

FINANCIAL SUPERVISORY AUTHORITY

DECISION NO. 479/18.03.2015

Based on the provisions of Art.1 Para (2), Art.2 Para (1) Letters a) and d), Art. 5 Letters a) and b), Art. 6 Para (3), Art. 14, Art. 27 and Art. 28 of Government Emergency Ordinance No. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law No. 113/2013, as subsequently amended and supplemented,

Pursuant to Article 15 of Guideline ECB/2010/2 of 21 April 2010 on TARGET2-Securities, published in the Official Journal of the European Union L 118 of 12 May 2010,

Having regard to:

- CNVM Decision No. 3567/14.12.2006 whereby the operation of Depozitarul Central SA was authorised, as subsequently amended and supplemented,
- CNVM Executive Order No. 5/23.02.2012 on the outsourcing by the Central Depository of the settlement activity within the TARGET2-Securities Project,
- Certification No. 62/24.04.2012 on the agreement in principle of CNVM for outsourcing by Depozitarul Central SA of the settlement activity within the TARGET2-Securities (T2S) Project developed by Eurosystem,
- ESCB-CESR Recommendations for the securities settlement systems,
- Assessment methodology of ESCB-CESR Recommendations for the securities settlement systems,
- Request by Depozitarul Central SA, registered with CNVM under No. 8170/02.04.2012, and the subsequent correspondence with the Central Depository and the National Bank of Romania in connection with the assessment of RoClear system in the light of ESCB-CESR Recommendations,
- ASF Decision No. 1522/22.10.2014 on the approval of the results of the preliminary assessment of RoClear system in the light of ESCB-CESR Recommendations;
- the letters sent by the Central Depository, registered with ASF under Nos. RG/117316/02.12.2014, RG/127524/31.12.2014, RG/127365/30.12.2014, RG/9328/02.02.2015, RG/14062/17.02.2015, RG/14486/18.02.2015, RG/14781/18.02.2015 and RG/15339/19.02.2015;
- BNR letters registered with ASF under Nos. RG/17935/25.02.2015; RG/22733/11.03.2015,

On the basis of the analysis of the specialised directorates, and further to the deliberations of the Financial Supervisory Authority's Board held in the meeting of 18 March 2015, the Financial Supervisory Authority hereby issues this

DECISION

Art. 1 The Assessment Report of RoClear clearing and settlement system, managed by Depozitarul Central SA is approved by reference to ESCB-CESR Recommendations for the securities settlement systems in the European Union, as set out in the Annex forming an integral part hereof.

Art. 2 The Central Depository shall send to the European Central Bank and shall publish on its own Internet page the Assessment Report of RoClear clearing and settlement system, managed by Depozitarul Central SA, by reference to ESCB-CESR Recommendations for the securities settlement systems in the European Union, after its approval by ASF and BNR.

Art. 3 This Decision shall be communicated to the Central Depository and published on ASF's Internet page and in ASF's Official Bulletin, after the approval of the Assessment Report referred to in Art. 1 by BNR.

Art. 4 This decision shall be enforced by the Directorate for Regulation and Authorisation and the Directorate for Supervision and Control.

President,

MIȘU NEGRÎTOIU

Annexe to ASF Decision No. 479/18.03.2015

National Bank of Romania

Financial Supervisory Authority

**Assessment Report of RoClear clearing and settlement system
managed by Depozitarul Central SA
in the light of ESCB-CESR Recommendations for securities settlement
systems in the European Union**

March 2015

I. Introduction

Premises

The assessment of RoClear clearing and settlement system managed by Depozitarul Central SA is made by the Financial Supervisory Authority (hereinafter referred to as “ASF”), as competent authority for the regulation, authorisation and supervision of central securities depositories of Romania, together with the National Bank of Romania (hereinafter referred to as “BNR”), as the central bank overseeing the securities settlement systems (overseer).

