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MONEYLAUNDERING
MEASURES AND THE
FINANCING OF TERRORISM
(MONEYVAL)

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Romania

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LIST OF ABBREVIATIONS

Abbreviation	Full Name
AML	Anti-Money Laundering
AML/CFT 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	Romanian Currency
MoFA	Ministry of Foreign Affairs
ML	Money Laundering
MPF	Ministry of Public Finances
MoAI	Ministry of Administration and Interior
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

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

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/CFT 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 acts are:

- National Bank of Romania Regulations no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention;
- National Securities Commission Regulations no. 5/2008 for setting up measures for prevention and combating money laundering and terrorism financing acts through capital market;
- 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;
- 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:

- 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;
- 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**).
- NOPCML Board Decision no.674/2008 regarding the form and the content of the Suspicion Transaction Reports (**Annex no. 2.7**).

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:

- regulates the modality of applying at national level the international sanctions mandatory or non-mandatory issued by international organizations;
- 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.;
- sets up the obligations of the natural and private legal persons and of the public domestic authorities and institutions, for applying international sanctions;

- sets up the attributions for public authorities and institutions for supervising the internal application of international sanctions.

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:

- updating cooperation protocols for an effective implementation and drafting specific guidelines;
- pro-active discussions held within the framework of the training sessions, jointly organized by NOPCML and these association;
- 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/CFT 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/CFT 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:

- 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/CFT field. To the 7 training sessions organized during 2009 a number of 70 prosecutors attended.
- Concluding cooperation protocols between the NOPCML and National Integrity Agency and Fight against Fraud Department;
- 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/CFT 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:

- 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.

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 specialised 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/CFT field, as well as supervising the applying of international sanctions for blocking funds (further details are described in the Annex 8).

2. Key recommendations

Please indicate improvements which have been made in respect of the FATF Key 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 taken to implement the Recommendation of the Report	<p>Ministry of Justice and Citizenships Liberties (MJCL)</p> <p>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.</p> <p>Table of statistics on ML indictments and final convictions between 2007 and 2009:</p> <table><tr><td></td><td>2007</td><td>2008</td><td>2009 (1st semester)</td></tr><tr><td>Indictments - files</td><td>23</td><td>14</td><td>7</td></tr><tr><td>- persons</td><td>96</td><td>71</td><td>16</td></tr><tr><td>Convictions - files</td><td>12</td><td>6</td><td>5</td></tr><tr><td>- persons</td><td>27</td><td>18</td><td>16</td></tr></table>		2007	2008	2009 (1 st semester)	Indictments - files	23	14	7	- persons	96	71	16	Convictions - files	12	6	5	- persons	27	18	16
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Recommendation of the MONEYVAL Report	<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>																				
Measures taken to implement the Recommendation of the Report	<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																				

	<p>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;</p> <ul style="list-style-type: none"> ▪ 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.
(Other) changes since the last evaluation	

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 taken to implement the	National Office for Prevention and Control of Money Laundering (NOPCML): Art. 2^{2*} of the Law no. 656/2002, with subsequent modifications and

Recommendation of the Report	<p>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> <p>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> <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 let. (a), and other entities or legal arrangements, which administer and distribute funds:</p> <p>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;</p> <p>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;</p> <p>3. The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement.</p> <p>Insurance Supervision Commission (ISC)</p> <p>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) beneficial owner – 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>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>

Art. 4 para 4 of GD no. 594/2008

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 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

	<p>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.)).</p> <p>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 owner identification and identity risk-based verification.</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. 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, assess 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. (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: i) shareholder/associate structure; l) name of the beneficial owner.</p>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: Art. 9¹ of the Law no. 656/2002, with subsequent modifications and completions, brought by GEO NO. 53/2008 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: Art. 22 para 1 let. b of the Law no. 656/2002, with subsequent modifications and completions (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>Art. 4 para. 3 of GD no. 594/2008 (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 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 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. 3) Entities shall prepare their own risk-based review procedures and shall subsequently classify clients into at least 3 classes of risk. 4) For existing clients, this classification shall be performed within 18 months as of the date when these Regulations become effective.</p>
(Other) changes since the last evaluation	<p>NOPCML: Art. 9² para 2 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 When applying the provisions of article 9 index 1, the persons referred to in the</p>

	<p>article 8 shall apply standard customer due diligence measures to all the owners and beneficiaries of existing anonymous accounts as soon as possible and in any event before such accounts or are used in any way.</p> <p>Art. 4 para. 5 of GD no. 594/2008 In the spirit of para 3, the persons provided for in the article 8 of the Law no. 656/2002 shall apply standard customer due diligence to all anonymous account or savings checks holders or beneficial owners, as soon as possible.</p> <p>At the same time, from the date of the last evaluation mission, NOPCML has laid considerable efforts during the legislative process, in order to extend the definition of external transfers and in order to apply customer due diligence measures for all operation types which are included in, respectively, transactions in and from accounts involving amounts whose minimum threshold represent the equivalent in lei of 15.000 Euro, carried out between residents and non-residents, regardless the location of non-resident account. The objective was to correlate the AML/CFT legislation with the National Bank of Romania Norms no. 26/ 2006 on the statistical report of data for the elaboration of external payment balance sheet.</p> <p>Having regard that, art. 2 let. d) of the Law no. 656/2002 with the amendments brought by the GEO no. 53/2008, “<i>external transfers in and from accounts</i> means cross-border transfers, as they are defined by the national regulations in the field, as well as payment and receipt operations carried out between resident and non-resident persons on the Romanian territory”.</p>
<p align="center">Recommendation 5 (Customer due diligence) II. Regarding DNFBP¹</p>	
Recommendation of the MONEYVAL Report	<i>Adequate and enforceable measures for linking the CDD information with transactions performed in casinos should be established.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: Art. 9^{*)} of the Law no. 656/2002, with subsequent modifications and completions brought by GEO no. 53/2008 (1) The persons referred to in the article 8 are obliged to apply standard customer due diligence measures in the following situations: 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 (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: 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): 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: “(1) The organizers shall perform the evidences of the access of the gamblers inside the casino only in electronic format. (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>

¹ i.e. part of Recommendation 12.

