized accountants Real estate agents

	Jan-Aug 2009	22	13 categories of entities /838 participants	<p>Insurance and Re-insurance companies/insurance brokers Non-banking financial institutions Real estate agents Credit institutions Financial Services investment Companies Casinos Private pension funds companies Lawyers Auditors Associations and foundations Money remittance services Public Notaries</p> <p>Note: on the occasion of these training sessions, Office's lecturers held presentation on the <u>legislative modifications in the field of preventing and combating money laundering and terrorism financing, introduced by the G.E.O. no. 53/2008 and by G.D. no. 594/2008, on the aspects related to the implementation of the international sanctions regime, on the supervision activity carried out by the National Office for Prevention and Control of Money Laundering, as well as case studies/typologies of money laundering and terrorism financing acts.</u></p> <p>After concluding the seminars, the participants filled in evaluation forms regarding the quality and utility of the information presented, as well as proposals for the improvement of these activities. In accordance with the evaluation forms, participants in the seminars have rated the information presented by the Office's representatives as being complete and well structured within the presentation. The information was to be disseminated to the collaborators within the companies.</p> <p>c. Providing a general feedback by NOPCML, to the reporting entities:</p> <ul style="list-style-type: none"> • Within the training sessions, by presenting certain typologies and case studies; • By publishing on the NOPCML website (www.onpcsb.ro) of certain presentation/information materials, in the field of preventing and combating money laundering and terrorism financing, as well as of typologies and case studies; • By presenting evolutions, indicators and typologies within the NOPCML annual activity reports, which are also published on the official site (www.onpcsb.ro). <p>UNNPR: At the level of the National Union of Civil Law Notaries of Romania (NUCLNR) at least 2 training sessions related to money laundering prevention and combating are organized each year. Notaries are among the reporting entities who, after the financial institutions, report the highest number of transactions.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU)</p> <p>Measures implemented (continuation of the ones detailed in the first progress report):</p> <ul style="list-style-type: none"> - Identification measures – off-site supervision; - Strategical measures – adoption and implementation of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (as a national risk assessment); - Targeted measures – on-site supervision performed in order to diminish the risks and vulnerabilities to ML / FT risks, mostly related to low level of compliance and reporting; - Guiding measures – training session, guidance and materials elaborated in order to increase the level of awareness and compliance of specific sectors (especially DNFBS). <p>In 2010, the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, was elaborated, as a coordination mechanism of policies in this</p>			

area, being approved by Decision of Supreme Council for State Defense, no. 72/ 2010. The Action Plan which comprises the necessary measures for implementation of the objectives and measures established within the strategy, with terms, responsible institutions and evaluation indicators for the measures which will be adopted, was approved through a Protocol on organization of cooperation for implementation of the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing, document signed in September 2010, by all authorities which are components of the national mechanism of prevention and combating money laundering and terrorism financing (thus being included specific measures for awareness rising of several activity sectors about their vulnerability to ML / FT risks)

From a different perspective, the FIU's specialists developed new guidelines regarding risk based approach and training for personnel belonging to reporting entities, In this respect, NOPCML elaborated and disseminated the Manual on risk based approach and indicators of suspicious transactions, which represents a useful tool for the conformity activity of compliance officers within the reporting entities.

The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (lawyers, expert accountants, financial auditors, real estate agents, fiscal consultants, casinos, non-banking financial institutions, NPOs, compliance officers within real estate agencies from Constanta, Galati, Brasov, Ilfov, Girgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office's website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area.

Another important activity within this objective had as result the training of independent legal professions, reporting entities provided at the art. 8 letter f) from the Law no. 656/2002, as amended and completed, during 6 training seminars which were organized at territorial level, in Brasov, Timisoara, Iasi, Bucuresti, Constanta. The total number of participants was of 170 notaries and lawyers, in an equal proportion.

OFF SITE SUPERVISION				
Main activity sectors supervised by the FIU Romania (S.C.D. – Supervision and Control Directorate)				
2011	MAINSET 2 SYSTEM			
	Transferred ¹ from NTRO	Included ² in MAINSET 2	HIGH RISK ³	Connected persons ⁴
TCSPs	3964	3363	496	1407
Real Estate	744	712	6	13
NPOs	212	212	(working process)	
Dealers of precious metals / stones	220	160	(working process)	
TOTAL	4708 + 432	4075 + 372	502	1420
2010	MAINSET SYSTEM			

TCSPs	8537
2009	MAINSET SYSTEM
NPOs	111
Accountants / auditors	418
NFIs	1611
TCSPs	129
2008	MAINSET SYSTEM
NPOs	3338
Accountants / auditors	1638
Gambling operators	1329
Real estate	990
TOTAL = 23.241 entities included in off site supervision	

¹ represents all the entities registered on this activity sector (BV / CT / SB / IS / TM / BUC)

² represents the number of entities which are effectively included in the supervising system (being excluded authored physical persons, entities with temporary business interruption, entities in insolvency, etc)

³ represents the number of entities which are included in High Risk Category (1st / 2nd / 3rd degree)

⁴ represents the number of connected entities (both legal and physical) which are supervised because of the connection with the initial supervised entities.

ON SITE SUPERVISION				
Main activity sectors controlled by the FIU Romania (S.C.D. – Supervision and Control Directorate)				
	2008	2009	2010	2011 ¹
NFIs	5	228	33	-
TCSPs	-	43	98	238
Real Estate	88	-	-	3
Money remitters	-	3	-	-
Casinos	-	-	16	-
Gambling operators	34	-	-	-
Accountants / auditors	76	84	8	-
NPOs	43	20	-	-
Others	-	14	6	1
TOTAL	246	392	161	242
SANCTIONS² (Fines applied by SCD)	275.000³	1.550.000	625.000⁴	1.585.000
TOTAL = 4.035.000				

	<p>¹ the statistics are referring to period until November 2011</p> <p>² the value of fines is represented in RON (1 EUR = approx. 4.3 RON)</p> <p>³ because of the limited resources of SCD, most of the sanctions were applied by the Financial Guard, at the request of the NOPCML (thus the low number of sanctions)</p> <p>⁴ in the second semester of 2010, all the financial analysts within SCD were involved in the process of elaborating and implementing the MAINSET 2 System</p>
Recommendation of the MONEYVAL Report	“Safe Harbour” provision should explicitly include directors, officers and employees (permanent and temporary).
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): PROPOSED LEGISLATIVE AMENDMENT: Art. 7 of the Law no. 656/2002, with subsequent modifications and completions: The application in good faith of the provisions of articles (3)-(5), by the natural and/or legal persons, including those provided for by art. 8, may not attract their disciplinary, civil or penal responsibility. (Please see the explanation in Recommendation 14)</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU) Art. 7 of the Law no. 656 / 2002 - <i>The application in good faith, by the natural and/or legal persons, of the provisions of articles (3)-(5) may not attract their disciplinary, civil or penal responsibility.</i> Thus, the provision covers all natural and legal persons (at the time of the third round evaluation, the provisions covered only the legal persons and persons designated in relation with the FIU).</p>
Recommendation of the MONEYVAL Report	<i>Disclosing to a third person that a STR has been filed to the Office should be explicitly prohibited.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): PROPOSED LEGISLATIVE AMENDMENT: Art. 18 para. 2 of the Law no. 656/2002, with subsequent modifications and completions The persons provided for by art. 8 and their employees are bound to the obligation not to transmit, outside their legal obligations, information held on money laundering and terrorism financing acts, and not to tip off the clients or third parties, in respect of the drawing up and submitting of a suspicious transaction report to the Office. Art. 33 para. 2 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities Having regard the art.18 of the law, it is forbidden to the regulated entities, to their representatives and personnel the warning of the customers involved and not to disclose, in any other modality, the fact that they sent or are going to send to the Office the information held, related to money laundering and financing of terrorism.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU) Art. 18 para (2) of the Law no. 656 / 2002 - <i>(2) The persons referred to in the Art. 8 and their employees must not transmit, except as provided by the law, the information related to money laundering and terrorism financing and, must not warn the customers about the notification sent to the Office.</i></p>
Recommendation of the MONEYVAL Report	<i>Requirement that the compliance officer should be designated at the management level.</i>

<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): PROPOSED LEGISLATIVE AMENDMENT: Art. 14 para 1 of the Law no. 656/2002, with subsequent modifications and completions The legal persons referred to in the article 8 (a)-(d) and (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f), shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities. Credit and financial institutions are obliged to designate a compliance officer, subordinated to the executive body of the legal person, who coordinates the implementation of the internal policies and procedures, for the application of the present law.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU) Art. 14 para (1¹) of the Law no. 656 / 2002 - <i>The persons referred to in the article 8 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. Credit institutions and financial institutions are obliged to designate a compliance officer, subordinated to the executive body, who coordinates the implementation of the internal policies and procedures, for the application of the present law.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Obligation to ensure the compliance officer direct and timely access to relevant data.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): PROPOSED LEGISLATIVE AMENDMENT: Art. 14 para 4 and 5 of the Law no. 656/2002, with subsequent modifications and completions (4)The persons designated in accordance with para 1 and 2 shall have a direct and in due time access to the relevant information and data. (5) The provisions of para 1, 3 and 4 are applicable to the natural and legal persons provided for by art. 8 lett. k), which market goods and/or services, only to the extent that they perform cash operations, in lei or foreign currency, whose minimum threshold represent the lei equivalent of 15.000 Euro, regardless of the fact that the transactions is carried out in one or several operations which seem to be linked to each other, as well as in the case of operations provided for in art. 3 Para. 1.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU) In this respect, considering the recommendations stipulated by the evaluators, a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008. The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber) on 22.11.2011. The amendment was approved by these Parliamentary Committees and by the Chamber of the Deputies, being subject for modification of art. 14 of the Law no 656 / 2002 (<i>adding a new paragraph</i>): Art. 14 para (5) - <i>The persons designated in accordance with par. (1¹) and (2) will have direct and promptly access to relevant data and information necessary to fulfill the obligations under this law."</i></p>

Recommendation of the MONEYVAL Report	<i>Provisions on employee screening for lawyers, notaries, accountants and public notaries.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	NOPCML (FIU): PROPOSED LEGISLATIVE AMENDMENT: Art. 14 para 3 of the Law no. 656/2002, with subsequent modifications and completions The persons provided for in para. 1 and 2 shall establish adequate know your customer, reporting, secondary and operative record keeping, internal control, risk evaluation and management, communication and conformity management policies and procedures, in order to prevent and deter money laundering and terrorism financing operations. These policies and procedures shall ensure high standards and an adequate selection in recruiting, the proper training and periodical verification, of the entity's personnel.
Measures taken to implement the recommendations since the adoption of the first progress report	NOPCML (FIU) Art. 14 para (1 ¹) of the Law no. 656 / 2002 - <i>The persons referred to in the article 8 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. Credit institutions and financial institutions are obliged to designate a compliance officer, subordinated to the executive body, who coordinates the implementation of the internal policies and procedures, for the application of the present law.</i>
Recommendation of the MONEYVAL Report	<i>DNFBP should be required to pay special attention to transactions with countries which do not or do not adequately implement the FATF Recommendations.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	NOPCML (FIU): Art. 18 para 5 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 When the European Commission adopts a decision stating that a third state do not fulfill the requirements provided for by the para (4) (b) (c) and (d), the persons referred to in article 8 and their employees are obliged not to transmit to this state or to institutions or persons from this state, the information held related to money laundering and terrorism. Art. 6 para. 6 of GD no. 594/2008 The persons provided for in the article 8 of the Law no. 656/2002 shall not use for accomplishing the customer due diligence requirements provided for in the art. 5 para (1) letter a) – c) of this Regulation the customer due diligence measures applied by a third party from a third country, on which the European Commission adopted a decision in this purpose. Art. 12 para. 5 of GD no. 594/2008 The persons referred to in article 8 of Law no. 656/2002 shall pay a enhanced attention to the transactions and procedures which, by their nature, may favor anonymity or which may be linked with money laundering or terrorism financing Art. 16 para. 2 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities The regulated entities have to refuse to start correspondent relationships or to continue this kind of relationships with other entities that are incorporated in other jurisdictions,

	where these ones have not a physical presence, respectively the activity's management and the records/books of the institution are not located in that jurisdiction, and to pay a special attention when it continues the correspondent relationships with an entity located in another jurisdiction, in which there are not legal requirements on due diligence or the jurisdiction has been identified as non-cooperative in combating money laundering and terrorist financing.
Measures taken to implement the recommendations since the adoption of the first progress report	NOPCML (FIU) The above mentioned legal provisions were already in force when Romanian authorities submitted the first progress report (2009). The Manual on risk based approach and indicators of suspicious transactions, elaborated in 2010, includes information about <i>countries assessed with deficiencies in the anti-money laundering and countering terrorism financing regime and countries subject to ICRG list, including also the NCCTs list.</i>
(Other) changes since the last evaluation	The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010) includes measures in this respect.

Recommendation 17 (Sanctions)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>To consider whether to increase fines to have a dissuasive effect.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): PROPOSED LEGISLATIVE AMENDMENT: Art. 22 para 1 lett. b of the Law no. 656/2002, with subsequent modifications and completions: (1) The following deeds shall be deemed as contraventions: b) failure to comply with the obligations referred to in art. 3 para. 2 third thesis, art. 5 para. (2), art. 8¹, art. 8², art. 9, art. 9¹, art. 9², art. 12, art. 12¹ para. (1), art. 13 - 15 and in art. 17. NOPCML put into practice, within the control actions carried out, the principle of proportionality between the seriousness of the deed and the applied sanction. Furthermore, in 2008 it was issued within the NOPCML the Presidential Order no 13, being approved the form and the content of the written record for the findings and sanctions applied during the controlling activities. NSC: Statistics confirms that the recommendation was accordingly addressed in the capital market sector. Thus, the number and also the level of fines imposed by the National Securities Commission, as a result of non-observation of AML/CFT provisions, increased significantly, as follows:</p> <ul style="list-style-type: none"> • 2007: 34 fines (total amount of 67.000 RON) • 2008: 43 fines (total amount of 90.000 RON) • 2009/first semester: 25 fines (total amount of 821.279,2 RON (1 Euro ~ 4 RON) <p>CSSPP: The fines are provided for by the primary laws in the Romanian private pension system, as well as by the Law no. 656/2002 on the prevention and sanctioning of money laundering. FINANCIAL GUARD (FG): According to the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up of certain measures for the prevention and combat of terrorism acts: Art. 17, para (1) lett. b) "Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law, verifies and controls, within its professional attributions, the compliance with the provisions of the present law", by applying contravention fines within the</p>

	limits provided for below.
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: The NBR applies the amount of fines imposed as provided by law. Legislative amendments that would involve changing the amount of fines do not fall within the competence of the NBR.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION: After the adoption of the first progress report, the Romanian National Securities Commission has continued to apply appropriate and dissuasive fines (and other sanctions) for non-observation of AML/CFT provisions. Detailed statistics are provided in the table with administrative sanctions.</p> <p>INSURANCE SUPERVISORY COMMISSION: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market: <i>Art. 30. – Breaching of the provisions laid down in these Regulations shall be deemed contravention and shall be sanctioned in accordance with the provisions set out in art. 39 of Law no. 32/2000 on insurance undertakings and insurance supervision, with subsequent amendments and completions.</i> <i>Art. 31. – These Regulations shall be rightfully supplemented with the other provisions laid down in the legislation concerning money laundering and terrorism financing.</i> According to art.39 of Law no. 32/2000 on insurance undertakings and insurance supervision, sanctions could be as follows: - written warning; - limitation of operations; - fine; - suspension or temporary or definitive, partial or total, forbidding for the insurance/reinsurers to carry on insurance/reinsurance business for one or more categories of insurances and for the insurance/reinsurance brokers temporary or definitive forbidding of the business; - annulment of the approval of the significant persons; - withdrawal of authorization of the insurers, reinsurers or insurance and/or reinsurance brokers.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION - Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system. According to Norm no 9/2009, failure in applying AML/CTF measures is sanctioned depending to the severity with warnings, fines, up to withdrawal of the administrator/ marketing agent authorization.</p> <p>FINANCIAL GUARD: The fines foreseen in the Law 656/2002 for prevention and sanctioning money laundering, as well as for setting up certain measures for prevention and combating financing of terrorism acts, consequently amended and completed, have the projected dissuasive effect: In compliance with art. 17, para (1) lett. b) “<i>Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law, verifies and controls, within its professional attributions, the compliance with the provisions of the present law</i>”, by applying contravention fines within the limits provided for below.</p> <p>NOPCML (FIU) As regards the proposed measure (legislative) assumed by the Romanian authorities (in 2009), a new legislative amendment was introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008. The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and</p>

	<p>Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber). The amendment was assumed by the Parliamentary Committees and by the Chamber of the Deputies, being the subject for modification of art. 22 para (1) let. b) of the Law no 656 / 2002:</p> <p>Art. 22 para (1) let. b) - failure to comply with the obligations referred to in art. 3 para (2) 3rd thesis, art. 5 para. (2), art. 8¹, 8², 9, 9¹, 9², art. 12¹ para. (1), art. 13-15 and art. 17.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>All supervisory bodies should consider greater utilization of proportionate sanctions to raise compliance amongst poor performing and high risk sectors.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>The Office carried out, in 2008, on-site inspection (control actions at the premises of the reporting entity) on a number of 246 reporting entities (financial institutions outside the banking system, gambling operators, commercial companies that have as line of business accounting, financial audit and consultancy in fiscal matters, foundations, real estate agents). Based on the legal provisions in the field, following this on-site inspections, during 2008, contravention sanctions for not-complying with the legislation in the field of preventing and combating money laundering and terrorism financing acts, reaching a total amount of 275.000RON (approx.76.000 Euro) have been applied. Also, 128 warnings have been applied.</p> <p>At the same time, we highlight the fact that during January – August 2009 alone, NOPCML performed a number of 318 controls to the regulated entities, and the quantum of applied sanctions reached 1.180.000 RON (equivalent of 287.000 Euro, rate exchange 1 Euro = 4.1 RON), amount that exceeded the quantum of sanctions applied by NOPCML in five out of its six years of control activity.</p> <p>We highlight the fact that for establishing the main sectors towards which the Office must intensify its supervision and control, the recommendations of the Moneyval experts have been taken into consideration. This recommendation identified as being vulnerable for the risk of money laundering and terrorism financing, the non-profit organizations, real estate agents and commercial companies that have as line of business accounting, financial audit and consultancy in the fiscal field.</p> <p>Taking into account the identified vulnerabilities, the number of on-site inspections increased in the first semester of 2009 in comparison to the entire year of 2008 (318 to 246).</p> <p>Also, during the first half of this year the on-site supervision activity of the real estate agents, another sector vulnerable for the risk of money laundering and terrorism financing, intensified. Thus, during the mentioned period, 129 real estate agents were the subjects of on-site inspections, in comparison to the 32 entities controlled during 2008.</p> <p>An increased attention was paid to the natural and legal persons that provide accounting and fiscal consultancy. Thus, during the first semester of 2009, 84 companies that have as line of business accounting, financial audit and fiscal consultancy have been the subject of on-site inspections, in comparison with the 76 controlled entities in 2008.</p> <p>Having regard at the findings of the debates between the NOPCML representatives and those of the National bank of Romania on the delimitation of supervision framework in respect of non-banking financial institutions, the Office started an unprecedented action, in which the level of compliance with the application of customer due diligence measures, has been particularly verified.</p> <p>We highlight the fact that these control actions have been carried out on all off-site supervised entities that presented risk towards money laundering and</p>

	<p>terrorism financing, by not complying with the legal AML/CFT obligations. During Jan – Aug 2009, most of the Non-financial institutions supervised for by the Office have already been controlled, and in the following period of time other control actions were planned. Also, NOPCML verification and control actions resulted in a high number of sanctions and a considerable level of non-compliance with the AML/CFT provisions and obligations was registered.</p>
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Statistical data on the off-site and on-site supervision activities,
carried out by the NOPCML, during 2008 – 2009

Year	Off-site supervision actions carried out by NOPCML	Number of Control carried out by NOPCML	Number of Entities Controlled by NOPCML	Main line of business	Applied Sanctions
2008	1.329	246	34	Gambling operators	275.000 RON (approximately 76.000 Euro). Also, 128 warnings have been applied.
	1.638		76	Accounting, financial audit and fiscal consultancy	
	3.338		43	Foundations	
	990		88	Real estate agents	
	-		3	Currency exchange offices	
	-		2	Non-banking financial institutions	
Jan-Aug 2009	111	318	20	Foundations	1.180.000 RON (approximately 287.000 Euro) Also, 29 warnings have been applied.
	418		84	Accounting, financial audit and fiscal consultancy	
	6		3	Real estate developers	
	114		25	Buying and Selling owned real estate	
	9		4	Renting owned real estate	
	1.611		179	Non-banking financial institutions	
-	3	Money remittance service providers			
TOTAL	9.564	564			1.455.000 RON (approximately 363.000 Euro)

At the same time, we highlight the fact that the main types of contraventions in AML/CFT field, identified to the supervised reporting entities, during the reference period, by NOPCML control teams, are presented below:

Sanctions applied in 2008									
Nr. Crt	Reporting entity	Art. 14 of the Law no. 656/2002, with subsequent modifications and completions		Art. 3 para. 6 of the Law no. 656/2002, with subsequent modifications and completions		Art. 9 of the Law no. 656/2002, with subsequent modifications and completions		Recommendations	Compliance with AML obligations
		Warnings	Fines	Warnings	Fines	Warnings	Fines		
1	NPOs	approx. 90%	approx. 2.5%	-	approx. 2.5%	-	-	-	approx. 5%
2	Accounting, financial audit and fiscal consultancy	approx. 30%	-	-	-	-	-	-	approx. 70%
3	Gambling operators	approx. 50%	approx. 14%	-	approx. 12%	Art. 13 approx. 29%		-	approx. 12%
						approx. 15%	approx. 3%		
4	Real estate agents	approx. 44%	approx. 5%	-	approx. 29%	-	-	-	approx. 35%
5	Non-banking financial institutions	-	approx. 40%	-	approx. 60%	-	-	-	-

Sanctions applied during the period Jan-Aug 2009								
Reporting entity	Art. 14 of the Law no. 656/2002, with subsequent modifications and completions		Art. 3 para. 6 of the Law no. 656/2002, with subsequent modifications and completions		Art. 9 of the Law no. 656/2002, with subsequent modifications and completions		Recommendations	Compliance with AML obligations
	Warnings	Fines	Warnings	Fines	Warnings	Fines		
Foundations	-	-	-	-	-	-	approx. 90%	approx. 10%
Accounting, expert accounting and fiscal consultancy	approx. 9%	-	-	approx. 3%	-	-	approx. 73% (*some recommendations were applied together with fines/warnings)	approx. 16%
Money remitters service providers	-	-	-	approx. 30%	-	-	-	approx. 70%
Renting owned real estate	-	50%	-	-	-	-	-	50%
Buying and selling owned real estate	-	approx. 14%	-	-	-	-	-	approx. 86%
Real estate developers	-	-	-	approx. 70%	-	-	-	approx. 30%
Non-banking financial institutions	approx. 11%	approx. 26%	-	approx. 9%	approx. 3%	approx. 3%	approx. 70% (**some recommendations were applied together with fines/warnings)	approx. 54%

Note: The main ascertained contraventions are::

- Art. 3 para. 6 of the Law no. 656/2002, with subsequent modifications and completions: „The persons provided in the article 8 or the persons designated accordingly to the article 14 para (1) shall report to the Office, within 10 working days, the carrying out of the operations with sums in cash, in RON or foreign currency, whose minimum threshold represents the equivalent in RON of 15,000EUR, indifferent if the transaction is performed through one or more operations that seem to be linked to each other.”

- Art. 9 of the Law no. 656/2002, with subsequent modifications and completions:

(1) The persons referred to in the article 8 are obliged to apply standard customer due diligence measures in the following situations:

- a) when establishing a business relationship;
- b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
- c) when there are suspicions that the transaction is intended for money laundering or terrorist financing, regardless of the derogation on the obligation to apply standard customer due diligence measures, provided by the present law, and the amount involved in the transaction;
- d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.
- e) when purchasing or exchanging casino chips with a minimum value, in equivalent RON, of 2000 EUR.

(2) When the sum is not known in the moment of accepting the transaction , the natural or legal person obliged to establish the identity of the customers shall proceed to their rapid identification, when it is informed about the value of the transaction and when it established that the minimum limit provided for in para (1) (b) was reached.

(3) The persons referred to in the article 8 are obliged to ensure the application of the provisions of the present law to external activities or the ones carried about by agents.

(4) Credit institutions and financial institutions must apply customer due diligence and record keeping measures to all their branches from third countries, and these must be equivalent at least with those provided for in the present law.

- Art. 13 of the Law no. 656/2002, with subsequent modifications and completions:

(1) In every situation in which the identity is required according to the provisions of the present law, the legal or natural person provided for in the Art. 8, who has the obligation to identify the customer, shall keep a copy of the document, as an identity proof, or identity references, for a five-year period, starting with the date when the relationship with the client comes to an end.

(2) The persons provided for in the Art. 8 shall keep the secondary or operative records and the registrations of all financial operations that are the object of the present law, for a five-year period after performing each operation, in an adequate form, in order to be used as evidence in justice.

- Art. 14 of the Law no. 656/2002, with subsequent modifications and completions:

(1) The legal persons provided for in the Art. 8 shall design one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities.

(1¹) The persons referred to in the article 8 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. Credit institutions and financial institutions are obliged to designate a compliance officer, subordinated to the executive body, who coordinates the implementation of the internal policies and procedures, for the application of the present law.

(2) The persons designated according to para (1) and (1¹) shall be responsible for fulfilling the tasks established for the enforcement of this Law.

(3) The provisions of para (1), (1 index 1) and (2) are not applicable for the natural and legal persons provided by article 8 para (k).

(4) Credit and financial institutions must inform all their branches in third states about the policies and procedures established accordingly with para (1¹).

NSC: As we stated above, statistics confirms that the recommendation was accordingly addressed in the capital market sector.

Sanction applied by NSC, as a result of non-observation of AML/CFT provisions	2007	2008	2009 (first semester)
Written Warning	18	13	5
Fines	34 (total amount of 67.000 RON)	43 (total amount of 90.000 RON)	25 (total amount of 821.279,2 RON)
Suspension of authorizations	-	1	-
Withdrawal of authorization	-	2	6
Temporary interdictions to perform activities	-	2	6
TOTAL	52	61	42

CSSPP: The sanctions apply in accordance to the Norms CSSPP no. 9 regarding the customer acknowledgement for the purpose money laundering and terrorist financing and the Law no. 656/2002 on the prevention and sanctioning of money laundering.

NBR: NBR Regulation no.9/2008:

Art.25 – For the purpose of eliminating the deficiencies noticed and their causes, National Bank of Romania may impose the following measures:

a) requesting the modification of know-your-customer norms mentioned in Chapter II;

b) imposing the obligation to apply standard due diligence measures for the products, operations and/or customers framed by that institution know-your-

customer norms in low risk category and for which it is applicable simplified due diligence measures or/and imposing the obligation to apply enhanced due diligence measures for the products, operations and/or for which it is applicable standard due diligence measures;

c) requesting the replacement of the persons responsible for the occurrence of the deficiencies noticed.

Art.26 – (1) Infringement of the provisions of the present regulation and non-observance of the measures imposed by National Bank of Romania represent contraventions and are sanctioned with fines mentioned by art.22 para (2) last thesis of Law 656/2002.

(2) The provisions of art.22 para(3)-(5) of Law 656/2002 are accordingly applicable.

(3) The measures established according to art 25 are applied distinctly or together with the sanctions mentioned in para1) and para (2) of this article.

FG:Statistical data on information exchange with NOPCML and on the fines applied in accordance with the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and sanctioning of terrorism financing acts:

<i>Indicator</i>	<i>Year</i>	<i>Level</i>	<i>Counting unit</i>
Number of controls carried out based on the requests from NOPCML	2008	FG – General Commissariat and County units	473
	2009		653
Number of notification sent to NOPCML	2008	FG – General Commissariat and County units	79
	2009		76
Fines applied in accordance with the Law no. 656/2002	2009	FG – General Commissariat	20
		Ascertained amount = 285000 lei Transferred amount= 149000 lei	

Measures taken to implement the recommendations since the adoption of the first progress report

**SUPERVISION AUTHORITIES (AML / CTF)
The value ¹ of fines applied for breaching AML obligations**

	2010	2011	TOTAL
NOPCML (FIU)	625.000	1.585.000	2.210.000
NBR	155.000	20.000	175.000
NSC ²	85.800	25.500	113.300
ISC ²	350.000	227.500	577.000

PPSSC	-	-	-
SROs	-	-	-
TOTAL	1.215.000	1.877.500	3.075.300
Other authorities ³ (Financial Guard)	1.704.520	1.112.000	2.816.520
			5.891.820

¹ the value of the fines is represented in RON (1 EUR = approx. 4.3 RON)

² the fines mentioned include AML/CFT infringements ascertained alongside with other breaches.

³ many of the sanctions applied by the Financial Guard were based on the notifications submitted by the FIU

NOPCML (FIU)

ON SITE SUPERVISION			
Main activity sectors controlled by FIU (S.C.D. – Supervision and Control Directorate)			
	2009¹	2010	2011
NFIs non-banking financial institutions	50	33	-
Service providers (TCSPs)	5	98	238
Real Estate	-	-	3
Casinos	-	16	-
Accountants	-	8	-
Others	12	8	1
TOTAL	67	163	242
		472	

* the statistics are referring to period September 2009 – November 2011

ON SITE SUPERVISION			
Sanctions applied by the FIU (S.C.D. – Supervision and Control Directorate)			
	2009¹	2010	2011
Controlled entities	67	163	242

Sanctioned entities	27	69	181
Sanctions (overall)	32	73	221
Fines	19	39	93
Warnings (with fines)	2	1	40
Warnings (as a single sanction)	11	33	88
Value of fines	340.000	625.000	1.585.000
TOTAL	<ul style="list-style-type: none"> ⇒ 472 controlled entities ⇒ 132 warnings (as a single sanction) ⇒ 151 fines ⇒ Aggregate value of fines: 2.550.000 ² 		

¹ the statistics are referring to period September 2009 – November 2011

² the value of fines in represented in RON (1 EUR = approx. 4.3 RON)

ON SITE SUPERVISION				
Main activity sectors controlled by FIU (S.C.D. – Supervision and Control Directorate)				
	2008	2009	2010	2011 ¹
NFIs	5	228	33	-
TCSPs	-	43	98	238
Real Estate	88	-	-	3
Money remitters	-	3	-	-
Casinos	-	-	16	-
Gambling operators	34	-	-	-
Accountants / auditors	76	84	8	-
NPOs	43	20	-	-
Others	-	14	6	1
TOTAL	246	392	161	242
SANCTIONS ² (Fines applied by SCD)	275.000³	1.550.000	625.000⁴	1.585.000
TOTAL = 4.035.000				

¹ the statistics are referring to period January - November 2011

² the value of fines in represented in RON (1 EUR = approx. 4.3 RON)

³ because of the limited resources of SCD, most of the sanctions were applied by the

*Financial Guard, at the request of the NOPCML (thus the low number of sanctions)
⁴ in the second semester of 2010, all the financial analysts within SCD were involved in the process of elaborating and implementing the MAINSET 2 System*

NATIONAL BANK OF ROMANIA

As a result of the inspection actions, based on the found deficiencies, the NBR had taken the required legislative measures in close correlation with the severity and the amount of the identified deficiencies. We restate that the NBR's main concern is to ensure that the supervised entities have in place norms and procedures, systems and informational flows so that the risk of non-compliance with the legal terms in force to be as reduced as possible.

ROMANIAN NATIONAL SECURITIES COMMISSION

After the adoption of the first progress report, Romanian National Securities Commission has continued to apply appropriate and dissuasive sanctions for non-observation of AML/CFT provisions.

As a result of the sanctions applied in 2008-2010 (written warnings, fines, suspension / withdrawal of the authorization and temporary interdictions to perform activities) the inspections performed by NSC demonstrated that the level of compliance increased significantly in 2010-2011. Detailed statistics are provided in the table with administrative sanctions.

INSURANCE SUPERVISORY COMMISSION

Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market:

Art. 30. – Breaching of the provisions laid down in these Regulations shall be deemed contravention and shall be sanctioned in accordance with the provisions set out in art. 39 of Law no. 32/2000 on insurance undertakings and insurance supervision, with subsequent amendments and completions.

Art. 31. – These Regulations shall be rightfully supplemented with the other provisions laid down in the legislation concerning money laundering and terrorism financing.

According to art.39 of Law no. 32/2000 on insurance undertakings and insurance supervision, sanctions could be as follows:

- written warning;
- limitation of operations;
- fine;
- suspension or temporary or definitive, partial or total, forbidding for the insurance/reinsurers to carry on insurance/reinsurance business for one or more categories of insurances and for the insurance/reinsurance brokers temporary or definitive forbidding of the business;
- annulment of the approval of the significant persons;
- withdrawal of authorization of the insurers, reinsurers or insurance and/or reinsurance brokers

Statistics are provided in the table with administrative sanctions

FINANCIAL GUARD

The statistic data regarding the exchange of information with NOPCML and the applied fines according to the Law 656/2002 for prevention and repression of money laundering, as well as for the imposing of certain steps on the prevention and repression of financing of terrorism acts are relevant to show the commitment to combat ML

Indicator	Year	
<i>Number of on-the-spot controls at the request of NOPCML</i>	<i>2010</i>	374
	<i>Jan.- Sept. 2011</i>	291
<i>Number of requests transmitted to NOPCML</i>	<i>2010</i>	74
	<i>Jan.- Sept. 2011</i>	69

	<table border="1"> <tr> <td rowspan="2"><i>Number of fines applied according to the Law 656/2002</i></td> <td><i>2010</i></td> <td><i>163</i></td> </tr> <tr> <td><i>Jan.- Sept. 2011</i></td> <td><i>69</i></td> </tr> <tr> <td rowspan="2"><i>Value of the fines applied according to the Law 656/2002</i></td> <td><i>2010</i></td> <td><i>1.704.520 Ron</i></td> </tr> <tr> <td><i>Jan.- Sept. 2011</i></td> <td><i>1.112.000 Ron</i></td> </tr> </table>	<i>Number of fines applied according to the Law 656/2002</i>	<i>2010</i>	<i>163</i>	<i>Jan.- Sept. 2011</i>	<i>69</i>	<i>Value of the fines applied according to the Law 656/2002</i>	<i>2010</i>	<i>1.704.520 Ron</i>	<i>Jan.- Sept. 2011</i>	<i>1.112.000 Ron</i>
<i>Number of fines applied according to the Law 656/2002</i>	<i>2010</i>		<i>163</i>								
	<i>Jan.- Sept. 2011</i>	<i>69</i>									
<i>Value of the fines applied according to the Law 656/2002</i>	<i>2010</i>	<i>1.704.520 Ron</i>									
	<i>Jan.- Sept. 2011</i>	<i>1.112.000 Ron</i>									
	*1 Euro = approx. 4.3. Ron										
Recommendation of the MONEYVAL Report	<i>Romanian authorities should consider a clear channel for publicly communicating all sanctions to increase the dissuasive effect.</i>										
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>The communication means established by NOPCML in order to make publicly the sanctions applied within the verification and control actions, in order to increase the dissuasive effect, is represented by the publication in the NOPCML Annual Activity Report, in a special section, of the categories of on-site supervised entities, the geographical area they belong to, the quantum of applied fines and other measures adopted within the control activity. The activity reports of NOPCML are made public on the institution's official website www.onpcsb.ro.</p> <p>At the same time, NOPCML is currently analyzing the specific publication modalities on the website www.onpcsb.ro of the sanctions applied subsequent to the control actions performed by the institution, in order to complete the measures taken by other supervision authorities in Romania.</p> <p><small>NSC:</small> Although the conclusion is not relevant for capital market sector, it is important to mention that according to the NSC Statute approved by G.E.O. no. 25/2002, adopted and amended by Law no. 514/2002 and Law nr.297/2004, NSC edit and publish a bulletin which is official publication of the institution, the documents published in this newsletter (including sanctions) being public to third parties. In this way, NSC has a public channel for sanctions communication.</p> <p>UNNPR: The normative documents establishing the sanctions are brought to the knowledge of all notaries public and published in the magazines of the institution.</p> <p>CSSPP: The sanctions imposed by CSSPP are published in accordance to the legal provisions.</p> <p>FG: The annual activity reports of Financial Guard comprise detailed descriptions and statistical data on the acts and deeds ascertained and sanctioned by control bodies of the Financial Guard, including those related to preventing and combating money laundering and terrorism financing; these annual reports represent a transparency and publicity channel for the activity carried out by the institution.</p>										
Measures taken to implement the recommendations since the adoption of the first progress report	<p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>Romanian National Securities Commission maintained the policy of transparency in the area of publishing the decisions adopted by the Commission.</p> <p>Sanctions applied by NSC for AML/CFT non-compliance in the period 2009-2011 are published on the NSC Bulletin and on the website of the Commission.</p> <p>According to the market participants (discussions during on-site inspections and training seminars for regulated entities) it was concluded that the publication of the sanctions has proved to be a useful tool for regulated entities, in order to increase the level of AML/CFT compliance.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>Sanctions regarding withdrawal of license, withdrawal of approval granted to the significant persons or interdictions to carrying on activity are published in the Official Gazette and the ISC website.</p> <p>NATIONAL BANK OF ROMANIA: The National Bank of Romania</p>										

	<p>publishes periodically statistical data regarding the supervision activity and the sanctions applied to the supervised entities in the field of AML/CFT.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>The Romanian Private Pension System Supervisory Commission maintained the policy of transparency in the area of publishing the decisions adopted by the Commission.</p> <p>Sanctions applied by CSSPP for non-compliance obligations established through law, in the period 2009-2011 are published on the website of the Commission.</p> <p>NOPCML (FIU)</p> <p>The Board Decision no. 496 of July 11, 2006 for the approval of the Norms for Prevention and Combating Money Laundering and terrorism financing, the standards for know your customer and of internal control for the reporting entities which do not have overseeing prudential supervision of authorities was consequently completed by Decision no. 778/01.09.2009 (published in the Official Gazette no. 686/13.10.2009).</p> <p>The new inserted article stipulates that <i>the Office publishes quarterly on its website, enforceable sanctions imposed to the reporting entities under Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for setting up certain measures for prevention and combating terrorism financing acts, approved by Governmental Decision no. 594/2008.</i></p>
(Other) changes since the last evaluation	Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for setting up certain measures for prevention and combating terrorism financing acts, approved by Governmental Decision no. 594/2008 and amended by G.D.1100/2011.