Overview and Purpose of the Assessment

Since 2007 Depozitarul Central SA has been providing depository and registry services with securities, traded on the regulated markets and in alternative trading systems, and any operations in connection therewith, in the territory of Romania, based on the authorisations granted by the Financial Supervisory Authority (successor of the National Securities Commission) and National Bank of Romania. In such capacity, the Central Depository manages and operates RoClear settlement-clearing and registry system.

Depozitarul Central SA obtained the consent of the European Central Bank to be part of the first group of central depositories which may connect to the TARGET2-Securities pan-European settlement platform, starting from June 2015. On the migration date at the latest, and throughout the contract period, the Central Depository must meet the eligibility criteria for access to TARGET2-Securities services.

This joint assessment by ASF and BNR was made given that one of the eligibility criteria refers to the condition that RoClear settlement and clearing system, managed by Depozitarul Central SA, has been positively assessed by the competent authorities against *ESCB-CESR Recommendations for securities settlement systems in the European Union*.

Institutions and the infrastructure of the capital market in Romania in line with post-trade operations

RoClear system, managed by the Central Depository, is part of the infrastructure of the capital market in Romania. Regulated markets and alternative trading systems, which are managed by Bursa de Valori București SA and SIBEX Sibiu Stock Exchange SA operate within this infrastructure. Shares, bonds and financial instruments are traded in the same.

The clearing-settlement and registry services related to the transactions carried out on the markets managed by SIBEX Sibiu Stock Exchange SA are provided by Depozitarul Sibex SA, the settlement-clearing system of which is not subject to this assessment.

The Central Depository carries out clearing-settlement and registry services for the transactions concluded on the regulated market and in the alternative trading system, managed by Bursa de Valori București SA, with shares, bonds, fund units and other financial instruments, acting as depository of the issuers for such instruments.

At the same time, the Central Depository is the central depository of the investor (CSD investor) for a number of financial instruments admitted to trading on the regulated markets of other Member States and third party states. At the end of January 2015, 34 investment firms and 14 credit institutions were registered in the Central Depository system.

There is no central counterparty for the spot market in Romania. The Central Depository acts as agent in the settlement process of the financial instruments traded and, in that capacity, it implements measures and procedures to mitigate the risk of settlement failure.

The settlement of money funds in lei related to the transactions registered in the Central Depository system is made in the Central Bank money, through the technical account of the Central Depository opened in ReGIS system, and the National Bank of Romania acts as settlement agent of the funds for the transactions denominated in lei. Cross-border transaction in currencies other than lei shall be settled by the Central Depository in the commercial bank money.

Description of the structure and regulatory practices

The Central Depository pursues its activity under Capital Market Law No. 297/2004, as subsequently amended and supplemented, GEO No. 99/2006 on credit institutions and capital adequacy and Law No. 253/2004 on settlement finality in payment and securities settlement systems, and secondary regulations issued by CNVM/ASF and BNR in application of the legislation mentioned above. The adoption and amendment of the regulations of the Central Depository are subject to approval by ASF and BNR prior to the entry into force thereof.

The Central Depository took over, upon its establishment, the activity and post-trading mechanisms from Bursa de Valori Bucuresti SA and Regisco SA.

The Central Depository took up its duties on 3 January 2007, based on the operation authorisation decision issued by the National Securities Commission on 14 December 2006, and ensures the provision of depository and registry services with securities, traded in the regulated markets and in alternative trading systems, and any operations in connection therewith.

Subsequently, based on the operation authorisation issued by BNR on 2 March 2007, the Central Depository extended its activity with the clearing-settlement of the transactions with securities; the first settlement day was 10 April 2007.

In May 2007, the Central Depository completed the procedure for issuing statements of account based on electronic signature, so that the participants in the settlement-clearing and registry system may issue statements of account electronically signed.

RoClear system managed by the Central Depository is authorised by BNR and notified to the European Commission as securities settlement system, in the application of Directive No 98/26/CE on settlement finality.

The Central Depository is the only institution of Romania authorised to allocate and manage ISIN codes (International Securities Identification Number) and CFI codes (Classification of Financial Instruments) established by the International Organisation of Standardisation (ISO).