	<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 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)</p> <p>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>
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	<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> <ul style="list-style-type: none"> - The economic operator does not have a definitive court decision for which do not interfere the rehabilitation; - The legal representative is not into a incompatibility situation, as it is regulated by the law; - The legal representative has experience in the field of organizing and exploiting the gambling activities; - The legal representative knows the specific legislation in the field.
Recommendation of the MONEYVAL Report	<i>The 3000 Euros threshold for casinos should be addressed in law, regulation or other enforceable means</i>
Measures taken to implement the Recommendation of the Report	Please see the previous comments.
Recommendation of the MONEYVAL Report	<i>“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.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: Art. 8 letter k) of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 - 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>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>
Recommendation of the MONEYVAL Report	<i>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.]</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: DEFINITION OF THE REAL BENEFICIARY Art. 2^{2*)} of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 (1) For the purposes of the present law, <i>beneficial owner</i> means any natural person</p>

	<p>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. <p>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. 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>
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	<p>STANDARD MEASURES Art. 9¹ of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 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: Art. 22 para 1 let. b of the Law no. 656/2002, with subsequent modifications and completions (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>Art. 4 para. 3 of the GD no. 594/2008 (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. 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 (UNNPR) 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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. Within this objective shall be followed the achievements of the below activities: 4.1 The editing of a Handbook regarding the risk based approach of the suspicious transactions indicators dedicated to reporting entities; 4.2 The presentation and dissemination to the different reporting entities on two days /6 training sessions, organized at territorial level; 4.3 The organization of two days/ six training session, at territorial level for legal persons.</p>

Recommendation of the MONEYVAL Report	<i>Secondary and implementing regulation should be provided for legal professions under supervision of SRO.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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>UNNPR: 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 UNNPR and NOPCML is adopted. (Annex no. 4)</p> <p>National Union of Bar Associations (UNBR): Guidelines with best practices in the reporting phase soon to be drafted by UNBR and assisted by NOPCML.</p>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: Art. 14 of GD no. 594/2008 (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 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,</p>

	<p>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>
Recommendation of the MONEYVAL Report	<i>Criterion 10.1.1 should be fully met with reference to the insurance sector.</i>
Measures taken to implement the Recommendation of the Report	<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. - (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.</p> <p>(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>(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>

Recommendation of the MONEYVAL Report	<i>To implement provisions (apart from the capital market) 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. 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>
Measures taken to implement the Recommendation of the Report	<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.</p> <p>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.</p> <p>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.</p> <p>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.</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 <u>identification data of the customer, the secondary or operational documentation and the records of all the financial operation</u> that occur in a business relationship, <u>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>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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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.</p> <p>PROPOSED LEGISLATIVE AMENDMENT: Art. 5 para. 2 of the Law no. 656/2002, with subsequent modifications and completions 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 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</p>

	<p>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>
(Other) changes since the last evaluation	

Recommendation 10 (Record keeping) II. Regarding DNFBP²	
Recommendation of the MONEYVAL Report	<p><i>The weaknesses described for financial institutions are equally valid for DNFBP as regards R. 10 and should be addressed.</i></p>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</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. (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>

² i.e. part of Recommendation 12.

	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.
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: 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.</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 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. (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 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.</p>
Recommendation of the MONEYVAL Report	<i>Attempted suspicious transactions should be covered.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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</p>

	<p>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 (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 the Office. 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 (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 taken 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 (1) As soon as an employee of a legal or natural person of those stipulated in</p>

	<p>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:</p> <p>“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</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>
(Other) changes since the last evaluation	<p>The draft law for adoption of the Governmental Emergency Ordinance no. 53/2008 on 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 (PLx 541 from 16.09.2008) was submitted to the Romanian Parliament. The draft has been already approved by the Senate on September 08, 2008, as well as the Budget, Finance and Banks Commission within the Deputies Chamber (decisional chamber). Starting with September 2009, new amendments will be discussed within the Legal, Disciplinary and Immunities Commission of the Chamber of Deputies, and the final project will be forwarded for the debate of this Chamber’s Plenary.</p>

Recommendation 13 (Suspicious transaction reporting)
II. Regarding DNFBP³

³ i.e. part of Recommendation 16.

Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: Art. 2 letter. c 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.</p> <p>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 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 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.</p>
Recommendation of the MONEYVAL Report	<i>Attempted suspicious transactions should be covered.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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.</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.</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	<i>All required aspects of terrorism financing should be included in the scope of the reporting requirement.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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>
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 taken to implement the Recommendation of the Report	<p>NOPCML:</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>
Recommendation of the MONEYVAL Report	<i>Awareness rising of some DNFBP about their vulnerability and/or appearance to be reluctant to report (lawyers, notaries, real estate agents, accountants).</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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. <p>The meeting’s Minute constitutes an Annex to the present questionnaire (Annex nr.3.1.)</p> <p>The following aspects have been established on the occasion of the meeting between the representatives of NOPCML and UNNPR:</p> <ul style="list-style-type: none"> - 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

	<p>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:</p> <ul style="list-style-type: none"> - 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; <p>The meeting's Minute constitutes an Annex to the present questionnaire (Annex nr.3.2.)</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>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/CFT obligations, respectively:</p> <ul style="list-style-type: none"> - Carrying out off-site supervision activities, for the identification of the vulnerable sectors, which present a high risk for money laundering and terrorism financing; <p>Results:</p> <p>In 2008, the off-site supervision was performed on 7.295 reporting entities, respectively: <i>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.</i> 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, <i>2 commercial companies with accounting, financial audit, and fiscal consultancy line of business.</i></p> <p>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.</p> <ul style="list-style-type: none"> - The planning and unfolding of the controlling actions, that cover the high risk evaluated domains; <p>Results:</p> <p>During 2008-2009, verification and control actions on the following non-financial institutions and independent legal professions:</p> <ul style="list-style-type: none"> 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/CFT 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
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	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>Note: On the occasion of these training sessions, Office's lectors 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</p>				