Recommendation 21 (Special attention for higher risk countries)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>Sufficient requirements to give special attention to business relationships and transactions with persons from countries which do not or insufficiently apply FATF Recommendations should be developed.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>Art. 18 para. 5 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>(5) When the European Commission adopts a decision stating that a third state do not fulfill the requirements provided for by the para (4) (b) (c) and (d), the persons referred to in article 8 and their employees are obliged not to transmit to this state or to institutions or persons from this state, the information held related to money laundering and terrorism financing</p> <p>Art. 6 para. 6 of GD no. 594/2008</p> <p>The persons provided for in the article 8 of the Law no. 656/2002 shall not use for accomplishing the customer due diligence requirements provided for in the art. 5 para (1) letter a) – c) of this Regulation the customer due diligence measures applied by a third party from a third country, on which the European Commission adopted a decision in this purpose.</p> <p>Art. 12 para. 5 of GD no. 594/2008</p> <p>The persons referred to in article 8 of Law no. 656/2002 shall pay a enhanced attention to the transactions and procedures which, by their nature, may favor anonymity or which may be linked with money laundering or terrorism financing.</p> <p>Art. 16 para. 2 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities,</p>

	<p>which do not have overseeing authorities</p> <p>The regulated entities have to refuse to start correspondent relationships or to continue this kind of relationships with other entities that are incorporated in other jurisdictions, where these ones have not a physical presence, respectively the activity's management and the records/books of the institution are not located in that jurisdiction, and to pay a special attention when it continues the correspondent relationships with an entity located in another jurisdiction, in which there are not legal requirements on due diligence or the jurisdiction has been identified as non-cooperative in combating money laundering and terrorist financing.</p> <p>CSSPP: The Norms CSSPP no. 9/2009 regarding the customer acknowledgement for the purpose money laundering and terrorist financing in the private pension system provides for special attention to business relationships and transactions with persons from countries which do not or insufficiently apply FATF.</p> <p>NBR: NBR Regulation no.9/2008:</p> <p>Art.5 – (1) Institutions establish through their know-your-customer norms, procedures and measures that have to be implemented for the compliance with Law 656/2002, Government Decision no.594/2008 and this regulation, so as to be able to satisfy the National Bank of Romania that they efficiently administrate the risk of money laundering or terrorism financing.</p> <p>(2) For the purpose of para.(1), know-your-customer norms shall include, at least, the following elements:</p> <p>e) procedures of conducting the transactions and relation with customers in and/or from the jurisdictions that not impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in Law no. 656/2002 and Government Decision 594/2008, and in which the enforcement of these is not supervised in a manner equivalent with that regulated by the Law no. 656/2002 and Government Decision 594/2008.</p> <p>Art. 12 –The institutions shall apply more extensive customer due diligence in the case of customers and transactions in and/or from jurisdictions which does not impose implementation of requirements regarding know-your-customers and record keeping equivalent to those laid down in Law no.656/2002, Government Decision no.594/2008 and this regulation and in which their are not supervised for compliance with those requirements.”</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 23. - (1) Entities shall monitor more closely the business relationships and the transactions with persons based in jurisdictions which do not have in place adequate systems to prevent and control money laundering and terrorism financing.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>The above mentioned legal provisions were already in force when Romanian authorities submitted the first progress report (2009).</p> <ul style="list-style-type: none"> - Based on the Common Understanding of the EU Member States, adopted on June 15, 2011, by the Committee for Prevention of Money Laundering and Terrorism Financing of the European Commission, the Government of Romania adopted the Decision no. 885/2011 on amending the List of equivalent third countries. The list was previously approved by the Government Decision no. 1.437/2008. - The Manual on risk based approach and indicators of suspicious transactions, elaborated in 2010, includes information about <i>countries assessed with deficiencies in the anti-money laundering and countering terrorism financing regime and countries subject to ICRG list, including also the NCCTs list.</i>

- On the same time, the FIU Romania informs all other supervisory authorities about the issuance of FATF/ICRG Public Statements in this respect. The FIU has a specific section “International Measures” on its official website where these documents are published, in Romanian and English versions.

NATIONAL BANK OF ROMANIA:

The inspection activities are assessing the practical implementation of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention, regarding how financial institutions deal with the transactions and customer relationships in and/or from jurisdictions that do not apply measures equivalent to those provided by Law no.656/2002, with subsequent modifications and completions, and by the implementing regulations. The examiners make sure that the institutions have set up procedures for such situations and that their approach is to apply measures of increased vigilance in these circumstances.

According to NBR Regulation no.9/2008:

Art. 5. – (1) Institutions establish through their know-your-customer norms, procedures and measures that have to be implemented for the compliance with Law 656/2002, Government Decision no.594/2008 and this regulation, so as to be able to satisfy the National Bank of Romania that they efficiently administrate the risk of money laundering or terrorism financing.

(2) For the purpose of para.(1), know-your-customer norms shall include, at least, the following elements:

e) procedures of conducting the transactions and relation with customers in and/or from the jurisdictions that not impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in Law no. 656/2002 and Government Decision 594/2008, and in which the enforcement of these is not supervised in a manner equivalent with that regulated by the Law no. 656/2002 and Government Decision 594/2008.

Art. 12. –The institutions shall apply more extensive customer due diligence in the case of customers and transactions in and/or from jurisdictions which does not impose implementation of requirements regarding know-your-customers and record keeping equivalent to those laid down in Law no.656/2002, Government Decision no.594/2008 and this regulation and in which their are not supervised for compliance with those requirements.”

ROMANIAN NATIONAL SECURITIES COMMISSION

Although there is a general requirement in the Regulation no. 5/2008 for regulated entities to pay increased attention to business relationships and transactions with persons from jurisdictions which do not benefit from adequate systems for the prevention and control of money laundering and terrorism financing (art. 17 Para 1), during the mentioned period (2009-2011), NSC has published 12 certificates regarding public statements issued by international organizations by which regulated entities are required to take all the appropriate legal action.

INSURANCE SUPERVISORY COMMISSION: Article 23 (1) moved to Article 18 (5) under the provisions of Order no.5/2011 for amending and completion of Insurance Supervision Commission’ Order no.24/2009 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market.

PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION: Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system

Art.13- (1) Administrators/marketing agents are obliged to apply, besides the standard customer due diligence measures, enhanced customer due diligence measures, on a risk base approach, in all the situations that, by nature, may present a high risk to money laundering or terrorism financing acts.

	<p>(2) Administrators/marketing agents apply also enhanced customer due diligence measures in other cases than the one stipulated in art. 12¹ para (1) of the Law no. 656/2002, which by nature present a high risk to money laundering and terrorism financing acts.</p> <p>Art.14. Administrators/marketing agents must hold the following information on the clients that present a high risk:</p> <p>a) the origin country of the client;</p> <p>b) the public position or the prominent position held;</p> <p>c) the activity type performed by the client;</p> <p>d) the origin of the client's funds;</p> <p>Art. 15 – Administrators/marketing agents shall pay a special attention to transactions with persons from jurisdictions which do not have adequate systems for the prevention and combat of money laundering and terrorism financing.</p>
Recommendation of the MONEYVAL Report	<p>Enforceable requirements in place to ensure that financial institutions are advised of weaknesses in the AML/CFT systems of other countries should be developed.</p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>At the moment, the following information channels on other countries' vulnerabilities in the AML/CTF systems, are applicable, in accordance with the Internal Procedures of Inter-institutional Cooperation and International Relations Directorate, approved by the Order of NOPCML President:</p> <ul style="list-style-type: none"> ▪ The publication on NOPCML website, within the International Cooperation – International Measures section of all the official declarations issued by FATF, MONEYVAL, Egmont Group, the Committee for the Prevention of Money Laundering within the European Commission, etc., in respect of the deficiencies registered in the money laundering and terrorism financing regime of the states identified by this international bodies; ▪ Official communication by NOPCML – FIU Romania, to other authorities with prudential supervision attributions in AML/CTF field, namely NBR, NSC, CIS, PPSC, in order to adopt the appropriate measures for informing the supervised reporting entities. ▪ Providing feedback to FIU by the authorities with supervision attributions in the AML/CTF field, in respect of the adopted measures; ▪ Informing the bodies that issued the declarations about the measures adopted by the involved Romanian authorities. <p>NSC: The recommendation was addressed in the capital market sector. In the first semester of 2009, all the public statement issued by MONEYVAL or FATF regarding the deficiencies in the AML/CFT regime in different countries were implemented by adopting N.S.C. individual acts, published in the NSC Bulletin that stands for the official gazette of the Commission. In this way, NSC advised regulated entities to give special attention to business relationships and transactions with clients from countries with weaknesses in the AML/CFT systems and issued warnings to reporting entities that transactions with natural or legal persons within that country might run the risk of money laundering.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NATIONAL BANK OF ROMANIA:</p> <p>The NBR informs the supervised entities with respect to the existence of flaws in the prevention and combat of money laundering and terrorism financing in a state, based on the information received from the competent authorities. At the same time, the supervised institutions are recommended to permanently consult the official websites of the UN, EU, FATF, MONEYVAL, etc. Also, in the context of inspections, the NBR assesses whether the financial</p>

	<p>institutions have updated these information from the perspective of their utilization in the approach of transactions and customers in and/or from jurisdictions with vulnerabilities in the field of AML/CTF.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>New steps were made forward by Romanian National Securities Commission in order to increase the level of awareness of the capital market entities and public investors of the decisions made by international organizations in the AML/CFT field, by issuing the NSC Executive Order no. 8/11.03.2010, published on the NSC's official bulletin and website.</p> <p>According to this act, regulated entities are required to hold and update their own website with public statements issued by MONEYVAL Committee and FATF (disseminated by NSC to regulated entities) and alerts on new developments in preventing and combating money laundering and terrorist financing.</p> <p>Although there is a general requirement in the Regulation no. 5/2008 for regulated entities to pay increased attention to business relationships and transactions with persons from jurisdictions which do not benefit from adequate systems for the prevention and control of money laundering and terrorist financing, during the mentioned period (2009-2011), Romanian National Securities Commission has published 12 individual acts (certificates) regarding public statements issued by international organizations. NSC advised regulated entities of weaknesses in the AML/CFT systems of other countries and required them to take appropriate legal action.</p> <p>INSURANCE SUPERVISORY COMMISSION: The regulated entities in the insurance field were notified about all documents regarding the public statements issued by Moneyval or FATF submitted by NOPCML.</p> <p>NOPCML (FIU)</p> <p>Please see comments included at the previous point.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Specific enforceable requirements for financial institutions to examine the background and purpose of such transactions and to make written findings available to assist competent authorities should be implemented.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 13 para. 2 of GD no. 594/2008</p> <p>(2) When the legislation of the third country does not allow for such equivalent measures to be applied, the credit and financial institutions shall inform the competent Romanian authorities, in accordance with the provisions of article 17 of Law no. 656/2002.</p> <p>Art. 16 para. 2 of the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities</p> <p>The regulated entities have to refuse to start correspondent relationships or to continue this kind of relationships with other entities that are incorporated in other jurisdictions, where these ones have not a physical presence, respectively the activity's management and the records/books of the institution are not located in that jurisdiction, and to pay a special attention when it continues the correspondent relationships with an entity located in another jurisdiction, in which there are not legal requirements on due diligence or the jurisdiction has been identified as non-cooperative in combating money laundering and terrorist financing.</p> <p>NSC: Specific requirement were implemented in the capital market sector by NSC Regulation no5/2008. Art. 17 of the NSC Regulation no 5/2008 stipulates that regulated entities shall pay increased attention to business relationships and transactions which persons from jurisdictions which do not benefit from</p>

adequate systems for the prevention and control of money laundering and terrorist financing and also to all complex, unusual large transactions or unusual patterns of transactions, including those that do not seem to have an economic, commercial or legal purpose. The backgrounds and the scope of such transactions should be examined as soon as possible by the regulated entity, including on the basis of customer additional documents requested to justify the transaction. The findings of the verifications carried out should be set forth in writing and shall be available for subsequent verification or for the competent authorities and auditors for a period of at least 5 years.

NBR: NBR Regulation no.9/2008: “Art. 16 – For the customers and transactions representing higher risk, established according to art.11-art.14, in addition to the standard customer due diligence measures, institution will set up additional customer due diligence measures, which might include:

- a) the approval at a higher hierarchical level for initiating or continuing the business relation with such customers and/or for performing such transactions;
- b) the request for the first transaction to be performed through an account opened with a credit institution subject to the obligations on prevention and combating money laundering and terrorism financing equivalent with the standards provided for in the Law no. 656/2002 and Government Decision no.594/2008;
- c) ongoing enhanced permanent supervision of the business relation;
- d) setting up adequate measures in order to establish/verify the source of funds;
- e) implementing of adequate IT systems for the administration of information which should be able to allow the supply in a timely manner of the necessary information for the identification, analysis and effective monitoring of these transactions. The implemented IT systems have to identify at least the lack or the insufficiency of the adequate documentation at the setting up of the business relation, the unusual transactions performed through the customer account and the aggregate situation of all the customer operations with the institution;
- f) the necessity that the persons in charge with the coordination of selling and administration activity of services for these customers to be informed about the personal circumstances of those customers and to pay special attention to the information received from third parties about these persons.
- g) the approval at a higher hierarchical level for transactions that exceed a certain pre-establish threshold.”

Art.23 – The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para(1) of Law 656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, by providing them in a timely manner the documents/information.

ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market

Art. 23. - (1) Entities shall monitor more closely the business relationships and the transactions with persons based in jurisdictions which do not have in place adequate systems to prevent and control money laundering and terrorism financing.

(2) Entities shall monitor more closely all complex or unusually large

	<p>transactions, as well as all transactions which do not observe the usual business pattern, including operations which seem to have no economic, commercial or legal meaning.</p> <p>(3) The circumstances and purpose of such transactions shall be examined as soon as possible by the entity on the basis of additional documents required so that the client may justify the transaction.</p> <p>(4) The findings of the reviews conducted under paragraph (3) shall be listed in writing and shall be available for subsequent verification by competent authorities and auditors for a period of time of at least 5 years.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA:</p> <p>Following the coming into force of the NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention, starting with 2009, among the objectives included in the inspection plan stands the verification of the implementation of the requirements imposed thru the provisions of art.16 and art.23 of the NBR Regulation no.9/2008 and of art.13 of the Regulation for the application of Law no.656/2002 approved under GD no.594/2008. We point out the fact that during the analyzed period were carried out inspection actions to all credit institutions, as well as to the majority of non-banking financial institutions subject to the NBR supervision. According to NBR Regulation no.9/2008:</p> <p>Art. 16. – <i>For the customers and transactions representing higher risk, established according to art.11-art.14, in addition to the standard customer due diligence measures, institution will set up additional customer due diligence measures, which might include:</i></p> <ul style="list-style-type: none"> a) <i>the approval at a higher hierarchical level for initiating or continuing the business relation with such customers and/or for performing such transactions;</i> b) <i>the request for the first transaction to be performed through an account opened with a credit institution subject to the obligations on prevention and combating money laundering and terrorism financing equivalent with the standards provided for in the Law no. 656/2002 and Government Decision no.594/2008;</i> c) <i>ongoing enhanced permanent supervision of the business relation;</i> d) <i>setting up adequate measures in order to establish/verify the source of funds;</i> e) <i>implementing of adequate IT systems for the administration of information which should be able to allow the supply in a timely manner of the necessary information for the identification, analysis and effective monitoring of these transactions. The implemented IT systems have to identify at least the lack or the insufficiency of the adequate documentation at the setting up of the business relation, the unusual transactions performed through the customer account and the aggregate situation of all the customer operations with the institution;</i> f) <i>the necessity that the persons in charge with the coordination of selling and administration activity of services for these customers to be informed about the personal circumstances of those customers and to pay special attention to the information received from third parties about these persons.</i> g) <i>the approval at a higher hierarchical level for transactions that exceed a certain pre-establish threshold.</i> <p>Art. 23. – <i>The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para(1) of Law 656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and</i></p>

documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, by providing them in a timely manner the documents/information.

ROMANIAN NATIONAL SECURITIES COMMISSION

After the transposition of the recommendation in Regulation no. 5/2008 (art. 17, as we mentioned in the first progress report), NSC and NOPCML organized dedicated training seminars for regulated entities (intermediaries, asset management companies and financial investment firms) focused also on the issue of special attention for higher risk countries.

PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION

- Norms no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system

Art. 5. – (1) Customer due diligence policies and procedures, issued by each legal person administrators/marketing agents, must correspond to the nature, volume, complexity and extent of their activity and must be adapted to the risk level associated with the categories of clients they provide services for.

(2) For the purpose of para (1), customer due diligence policies and procedures must include at least the following elements:

a) Procedures for the identification and permanent monitoring of the clients, in order to include them in the appropriate category of clients, respectively for moving them from one category to another;

b) The content of standard, simplified and enhanced customer due diligence measures for each category of clients and products or transactions, that constitute the subject of such measures;

c) Permanent monitoring procedures for the operations carried out by clients in order to detect unusual and suspicious transactions;

d) The modalities for dealing with transactions and clients in and/or from jurisdictions that do not impose customer due diligence and record keeping procedures, equivalent to those provided for by the Law no. 656/2002, with subsequent modifications and completions, and Government's Decision no. 594/2008, when their enforcement is not supervised for in a similar manner with the one regulated by the specified legislation;

e) Modalities for the preparation and keeping of adequate records, as well as for the access to these records;

f) Procedures for the verification of issued policies and procedures implementation and for evaluating their efficiency;

g) Employment and training programs standards for the personnel, in the field of customer due diligence;

h) Internal report procedures, as well as procedures for reporting to competent authorities.

Art. 15 – Administrators/marketing agents shall pay a special attention to transactions with persons from jurisdictions which do not have adequate systems for the prevention and combat of money laundering and terrorism financing.

INSURANCE SUPERVISORY COMMISSION:

Article 23 moved to Article 18⁵ under the provisions of Order no.5/2011 for amending and completion of Insurance Supervision Commission' Order no.24/2009 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market;

Article 18⁵ stipulated: (1) Entities shall monitor more closely the business relationships and the transactions with persons based in jurisdictions which do not have in place adequate systems to prevent and control money laundering and terrorism financing.

	<p>(2) Entities shall monitor more closely all complex or unusually large transactions, as well as all transactions which do not observe the usual business pattern, including operations which seem to have no economic, commercial or legal meaning.</p> <p>(3) The circumstances and purpose of such transactions shall be examined as soon as possible by the entity on the basis of additional documents required so that the client may justify the transaction.</p> <p>(4) The findings of the reviews conducted under paragraph (3) shall be listed in writing and shall be available for subsequent verification by competent authorities and auditors for a period of time of at least 5 years.</p> <p>Art. 18⁴. – (1) Entities shall supervise all the operations conducted by their clients, having as priority the category of high risk clients.</p> <p>(2) The following information shall be considered when deciding on classifying clients in the high risk category:</p> <ul style="list-style-type: none"> a) the type of client – natural/legal person or entity without legal personality; b) home country; c) public position or high level position held; d) the type of business conducted by the client; e) the source of the client funds; f) other risk indicators.
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Mechanism to apply countermeasures should be established.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>The prudential supervision authorities verify within the control actions on the regulated reporting entities, both the compliance with the provisions of the Law no. 656/2002, with subsequent modifications and completions, as well as with the existing sectorial secondary regulations, and the degree of exposure to money laundering and terrorism financing risks.</p> <p>When the infringements of the special law provisions are ascertained, sanctions are applied and recommendations for activity improvement are established, and their implementation is supervised for by these authorities.</p> <p>NSC: For capital market sector, in accordance with the provisions of NSC Regulation no 5/2009, regulated entities are required to also apply enhanced due diligence measures of customers in cases which, by their nature, pose a high risk of money laundering or terrorist financing. Having regard these requirements, NSC has advised (by adopting and publishing individual acts) regulated entities to give special attention to business relationships and transactions with clients from countries with weaknesses in the AML/CFT systems and issued warnings to reporting entities that transaction with natural or legal persons within that country might run the risk of money laundering.</p> <p>NBR: Government Decision no.594/2008 regarding the Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting some measures for prevention and combating terrorism financing acts</p> <p>Art.5 (4) When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), <u>it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.</u></p> <p>Art. 13 para 2 and 3 of GD no. 594/2008</p> <p>(2) When the legislation of the third countries does not allow for such equivalent measures to be applied, the credit and financial institutions shall inform the competent Romanian authorities, in accordance with the provisions of article 17 of Law no. 656/2002.</p> <p>(3) When the legislation of the third countries does not allow the application of</p>

	<p>the customer due diligence mandatory measures , the credit and financial institutions shall apply the necessary customer due diligence measures, in order to efficiently cope with the money laundering or terrorism financing risk.</p> <p>Art.18 (2) of GD no. 594/2008</p> <p>The Office shall inform the European Commission about the cases when a third country is in the situation described in article. 13 para (3).</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA:</p> <p>As presented in the first progress report, by means of the provisions of the Regulation for the application of Law no.656/2002 approved under GD no.594/2008 (art.5, 13 and 18), there were set up a series of countermeasures. During the analyzed period, the NBR has verified the implementation of these countermeasures within the internal rules of the supervised entities, whilst the on-site inspection actions assessed the effective method of their application.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION: please see the comments mentioned above.</p> <p>INSURANCE SUPERVISORY COMMISSION: please see the comments mentioned to previous recommendation.</p>
<p>(Other) changes since the last evaluation</p>	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Partially compliant	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Specific requirement on the financial institutions to require the application of AML/CFT measures to foreign branches and subsidiaries beyond customer identification.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NSC: A general requirement was implemented in this respect by art. 13 Para 1 of the regulation approved by Governmental Decision no. 594/2008 (“<i>Financial and credit institutions apply, according to the situation, in their branches from other third states, customer due diligence and record keeping measures, equivalent at least with those provided for by the Law no. 656/2002 and the present Regulation</i>”).</p> <p>For capital market sector, specific provisions of art. 4 (1), (4) and (5) of the NSC Regulation no5/2008 cover this issue. According to the NSC regulation, regulated entities are obliged to ensure that all policies and internal procedures (in terms of customers due diligence, reporting, record keeping, internal control, assessing and managing the risks, compliance and communication management) are applied by secondary premises, including those located abroad. In this respect, regulated entities are required to inform all their branches and subsidiaries located in third countries on the policies and procedures issued in accordance with Law no.656/2002.</p> <p>NBR: Art.9 (4) of the Law no. 656/2002,as subsequently completed and amended by GEO no. 53/2008</p> <p>Credit institutions and financial institutions must apply customer due diligence and record keeping measures to all their branches from third countries, and these must be at least equivalent with those provided for in the present law.”</p> <p>Art. 13 (1) of GD no. 594/2008</p> <p>Financial and credit institutions shall apply, according to the situation, in their branches and majority subsidiaries from other third country, customer due diligence and record keeping measures, equivalent at least with those provided for by the Law no. 656/2002 and the present Regulation.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p>

	<p>Art. 2. – Insurance undertakings, reinsurance undertakings, Romanian legal person insurance and/or reinsurance brokers, as well as the branches in Romania of insurance undertakings, reinsurance undertakings and insurance/reinsurance intermediaries based in the European Economic Area, hereinafter referred to as entities shall be subject to the provisions of the present Regulations.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: As mentioned at the time of the first progress report, the legal framework for ensuring the implementation of the recommendation has been instituted since 2008. We mention that a single branch of a credit institution, which works outside Romania, subsisted to the NBR supervision area. Hence, during the inspection action performed at this institution, the branch’s documents related to the implementation of the AML/CFT legal provisions were verified and thus, no violations of law or deficiency in this area have been observed.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION After the transposition of the recommendation in Regulation no. 5/2008 (art. 4, as we mentioned in the first progress report), inspections carried out by NSC revealed that specific requirements in this respect are included in the internal procedures of the regulated entities, in the event that foreign branches and subsidiaries will be registered. The supervision revealed that there was a low cross-border activity of Romanian investment firms in non-EU countries (only 1 subsidiary located in a third country).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Specific requirement to pay special attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply FATF Recommendations.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NSC: For capital market sector, art. 17 of the NSC Regulation no.5/2008 stipulates that regulated entities shall pay increased attention to business relationships and transactions with persons from jurisdictions which do not benefit from adequate systems for the prevention and control of money laundering and terrorist financing.</p> <p>NBR: NBR Regulation no.9/2008: Art.5 – (2) For the purpose of para.(1), know-your-customer norms shall include, at least, the following elements: e) procedures of conducting the transactions and relation with customers in and/or from the jurisdictions that not impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in Law no. 656/2002 and Government Decision 594/2008, and in which the enforcement of these is not supervised in a manner equivalent with that regulated by the Law no. 656/2002 and Government Decision 594/2008. Art. 13 (2) of GD no. 594/2008 When the legislation of the third country does not allow for such equivalent measures to be applied, the credit and financial institutions shall inform the competent Romanian authorities, in accordance with the provisions of article 17 of Law no. 656/2002. (3) When the legislation of the third country does not allow the application of customer due diligence mandatory measures, the credit and financial institutions shall apply the necessary customer due diligence measures, in order to efficiently cope with the money laundering or terrorism financing risk.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market Art. 9. (3) Entities shall ensure that all standard due diligence measures are applied in other operating offices, including those based in the European</p>

	Economic Area or in non-member states, as well as at headquarters and other operating offices of legal person insurance agents.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NATIONAL BANK OF ROMANIA: Please see the above comment.</p> <p>According to NBR Regulation no.9/2008:</p> <p><i>Art. 5. – (2) For the purpose of para.(1), know-your-customer norms shall include, at least, the following elements:</i></p> <p><i>e)procedures of conducting the transactions and relation with customers in and/or from the jurisdictions that not impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in Law no. 656/2002 and Government Decision 594/2008, and in which the enforcement of these is not supervised in a manner equivalent with that regulated by the Law no. 656/2002 and Government Decision 594/2008.</i></p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION: please see the comments mentioned above.</p>
Recommendation of the MONEYVAL Report	<i>Provision should be made that where minimum requirements of the host and home countries differ; branches and subsidiaries in host countries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NSC: The issue is accordingly addressed in Regulation for application of the provisions of the Law no. 656/2002, approved by Governmental Decision no. 594/2008</p> <p>Art. 13 (1) Financial and credit institutions apply, according to the situation, in their branches from other third states, customer due diligence and record keeping measures, equivalent at least with those provided for by the Law no. 656/2002 and the present Regulation.</p> <p>(2) When the legislation of the third state do not allow for such equivalent measures to be applied, the credit and financial institutions shall inform the competent Romanian authorities, in accordance with the provisions of article 17 of Law no. 656/2002.</p> <p>(3) When the legislation of the third state do not allow for customer due diligence measures to be applied, the credit and financial institutions shall apply the necessary customer due diligence measures, in order to efficiently cope with the money laundering or terrorism financing risk.</p> <p>NBR: Art. 13 (1) of GD no. 594/2008</p> <p>Financial and credit institutions shall apply, according to the situation, in their branches and majority subsidiaries from other third country, customer due diligence and record keeping measures, equivalent at least with those provided for by the Law no. 656/2002 and the present Regulation.</p> <p>(3) When the legislation of the third country does not allow the application of the customer due diligence mandatory measures, the credit and financial institutions shall apply the necessary customer due diligence measures, in order to efficiently cope with the money laundering or terrorism financing risk.</p> <p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 9. (3) Entities shall ensure that all standard due diligence measures are applied in other operating offices, including those based in the European Economic Area or in non-member states, as well as at headquarters and other operating offices of legal person insurance agents.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NATIONAL BANK OF ROMANIA: Please see the above comment.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION: please see the comments mentioned above.</p> <p>NOPCML (FIU):</p>

report	Based on the Common Understanding of the EU Member States, adopted on June 15, 2011, by the Committee for Prevention of Money Laundering and Terrorism Financing of the European Commission, the Government of Romania adopted the Decision no. 885/2011 on amending the List of equivalent third countries. The list was previously approved by the Government Decision no. 1.437/2008.
(Other) changes since the last evaluation	

Recommendation 23 (Regulation, supervision and monitoring)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Clear delineation of legal responsibility between the NBR and the NOPCML when it comes to supervision of exchange offices.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>PROPOSED LEGISLATIVE AMENDMENT: A new art.16¹ in the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The authorization and registration of the entities that perform currency exchange in Romania, other than those that are prudentially supervised for by the National Bank of Romania, is carried out by the Ministry of Public Finance through the means of the <i>Commission for the authorization of currency exchange activity</i>, hereinafter “<i>the Commission</i>”.</p> <p>(2) Legal provisions on tacit approval do not apply for the authorization and/or registration procedure of the entities provided for by para 1.</p> <p>(3) The composition of the Commission provided for in para 1 is established by the joint order of the Ministry of Public Finance, Ministry of Administration and Interior and the President of the National Office for Prevention and Control of Money Laundering, and in its structure it will be at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Control of Money Laundering</p> <p>(4) The authorization and/or registration procedure of the entities provided for by para 1 is established by the order of the Ministry of Public Finance.</p> <p>Art. 17 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:</p> <p>a) National Bank of Romania and prudential supervision authorities, for the persons that are subject to this supervision, according to the law.</p> <p>b) Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law;</p> <p>c) The Financial Guard, which has attributions including for the entities that have as line of business currency exchange, excepting those prudentially supervised for by National Bank of Romania (...).</p> <p>Note: A parliamentary procedure has been initiated. The draft law for the approval of the Government Emergency Ordinance no.53/2008 regarding the amendment and completion of Law no.656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts, shall ensure that the Ministry of Public Finance shall take over the authorization/registering of the entities carry on exchange activities, other than those under the National Bank of Romania prudential supervision (credit institutions and supervised Knifes); the Financial Guard shall ensure the supervision of the exchange bureaus from a AML/CTF point of view.</p>

<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU) In accordance with the recommendations stipulated by evaluators and with the measures assumed by the Romanian authorities (in 2009), new legislative amendments were introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies.</p> <p>Furthermore, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber).</p> <p>The amendments were assumed by the Parliamentary Committees and by the Chamber of the Deputies, being the subjects for introducing a new art. 16¹ and for modification art. 17 of the Law no 656 / 2002:</p> <p><i>Art.16¹– (1) Authorization and/or registration of entities that are performing foreign exchange activities in Romania, other than those who are subject to supervision of the National Bank of Romania under the present Law, shall be made by the Ministry of Public Finance, through the Commission of authorization of foreign exchange activity, hereinafter called the Commission</i></p> <p><i>\ (2) Legal provisions on the tacit approval procedure do not apply to the authorization and/or registration procedure of entities referred to in paragraph (1).</i></p> <p><i>(3) The Commission referred to in para. (1) shall be determined by joint order of the Minister of Public Finance, the Minister of Administration and Interior and the President of the National Office for Prevention and Combating Money Laundering, in its structure being included at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Combating Money Laundering.</i></p> <p><i>(4) The procedure of authorization and / or registration of entities referred to in para. (1) is determined by order of the minister of public finances.</i></p> <p><i>Art. 17 para (1) let. a) supervisory authorities, for persons subject to this supervision, according to the law, including branches in Romania of foreign legal persons who are subject to similar supervision in their country of origin;</i></p> <p><i>b) Financial Guard and other authorities responsible for financial and fiscal control, by law; the Financial Guard has responsibilities including entities performing foreign exchange activities, except for those supervised by the authorities referred at let. a).</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>AML/CFT supervision of insurance licensees by their respective supervisory authority need to be developed further. Currently the inspections appear to be purely formal.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>ISC: Order no.24/2008 on the implementation of the Norms on prevention and combating money laundering and terrorism financing through the insurance market</p> <p>Art. 4. - (1) ISC shall supervise and control the entities referred to under art. 2 in order to ensure that the said entities shall apply and observe the legal provisions in force concerning the identification, verification and recording of clients and transactions, the reporting of suspicious transactions and cash transactions, as well as the preparation and implementation of procedures to observe all the aforementioned requirements as well as the training of the personnel in this respect.</p>

	<p>(2) ISC shall be entitled to verify the internal procedures/Regulations concerning the prevention and control of money laundering and terrorism financing issued by the entities.</p> <p>(3) ISC shall be entitled to request the amendment of the internal procedures/Regulations issued by the entities when these are not in line with the prudential requirements laid down in these Regulations.</p> <p>(4) ISC shall be entitled to monitor the financial instruments operations conducted by the entities to the purpose of identifying suspicious transactions.</p> <p>(5) ISC shall immediately inform the Office when the data received raise suspicions of money laundering, terrorism financing or infringements of the provisions laid down in Law no. 656/2002, with subsequent amendments and completions.</p> <p>(6) In the supervision and control process, ISC may request any relevant information or documents.</p> <p>Art. 30. – Breaching of the provisions laid down in these Regulations shall be deemed contravention and shall be sanctioned in accordance with the provisions set out in art. 39 of Law no. 32/2000 on insurance undertakings and insurance supervision, with subsequent amendments and completions.</p> <p>Art. 31. – These Regulations shall be rightfully supplemented with the other provisions laid down in the legislation concerning money laundering and terrorism financing.</p> <p><u>COMMENTS</u></p> <p><i>Since the beginning of the year 2009, there has been established and applied during on-site inspection sanctions to more than 34 insurance brokers regarding AML/CFT.</i></p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>INSURANCE SUPERVISORY COMMISSION:</p> <p>The internal procedures of insurance companies regarding AML/CFT were assessed in early 2010; recommendations to change them if necessary were sent.</p> <p>Within the on-site inspections performed by ISC on the regulated entities (insurance companies and brokers) control teams checked the compliance of legal provision on AML/CFT.</p> <p>ISC concluded in the course of 2010 a number of 128 on-site inspections. As a result of them a number of 65 sanctions were imposed (18 fines – total amount of 350.000 lei).</p> <p>In the first semester of 2011 ISC concluded a number of 45 on-site inspections and applied a number of 32 sanctions (9 fines – total amount of 227.500 lei).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Registration or licensing procedures should be established for money remittance service providers.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Having regard at the necessity to fully transpose the national legislative measures to the provisions of Directive 2007/64/CE a working group, comprising representatives of the European Affairs Department, Ministry for Public Finance, National Bank of Romania, Ministry of Justice and Citizens' Liberties, was set up at national level, in order to elaborate the afferent draft law. Within this draft provisions on the specific authorization and supervision modality of the money remittance services will be provided</p> <p>Until the adoption of this normative act and the establishment of a registration and authorization of money remitters service providers framework, at NOPCML level measures have been taken for the creation of an Evidence Register, in which every reporting entity that has as line of business money remitting services would register, upon 30 days from its registration as a commercial company in the National Trade Register, in accordance with the</p>

	<p>provisions of the Law no. 31/1990 on commercial companies, with subsequent modifications and completions. This Register shall be made public in NOPCML official website.</p> <p>At the same time, in respect of the regulation and supervision of the prevention and combat of money laundering and terrorism financing field, at NOPCML level, by President's Order no. 43/27.05.2008 (Annex no.2.8), a working group was set up responsible with the elaboration of a draft law that would modify the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities. Within this project specific provisions will be introduced on the creation of this Register and on the obligation of the reporting entity to register with the Office in the established timeframe.</p> <p>NSC: Although the conclusion is not relevant for capital market sector, during the last year, National Securities Commission strengthened onsite inspections, including for AML/CFT issues. As a result, the number and also the level of sanctions imposed by the National Securities Commission, has increased significantly.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA</p> <p>In 2009 the <i>Emergency Government Ordinance no. 113/2009 on payment services</i> was enacted in order to transpose the Directive 2007/64/EC on payment services in the internal market. The new legislation empowered the National Bank of Romania to license and to supervise the payment institutions – as a distinct category of payment services providers.</p> <p>According to GEO no.113/2009:</p> <p>Art. 8. – <i>For the purpose of the present GEO, payment services shall include: ..f) money remittance..</i></p> <p>Art. 10. – <i>Any legal entity intending to provide payment services in Romania shall be licensed in accordance with the present title before starting this activity.</i></p> <p><i>Considering these new prudential competences, the NBR became the authority responsible with AML/CTF supervision of payment institutions (including money remittance service providers) and the NBR regulation was consequently amended –Regulation no.27/2009 amending art.1 of the Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Supervision of MVT service providers (including those that operate through postal offices and independently) should be strengthened.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Based on NOPCML initiative, a meeting between NOPCML representatives and those of Romanian Post National Company SA took place, with the objective of updating the existing cooperation protocol and to identify the practical modalities for assuming responsibility on the internal supervision framework (internal control), in order to comply with the legal requirements for combating money laundering and terrorism financing, in the context of funds transfers operated by the national offices within the Romanian Post National Company SA.</p> <p><u>The following aspects have been addressed:</u></p> <p>-By updating the cooperation protocol a series of problems related to the control of postal offices and the internal norms for the prevention and combat of money laundering and terrorism financing, could be solved, having regard to the seriousness of the situation in this sector, as there are no STRs for the period 2007 – 2009.</p>