In June 2007, the Central Depository was admitted as member of the Association of National Numbering Agencies (ANNA) as National Numbering Agency of Financial Instruments.

Starting from 2007, the Central Depository has been a full member of ECSDA – European Central Securities Depositories Association.

Starting from 2008, the global accounts system and the mechanism without pre-validation have been gradually introduced, and in 2013 the use of such mechanisms was extended to all financial instruments registered in RoClear system managed by the Central Depository. Such mechanisms improve the access of institutional investors to the Romanian market and entail the intermediary's exclusive liability for correctly reflecting its clients' activity from the receipt of the order to trade to the confirmation of the trade and status of portfolios thereof.

Also, in connection with the registry services provided by the Central Depository, the Central Depository uses individual accounts where holdings of financial instruments of the investors that do not have accounts opened with investment firms are recorded.

Starting from 6 October 2014, the Central Depository has used T+2 settlement cycle for all settlement operations of transactions concluded in trading systems.

Information and the methodology used upon the assessment

The “*Recommendations for securities settlement systems and recommendations for central counterparties in the European Union*” - Ref: CESR/09-446¹ were published on 23 June 2009 by the Committee of European Securities Regulators (CESR) and European System of Central Banks (ESCB). The Recommendations are addressed to the regulators of securities and overseers of settlement systems to establish a fair and consistent regulatory/supervisory framework for securities settlement systems and central counterparties in the European Union.

CPSS-IOSCO Recommendations of 2001 and 2004 were reviewed leading to the elaboration of CPSS-IOSCO Principles for financial market infrastructures² published in April 2012. CPSS-IOSCO Principles for financial market infrastructures – Disclosure framework and Assessment methodology³ were published in December 2012.

On 5 November 2012, CPSS (Payment and Settlement Systems Committee) of the European Central Bank sent PTSC (ESMA Post-Trading standing committee) a letter mentioning that ESCB-CESR Recommendations should be replaced by the new CPSS-IOSCO Principles for financial market infrastructures at least until the completion of the technical standards provided by EU Regulation on central depositories. It is also mentioned in the letter that the **ongoing assessments based on ESCB-CESR Recommendations may be finalised based on those standards, which situation is applicable in the case of the current joint assessment by ASF and BNR.**

The assessment process of RoClear system was rigorously and objectively conducted, complying with and applying the Assessment Methodology of ESCB-CESR

¹ http://www.esma.europa.eu/system/files/09_446.pdf

² <http://www.bis.org/publ/cpss101a.pdf>

³ <http://www.bis.org/publ/cpss106.pdf>

Recommendations for securities settlement systems. For the preparation of the assessment report the following were considered:

- the Text of ESCB-CESR Recommendations for securities settlement systems in the European Union;
- the Assessment Methodology of ESCB-CESR Recommendations for securities settlement systems in the European Union;
- the legislation applicable to the supervisory and overseeing activity carried out by ASF and BNR;
- the internal regulations and Articles of Association of Depozitarul Central SA;
- the legal framework applicable to the activity carried out by the Central Depository;
- the self-assessment of RoClear system;
- the answers given by the Central Depository to the requests of the competent authorities,
- the proposals for adjustment of regulations, at different stages of approval, for compliance by the Central Depository with ASF's requirements, the provisions of EU Regulation No 909/2014 and technical standards to be issued for its application;
- the information existing on Depozitarul Central SA own website – www.roclear.ro, and on the websites of ASF, BNR and BSE;
- the ratings provided by the methodology, *i.e.*: observed, broadly observed, partly observed, non-observed and non-applicable.