	<p>companies.</p> <p>The training plan for the 2nd semester of the year 2009 is attached in the Annex no. 6.</p> <p>b. 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>We highlight the fact that NOPCML Activity Report for 2008, both in Romanian and English version, is published on the website www.onpcsb.ro.</p> <p>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.</p>
(Other) changes since the last evaluation	

Special Recommendation II (Criminalization 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 taken to implement the Recommendation of the Report	<p>MJCL:</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:</p> <p>“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>Romanian authorities consider that the new definition of TF offence is fully in line with Terrorist Financing Convention.</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>On the other hand, the draft provides that the attempt of TF shall be punished.</p> <p><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>
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 Recommendation of the Report	Please see previous comments.
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 Recommendation of the Report	Please see previous comments.
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 taken to implement the Recommendation of the Report	<p>Romanian authorities consider that there are legal provisions to ensure the requirement above.</p> <p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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. <p>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.</p>

	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.
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 taken 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.
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: 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.</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. 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.</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 (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>
Recommendation of the MONEYVAL Report	<i>Attempted suspicious transactions should be covered.</i>

Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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.</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 (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>
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 taken to implement the Recommendation of the Report	<p>NOPCML: Draft amendments to the Law no. 535/2004 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. 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</p>

	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.
Recommendation of the MONEYVAL Report	<i>Taking into account the low level of reporting, further indicators and typologies should be developed on terrorism financing.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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.</p> <p>Also, in May 2009, NSC has organized an international conference (<i>Capital 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>
(Other) changes since the last evaluation	
Special Recommendation IV (Suspicious transaction reporting) II. Regarding DNFBP	
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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 designated persons or entities or if the operations undertaken with their customers imply goods within the meaning of this emergency ordinance.</p>
Recommendation of the MONEYVAL Report	<i>Attempted suspicious transactions should be covered.</i>

Report	
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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 the Office. 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 (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>
Recommendation of the MONEYVAL Report	<i>All required aspects of terrorism financing should be included in the scope of the reporting requirement.</i>
(Other) changes since the last evaluation	<p>NOPCML: 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 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>

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 taken to implement the Recommendation of the Report	<p>NSC: G.E.O. no. 53/21.04.2008, published in the "Official Gazette of Romania" 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> <ul 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> <ul style="list-style-type: none"> a) The spouse; b) The children and their spouses; c) The parents <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> <ul style="list-style-type: none"> 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) <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 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. 1 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:</p> <p>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>
Recommendation of the MONEYVAL Report	<p><i>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.</i></p>

Measures taken to implement the Recommendation of the Report	<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.</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.</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. 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>
Recommendation of the MONEYVAL Report	<i>Adequate implementation of Rec.6 (PEPS) should be provided.</i>
Measures taken to implement the Recommendation of the Report	<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 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. 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</p>

	<p>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>
Recommendation of the MONEYVAL Report	<i>Provision for senior management approval to establish a relationship with a PEP should be implemented.</i>
Measures taken to implement the Recommendation of the Report	<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>
Recommendation of the MONEYVAL Report	<i>Provision for senior management approval to continue business relationship where the customer subsequently is found to be or becomes a PEP should be implemented.</i>
Measures taken to implement the Recommendation of the Report	<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 customers 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>NSC:</p> <p>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.)).</p>

	<p>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.</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>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NBR: Art. 12 of GD no. 594/2008 (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: b) in case of correspondent relations with credit institutions within third country; (3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures: c) obtain the approval from executive management before establishing a new correspondent relation.</p>
Recommendation of the MONEYVAL Report	<i>Obligation for financial institutions to document respective responsibilities of each institution should be implemented.</i>
Measures taken to implement the Recommendation of the Report	<p>Art. 12 of GD no. 594/2008 (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: b) in case of correspondent relations with credit institutions within third country; (3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures: d) establish based on documents the responsibilities for each of the two credit institutions.</p>
Recommendation of the MONEYVAL Report	<i>Specific obligations with respect to 'payable-through accounts' should be developed.</i>

Report	
Measures taken to implement the Recommendation of the Report	<p>NBR: Art. 12 of GD no. 594/2008 (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: b) in case of correspondent relations with credit institutions within third country; (3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures: 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>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: Art. 2 para. 1 let. d) of GD no. 594/2008 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 (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. (2) The Office shall inform the European Commission about the cases</p>

	<p>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 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:</p> <p>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>
Recommendation of the MONEYVAL	<i>If the use of third party reliance is an emerging feature within Romania, then competent authorities should ensure that any appropriate guidance deemed</i>

Report	<i>necessary is issued to all sectors.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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. Within the framework of this objective the goal is to carry out the following activities: 4.1. Editing a Manual on risk based approach and suspicious transactions indicators for the reporting entities; 4.2. Presenting and disseminating the Manual to different reporting entities, within the framework of six two-day training sessions, organized at territorial level; 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. 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> <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).</p>
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 taken to implement the Recommendation of the Report	<p>NOPCML: 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</p>

	<p>information obtained from the third party.</p> <p>(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.</p> <p>(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.</p>
(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 for competent authorities and auditors for at least five years should be provided.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>Art. 2 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>Art. 15 of the Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008</p> <p>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.</p> <p>Art. 5 of GD no. 594/2008</p> <p>(1) Standard customer due diligence measures are:</p> <p>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.</p> <p>Art. 12 of GD no. 594/2008</p> <p>(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</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</p>