	<p>- In respect of the reporting activity, all the transactions that are about to be performed are submitted by the postmasters to the Financial Services Directorate, within Romanian Post National Company, for approval. This directorate shall submit the reports to the Office.</p> <p>-The money laundering and terrorism financing combating activity is coordinated by the Postal Security Directorate, which has a distinct attribution, in the Measure's Plan for money laundering, the prevention of terrorism financing. The leading structure of Romanian Post National Company shall approve in the shortest time possible a strict procedure in this respect.</p> <p>-Romanian Post National Company carries out the control activities, in the field of preventing and combating money laundering and terrorism financing acts, within the internal procedure, and the results of these activities are submitted to the Office, which will perform on-site inspections only to the central structure. An overlapping of the Office's inspections with the internal controls performed by Romanian Post National Company is to be avoided.</p> <p>- A working group was set up, with the objective to modify the protocol and to elaborate a procedure for the prevention and combat of money laundering and terrorism financing (document that will constitute an Annex to the protocol), as well as an implementation plan of this procedures; the first meeting of the working group was organized on August 06th, 2009. At the moment a draft of additional act was elaborated and submitted for analysis, by the National Company Romanian Post, to the Office.</p> <p>-Having regard at the great number of county post offices (1.800 locations), the organization of regional training sessions in AML/CTF field was agreed upon, in accordance with the Training Plan of the Romanian Post National Company. The meeting's minute is attached to the present questionnaire (Annex no.3.3).</p> <p>At the same time, in accordance with the provisions of the Plan for carrying out on-site supervision activity, approved by NOPCML President, and taking into consideration the provisions regarding the enforcement of Regulation EC no. 1781/2006, comprised in the Law no. 656/2002 with subsequent modifications and completions and of GEO no 53/2008, verification and control actions on the transfers operated under its own scheme, as well as on those operated in specialized systems (franchise), like Western Union and Money Gram), shall be performed.</p> <p>Also, taking into consideration the necessity to fully transpose the national legislative measures in accordance with the provisions of Directive 2007/64/EC, a working group, comprising representatives of the European Affairs Department, Ministry for Public Finance, National Bank of Romania, Ministry of Justice and Citizens' Liberties, was set up at national level, in order to elaborate the afferent draft law. Within this draft provisions on the specific authorization and supervision modality of the money remittance services will be provided.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA</p> <p>In 2009 the <i>Emergency Government Ordinance no. 113/2009 on payment services</i> was enacted in order to transpose the Directive 2007/64/EC on payment services in the internal market. The new legislation empowered the National Bank of Romania to license and to supervise the payment institutions – as a distinct category of payment services providers.</p> <p>According to GEO no.113/2009:</p> <p>Art. 8. – <i>For the purpose of the present GEO, payment services shall include: ..f) money remittance..</i></p> <p>Art. 10. – <i>Any legal entity intending to provide payment services in Romania shall be licensed in accordance with the present title before starting this</i></p>

	<p>activity.</p> <p>Considering these new prudential competences, the NBR became the authority responsible with AML/CTF supervision of payment institutions (including money remittance service providers) and the NBR regulation was consequently amended – Regulation no.27/2009 amending art.1 of the Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.</p> <p>In the 2nd semester of 2010 and the 1st semester of 2011, 7 payment institutions were authorized and thereof 10 branches were registered. For these entities subject to the NBR supervision, the internal rules, including those in the field of AML/CFT, were analyzed with the occasion of their authorization, following that in 2012 to be included in the on-site inspection plan in the field of AML/CFT.</p> <p>NOPCML (FIU)</p> <p>For an efficient implementation of the AML/CTF provisions in respect to the postal services providers, performing payment services, as reporting entities, on September 29, 2009, a Cooperation Agreement has been concluded between the NOPCML and National Romanian Post-Office Company.</p>
Recommendation of the MONEYVAL Report	<p><i>Supervision for terrorist financing, especially for exchange offices and MVT service providers should be strengthened</i></p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>A new art.16¹ in the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The authorization and registration of the entities that perform currency exchange in Romania, other than those that are prudentially supervised for by the National Bank of Romania, is carried out by the Ministry of Public Finance through the means of the <i>Commission for the authorization of currency exchange activity</i>, hereinafter “<i>the Commission</i>”.</p> <p>(2) Legal provisions on tacit approval do not apply for the authorization and/or registration procedure of the entities provided for by para 1.</p> <p>(3) The composition of the Commission provided for in para 1 is established by the joint order of the Ministry of Public Finance, Ministry of Administration and Interior and the President of the National Office for Prevention and Control of Money Laundering, and in its structure it will be at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Control of Money Laundering</p> <p>(4) The authorization and/or registration procedure of the entities provided for by para 1 is established by the order of the Ministry of Public Finance.</p> <p>Art. 17 of the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:</p> <p>a) National Bank of Romania and prudential supervision authorities, for the persons that are subject to this supervision, according to the law.</p> <p>b) Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law;</p> <p>c) The Financial Guard, which has attributions including for the entities that have as line of business currency exchange, excepting those prudentially supervised for by National Bank of Romania (...);</p> <p>Art. III of the GEO no. 53/2008 for the modification and completion of the Law no. 656/2002</p> <p>(1) For the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006, on information on the</p>

payer accompanying transfers of funds, published in the Official Journal of the European Union, series L no. 345 of 08th December 2006, the following authorities are designated, as responsible authorities, for the supervision of compliance with the obligations regarding the information on the payer accompanying transfers of funds:

- a) National Bank of Romania, for credit institutions;
- b) National Office for Prevention and Control of Money Laundering, for any other legal person that provides fund transfer services.

(2) The fund transfers referred to in article 3 para 6 of the regulations are excluded from the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006

(3) The following deeds shall be deemed as infringements:

a) Breaching the obligations referred to by article 9 para (2) final thesis of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006

b) Breaching the obligations referred to by article 4, article 5 para (1), (2), (4) and (5), article (6) para (2), article (7) para (2), article 8, article 9 para (1) and article (2) first thesis, article 11, article 12, article 13 para (3), (4) and (5) and article 14 first thesis of Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006.

(4) The infringements referred to in para (3) (a) are sanctioned by fine ranging from 10000RON to 30000RON and the infringements referred to in para (3) (b), by fine ranging from 15000RON to 50000RON.

(5) The infringements are ascertained and the sanctions are applied by authorized representatives specifically designated by National Bank of Romania and National Office for Prevention and Control of Money Laundering, according with their competencies.

(6) The requirements provided by article 22 of Law no. 656/2002, with subsequent modifications and completions, apply accordingly

Having regard at the MONEYVAL experts' recommendations on the necessity to increase NOPCML human resources, which were considered to be inadequate for carrying out in optimal conditions its specific activity (with a special accent being laid on the financial analysis and supervision), once with the adoption by the Romanian Government of the Decision no. 1599/2008 on the approval of the Regulation for the organization and functioning of NOPCML, necessary actions for strengthening the newly formed structures(Supervision and Control Directorate, Legal and Methodology Directorate, Information Technology and Statistics Directorate) as well as the existing ones (Analysis and processing of Information directorate, Inter-institutional Cooperation and International relations Directorate) within the Office (new organizational chart – Annex no.7), were initiated.

In this respect, in accordance with the provisions of GD no. 1599/2008, starting with January 01st, 2009, the maximum number of positions allocated to the Office was increased from 120 to 130.

Between the mission of evaluation date (May 2007) and the adoption of GD no. 1599/2008 (December 2008), the Office organized two employment sessions for occupying the vacant positions (01.11.2007 and 08.02.2008) subsequent to which 13 persons have been employed. During the reference period the number of specialized personnel was increased from 90 to 103.

For the moment, in the current financial crises context, the Romanian government decided by GEO no. 34/11.04.2009, to suspend till 31.12.2009 the occupation of vacant positions in public institutions and authorities which are financed by the state budget, category comprising NOPCML too. This decision resulted in the impossibility to organize employment sessions for

	<p>occupying the vacant positions, and implicitly, for employing the necessary personnel.</p> <p>Also, taking into consideration the necessity to fully transpose the national legislative measures in accordance with the provisions of Directive 2007/64/EC, a working group, comprising representatives of the European Affairs Department, Ministry for Public Finance, National Bank of Romania, Ministry of Justice and Citizens' Liberties, was set up at national level, in order to elaborate the afferent draft law. Within this draft provisions on the specific authorization and supervision modality of the money remittance services will be provided.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU)</p> <p>In accordance with the recommendations stipulated by evaluators and with the measures assumed by the Romanian authorities (in 2009), new legislative amendments were introduced in the process of elaborating the draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008.</p> <p>The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies.</p> <p>Furthermore, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber).</p> <p>The amendments were assumed by the Parliamentary Committees and by the Chamber of the Deputies, being the subjects for introducing a new art. 16¹ and for modification art. 17 of the Law no 656 / 2002:</p> <p><i>Art.16¹– (1) Authorization and/or registration of entities that are performing foreign exchange activities in Romania, other than those who are subject to supervision of the National Bank of Romania under the present Law, shall be made by the Ministry of Public Finance, through the Commission of authorization of foreign exchange activity, hereinafter called the Commission</i></p> <p><i>\ (2) Legal provisions on the tacit approval procedure do not apply to the authorization and/or registration procedure of entities referred to in paragraph (1).</i></p> <p><i>(3) The Commission referred to in para. (1) shall be determined by joint order of the Minister of Public Finance, the Minister of Administration and Interior and the President of the National Office for Prevention and Combating Money Laundering, in its structure being included at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Combating Money Laundering.</i></p> <p><i>(4) The procedure of authorization and / or registration of entities referred to in para. (1) is determined by order of the minister of public finances. "</i></p> <p><i>Art. 17 para (1) let. a) supervisory authorities, for persons subject to this supervision, according to the law, including branches in Romania of foreign legal persons who are subject to similar supervision in their country of origin;</i></p> <p><i>b) Financial Guard and other authorities responsible for financial and fiscal control, by law; the Financial Guard has responsibilities including entities performing foreign exchange activities, except for those supervised by the authorities referred at let. a).</i></p> <p>On the same time, in order to improve the efficiency of the supervision activities, NOPCML elaborated and implemented a new version of the analytical system used in the off-site supervision activity (MAINSET 2), adapted also for MVT overseen by the FIU.</p> <p>NATIONAL BANK OF ROMANIA</p>

	<p>In 2009 the <i>Emergency Government Ordinance no. 113/2009 on payment services</i> was enacted in order to transpose the Directive 2007/64/EC on payment services in the internal market. The new legislation empowered the National Bank of Romania to license and to supervise the payment institutions – as a distinct category of payment services providers.</p> <p>According to GEO no.113/2009:</p> <p>Art. 8. – <i>For the purpose of the present GEO, payment services shall include: ..f) money remittance..</i></p> <p>Art. 10. – <i>Any legal entity intending to provide payment services in Romania shall be licensed in accordance with the present title before starting this activity.</i></p> <p><i>Considering these new prudential competences, the NBR became the authority responsible with AML/CTF supervision of payment institutions (including money remittance service providers) and the NBR regulation was consequently amended – Regulation no.27/2009 amending art.1 of the Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.</i></p> <p><i>In the 2nd semester of 2010 and the 1st semester of 2011, 7 payment institutions were authorized and thereof 10 branches were registered. For these entities subject to the NBR supervision, the internal rules, including those in the field of AML/CFT, were analyzed with the occasion of their authorization, following that in 2012 to be included in the on-site inspection plan in the field of AML/CFT.</i></p>
(Other) changes since the last evaluation	<ul style="list-style-type: none"> - The draft law for adoption of the Governmental Emergency Ordinance no. 53 / 2008, which has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Furthermore, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber). - The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010) includes measures in this respect. - Manual on Risk based Approach and Suspicious Transactions Indicators (2010)

Recommendation 24 (DNFBP - Regulation, supervision and monitoring)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>For casinos sufficient measures to prevent criminals /associates from holding or being the beneficial owner of a significant or controlling interest of a casino should be provided.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>Art. 6 of the Law no. 31/1990 on commercial companies with subsequent modifications and completions</p> <p>(1) The signature parts of the constitutive act as well as the persons who have an important role in the establishment of the company are considered as founding persons.</p> <p>(2) Can not be considered as founders, the persons who, in accordance with the provisions of the law, are in the incapacity or who are convicted for fraudulent administration, breach of trust, forgery, use of forgery, fraud, embezzlement, false evidences, bribery, for the offences stipulated in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up certain measures for the prevention and combating terrorism financing, with subsequent modifications and completions, for the</p>

	<p>offences stipulated in art. 143–145 of the Law no. 85/2006 regarding the insolvency procedure or the offences stipulated in the present law, with subsequent modifications and completions.</p> <p>Art. 6 of the GEO no. 77/2009 on the organization and exploitation of gambling activities</p> <p>By <i>gambling organizer</i> it is understood the legal person authorized to organize and the exploit gambling in accordance with the provisions of the present emergency ordinance. Can obtain this quality as legal person established in accordance with the law. (please see the provisions of art. 6 of Law no. 31/1990, consequently amended and completed)</p> <p>Art. 15 para. 1 letter b and c of GEO no. 77/2009 on the organization and exploitation of gambling activities</p> <p>In order to obtain the license for organizing gambling must be fulfilled the following conditions:</p> <p>b) the legal representative shall deposit a solemn statement from which must result the following:</p> <ul style="list-style-type: none"> (i) The economic operator do not have a definitive court decision for which do not interfere the rehabilitation; (ii) The legal representative is not into a incompatibility situation, as it is regulated by the law; <p>c) the legal representatives of the legal person shall present the criminal records certificates or other documents issued by the competent authorities taking into account the last know address/headquarters, in order to result that none of the legal representation for the natural persons do not have a definitive court decision for which do not interfere the rehabilitation in Romania or other state for an offence provided by the present ordinance or for another offence for which was applied a punishment of at least 2 years with the imprisonment;</p> <p>Art. 16 para. 2 of GD no. 870/2009 on the approval of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities</p> <p>In order to obtain the approval of the Commission (n.r. Authorizing Gambling Commission) it is necessary that the legal representative of the economic operator shall have the following documents:</p> <ol style="list-style-type: none"> 1. the request by which ask the commission the approval as well as the content of documents included in the folder (...); 2. the ascertained certificate issued by the Trade Registry from which shall result: <ul style="list-style-type: none"> d. the identification elements of the economic operator; e. the subscribed and paid social capital; f. the structure of the stockholders or by case of the associated; g. names, first names and the address of the legal representatives; h. the activity objects (...); i. registered secondary headquarters and their addresses. 3. the register document to the Office for Trade Register; 4. the approval type document issued by the Romanian Office for Legal Metrology from which shall result that the type of gambling fulfilled the conditions (n.r. stipulated in GEO no. 77/2009); 5. the solemn declaration of the legal representative (in case there are more than one representatives shall be presented the each solemn declarations) from which must results: <ul style="list-style-type: none"> ▪ <i>The economic operator does not have a definitive court decision for which do not interfere the rehabilitation;</i> ▪ <i>The legal representative is not into a incompatibility situation, as it</i>
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	<p><i>is regulated by the law;</i></p> <ul style="list-style-type: none"> ▪ (...)The legal representative have the property or use rights over the IT programs which are integral part of the gambling modality; <p>6. the criminal records certificates or other documents issued by the competent authorities taking into account the last know address/headquarters, in order to result that none of the legal representation for the natural persons do not have a definitive court decision for which do not interfere the rehabilitation in Romania or other state for an offence provided by the present ordinance or for another offence for which was applied a punishment of at least 2 years with the imprisonment;</p> <p>7. the fiscal certifications issued by the fiscal competent bodies, from which shall result that it do not have fiscal obligations to the general consolidated budget; (...).</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MPF – NATA</p> <p>Appendix 2 of the GD no. 870/2009 on the approval of the Methodological Norms for applying the provisions of Emergency Government Decision no. 77/2009 on the organization of gambling activities stipulates that in order to obtain the license to organize gambling activities, is provisioned:</p> <p>Paragraph 4. The permission of the police bodies for all the legal representatives of the economic operator. If the legal representative is also an economic operator, the permission of the police bodies is mandatory for all its legal representatives.</p> <p>Paragraph 6. The criminal record of the legal representatives attesting that no criminal conviction is recorded in Romania or abroad or any other criminal acts attested by the decision of the Court and the punishment was at least 2 years in prison.</p>
Recommendation of the MONEYVAL Report	<p><i>The integrity and “fit and proper” market entry arrangements for the real estate sector in order to reduce the risk of ML and TF should be enhanced.</i></p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>At the same time, in respect of the regulation and supervision of the prevention and combat of money laundering and terrorism financing field, at NOPCML level, by President’s Order no. 43/27.05.2008, a working group was set up responsible with the elaboration of a draft law that would modify the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities. Within this project specific provisions will be introduced on the creation of this Register and on the obligation of the reporting entity to register with the Office in the established timeframe.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU):</p> <p>Several objectives under the Action Plan implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing include actions and measures dedicated to diminish the risk to ML/TF, respectively to detect sector vulnerabilities and risk indicators, especially in relation with DNFBPs specific activities.</p> <p>Periodical consultations with the private professional associations in the real estate domain are taken place in order to address the requirements related to fit-and-proper AML/CTF standards and market entry arrangements.</p>
Recommendation of the MONEYVAL Report	<p><i>Serious considerations should be given to the number and variety of DNFBP controlled and the supervisory resources available to the NOPCML.</i></p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>Having regard to the institution’s strategic objectives for 2008, the supervision and control activity occupied an important place, based also on the recommendations included in the Moneyval report, in respect of increasing the supervision and control. Thus, based on the Office’s Board</p>

Decision no. 11/14.01.2008, the Working Procedures for performing the supervision, verification and control actions on the natural/legal persons provided for in art. 8 of the Law no. 656/2002 with subsequent modifications and completions were improved, in order to detect the high degree of exposure to money laundering, of those reporting entities that are not prudentially supervised for by other authorities.

Having regard at the MONEYVAL experts' recommendations on the necessity to increase NOPCML human resources, which were considered to be inadequate for carrying out in optimal conditions its specific activity (with a special accent being laid on the financial analysis and supervision), once with the adoption by the Romanian Government of the Decision no. 1599/2008 on the approval of the Regulation for the organization and functioning of NOPCML, necessary actions for strengthening the newly formed structures(Supervision and Control Directorate, Legal and Methodology Directorate, Information Technology and Statistics Directorate) as well as the existing ones (Analysis and processing of Information directorate, Inter-institutional Cooperation and International relations Directorate) within the Office, were initiated.

In this respect, in accordance with the provisions of GD no. 1599/2008, starting with January 01st, 2009, the maximum number of positions allocated to the Office was increased from 120 to 130.

Between the mission of evaluation date (May 2007) and the adoption of GD no. 1599/2008 (December 2008), the Office organized two employment sessions for occupying the vacant positions (01.11.2007 and 08.02.2008) subsequent to which 13 persons have been employed. During the reference period the number of specialized personnel was increased from 90 to 103.

For the moment, in the current financial crises context, the Romanian government decided by GEO no. 34/11.04.2009, to suspend till 31.12.2009 the occupation of vacant positions in public institutions and authorities which are financed by the state budget, category comprising NOPCML too. This decision resulted in the impossibility to organize employment sessions for occupying the vacant positions, and implicitly, for employing the necessary personnel.

In accordance with the provisions of GD no. 1599/2008, the new directorate has the following attributions:

- a) elaborates, in accordance with the legal rules into force, norms, methodologies and/or working procedures regarding the risk based supervision and the control of the entities provided for by the art. 8 of the law, which are not under the prudential supervision of any public authority;
- b) elaborates written notes on the verification of the risk exposure of the entities provided for by art. 8 of the law, which are not, according to the law, under the prudential supervision of any public authority, based on which control activities may be organized;
- c) elaborates the program for the checking and control actions of the entities provided for by the art. 8 of the law, which are not under the prudential supervision of any public authority, and ensures its implementation;
- d) may request, according to the law, data and information necessary for performing risk based supervision and control activities, from the competent institutions;
- e) performs the operative and unforeseen control of the persons provided for by art. 8 of the law, based on the activity order with permanent character issued by the Office's President, ascertains the contraventions committed and applies the legal sanctions through ascertainment and contravention's sanctioning document (record) according to the legal provisions in the field,

	<p>attribution realized by the designated persons within the Office, generically called ascertaining agents;</p> <p>f) elaborates proposals, based on the risk analysis, regarding drawing up the training programs for the persons provided for by the art. 8 of the law and may participate in their performance;</p> <p>g) elaborates and implements the working procedures of the directorate and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practices in the field, prepared by other specialized directorates within the Office;</p> <p>h) other attributions established by order of the Office's President, according to the law, interior order regulation and internal working procedures.</p> <p>Also, having regard to the recommendations comprised in the Moneyval Report, and based on the discussions held with the National Bank of Romania, Ministry of Public Finance and Ministry of Justice and Citizen's Liberties, it was agreed that a special article related to the authorization and supervision of currency exchange offices, should be introduced, along with the modification of art. 17 para 1 of the Law no. 656/2002, with subsequent modifications and completions, in order to clearly establish the verification and control attributions over the reporting entities, in the AML/CFT field, as well as the taking over of certain categories of entities by supervision and financial control authorities other than the Office, as follows:</p> <p>A new art.16¹ in the Law no. 656/2002, with subsequent modifications and completions</p> <p>(1) The authorization and registration of the entities that perform currency exchange in Romania, other than those that are prudentially supervised for by the National Bank of Romania, is carried out by the Ministry of Public Finance through the means of the <i>Commission for the authorization of currency exchange activity</i>, hereinafter "<i>the Commission</i>".</p> <p>(2) Legal provisions on tacit approval do not apply for the authorization and/or registration procedure of the entities provided for by para 1.</p> <p>(3) The composition of the Commission provided for in para 1 is established by the joint order of the Ministry of Public Finance, Ministry of Administration and Interior and the President of the National Office for Prevention and Control of Money Laundering, and in its structure it will be at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Control of Money Laundering</p> <p>(4) The authorization and/or registration procedure of the entities provided for by para 1 is established by the order of the Ministry of Public Finance.</p> <p>Art. 17 of the Law no. 656/2002, with subsequent modifications and completions (1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:</p> <p>a) the National Bank of Romania and the prudential supervision authorities, for the persons that are subject to this supervision in accordance with the law.</p> <p>b) the Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law;</p> <p>c) the Financial Guard which has the attributions for the reporting entities which perform currency exchange, with the exception of those supervised by the National Bank of Romania;</p> <p>d) The leading structures of the independent legal professions, for the persons referred to in article 8 (e) and (f);</p>
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	e) The Office, for all the persons mentioned in article 8, except those for which the implementation modality of the provisions of the present Law is verified and controlled by the authorities and structures provided by para (a).
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU): Taking into consideration the development of internal methodologies and the implementation of the MAINSET 2 system, the FIU managed to cover all categories of DNFBPs, which are overseen by the Office (off-site/on-site supervision). Furthermore, because of the close institutional relation between the FIU and the Financial Guard, it was made possible to perform inspection on a considerable number of entities (only in 2010-2011, there were more than 600 requests sent by NOPCML to the Financial Guard to perform controls in the AML/CTF field). As it is to be noticed from the statistical data provided under Recommendation 17, the actions taken by the FIU in the AML/CTF supervision area covered an important number of reporting entities, the result of these actions being materialized with the highest number of sanctions applied in this field.</p>
Recommendation of the MONEYVAL Report	<i>Accurate statistics data on supervision by SROs should be developed.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): By adopting the GD no. 1599/2008 on the approval of the Regulations for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering, the IT Directorate has a new attribution, namely to elaborate evidences and statistics analysis in the activity field of the Office (in accordance with the provisions of art. 11 para. 4 letter e), becoming also the Information Technology and Statistics Directorate. Within this directorate, by President Order it was established the Statistics Department.</p> <p>UNNPR: In 2005, 82 notary offices in 4 Chambers of Notaries Public were verified. In 2006, 137 notary offices in 9 Chambers of Notaries Public were verified. In 2007, 37 offices in 4 Chambers of Notaries Public were verified. In 2008, 23 notary offices in 2 Chambers of Notaries Public were verified. Further to such controls, the conclusion was that most of the notaries observe the provisions of Law no. 656/2002, as amended. However, there were also notaries who did not observe the legal provisions, and in such cases the notaries were guided to comply with the provisions of the law regarding money laundering prevention and combating. In certain cases, upon the controls made by the UNNPR, persons employed in the National Office for Prevention and Control of Money Laundering also participated.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NUPNR: In its quality of SRO and in order to support the application of the CDD measures by the notaries, the National Union of Public Notaries from Romania took part to the constructive discussions with the Ministry of Administration and Interior, especially on topics related to the implementation of the Protocol regarding the verification of identity of the persons who comes to notary for concluding notarial documents. Based on this Protocol, the Service of the Informatisation of NUPNR created an administrator account which generates a password and a username for each notary and, therefore, the notaries can directly report the suspect transactions on the Office `portal. The deadline for updating the civil status data and the photos has been</p>

	reduced to 5 days for Directorate for Persons Records and Database Management within the Ministry of Administration and Interior, so that the notaries can perform their activity much easier and faster.
(Other) changes since the last evaluation	The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010) includes measures in this respect.

Recommendation 25 (Guidelines and Feedback)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Techniques of terrorism financing, as well as indicators to assist obliged entities in the identification of reports related to financing of terrorism should be further developed.</i>
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Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): One of the main objective of the Twinning Project RO /2007-IB/JH/05, within the Transition Facility, approved at the level of the European Commission under the number 2007/19343.01.14, is the Objective no. 1 – the Enhancing of the capacity of the institutional system for prevention and combating money laundering and terrorism financing. This objective has as main target the drawing up of the National Strategy on Money Laundering and Terrorism Financing, which shall contribute to the organizatoric and functioning improvement of the institutional national system. Also, this strategy shall represent an important element in the enhancing of the national security and shall contribute to the detection of the vulnerabilities to terrorism financing and drawing up some risk analyzes. Also, within this project, it will be elaborated a Handbook on risk based approach and indicators of suspicious transactions for reporting entities in the field of prevention and control of money laundering and terrorism financing. This , Handbook will be presented and disseminated to the reporting entities on 2days/12 training sessions, organized at territorial level.</p>
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU): The Manual on risk based approach and indicators of suspicious transactions, published in 2010, includes the following theoretical and practical aspects, in respect to vulnerabilities and risks of TF, methods and techniques of terrorism financing, as well as to specific TF indicators for detecting suspicious transactions identified based on FIU’s analyses and international practice.</p>
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Recommendation of the MONEYVAL Report	<i>General feedback by the NOPCML should be strengthened also targeting specific sectors of high risk of ML/FT that are reluctant to report.</i>
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Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Art. 6 para. 7 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 The Office provides the persons referred to in article (8) para (a) and (b), whenever possible, under a confidentiality regime and through a secured way of communication, with information about clients, natural and/or legal persons which are exposed to risk of money laundering and terrorism financing</p>
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU): Based on the provisions of the law on providing a feedback to the reporting entities, the FIU elaborates annual training programmes, with specific targeted sector, in order to provide guidance on detecting suspicious transactions, reporting value-added information and to present case studies developed from the STRs sent by these categories of entities.</p>
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	<p>Methods and typologies were also included in the Manual, which was disseminated in more than 1000 copies and was published on the official web site of the NOPCML.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Taking into account the low level of reporting, further indicators and typologies should be developed on terrorism financing.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): Having regard that based on the risk analyses performed at the level of the Office it result that, presently, Romania is a transit country for the possible financing of some operations in high risk areas and is not a final destination of the possible terrorist acts, thus the terrorism financing activities from illegal sources appears, many times, in direct connection with the activities of organized crimes, money laundering and drug traffic, traffic with human beings, which imposed the participation of the Office, on international level at different initiative in the field of prevention and combating terrorism financing, in order to obtain the know-how. The projects in which the Office it/were involved are:</p> <ul style="list-style-type: none"> ○ Proliferation Financing Project, ○ Project for Special Recommendation III of the Financial Action Task Force, ○ Proposed revision to the methodology criteria for SR IX, ○ Project on money laundering and terrorist financing risks in the securities industry, ○ Typologies project on money laundering through sporting clubs, ○ Typologies project on money laundering through money remittance businesses and bureau de change. <p>Also, in reference to the drawing up and dissemination of the typologies and indicators in CFT field we have to mention:</p> <ul style="list-style-type: none"> - Providing a general feedback offered by the NOPCML to the reporting entities: <ul style="list-style-type: none"> ● Publish on the NOPCML site (www.onpcsb.ro) of some materials for presenting/information in the field of prevention and combating money laundering as well as some typologies and case studies; ● Presentation of some trends, indicators and typologies in the content of the annual reports of the NOPCML, also available on the Office's site (www.onpcsb.ro). - The organization of a significant training session on money laundering and terrorism financing as well as on international sanctions, in which were presented both the national and international legislation in the field and also the analyses on risk's exposure to the terrorism financing.
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU): Please see the comments provided at the previous point.</p> <p>NATIONAL BANK OF ROMANIA: The Romanian Banking Institute courses are organized for the banking environment and provide an opportunity to debate issues that require some clarification.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION After the adoption of the first progress report, the Romanian National Securities Commission has continued its permanent collaboration with National Office for Prevention and Control of Money Laundering in the area of training for regulated entities.</p> <p>In this respect, NSC and NOPCML organized dedicated training seminars for regulated entities (intermediaries, asset management companies and financial investment firms) focused on case studies, typologies, indicators, red flags both for money laundering and terrorist financing).</p>

	<p>During the training activities, participants received copies of the manual on risk based approach and suspicious transactions indicators issued by NOPCML during the twinning project "The Fight against Money Laundering and Terrorism Financing"(RO 2007/IB/JH/05), a project funded by the European Union, by the Facility Transition Program.</p> <p>In addition, after the implementation of the international sanctions regulations on capital market, NSC actively contributed, together with the National Office, to the preparation of a training seminar on "The obligation to respect the legal framework for international sanctions", organized by the Brokers Association in February 2010.</p> <p>At the same time, on-site inspections are good opportunities for regulated entities to have a dialogue with Romanian National Securities Commission specialists about the AML/CFT issues in order to better understand and apply all the requirements of the Commission. In this respect, in all the cases in which deficiencies were identified, NSC applied sanctions and/or made specific recommendation to regulated entities.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Specific feedback should be developed on the status of STRs and the outcome of single cases.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <p>Art. 6 para. 6 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008:</p> <p>The General Prosecutor’s Office by the High Court of Cassation and Justice or the structures within Public Ministry, competent by law, that formulated requests in accordance with the provisions of para (4), shall notify to the Office, quarterly, the progress in the settlement of the notifications submitted, as well as the amounts on the accounts of the natural or legal persons for which blocking is ordered following the suspension carried out or the provisional measures imposed.</p> <p>Art. 272 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>(1) The General Prosecutor’s Office by the High Court of Cassation and Justice transmits to the Office, on quarterly bases, copies of the definitive court decisions related to the offence provided for in article 23.</p> <p>(2) The Office holds the statistical account of the persons convicted for the offence provided for in article 23.</p> <p>Within the PHARE 2006 Project “Developing the institutional system for preventing and combating money laundering and terrorism financing” all 4 agreements initially provided by the project file have been concluded. The final implementation of these agreements is aimed at strengthening the institutional capacity for combating money laundering and terrorism financing, by consolidating the IT system of the Office.</p> <p>One of the agreements is related to the “Case management and training system”, PHARE RO 2006/018-147.03.17.02, reaching a total value of 119.000 Euro, exclusive VAT. This is an agreement for provision of hardware equipment, services and connecting equipments, encrypting solutions, electronic signature, software and personnel training, in order to create and make functional the case management system that will allow the management (processing and analysis) of information on suspicious transactions and their submission to the General prosecutor’s Office by the High Court of Cassation and Justice, National Anti-corruption Directorate, Romanian Intelligence Service, as well as to other institutions of the state, in accordance with the provisions of the Law no. 656/2002, of the cases analyzed within the Office, in which serious grounds for money laundering and/or suspicions for the financing of terrorism, have emerged.</p> <p>It is planned that involved parties will start, in September 2009, the testing</p>

	period for the functioning of the connection with competent authorities, in Intranet System – VPN digital signature.
Measures taken to implement the recommendations since the adoption of the first progress report	NOPCML (FIU): The above-mentioned legal provisions were already enforced at the moment of presenting the first progress report (2009). The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010) include the analysis of the judicial practice, in cases having as object money laundering offence. In this respect, starting with the second semester of 2010, NOPCML performed analyses of cases solved by prosecution unit as regards money laundering offences, the main aim being to increase the percentage of notifications submitted by the Office, which are positively confirmed by prosecutors during investigations.
Recommendation of the MONEYVAL Report	<i>To further strengthen the effectiveness of feedback the NOPCML should consider targeting specific feedback to high risk sectors.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	NOPCML (FIU): Art. 6 para. 7 ¹ of the Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008 The Office provides the persons referred to in article (8) para (a) and (b), whenever possible, under a confidentiality regime and through a secured way of communication, with information about clients, natural and/or legal persons which are exposed to risk of money laundering and terrorism financing. Based on this new legislative provision, at the Office's level it was set up a working group in order to analyze the optimal solution for providing the specific feedback, which shall contain information related to the clients exposed to the risk of money laundering and terrorism financing, but which shall not infringe the regime of keeping the confidentiality of the information. Based on the conclusion of this working group, it was establish a special procedure for providing this feedback, which was included in the Methodology for Analyses and Processing of the information.
Measures taken to implement the recommendations since the adoption of the first progress report	NOPCML (FIU): Based on the provisions of the law on providing a feedback to the reporting entities, the FIU elaborates annual training programmes, with specific targeted sector, in order to provide guidance on detecting suspicious transactions, reporting value-added information and to present case studies developed from the STRs sent by these categories of entities. Methods and typologies were also included in the Manual, which was disseminated in more than 1000 copies and was published on the official web site of the NOPCML.
(Other) changes since the last evaluation	- The Action Plan for Implementing the National Strategy for Prevention and Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010)

Special Recommendation I (Implement UN instruments)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Effectiveness of the implementing the standards in relation to ML need to be improved.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	MJCL: AML Law was modified in April 2008 through GEO no. 53/2008, which transposed in the Romanian legal system 3rd EU Directive. ML offence as provided by the AML Law in art. 23, is defined as follows: Art. 23 of the Law no. 656/2002, with subsequent modifications and

	<p>completions by GEO no. 53/2008</p> <p>(1) The following deeds represent offence of money laundering and it is punished with prison from 3 to 12 years:</p> <p>a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of property or of assisting any person who is involved in the committing of such activity to evade the prosecution, trial and punishment execution;</p> <p>b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity;</p> <p>c) the acquisition, possession or use of property, knowing, that such property is derived from any criminal activity;</p> <p>(2) *** Repealed.</p> <p>(3) The attempt is punished.</p> <p>(4) If the deed was committed by a legal person, one or more of the complementary penalties referred to in article 53 index 1, para (3) (a) –(c) of the Criminal Code is applied, by case, in addition to the fine penalty.</p> <p>(5) Knowledge, intent or purpose required as an element of the activities mentioned in paragraphs (1) may be inferred from objective factual circumstances.</p> <p>Paragraphs 4 and 5 were introduced in 2008. Para 4 established the criminal liability for legal persons also in the AML Law, criminal liability for legal persons being introduced in Romanian Criminal Code in 2006. Para 5 was introduced in the definition of ML offence to be in line with the special criterion 2.2. With these amendments, Romanian authorities consider that ML offence is in line with international standards, especially with Vienna and Palermo Conventions.</p> <p><u>In regard to effectiveness, in 2008 there were 4 indictments against legal persons for committing ML offence.</u></p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>Romania signed and ratified the Vienna Convention, the Palermo Convention and the 1999 United Nations International Convention for the Suppression of the Financing of Terrorism (the Terrorist Financing Convention), which represents the main criteria of evaluation for this SR.</p> <p>On the same time, Romania signed and ratified Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism. In the draft of law approving the Governmental Emergency Ordinance no. 53/2002, which has been adopted on November 22, 2011, by the Romanian Parliament, new legislative measures were adopted in respect to the power of the FIU to postpone a transaction by the request of a foreign FIU:</p> <p><i>Art. 19 para (2)² – The Office may dispose, at the request of the Romanian judicial authorities or of the foreign institutions with similar attributions and with the obligation of keeping the secrecy in similar conditions, the suspension of performing of a transaction, which has as purpose money laundering or terrorism financing acts, art. 3 para. (2) – (5) being applied accordingly, taking into consideration the motivations presented by the requesting institution, as well as the fact that the transaction could have been suspended if would have been the subject of a suspicious transaction report submitted by one of the natural and legal persons provided at art. 8.</i></p> <p>The effectiveness of implementing standards in respect to anti-money laundering was presented in Recommendation 1.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Effectiveness of implementation of the Palermo, Vienna and TF Conventions need to be improved in some instances, particularly terrorist financing</i></p>