Further to the joint assessment, ASF and BNR consider that RoClear settlement-clearing system, managed by the Central Depository, generally observes ESCB-CESR Recommendations for securities settlement systems in the European Union, as revealed by the centralised situation in the table below:

Observance category	Recommendations falling within the observance category
Observed	Recommendations 2, 3, 4, 7, 8, 10, 12, 14, 15, 16, 17 and 19.
Broadly observed	Recommendations 1, 6, 11 and 13
Partly observed	-
Non-observed	Recommendation 9
Non-applicable	Recommendation 5
Not assessed	Recommendation 18

II. Detailed description of the results of the joint assessment by ASF and BNR of RoClear settlement-clearing system, managed by Depozitarul Central SA in the light of ESCB-CESR Recommendations for securities settlement systems in the European Union

Legal Framework	
ESCB-CESR Recommendation 1	
Securities settlement systems, links between them or interoperable systems should have a well-founded, clear and transparent legal basis for their operations in the relevant jurisdictions.	
Answers to	1) The laws, regulations, rules and procedures, and generally applicable

<p>key questions</p>	<p>and non-negotiable contractual provisions governing the activity of the Central Depository are clearly stated, understandable, and readily accessible to public and all participants in the system, except for the contractual clauses between the Central Depository and the administrators of the trading venues, clearing participants (settlement banks) and settlement-clearing systems. These deficiencies are not significant and remedy thereof shall be reiterated to the Central Depository;</p> <p>2) the legal framework demonstrates an appropriate degree of assurance for each aspect of the clearing and settlement process, including legally valid and enforceable arrangements for netting and collateral except for the provisions on mortgages against movable property for which the Central Depository, according to the information provided by ASF, is in the process of adapting its own regulations. These deficiencies are not significant and remedy thereof shall be reiterated to the Central Depository;</p> <p>3) the rules and contractual arrangements related to the operation of the securities settlement systems and the entitlement to securities are valid and enforceable even in the event of the insolvency of a system participant, a participant in a linked or interoperable system, or the administrators thereof;</p> <p>4) according to the information provided by the Central Depository, the participants were informed, through “market – profile” type documents containing relevant information regarding cross-border links related jurisdictions, Regulation and Overseeing, capital market institutions etc., without including information on any conflict of law issues;</p> <p>5) RoClear system managed by the Central Depository is authorised by the National Bank of Romania and notified to the European Commission as securities settlement system in the application of Directive No 98/26/CE on the settlement finality;</p> <p>6) the Central Depository system participants are required to know the limitations and the specific obligations of each relevant market in relation to cross-border transactions carried out through the Central Depository. At the same time, the Central Depository informed the participants through “market – profile” type documents containing relevant information regarding cross-border links related jurisdictions, Regulation and Overseeing, capital market institutions etc., without including information on any conflict of law issues;</p> <p>7) the Internet page of the Central Depository does not contain full information on the legal framework governing the links established by the Central Depository with various entities abroad (the rules of all systems with which various indirect links were established, and the laws, regulations and other legislation for each relevant jurisdiction, which have an impact on the functioning of those links);</p>
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	<p>8) the Central Depository did not seek legal opinions⁴ to confirm the compatibility of the national legislation with that applicable to other system administrators and institutions through which various linkages were established⁵;</p> <p>9) there is no formalised procedure at the level of the Central Depository to periodically analyse the differences among various relevant pieces of legislation⁶ for RoClear system, and to review the manner in which these differences may negatively influence the legal certainty on the operation of the system operated by the Central Depository;</p> <p>10) the analyses made by the Central Depository on the risks associated with (cross-border) services provided are available to all market participants through its own Internet page.</p>
Assessment	ESCB-CESR Recommendation 1 is broadly observed.
Comments	<p>The rating was given considering that:</p> <ul style="list-style-type: none"> ➤ the information provided to participants in connection with cross-border activities carried out through the Central Depository does not contain information regarding any conflict of law issues. The Central Depository should seek legal opinions⁷ to confirm the compatibility of the national legislation with that applicable to other system administrators and institutions through which various linkages were established.⁸ There is no formalised procedure at the level of the Central Depository to periodically analyse the differences among various relevant pieces of legislation⁹ for RoClear system, and to review the manner in which these differences may negatively influence the legal certainty on the operation of the system managed by the Central Depository; ➤ The Internet page of the Central Depository does not contain full information on the legal framework governing the links established by the Central Depository with various entities abroad (the rules of all systems with which various indirect links were established, and the laws, regulations and other legislation for each relevant jurisdiction, which have an impact on the functioning of those links).