	<p>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. 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)</p> <p>(1) There are suspicions in the following situations, but not limited to these:</p> <ul style="list-style-type: none"> ○ when the customer mandates a person, with which obviously has no close relationship, to perform operations; ○ 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; <p>(2) The provisions of para. 1 shall be applied also when the regulated entity notice other unusual situations during its relationships with a customer.</p> <p>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</p> <p>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 performed through the regulated entity</p> <p>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.
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	<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>
Recommendation of the MONEYVAL Report	<i>Further guidance should be developed for assisting DNFBP to implement an adequate risk based approach and to define an adequate mitigation procedure.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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: 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>
Recommendation of the MONEYVAL Report	<i>Secondary and implementing regulation should be provided for legal professions under supervision of SRO.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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 sectorial 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>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>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. <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>
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 taken to implement the Recommendation of the Report	<p>NOPCML: 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.</p> <p>NSC: For capital market sector, the NSC Regulation no 5/2008 has implemented a specific prohibition regarding this issue. 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 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</p>

	transaction report to the Office and ISC.
(Other) changes since the last evaluation	

Recommendation 15 (Internal controls, compliance and audit)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>General requirement that the compliance officer should be designated at the management level should be provided.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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. <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 insurance market 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. (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. (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>
Recommendation of the MONEYVAL Report	<i>General legal obligation to secure the compliance officers direct and timely access to the relevant data should be provided.</i>

Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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 let. 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 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>
Recommendation of the MONEYVAL Report	<i>Specific provisions on employee screening should be provided.</i>
Measures taken to implement the Recommendation of	<p>NOPCML: LEGISLATIVE AMENDMENT Art. 14 para 3 of Law no. 656/2002, with subsequent modifications and</p>

the Report	<p>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:</p> <p>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 (screening) to ensure high standards when persons are hired.</p> <p>NBR:</p> <p>NBR Regulation no.9/2008:</p> <p>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.</p> <p>(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.</p> <p>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.</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. 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>
(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 taken to implement the Recommendation of the Report	<p>NOPCML: 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. Within the framework of this objective the goal is to carry out the following activities: 4.1. Editing a Manual on risk based approach and suspicious transactions indicators for the reporting entities; 4.2. Presenting and disseminating the Manual to different reporting entities, within the framework of six two-day training sessions, organized at territorial level; 4.3. Organizing six two-day training sessions, at territorial level, for the independent legal professions 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. UNBR: It was agreed Guidelines regarding Best Practices in the reporting phase.</p>
Recommendation of the MONEYVAL Report	<i>Awareness rising of some DNFBP about their vulnerability and/or appearance to be reluctant to report (lawyers, notaries, real estate agents, accountants).</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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/CFT provisions, previously described in the recommendation 13.II, which refer to: 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. <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> -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.</p>

	<p>The following aspects have been established on the occasion of the meeting between the representatives of NOPCML and UNNPR:</p> <ul style="list-style-type: none"> - 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; <p>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.</p> <p>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/CFT obligations, respectively:</p> <ul style="list-style-type: none"> - Carrying out off-site supervision activities, for the identification of the vulnerable sectors, which present a high risk for money laundering and terrorism financing; <p>Results:</p> <p>In 2008, the off-site supervision was performed on 7.295 reporting entities, respectively: <i>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</i>. 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 <i>commercial companies with accounting, financial audit, and fiscal consultancy line of business</i>.</p> <p>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.</p> <ul style="list-style-type: none"> - The planning and unfolding of the controlling actions, that cover the high risk evaluated domains; <p>Results:</p> <p>During 2008-2009, verification and control actions on the following non-financial institutions and independent legal professions:</p> <ul style="list-style-type: none"> 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/CFT 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
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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	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>Note: on the occasion of these training sessions, Office's lectors 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>
Recommendation of the MONEYVAL Report				<i>"Safe Harbour" provision should explicitly include directors, officers and employees (permanent and temporary).</i>
Measures taken to implement the Recommendation of the Report				<p>NOPCML:</p> <p>PROPOSED LEGISLATIVE AMENDMENT:</p> <p>Art. 7 of the Law no. 656/2002, with subsequent modifications and completions:</p> <p>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>

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 taken to implement the Recommendation of the Report	<p>NOPCML: 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.</p> <p>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>
Recommendation of the MONEYVAL Report	<i>Requirement that the compliance officer should be designated at the management level.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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>
Recommendation of the MONEYVAL Report	<i>Obligation to ensure the compliance officer direct and timely access to relevant data.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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>
Recommendation	<i>Provisions on employee screening for lawyers, notaries, accountants and public</i>

of the MONEYVAL Report	<i>notaries.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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.</p>
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 taken to implement the Recommendation of the Report	<p>NOPCML: 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.</p> <p>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.</p> <p>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</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 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>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: PROPOSED LEGISLATIVE AMENDMENT: Art. 22 para 1 let. 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.</p> <p>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.</p> <p>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.</p> <p>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) let. 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 limits provided for below.</p>
Recommendation of the MONEYVAL Report	<i>All supervisory bodies should consider greater utilization of proportionate sanctions to raise compliance amongst poor performing and high risk sectors.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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</p>

	<p>acts, reaching a total amount of 275.000RON (approximately 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 terrorism financing, by not complying with the legal AML/CFT obligations.</p> <p>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	
	111		20	Foundations	

	Jan-Aug 2009	418	318	84	Accounting, financial audit and fiscal consultancy	1.180.000 RON (approximately 287.000 Euro) Also, 29 warnings have been applied.
		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	-	-	-	-	-	-	aprox. 90%	aprox. 10%
Accounting, expert accounting and fiscal consultancy	aprox. 9%	-	-	aprox. 3%	-	-	aprox. 73% (*some recommendations were applied together with fines/warnings)	aprox. 16%
Money remitters service providers	-	-	-	aprox. 30%	-	-	-	aprox. 70%
Renting owned real estate	-	50%	-	-	-	-	-	50%
Buying and selling owned real estate	-	aprox. 14%	-	-	-	-	-	aprox. 86%
Real estate developers	-	-	-	aprox. 70%	-	-	-	aprox. 30%
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: 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;