	<i>criminalization and some aspects of the provisional regime.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>MJCL: The actual Romanian specific law on preventing and combating terrorism was adopted in 2004. In August 2009, the Romanian Intelligence Service finalized the drafting of a normative act for modifying Law no. 535/2004 on preventing and combating terrorism.</p> <p>The new text of TF offence from the aforementioned draft provides: Art. 38. (1) It shall be a crime and shall be punished by imprisonment from 15 to 20 years and interdiction of certain rights the followings: making available, achieving, providing or collecting of funds and logistical resources in every way, directly or indirectly, with the aim of supporting or committing terrorist acts, as well as any financial and/or banking operations made for or on behalf of natural or legal persons who are subjects of international sanctions or are listed in the national list for preventing and combating terrorism.</p> <p>(2) Logistical resources and funds made available, achieved, provided or collected with the aim of supporting or committing terrorist acts, shall be confiscated, and if they cannot be found, the convicted shall be obliged to the payment of their equivalent in money</p> <p>(3) Attempt shall be punished.</p> <p>(4) The production or acquisition of means or instruments, and the taking of measures in view of committing the offences in para. (1) shall be considered attempt.</p> <p>The draft also provides a new definition of funds in art. 3, point 8: <i>“funds – assets, whether tangible or intangible, movable or immovable, financial means and benefits in every form, acquired or collected, directly or indirectly, with the aim of financing terrorist acts.”</i></p> <p>Romanian authorities consider that the new definition of TF offence is fully in line with Terrorist Financing Convention.</p> <p>Art. 163 Criminal Procedure Code (CPC): The interim measures are taken during the criminal trial by the prosecutor or by the court and consist in seizing of movables and real estate, in order to dispose special confiscation, to repair the damage caused by the offence, as well as in order to make sure the fine punishment will be executed.</p> <p>The interim measures in order to repair the damage may be taken with regard to the goods of the accused person or defendant and of the person who bears the civil responsibility, until the estimated value of the damage is reached.</p> <p>The interim measures taken as guarantee for the fine punishment execution are only taken with regard to the goods of the accused person or defendant. One may not attach the goods that belong to one of the institutions referred to in art. 145 in the Penal code, as well as those excepted by the law.</p> <p>The interim measures for repair of the damage may be taken at the request of the civil party or ex officio.</p> <p>The enforcement of the insuring measures is obligatory when: a) <i>repealed</i>; b) the victim is the person who lacks or has limited exertion ability.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MoJ: Please see comments from Special Recommendation II.</p> <p>NOPCML (FIU): On the same time, in the draft of law approving the Governmental Emergency Ordinance no. 53/2008, which has been adopted by the Romanian Parliament on November 22, 2011, new legislative measures were included in respect to the power of the FIU to postpone a transaction by the request of a foreign FIU.</p>

	<p>From statistical point of view, it is to be mentioned that, during the period 01.01.2009-01.11.2011, the FIU decided in 3 cases the suspension of transactions suspected of terrorism financing, amounting to 102.300 euro, 42.622 USD and 234.104 RON*, in which GPOHCCJ was notified.</p> <p>*1 euro = approx. 4.3 Ron</p>
Recommendation of the MONEYVAL Report	<i>TF offence should be amended in order to ensure fully cover of the Terrorist Financing Convention.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	Please see previous comments.
Measures taken to implement the recommendations since the adoption of the first progress report	MoJ: Please see comments from Special Recommendation II.
Recommendation of the MONEYVAL Report	<i>A precise mechanism for freezing of funds related to terrorist financing should be established.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>MoFA: Freezing without delay funds or economic resources</p> <p>Art. 24 of GEO 202/2008 on the implementation of international sanctions places the responsibility for “freeze without delay” on the person or entity holding the frozen assets, who is required to immediately and without delay stop any activity in connection with that good, that could be contrary to international sanctions regime, even before notifying competent authorities. Correlatively, art. 27 exempts from any liability all persons or entities that apply in good-faith the provisions of GEO 202/2008.</p> <p>This automatic freezing procedure relying upon the private actors, is correlated with the obligation of vigilance of private actors, established in art. 18 (as modified by Law 217/2009) and 7 of the GEO 202/2008.</p> <p>In its turn, the obligation of vigilance is two-fold: “regular” subjects of domestic legislation must notify the competent authorities if they come across information that would facilitate sanctions implementation (art. 7), while “reporting entities” under AML/TF legislation must apply a higher standard of vigilance, of the type required by their “know your customer” obligations (art. 18) and must make a report to the supervisory authority and to the National Agency for Fiscal Administration.</p> <p>The mechanism for freezing of funds and economic resources</p> <p>It is the Ministry of Public Finance, through the National Agency for Fiscal Administration (NATA), that, upon notification or report from private actors under art. 17 or 18, shall, by order of the Minister of Economy and Finance block any funds or economic resources that are held, owned by or under the control of designated individuals or entities (according to art. 19 (1)).</p> <p>To blocking order is issued based on NATA’s own investigations and has the role to certify that the preliminary identification done by the private actors really concerns a good subject to international sanctions that was rightly frozen and there is no identification error.</p> <p>The blocking order is published in the Official Journal of Romania, as is communicated to the natural or legal person that made the notification or report, to the supervisory authorities, to the public authorities responsible to keep evidence of the blocking, as the case may be, and to the persons and entities covered by the order, if possible, as well as to the Romanian Intelligence Service and to the Foreign Intelligence Service (art. 9 par. 2-4).</p>
Measures taken to implement the recommendations since	MINISTRY OF FOREIGN AFFAIRS – Office for Implementation of International Sanctions: The Council established to ensure the general

<p>the adoption of the first progress report</p>	<p>framework of cooperation in the implementation of international sanctions in Romania shall inform, whenever possible, the natural and legal persons that hold or have under control goods, in connection with the imminent adoption of international sanctions, to enable their implementation from the adoption and without delay (art. 13 para 1 and art. 14 para 1 letter f of GEO 202/2008).</p> <p>Art. 26 of GEO 202/2008 contains the penalties which are imposable for acts classed as a contravention in case of non compliance with the restrictions and obligations set out in the UN Security Council Resolutions and EU Council documents imposing international sanctions as well as in the case of non reporting of STRs.</p> <p>In accordance with article 13 of GEO no. 202/2008, consequently amended and completed, the Inter-institutional Council ensures the general framework of cooperation for the implementation of international sanctions in Romania and is composed of representatives of the Chancellery of the Prime-Minister, Ministry of Foreign Affairs, Department for European Affairs, Ministry of Justice and Citizens' Freedoms, Ministry of Interior and Administrative Reform, Ministry of Defense, Ministry of Public Finance, Department of Foreign Trade of the Ministry for Small and Medium Size Enterprises, Commerce, Tourism and Liberal Professions, Ministry of Communications and Information Technology, Ministry of Transportation and Infrastructure, Romanian Intelligence Service, Foreign Intelligence Service, National Agency for Export Control, National Bank of Romania, Romanian National Securities Commission, Insurance Supervisory Commission, Private Pension System Supervisory Commission, the National Office for Preventing and Control of Money Laundering.</p> <p>NATIONAL BANK OF ROMANIA:</p> <p>The inspections carried out assessed the supervised entities' procedures for identifying and reporting designated persons and entities and transactions in which goods are involved, as defined by GEO no.202/2008, and their reporting and funds blocking procedures in case of a restraint order was issued in accordance with the legal provisions.</p> <p>NATA:</p> <p>The Minister of Public Finances' Order No. 1865 from 05.04.2011 "The procedure of the issuance of the order for blocking the funds and economic resources in the field of international sanctions or the recalling of the disposed measures." regulates the application of international sanctions regime, in respect to the internal procedures for blocking funds.</p> <p>This Order stresses the following aspects:</p> <p>a) monitoring the international documents where international sanctions are provisioned;</p> <p><i>The International Cooperation Directorate within NATA will constantly monitoring the web site of the UN, EU and the Romanian Official Journal in order to identify the documents where international sanctions are provisioned, respectively UN resolutions, regulations, decisions, another juridical instruments of EU etc.</i></p> <p>b) publicity and communication of the international documents where international sanctions are provisioned;</p> <p><i>Once the document identified, The International Cooperation Directorate within NATA will take the appropriate measures to publish the document on NATA web site.</i></p> <p>c) the management of the information and/or the communication regarding the persons and/or entities under the regime of international sanctions;</p>
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The General Directorate for Tax Information within NATA receives data and information regarding the persons and/or entities under the regime of international sanctions from the International Cooperation Directorate, from the Romanian reporting entities or from NATA's territorial bodies.

d) identification of the persons and/or entities under the regime of international sanctions and the identification of their funds and economic resources;

The General Directorate for Tax Information proceeds to identify the persons and/or entities under the regime of international sanctions searching the Tax Agency's data base or requesting information to the Ministry of Internal Affairs.

e) analyzing the gathered information concerning the persons and/or entities under the regime of international sanctions;

Information about the funds and economic resources are analyzed in order to assess if the Ministry of Public Finances is the competent authority on that specific matter. The information is sent to the competent authority or the internal procedure for identifying the persons/entities is applied. In order to identify the funds and economic resources, The General Directorate for Tax Information will request data to the Ministry of Internal Affairs (for immovable and movable properties), Ministry of Transportation (for ships, yachts, airplanes etc), The National Commission of Movable Assets (for shares in the market, stock exchange), National Trade Register (for company shares), any other entity or body holding information about movable or immovable properties). After gathering this information, other directorates within NATA will identify the bank accounts of the persons/entities, on-spot identification of the goods of the persons/entities, identification from the third parties of the amounts owed to the persons/entities under the regime of international sanctions but also the funds and economic resources of the third parties interacting with these persons/entities, information concerning intra-community acquisitions, business partnerships, custom declarations etc. All this information and data is processed and analyzed by The General Directorate for Tax Information and issues a motivated resolution for blocking the funds and economic resources of the persons/entities under the regime of international sanctions. This resolution is presented to Juridical General Directorate of NATA.

f) issuance of the order for the blocking of the funds and economic resources;

The Juridical General Directorate of NATA is drafting the Order of The Minister of Public Finances for blocking the funds and economic resources held in property or in control of the natural or legal persons identified under the regime of the international sanctions. The Juridical General Directorate of NATA will publish the Order in the Romanian Official Journal within 3 days from its issuance. The Order will also be published on NATA's web site. All other interested bodies will be informed of the provisions of the Order. Any appeal to the provisions of the order will be analyzed by a Commission within NATA and MPF, according with the legal nature of the appeal.

g) application of the above mentioned Order;

The relevant directorate within NATA will take all the appropriate measures in order to block the funds and economic resources – incomes, cash, securities, intangible assets, immovable and movable goods etc. According to the nature of the goods (property), these goods will be superintended by relevant bodies or by a custodian appointed according

	<p><i>with legal provisions duly applicable.</i></p> <p>h) periodical monitoring of the provisioned measures imposed by the order for the blocking of the funds and economic resources;</p> <p><i>The relevant department within NATA will periodically monitor the applied measures for blocking the funds and economic resources. The territorial bodies will quarterly report the effectiveness of the measures, difficulties etc.</i></p>
Recommendation of the MONEYVAL Report	<p><i>It is recommended that the Romanian authorities reinforce the system for implementing UN SC Resolutions relating to prevention and suppression of financing terrorism (S/REC/1267 (1999) and S/REC/1373 (2001) by developing and implementing the necessary procedures and mechanisms.</i></p>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NSC: Pursuant to the provisions of G.E.O. no. 202/2008, approved with amendments and completions by Law nr.217/2009, National Securities Commission provide, for the capital market, ongoing advertising under the emergency provisions establishing penalties for acts of international mandatory in Romania, by displaying the appropriate alerts page to the official website of the Commission, whose consultation is a concern of the entities regulated and supervised by the NSC.</p> <p>For securities sector, NSC is at an advanced stage of elaboration of specific regulations on the supervision of the implementation of international sanctions, as provided by law. The draft normative act will be adopted by the Commission after it will be subject to consultation with the entities operating on the capital market.</p> <p>NOPCML:</p> <p>In accordance with art. 17 of the Law no. 656/2002, consequently amended and completed, corroborated with the provisions of art. 17 of GEO no. 202/2008, as adopted by the Law no. 217/2009, and having regard the attributions conferred to the Romanian FIU as supervisory authority on specific non-banking financial institutions and DNFBPs, it was taken the measure to create on its official web site a special section entitled “International Sanctions/Terrorism Financing”, where are published the UNSC Resolutions, EU Regulations and EU Common Positions related to the implementation of international sanctions and of provisions related to terrorism financing.</p> <p>On the same time, as member represented in the Inter-institutional Council for coordination the implementation of international sanctions regime, the Office is permanently informed about the decisions adopted at international level, which are mandatory or non-mandatory to be applied by Romanian authorities and the regulated reporting entities.</p> <p>MoFA: Romania has adopted, on 4 December 2008, the Government Emergency Ordinance no. 202/2008 on the implementation of international sanctions (GEO 202/2008), which was approved by Law nr. 217 of June 2, 2009.</p> <p>GEO no. 202/2008 ensures the proper framework for transposition in national law and domestic implementation of international and European decisions on sanctions.</p> <p>It plays the role of primary legislation on international sanctions of all types: economic sanctions, travel bans, arms embargoes, trade restrictions, diplomatic, cultural sanctions etc. More precisely, art. 1 delineates its scope in the following manner:</p> <p>(1) <i>This Emergency Ordinance regulates the implementation, at national level, of international sanctions established by:</i></p> <p>(2) a) <i>Security Council resolutions of the United Nations or other acts adopted pursuant to art. 41 of the United Nations Charter ;</i></p>

	<p>(3) b) <i>regulations, decisions, common positions, joint actions and other legal instruments of the European Union.</i></p> <p>(4) (2) <i>This emergency ordinance also regulates the implementation at national level of non binding international sanctions adopted within international organizations or by other states as well as by unilateral decisions taken by Romania or other states in order to meet the goals set out in art. 2 (a).</i></p> <p>It was adopted with the purpose to establish the general principles of implementation, create common procedures, establish competent authorities for implementing specific mechanisms and establish a specific system of penalties for non – compliance.</p> <p>As to the relationship with complementary bodies of legislation, GEO 202/2008 is <i>lex generalis</i>. Specific aspects of implementation of international sanctions can also be found in specialized normative acts, such as Law 535/2004 on the prevention and combat of terrorism, which plays the role of <i>lex specialis</i>.</p> <p>As regards previous legislation, any previous provision that is incompatible with the provisions of GEO 202/2008 in its field of competence is implicitly repealed.</p> <p>As regards the UN SC Resolutions relating to the prevention and suppression of financing terrorism (S/REC/1267 (1999) and S/REC/1373 (2001)), they are mandatory in national law by virtue of art. 25 of the UN Charter, which is a treaty part of domestic law, according to art. 11 of the Romanian Constitution (“treaties ratified by Parliament, in accordance with the law, are part of domestic law”).</p> <p>Moreover, they enjoy legislative supremacy, as art. 3 par. 2 of GEO 202/2008 states that “Domestic legal provisions cannot be invoked to justify non – implementation of international sanctions mentioned in art. 1 par. 1.” Furthermore, they enjoy direct and immediate applicability pursuant to art. 3 par. 1 of the GEO 202/2008:</p> <p><i>“The acts referred to in Article 1 (1) are mandatory for all national authorities and public institutions in Romania and for the natural and moral persons of Romania citizenship or on the Romanian territory (...)”</i></p> <p>That is to say that these acts are mandatory for all subjects of domestic law from their adoption by the UNSC, thus obviating the need for Romania to pass legislation every time the Security Council passes a resolution imposing sanctions.</p> <p>Listing decisions of various sanctions committees become thus also directly applicable (such as the UNSC Committee list).</p> <p>Art. 3 par. 1 is especially relevant in the context of Romania’s EU membership because it ensures automatic taking over of UNSC sanctions resolutions pending transposition at community level.</p> <p>In addition, international binding legislation on sanctions enjoys direct effectiveness with the possibility of adopting secondary implementing legislation as the case may be (art. 4 par. 2, 3).</p> <p>As regards creation and implementation of national terrorism lists, as may be necessary by virtue of S/REC/1373 (2001), national listings would qualify as a unilateral decision of Romania under the terms of art. 1 par. 2, and require adoption of a special normative act for its implementation (art. 4 par. 4).</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>Pursuant to the provisions of G.E.O. no. 202/2008 on international sanctions, approved with amendments by Law nr.217/2009, Romanian National Securities Commission has implemented specific rules for applying</p>

the international sanctions regime in Romania. In this respect, Romanian National Securities Commission issued Regulation no. 9/2009 on supervision of the enforcement of international sanctions in the capital market. The regulation was approved by Romanian National Securities Commission's Order no. 70/16.12.2009 and published in the Official Gazette of Romania no. 916/28.12.2009. In order to advise regulated entities about the new legal framework in the area of international sanctions, NSC actively contributed, together with the NOPCML, to the preparation of a training seminar on "*The obligation to respect the legal framework for international sanctions*", organized by the Brokers Association in February 2010. Moreover, by applying the provisions of GEO no. 202/2008, NSC has created a dedicated section on its website (www.cnvmr.ro) regarding the international sanctions regime, where NSC provides ongoing information concerning international sanctions, whose consultation is a legal obligation of the regulated entities.

On the same website reporting forms agreed by all public authorities and institutions for the use of all entities that are required to apply the international sanctions obligations are available.

In accordance with NSC Regulation no. 9/2009 on the supervision of the enforcement of international sanctions on the capital market, regulated entities have developed internal procedures on international sanctions and have designated staff responsible for the proper administration of international sanctions. Supervision and on-site inspections carried out by NSC were focused also in this area.

NATIONAL BANK OF ROMANIA:

NBR issued Regulations no. 28/2009 regarding supervision of application international standard in respect to blocking the funds, which was completed on June 2011, with the Regulations no. 7/2011. These Regulations addresses to the Romanian credit institutions, payment institutions, e-money providers and non-banking financial institutions included in the Special Registry held by the National Bank of Romania, as well as to the branches in Romania of the foreign credit institutions, foreign payment institutions, foreign e-money providers and foreign non-banking financial institutions included in the Special Registry held by the National Bank of Romania.

According to the provisions of GEO no. 202/2008 and the sectorial regulations issued for the credit institutions, payment services and e-money providers and certain non-banking financial institutions, the NBR is periodically publishing on the official website the international sanctions imposed at EU level and is constantly informing the supervised entities over the news in this area, based on the information received in this respect from the competent authorities. During the inspection actions the NBR make sure that the supervised entities have updated their own databases with the latest changes brought by the UN Security Council resolutions and by the EU regulations and decisions.

The inspections carried out assessed the supervised entities' procedures for identifying and reporting designated persons and entities and transactions in which goods are involved, as defined by GEO no.202/2008, and their reporting and funds blocking procedures in case of a restraint order was issued in accordance with the legal provisions.

INSURANCE SUPERVISORY COMMISSION:

ISC issued the Order no.13/2009 for the implementation of the Regulations on supervision, in the insurance field, of the implementation of international sanctions (Published in the Official Gazette, Part I no.555 of 10.08.2009). According to the provisions of this Order, the reporting entities have to develop and implement policies and procedures on international sanctions

	<p>and have to designate one or more persons from their staff with responsibilities in the implementation and compliance with international sanctions These regulations are also subject of on-site inspection carried out by ISC.</p> <p>NOPCML (FIU): On June 2011, the Government of Romania adopted the Governmental Decision no. 603/2011 by which there were approved the Norms regarding supervision by the National Office for Prevention and Control of Money Laundering of the method of application of the international sanctions. Under the incidence of the current norms are entering the following categories of legal and natural persons:</p> <ul style="list-style-type: none"> a) financial institutions, excepting non-banking financial institutions registered into Special Register provided at the art. 44 from the Law no. 93/2009 on non-banking financial institutions, as amended and completed; b) casinos; c) auditors, legal and natural persons who provide fiscal consultancy or accountability, public notaries, lawyers and other persons who performs independent legal professions; d) service providers for the commercial companies of other entities, other the ones provided at letter c); e) persons with attributions in privatization process; f) real estate agents; g) associations and foundations; h) other legal or natural persons who sells goods and/or services, only if these are based on cash transactions in lei or foreign currency, above the threshold of 15.000 euro in equivalent, no matter of the transaction is performed through one or more transactions which seems to be connected. <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION</p> <p>Pursuant to the provisions of G.E.O. no. 202/2008 on international sanctions, approved with amendments by Law nr.217/2009, Romanian Private Pension System Supervisory Commission has implemented specific rules for applying the international sanctions regime in Romania. In this respect, Romanian Private Pension System Supervisory Commission issued Norm no. 11/2009 regarding the procedure for monitoring the implementation of international sanctions in the private pension system. The norm was approved by Romanian Private Pension System Supervisory Commission and published in the Official Gazette of Romania no. 328/18.05.2009 and was completed through Norm no.4/2010 that was published in the Official Gazette of Romania no. 217/07.04.2010.</p> <p>In applying the provisions of GEO no. 202/2008, CSSPP has created a dedicated section on its website (www.csspp.ro) regarding the international sanctions regime, where CSSPP provides ongoing information concerning international sanctions, whose consultation is a legal obligation of the regulated entities.</p> <p>In accordance with CSSPP Norm no. 11/2009 regarding the procedure for monitoring the implementation of international sanctions in the private pension system administrators and marketing agent have developed internal procedures on international sanctions.</p>
(Other) changes since the last evaluation	

Special Recommendation III (Freeze and confiscate terrorist assets)
Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Clear guidance needed that “shall be frozen” is an automatic freezing procedure.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>MoFA: Freezing without delay funds or economic resources Art. 24 of GEO 202/2008 places the responsibility for “freeze without delay” on the person or entity holding the frozen assets, who is required to immediately and without delay stop any activity in connection with that good, that could be contrary to international sanctions regime, even before notifying competent authorities. Correlatively, art. 27 exempts from any liability all persons or entities that apply in good-faith the provisions of GEO 202/2008. This automatic freezing procedure relying upon the private actors, is correlated with the obligation of vigilance of private actors, established in art. 18 (as modified by Law 217/2009) and 7 of the GEO 202/2008. In its turn, the obligation of vigilance is two-fold: “regular” subjects of domestic legislation must notify the competent authorities if they come across information that would facilitate sanctions implementation (art. 7), while “reporting entities” under AML/TF legislation must apply a higher standard of vigilance, of the type required by their “know your customer” obligations (art. 18) and must make a report to the supervisory authority and to the National Agency for Fiscal Administration. The mechanism for freezing of funds and economic resources It is the Ministry of Public Finance, through the National Agency for Fiscal Administration (NATA), that, upon notification or report from private actors under art. 17 or 18, shall, by order of the Minister of Economy and Finance block any funds or economic resources that are held, owned by or under the control of designated individuals or entities (according to art. 19 (1)). To blocking order is issued based on NATA’s own investigations and has the role to certify that the preliminary identification done by the private actors really concerns a good subject to international sanctions that was rightly frozen and there is no identification error. The blocking order is published in the Official Journal of Romania, as is communicated to the natural or legal person that made the notification or report, to the supervisory authorities, to the public authorities responsible to keep evidence of the blocking, as the case may be, and to the persons and entities covered by the order, if possible, as well as to the Romanian Intelligence Service and to the Foreign Intelligence Service (art. 9 par. 2-4).</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MINISTRY OF FOREIGN AFFAIRS – Office for Implementation of International Sanctions: The Council established to ensure the general framework of cooperation in the implementation of international sanctions in Romania shall inform, whenever possible, the natural and legal persons that hold or have under control goods, in connection with the imminent adoption of international sanctions, to enable their implementation from the adoption and without delay (art. 13 para 1 and art. 14 para 1 letter f of GEO 202/2008). Art. 26 of GEO 202/2008 contains the penalties which are imposable for acts classed as a contravention in case of non compliance with the restrictions and obligations set out in the UN Security Council Resolutions and EU Council documents imposing international sanctions as well as in the case of non reporting of STRs.</p>
Recommendation of the MONEYVAL Report	<i>Banking operations between residents listed in the Annex or on their behalf should be covered.</i>
Measures reported as of 22 September 2009 to	The actual Romanian specific Law no. 535 on preventing and combating

<p>implement the Recommendation of the report</p>	<p>terrorism was adopted in 2004.</p> <p>In August 2009, the Romanian Intelligence Service finalized the drafting of a normative act for modifying Law no. 535/2004 on preventing and combating terrorism. The draft (art. 24) provides a unique national list including all natural and legal persons, irrespective of their nationality, suspected of preparing, planning, aiding, supporting, instigating, leading, coordinating, committing or terrorism financing, as well as all natural and legal persons finally convicted for crimes aforementioned.</p> <p>MoFA: When defining the terms of “good”, “funds”, “freezing funds”, “economic resources”, “freezing economic resources”, GEO 202/2008 (art. 2 letters b)-g)) does not distinguish between financial operations between residents and non – residents. Therefore, in terms of blocking assets, all banking operations involving listed residents are covered.</p> <p>Article 2 – Definition of certain terms</p> <p>For the purposes of this emergency ordinance, the words and phrases below have the following meanings:</p> <p>b) designated persons and entities - governments, non-state entities or persons subject to international sanctions;</p> <p>g) blocking of economic resources - preventing the use of economic resources to obtain funds, goods or services in any way, including through sale, lease or mortgage.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>Measure in place by adoption of GEO no. 202/2008 for implementing the international sanctions regime.</p> <p>The latest amendments brought to the GEO no. 202/2008, by adoption of the Governmental Emergency Ordinance no. 128/2010, defines “restrictions on certain funds and financial services transfers”, adopted with the purpose of prevention the nuclear proliferation – prior notification and authorization of certain financial transactions with the purpose of prevention providing financial services or transfer of any funds which can contribute to the nuclear activities sensitive to the nuclear proliferation risk performed in certain states which are subjects to the international sanctions.</p> <p>In accordance with art. 12 para. (1¹) of the GEO 202/2008, with the latest amendments and completions, “in case of restrictions applied on some financial services and fund transfers provided by the laws mentioned in art. 1 and which have as purpose the prevention of nuclear proliferation, the competent authority which shall receive notifications and shall solve the requests of authorization is the National Office for Prevention and Control of Money Laundering.”</p> <p>On February 2011, the NOPCML adopted the Order no. 95/2011 regarding the approval of Methodological Norms for performing notifications and solving the requests for authorizing financial transactions, act which was published in the Official Gazette of Romania no. 87/02.02.2011.</p> <p>The Compartment for Notification, Endorsement, Transfer for Preventing Nuclear Proliferation, a new structure set up within the FIU Romania in January 2011, monitors the application of these norms.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Freezing on behalf of a foreign jurisdiction should be covered.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MoFA:</p> <p>GEO 202/2008 provides a general mechanism for exchanging information and cooperation between national and foreign competent authorities “in order to efficiently implement international sanctions”, including freezing of assets and freezing orders (art 16 of the GEO 202/2008). This mechanism of international cooperation is used by the National Agency for Tax</p>

	Administration, in its capacity of national competent authority in the field of assets freezing, in order to facilitate the issuance and implementation of national freezing orders for listed individuals and entities (art. 19 of the GEO 202/2008).
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MINISTRY OF FOREIGN AFFAIRS – Office for Implementation of International Sanctions: The freezing requests of other jurisdictions are handled at the EU level within the ordinary EU procedure, and if EU lists a person requested by another jurisdiction and amends the lists prepared in accordance with Council Regulations 2580/2001, then obliged entities and Romanian authorities act accordingly to freeze that listed person’s assets. An EU member state or a non-member states has the possibility of presenting the Council with a listing request, this will be examined in the light of requirements of Common Position 2002/931 and the aforementioned Regulations; to be accepted it, must be the subject of a consensus decision by member states.</p> <p>As far as the national level is concerned, art. 1 para 2 of GEO 202/2008 regulates the modality for the internal application of an international sanction, including those imposed by other states. Art. 4 para. 4 of GEO 202/2008 stipulates that international sanctions imposed by other states became mandatory in the domestic law through the adoption of a special normative act, which will regulate the measures necessary for its implementation. The draft of the above mentioned special normative act is prepared at the initiative of MoFA, in cooperation with the public authorities and institutions with competences in the field and it shall be adopted by emergency procedure.</p> <p>NOPCML (FIU):</p> <p>In the draft of law approving the Governmental Emergency Ordinance no. 53/2002, which has been adopted on November 22, 2011, by the Romanian Parliament, new legislative measures were adopted in respect to the power of the FIU to postpone a transaction by the request of a foreign FIU:</p> <p>Art. 19 para (2²) – <i>The Office may dispose, at the request of the Romanian judicial authorities or of the foreign institutions with similar attributions and with the obligation of keeping the secrecy in similar conditions, the suspension of performing of a transaction, which has as purpose money laundering or terrorism financing acts, art. 3 para. (2) – (5) being applied accordingly, taking into consideration the motivations presented by the requesting institution, as well as the fact that the transaction could have been suspended if would have been the subject of a suspicious transaction report submitted by one of the natural and legal persons provided at art. 8.</i></p>
Recommendation of the MONEYVAL Report	<i>Funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organizations should be covered by the freezing actions.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	MoFA: Art. 2 of the GEO 202/2008 contains the definitions of certain terms, such as “goods” (letter c), “funds” (letter d, especially point iv) and “to have under control” (letter i) that respond to the above recommendation in respect of terrorist assets listed at international level.
Measures taken to implement the recommendations since the adoption of the first progress report	<p>MoJ:</p> <p>There is no change in this field from 2009, when we reported the adoption of GEO 202/2008.</p>
Recommendation of the MONEYVAL Report	<i>Prior authorization by the NBR, the NCS or the ISC should be required for financial operations between residents included in the single List.</i>

<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MoFA: GEO 202/2008 requires authorization from the National Agency for Tax Administration (Ministry of Public Finance) as national competent authority regarding the assets freezing (art. 12 para. 1 letter, together with art. 8, 10, 22 and 23), for any financial operation involving designated individuals/entities, including listed residents. When deciding on the request for authorization, the National Agency for Tax Administration may consult financial supervising authorities (including NBR, NCS, ISC) either directly (art. 16 regarding exchange of information and cooperation between authorities) or through the Inter-institutional Council (according to art. 9 para. 4 regarding the procedure of consultative opinion of the Inter-institutional Council).</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU): The latest amendments brought to the GEO no. 202/2008, by adoption of the Governmental Emergency Ordinance no. 128/2010, defines “restrictions on certain funds and financial services transfers”, adopted with the purpose of prevention the nuclear proliferation – <i>prior notification and authorization of certain financial transactions with the purpose of prevention providing financial services or transfer of any funds which can contribute to the nuclear activities sensitive to the nuclear proliferation risk performed in certain states which are subjects to the international sanctions.</i> In accordance with art. 12 para. (11) of the GEO 202/2008, with the latest amendments and completions, “in case of restrictions applied on some financial services and fund transfers provided by the laws mentioned in art. 1 and which have as purpose the prevention of nuclear proliferation, the competent authority which shall receive notifications and shall solve the requests of authorization is the National Office for Prevention and Control of Money Laundering.” On February 2011, the NOPCML adopted the Order no. 95/2011 regarding the approval of Methodological Norms for performing notifications and solving the requests for authorizing financial transactions, act which was published in the Official Gazette of Romania no. 87/02.02.2011. The Compartment for Notification and Authorisation of Transfers for Preventing Nuclear Proliferation, a new structure set up within the FIU Romania in January 2011, monitors the application of these norms. MPF-NATA The provisions of GEO 202/2008 are applicable, as well as the provisions of The Minister of Public Finances’ Order No. 1865, detailed in “General overview of the current situation and the developments since the last evaluation relevant in the AML/CFT field” (New developments since the adoption of the first progress report). Art.24 - NATA will inform Minister of Foreign affairs twice a year or when necessary about the way the international sanctions are applied, about the infringement of applying international sanctions, about all the cases in progress or any other issues that might appear in the process.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Communication channels in respect of listing and their updating need to be enhanced.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MoFA: Art. 5 of the GEO 202/2008 establishes the obligation of authorities competent to address requests and those competent with supervision of implementation of international sanctions to ensures publicity of international actors establishing sanctions, by posting them on their websites or other forms of publicity.</p>

	<p>Furthermore, also for publicity purposes, the Ministry of Foreign Affairs ensures the publication in the Official Journal of Romania of the Romanian translation of the UN SC resolutions establishing sanctions.</p> <p>In practice, most of the above mentioned authorities maintain updated websites with international sanctions and various other useful information with a view to a proper implementation by private actors.</p> <p>The sanctions page on the website of the Ministry of Foreign Affairs can be found at http://www.mae.ro/index.php?unde=doc&id=12389&idlnk=1&cat=3.</p> <p>In addition, once official notification of any change in the terrorism listings is received through diplomatic channels, the Ministry of Foreign Affairs notifies the authorities with competences in the field, which, in their turn notify the private actors involved.</p> <p>Moreover, on specific financial sanctions, the Ministry of Economy and Finance, through the National Agency for Fiscal Administration, shall publish the order for blocking of funds or economic resources referred to in para. (1) art. 191 in the Official Gazette of Romania, Part I, within 3 working days from date of issue.</p> <p>With a purpose to ensure systematization of obligations to implement international sanctions, every supervisory authority and every authority competent to implement, keep its own record regarding international sanctions in their field of competence, which they make available to the Ministry of Finance.</p> <p>The Ministry of Finance, through NATA, creates and manages a centralized database of frozen funds and economic resources (art. 15).</p> <p>In order to ensure clear standards of compliance, art. 17 par. 6 establishes the task for supervisory authorities to adopt a supervisory procedure in their field of competence.</p> <p>Similarly, art. 18 par. 3 establishes the obligation for supervisory authorities to establish a mechanism and a model for reporting by supervised entities of aspects related to the field of international sanctions.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>MINISTRY OF FOREIGN AFFAIRS - Office for Implementation of International Sanctions: The sanctions page on the website of the Ministry of Foreign Affairs can be found at http://www.mae.ro/taxonomy/term/668/2.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p> <p>In applying the provisions of G.E.O. no. 202/2008, Romanian National Securities Commission has created a dedicated section on its website (www.cnvmr.ro) regarding the international sanctions regime, where NSC provides ongoing information concerning international sanctions, whose consultation is a legal obligation of the regulated entities.</p> <p>NATIONAL BANK OF ROMANIA: According to the Governmental Emergency Ordinance no. 202/2008 on the application of international sanctions, NBR issued Regulation no. 28/2009 on overseeing the enforcement of international sanctions imposing the freezing of funds.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>ISC has created a dedicated section on its website (www.csa-isc.ro) regarding the international sanctions regime.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION:</p> <p>On the web site http://www.csspp.ro/legislatie/2, under a special section of “International Sanctions”, the Supervision Commission of the Private Pension Funds publishes all acts regarding application of international sanctions and communicates to the sector the lists with designated persons and entities subject to these sanctions.</p> <p>NOPCML : Lists included in the international sanctions regime are published in two special Sections entitled “International Sanctions” and</p>

	<p>“Terrorism financing”, from the FIU web site - www.onpcsb.ro. On the same time, in the “International Sanctions” section, information and documents regarding notification and authorization of financial transfers related to combating proliferation financing can be found.</p>
Recommendation of the MONEYVAL Report	<p><i>The Romanian authorities should be able to give effect to a designated freezing mechanism of other jurisdictions and to freeze on behalf of a foreign FIU.</i></p>
Measures taken to implement the Recommendation of the Report	<p>NOPCML (FIU):</p> <p>In accordance with the provisions of the Law no. 420/2006 for the ratification of the Council of Europe Convention on laundering, identification, freezing and confiscation of proceeds of crime and terrorism financing, adopted in Warsaw, on May 16th, 2005, that refers to art. 33 para 2 of the Convention (<i>regarding the designation of the competent authorities responsible with the submission of the requests formulated on the basis of the Convention, to answer, to execute or to submit them to the authorities competent to execute them</i>), the National Office for Prevention and Control of Money Laundering, in its capacity as Financial Intelligence Unit of Romania, is designated to implement its provisions, together with the Ministry of Justice and Citizen’s Liberties, General Prosecutor’s Office by the High Court of Cassation and Justice, Ministry of Administration and Interior and Ministry of Public Finance.</p> <p>Art. 47 of the Law no. 420/2006 for the ratification of the Council of Europe Convention on laundering, identification, freezing and confiscation of proceeds of crime and terrorism financing adopted in Warsaw, on May 16th, 2005</p> <p>International cooperation in order to postpone the suspicious transactions:</p> <p>1. Each party shall adopt the legislative and other necessary measures that would allow for the rapid initiation of action by the FIU, upon the request of a foreign FIU, for blocking or refusing the agreement for carrying out a transaction over the periods and under the conditions provided for by the internal legislation for the blocking of transactions.</p> <p>2. the action provided for in para 1 shall be taken when the requested FIU is convinced, after the presentation of justifications by the requesting FIU, that:</p> <p>a.the transaction is related to money laundering activities, and</p> <p>b.the transaction would have been suspended or the agreement for its performing wouldn’t have been granted, if the transaction were the object of an internal STR.</p> <p>NOPCML (FIU):</p> <p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 19 para. 2² of the Law no. 656/2002 consequently amended and completed</p> <p>The Office can dispose, at the request of the Romanian judicial bodies or on the request of the foreign institutions which have similar attributions and which have the obligation to keep the secrecy in similar conditions, suspending the performing of an operation which has as purpose money laundering or terrorism financing, the provisions of art.3 para. (2) – (5) accordingly applying, taking into consideration the justifications presented the requesting institution as well as the fact that the transaction could be suspended if was the object of a report of suspicious transaction submitted by a natural or legal person stipulated in art. 8.</p> <p>Art. 22 para 1 lett. b of the Law no. 656/2002, with subsequent modifications and completions</p>