⁴ nor for remote participants.

⁵ *ESCB-CESR Recommendations*, Page 23 (Point C4) and page 83 (Point C8).

⁶ such as the laws applicable to non-resident institutions participating in RoClear system, the laws applicable to agreements based on which direct and indirect links were established with systems in other states (including agreements with the custodians through which *indirect link* type linkages were established), the laws applicable to the operation of these systems abroad and their operators (including custodians), and the laws under which the securities registered in RoClear system were issued and those governing the rights over the same.

⁷ nor for remote participants.

⁸ *ESCB-CESR Recommendations*, Page 23 (Point C4) and page 83 (Point C8).

⁹ such as the laws applicable to non-resident institutions participating in RoClear system, the laws applicable to agreements based on which direct and indirect links were established with systems in other states (including agreements with the custodians through which *indirect link* type linkages were established), the legislation applicable to the operation of these systems abroad and their operators (including custodians), and the laws under which the securities registered in RoClear system were issued and those governing the rights over the same.

Trade Confirmation and Settlement Matching	
ESCB-CESR Recommendation 2	
To observe the recommendation, the administrator of the securities settlement administrator must ensure that:	
a) confirmation of trades between direct market participants should occur as soon as possible after trade execution, but no later than trade date (T+0);	
b) confirmation of trades between indirect market participants, when provided in regulations, should occur as soon as possible, preferably on trade date (T+0), but no later than the following date (T+1);	
c) settlement instructions matching should occur prior to settlement and no later than the day before the specified settlement date for settlement cycles longer than one day. This does not apply to free-of-payment transfers in those systems where matching is not required.	
Answers to key questions	<ol style="list-style-type: none"> 1) Transactions concluded at trading venues are automatically transmitted (STP) to RoClear system (“matched trades”). Consequently, 100% of the transactions concluded between direct participants in trading systems were confirmed on the trade day (T+0); 2) Confirmation of transactions concluded between indirect market participants is not mandatory according to the regulations of the Central Depository; 3) Transactions carried out in trading systems are confirmed and matched in their system, and settlement instructions are placed in the Central Depository system on the trade date for all transactions with settlement cycles T+2; All settlement instructions for transactions carried out outside trading systems are matched at least one day before the settlement date. If the settlement instructions for transactions carried out outside trading systems with settlement cycle extending beyond T+0 are sent later than D-1, the Central Depository shall apply the penalty tariff indicated in the list of tariffs and fees charged by the Central Depository.
Assessment	ESCB-CESR Recommendation 2 is observed.
Comments	-

Settlement Cycles and Operating Times	
ESCB-CESR Recommendation 3	
Rolling settlement should be adopted so that the final settlement should occur no later than T+3. The benefits and costs of a settlement cycle shorter than T+3 should be evaluated. The operating hours and days of securities settlement systems should be open at least during the operating time of the relevant payment system.	
Answers to key questions	<ol style="list-style-type: none"> 1) Rolling settlement should occur no later than T+2 for all securities; 2) Failed transactions upon the settlement date were very low in proportion to both the total number of transactions settled on net base (0.00011% for 2013 and 0.00403% for the first semester of 2014), and the total value of settlements (0.00617% for 2013 and 0,00039% for the first semester of 2014) and do not represent a significant source of risk; 3) The securities settlement system is open during the operating times of the

	<p>relevant payment system, and the emergency plans allow the extension of the operating times of the system to ensure safe and complete settlement in a case of emergency. If the relevant payment system is closed as a result of a force majeure event, the Central Depository shall approve various provisions on the deferral of the settlement of transactions of the current settlement date to the following settlement date when the relevant payment system is open;</p> <p>4) The Central Depository applies a penalty system for deferral of settlement. The institution states that it shall finalise in the fourth quarter of 2015 the implementation of ASF's recommendation on the implementation of mechanisms to encourage and boost settlement on the intended settlement date, in accordance with the Technical Standards issued based on EU Regulation No. 909/2014.</p>
Assessment	ESCB-CESR Recommendation 3 is observed.
Comments	-