	<p>c) requesting the replacement of the persons responsible for the occurrence of the deficiencies noticed.</p> <p>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.</p> <p>(2) The provisions of art.22 para(3)-(5) of Law 656/2002 are accordingly applicable.</p> <p>(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.</p> <p>FG:</p> <p>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:</p> <table><tr><th>Indicator</th><th>Year</th><th>Level</th><th>Counting unit</th></tr><tr><td>Number of controls carried out based on the requests from NOPCML</td><td>2008</td><td>FG – General Commissariat and County units</td><td>473</td></tr><tr><td></td><td>2009</td><td></td><td>653</td></tr><tr><td>Number of notification sent to NOPCML</td><td>2008</td><td>FG – General Commissariat and County units</td><td>79</td></tr><tr><td></td><td>2009</td><td></td><td>76</td></tr><tr><td>Fines applied in accordance with the Law no. 656/2002</td><td>2009</td><td>FG – General Commissariat</td><td>20</td></tr><tr><td></td><td colspan="3">Ascertained amount = 285000 lei Transferred amount= 149000 lei</td></tr></table>	Indicator	Year	Level	Counting unit	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		
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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 taken 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>NSC: 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</p>																												

	<p>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>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: Art. 18 para. 5 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008 (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 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 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, 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</p>

	<p>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: 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.</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 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>
Recommendation of the MONEYVAL Report	<i>Enforceable requirements in place to ensure that financial institutions are advised of weaknesses in the AML/CFT systems of other countries should be developed.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: At the moment, the following information channels on other countries’ vulnerabilities in the AML/CFT 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

	<p>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;</p> <ul style="list-style-type: none"> ▪ Official communication by NOPCML – FIU Romania, to other authorities with prudential supervision attributions in AML/CFT 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/CFT 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: Art. 13 para. 2 of GD no. 594/2008 (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 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 adequate systems for the prevention and control of money laundering and terrorist financing and also to all complex, unusual large transactions or</p>

	<p>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.</p> <p>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:</p> <ul style="list-style-type: none"> 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. ” <p>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 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</p>
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	<p>adequate systems to prevent and control money laundering and terrorism financing.</p> <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>
Recommendation of the MONEYVAL Report	<i>Mechanism to apply countermeasures should be established.</i>
Measures taken to implement the Recommendation of the Report	<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 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 (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. (3) When the legislation of the third countries 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>

	Art.18 (2) of GD no. 594/2008 The Office shall inform the European Commission about the cases when a third country is in the situation described in article. 13 para (3).
(Other) changes since the last evaluation	

Recommendation 22 (Foreign branches and subsidiaries)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Specific requirement on the financial institutions to require the application of AML/CFT measures to foreign branches and subsidiaries beyond customer identification.</i>
Measures taken to implement the Recommendation of the Report	<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 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 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 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>

Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<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.</p> <p>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 Economic Area or in non-member states, as well as at headquarters and other operating offices of legal person insurance agents.</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 taken 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 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. (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 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 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>
(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 is comes to supervision of exchange offices.</i>
Measures taken 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</p>

	<p>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/CFT point of view.</p>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>ISC:</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>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</i></p>

	<i>on-site inspection sanctions to more than 34 insurance brokers regarding AML/CFT.</i>
Recommendation of the MONEYVAL Report	<i>Registration or licensing procedures should be established for money remittance service providers.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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 (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>
Recommendation of the MONEYVAL Report	<i>Supervision of MVT service providers (including those that operate through postal offices and independently) should be strengthened.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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> -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</p>

	<p>seriousness of the situation in this sector, as there are no STRs for the period 2007 – 2009.</p> <ul style="list-style-type: none"> - 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. -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. - 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. -Having regard at the great number of county post offices (1.800 locations), the organization of regional training sessions in AML/CFT 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>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>
Recommendation of the MONEYVAL Report	<i>Supervision for terrorist financing, especially for exchange offices and MVT service providers should be strengthened</i>
Measures taken 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</p>

	<p>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 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:</p> <p>a) National Bank of Romania, for credit institutions;</p> <p>b) National Office for Prevention and Control of Money Laundering, for any other legal person that provides fund transfer services.</p> <p>(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</p> <p>(3) The following deeds shall be deemed as infringements:</p> <p>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</p> <p>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.</p> <p>(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.</p> <p>(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.</p>
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	<p>(6)The requirements provided by article 22 of Law no. 656/2002, with subsequent modifications and completions, apply accordingly</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</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>
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML:</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 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 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 In order to obtain the license for organizing gambling must be fulfilled the following conditions: b) the legal representative shall deposit a solemn statement from which must result the following: (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; 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 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: 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: 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);</p>
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	<p>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:</p> <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 is regulated by the law;</i> ▪ <i>(...)The legal representative have the property or use rights over the IT programs which are integral part of the gambling modality;</i> <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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	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.
Recommendation of the MONEYVAL Report	<i>Serious considerations should be given to the number and variety of DNFBP controlled and the supervisory resources available to the NOPCML.</i>
Measures taken 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 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.</p> <p>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</p>

	<p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>In accordance with the provisions of GD no. 1599/2008, the new directorate has the following attributions:</p> <ul style="list-style-type: none"> 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, attribution realized by the designated persons within the Office, generically called ascertaining agents; 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; 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; h) other attributions established by order of the Office's President, according to the law, interior order regulation and internal working procedures. <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</p>
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	<p>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</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) 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> <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>
Recommendation of the MONEYVAL Report	<p><i>Accurate statistics data on supervision by SROs should be developed.</i></p>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>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 elaborates 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:</p> <p>In 2005, 82 notary offices in 4 Chambers of Notaries Public were verified.</p> <p>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,</p>

	<p>as amended.</p> <p>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>
(Other) changes since the last evaluation	

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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>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>
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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>Art. 6 para. 7 of the Law no. 656/2002, with subsequent modifications and completions brought by G.E.O. no. 53/2008</p> <p>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>
Recommendation of the MONEYVAL Report	<i>Taking into account the low level of reporting, further indicators and typologies should be developed on terrorism financing.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>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</p>

	<p>terrorism 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 bureaux 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> <p>- Providing a general feedback offered by the NOPCML to the reporting entities:</p> <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). <p>- 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>
Recommendation of the MONEYVAL Report	<p><i>Specific feedback should be developed on the status of STRs and the outcome of single cases.</i></p>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</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</p>

	<p>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 period for the functioning of the connection with competent authorities, in Intranet System – VPN digital signature.</p>
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 taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>Art. 6 para. 7¹ of the Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008</p> <p>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> <p>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.</p>
(Other) changes since the last evaluation	NSC: For the National Securities Commission, guidance in AML/CFT field is an ongoing process covered in the trainings for regulated entities or in the framework of conducted onsite inspections.