	<p>(1) The following deeds shall be deemed as contraventions: b) the failure to comply with the obligations referred to in art. 3 para. 2 third thesis, art. 5 para. (2), art. 8¹, art. 8², art. 9, art. 9¹, art. 9², art. 12, art. 12¹ para. (1), art. 13 - 15 and art. 17</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU): In the draft of law approving the Governmental Emergency Ordinance no. 53/2002, which has been adopted on November 22, 2011, by the Romanian Parliament, new legislative measures were adopted, as follows: Art. 19 para (2²) – <i>The Office may dispose, at the request of the Romanian judicial authorities or of the foreign institutions with similar attributions and with the obligation of keeping the secrecy in similar conditions, the suspension of performing of a transaction, which has as purpose money laundering or terrorism financing acts, art. 3 para. (2) – (5) being applied accordingly, taking into consideration the motivations presented by the requesting institution, as well as the fact that the transaction could have been suspended if would have been the subject of a suspicious transaction report submitted by one of the natural and legal persons provided at art. 8.</i> Art. 22 para. 1 let. b) – <i>failure to comply with the obligations referred to in art. 3. (2), third thesis, art. 5. (2), art. 8¹, 8², 9, 9¹, 9², art. 12¹ par. (1), art. 13-15 and art. 17.</i></p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The Romanian authorities should establish efficient and effective systems for communicating actions taken under the freezing mechanism to the financial sector immediately upon taking such action.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>RIS: The Government Emergency Ordinance no.202/2008 implementing international sanctions, amended and approved by Law no.217/2009 NOPCML (FIU): By the approval of GEO no. 202/2008 on the implementation of international sanctions, through the Law no. 217/2009, the Office has new attributions, namely the implementation of the international financial sanctions. (the Law no. 217/2009 for the approval of GEO no. 202/2008 is attached to the present document in Annex no.2.9) În accordance with the provisions of art. 17 letter d) of the Law no. 656/2002 with subsequent modifications and completions, corroborated with the provisions of art.17 para.1) of GEO no. 202/2008, the competences of the National Office for Prevention and Control of Money Laundering, regarding the application and implementation of the international financial sanctions, are the following: publicity, informing, assistance, continuous monitoring and control over the modalities of application of the international sanctions by the economic operators in the field, for the application of the contravention sanctions and cooperation with other authorities for the efficient supervision of the implementation of the international sanctions. In this context, we mention that the UNSC Resolutions and EU Regulations on the applying of international sanctions and of the measures for combating the terrorism financing, after the informing made by the Ministry of Foreign Affairs, are published by the NOPCML on its website at the section International sanctions/Terrorism financing acts. MoFA: Art. 5 of the GEO 202/2008 establishes the obligation of authorities competent to address requests and those competent with supervision of implementation of international sanctions to ensures publicity of international acts establishing sanctions, by posting them on their websites or other forms of publicity. Furthermore, also for publicity purposes, the Ministry or Foreign Affairs ensures the publication in the Official Journey of Romania of the Romanian</p>

	<p>translation of the UN SC resolutions establishing sanctions.</p> <p>In practice, most of the above mentioned authorities maintain updated websites with international sanctions and various other useful information with a view to a proper implementation by private actors.</p> <p>The sanctions page on the website of the Ministry of Foreign Affairs can be found at http://www.mae.ro/index.php?unde=doc&id=12389&idlnk=1&cat=3.</p> <p>In addition, once official notification of any change in the terrorism listings is received through diplomatic channels, the Ministry of Foreign Affairs notifies the authorities with competences in the field, which, in their turn notify the private actors involved.</p> <p>Moreover, on specific financial sanctions, the Ministry of Economy and Finance, through the National agency for Fiscal Administration, shall publish the order for blocking of funds or economic resources referred to in para. (1) art. 191 in the Official Gazette of Romania, Part I, within 3 working days from date of issue.</p> <p>With a purpose to ensure systematization of obligations to implement international sanctions, every supervisory authority and every authority competent to implement, keep its own record regarding international sanctions in their field of competence, which they make available to the Ministry of Finance.</p> <p>The Ministry of Finance, through NATA, creates and manages a centralized database of frozen funds and economic resources (art. 15).</p> <p>In order to ensure clear standards of compliance, art. 17 par. 6 establishes the task for supervisory authorities to adopt a supervisory procedure in their field of competence.</p> <p>Similarly, art. 18 par. 3 establishes the obligation for supervisory authorities to establish a mechanism and a model for reporting by supervised entities of aspects related to the field of international sanctions.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>MINISTRY OF FOREIGN AFFAIRS - Office for Implementation of International Sanctions: The sanctions page on the website of the Ministry of Foreign Affairs can be found at http://www.mae.ro/taxonomy/term/668/2.</p> <p>NATIONAL BANK OF ROMANIA:</p> <p>According to the Governmental Emergency Ordinance no. 202/2008 on the application of international sanctions, NBR issued Regulation no.28/2009 on overseeing the enforcement of international sanctions imposing the freezing of funds and the Order no. 340/2010 regarding the unitary model for reporting blocked funds and economic resources.</p> <p>The NBR is a member of the Inter-institutional Council established under the provisions of GEO no.202/2008 on the implementation of international sanctions. As a member of this Council, the NBR brings its contribution to the fulfillment of the attributions granted by the Council's law.</p> <p>The inspections carried out assessed the supervised entities' procedures for identifying and reporting designated persons and entities and transactions in which goods are involved, as defined by GEO no.202/2008, and their reporting and funds blocking procedures in case of a restraint order was issued in accordance with the legal provisions.</p> <p>The NBR is periodically publishing on the official website the international sanctions imposed at EU level and is constantly informing the supervised entities over the news in this area, based on the information received in this respect from the competent authorities. During the inspection actions the NBR make sure that the supervised entities have updated their own databases with the latest changes brought by the UN Security Council resolutions and by the EU regulations and decisions.</p> <p>ROMANIAN NATIONAL SECURITIES COMMISSION</p>

	<p>Pursuant to the provisions of G.E.O. no. 202/2008 on international sanctions, approved with amendments by Law nr.217/2009, Romanian National Securities Commission has implemented specific rules for applying the international sanctions regime in Romania. According to art. 8 Para 2 of NSC Regulation no. 9/2009, NSC shall register in its own records every frozen fund that is owned, held or controlled by the clients of the regulated entities identified as persons or entities designated as subject of international sanctions, after the freezing was decided by an Order issued by the Minister of Public Finance and was applied and notified to NSC by the authorized Central Depository where the financial instruments and other categories of frozen funds are deposited.</p> <p>NOPCML (FIU) :</p> <p>Lists included in the international sanctions regime are published in two special Sections entitled “International Sanctions” and “Terrorism financing”, from the FIU web site - www.onpcsb.ro. On the same time, in the “International Sanctions” section, information and documents regarding notification and authorization of financial transfers related to combating proliferation financing can be found.</p> <p>INSURANCE SUPERVISORY COMMISSION:</p> <p>ISC has created a dedicated section on its website (www.csa-isc.ro) regarding the international sanctions regime.</p> <p>PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION: On the web site http://www.csspp.ro/legislatie/2, under a special section of “International Sanctions”, the Supervision Commission of the Private Pension Funds publishes all acts regarding application of international sanctions and communicates to the sector the lists with designated persons and entities subject to these sanctions.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Effective and publicly-known procedures for considering de-listing requests and for unfreezing the funds of de-listed persons or entities in a timely manner consistent with international obligations should be developed.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>Art. 26 from the draft normative act for modifying Law no. 535/2004 on preventing and combating terrorism: (1) The measure ordered by the Government of Romania concerning the listing of the natural persons and legal entities suspected of preparing, planning, supporting, promoting, instigating at, controlling, coordinating, committing or financing terrorist acts or that are definitively and irrevocably sentenced for the above acts and facts can be appealed against pursuant to the administrative contentious proceedings.</p> <p>(2) If the authorities and public institutions that have proposed to the AOCC the inclusion of a natural person or legal entity in the list ascertain that the reasons for the inclusion in the list are not valid anymore, they have the obligation to take the necessary measures to remove that entity from the list.</p> <p>(3) The AOCC (Antiterrorist Operational Coordination Centre) periodically revises the national List of the natural persons and legal entities suspected of preparing, planning, supporting, promoting, instigating at, controlling, coordinating, committing or financing terrorist acts or that are definitively and irrevocably sentenced for the above acts and facts, in cooperation with the authorities and public institutions that have made similar proposals.</p> <p>MoFA: GEO 202/2008 does not regulate procedures for national listings, but to transposing in domestic legislation listings compiled at international level. It therefore does not provide for procedures for considering de-listing requests. A person listed at international level should address the appropriate body of the authority that decided the listing.</p>

	<p>However, if a person/entity is removed from an international list, the domestic freezing measures regarding that person/entity remain without legal basis in Romania and should be terminated.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>MINISTRY OF FOREIGN AFFAIRS: A description of the international sanctions regimes can be found on the sanctions page on the website of the Ministry of Foreign Affairs (http://www.mae.ro/taxonomy/term/668/2).</p> <p>A person listed at international level should address the appropriate body of the authority that decided the listing, as the de-listing decision may only be taken by the respective authority.</p> <p>Listed individuals and entities may take the matter up directly with the UN Ombudsperson or the European Commission. De-listing requests may be submitted by the state, in case the competent authorities assessed favorably the request of a listed person to take the case up with the Commission and / or the United Nations. Moreover, a regular review of the sanctions list is provided for at UN and EU level.</p> <p>Relevant EU Regulations do not provide for a national autonomous decision for considering de-listing requests and unfreezing as a whole. As such any freezing remains in effect until otherwise decided by the EU. Formal de-listing procedures exist under the European Union mechanisms, both in relation to funds frozen under S/RES/1267 (1999) and S/RES/1373 (2001). For 1267 (European Commission) No. 881/002 provides that the Commission may amend the list of persons on the basis of a determination by the United Nations Security Council or the Sanctions Committee (Article 7). For 1373 (EC) N 2580 / 2001 provides that the competent authorities of each member State may grant specific authorizations to unfreeze funds after consultations with other member States and the Commission (Article 6). Common Position 2001/931/CFSP of the European Union implements S/RES 1373 (2001) and provides for a regular review of the sanctions list which it has established. Moreover, listed individuals and entities are informed about the listing, its reasons and legal consequences. If the EU maintains the person or entity on its list, the latter can lodge an appeal before the General Court in order to contest the listing decision. Delisting from the EC Regulations may only be pursued before the EU courts.</p> <p>GEO 202/2008 ensures the general framework in the field of implementation of international sanctions, while aspects relating to listing/de-listing at national level will be regulated through special normative acts. The international sanctions imposed by a unilateral decision of Romania became mandatory in the domestic law through the adoption of a special normative act, which will regulate the measures necessary for its implementation (art. 4 par. 4 of GEO 202/2008), including the de-listing procedure.</p> <p>According to the Article 19 para 5 of GEO 202/2008, the order for freezing funds or economic resources owned, held by or under the control of natural or legal persons who have been identified as designated persons or entities, may be appealed against pursuant to the administrative contentious proceedings. The Ministry of Economy and Finance, the National Agency for Tax Administration, has the obligation to periodically review the measure referred to in the order and cancel it ex officio or upon application if it finds that its maintenance is no longer justified. Decision to reject an application for revocation may be appealed under the administrative contentious proceedings.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Clear provisions regarding the procedure for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated should be developed.</i></p>

<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MoFA: Art. 10 of GEO 202/2008 regulates the procedure for addressing errors in identification by the competent authorities established in art. 12. GEO 202/2008 establishes in art. 8-9 a general procedure for granting exemption from international sanctions on various reasons regulated in art. 10 (errors in identification), 22 (protection of the rights of third parties), and 23 (protection of the rights of the designated persons/entities), including exemptions allowed by the international acts establishing the sanctions regime (art. 8).</p> <p>Art. 26 from the draft normative act for modifying Law no. 535/2004 on preventing and combating terrorism: (1) The measure ordered by the Government of Romania concerning the listing of the natural persons and legal entities suspected of preparing, planning, supporting, promoting, instigating at, controlling, coordinating, committing or financing terrorist acts or that are definitively and irrevocably sentenced for the above acts and facts can be appealed against pursuant to the administrative contentious proceedings.</p> <p>(2) If the authorities and public institutions that have proposed to the AOCC the inclusion of a natural person or legal entity in the list ascertain that the reasons for the inclusion in the list are not valid anymore, they have the obligation to take the necessary measures to remove that entity from the list.</p> <p>(3) The AOCC (Antiterrorist Operational Coordination Centre) periodically revises the national List of the natural persons and legal entities suspected of preparing, planning, supporting, promoting, instigating at, controlling, coordinating, committing or financing terrorist acts or that are definitively and irrevocably sentenced for the above acts and facts, in cooperation with the authorities and public institutions that have made similar proposals.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>MINISTRY OF FOREIGN AFFAIRS: The procedure mentioned in the section above, regarding de-listing requests, would apply in the case of errors regarding the identity of the person. The errors in implementing the measure may be contested at national level, according to the procedure provided in art .10 of GEO 202/2008.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Provisions that give access to funds or other assets that were frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses should be implemented.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>MoFA: Art. 8 of the GEO 202/2008 expressly regulated the procedure for granting exception of this type.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>MINISTRY OF FOREIGN AFFAIRS: Regarding persons and entities linked to Osama bin Laden, the Al-Qaeda network and the Taliban pursuant to S/RES/1267(1999), Regulation (EC) No. 881/2002 of 27 May 2002, as modified by Council Regulation (EC) No. 561/2003 of 27 March 2003, includes Article 2b relating to unfreezing sums for the purposes of covering expenditure of a humanitarian nature.</p> <p>The competent national authorities may unfreeze sums which are: (i) necessary for basic expenses, including payments for foodstuffs, rent or mortgage, medicines and medical treatment, taxes, insurance premiums and public utility charges; (ii) intended exclusively for payment of reasonable professional fees and reimbursement of incurred expenses associated with the provision of legal services; (iii) intended exclusively for payment of fees or service charges for routine holding or maintenance of frozen funds or economic resources; or (iv) necessary for extraordinary expenses.</p> <p>The Sanctions Committee must be notified of the decision, and in the case of</p>

	<p>use of funds established by virtue of points (i), (ii) or (iii), if the Sanctions Committee has not taken a decision to the contrary by the end of the mandatory period of three working days, or, in the case of use of funds on the grounds of point (iv), if the Sanctions Committee has approved this use, exemption is granted.</p> <p>Any person wishing to benefit from these provisions must send their request to the relevant competent authority of the member state listed in Annex II of the Regulation. The competent authority specified in Annex II must notify the person having presented the request in writing, as well as any other person, entity or body recognized as being directly concerned, if the request is granted. The competent authority also informs the other member states of whether or not the derogation has been granted. For Romania, the competent authority is the Ministry of Finance.</p>
(Other) changes since the last evaluation	-The draft law has been approved by the Senate, by the Committee for Budget, Finance and Banks and by the Committee for Legal Matters, Discipline, and Immunities within the Chamber of the Deputies. Moreover, the draft law was adopted in the Plenary of the Chamber of the Deputies (decisional chamber), on November 22, 2011.

Special Recommendation VI (AML requirements for money/value transfer services)	
Rating: Non compliant	
Recommendation of the MONEYVAL Report	<i>Registration or licensing procedures should be established for money remittance service providers.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU):</p> <p>Having regard at the necessity to fully transpose the national legislative measures to the provisions of Directive 2007/64/CE a working group, comprising representatives of the European Affairs Department, Ministry for Public Finance, National Bank of Romania, Ministry of Justice and Citizens' Liberties, was set up at national level, in order to elaborate the afferent draft law. Within this draft provisions on the specific authorization and supervision modality of the money remittance services will be provided</p> <p>Until the adoption of this normative act and the establishment of a registration and authorization of money remitters service providers framework, at NOPCML level measures have been taken for the creation of an Evidence Register, in which every reporting entity that has as line of business money remitting services would register, upon 30 days from its registration as a commercial company in the National Trade Register, in accordance with the provisions of the Law no. 31/1990 on commercial companies, with subsequent modifications and completions. This Register shall be made public in NOPCML official website.</p> <p>At the same time, in respect of the regulation and supervision of the prevention and combat of money laundering and terrorism financing field, at NOPCML level, by President's Order no. 43/27.05.2008, a working group was set up responsible with the elaboration of a draft law that would modify the Decision no. 496/2006 for the approval of the NORMS on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities. Within this project specific provisions will be introduced on the creation of this Register and on the obligation of the reporting entity to register with the Office in the established timeframe.</p> <p>NBR: These requirements are to be soon met, since the Government Emergency Ordinance transposing the Payment Service Directive 2007/64 shall be in force no latter than 1 November 2009.</p> <p>NOPCML:</p>

	<p>At the NOPCML level it was established the setting up an Registry, in which will be registered every reporting entities which has as activity object the money remittance services, after the registration of the entity as legal person to the Trade Registry, in accordance with the Law no. 31/1990 on commercial companies, with subsequent modifications and completions. This registry shall be available on the NOPCML website.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: In 2009 the <i>Emergency Government Ordinance no. 113/2009 on payment services</i> was enacted in order to transpose the Directive 2007/64/EC on payment services in the internal market. The new legislation empowered the National Bank of Romania to license and to supervise the payment institutions – as a distinct category of payment services providers.</p> <p>According to GEO no.113/2009:</p> <p>Art. 8. – For the purpose of the present GEO, payment services shall include:</p> <p>..f) money remittance..</p> <p>Art. 10. – Any legal entity intending to provide payment services in Romania shall be licensed in accordance with the present title before starting this activity.</p> <p>Considering these new prudential competences, the NBR became the authority responsible with AML/CTF supervision of payment institutions (including money remittance service providers) and the NBR regulation was consequently amended – Regulation no.27/2009 amending art.1 of the Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.</p> <p>In the 2nd semester of 2010 and the 1st semester of 2011, 7 payment institutions were authorized and thereof 10 branches were registered. For these entities subject to the NBR supervision, the internal rules, including those in the field of AML/CFT, were analyzed with the occasion of their authorization, following that in 2012 to be included in the on-site inspection plan in the field of AML/CFT.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Deficiencies identified under R.5-11, 13-15 and 21 are equally valid for money or value transfer services.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): The dispositions and specific measures mentioned above to the Recommendations 5-11, 13-15 and 21 are valid also for the money or value transfer services, as being reporting entities.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: Please see the above comment.</p> <p>NOPCML (FIU): In accordance with the Art.IV of the G.E.O. no. 26/2010 on amending and supplementing the Government Emergency Ordinance no.99/2006 regarding credit institutions and capital adequacy and other acts, the definition of financial institutions, also vis-à-vis their quality of reporting entities, is provided, in order to harmonize it to the provisions of the Directive 2007/64/CE on payment services.</p> <p>On the same time, by GEO no. 26/2010, Art.III para.(1) of the Government Emergency Ordinance no.53/2008, on amending and supplementing the Law no.656/2002, provides that the authorities responsible with the supervision of the application of EC Regulation 1781/2006, are:</p> <ul style="list-style-type: none"> - the National Bank of Romania, for credit institutions and payment institutions; - the National Office for Prevention and Control of Money Laundering, for postal services providers, performing payment services according to the

	<p>applicable national legislative framework. All Romanian AML/CTF legal dispositions in place for financial institutions are applicable to the money remitters. The Manual on risk based approach and indicators of suspicious transactions, published in 2010, includes the following theoretical and practical aspects, in respect to the compliance of the reporting entities to the AML/CTF Law:</p> <ul style="list-style-type: none"> - Defining the concepts of money laundering and terrorism financing; - Description of the AML/CTF obligations incumbent to the reporting entities; - Explaining the modality of performing supervision and control by the NOPCML and the requirements that need to be respected by the reporting entities, as regards internal procedures and norms; - Presenting elements of interest in respect to: cash control at entrance or exit from European Community; information on the payer accompanying funds transfers; third countries equivalence; countries assessed with deficiencies in the anti-money laundering and countering terrorism financing regime; implementation of international sanctions regime; - Presenting the vulnerabilities regarding money laundering and terrorism financing, - Explaining the methods of money laundering and terrorism financing; - Presenting typologies of money laundering and terrorism financing - Providing a comprehensive list of indicators for detecting suspicious transactions identified based on FIU’s analyses and international practice for financial and non-financial reporting entities.
<p>Recommendation of the MONEYVAL Report</p>	<p><i>It should be ensured that on-site controls are being conducted at postal offices.</i> <i>It should be ensured that on-site controls of MVT operator that has its network and operate independently are being conducted.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): Based on NOPCML initiative, a meeting between NOPCML representatives and those of Romanian Post National Company SA took place, with the objective of updating the existing cooperation protocol and to identify the practical modalities for assuming responsibility on the internal supervision framework (internal control), in order to comply with the legal requirements for combating money laundering and terrorism financing, in the context of funds transfers operated by the national offices within the Romanian Post National Company SA <u>The following aspects have been addressed:</u> -By updating the cooperation protocol a series of problems related to the control of postal offices and the internal norms for the prevention and combat of money laundering and terrorism financing, could be solved, having regard to the seriousness of the situation in this sector, as there are no STRs for the period 2007 – 2009. - In respect of the reporting activity, all the transactions that are about to be performed are submitted by the postmasters to the Financial Services Directorate, within Romanian Post National Company, for approval. This directorate shall submit the reports to the Office; -The money laundering and terrorism financing combating activity is coordinated by the Postal Security Directorate, which has as a distinct attribution, in the Measure’s Plan for money laundering, the prevention of terrorism financing. The leading structure of Romanian Post National Company shall approve in the shortest time possible a strict procedure in this respect.</p>

	<p>-Romanian Post National Company carries out the control activities, in the field of preventing and combating money laundering and terrorism financing acts, within the internal procedure, and the results of these activities are submitted to the Office, which will perform on-site inspections only to the central structure. An overlapping of the Office's inspections with the internal controls performed by Romanian Post National Company is to be avoided.</p> <p>- A working group was set up, with the objective to modify the protocol and to elaborate a procedure for the prevention and combat of money laundering and terrorism financing (document that will constitute an Annex to the protocol), as well as an implementation plan of this procedures; the first meeting of the working group was organized on August 06th, 2009. At the moment a draft of additional act was elaborated and submitted for analysis, by the National Company Romanian Post, to the Office.</p> <p>-Having regard at the great number of county post offices (1.800 locations), the organization of regional training sessions in AML/CTF field was agreed upon, in accordance with the Training Plan of the Romanian Post National Company. The meeting's minute is attached to the present questionnaire.</p> <p>At the same time, in accordance with the provisions of the Plan for carrying out on-site supervision activity, approved by NOPCML President, and taking into consideration the provisions regarding the enforcement of Regulation EC no. 1781/2006, comprised in the Law no. 656/2002 with subsequent modifications and completions and of GEO no 53/2008, verification and control actions on the transfers operated under its own scheme, as well as on those operated in specialized systems (franchise), like Western Union and Money Gram), shall be performed.</p> <p>Until now, three commercial companies that provide money remittance services have been the subject of control actions, the quantum of applied sanctions reaching 10.000 RON (equivalent of 2.365 Euro).</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NATIONAL BANK OF ROMANIA: In the 2nd semester of 2010 and the 1st semester of 2011, 7 payment institutions were authorized and thereof 10 branches were registered. For these entities subject to the NBR supervision, the internal rules, including those in the field of AML/CFT, were analyzed with the occasion of their authorization, following that in 2012 to be included in the on-site inspection plan in the field of AML/CFT.</p> <p>NOPCML (FIU) : For an efficient implementation of the AML/CTF provisions in respect to the postal services providers, performing payment services, as reporting entities, on September 29, 2009, a Cooperation Agreement has been concluded between the NOPCML and National Romanian Post-Office Company. In this respect, the National Romanian Post-Office Company assumed its role and responsibilities in this sector (as regards AML / CTF obligations and compliance).</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>The limited resources of experts for on-site inspections within the NOPCML compared to the number of MVT working offices should be addressed.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU): By the adoption of GD no. 1599/2008 for the approval of the Regulation for the organization and functioning of NOPCML, which stipulates that, starting with 1st of January 2009, the maximum number of positions is 130, the institutions started the necessary measures for increasing the number of positions within the supervision and control structure. At the same time, the Supervision and Control Directorate was set up by the provisions of GD no. 1599/2008.</p> <p>Having regard at the MONEYVAL experts' recommendations on the necessity to increase NOPCML human resources, which were considered to</p>

be inadequate for carrying out in optimal conditions its specific activity (with a special accent being laid on the financial analysis and supervision), once with the adoption by the Romanian Government of the Decision no. 1599/2008 on the approval of the Regulation for the organization and functioning of NOPCML, necessary actions for strengthening the newly formed structures(Supervision and Control Directorate, Legal and Methodology Directorate, Information Technology and Statistics Directorate) as well as the existing ones (Analysis and processing of Information directorate, Inter-institutional Cooperation and International relations Directorate) within the Office, were initiated.

In this respect, in accordance with the provisions of GD no. 1599/2008, starting with January 01st, 2009, the maximum number of positions allocated to the Office was increased from 120 to 130.

Between the mission of evaluation date (May 2007) and the adoption of GD no. 1599/2008 (December 2008), the Office organized two employment sessions for occupying the vacant positions (01.11.2007 and 08.02.2008) subsequent to which 13 persons have been employed. During the reference period the number of specialized personnel was increased from 90 to 103.

For the moment, in the current financial crises context, the Romanian government decided by GEO no. 34/11.04.2009, to suspend till 31.12.2009 the occupation of vacant positions in public institutions and authorities which are financed by the state budget, category comprising NOPCML too. This decision resulted in the impossibility to organize employment sessions for occupying the vacant positions, and implicitly, for employing the necessary personnel.

Having regard to the institution's strategic objectives for 2008, the supervision and control activity occupied an important place, based also on the recommendations included in the Moneyval report, in respect of increasing the supervision and control. Thus, based on the Office's Board Decision no. 11/14.01.2008, the Working Procedures for performing the supervision, verification and control actions on the natural/legal persons provided for in art. 8 of the Law no. 656/2002 with subsequent modifications and completions were improved, in order to detect the high degree of exposure to money laundering, of those reporting entities that are not prudentially supervised for by other authorities.

Art. III of GEO no. 53/2008

(1) For the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006, on information on the payer accompanying transfers of funds, published in the Official Journal of the European Union, series L no. 345 of 08th December 2006, the following authorities are designated, as responsible authorities, for the supervision of compliance with the obligations regarding the information on the payer accompanying transfers of funds:

- a) National Bank of Romania, for credit institutions;
- b) National Office for Prevention and Control of Money Laundering, for any other legal person that provides fund transfer services.

(2) The fund transfers referred to in article 3 para 6 of the regulations are excluded from the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006

(3) The following deeds shall be deemed as infringements:

- a) breaching the obligations referred to by article 9 para (2) final thesis of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006

b) breaching the obligations referred to by article 4, article 5 para (1), (2), (4) and (5), article (6) para (2), article (7) para (2), article 8, article 9 para (1) and article (2) first thesis, article 11, article 12, article 13 para (3), (4) and (5) and article 14 first thesis of Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006.

(4)The infringements referred to in para (3) (a) are sanctioned by fine ranging from 10000RON to 30000RON and the infringements referred to in para (3) (b), by fine ranging from 15000RON to 50000RON.

(5)The infringements are ascertained and the sanctions are applied by authorized representatives specifically designated by National Bank of Romania and National Office for Prevention and Control of Money Laundering, according with their competencies.

(6)The requirements provided by article 22 of Law no. 656/2002, with subsequent modifications and completions, apply accordingly.

Also, having regard to the recommendations comprised in the Moneyval Report, and based on the discussions held with the National Bank of Romania, Ministry of Public Finance and Ministry of Justice and Citizen's Liberties, it was agreed that a special article related to the authorization and supervision of currency exchange offices, should be introduced, along with the modification of art. 17 para 1 of the Law no. 656/2002, with subsequent modifications and completions, in order to clearly establish the verification and control attributions over the reporting entities, in the AML/CFT field, as well as the taking over of certain categories of entities by supervision and financial control authorities other than the Office, as follows:

A new art.16¹ in the Law no. 656/2002, with subsequent modifications and completions

(1) The authorization and registration of the entities that perform currency exchange in Romania, other than those that are prudentially supervised for by the National Bank of Romania, is carried out by the Ministry of Public Finance through the means of the *Commission for the authorization of currency exchange activity*, hereinafter "*the Commission*".

(2) Legal provisions on tacit approval do not apply for the authorization and/or registration procedure of the entities provided for by para 1.

(3) The composition of the Commission provided for in para 1 is established by the joint order of the Ministry of Public Finance, Ministry of Administration and Interior and the President of the National Office for Prevention and Control of Money Laundering, and in its structure it will be at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Control of Money Laundering

(4) The authorization and/or registration procedure of the entities provided for by para 1 is established by the order of the Ministry of Public Finance.

Art. 17 of the Law no. 656/2002, with subsequent modifications and completions

(1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures

a) the National Bank of Romania and The prudential supervision authorities, for the persons that are subject to this supervision in accordance with the law.

b) the Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law;

c) the Financial Guard which has the attributions for the reporting entities which perform currency exchange, with the exception of those supervised by the National Bank of Romania;

	<p>d) The leading structures of the independent legal professions, for the persons referred to in article 8 (e) and (f);</p> <p>e) The Office, for all the persons mentioned in article 8, except those for which the implementation modality of the provisions of the present Law is verified and controlled by the authorities and structures provided by para (a).</p> <p>Please note that having regard the necessity of total transposition of the national legislative measures to the provisions of Directive 2007/64/EC, at national level it was formed an working group from representatives of the Department for European Affairs, Ministry of Public Finances, National Bank of Romania and the Ministry of Justice and Citizenship's Freedoms in order to elaborate the draft law. Within this project it will be included provisions regarding the modality of authorizing and supervision of the money services providers.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>Please see the comments at the previous point.</p> <p>As regards the FIU's capabilities for on-site inspections, the current activity of the Directorate for Supervision and Control is performed by a number of 14 staff members, the number slightly being increased since the date of adoption of the first progress report. In order to improve the efficiency of the supervision activities, NOPCML elaborated and implemented a new version of the analytical system used in the off-site supervision activity (MAINSET 2 - an advanced and adapted version of the old one (MAINSET), which includes a complex analytical process with two new filters - General Risk Indicators - GRI / Specific Risk Indicators - SRI) that covers more indicators, risk categories and analytical variables.</p> <p>Taking into consideration the need to cover all the entities which are registered in a specific activity sector (also considering territorial coverage), MAINSET 2 is a viable tool in relation with the resources of the NOPCML for supervision activities.</p> <p>The main on site supervision activities performed by the NOPCML are based on the results of the MAINSET 2 System, in accordance with the working process and the specific procedures adopted by the Board of the NOPCML. Other grounds for starting a controlling session are related to the request of other authorities (mainly Financial Guard or NATA), or by internal request (submitted by the analytical components of the FIU).</p> <p>From a different perspective, taking into consideration the need to have a solid growth of the compliance degree, NOPCML (SCD) introduced a new component in the controlling activity, which is <i>on site training</i>. This component is very important for the prevention side of the supervision activities, especially by presenting all the requirements included in the AML / CFT legal framework, and methods to improve the compliance.</p>
<p>(Other) changes since the last evaluation</p>	

Special Recommendation VIII (Non-profit organizations)	
Rating: Partially compliant	
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Romanian authorities should periodically review the NPOs with the object of assessing terrorist financing vulnerabilities.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the</p>	<p>MJCL:</p> <p>In July 2009 a working group with experts from the Romanian Ministry of Justice and Citizens' Liberties was established. The main objective of this working group is to analyze the legislation regarding NPOs in relation with</p>

report	<p>the possibility of using NPOs to launder money or use funds for financing terrorism.</p> <p>I. To make a fair analyze of legislative and institutional Romanian framework of NPOs, from the AML/CFT point of view, we consider that there are necessary a couple of preliminary steps, as follows:</p> <ol style="list-style-type: none"> a. Involving several institutions, which, in their specific activity, detected some aspects of the legislative and institutional framework regarding NPOs, aspects which are linked to AML/CFT, especially NOPCML, Romanian Intelligence Service, Ministry of Public Finance – through National Agency of Fiscal Administration, Directorate for Investigating Organized Crime and Terrorism, Ministry of Administration and Interior; b. Initiating the analyze of NPO’s legislative framework, within Ministry of Justice and Citizens’ Liberties, with the aim of clarifying the following aspects: <ul style="list-style-type: none"> - which are the legal forms for establishing NPOs; - what are the legal provisions regarding the NPO’s activity and their benefits; - which are the legal provisions regarding setting-up NPO’s, control of the NPO’s, what kind of registries do they keep and for what period, who is controlling NPO’s activity and also sanctions applicable; - the distinctions between several type of NPO’s; - legal provisions on NPO’s transparency regarding their organization, the donors’ list, annual reports, budgets; - the way in which the NPO’s apply the principles: <i>know your donor, know your beneficiary</i> <p>II. After receiving feed-back from several institutions consulted and drafting a first analyses of legislative framework, the working group established within MJCL should propose legislative and institutional measures in the following fields:</p> <ol style="list-style-type: none"> 1. registering: criterions, register, public available registrars, transmitting personal data of people leading, administrating or controlling the activity of a NPO. 2. organization and ruling NPO: internal system of reporting, legal provisions on conflict of interest, obligations and duties for ruling bodies of NPOs. 3. external supervising: the way of reporting to agencies, fiscal administration, state inspections, how the public agencies receive information regarding the activity, dimensions and other relevant aspects. 4. fiscal provisions: public utility statute, charity NPOs, rules of financing, public finance of NPOs. 5. ceasing the activity: rules, procedures, assets liquidation, the role of controlling bodies. 6. inter-institutional cooperation regarding: promoting risk awareness campaigns for NPOs, information exchange between public agencies, periodical evaluation of vulnerable sectors. <p>III. Legislative and institutional measures identified by the MJCL experts should then be approved by all the institutions mentioned in point I let. a., and after final consultations, the proposals should be subject for public debates.</p>
Measures taken to implement the recommendations since the adoption of the first	NOPCML (FIU): The Action Plan on implementing the objectives of the National Strategy of Prevention and Combating Money Laundering and Terrorism Financing, which was concluded by the Protocol signed on September 2010, by the

<p>progress report</p>	<p>main Romanian authorities and institution with competences in the field, provides specific actions in respect to the non-governmental organizations, as follows :</p> <ul style="list-style-type: none"> - Under Objective 1, Direction of Action 1 (Analysis of the legal framework on prevention and combating money laundering and terrorism financing and, by case, identification of measure for its improvement.), the measures refer to: Analysis of the legal framework on association and foundations, which can be used in money laundering and terrorism financing activities, including from perspective of the essential requests of the FATF Special Recommendation VIII. - Under Objective 1, Direction of Action 2 (Analysis of the functioning way of the cooperation mechanism and of efficiency of the activities of prevention and combating money laundering and terrorism financing), the measures refer to : 2.1 Actualization/initiation of the inter-institutional cooperation protocols on prevention and combating money laundering and terrorism financing, including for perspective of vulnerabilities and risks of using the associations and foundations for money laundering and terrorism financing activities. - Under Objective 1, Direction of Action 6 (Strengthening the supervision and control capacity of authorities with attributions in this area, including of NOPCML, having regard its quality of supervision authority for categories of reporting entities which are not under supervision of other authorities), the measures refer to : 6.2 Identification and evaluation of vulnerabilities related to utilization of associations and foundations for money laundering and terrorism financing activities; 6.3 Editing the Manual on risk based approach and indicators of suspicious transactions for non-financial reporting entities, including for NGOs and also for implementation/adapting, at the level of activity sectors framed into category Designated Non Financial Business and Professions, of guidelines elaborated by the Financial Action Task Force on risk based approach; - Under Objective 1, Direction of Action 7 (Increasing the level of informing and public awareness as regard associated risks to money laundering and terrorism financing), the measures refer to: 7.2 Organization of common training actions for associations and foundations, in scope of awareness on risks of their using in scope of terrorism financing and also dissemination of the manual on indicators of suspicious transactions for associations and foundations sector. <p>On this respect, it is to be mentioned that, at national level, a working group was created for implementation of the Action Plan' measures related to NGOs, formed by the representative of the FIU Romania, Ministry of Justice, Romanian Intelligence Service. The group can be extended to any other institutions and public authorities competent on prevention and combating money laundering and terrorism financing, if needed.</p> <p>RIS: At the moment, a draft analysis document has been elaborated referring to the main actions to be taken in respect to the compliance of associations and foundations to the AML/CTF legislation. The document makes reference to: sources of financing terrorism, methods by which the NGOs are used in financing terrorism, factors which may extend the financing networks, data about NGOs from different countries, setting up criteria for performing risk assessment on NGOs, current trends, detected vulnerabilities of the sector, proposals, etc. At this stage, the document is under consultation process and it has a confidential regime.</p> <p>MoJ: The main conclusions of the working group were the following:</p>
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	<p>The most important recommendations regarding SR VIII , according to essential criteria from the Methodology are the following:</p> <ol style="list-style-type: none"> 1. To review periodically the NPO sector, in order to discuss the scope and abuse methods regarding NPOs, actual trends in financing terrorism and new protecting measures, evaluating vulnerabilities of the sector. 2. The NPOs should take preventive verification measures to ensure that their entities as well as their partner organizations are not being penetrated or manipulated by terrorists or terrorist organizations. Such preventive measure should also include special training programs. Terrorist financing experts should work with NPO supervisory authorities to raise awareness of the problem and alert these authorities to the specific characteristics of terrorist financing. <p>Future priorities established after consultations are the following:</p> <ol style="list-style-type: none"> 1. Providing in GO 26/2000 on associations and foundations for sanctions for not declaring some modifications in the constitutive act of association and foundation (eg. the location, the members of the ruling body etc.) 2. Introducing the legal obligation for NPOs to periodically declare the balance of incomes and outcomes to fiscal authorities 3. Binding NPOs to declare within 1 year if they are still operational or not, in order to review the National Register of NPOs.
Recommendation of the MONEYVAL Report	<i>Sufficient measures should be in place to ensure that funds or other assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organizations.</i>
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>MJCL: In July 2008 a working group with experts from the Romanian Ministry of Justice and Citizens' Liberties was established. The main objective of this working group is to analyze the legislation regarding NPOs in relation with the possibility of using NPOs to launder money or use funds for financing terrorism.</p> <p>NOPCML (FIU): One of the main objective of the Twinning Project RO /2007-IB/JH/05, within the Transition Facility, approved at the level of the European Commission under the number 2007/19343.01.14, is the Objective no. 1 – the Enhancing of the capacity of the institutional system for prevention and combating money laundering and terrorism financing. This objective has as main target the drawing up of the National Strategy on Money Laundering and Terrorism Financing, which shall contribute to the organizatoric and functioning improvement of the institutional national system. Also, this strategy shall represent an important element in the enhancing of the national security and shall contribute to the detection of the vulnerabilities to terrorism financing and drawing up some risk analyzes</p> <p>Also, within this project, it will be elaborated a Handbook on risk based approach and indicators of suspicious transactions for reporting entities in the field of prevention and control of money laundering and terrorism financing. This , Handbook will be presented and disseminated to the reporting entities on 2days/12 training sessions, organized at territorial level.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	Please see the previous comments.
Recommendation of the	<i>Effective implementation of the essential criteria VIII.2 needed.</i>