Central counterparties	
ESCB-CESR Recommendation 4	
The benefits and costs of establishing a CCP should be evaluated.	
Answers to key questions	<p>1) There is no CCP for the transactions settled by the Central Depository. A working group assembled at the level of BSE group evaluated the costs and benefits of establishing a CCP. No decision to establish a CCP, or contract the services of an existing CCP, has been made until the date hereof;</p> <p>2) The Central Depository uses a security arrangement whose key aspects were assessed against ESCB CESR Recommendations.</p>
Assessment	ESCB-CESR Recommendation 4 is observed.
Comments	-

Securities lending	
ESCB-CESR Recommendation 5	
Securities lending and borrowing, repurchase agreements and other economically equivalent transactions should be encouraged as a method for avoiding settlement failures and expediting the settlement of securities. Barriers that inhibit the practice of lending securities for this purpose should be removed. The arrangements for securities lending should be sound, safe and efficient.	
Answers to key questions	Although there is a lending facility in place, it is not used to reduce the proportion of failed settlements since the failed settlements are very low by reference to the total number of transactions settled on net base (0.00011 % for 2013 and 0.00403 % for the first semester of 2014), and also to the total value of settlements (0.00617% for 2013 and 0.00039% for the first semester of 2014) and does not represent a significant source of risk.
Assessment	ESCB-CESR Recommendation No. 5 is not applicable;
Comments	Notwithstanding the conclusion above, it is essential that the Central

	<p>Depository take all necessary steps to use the securities lending as a risk management measure pursuing the application of the applicable legislation and the best practices for achieving the following objectives:</p> <ul style="list-style-type: none"> ➤ streamlining securities lending operations; ➤ safe and efficient creation, publicity, assessment, enforcement, acknowledgment and release of guarantees in the form of securities, in particular mortgages against movable property; ➤ increase the usability of the loan facility offered by the Central Depository through the RoClear system; ➤ cost-benefit analysis indicating the need for a centralised securities lending facility.
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Central Securities Depositories	
ESCB-CESR Recommendation 6	
Securities should be immobilised or dematerialised and transferred by book entry in the central depositories to the greatest possible extent. To safeguard the integrity of securities issues and the interests of investors, the central depository should ensure that the issue, holding and transfer of securities are conducted in an adequate and proper manner.	
Answers to key questions	<ol style="list-style-type: none"> 1) All securities registered in the system of the Central Depository are dematerialised and the transfer thereof to RoClear system is implemented by book entry; 2) The Central Depository ensures the registration of securities through a robust record scheme safeguarding the integrity of issues, but with regard to the transfer of securities among the sections of RoClear system, the system has weaknesses when ensuring the ownership rights of investors. The Central Depository submitted to ASF a plan to ensure continuity of participants' access to the Central Depository's functions, including in the case of its insolvency, but requiring further adaption; 3) The Central Depository is not exposed to the credit or liquidity risks; 4) ESCB-CESR Recommendation 11 is broadly observed.
Assessment	ESCB-CESR Recommendation 6 is broadly observed.
Comments	Without prejudice to the conclusion of Point 2, it is essential that the Central Depository takes all steps necessary to ensure that the plan to ensure continuity of participants' access to the Central Depository's functions, submitted to ASF, be further adapted so as to cover all steps that must be taken by the Central Depository in the case of its insolvency, where it does not fall within the scope of Arts. 264-266 of Capital Market Law No. 297/2004.