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 taken to implement the Recommendation of the Report	<p>MJCL:</p> <p>AML Law was modified in April 2008 through GEO no. 53/2008, which transposed in the Romanian legal system 3rd EU Directive.</p> <p>ML offence as provided by the AML Law in art. 23, is defined as follows:</p> <p>Art. 23 of the Law no. 656/2002, with subsequent modifications and completions by GEO no. 53/2008</p> <p>(1) The following deeds represent offence of money laundering and it is</p>

	<p>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>
Recommendation of the MONEYVAL Report	<p><i>Effectiveness of implementation of the Palermo, Vienna and TF Conventions need to be improved in some instances, particularly terrorist financing criminalization and some aspects of the provisional regime.</i></p>
Measures taken to implement the Recommendation of the Report	<p>MJCL:</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:</p> <p>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</i> –</p>

	<p><i>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. 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. 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. The interim measures for repair of the damage may be taken at the request of the civil party or ex officio. 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>
Recommendation of the MONEYVAL Report	<i>TF offence should be amended in order to ensure fully cover of the Terrorist Financing Convention.</i>
Measures taken to implement the Recommendation of the Report	Please see previous comments.
Recommendation of the MONEYVAL Report	<i>A precise mechanism for freezing of funds related to terrorist financing should be established.</i>
Measures taken to implement the Recommendation of the Report	<p>MoFA: Freezing without delay funds or economic resources 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.</p> <p>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.</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 (NAFA), 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 NAFA'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>
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 taken 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.</p> <p>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.”</p> <p>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</p>
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	<p>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>
(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 taken to implement the Recommendation of the Report	<p>MoFA: Freezing without delay funds or economic resources</p> <p>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.</p> <p>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 (NAFA), 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 NAFA’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>
Recommendation of	<i>Banking operations between residents listed in the Annex or on their behalf</i>

the MONEYVAL Report	<i>should be covered.</i>
Measures taken to implement the Recommendation of the Report	<p>The actual Romanian specific Law no. 535 on preventing and combating 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>
Recommendation of the MONEYVAL Report	<i>Freezing on behalf of a foreign jurisdiction should be covered.</i>
Measures taken to implement the Recommendation of the Report	<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 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).</p>
	<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 taken 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.
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>
Measures taken to implement the Recommendation of the Report	<p>MoFA:</p> <p>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</p>

	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).
Recommendation of the MONEYVAL Report	<i>Communication channels in respect of listing and their updating need to be enhanced.</i>
Measures taken to implement the Recommendation of the Report	<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 ensure 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 NAFA, 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</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</i></p>

	<p><i>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 International cooperation in order to postpone the suspicious transactions: 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. 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: a.the transaction is related to money laundering activities, and 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: PROPOSED LEGISLATIVE AMENDMENT: Art. 19 para. 2² of the Law no. 656/2002 consequently amended and completed 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 (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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>RIS: The Government Emergency Ordinance no.202/2008 implementing international sanctions, amended and approved by Law no.217/2009 NOPCML: 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</p>

	<p>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.</p> <p>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.</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 acts 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 Journey 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 ca 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 NAFA, 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of	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

the Report	<p>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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>MoFA: Art. 10 of GEO 202/2008 regulates the procedure for addressing errors in identification by the competent authorities established in art. 12.</p> <p>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>
Recommendation of the MONEYVAL	<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</i>

Report	<i>expenses should be implemented.</i>
Measures taken to implement the Recommendation of the Report	MoFA: Art. 8 of the GEO 202/2008 expressly regulated the procedure for granting exception of this type.
(Other) changes since the last evaluation	

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 taken to implement the Recommendation of the Report	<p>NOPCML: 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: 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>
Recommendation of the MONEYVAL	<i>Deficiencies identified under R.5-11, 13-15 and 21 are equally valid for money or value transfer services.</i>

Report	
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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> <ul style="list-style-type: none"> -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. -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. - 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. -Having regard at the great number of county post offices (1.800 locations), the organization of regional training sessions in AML/CFT 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>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</p>

	<p>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 10.000ron (equivalent of 2.365 Euro).</p>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<p>NOPCML: 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 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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <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 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.</p>

	<p>Art. III of GEO no. 53/2008</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 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:</p> <ul style="list-style-type: none"> 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. <p>(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</p> <p>(3) The following deeds shall be deemed as infringements:</p> <ul style="list-style-type: none"> 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. <p>(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.</p> <p>(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.</p> <p>(6)The requirements provided by article 22 of Law no. 656/2002, with subsequent modifications and completions, apply accordingly.</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</p>
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	<p>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) 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> <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>
(Other) changes since the last evaluation	

Special Recommendation VIII (Non-profit organizations)	
Rating: Partially compliant	
Recommendation of the MONEYVAL Report	<i>Romanian authorities should periodically review the NPOs with the object of assessing terrorist financing vulnerabilities.</i>
Measures taken to implement the Recommendation of the Report	<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 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> <p>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</p>