MONEYVAL Report	
Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NOPCML (FIU): Measures adopted:</p> <ul style="list-style-type: none"> - The organization of training sessions dedicated to the associations and foundations in the field of prevention and combating money laundering and terrorism financing, in order to raising the awareness of those related to their risks exposure to the ML and FT. <p>Thus, based on the annual training sessions, in 2008 was organized 1 training session, and during the period January – August 2009, was also organized another training session.</p> <p>The NOPCML concluded a cooperation protocol with Transparency International Agency from Romania, in order to improve the fight against money laundering and corruption in Romania, an important accent being laid on the preventive dimension and on the creation of public politics regarding the implementation of the legislation at the level of the reporting entities. The Project benefited from the financial support of the program <i>Global Opportunities Fund – Reuniting Europe</i> of the Embassy in Bucharest of United Kingdom and Northern Ireland. Within this project, TI-RO participated in the elaboration of public politics proposals for the transposition in the internal legislation of the provisions of Directive 2005/60/CE of the Parliament and Council of Europe on preventing the use of the financial system for money laundering and terrorism financing purposes and of the European Commission Directive. These proposals have been analyzed within the elaboration process of the GEO no. 53/2008. The project was implemented during 2006 – 2008.</p>
Measures taken to implement the recommendations since the adoption of the first progress report	<p>NOPCML (FIU):</p> <ul style="list-style-type: none"> • In respect to the supervision activities performed by the NOPCML over the associations and foundations – category of reporting entities overseen by the FIU – it is to be mentioned that during 2009, a total number of 20 associations and foundations were subject to on-site supervision, which were mentioned in the first progress report. • On the same time, it is to be mentioned that starting with the 4th quarter of 2011, an action plan for off-site AML/CTF supervision was approved by the FIU’ management in which a number of 212 associations and foundations are subject to the NOPCML supervision (period: the end of 2011 - beginning of 2012). • Within the Twinning Project 2007/19343.01.14 “Fight against money laundering and terrorism financing”, there were organized activities with the purpose to ensure guidance and training to a large category of reporting entities, especially, the non-financial institutions, among which there were included the associations and foundations. <p>These activities were related to the elaboration of new guidelines regarding risk based approach and training for personnel belonging to reporting entities, this objective being performed through elaboration and dissemination of the Manual on risk based approach and indicators of suspicious transactions, which represents a useful tool for the conformity activity of compliance officers within the reporting entities. The dissemination process of this manual was comprised of 6 training seminars organized at the territorial level, dedicated to reporting entities, with participation, as lecturers of the Romanian and Polish experts, at which participated over 260 representatives of reporting entities (among which: lawyers, expert accountants, financial auditors, real estate agents, fiscal consultants, casinos, non-banking financial institutions, associations and foundations, real estate agencies from Constanta, Galati, Brasov, Ilfov,</p>

	<p>Girgiu, Timis, Bihor, Arad, Cluj, Covasna, Sibiu, Targu Mures, Valcea, Prahova, Arges). For a large dissemination of the Manual on risk based approach and indicators of suspicious transactions, we would like to mention that this manual was published on the Office's website (www.onpcsb.ro), in English and Romanian language, and dissemination of over 1.000 samples which were put at the disposal of prudential supervision authorities, law enforcement authorities and professional associations of reporting entities which are provided within the Law no. 656/2002, as amended and completed, in order to be used by specialists with competences in this area.</p> <ul style="list-style-type: none"> • On the same time, under Objective 1, Direction of Action 7 (Increasing the level of informing and public awareness as regard associated risks to money laundering and terrorism financing) of the Action Plan for implementing the National Strategy for Prevention and Combating Money Laundering, referring to the "Organization of common training actions for associations and foundations, in scope of awareness on risks of their using in scope of terrorism financing and also dissemination of the manual on indicators of suspicious transactions for associations and foundations sector.", in December 2011, in accordance with the annual AML/CTF training programme of the NOPCML, a series of training sessions are dedicated to the associations and foundations, in their quality of reporting entities.
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Regular outreach to the sector to discuss scope and methods of abuse of NPOs, emerging trends in TF and new protective measures.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NOPCML (FIU):</p> <ol style="list-style-type: none"> 1. Performing off-site and on-site supervision activities and establishing some recommendations of the ascertain agents of the NOPCML in order to improve the prevention activities in the AML/CFT field. Thus, during the year 2008 it was performed the off-site supervision of 7.295 reporting entities, namely: 1.329 <i>economic agents who perform gambling activities, 990 real estate agents, 3.338 foundations, and 1.638 legal persons which performs accountancy and financial audit, consultancy in the fiscal domain activity.</i> As result of the off-site supervision and of the good cooperation with the authorities which has as attributions the financial control, the Office requested to the General Commissariat and to the district departments of the Financial Guard to perform the specialized on-site inspections in prevention and combating money laundering and terrorism financing, to the 531 reporting entities, from which 249 economic agents who perform gambling activities, 153 foundations, 127 real estate agents, 2 legal persons who perform accountancy and financial audit, consultancy in the fiscal domain activity. Also, during the period January – August 2009, from a total number of 2.269 off-site supervised entities, 111 supervision actions envisaged the foundations, from which 22 were identified as having a high risk of ML/TF. Regarding the verification and control actions performed by the Office during the period 2008-2009, was performed 63 actions control of the Romanian foundations. From this control actions resulted that the majority of the controlled foundations respect the legal obligation in the AML/CFT field not being ascertained grave deficiencies. 2. The communication means established by NOPCML in order to make publicly the sanctions applied within the verification and control actions, in order to increase the dissuasive effect, is represented by the publication in the NOPCML Annual Activity Report, in a special section, of the categories of on-site supervised entities, the geographical area they belong to, the quantum of applied fines and other measures adopted within the control

	<p>activity. The activity reports of NOPCML are made public on the institution's official website www.onpcsb.ro.</p> <p>At the same time, NOPCML is currently analyzing the specific publication modalities on the website www.onpcsb.ro of the sanctions applied subsequent to the control actions performed by the institution, in order to complete the measures taken by other supervision authorities in Romania.</p> <p>3. The organization of training sessions dedicated to the associations and foundations in the field of prevention and combating money laundering and terrorism financing, in order to raising the awareness of those related to their risks exposure to the ML and FT.</p> <p>4. Providing a general feedback by NOPCML, to the reporting entities:</p> <ul style="list-style-type: none"> • Within the training sessions, by presenting certain typologies and case studies; • By publishing on the NOPCML website (www.onpcsb.ro) of certain presentation/information materials, in the field of preventing and combating money laundering and terrorism financing, as well as of typologies and case studies; • By presenting evolutions, indicators and typologies within the NOPCML annual activity reports, which are also published on the official site (www.onpcsb.ro); • Publishing the UNSC Resolutions and EU Regulations on the application of international sanctions and combating the terrorism financing, after their communication to the Ministry of Foreign Affairs, on the NOPCML website to the International sanctions/Terrorism financing acts, based on the art. 17 letter d) of the Law no. 656/2002 with subsequent modifications and completions, corroborated with the provisions of art.17 para.1) of the Law no. 217/2009 on the approval of GEO no. 202/2008 on applying some international sanctions.
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>NOPCML (FIU):</p> <p>The Manual on risk based approach and indicators of suspicious transactions, published in 2010, includes the following theoretical and practical aspects, in respect to the compliance of the reporting entities to the AML/CTF Law:</p> <ul style="list-style-type: none"> - Defining the concepts of money laundering and terrorism financing; - Description of the AML/CTF obligations incumbent to the reporting entities; - Explaining the modality of performing supervision and control by the NOPCML and the requirements that need to be respected by the reporting entities, as regards internal procedures and norms; - Presenting elements of interest in respect to: cash control at entrance or exit from European Community; information on the payer accompanying funds transfers; third countries equivalence; countries assessed with deficiencies in the anti-money laundering and countering terrorism financing regime; implementation of international sanctions regime; - Presenting the vulnerabilities regarding money laundering and terrorism financing, - Explaining the methods of money laundering and terrorism financing; - Presenting typologies of money laundering and terrorism financing - Providing a comprehensive list of indicators for detecting suspicious transactions identified based on FIU's analyses and international practice for financial and non-financial reporting entities.
<p>(Other) changes since the</p>	<p>The Action Plan for Implementing the National Strategy for Prevention and</p>

last evaluation	Combating Money Laundering and Terrorism Financing (approved by Decision of the Supreme Council of State Defense in 2010) includes specific measures in this respect.
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Special Recommendation IX (Cross-border declaration and disclosure)

Rating: Partially compliant

Recommendation of the MONEYVAL Report	<i>Clear power to stop and restrain should be established where suspicions of money laundering if the money is declared.</i>
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Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NCA: The power of Customs in case of failure to fulfill the obligation to declare cash of the value of EUR 10 000 or more is to detain and seize to the benefit of state the undeclared cash as well as to impose a fine according to administrative provisions according to the Customs Law.</p> <p>Customs have no power to investigate, detain, interrogate or arrest the travelers.</p> <p>If there are suspicious of money laundering and the money is declared, the Customs have to inform, due to 24 hours, the National Office for Prevention and Control of Money Laundering according to the Anti Money Laundering and Combating the financing of terrorism Law (art. 3 para 11 of GEO no 53/2008 complete and modify the Law no. 656/2002 to prevention and sanction ML and to institute measures for prevention and combating the terrorism financing)</p>
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Measures taken to implement the recommendations since the adoption of the first progress report	<p>National Customs Authority (NCA):</p> <p>NCA has no power to investigate, detain, interrogate or arrest the travelers. In case of suspicions detected in time of daily duties, the customs officers can contact the national competent authorities (police, prosecutors) and inform immediately the NOPCML, based on the provisions of art. 3 para 11 thesis 2 of the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, as amended and completed, by which “<i>The National Customs Authority transmits to the Office immediately, but no later than 24 hours, all the information related to suspicions on money laundering or terrorism financing which is identified during its specific activity.</i>”</p> <p>The Cooperation Protocol between the FIU Romania and National Customs Authority, concluded on July 2004, is subject of updating and, on this purpose, meetings were organized between the two institutions.</p> <p>On the same time, a Cooperation Protocol between NCA and National Border Police was signed in 2010. The objective of the Protocol is to develop the cooperation between the two institutions and to exchange data and information on prevention and combating illegal migration and transnational offences, as counterfeiting and money laundering. There were no cases identified till present.</p>
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Recommendation of the MONEYVAL Report	<i>Clear power to stop and restrain where suspicion of money laundering or terrorist financing if below the reporting threshold.</i>
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Measures reported as of 22 September 2009 to implement the Recommendation of the report	<p>NCA:</p> <p>Customs have to inform, due to 24 hours, the National Office for Prevention and Control of Money Laundering, all the suspicious of money laundering or terrorism financing identified in the time of their specific activities, according to the Anti Money Laundering and Combating the financing of terrorism Law.</p> <p>From statistical point of view, during the year 2008, there were 2 cash recordings detected by customs authorities in the application of the EU Cash Control Regulation 1889/2005, which amounted 2.979 Euro.</p>
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Measures taken to	National Customs Authority:
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<p>implement the recommendations since the adoption of the first progress report</p>	<p>During 2009-October 2011, there were 26 cash recordings detected by NCA in the application of the EU Cash Control Regulation 1889/2005, which amounted 944.440 Euro.</p> <p>In the 26 mentioned cases, administrative sanctions were applied by the National Customs Authority, in accordance with the customs regulations.</p>
<p>Recommendation of the MONEYVAL Report</p>	<p><i>Procedures should be implemented to inform persons that they have to declare cross-border transportation of currency and bearer negotiable instruments exceeding the threshold of 10,000 Euros.</i></p>
<p>Measures reported as of 22 September 2009 to implement the Recommendation of the report</p>	<p>NCA:</p> <p>Romanian Customs Authority has applied Regulation (EC) No. 1889/2005 of the European Parliament and of the Council of 26 October 2005 on control of cash entering or leaving the Community since 15 June 2007.</p> <p>Customs Law stipulates the obligation to write declaration the cash according to the above mentioned regulation.</p> <p>The Customs Order no. 7541, since 06 August 2007, established the form used for declaring the cash amounts at the border and the directions for filling in and using it</p> <p>Used declaration form is in conformity with Regulation no. 1889/2005 and include particular information as well concerning the provenance and intended use of cash or bearer negotiable instruments of a value of EUR 10 000 or more.</p> <p>The customs offices shall make available for the natural persons, at their request and free of charge, the declaration form.</p> <p>National communication campaigns on cash control organized by customs with indications at public entry/exit points to inform persons that they have to declare.</p> <p>Communication tools used: Information panels, website customs; brochures.</p> <p>As part of the 2009 Communication priorities of European Commission, it was printed a leaflet and a poster for the cash controls campaign and distributed to each Member State based on national dissemination plans (type, numbers, location)</p> <p>From statistical point of view, during the year 2008, the total number of declarations made in the application of the EU Cash Control Regulation 1889/2005 was of 1.121, which amounted 35.349.665 Euro.</p>
<p>Measures taken to implement the recommendations since the adoption of the first progress report</p>	<p>National Customs Authority:</p> <p>The EC Cash Control Communication Campaign was continued during the years 2009, 2010 and 2011 (re-print and re-dissemination of the A1 posters at the border crossing points) and NCA commanded also Roll-ups which will be used at declaration points (in the airports).</p> <p>NOPCML (FIU):</p> <p>From statistical data held by FIU Romania, on the number of declarations over 10.000 euro made at the entry/exit from Community, in the application of the EU Cash Control Regulation 1889/2005, during the period 01.01.2009-01.11.2011, there were received around 2.827 cash declarations, which amounted approximately to 328.650.448 Euro.</p> <p>During the reference period, the Romanian FIU received a total number of 43 notifications with suspicions related to money laundering. 1 case was related to cash smuggling when crossing the Romanian border points.</p>
<p>(Other) changes since the last evaluation</p>	<p>NOPCML (FIU):</p> <p>From statistical point of view, during the year 2008, the National Office for Prevention and Control of Money Laundering received 2 notifications from NCA related to 7 suspicious cash activities at the external EU border, based on declarations and smuggling.</p>

2.4 Specific Questions

Answers from the first progress report

1. *The evaluation team had concluded that while the confiscation system appeared to meet the standards, it had produced limited results which questioned the effectiveness of the system as a whole. Have there been any measures taken in order to review the effectiveness of the provisional measures and confiscation regime?*

The principle of Romanian criminal system is that the court orders the damage repair of the civil part within the criminal trial, and the confiscation measure only as a subsequent measure. For example, in the 2007 case in which 2 persons were convicted for FT, the court disposed the granting to the civil parts of moral repair in amount of 2 million Euro for each civil part (there were 3 civil parts). That is the reason for which the court ordered the special confiscation only for 22.500 Euro.

2. *The evaluation report highlighted that the NOPCML had an important backlog of STRs pending analysis from 2005 which were expected to be finalized before the end of 2007. What is the current situation and which measures have been taken, if any, to address this issue?*

NOPCML (FIU):

NOPCML finalized in its integrality the analysis on pending STRs from the year 2005.

For solving the same type future issues, at the NOPCML level, there were taken the following measures:

- By adoption of G.D. no. 1599/2008 on the approval of the Regulations for Organizing and Functioning the NOPCML, under art 11 para. 3 are inserted the specific attributions of the Analysis and Processing Information Directorate, envisaging:

f) quarterly presentation to the Board of the Office of the situation on ML/FT worked cases, for analysis and taking measures;

k) it may submit to the Board for approval a system for performing financial analysis, endorsed by the President of the Office, which can be periodically amended, depending on the identified risk indicators.

Based on these legislative provisions and following the elaboration and testing of cases prioritization (“scoring”), this working system is implemented and included in the new Internal Methodology of Analyzing and Processing Information, as adopted by the Board Decision no. 225/25.03.2009 (having confidential classification).

Within the PHARE 2006 Project “*Developing the institutional system for preventing and combating money laundering and terrorism financing*” all 4 contracts initially provided by the project file have been concluded. The final implementation of these contracts is aimed at strengthening the institutional capacity for combating money laundering and terrorism financing, by consolidating the IT system of the Office.

One of the contracts is related to the “Case management and training system”, PHARE RO 2006/018-147.03.17.02, reaching a total value of 119.000 Euro, exclusive VAT. This is an agreement for provision of hardware equipment, services and connecting equipments, encrypting solutions, electronic signature, software and personnel training, in order to create and make functional the case management system that will allow the management (processing and analysis) of information on suspicious transactions and their submission to the General prosecutor’s Office by the High Court of Cassation and Justice, National Anti-corruption Directorate, Romanian Intelligence Service, as well as to other institutions of the state, in accordance with the provisions of the Law no. 656/2002, of the cases analyzed within the Office, in which serious grounds for money laundering and/or suspicions for the financing of terrorism, have emerged.

It is planned that involved parties will start, in September 2009, the testing period for the functioning of the connection with competent authorities, in Intranet System – VPN digital signature.

3. *Have the resources of authorities responsible for investigating ML/TF been increased as recommended?*

Ministry of Administration and Interior

By MoAI Order no. I/0582/30.06.2008, starting with 01.08.2008, it was set up the Directorate for

Combating Terrorism and Money Laundering, formed by 4 departments.

Since January 2009, this structure has been allocated with 24 positions, out of which 16 in the field of combating terrorism financing and money laundering.

On August 2008, within the Fraud Investigation Directorate it was created a department on combating money laundering, having 12 officers' positions. At territorial level, there are 46 police officers involved in anti-money laundering cases.

On the same time, from financial point of view, it is to be underlined that, starting with the year 2009, within the PHARE Project 2006/018-147.03.16.03, at the level of the General Inspectorate of Romanian Police – Directorate for Combating Organized Crime and at the level of its territorial structures, technical acquisition (50 workstations) was made that is needed for performing the activities in the field of combating terrorism financing and anti-money laundering.

NOPCML (FIU):

a) Human resources:

Having regard at the MONEYVAL experts' recommendations on the necessity to increase the NOPCML human resources, which were considered to be inadequate for carrying out in optimal conditions its specific activity (with a special accent being laid on the financial analysis and supervision), once with the adoption by the Romanian Government of the Decision no. 1599/2008 on the approval of the Regulation for the organization and functioning of NOPCML, necessary actions for strengthening the newly formed structures (Supervision and Control Directorate, Legal and Methodology Directorate, Information Technology and Statistics Directorate) as well as the existing ones (Analysis and processing of Information directorate, Inter-institutional Cooperation and International relations Directorate) within the Office, were initiated.

In this respect, in accordance with the provisions of GD no. 1599/2008, starting with January 01st, 2009, the maximum number of positions allocated to the Office was increased from 120 to 130.

Between the mission of evaluation date (May 2007) and the adoption of GD no. 1599/2008 (December 2008), the Office organized two employment sessions for occupying the vacant positions (01.11.2007 and 08.02.2008) subsequent to which 13 persons have been employed. During the reference period the number of specialized personnel was increased from 90 to 103.

For the moment, in the current financial crises context, the Romanian Government decided by GEO no. 34/11.04.2009, to suspend till 31.12.2009 the occupation of vacant positions in public institutions and authorities which are financed by the state budget, category comprising NOPCML too. This decision resulted in the impossibility to organize employment sessions for occupying the vacant positions, and implicitly, for employing the necessary personnel.

b) EU funds absorption:

EU funds absorption constituted one of the Office' strategic objectives on medium and long term.

On this purpose, two of the projects funded by EU have been considered as a priority for the NOPCML, respectively:

- The Phare Project 2006/018-147.03.17 entitled “Developing the institutional system on prevention and sanctioning money laundering and terrorism financing”, and
- Transition Facility RO /2007-IB/JH/05 entitled “Combating Money Laundering and Terrorism Financing”

1) Within the Phare Project 2006/018-147.03.17 entitled “Developing the institutional system on prevention and sanctioning money laundering and terrorism financing”, aiming to strengthen the IT and analysis capacity of the NOPCML, 4 contracts have been concluded, respectively,

✓ Contract “Creation of a Electronic Secured System for Data Transfer and Training” – PHARE RO 2006/018-147.03.17.01, having as total value 97.300 Euro – It has as main objective complete automatization of collecting system of the reports from the legal persons designated as reporting entities under the AML/CTF Law no. 656/2002, consequently amended and completed. On the same time, the created soft allows the exchange of information via secured email, by which the Office may request copies of the documents or of the banking turnovers.

✓ Contract “Case Management System and Training”, PHARE RO 2006/018-147.03.17.02, having as total value 119.000 Euro – It is an investment contract for providing hardware and software and services, that will allow the processing and analyzing of information on suspicious transactions and submission of the notifications including ML and TF solid grounds to the law enforcement agencies, in a single case management system.

✓ Contract “Purchasing hardware and software components for accreditation of the IT and

communication system, in accordance with the legal provisions”, PHARE RO 2006/018-147.03.17.03, having as total value 345.000 Euro – the contract is related to the creation of a case management system of documents and electronic archiving that will allow the automatising of the documents flow, optimization of the registration activities and will offer an efficient support for performing operative and decisional process. This system is meant to implement the security politics, in accordance with the legal provision on protection of classified information and will have as final purpose the accreditation of the IT system based on an external specialty audit.

✓ Contract “Creation of the back-up system in case of disaster”, PHARE RO 2006/018-147.03.04, having as total value 66.924,79 Euro – the final result of the contract is realization of the back-up and recovery system that will ensure a better data protection in case of disaster.

2) The other important tool for coordinating national politics in the AML/CTF field, including the aspect of providing technical assistance to the staff of the FIU involved in the supervision and control, is represented by the implementation of the Twinning Project within the Transition Facility RO /2007-IB/JH/05, entitled “Increasing the capacity of the institutional system for prevention and combating money laundering and terrorism financing”, approved by the European Commission with reference no. 2007/19343.01.14 and financed with 500.000 Euro, which has as main objectives:

- drafting the National Strategy on Money Laundering and Terrorism Financing;
- elaboration of a Handbook on ML and TF for guidance and training of the financial and non-financial reporting entities under direct NOPCML supervision,
- developing of relevant documents concerning working procedures for off-site supervision, norms of control and inspection, standard model of the control work plan, compliance programme, compliance questionnaire, report on the pilot control;
- training of prosecutors, police officers and Financial Guard commissioners.

The project is planned to start on the beginning of November 2009.

On the same time, the Romanian FIU submitted to the European Commission Services the Project Fiche entitled “Strengthening the capacity of the national system for combating terrorism financing and implementation of international sanctions regime”, as proposal for the Grant Agreement on 2009 EU Programming “Prevention and the Fight Against Crime”. The value of the proposed project is of **1.570.046 Euro.**

Specific objectives of the project are:

1. Developing risk analysis and proposals of actions at EU level in the area of terrorism financing and implementation of international sanctions regime, starting from potential financing sources: illicit sources (often connected with organized crime), licit sources (donations, charity) and ensuring logistic support (accommodation, transport, training, as a complex form of financing, with or without visible costs, using both licit and illicit sources). Actions at EU level could include working groups in the field of preventing and combating TF and implementation of international sanctions regimes.
2. Strengthening the capacity of the NOPCML in its quality of national authority in the area of terrorism financing and competent authority in implementation of international sanctions regime.
3. Developing the FIU’s IT system to implement the obligations related to terrorism financing and international sanctions. The scope is to create an "Integrated IT system for information analysis", by acquisition of the components of the system, management of the project and implementation of the system.
4. Strengthening the capacity of the national authorities in implementation of the international sanctions regime, by organizing 2 two-days training seminars for the Romanian authorities with attributions in the field, with participation of experts within 6 EU Member States in order to present the experience and legislation in this area.

4. Have sanctions been imposed specifically for AML/CFT infringements, at the instigation of the supervisor, since the adoption of the last evaluation report? If so, please indicate the main types of AML/CFT infringements detected by supervisors since the adoption of the previous evaluation report by distinguishing between financial institutions and DNFBPs’ infringements (NB. It is not necessary for these purposes to provide full detailed statistics, but an overview).

NOPCML (FIU):

Within the control actions carried out by NOPCML during January 2008 – August 2009, on the regulated entities, in accordance with the provisions of art. 17 para 1 lett. d) of the Law no. 656/2002, with subsequent

modifications and completions, no suspicions or other elements were identified, that would indicate that the AML/CFT obligations have been breached by the employee of a reporting entity subsequent to the incitement of a superior, reason for which there were no sanctions applied.

Within the supervision activity, the Office considered opportune to extend the verification and control actions over the regulated entities, in the situation in which the violation of the AML/CFT obligations was based on the incitement of a superior, as well as the notification of the specialized directorate (Analysis and Processing Information Directorate) for analyzing the ascertained aspects and for supervising the activity carried out by the controlled entity (in order to highlight aspects of a criminal nature).

Also, in practice, it was considered that only the contraventional sanctioning of this deed (which in fact is very hard to prove) may slow down or directly affect the efficiency of profound analysis over the transactions carried out by the controlled entity, which could detect serious grounds on financial circuits performed for ML/TF purposes.

The supervision activity carried out by the Office, through the means of an operative framework for the evaluation of findings of the verification and control actions, includes also the identification of the context in which these obligations have been breached, including if this infringement is based on the incitement of superiors or shareholders, or even working politics (unofficial) of the control entities with direct reference to this aspects.

At the same time, we highlight the fact that the main types of contraventions in AML/CFT field, identified to the supervised reporting entities, during the reference period, by NOPCML control teams, are presented below:

Sanctions applied in 2008									
Nr. Crt	Reporting entity	Art. 14 of the Law no. 656/2002, with subsequent modifications and completions		Art. 3 para. 6 of the Law no. 656/2002, with subsequent modifications and completions		Art. 9 of the Law no. 656/2002, with subsequent modifications and completions		Recommendations	Compliance with AML obligations
		Warnings	Fines	Warnings	Fines	Warnings	Fines		
1	NPOs	approx. 90%	approx. 2.5%	-	approx. 2.5%	-	-	-	approx. 5%
2	Accounting, financial audit and fiscal consultancy	approx. 30%	-	-	-	-	-	-	approx. 70%
3	Gambling operators	approx. 50%	approx. 14%	-	approx. 12%	Art. 13 approx. 29%		-	approx. 12%
						approx. 15%	approx. 3%		
4	Real estate agents	approx. 44%	approx. 5%	-	approx. 29%	-	-	-	approx. 35%
5	Non-banking financial institutions	-	approx. 40%	-	approx. 60%	-	-	-	-

Sanctions applied during the period Jan-Aug 2009

Nr. Crt.	Reporting entity	Art. 14 of the Law no. 656/2002, with subsequent modifications and completions		Art. 3 para. 6 of the Law no. 656/2002, with subsequent modifications and completions		Art. 9 of the Law no. 656/2002, with subsequent modifications and completions		Recommendations	Compliance with AML obligations
		Warnings	Fines	Warnings	Fines	Warnings	Fines		
1	Foundations	-	-	-	-	-	-	aprox. 90%	aprox. 10%
2	Accounting, expert accounting and fiscal consultancy	aprox. 9%	-	-	aprox. 3%	-	-	aprox. 73% (*some recommendations were applied together with fines/warnings)	aprox. 16%
3	Money remitters service providers	-	-	-	aprox. 30%	-	-	-	aprox. 70%
4	Renting owned real estate	-	50%	-	-	-	-	-	50%
5	Buying and selling owned real estate	-	aprox. 14%	-	-	-	-	-	aprox. 86%
6	Real estate developers	-	-	-	aprox. 70%	-	-	-	aprox. 30%
7	Non-banking financial institutions	aprox. 11%	aprox. 26%	-	aprox. 9%	aprox. 3%	aprox. 3%	aprox. 70% (**some recommendations were applied together with fines/warnings)	aprox. 54%

Note: The main ascertained contraventions are::

- Art. 3 para. 6 of the Law no. 656/2002, with subsequent modifications and completions: „The persons provided in the article 8 or the persons designated accordingly to the article 14 para (1) shall report to the Office, within 10 working days, the carrying out of the operations with sums in cash, in RON or foreign currency, whose minimum threshold represents the equivalent in RON of 15,000EUR, indifferent if the transaction is performed through one or more operations that seem to be linked to each other.”
- Art. 9 of the Law no. 656/2002, with subsequent modifications and completions:
 - (1) The persons referred to in the article 8 are obliged to apply standard customer due diligence measures in the following situations:
 - a) when establishing a business relationship;
 - b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;
 - c) when there are suspicions that the transaction is intended for money laundering or terrorist financing, regardless of the derogation on the obligation to apply standard customer due diligence measures, provided by the present law, and the amount involved in the transaction;
 - d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.
 - e) when purchasing or exchanging casino chips with a minimum value, in equivalent RON, of 2000 EUR.
 - (2) When the sum is not known in the moment of accepting the transaction , the natural or legal person obliged to establish the identity of the customers shall proceed to their rapid identification, when it is informed about the value of the transaction and when it established that the minimum limit provided for in para (1) (b) was reached.
 - (3) The persons referred to in the article 8 are obliged to ensure the application of the provisions of the present law to external activities or the ones carried about by agents.
 - (4) Credit institutions and financial institutions must apply customer due diligence and record

keeping measures to all their branches from third countries, and these must be equivalent at least with those provided for in the present law.

- Art. 13 of the Law no. 656/2002, with subsequent modifications and completions:

(1) In every situation in which the identity is required according to the provisions of the present law, the legal or natural person provided for in the Art. 8, who has the obligation to identify the customer, shall keep a copy of the document, as an identity proof, or identity references, for a five-year period, starting with the date when the relationship with the client comes to an end.

(2) The persons provided for in the Art. 8 shall keep the secondary or operative records and the registrations of all financial operations that are the object of the present law, for a five-year period after performing each operation, in an adequate form, in order to be used as evidence in justice.

- Art. 14 of the Law no. 656/2002, with subsequent modifications and completions:

(1) The legal persons provided for in the Art. 8 shall design one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities.

(11) The persons referred to in the article 8 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. Credit institutions and financial institutions are obliged to designate a compliance officer, subordinated to the executive body, who coordinates the implementation of the internal policies and procedures, for the application of the present law.

(2) The persons designated according to para (1) and (11) shall be responsible for fulfilling the tasks established for the enforcement of this Law.

(3) The provisions of para (1), (1 index 1) and (2) are not applicable for the natural and legal persons provided by article 8 para (k).

(4) Credit and financial institutions must inform all their branches in third states about the policies and procedures established accordingly with para (11).

NSC: For capital market sector, National Securities Commission imposed the following sanctions to regulated entities or employees of the regulated entities for different infringement (including AML/CFT infringements) detected during onsite inspections: written warnings : 13 in 2008 and 5 in 2009-first semester, fines : 43 in 2008 and 25 in 2009-first semester, suspension of authorizations : 1 in 2008, withdrawal of authorization : 2 in 2008 and 6 in 2009-first semester, temporary interdictions to perform activities – 2 in 2008 and 6 in 2009-first semester.

The main types of AML/CFT infringements detected by NSC: not filing cash transactions reports, improper identification of the client, deficiencies in internal AML/CFT procedures, failure to notify the persons with AML/CFT responsibilities to the NOPCML and NSC.

5. Have the Romanian authorities considered, as recommended, the development of adequate and effective mechanisms for domestic policy coordination of the main players (FIU, law enforcement and supervisors) in order to enhance the strategic coordination and to review money laundering vulnerabilities and the performance of the system as a whole? If yes, please describe these new mechanism(s) and the related findings on vulnerabilities and on the performance of the system.

NOPCML (FIU):

Following the recommendations of Moneyval Committee evaluators, within the Council of Europe, during 2008, Romania has taken into consideration the development of adequate and efficient mechanisms for the coordination of national politics of the main institutions (FIU, law enforcement and supervision authorities), especially in the fight against money laundering, in order to increase the strategic coordination and systematic review of money laundering and terrorism financing vulnerabilities and the performance of the entire system.

Since 2005, the Inter-institutional Action Plan in force, elaborated under **the PHARE Project RO02-IB/JH-08** and approved by the decisional factors in law enforcement authorities. In 2008, new working meetings have been organized, at management level, with the representatives of the National Anticorruption

Directorate and the Directorate for the Investigation of Organized Crime and Terrorist offences, aimed at identifying the best solutions for increasing the cooperation between these prosecutorial units and the Office, in order to rapidly solve the money laundering cases.

Having regard to the importance of the cooperation relationships between law enforcement authorities and the Office, in the beginning of 2009, a Cooperation Protocol was concluded between the General prosecutor's Office by the High Court of Cassation and Justice and the National Office for Prevention and Control of Money Laundering, on the implementation of the Action Plan. Within the framework of this protocol, 7 regional training seminars, in the field of prevention and combat of money laundering, were organized, and these sessions were attended by over 70 prosecutors from the Prosecutor's Offices within the Courts of Appeal, Tribunals and the Directorate for the Investigation of Organized Crimes and Terrorism Offences, as well as its territorial branches.

At the same time, we would like to highlight on this occasion, the active involvement of the National office for Prevention and Control of Money Laundering, in the activities of the experts within the Twinning Project RO07/IB/JH/03, named "*Increasing the investigative capacity of the National Anti-Corruption Directorate*", which has the benefit of British experience and is aimed at improving the cooperation and coordination systems, by adopting the Best Practices in the case of an anti-corruption investigation.

The subjects addressed within the project, are aimed at:

- o The identification and proving methods for money laundering schemes perpetrated by using off-shores and fiscal paradises;
- o The discovering and proving of the fraudulent mechanisms used in the capital market

On the same plan of inter-institutional cooperation we would like to highlight the conclusion by NOPCML of two cooperation protocols with:

- National Integrity Agency (signed by ANI on 22.01.2009 and by NOPCML on 28.01.2009). In accordance with this protocol the cooperation between parties is done by the submission by ANI of a politically exposed persons list, category provided for by art. 21 of the Law no. 656/2002 with subsequent modifications and completions, as well as data and information relevant for NOPCML (FIU). Also, the Office shall submit statistical data and information on the finalization of the information sent by ANI, within the framework of the legal provisions in the field.
- Antifraud Department (signed on 14.05.2009). the objective of this protocol is the cooperation in the field of exchange of information and the professional training for preventing and combating the phenomena that fall within the legal attributions of the parties. AD will transmit to the Office relevant data and information on money laundering and terrorism financing acts suspicions, which resulted from the verifications performed. Also the Antifraud Department will provide the Office, upon request with data and information regarding the natural and legal persons, which resulted from the control activity. Also the Office will provide statistical data and information on the finalization of the information sent by ANI, within the framework of the legal provisions in the field, as well as general information on the acts and phenomena that could affect the financial interests of EU as well as criminal tendencies that are covered by the activity of both institutions.

At the same time, an important instrument for the coordination of national politics in CSB/CFT field will be elaborated within the Twinning Project RO/2007-IB/JH/05, within the Transition Facility, approved at European Commission level - reference 2007/19343.01.14. One of the projects objectives is "*increasing the capacity of the institutional system for prevention and combat of money laundering and terrorism financing*". By this objective the elaboration of the National Strategy for Money Laundering and Terrorism Financing is aimed at, as this will increase the organization and functioning of the national institutional system. Also, this strategy will represent an important element in strengthening the national security and will detect the financing of terrorism vulnerabilities and ensure the elaboration of risk analysis.

Additional questions since the first progress report

1) Have the Romanian authorities revised and brought into force the legislation authorizing Customs authorities to investigate money laundering suspicions?

The attributions of the National Customs Authority do not include the power to investigate, detain, interrogate or arrest the travelers. In case of suspicions detected in time of daily duties, the customs

officers contact the national competent authorities (police, prosecutors) and inform immediately the FIU, based on the provisions of the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, as amended and completed.

For operative reasons, NCA concluded Cooperation Protocols with the National Office for Prevention and Control of Money Laundering and National Border Police. The last mentioned protocol was signed during the year 2010 and its objective is to develop the cooperation between the two institutions and to exchange data and information on prevention and combating illegal migration and transnational offences, as counterfeiting and money laundering.

2) Please indicate how many investigations, prosecutions and convictions there have been for third Party / autonomous money laundering since the adoption of the first progress report and what were the predicate offences. Please indicate also the time frames between indictment and final conviction in all third Party money laundering cases since the first progress report.

Prosecutor's Office attached to the High Court of Cassation and Justice

The existing statistics do not provide information concerning the investigations, prosecutions and convictions for third party money laundering.

In respect to the autonomous money laundering, it is to be mentioned one Penal Sentence no. 1024/F/2009 of the Bucharest Tribunal (with definitive decision of the High Court of Cassation and Justice in the penal disposition 1020/16.03.2011), in which the accused person was caught into act while selling to his accomplice the quantity of 1,5 kg heroine. In the same period, this person purchased a land in Bucharest and an autovehicle. From the evidence presented in front of the court, it resulted that the legal incomings were not enough to allow the person to procure such goods, and the declarations of the accused person related to the modality in which he obtained the funding for acquisitions were eliminated. It was noted that the goods were purchased from the amounts of money obtained from other sells of heroine, non-individualized, and the transactions constitute the money laundering offence, for which he was convicted. The court disposed the confiscation of the goods.

On the same time, in 2010, an important indictment was issued by a territorial service of DIICOT. In this very complex case of organized crime, in which 27 people were sent to trial, the case prosecutor indicted some of them also for ML, as an autonomous offence. These were the heads of the organized crime group. They received during the period 2003 – 2009 amounts of money from EU and also other countries from their "lieutenants", using them for buying and building immovable goods.

3) Please indicate precisely what, if any changes, have there been since the first progress report, on the distribution of supervisory responsibilities between the various authorities? How is supervision coordinated in the financial sector to ensure a level playing field?

NOPCML (FIU):

Since de adoption of the First progress Report of Romania in the AML/CTF field, the activity of supervision in the anti-money laundering and countering terrorism financing field was performed based on the main attributions dedicated to the prudential supervisory authorities in the financial field (National Bank of Romania, National Securities Commission, Insurance Supervision Commission and Supervision Commission of the Private Pensions Sector), to the Financial Intelligence Unit, to specific control bodies (Financial Guard) and to the regulatory authorities of the legal professions.

The current provisions of art. 17 of the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, as amended and completed, stipulates that: "Art. 17 – (1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:

- a) The prudential supervision authorities, for the persons that are subject to this supervision;
- b) Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law;
- c) The leading structures of the independent legal professions, for the persons referred to in article 8 (e) and (f);
- d) The Office, for all the persons mentioned in article 8, except those for which the implementation modality of the provisions of the present Law is verified and controlled by the authorities and structures provided by para (a)."

The new amendments to the art. 17 para 1 and 2 of the Law no. 656/2002 brought into the draft law for approval of the Governmental Emergency Ordinance no. 53/2002, which has been adopted by the Parliament of Romania, on November 22, 2011, are the following:

"a) supervisory authorities, for persons subject to this supervision, according to the law, including branches in Romania of foreign legal persons who are subject to similar supervision in their country of origin;

b) Financial Guard and other authorities responsible for financial and fiscal control, by law; the Financial Guard has responsibilities including entities performing foreign exchange activities, except for those supervised by the authorities referred to in point a)".

On the same time, the law for approval GEO no. 53/2008, in a new specific article, provides that:
"Art.16¹– (1) Authorization and/or registration of entities that are performing foreign exchange activities in Romania, other than those who are subject to supervision of the National Bank of Romania under the present Law, shall be made by the Ministry of Public Finance, through the Commission of authorization of foreign exchange activity, hereinafter called the Commission.
(2) Legal provisions on the tacit approval procedure does not apply to the authorization and/or registration procedure of entities referred to in paragraph (1).
(3) The Commission referred to in para. (1) shall be determined by joint order of the Minister of Public Finance, the Minister of Administration and Interior and the President of the National Office for Prevention and Combating Money Laundering, in its structure being included at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and the National Office for Prevention and Combating Money Laundering.
(4) The procedure of authorization and / or registration of entities referred to in para. (1) is determined by order of the minister of public finances."

Furthermore, the GEO no. 26/2010, Art.III para.(1) of the Government Emergency Ordinance no.53/2008, on amending and supplementing the Law no.656/2002, provides that the authorities responsible with the supervision of the application of EC Regulation 1781/2006, are:

- the National Bank of Romania, for credit institutions and payment institutions;
- the National Office on prevention and fighting against money laundering, for postal services providers, performing payment services according to the applicable national legislative framework.

NATIONAL BANK OF ROMANIA:

Since 2009 the NBR became the authority responsible with AML/CTF supervision of payment institutions (including money remittance service providers) - *Emergency Government Ordinance no. 113/2009 on payment services* and Regulation no.27/2009 amending Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.

The National Bank of Romania has maintained its competences relating to the licensing and supervision of the electronic money institutions (formerly considered credit institutions) as well as the AML/CTF supervision competences – Regulation no.7/2011 which amends Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention.

The Governmental Emergency Ordinance no. 202/2008 on the application of international sanctions empowered NBR with competence regarding the supervision of the compliance of the credit institution, the non-bank financial institutions registered in the Special Register, the payment institutions and the electronic money institutions with the legal obligations on international sanctions (NBR Regulation no.28/2009).

ROMANIAN NATIONAL SECURITIES COMMISSION

In order to establish a legal framework which aligns the level of political independence and financial autonomy of the ISC, NSC and PPSSC to the one of NBR, the Law 289/2010 was issued to amend the G.E.O. no. 25/2002 regarding the approval of the NSC Statute, approved with amendments by Law no. 514/2002 and Law no. 297/2004 on the capital market. This amendment was needed for the implementation of the conditionality agreed with the World Bank in the context of the Development Policy Loan 2009 as well as to the recommendations of the de Larosière Report, the document aimed

at strengthening supervisory arrangements across all financial sectors of EU, with the objective of establishing a more efficient, integrated and sustainable European surveillance system. The new law introduces several amendments regarding: (i) clearer definition of powers of regulation, authorization, supervision and control conferred to the NSC as the capital market authority, (ii) alignment of the eligibility requirements and provisions regarding the appointment and revocation of the NSC members to that currently applicable to the Board members of NBR, (iii) strengthening the provisions regarding the autonomy and administrative and financial independence of the NSC, (iv) strengthening the protection of NSC personnel responsible for supervision and control.

In 2010, the NSC continued to harmonize its major decisions with the macro-prudential policies of the National Committee for Financial Stability (NCFS), contributing along with the other members of the Committee to the strengthening of the Romanian financial markets stability. In this respect, the NSC cooperated with other financial market supervisory authorities in Romania and with the Ministry of Public Finance (MPF), providing the assessment and the management of systemic impact risks that could occur within the current financial-economic context.

In order to improve financial risk management system, the NSC has worked with the National Bank of Romania (NBR) to develop a total of 13 common regulations which transposed into law the provisions of certain European Directives: Directive 2009/27/EC amending certain Annexes to Directive 2006/49/EC regarding technical rules for risk management, Directive 2009/83/EC amending certain annexes to Directive 2006/48/EC regarding technical rules for financial risk management and Directive 2009/111/EC amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC regarding banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, as well as crisis management.

Along with the collaboration between regulatory and supervisory authorities for the Romanian financial market with the purpose to diminish the effects of the international financial crisis, the dialogue and joint measures at European level between national authorities were essential, both in terms of regulation on a unitary basis, as well as in terms of supervision and control of entities operating on the financial market.

At the same time, NSC is a member of the national inter-institutional committee for the implementation of the national AML-CFT strategy and had a permanent dialogue with NOPCML and other competent authorities represented in this forum. Also, in the period of the report, NSC's representatives attended all meetings of the inter-institutional committee on international sanctions convened and held by institutional care of the Ministry of Foreign Affairs.

With regard to the supervision and control of the entities regulated by it, NSC continued to pay close attention to the risk profile and liquidity indicators of financial entities, in order to prevent the occurrence of insolvency and the extension of potential systemic risk.

PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION

In order to supervise on consolidated basis by involving all authorities for supervising financial institutions, the National Committee for Financial Stability was established; the Committee consists of the following members: the Minister of Public Finance, the Governor of the National Bank of Romania, the President of the National Securities Commission, the President of the Insurance Supervisory Commission and the Chairman of the Private Pension Scheme Supervisory Commission.

As an aspect of continuity, we can specify the fact the Committee has developing the activity during last years by organizing regular meetings in which subjects as following were brought into question: developments of the Romanian financial system, crisis management in financial sectors, financial transactions tax; the members have also exchanged views on the second European stress test focusing on banks' resilience to risk factors that is currently underway.

4) The evaluators recommended that complex AML/CFT on-site inspections, including the review of policies, procedures and sample testing, should be performed (particularly in the insurance sector). Please describe fully the current risk based approach to financial sector AML/CFT supervision, which would address this issue. Please indicate how many targeted and in depth AML/CFT inspections have been conducted since the first progress report in each part of the financial sector.

NATIONAL BANK OF ROMANIA:

In the period under review were produced a series of amendments, both on the legal framework, through the entry into force of the GEO no.53/2008 and from institutional/organizational perspective, by setting up the NBR specialized service in AML/CFT supervision, that operates since 2009.

Having regard to the amendments of the legislative framework, the objectives of the inspection activities were focused on the rigorous verification of how, the 40 credit institutions on Romanian territory subject to NBR supervision, have built their own regulations, structures and workflows, so as to ensure the implementation of the legal framework. Please note that, where it was considered necessary, corrective measures were ordered and/or recommendations were made for improving standards and their implementation/observance was checked up, so that the proper application of the legal framework to be fully ensured. The verification of the effective implementation of the internal rules has been carried out in an initial phase, in the period 2009-2011, and it will represent the outstanding subject matter for the inspection operations that will be deployed starting with 2012. By now, these checks have been carried out for a sample of customers, chose on a risk base, according to the portfolio of each verified institution, and where irregularities were found, depending on their severity, administrative measures and/or sanctions were applied.

Also, supervision missions focused on the evaluation of:

- the information technologies used in business and their support in AML / CFT field, ensuring that they provide support at least from the perspective of filtering customers as PEPs and designated entities, both at account opening and for operations to and from customers' accounts, in the same time considering the compliance with EC Regulation 1781/2006;
- the staff's training programmes and their efficiency;
- the system used for verification of implementing both the internal AML / CFT rules / policies, including the internal audit / control and the external auditor's recommendations;
- the correspondent relationships, especially those with credit institutions from third countries;
- the cooperation with the FIU and other state authorities, regarding AML / CFT issues;

In addition, according to the new regulations depicted in section 1.a. of the questionnaire, the applicability of NBR Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention was extended to payment institutions and e-money institutions. Please note that until 27.10.2011, 7 payment institutions were authorized and 10 agencies were registered. The existence of the internal rules in the field of AML/CFT, that ascertain the premises of knowledge of the problematic in this field, as well as the existence of the mechanism of know-your- customers, were essential conditions of their authorization. In the year 2012, these institutions will be included in the on-site supervision plan. With regard to electronic money institutions, point out that, until 19.09.2011, was none registered.

ROMANIAN NATIONAL SECURITIES COMMISSION

According to the fundamental objectives of the NSC, in the exercise of prerogatives for discovery and investigation of the breach of the legal provisions, Romanian National Securities Commission acts through professional control personnel.

Taking into consideration the effects of the financial crisis, starting with 2008 NSC undertook measures to strengthen the enforcement activity at the level of intermediaries and undertakings for collective investments.

The annual planned inspections are the core element of the enforcement activity of NSC and consist in carrying out regular inspections to the head offices of the regulated and supervised entities.

In this sense, in January 2010 and 2011, NSC approved the quarterly inspection plans for 2010 and 2011. Another element of the enforcement activity, besides the planned inspections, consists in the thematic inspections resulting from the aspects revealed during the supervision activity and the petitions submitted to NSC concerning the activity of different entities regulated and supervised by NSC.

One of the main thematic objectives of NSC inspections is related to prevention of money laundering and terrorism financing and implementation of the international sanctions regime. Inspections carried out by NSC targeted complex elements related to preventive measures (internal procedures,

designation and notification of persons, training of staff etc.), customer due diligence measures (standard measures, simplified measures and enhanced measures), findings of the verifications, record keeping and reporting requirements.

Statistics related to inspection performed by NSC are presented below: 2009: 42 inspections, 2010: 40 inspections, 2011 (3rd quarter): 33 inspections. The entities that have been inspected included all the types of regulated entities (intermediaries, asset management companies, depositories, investment advisors, market operators, central depositories, clearing houses, Investor Compensation Fund, financial investment companies).

INSURANCE SUPERVISORY COMMISSION

During the on-site inspection conducted by ISC, no matter they are periodic or un-announced, control teams checked the compliance with legal provisions on AML / CFT, namely: the existence of internal procedures and how to apply them, training staff, risk classes, due diligence measures for customers, record maintenance and reporting requirements, etc.

ISC concluded in the course of 2010 a number of 128 on-site inspections. As a result of them a number of 65 sanctions were imposed (18 fines – total amount of 350.000 lei).

In the first semester of 2011 ISC concluded a number of 45 on-site inspections and applied a number of 32 sanctions (9 fines – total amount of 227.500 lei).

PRIVATE PENSION SYSTEM SUPERVISORY COMMISSION

During last year, CSSPP has conducted at the headquarters of the private pension administrators a number of 6 inspections. Among the themes pursued in the control actions, the way the legislation on preventing and combating money laundering and financing terrorism is applied was one of the most important subjects that have been reviewed.

The same funds controls regarding preventing and combating money laundering and financing terrorism have been also made during the controls developed at 5 private pension administrators in 2011.

Thus, during these controls, the Commission verifies the existence and the manner of implementation of the procedures regarded to money laundering and terrorism financing, the appointment of the persons named by the administrators/marketing agents, responsible of implementation the legislation regarding money laundering and terrorism financing; the Commission also verifies the way the due cash availabilities are allocated to the participants and the way of transfer these assets for limitative cases established by law.

5) Please describe how resources have been augmented for AML/CFT supervision in the NOPCML.

NOPCML (FIU):

The current activity of the Directorate for Supervision and Control is performed by a number of 14 staff members, the number slightly being increased since the date of adoption of the first progress report. In order to improve the efficiency of the supervision activities, NOPCML elaborated and implemented a new version of the analytical system used in the off-site supervision activity (MAINSET 2 - an advanced and adapted version of the old one (MAINSET), which includes a complex analytical process with two new filters - General Risk Indicators - GRI / Specific Risk Indicators - SRI) that covers more indicators, risk categories and analytical variables. The results of this developing process were considered a real success for the off-site supervision activity, since the confirmation degree (off / on site) scored values up to 94% (per session). Taking into consideration the need to cover all the entities which are registered in a specific activity sector (also considering territorial coverage), MAINSET 2 is a viable tool in relation with the resources of the NOPCML for supervision activities.

Moreover, the informational support of the supervision activity is more comprehensive, covering also relevant data from FATF / ICRG (including also the NCCTs List), PEPs specific databases, open sources, etc. In the same time, the analytical system includes relevant data related to financial activity of the supervised entities (transactional profile, authorized accounts, group financial operations, etc).

Other components of the off-site supervision are covering the transactional flows performed by the

supervised entities (cash, cross-border, etc), being directly linked also to the results of the analytical process of the NOPCML (STRs).

The main on site supervision activities performed by the NOPCML are based on the results of the MAINSET 2 System, in accordance with the working process and the specific procedures adopted by the Board of the NOPCML. Other grounds for starting a controlling session are related to the request of other authorities (mainly Financial Guard or NATA), or by internal request (submitted by the analytical components of the FIU). On the other hand, the findings of the on-site supervision led to referral to other authorities, in principal the ones that are connected to tax evasion or unreachable companies.

Taking into consideration the need to have a solid growth of the compliance degree, NOPCML (SCD) introduced a new component in the controlling activity, which is *on site training*. This component is very important for the prevention side of the supervision activities, especially by presenting all the requirements included in the AML / CFT legal framework, and methods to improve the compliance.

2.5 Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)¹⁰

Implementation / Application of the provisions in the Third Directive and the Implementation Directive	
Please indicate whether the Third Directive and the Implementation Directive have been fully implemented / or are fully applied and since when.	<p><i>NOPCML (FIU):</i> Yes. The harmonization process of the AML/CTF national legislation to the <i>acquis communautaire</i> has been a long one that needed, first of all, paying efforts by the competent authorities, in order to actively participate to the working groups for drafting normative acts, as well as by adopting a permanent initiative in order to modify and complete the current legal framework. Secondly, this process needed sustainability and cooperation at systemic level, from all involved institutions, respectively, from prudential supervision and financial – control authorities, law enforcement agencies, representatives of professional associations and from the civil society.</p> <p>Therefore, by adoption of the Governmental Emergency Ordinance no. 53 from April 21, 2008 on modifying and completing the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing acts, by adopting of the Governmental Decision no. 594 from June 4, 2008 on the approval of the Regulations for applying the provisions of the Law no. 656/2002 and of the Governmental Decision no. 1599 from December 04, 2008 on the approval of the Regulations for Organizing and Functioning the National Office for Prevention and Control of Money Laundering, Romania totally transposed in the national legislation the provisions of Directive 2005/60/CE and of Directive 2006/70/CE, being one of the EU Member States fulfilling this obligation starting with June 2008.</p> <p>In the context of the new adopted measures, the National Office for Prevention and Control of Money Laundering accomplished the electronic notification official procedure, by communicating to the European Affairs Department about the total transposition of the European Directives in the field, occasion in which the Office also submitted the concordance table and the texts of the normative acts, in electronic format, as they were published in the Official Gazette of Romania no. 333/April 30, 2008 and the Official Gazette of Romania no. 444/June 13, 2008.</p>

1. ¹⁰ For relevant legal texts from the EU standards see Appendix II.

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3 rd Directive ¹¹ (please also provide the legal text with your reply)	<p>NOPCML (FIU): Yes. The legal definition of beneficial owner in the national legislation corresponds to the definition of beneficial owner in the 3rd Directive.</p> <p><u>Legal provisions:</u> Art. 2² from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008</p> <p>(1) For the purposes of the present law, <i>beneficial owner</i> means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf or interest a transaction or activity is being conducted, directly or indirectly.</p> <p>(2) The beneficial owner shall at least include:</p> <p>a) in the case of corporate entities:</p> <ol style="list-style-type: none"> 1. the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership over a sufficient percentage of the shares or voting rights sufficient to ensure control in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards. 2. A percentage of 25 % plus one share shall be deemed sufficient to meet this criterion; <p>2. the natural person(s) who otherwise exercises control over the management of a legal entity;</p> <p>b) in the case of legal entities, other than those referred to in para (a), and other entities or legal arrangements, which administer and distribute funds:</p> <ol style="list-style-type: none"> 1. The natural person who is the beneficiary of 25 % or more of the property of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined; 2. Where the natural persons that benefit from the legal person or entity have yet to be determined, the group of persons in whose main interest the legal person, entity or legal arrangement is set up or operates; 3. The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement.

Risk-Based Approach	
Please indicate the extent to which financial institutions have been permitted to use a risk-based approach to discharging certain of their AML/CFT obligations.	<p>NOPCML (FIU): Yes.</p> <p><u>Legal provisions:</u> Art. 21 para. 6 from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008</p> <p>Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph (2) for a period of at least one year, institutions and persons referred to in Article 8 shall not consider such a person as politically exposed.</p> <p>Art. 12 let. e from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008</p> <p>The persons referred to in the article 8 shall apply simplified customer due diligence measures for the following situations:</p> <p>e) for other situations, regarding clients, transactions or products, that poses a low risk for money laundering and terrorism financing, provided by the regulations on the application of the present law.</p> <p>Art. 5 para. 1 of GD no. 594/2008</p>

¹¹ Please see Article 3(6) of the 3rd Directive reproduced in Appendix II.

	<p>Standard customer due diligence measures are:</p> <p>b) Identification, if the case, of the beneficial owner and verification based on risk of the customers identity, in such way that the information to be satisfactory for the person referred in art. 8 of the Law no. 656/2002 and to allow also the understanding of the ownership and control structure of the customer – legal entity.</p> <p>Art. 8 let. d of the GD no. 594/2008</p> <p>By exception from the application of art. 4 para. 1 let. a), b) and d), the persons referred in art. 8 from the Law no. 656/2002 may apply the simplified customer due diligence measures in case of the following customers:</p> <p>d) customers that present low risk of money laundering and terrorism financing, who fulfill cumulatively the following criteria:</p> <ol style="list-style-type: none"> 1. they are public authorities or bodies invested with respective competence based on communitarian legislation; 2. their identity is publicly available, is transparent and precise; 3. their activity and accountability evidence are transparent; 4. the respective customer is responsible in front of a communitarian institution or of an authority of a Member State or the activity of the customer is subject to control by verified adequate procedures
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Politically Exposed Persons	
<p>Please indicate whether criteria for identifying PEPs in accordance with the provisions in the Third Directive and the Implementation Directive¹² are provided for in your domestic legislation (please also provide the legal text with your reply).</p>	<p>NOPCML (FIU): Yes. The legal definition of politically exposed persons and criteria for identifying PEPs in the national legislation are in accordance with the provisions of the 3rd Directive.</p> <p><u>Legal provisions:</u></p> <p>Art. 21 from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008</p> <p>(1) For the purposes of the present law, <i>politically exposed persons</i> are natural persons who are or have been entrusted with prominent public functions, immediate family members as well as persons publicly known to be close associates of natural persons that are entrusted with prominent public functions.</p> <p>(2) Natural persons, which are entrusted, for the purposes of the present law, with prominent public functions are:</p> <ol style="list-style-type: none"> a) Heads of state, heads of government, members of parliament, European commissioners, members of government, presidential councilors, state councilors, state secretaries; b) Members of constitutional courts, members of supreme courts, as well as members of the courts whose decisions are not subject to further appeal, except in exceptional circumstances; c) Members of account courts or similar bodies, members of the boards of central banks; d) Ambassadors, charges d'affaires and high-ranking officers in the armed forces; e) Managers of the public institutions and authorities; f) Members of the administrative, supervisory and management bodies of State-owned enterprises. <p>(3) None of the categories set out in points (a) to (f) of para (2) shall include middle ranking or more junior officials. The categories set out in points (a) to (f) of para (2) shall, where applicable, include positions at Community and international level.</p> <p>(4) Immediate family members of the politically exposed persons are:</p> <ol style="list-style-type: none"> a) The spouse;

¹² Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	<p>b) The children and their spouses; c) The parents (5) Persons publicly known to be close associates of the natural persons who are entrusted with prominent public functions, are the natural persons well known for: a) The fact that together with one of the persons mentioned in para (2), hold or have a joint significant influence over a legal person, legal entity, or legal arrangement or are in any close business relations with these persons b) Hold or have joint significant influence over a legal person, legal entity or legal arrangement set up for the benefit of one of the persons referred to in paragraph (2) (6) Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph (2) for a period of at least one year, institutions and persons referred to in Article 8 shall not consider such a person as politically exposed. Art. 121 para. 1 let. c from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008 (1) In addition to the standard customer due diligence measures, the persons referred to in the article 8 shall apply enhanced due diligence measures for the following situations which, by their nature, may pose a higher risk for money laundering and terrorism financing: c) for the transactions or business relationships with politically exposed persons, which are resident in another European Union Member State or European Economic Area member state, or a third country. Art. 12 para. (1) let. c and para. 4 from GD no. 594/2008 (1) In addition to the standard customer due diligence measures, the persons referred to in the article 8 from the Law no. 656/2002 shall apply enhanced due diligence measures for all situations which, by their nature, may pose a higher risk for money laundering and terrorism financing. The application of additional due diligence measures is mandatory for at least the following situations: c) for occasional transactions or business relationships with politically exposed persons, which are resident in another European Union Member State or European Economic Area member state, or in a foreign country. (4) In case of occasional transactions or business relationships with politically exposed persons, the persons referred to in the article 8 from the Law no. 656/2002 are obliged to apply the following measures: a) to dispose risk based procedures that allow the identification of the customers within this category; b) to obtain the approval of the executive managements before setting up a business relationship with a customer within this category; c) to adopt adequate measures for setting up the source of the income and the source of funds involved in the business relationships or in the occasional transaction; to perform an enhanced permanent supervision of the business relationships.</p>
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“Tipping off”	
Please indicate whether the prohibition is limited to the transaction report or also covers ongoing ML or	<p>NOPCML (FIU): Yes. <u>Legal provisions:</u> Art. 18 para. 2 from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008 The persons referred to in the Art. 8 and their employees must not transmit, except as provided by the law, the information related to money laundering and terrorism financing and, must not warn the customers about the notification sent</p>

TF investigations.	to the Office.
With respect to the prohibition of “tipping off” please indicate whether there are circumstances where the prohibition is lifted and, if so, the details of such circumstances.	<p>NOPCML (FIU): Yes.</p> <p><u>Legal provisions:</u></p> <p>Art. 18 para. 4 from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008</p> <p>(4) The following deeds performed while exercising job attributions shall not be deemed as breaches of the obligation provided for in para (2):</p> <p>a) providing information to competent authorities referred to in article 17 and providing information in the situations deliberately provided by the law;</p> <p>b) providing information between credit and financial institutions from European Union’s Member States or European Economic Area or from third states, that belong to the same group and apply customer due diligence and record keeping procedures equivalent with those provided for by the present Law and are supervised for their application in a manner similar with the one regulated by the present law;</p> <p>c) providing information between persons referred to in article 8 (e) and (f), from European Union’s Member States or European Economic Area, or from third states which impose equivalent requirements, similar to those provided for by the present Law, persons that carry on their professional activity within the framework of the same legal entity or the same structure in which the shareholders, management or compliance control are in common.</p> <p>d) providing information between the persons referred to in article 8 (a), (b), (e) and (f), situated in European Union’s Member States or European Economic Area, or from third states which impose equivalent requirements, similar to those provided for by the present Law, in the situations related to the same client and same transaction carried out through two or more of the above mentioned persons, provided that these persons are within the same professional category and are subject to equivalent requirements regarding professional secrecy and the protection of personal data;</p> <p>(5) When the European Commission adopts a decision stating that a third state do not fulfill the requirements provided for by the para (4) (b) (c) and (d), the persons referred to in article 8 and their employees are obliged not to transmit to this state or to institutions or persons from this state, the information held related to money laundering and terrorism financing.</p> <p>(6) It is not deemed as a breach of the obligations provided for in para 2, the deed of the persons referred to in article 8 (e) and (f) which, according with the provisions of their statute, tries to prevent a client from engaging in criminal activity.</p>

“Corporate liability”	
Please indicate whether corporate liability can be applied where an infringement is committed for the benefit of that legal person by a person who occupies a leading position within that legal person.	<p>MJCL: The criminal liability of a legal person was introduced in the Romanian criminal system in 2006. Romanian Criminal Code provides in art. 19¹:</p> <p>(1) Legal persons, excepting the state, public authorities and public institutions which carry out an activity that cannot form the object of private sector, are criminally responsible for the crimes committed in achieving the aim of their activity, or for the crimes committed in the interest or on behalf of that legal person, if the crime was committed with the guilty form requested by the criminal law.</p> <p>(2) The criminal liability of a legal person shall not exclude the criminal liability of the natural person which contributed, in every way, in committing the same crime.</p> <p>By interpreting the legal provisions mentioned, it results that for engaging the criminal liability of a legal person, two conditions have to be met:</p> <p>1. the crime was committed by a natural person who has certain factual relations</p>

	<p>with the legal person, being a representative or employee of the latter,</p> <p>2. the crime was committed in achieving the aim of the activity, on behalf or in the interest of that legal person.</p> <p>In conclusion, the criminal liability of a legal person may be established, in the cases in which the crime was committed in that person's interest, by a natural person who occupies a leading position within that legal person.</p> <p>NOPCML (FIU): In accordance with the provisions of art. 21 of the Law no. 656/2002, consequently amended and completed by GEO no. 53/2008, the infringement of the special law provisions brings about, as appropriate, the civil, disciplinary, contravention or penal responsibility.</p> <p>In case of ascertaining the infringement of the provisions of art. 5 para. 2, art. 9, 9¹, 9², 12, art. 12¹ para. (1), art. 13 - 15 and art. 17 the Law no. 656/2002, consequently amended and completed, these infringements being considered contraventions, the liability belongs to the legal persons.</p> <p>In case that this infringements are committed for the benefit of the legal person by a person who occupies a leading position within that legal person, the liability can be applied if the natural person acted beyond the limits of his/her responsibility granted for the application of the law.</p>
Can corporate liability be applied where the infringement is committed for the benefit of that legal person as a result of lack of supervision or control by persons who occupy a leading position within that legal person.	NOPCML (FIU): As mentioned before.

DNFBPs	
Please specify whether the obligations apply to all natural and legal persons trading in all goods where payments are made in cash in an amount of € 15 000 or over.	<p>NOPCML (FIU): Yes.</p> <p><u>Legal provisions:</u></p> <p>In accordance with the provisions of art. 8 let. k) from the Law no. 656/2002, consequently amended and completed by G.E.O. no. 53/2008, „<i>k) other natural or legal persons that trade goods and/or services, provided that the operations are based on cash transactions, in RON or foreign currency, whose minimum value represents the equivalent in RON of 15000 EUR, indifferent if the transaction is performed through one or several linked operations.</i>” are reporting entities having the obligation to comply with the requirements of the special law and of the regulations for applying the law.</p> <p>Exemptions to the obligations provided by the Law no. 656/2002, consequently amended and completed by GEO no.53/2008, related to this type of reporting entities, are the obligations stipulated by art. 14 para. 1, 1¹ and 2, regarding designation of the person having responsibilities in the application of the special law, designation of the compliance officer, setting up of politics and adequate procedures on CDD, reporting, keeping the secondary and operative evidence, internal control, evaluation and risk management, risk assessment and management, compliance and communication management.</p> <p>On the same time, in accordance with art. 2 para. 1 let. d) of the Governmental Decision no. 594/2008 on the approval of Regulations for applying the provisions</p>

	of the Law no. 656/2002 for prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing acts, which stipulates that “ <i>Third parties – credit and financial institutions, situated in the Member States, as well as those similar situated in the third states (...)</i> ”, there entities are not third parties.
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2006												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	167	663	35	126	1	1	N/A	N/A	N/A	-3.799.447 Euro -lands and houses in value of USD 10 mil -1 building -5 houses - USD 53.000 -ROL 3,5 billion -goods in value of ROL 90 billion -Euro 50.000 -other movable and immovable goods obtained as results of committing offences and those belonging to the accused persons – there are no data as regards their individualization or evaluation	N/A	N/A
FT	2	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

2007												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	497	1547	23	96	12	27	N/A	N/A	N/A	10.760.134	N/A	N/A
FT	8	N/A	N/A	N/A	1	2	N/A	N/A	1	2.000.000	1	22.500

2008												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	364	777	14	71	6	18	N/A	N/A	N/A	3.769.192	2	340.000
FT	10	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

1 st semester 2009												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	330	1015	7	16	5	16	N/A	N/A	N/A	2.860.940	N/A	N/A
FT	6	0	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Statistical data provide by the General Prosecutor's Office by the High Court of Cassation and Justice:

2009 Consolidated												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	559	N/A	24 ¹³	77	9 ¹⁴	20	N/A	approx. 8 mil	N/A	N/A	N/A	N/A
FT	14	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

2010												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	Cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	518	N/A	21	89	7	11	N/A	approx. 4 mil	N/A	N/A	N/A	N/A
FT	17	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

3 quarter 2011												
	Investigations		Prosecutions		Convictions (final)		Proceeds frozen		Proceeds seized		Proceeds confiscated	
	cases	persons	cases	persons	cases	persons	cases	amount (in EUR)	cases	amount (in EUR)	cases	amount (in EUR)
ML	259	N/A	49	230 ¹⁵	8 ¹⁶	N/A	N/A	approx. 5 mil.	N/A	N/A	N/A	N/A
FT	6	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

¹³ The difference between the number of investigations and prosecutions is determined by the number of cases where proceedings have been discontinued because not enough evidence was gathered to establish beyond any reasonable doubt that a crime has been committed.

¹⁴ The number of convictions and convicted persons is based on the data gathered by the prosecutors.

¹⁵ Of whom 23 legal persons and 207 natural persons

¹⁶ The discrepancy between the number of final and non-final convictions is determined by the fact that in specific year, the court decisions issued initially in several previous years may become final.

2.6.2 STR/CTR

A. Statistics provided in the first progress report

Explanatory note:

The statistics under this section should provide an overview of the work of the FIU.

The list of entities under the heading “*monitoring entities*” is not intended to be exhaustive. If your jurisdiction covers more types of monitoring entities than are listed (e.g. dealers in real estate, supervisory authorities etc.), please add further rows to these tables. If some listed entities are not covered as monitoring entities, please also indicate this in the table.

The information requested under the heading “*Judicial proceedings*” refers to those cases which were initiated due to information from the FIU. It is not supposed to cover judicial cases where the FIU only contributed to cases which have been generated by other bodies, e.g. the police.

“*Cases opened*” refers only to those cases where an FIU does more than simply register a report or undertakes only an IT-based analysis. As this classification is not common in all countries, please clarify how the term “cases open” is understood in your jurisdiction (if this system is not used in your jurisdiction, please adapt the table to your country specific system).

NOPCML comments: In accordance with the provisions of art. 19 para 1 of the Law no. 656/2002 on prevention and sanctioning money laundering and on setting up of certain measures for the prevention and combating terrorism financing, the National Office for the Prevention and Control of Money Laundering is established as a specialized body and legal entity subordinated to the Government of Romania, having as activity object of the Office is the prevention and combating of money laundering and terrorism financing, for which purpose it receive, analyze, process information and notify, according to the provisions of the art.6 para (1), the General Prosecutor’s Office by the High Court of Cassation and Justice, and the General Prosecutor’s Office by the High Court of Cassation and Justice and the Romanian Intelligence Service with respect to the transactions that are suspected to be terrorism financing.

In this context, in accordance with art. 19 para 21 of the Law no. 656/2002 with subsequent modifications and completions, the Office carries out the analysis of suspicious transactions when notified by any of the persons referred to in article 8 and ex officio, when finds out, in any way, of a suspicious transaction.

Thus based on the internal methodology for processing and analyses of the information, approved with subsequent modification by the Board’s Decision no. 225/25.03.2009, all the Suspicious Transactions Reports sent to the Office by the natural or legal persons provided for in art. 8 of the law, the notifications of the institutions or competent authorities, as well as the ex officio notification of the Office are under the specific activity for analyzing and processing the information of the FIU.

2005																
Statistical Information on reports received by the FIU										Judicial proceedings*						
Monitoring entities ¹⁷ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
			cases	persons	cases	persons	cases	persons	cases	persons	cases	persons	cases	Persons		
Credit institutions (including branches in Romania of foreign credit institutions)	9.136	8.755	2.984	-	3.858	-	483	5	26	91	1	2	1	5	N/A	N/A
Financial institutions (including Branches in Romania of foreign financial institutions)	595	6	13	-												
Private pension funds Administrators	-	-	-	-												
Casinos	182	-	21	-												
Auditors, natural and legal persons providing tax and accounting consultancy	1	-	-	-												
Public notaries, lawyers and other persons exercising independent legal profession	3.394	-	38	-												
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	-	-	-	-												
Persons with attributions in the privatization process	-	-	-	-												

¹⁷ As provided for by art. 8 of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions.

2005																
Statistical Information on reports received by the FIU								Judicial proceedings*								
Monitoring entities ¹⁷ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
			cases	persons	cases	persons	cases	persons	cases	persons	cases	Persons	cases	Persons		
Real estate agents	1	-	10	-												
Associations and foundations	-	-	2	-												
Other natural or legal persons that trade goods and/or services	1.599	-	26	-												
Financial control and prudential supervision authorities	-	-	232	-												
Law enforcement authorities	-	-	219	-												
Office's notifications (special sources)	-	-	313	-												
Total	14.908	8.761	3.858	-												

* Statistical information included in the Moneyval Report on the Third Evaluation Round on Romania on combating money laundering and terrorism financing

2006																
Statistical Information on reports received by the FIU										Judicial proceedings*						
Monitoring entities ¹⁸ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Credit institutions (including branches in Romania of foreign credit institutions)	8.931	8.887	2.560	1	3.194	1	336	2	35	126	0	0	1	1	N/A	N/A
Financial institutions (including Branches in Romania of foreign financial institutions)	1099	-	32	-												
Private pension funds Administrators	-	-	-	-												
Casinos	470	-	46	-												
Auditors, natural and legal persons providing tax and accounting consultancy	5	-	-	-												
Public notaries, lawyers and other persons exercising independent legal profession	59.347	-	47	-												
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	-	-	-	-												
Persons with attributions in the privatization process	-	-	-	-												

¹⁸ As provided for by art. 8 of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions

2006																
Statistical Information on reports received by the FIU								Judicial proceedings*								
Monitoring entities ¹⁸ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Real estate agents	6	-	-	-												
Associations and foundations	-	-	-	-												
Other natural or legal persons that trade goods and/or services	1713	-	34	-												
Financial control and prudential supervision authorities	-	-	329	-												
Law enforcement authorities	-	-	147	-												
Office's notifications (special sources)	-	-	-	-												
Total	71.571	8.887	3.194	1												

* Statistical information included in the Moneyval Report on the Third Evaluation Round on Romania on combating money laundering and terrorism financing

2007																
Statistical Information on reports received by the FIU									Judicial proceedings*							
Monitoring entities ¹⁹ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTR _s (Cash Transactions Reports)	ETR _s (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Credit institutions (including branches in Romania of foreign credit institutions)	8.802	8.702	1.861	1	2573	1	616	8	23	96	N/A	N/A	12	27	1	2
Financial institutions (including Branches in Romania of foreign financial institutions)	2.668	-	52	-												
Private pension funds Administrators	-	-	-	1												
Casinos	2.152	-	-	1												
Auditors, natural and legal persons providing tax and accounting consultancy	4	-	2	1												
Public notaries, lawyers and other persons exercising independent legal profession	68.311	-	93	1												
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	-	-	-	1												
Persons with attributions in the privatization process	-	-	-	1												

¹⁹ As provided for by art. 8 of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions

2007																
Statistical Information on reports received by the FIU								Judicial proceedings*								
Monitoring entities ¹⁹ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTR _s (Cash Transactions Reports)	ETR _s (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Real estate agents	241	-	3	1												
Associations and foundations	1	-	-	1												
Other natural or legal persons that trade goods and/or services	7.944	-	85	1												
Financial control and prudential supervision authorities	-	-	177	1												
Law enforcement authorities	-	-	257	1												
Office's notifications (special sources)	-	-	44	1												
Total	90.123	8.702	2.573	1												

* Information included in the Annual Report of NOPCML on 2007.