	<p>National Agency of Fiscal Administration, Directorate for Investigating Organized Crime and Terrorism, Ministry of Administration and Interior;</p> <p>b. Initiating the analyze of NPO's legislative framework, within Ministry of Justice and Citizens' Liberties, with the aim of clarifying the following aspects:</p> <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: criteria, register, public available registrars, transmitting personal data of people leading, administrating or controlling the activity of a NPO. 2. organisation 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>
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 taken to implement the Recommendation of the Report	<p>MJCL:</p> <p>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:</p> <p>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>
Recommendation of the MONEYVAL Report	<i>Effective implementation of the essential criteria VIII.2 needed.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>Measures adopted:</p> <p>- 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>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>
Recommendation of the MONEYVAL Report	<i>Regular outreach to the sector to discuss scope and methods of abuse of NPOs, emerging trends in TF and new protective measures.</i>
Measures taken to implement the Recommendation of the Report	<p>NOPCML:</p> <p>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.</p> <p>Thus, during the year 2008 it was performed the off-site supervision of 7.295 reporting entities, namely: 1.329 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</p>

	<p><i>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.</p> <p>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.</p> <p>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.</p> <p>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 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.
(Other) changes since the last	

evaluation	
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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>
Measures taken to implement the Recommendation of the Report	<p>NCA: The power of Customs in case of failure to fulfil 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>
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>
Measures taken 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>
Recommendation of the MONEYVAL Report	<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>
Measures taken to implement the Recommendation of the Report	<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,</p>

	location) 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.
(Other) changes since the last evaluation	NOPCML: 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.

4. Specific Questions

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:

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 position, 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 Organised 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:

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 automatisation of collecting system of the reports from the legal persons designated as reporting entities under the AML/CFT 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 automatisation of the documents flow, optimisation 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 speciality 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 realisation 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/CFT 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:

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%	approx. 10%
2	Accounting, expert accounting and fiscal consultancy	approx. 9%	-	-	approx. 3%	-		aprox. 73% (*some recommendations were applied together with fines/warnings)	approx. 16%
3	Money remitters service providers	-	-	-	approx. 30%	-		-	approx. 70%
4	Renting owned real estate	-	50%	-	-	-		-	50%
5	Buying and selling owned real estate	-	approx. 14%	-	-	-		-	approx. 86%
6	Real estate developers	-	-	-	approx. 70%	-		-	approx. 30%
7	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: 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:

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:

- 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

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. 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 AML/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.

5. *Questions related to the Third Directive (2005/60/EC) and the Implementation Directive (2006/70/EC)*⁴

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>NOPCML: Yes. The harmonization process of the AML/CFT 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>

Beneficial Owner	
Please indicate whether your legal definition of beneficial owner corresponds to the definition of beneficial owner in the 3rd Directive ⁵	<p>NOPCML: 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>

⁴ For relevant legal texts from the EU standards see Appendix II.

⁵ Please see Article 3(6) of the 3rd Directive reproduced in Appendix II.

(please also provide the legal text with your reply)	<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; <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.
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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><u>NOPCML</u>: Yes.</p> <p><u>Legal provisions</u>:</p> <p>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> <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 Directive⁶ are provided for in your domestic legislation (please also provide the legal text with your reply).</p>	<p>NOPCML: 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; b) The children and their spouses; c) The parents <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> <ol style="list-style-type: none"> 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

⁶ Please see Article 3(8) of the 3rd Directive and Article 2 of Commission Directive 2006/70/EC reproduced in Appendix II.

	<p>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 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. 12¹ para. 1 let. c from the Law no. 656/2002, consequently amended and completed by G.E.O. 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>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>Art. 12 para. (1) let. c and para. 4 from GD no. 594/2008</p> <p>(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:</p> <p>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.</p> <p>(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:</p> <p>a) to dispose risk based procedures that allow the identification of the customers within this category;</p> <p>b) to obtain the approval of the executive managements before setting up a business relationship with a customer within this category;</p> <p>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;</p> <p>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 TF investigations.	<p>NOPCML: Yes.</p> <p><u>Legal provisions:</u></p> <p>Art. 18 para. 2 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 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.</p>
With respect to the prohibition of “tipping off” please indicate whether there are	<p>NOPCML: Yes.</p> <p><u>Legal provisions:</u></p> <p>Art. 18 para. 4 from the Law no. 656/2002, consequently amended and</p>

circumstances where the prohibition is lifted and, if so, the details of such circumstances.	<p>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>
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“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> <ol style="list-style-type: none"> 1. the crime was committed by a natural person who has certain factual relations with the legal person, being a representative or employee of the latter, 2. the crime was committed in achieving the aim of the activity, on behalf or in the interest of that legal person. <p>In conclusion, the criminal liability of a legal person may be established, in the</p>

	<p>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: 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: 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: 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 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</p>

6. Statistics

a. Please complete - to the fullest extent possible - the following tables:

2005												
	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	160	406	26	91	1	5	N/A			- 688.830 Euro -blocking/deduction on the account ROL 195 billion (approx. 6.500 Euro) - blocking/deduction on the account in Switzerland and Monaco – in value of USD 30 mil -goods and assets in values of ROL 1.400 billion (approx. 470.000 Euro) -1 house -5 buildings -9.435 RON (approx. 2.700 Euro) -36.000 EUR -1 car -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		10.000.000 USD
FT	1	2	1	2								

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			-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		
FT	0	0	0	0	0	0						

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			10.760.134		
FT					1	2			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			3.769.192	2	340.000
FT	0	0	0	0	0	0						

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			2.860.940		
FT	0	0	0	0	0	0						

b. STR/CTR

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 ⁷ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions			
	CTR <i>s</i> (Cash Transactions Reports)	ETR <i>s</i> (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)	9.136	8.755	2.984		3.858		483		22	73			4 (non-final conviction)	13		
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	-	-	-													
Real estate agents	1	-	10													
Associations and foundations	-	-	2													
Other natural or legal persons that trade goods and/or services	1.599	-	26													

⁷ 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.