2008																
Statistical Information on reports received by the FIU									Judicial proceedings*							
Monitoring entities ²⁰ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Credit institutions (including branches in Romania of foreign credit institutions)	8.531	8.550	1.545	-	2.332	-	709	10	14	71	0	0	6	18	0	0
Financial institutions (including Branches in Romania of foreign financial institutions)	1.999	-	31	-												
Private pension funds Administrators	-	-	-	-												
Casinos	2.094	-	12	-												
Auditors, natural and legal persons providing tax and accounting consultancy	3	-	2	-												
Public notaries, lawyers and other persons exercising independent legal profession	53.430	-	227	-												
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	1	-	-	-												
Persons with attributions in the privatization process	-	-	-	-												
Real estate agents	615	-	2	-												

²⁰ As provided for by art. 8 of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions

2008																
Statistical Information on reports received by the FIU								Judicial proceedings*								
Monitoring entities ²⁰ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTR _s (Cash Transactions Reports)	ETR _s (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Associations and foundations	4	-	2	-												
Other natural or legal persons that trade goods and/or services	8.077	-	51	-												
Financial control and prudential supervision authorities	-	-	191	-												
Law enforcement authorities	-	-	221	-												
Office's notifications (special sources)	-	-	48	-												
Total	74.754	8.550	2.332	-												

* Information included in the Annual Report of NOPCML on 2008.

Period Jan- Aug, 2009																
Statistical Information on reports received by the FIU									Judicial proceedings*							
Monitoring entities ²¹ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Credit institutions (including branches in Romania of foreign credit institutions)	4.319	4.227	1.128	1	1.615	1	193	6	7	16	-	-	5	16	-	-
Financial institutions (including Branches in Romania of foreign financial institutions)	152	-	44	-												
Private pension funds Administrators	-	-	-	-												
Casinos	621	-	8	-												
Auditors, natural and legal persons providing tax and accounting consultancy	20	-	1	-												
Public notaries, lawyers and other persons exercising independent legal profession	10.709	-	104	-												
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	54	-	-	-												
Persons with attributions in the privatization process	-	-	-	-												
Real estate agents	65	-	1	-												

²¹ As provided for by art. 8 of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions

Period Jan- Aug, 2009																
Statistical Information on reports received by the FIU								Judicial proceedings*								
Monitoring entities ²¹ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/prosecutors		indictments				convictions			
	CTR _s (Cash Transactions Reports)	ETR _s (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Associations and foundations	4	-	-	-												
Other natural or legal persons that trade goods and/or services	872	1	35	-												
Financial control and prudential supervision authorities	-	-	133	-												
Law enforcement authorities	-	-	155	-												
Office's notifications (special sources)	-	-	7	-												
Total	16.816	4228	1.615	1												

2009 consolidated																
Statistical Information on reports received by the FIU										Judicial proceedings*						
Monitoring entities, e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement / prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Credit institutions (including branches in Romania of foreign credit institutions)	7947	7936	1876	1	2.7 70	1	567 ²²	14 ²³	24	77	-	-	9	20	-	-
Financial institutions (including Branches in Romania of foreign financial institutions)	803	-	74	-												
Private pension funds Administrators	-	-	-	-												
Casinos and pawning companies	1207	-	11	-												
Auditors, natural and legal persons providing tax and accounting consultancy	19	-	-	-												
Public notaries, lawyers and other persons exercising independent legal profession	38.565	-	200	-												

²² 567 notifications were sent by the FIU Romania to the GPOHCCJ (out of which 366 notifications on solid grounds of money laundering, according to art. 6 para 1, and 201 punctual replies to the requests submitted by prosecutor's Office, according to art. 6 para. 4 and 5, from the Law no. 656/2005, consequently amended and completed);

²³ 14 notifications were sent by the FIU Romania to GPOHCCJ and RIS for solid grounds of terrorism financing, art. 6 para 1 from the Law no. 656/2005, consequently amended and completed

2009 consolidated												
Statistical Information on reports received by the FIU								Judicial proceedings*				
Monitoring entities, e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement / prosecutors		indictments		convictions	
	CTR (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	M	L	ML	FT	ML	FT	ML	FT
			cases	persons	cases	persons	cases	persons	cases	Persons		
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	311	-	-	-								
Persons with attributions in the privatization process	-	-	-	-								
Real estate agents	198	-	1	-								
Associations and foundations	6	-	-	-								
Other natural or legal persons that trade goods and/or services	2253	1	96	-								
Financial control and prudential supervision authorities	-	-	191	-								
Law enforcement authorities	-	-	263	-								
Office's notifications, special sources, other institutions	-	-	58	-								
Total	51.309	7.937	2.770	1								

2010																
Statistical Information on reports received by the FIU										Judicial proceedings						
Monitoring entities, e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement / prosecutors		indictments				convictions			
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML		FT		ML		FT	
									cases	persons	cases	persons	cases	persons	cases	Persons
Credit institutions (including branches in Romania of foreign credit institutions)	7862	7928	1915	-	3476	1	434 ²⁴	17 ²⁵	21	89	-	-	7	11	-	-
Financial institutions (including Branches in Romania of foreign financial institutions)	397	-	741	1												
Private pension funds Administrators	-	-	-	-												
Casinos and pawning companies	1018	-	1	-												
Auditors, natural and legal persons providing tax and accounting consultancy	8	-	-	-												
Public notaries, lawyers and other persons exercising independent legal profession	34796	-	109	-												

²⁴ 434 notifications were sent by the FIU Romania to the GPOHCCJ (out of which 175 notifications on solid grounds of money laundering, according to art. 6 para 1, and 259 punctual replies to the requests submitted by prosecutor's Office, according to art. 6 para. 4 and 5, from the Law no. 656/2005, consequently amended and completed);

²⁵ 17 notifications were sent by the FIU Romania to GPOHCCJ and RIS for solid grounds of terrorism financing, art. 6 para 1 from the Law no. 656/2005, consequently amended and completed

2010												
Statistical Information on reports received by the FIU								Judicial proceedings				
Monitoring entities, e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement / prosecutors		indictments		convictions	
	CTR (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
			cases	persons					cases	persons	cases	persons
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	324	-	-	-								
Persons with attributions in the privatization process	-	-	-	-								
Real estate agents	176	-	-	-								
Associations and foundations	7	-	-	-								
Other natural or legal persons that trade goods and/or services	1541	-	159	-								
Financial control and prudential supervision authorities	-	-	219	-								
Law enforcement authorities	-	-	296	-								
Office's notifications, special sources, other institutions	-	-	37	-								
Total	46.167	7928	3476	1								

1 st semester / 3 rd quarter 2011																
Statistical Information on reports received by the FIU									Judicial proceedings							
Monitoring entities ²⁶ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement / prosecutors		indictments		convictions					
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	M	L	ML	FT	ML	FT	ML	FT				
			cases	persons	cases	persons	cases	persons	cases	Persons						
Credit institutions (including branches in Romania of foreign credit institutions)	6.248	6.385	1031	1	2.106	3	356 ²⁷	6 ²⁸	49	230	-	-	8	N/A	-	-
Financial institutions (including Branches in Romania of foreign financial institutions)	454	-	126	-												
Private pension funds Administrators	2	-	-	-												
Casinos	543	-	1	-												
Auditors, natural and legal persons providing tax and accounting consultancy	47	-	1	-												
Public notaries, lawyers and other persons exercising independent legal profession	28.671	-	100	-												

²⁶ As provided for by art. 8 of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions

²⁷ 356 notifications were sent by the FIU Romania to the GPOHCCJ (out of which 170 notifications on solid grounds of money laundering, according to art. 6 para 1, and 186 punctual replies to the requests submitted by prosecutor's Office, according to art. 6 para. 4 and 5, from the Law no. 656/2005, consequently amended and completed);

²⁸ 6 notifications were sent by the FIU Romania to GPOHCCJ and RIS for solid grounds of terrorism financing, art. 6 para 1 from the Law no. 656/2005, consequently amended and completed

1 st semester / 3 rd quarter 2011												
Statistical Information on reports received by the FIU								Judicial proceedings				
Monitoring entities ²⁶ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement / prosecutors		indictments		convictions	
	CTRs (Cash Transactions Reports)	ETRs (External Transactions Reports)	ML	FT	ML	FT	ML	FT	ML	FT	ML	FT
			cases	persons					cases	persons	cases	persons
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	263	-	437	-								
Persons with attributions in the privatization process	-	-	-	-								
Real estate agents	147	-	-	-								
Associations and foundations	48	-	-	-								
Other natural or legal persons that trade goods and/or services	1.120	-	3	-								
Financial control and prudential supervision authorities	-	-	124	-								
Law enforcement authorities	-	-	251	1								
Office's notifications, special sources, other institutions	-	-	32	1								
Total	37.543	6.385	2106	3								

Information communicated by the General Prosecutor's Office by the High Court of Cassation and Justice for the period Jan-Aug 2009, number which includes also the number of indictments based on NOPCML notifications.

2.6.3 AML/CFT Sanctions imposed by supervisory authorities

Please complete a table (as beneath) for administrative sanctions imposed for AML/CFT infringements in respect of each type of supervised entity in the financial sector (eg, one table for banks, one for insurance, etc). If possible, please also indicate the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply. If similar information is available in respect of supervised DNFBP, could you please provide an additional table (or tables) covering administrative sanctions on DNFBP, also with information as to the types of AML/CFT infringements for which sanctions were imposed in text beneath the tables in your reply.

Please adapt the tables, as necessary, also to indicate any criminal sanctions imposed on the initiative of supervisory authorities and for what types of infringement.

NOPCML (FIU)

	2008	2009	2010	2011 Jan - Nov
Number of AML/CFT violations identified by the supervisor	152	140	73	221
Type of measure/sanction*				
Written warnings	128	43	34	128 ¹
Fines	24	97	39	93
Removal of manager/compliance officer	-	-	-	-
Withdrawal of license	-	-	-	-
Other**	531 <i>controlling requests transmitted to Financial Guard</i>	N/A ³	374 <i>controlling requests transmitted to Financial Guard</i>	291 <i>controlling requests transmitted to Financial Guard</i>
Total amount of fines²	275.000	1.550.000	625.000	1.585.000
Number of sanctions taken to the court (where applicable)	<i>The statistics regarding the sanctions taken to court and the final decisions of the courts are elaborated following a different perspective. Taking into consideration that the average time for finalizing a court order is more than 1 year (between 1- 1,5 years, or even 2 years in specific situations), the statistics are following mainly the status of each of the appeals made by the sanctioned entities. Since 2007 to present, 133 of the sanctions applied (approx. 22%) were taken to court, from which 60% were given a final decision by the court (the legal process is covering several trial courts). From all of these appeals, in only 6% of cases the court decided that the entity should not be sanctioned. None of these final decisions have disputed the ascertains or the legal classification made by the controlling teams of the FIU / SCD, but only procedural (legislative) aspects or the continuity period for the breaches ascertained).</i>			
Number of final court orders				
Average time for finalizing a court order				

¹ 40 of the warnings were applied concomitant with fines (for different non-compliance issues which were found in the same inspection).

The number of warnings (as a single sanction) is 88.

² The aggregate value of fines is represented in RON (1 EURO = approx. 4.3 RON)

³ The statistics in 2009 were not focused on identifying the controlling requests transmitted to the Financial Guard. Due to the short period of completing the questionnaire, this information couldn't be properly collected. Nevertheless, the number of these requests is more than 250.

ROMANIAN NATIONAL SECURITIES COMMISSION

Statistical data regarding the results of controls performed on securities sector on compliance to AML/CTF legislation:

	2004 for comparison	2005 for comparison	2006	2007	2008	2009	2010	2011 (3rd trimester)
Number of AML/CFT infringements identified by the supervisor	3	5	28	39	28	25	27	23
Type of measure/sanction*	-	-	-	-	-	-	-	-
Written warnings	-	1	3	18	13	6	13	5
Fines	1	3	12	34	43	39	21	16
Removal of manager/compliance officer (withdrawal of the authorization for natural persons)	-	-	-	-	-	3	4	-
Withdrawal of license (for legal persons)	-	-	-	-	1	3	1	-
Suspension of authorizations	-	-	-	-	1	-	-	-
Temporary interdictions to perform activities	-	-	-	-	2	6	4	-
Total amount of fines	5.000 RON	6.000 RON	70.000 RON	67.000 RON	90.000 RON	865.779 RON	85.800 RON	25.500 RON
Number of sanctions taken to the court (where applicable)								
Number of final court orders	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Average time for finalizing a court order	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

The main types of AML/CFT infringements for which sanctions were imposed are: failure to notify / delays in notifications of the designated persons with AML/CFT responsibilities to the NOPCML and NSC, deficiencies in internal AML/CFT procedures of the regulated entities, delays in reporting, deficiencies in recording some identification data of the clients, incomplete AML/CFT website section. When serious breaches occurred (non-reporting, improper identification of the client) NSC has taken severe measures, including withdrawal of license and temporary interdictions to perform activities, as shown in the above table.

**NOTE:*

The sanctions mentioned in the table refer to the cases in which at least one AML/CFT infringement occurred among other breaches.

INSURANCE SUPERVISION COMMISSION

Statistical data regarding the results of controls performed on insurance sector on compliance to AML/CTF legislation:

	2004 for comparison	2005 for comparison	2006	2007	2008	2009	2010	2011 (1st semester)
Number of AML/CTF violations identified by the supervisor	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Type of measure/sanction*								
Written warnings	N/A	N/A	N/A	N/A	N/A	N/A	14	13
Fines	N/A	N/A	N/A	N/A	N/A	N/A	18	9
Removal of manager/compliance officer	N/A	N/A	N/A	N/A	N/A	N/A	-	-
Withdrawal of license	N/A	N/A	N/A	N/A	N/A	N/A	10	2
Other:**								
-withdrawal of approval granted to the executive management	N/A	N/A	N/A	N/A	N/A	N/A	12	6
-temporary suspension of carry on the business	N/A	N/A	N/A	N/A	N/A	N/A	11	2
Total amount of fines¹	N/A	N/A	N/A	N/A	N/A	N/A	350.000 RON	227.500 RON
Number of sanctions taken to the court (where applicable)								
Number of final court orders	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Average time for finalizing a court order	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

NOTE:

¹ The sanctions applied are the result of breaching of legal provision concerning the activity of insurance undertakings and brokers, including breaching of AML/CTF legal provision.

NATIONAL BANK OF ROMANIA

Statistical data regarding the results of controls performed on banking and selected non-banking financial sector on compliance to AML/CTF legislation:

	2004 for comparison	2005 for comparison	2006	2007	2008	2009	2010	2011 (1 st semester)
Number of AML/CFT violations identified by the supervisor¹	n/a	n/a	n/a	38	45	44	108	53
Type of measure/sanction*								
Written warnings	6	3	2	1	0	0	0	0
measures imposed	4	3	3	6	2	10	15	3
letters of recommendations	11	12	17	9	11	35	26	7
Fines	11	5	3	3	1	1	10	2
Removal of manager/compliance officer	0	0	0	0	0	0	0	0
Withdrawal of license	n/a	n/a	n/a	0	0	0	0	0
Other**								
Total amount of fines²	49.430	378.273	8.972	63.177	7.149	10.000	155.000	20.000
Number of sanctions taken to the court (where applicable)	0	0	0	0	0	0	0	0
Number of final court orders	0	0	0	0	0	0	0	0
Average time for finalizing a court order	0	0	0	0	0	0	0	0

NOTE:

¹ Having regard to the amendments of the legislative framework, in the period under review, the objectives of the inspection activities were focused on the rigorous verification of how, the entities subject to NBR supervision, have built their own regulations, structures and workflows, so as to ensure the implementation of the legal framework. Please note that most of the measures imposed took into account the review of internal regulations to ensure implement the legal requirements. Accordingly an order to revise an internal regulation took into account all deficiencies identified at respective regulation

² for 2004 to 2008 the sanctions applied are the result of breaching of old legal provision concerning AML/CFT (NBR Norm 3/2002)

3. Appendices

3.1 APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & R.2)	<ul style="list-style-type: none"> • Autonomous money laundering still needs to be successfully prosecuted in the case of a domestic predicate offence. • The procedure for ensuring final convictions needs urgent reconsideration. The evaluators are seriously concerned that the timeframe between indictment and final conviction appears unreasonably long.
2.2 Criminalization of Terrorist Financing (SR.I)	<ul style="list-style-type: none"> • TF offence should be amended in order to ensure fully cover of the Terrorist Financing Convention. • A precise mechanism for freezing of funds related to terrorist financing should be established.
2.3 Confiscation, freezing and seizing of proceeds of crime (R.3)	<ul style="list-style-type: none"> • Third party confiscation apart from instrumentalities which have been used and belong to a third person who has knowledge about the purpose of their use should be required. • Authority to take steps to prevent or void actions, whether contractual or otherwise, where persons involved knew or should have known that as a result of those actions the authorities would be prejudiced in their ability to recover property subject to confiscation should be established.
2.4 Freezing of funds used for terrorist financing (SR.III)	<ul style="list-style-type: none"> • Clear guidance needed that “shall be frozen” is an automatic freezing procedure. • Banking operations between residents listed in the Annex or on their behalf should be covered. • Freezing on behalf of a foreign jurisdiction should be covered. • Funds or other assets derived or generated from funds or other assets owned or controlled, directly or indirectly, by designated persons, terrorists, those who finance terrorism or terrorist organizations should be covered by the freezing actions. • Prior authorization by the NBR, the NCS or the ISC should be required for financial operations between residents included in the single List. • Communication channels in respect of listing and their updating need to be enhanced. • The Romanian authorities should be able to give effect to a designated freezing mechanism of other jurisdictions and to freeze on behalf of a foreign FIU.

	<ul style="list-style-type: none"> • The Romanian authorities should establish efficient and effective systems for communicating actions taken under the freezing mechanism to the financial sector immediately upon taking such action. • Effective and publicly-known procedures for considering de-listing requests and for unfreezing the funds of de-listed persons or entities in a timely manner consistent with international obligations should be developed. • Clear provisions regarding the procedure for unfreezing the funds or other assets of persons or entities inadvertently affected by a freezing mechanism upon verification that the person or entity is not a designated should be developed. • Provisions that give access to funds or other assets that were frozen pursuant to S/RES/1267(1999) and that have been determined to be necessary for basic expenses should be implemented.
2.5 The Financial Intelligence Unit and its functions (R.26)	<ul style="list-style-type: none"> • Pending STRs need to be quickly and efficiently dealt with. • The current time limit (30 days) for requested reporting entities to forward additional information related to the STR should be shortened in order for the NOPCML to properly undertake its functions. • An explicit prohibition (without time limit) for NOPCML employees to disseminate information received after the cessation of working with the Office should be implemented.
2.6 Law enforcement, prosecution and other competent authorities (R.27 & R.28)	
2.7 Cross-border Declaration & Disclosure	<ul style="list-style-type: none"> • Clear power to stop and restrain should be established where suspicions of money laundering if the money is declared. • Clear power to stop and restrain where suspicion of money laundering or terrorist financing if below the reporting threshold. • Procedures should be implemented to inform persons that they have to declare cross-border transportation of currency and bearer negotiable instruments exceeding the threshold of 10,000 Euros.
3. Preventive Measures – Financial Institutions	
3.1 Risk of money laundering or terrorist financing	
3.2 Customer due diligence, including enhanced or reduced measures (R.5 to R.8)	<ul style="list-style-type: none"> • Explicit definition of beneficial ownership should be provided. • The requirement to take reasonable measures to verify the identity of the beneficial owner, as required by the FATF standards, should be adequately implemented. • Further consideration should be given to the extent that reporting entities have applied CDD measures to existing customers particularly in the case of non-banking financial institutions. • The requirement to identify a PEP need changing as it is currently

	<p>too restrictive and only refers to identifying a customers 'public position held'.</p> <ul style="list-style-type: none"> • The requirement to identify a PEP's source of wealth should be clearly stated (beyond those applicable to all customers); the nature and extent of enhanced CDD measures relating to PEPs should be clearly stated. • Provision for senior management approval to establish a relationship with a PEP should be implemented. • Provision for senior management approval to continue business relationship where the customer subsequently is found to be or becomes a PEP should be implemented. • Obligation to require senior management approval when opening individual correspondent accounts should be implemented. • Obligation for financial institutions to document respective responsibilities of each institution should be implemented. • Specific obligations with respect to 'payable-through accounts' should be developed.
3.3 Third parties and introduced business (R.9)	
3.4 Financial institution secrecy or confidentiality (R.4)	
3.5 Record keeping and wire transfer rules (R.10 & SR.VII)	<ul style="list-style-type: none"> • To develop requirements (apart from the capital market) of keeping <u>transactions</u> records for a longer period if requested by a competent authority in specific cases. • Criterion 10.1.1 should be fully met with reference to the insurance sector. • To implement provisions (apart from the capital market) on keeping <u>identification data, account files and business correspondence</u> for longer than 5 years if necessary, when properly required to do so by a competent authority in specific cases upon proper authority. . For financial institutions registered in the General and Evidence Register, as well as for the insurance sector the record keeping requirements do not cover account files and business correspondence. • The requirement to ensure that all customer and transaction records and information are available to domestic competent authorities “on a timely basis” as required in Criterion 10.3 should be implemented.
3.6 Monitoring of transactions and relationships (R.11 & R.21)	<ul style="list-style-type: none"> • Insurance and capital market sectors should implement all components in criterion 11.1 on paying special attention to all complex, unusual large transactions or unusual patterns of transactions. • Explicit enforceable provisions for the non-banking financial institutions registered in the Evidence and General Register and the insurance and capital market sectors to examine the backgrounds of such transactions and setting forth their findings in writing should be developed and implemented. • Explicit requirements to keep the findings on complex, unusual

	<p>large transactions, or unusual transactions available for competent authorities and auditors for at least five years should be implemented.</p> <ul style="list-style-type: none"> • Sufficient requirements to give special attention to business relationships and transactions with persons from countries which do not or insufficiently apply FATF Recommendations should be developed. • Enforceable requirements in place to ensure that financial institutions are advised of weaknesses in the AML/CFT systems of other countries should be developed. • Specific enforceable requirements for financial institutions to examine the background and purpose of such transactions and to make written findings available to assist competent authorities should be implemented. • Mechanism to apply countermeasures should be established.
<p>3.7 Suspicious transaction reports and other reporting (R.13-R.14, R.19, R.25 & SR.IV)</p>	<ul style="list-style-type: none"> • Romanian authorities should broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, Para 2). • Attempted suspicious transactions should be covered. • The reporting obligation should also cover funds suspected to be linked to or related to or to be used for terrorism, terrorist acts or by terrorist organizations. • The "safe harbour" provision in the AML/CFT Law should explicitly include directors, officers and employees (permanent and temporary). • The AML/CFT Law should explicitly prohibit the disclosing to a third person of the fact that a report has been made to the NOPMCL. • Techniques of terrorism financing, as well as indicators to assist obliged entities in the identification of reports related to financing of terrorism should be further developed. • General feedback by the NOPCML should be strengthened also targeting specific sectors of high risk of ML/FT that are reluctant to report. • Taking into account the low level of reporting, further indicators and typologies should be developed on terrorism financing. • Specific feedback should be developed on the status of STRs and the outcome of single cases. • To further strengthen the effectiveness of feedback the NOPCML should consider targeting specific feedback to high risk sectors.
<p>3.8 Internal controls, compliance, audit and foreign branches (R.15 & R.22)</p>	<ul style="list-style-type: none"> • General requirement that the compliance officer should be designated at the management level should be provided. • General legal obligation to secure the compliance officers direct and timely access to the relevant data should be provided. • Specific provisions on employee screening should be provided. • Specific requirement on the financial institutions to require the

	<p>application of AML/CFT measures to foreign branches and subsidiaries beyond customer identification.</p> <ul style="list-style-type: none"> • Specific requirement to pay special attention to situations where branches and subsidiaries are based in countries that do not or insufficiently apply FATF Recommendations. • Provision should be made that where minimum requirements of the host and home countries differ; branches and subsidiaries in host countries should be required to apply the higher standard to the extent that local (i.e. host country) laws and regulations permit.
3.9 Shell banks (R.18)	
3.10 The supervisory and oversight system - competent authorities and SROs. Role, functions, duties and powers (including sanctions) (R.23, R.29, R.17 & R.25)	<ul style="list-style-type: none"> • Clear delineation of legal responsibility between the NBR and the NOPCML when it comes to supervision of exchange offices. • More resources should be dedicated to the NOPCML or the distribution of supervisory responsibilities among authorities involved in AML/CFT should be reconsidered. • AML/CFT supervision of insurance licensees by their respective supervisory authority need to be developed further. Currently the inspections appear to be purely formal. • Registration or licensing procedures should be established for money remittance service providers. • Supervision of MVT service providers (including those that operate through postal offices and independently) should be strengthened. • Supervision for terrorist financing, especially for exchange offices and MVT service providers should be strengthened. • Complex AML/CFT on-site inspections including the review of policies, procedures and sample testing should be performed, particularly in the insurance sector. • To consider whether to increase fines to have a dissuasive effect. • All supervisory bodies should consider greater utilisation of proportionate sanctions to raise compliance amongst poor performing and high risk sectors. • Romanian authorities should consider a clear channel for publicly communicating all sanctions to increase the dissuasive effect. • Sector specific guidelines should be developed. • Taking into account the low level of reporting, further indicators and typologies should be developed on terrorism financing. • Low level of reporting from professionals and high risk sectors (such as real estate agents and legal and accountancy professions) require more targeted guidelines to raise awareness. • Guidelines should further develop techniques of terrorism financing.
3.11 Money value transfer services (SR.VI)	<ul style="list-style-type: none"> • Registration or licensing procedures should be established for money remittance service providers. • Deficiencies identified under R.5-11, 13-15 and 21 are equally valid for money or value transfer services. • It should be ensured that on-site controls are being conducted at

	<p>postal offices.</p> <ul style="list-style-type: none"> • It should be ensured that on-site controls of MVT operator that has its network and operate independently are being conducted. • The limited resources of experts for on-site inspections within the NOPCML compared to the number of MVT working offices should be addressed.
4. Preventive Measures – Non-Financial Businesses and Professions	
4.1 Customer due diligence and record-keeping (R.12)	<ul style="list-style-type: none"> • Adequate and enforceable measures for linking the CDD information with transactions performed in casinos should be established. • The 3000 Euros threshold for casinos should be addressed in law, regulation or other enforceable means. • “Dealers” and “any other natural or legal person, for acts and deeds, committed outside the financial-banking system” in article 8 in the AML/CFT Law should be clarified. • The recommendations in the implementation of Recommendation 5 apply equally to DNFBP. • Adequate implementation of Rec.6 (PEPS) should be provided. • Clarification on whether relying on third party to perform elements of the CDD process is allowed for DNFBP. • Provisions for DNFBP to examine the background and purpose of complex, unusual large transactions, or unusual patterns of transactions and setting forth their findings in writing should be implemented. Explicit requirement to keep the finding available for competent authorities and auditors for at least five years should be provided. • Further guidance should be developed for assisting DNFBP to implement an adequate risk based approach and to define an adequate mitigation procedure. • Secondary and implementing regulation should be provided for legal professions under supervision of SRO.
4.2 Suspicious transaction reporting (R.16)	<ul style="list-style-type: none"> • Requirement to broaden the reporting obligation to also cover money laundering and terrorist financing if the suspicious transaction has been performed (beyond Article 4, letter g in Norms 496/2006) should be provided. • Attempted suspicious transactions should be covered. • All required aspects of terrorism financing should be included in the scope of the reporting requirement. • Improved outreach and guidance on STR needed for all DNFBP and especially for real estate agents and legal and accountancy professionals who are considered to be particularly vulnerable to ML/TF. • Awareness rising of some DNFBP about their vulnerability and/or appearance to be reluctant to report (lawyers, notaries, real estate agents, accountants).

	<ul style="list-style-type: none"> • “Safe Harbour” provision should explicitly include directors, officers and employees (permanent and temporary). • Disclosing to a third person that a STR has been filed to the Office should be explicitly prohibited. • Requirement that the compliance officer should be designated at the management level. • Obligation to ensure the compliance officer direct and timely access to relevant data. • Provisions on employee screening for lawyers, notaries, accountants and public notaries. • DNFBP should be required to pay special attention to transactions with countries which do not or do not adequately implement the FATF Recommendations.
4.3 Regulation, supervision and monitoring (R.24-R.25)	<ul style="list-style-type: none"> • For casinos sufficient measures to prevent criminals /associates from holding or being the beneficial owner of a significant or controlling interest of a casino should be provided. • The integrity and “fit and proper” market entry arrangements for the real estate sector in order to reduce the risk of ML and TF should be enhanced. • Serious considerations should be given to the number and variety of DNFBP controlled and the supervisory resources available to the NOPCML. • Accurate statistics data on supervision by SROs should be developed.
4.4 Other non-financial businesses and professions (R.20)	<ul style="list-style-type: none"> • Further measures should be taken to reduce cash transactions.
5. Legal Persons and Arrangements & Non-Profit Organisations	
5.1 Legal Persons – Access to beneficial ownership and control information (R.33)	
5.2 Legal Arrangements – Access to beneficial ownership and control information (R.34)	
5.3 Non-profit organisations (SR.VIII)	<ul style="list-style-type: none"> • Romanian authorities should periodically review the NPOs with the object of assessing terrorist financing vulnerabilities. • Sufficient measures should be in place to ensure that funds or other assets collected by or transferred through NPOs are not diverted to support the activities of terrorists or terrorist organisations. • Effective implementation of the essential criteria VIII.2 needed. • Regular outreach to the sector to discuss scope and methods of abuse of NPOs, emerging trends in TF and new protective measures.

6. National and International Co-operation	
6.1 National co-operation and coordination (R.31)	<ul style="list-style-type: none"> • In the AML field mechanism of policy coordination of the key stakeholders should be further developed • Mechanism for co-operation and co-ordination in place should prove to be effective in ensuring that all necessary co-operation and co-ordination happens in practice. Arrangements for supervision and sanctioning need greater coordination.
6.2 The Conventions and UN Special Resolutions (R.35 & SR.I)	<ul style="list-style-type: none"> • Effectiveness of the implementing the standards in relation to ML need to be improved. • Effectiveness of implementation of the Palermo, Vienna and TF Conventions need to be improved in some instances, particularly terrorist financing criminalisation and some aspects of the provisional regime. • TF offence should be amended in order to ensure fully cover of the Terrorist Financing Convention. • A precise mechanism for freezing of funds related to terrorist financing should be established.
6.3 Mutual Legal Assistance (R.36-R.38 & SR.V)	<ul style="list-style-type: none"> • To ensure that no limitations in relation to the criminalisation of TF offence may have impact on Romania's ability to deliver mutual legal assistance in TF case. • Considerations should be given to establishing an asset forfeiture fund.
6.4 Extradition (R.39, R.37 & SR.V)	<ul style="list-style-type: none"> • To ensure that no limitations in relation to the criminalisation of the TF offence may negatively affect the extradition possibilities.
6.5 Other Forms of Co-operation (R.40 & SR.V)	

3.2 APPENDIX II - Relevant EU texts

Excerpt from Directive 2005/60/EC of the European Parliament and of the Council, formally adopted 20 September 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing

Article 3 (6) of EU AML/CFT Directive 2005/60/EC (3rd Directive):

(6) "beneficial owner" means the natural person(s) who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction or activity is being conducted. The beneficial owner shall at least include:

(a) in the case of corporate entities:

(i) the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership or control over a sufficient percentage of the shares or voting rights in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements

consistent with Community legislation or subject to equivalent international standards; a percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

(ii) the natural person(s) who otherwise exercises control over the management of a legal entity:

(b) in the case of legal entities, such as foundations, and legal arrangements, such as trusts, which administer and distribute funds:

(i) where the future beneficiaries have already been determined, the natural person(s) who is the beneficiary of 25 % or more of the property of a legal arrangement or entity;

(ii) where the individuals that benefit from the legal arrangement or entity have yet to be determined, the class of persons in whose main interest the legal arrangement or entity is set up or operates;

(iii) the natural person(s) who exercises control over 25 % or more of the property of a legal arrangement or entity;

Article 3 (8) of the EU AML/CFT Directive 2005/60EC (3rd Directive):

(8) "politically exposed persons" means natural persons who are or have been entrusted with prominent public functions and immediate family members, or persons known to be close associates, of such persons;

Excerpt from Commission directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of 'politically exposed person' and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

Article 2 of Commission Directive 2006/70/EC (Implementation Directive):

Article 2

Politically exposed persons

1. For the purposes of Article 3(8) of Directive 2005/60/EC, "natural persons who are or have been entrusted with prominent public functions" shall include the following:

(a) heads of State, heads of government, ministers and deputy or assistant ministers;

(b) members of parliaments;

(c) members of supreme courts, of constitutional courts or of other high-level judicial bodies whose decisions are not subject to further appeal, except in exceptional circumstances;

(d) members of courts of auditors or of the boards of central banks;

(e) ambassadors, chargés d'affaires and high-ranking officers in the armed forces;

(f) members of the administrative, management or supervisory bodies of State-owned enterprises.

None of the categories set out in points (a) to (f) of the first subparagraph shall be understood as covering middle ranking or more junior officials.

The categories set out in points (a) to (e) of the first subparagraph shall, where applicable, include positions at Community and international level.

2. For the purposes of Article 3(8) of Directive 2005/60/EC, "immediate family members" shall include the following:

(a) the spouse;

- (b) any partner considered by national law as equivalent to the spouse;
- (c) the children and their spouses or partners;
- (d) the parents.

3. For the purposes of Article 3(8) of Directive 2005/60/EC, "persons known to be close associates" shall include the following:

- (a) any natural person who is known to have joint beneficial ownership of legal entities or legal arrangements, or any other close business relations, with a person referred to in paragraph 1;
- (b) any natural person who has sole beneficial ownership of a legal entity or legal arrangement which is known to have been set up for the benefit de facto of the person referred to in paragraph 1.

Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph 1 of this Article for a period of at least one year, institutions and persons referred to in Article 2(1) of Directive 2005/60/EC shall not be obliged to consider such a person as politically exposed.

3.3 APPENDIX III - Acronyms

AML	Anti-Money Laundering
AML/CTF Law	Law 656/2002
Art.	Article
CCOA	Center for Operative Antiterrorism Coordination
CTF	Combating Terrorism Financing
CTR	Cash Transaction Report
CSSPP	Supervision Commission of Private Pension System
DIOCT	Directorate for Investigating Organized Crime and Terrorism
DNFBP	Designated Non-financial Businesses and Professions
EU	European Union
ETR	External Transfers Report
FG	Financial Guard
FIU	Financial Intelligence Unit
GD	Governmental Decision
GEO	Governmental Emergency Ordinance
GO	Governmental Ordinance
GPOHCCJ	General Prosecutor's Office by the High Court of Cassation and Justice
ISC	Insurance Supervision Commission
IT	Information Technology
KYC	Know Your Customer
Let.	Letter
Lei/RON	New Lei - Romanian Currency ²⁹
MoFA	Ministry of Foreign Affairs
ML	Money Laundering
MPF	Ministry of Public Finances
MoAI	Ministry of Administration and Interior

²⁹ December 2011: € 1 = approx. 4.35 RON (new Lei).

MJCL	Ministry of Justice and Citizenship's Liberties
MS	Member State
NAD	National Anticorruption Directorate
NATO	North Atlantic Treaty Organization
NBR	National Bank of Romania
NCA	National Customs Authority
NFI	Non –banking Financial Institution
NIM	National Institute of Magistracy
NOPCML/Office	National Office for Prevention and Control of Money Laundering
NOTR	National Office of Trade Register
NPO	Non-profit Organisation
NSC	National Securities Commission
NSPCT	National System for Preventing and Combating Terrorism
Para.	Paragraph
PCC	Procedure Criminal Code
RIS	Romanian Intelligence Service
SCM	Superior Council of Magistracy
STR	Suspicious Transaction Report
TF	Terrorism Financing
UNBR	National Union of Bars from Romania
UNSC	United Nation Security Council
UNNPR	National Union of Public Notaries from Romania