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 ⁸ , e.g.	reports about transactions above threshold		reports about suspicious transactions		cases opened by FIU		notifications to law enforcement/ prosecutors		indictments				convictions				
	CTR <i>s</i> (Cash Transactions Reports)	ETR <i>s</i> (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		3.195		336		29	113			1 (final conviction.)	1			
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														

⁸ 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

Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	-		-														
Persons with attributions in the privatization process	-		-														
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	3.195														

* 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 ⁹ , 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)	8.802	8.702	1.861		2574		616	8	21	92						
Financial institutions (including Branches in Romania of foreign financial institutions)	2.668		52													

⁹ 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

Private pension funds Administrators																				
Casinos	2.152																			
Auditors, natural and legal persons providing tax and accounting consultancy	4			2																
Public notaries, lawyers and other persons exercising independent legal profession	68.311			93																
Persons, other than those mentioned in para (e) or (f), providing services for companies or other entities	-																			
Persons with attributions in the privatization process	-																			
Real estate agents	241			3																
Associations and foundations	1																			
Other natural or legal persons that trade goods and/or services	7.944			85																
Financial control and prudential supervision authorities	-			177																
Law enforcement authorities	-			257																
Office's notifications (special sources)	-			44																
Total	90.123	8.702	2.574																	

* Information included in the Annual Report of NOPCML on 2007.

2008																
Statistical Information on reports received by the FIU									Judicial proceedings*							
Monitoring entities ¹⁰ , 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	37							
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													
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													

¹⁰ 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

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 ¹¹ , 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		1.616		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															

¹¹ 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

APPENDIX I - Recommended Action Plan to Improve the AML / CFT System

AML/CFT System	Recommended Action (listed in order of priority)
1. General	No text required
2. Legal System and Related Institutional Measures	
2.1 Criminalization of Money Laundering (R.1 & 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. 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

	<p>freezing mechanism upon verification that the person or entity is not a designated should be developed.</p> <ul style="list-style-type: none"> 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 & 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 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 too restrictive and only refers to identifying a customers 'public position held'. 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.

	<ul style="list-style-type: none"> • 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 & 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 large transactions, or unusual transactions available for competent authorities and auditors for at least five years should be implemented. • 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.
3.7 Suspicious transaction reports and other reporting (R.13-14, 19, 25 & SR.IV)	<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.

	<ul style="list-style-type: none"> • 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.
3.8 Internal controls, compliance, audit and foreign branches (R.15 & 22)	<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 application of AML/CFT measures to foreign branches and subsidiaries beyond customer identification. • 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, 29, 17 & 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

	<p>policies, procedures and sample testing should be performed, particularly in the insurance sector.</p> <ul style="list-style-type: none"> • 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 postal offices. • 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). • “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.24-25)	<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

	<p>object of assessing terrorist financing vulnerabilities.</p> <ul style="list-style-type: none"> • 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.36-38 & 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, 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)	

APPENDIX II

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 2005/60/EC (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.

4. 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.

ANNEXES

Annex 1. Abbreviation List

Annex 2.1 NOPCML: Law no. 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, consequently amended and completed (consolidated version);

Annex 2.2 NOPCML: Government Emergency Ordinance No.53/21st of April 2008 for the modification and completion of the Law no. 656/2002, on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating of terrorism financing;

Annex 2.3 NOPCML: Government Decision no. 594/2008 on the approval of 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;

Annex 2.4 NOPCML: Government Decision no. 1599/2008 on the approval of the Regulation for Organizing and Functioning of the National Office for Prevention and Control of Money Laundering;

Annex 2.5 NOPCML: NOPCML Decision no. 496/2006 on 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 2.6 NOPCML: NOPCML Decision no. 673/2008 on the approval of the work methodology regarding the submission of the cash transaction reports and external transaction reports;

Annex 2.7 NOPCML: NOPCML Decision no. 674/2008 on the form and contain of the Suspicious Transaction Report, the Cash Transaction Report and the External Transaction Report;

Annex 2.8 NOPCML: Written Disposition no. 43/2008 on the establishment of the working group responsible for the preparation of a normative act draft on the approval of the Norms for the prevention and combat of money laundering and terrorism financing acts, customer due diligence and internal control for the reporting entities that are not the subject of other authorities' prudential supervisions;

Annex 2.9 MoFA: Emergency Governmental Ordinance no. 202/2008 on the implementation of the international sanctions, as adopted by the Law no. 217/2009;

Annex 2.10 NBR: Regulations no. 9 /2008 on know your customer for prevention of money laundering and terrorism financing;

Annex 2.11 NSC: Regulations no. 5/2008 on prevention and control of money laundering and terrorist financing through the capital market;

Annex 2.12 ISC: Order no. 24/2008 for applying the Regulations concerning prevention and control of money laundering and terrorism financing through the insurance market;

Annex 2.13 CSSPP: Norm no. 5/2008 regarding reporting and transparency in the voluntary pensions system.

Annex 3.1 Minutes of the meeting between the representatives of NOPCML and of the National Union of Bars from Romania, 07 August 2009, Office's headquarters;

Annex 3.2 Minutes of the meeting between the representatives of NOPCML and of the National Union Public Notaries from Romania, 06 August 2009, Office's headquarters;

Annex 3.3 Minutes of the working meeting organized between the representatives of NOPCML and of the National Company "Romanian Post Office" SA, 04 August 2009, headquarters of the Office;

Annex 4. UNNPR: Decision no. 44/07.04.2006 of the National Union of Public Notaries in Romania for applying the Cooperation Protocol between the NOPCML and UNNPR;

- Annex 5.** **Programme of the on-site supervision activities**, in accordance with the requirements and recommendations provided for by the Third Round Evaluation Report of Romania;
- Annex 6.** **Training Plan** for the semester II of 2009 for the reporting entities provided for in article 8 of the Law no. 656 of December 7th, 2002, with subsequent modifications and completions;
- Annex 7.** **Organizational chart** of the National Office for Prevention and Control of Money Laundering.
- Annex 8.** **NBR:** Institutional developments within the National Bank of Romania in the anti-money laundering and terrorism financing field;
- Annex 9.** **ISC:** Order no. 13/30.07.2009 for the implementation of the regulations on supervision, in the insurance field, of the implementation of international sanctions;
- Annex 10.** **CSSPP:** Norms no. 11/2009 regarding supervision procedure of the implementation of international sanctions in the private pension system