Delivery versus Payment (DvP)	
ESCB-CESR Recommendation 7	
Principal risk should be eliminated by linking securities transfers to fund transfers in a way that achieves delivery versus payment.	
Answers to key questions	1) The technical, legal and contractual framework ensure DvP;

	<p>2) All transactions involving transfers of funds against securities in the Central Depository system are settled on a DvP basis. The Central Depository may carry out direct ownership transfers over securities (FoP) in the cases referred to in Arts. 81 and 81¹ of CNVM Regulation No. 13/2005, as subsequently amended and supplemented;</p> <p>3) The Central Depository uses two settlement models: on a net basis and on a gross basis. The transactions carried out on BSE's trading system use the net basis settlement (BIS Settlement Model 2), where securities transfers are settled on a gross basis (trade-for-trade), while money funds are settled on a net basis, through clearing at the level of participant and at the level of clearing participant. The transactions outside the trading systems use the gross basis settlement (BIS Settlement Model 1), where both securities and money funds are settled on gross basis (trade-for-trade). For the transactions carried out on BSE's trading system where the net settlement is used (BIS Settlement Model 2), the Central Depository mentioned that, under normal conditions when, on the settlement date, at 14:15 hours, the participants in the settlement-clearing and registry system and the custodian agents ensure the money funds and the securities necessary to the finalisation of the settlement of the current day, the net settlement instruction shall be sent in the ReGIS system at 15:00 hours, and securities shall be settled (which process lasts approximately 1 minute) immediately after BNR's confirmation on the finalisation of the money settlement process, thus ensuring compliance with the requirement to provide, at the level of the Central Depository, the period of time of maximum one hour between blocking the securities and/or the transfer of funds, on the one hand, and the moment when the delivery is completed, on the other hand. According to the information sent by the Central Depository, the second daily session of net settlement shall be operational as of 02.03.2015.</p>
Assessment	ESCB-CESR Recommendation 7 is observed.
Comments	-

Timing of Settlement Finality	
ESCB-CESR Recommendation 8	
Intraday settlement finality should be provided through real-time and/or multiple-batch processing in order to reduce risks and allow effective settlement within the system.	
Answers to key questions	<p>1) The rules of the system define the timing of the final settlement, which require irrevocability, applicability and enforceability of the transfer order, deliveries of securities and fund settlement. Settlement finality is provided during the settlement day and the legal framework applicable to the clearing, settlement and registry system supports the time of the settlement finality;</p> <p>2) The system provides the settlement finality in real time and/or by multiple-batch processing during the settlement day. The hours for processing the payment instructions consider the operating hours within ReGIS payment system, but they do not mention that payment instructions for the fourth session may be made only prior to the final</p>

	<p>time limit (17:00 hours). The securities are available in the buying participants' accounts, immediately after the finalisation of the settlement of such transactions;</p> <p>3) The Central Depository promotes measures for the fulfilment of the settlement obligations at the earliest and has procedures in place to ensure that the securities settlement system does not result in a gridlock caused by participants delaying the settlement;</p> <p>4) According to the rules of the Central Depository, the transfer instructions which were subject to the matching process may not be unilaterally revoked by the system participants; the settlement system does not receive provisional transfer instructions of securities from other systems.</p>
Assessment	ESCB-CESR Recommendation 8 is observed.
Comments	-

Measures implemented by the Central Depository to address risks generated by participants' failures to settle	
ESCB-CESR Recommendation 9	
Central depositories that extend intraday credit to participants, including the depositories that operate net settlement systems, should institute risk controls that, as a minimum, ensure timely settlement in the event that the participant with the largest payment obligation is unable to settle. The most reliable set of controls is a combination of collateral requirements and limits.	
Answers to key questions	<p>1) The security arrangement instituted by the Central Depository does not entirely ensure the timely settlement in the event that the participant with the largest payment obligation is unable to settle. The control risk requirements, for the coverage of any potential losses and the sufficient liquidity resources to avoid participants' settlement failures, have numerous weaknesses regarding the limits for the net debit positions and requirements for establishing financial collaterals;</p> <p>2) The Central Depository does not allow for the registration of debit balances or overdrafts for debit balances;</p> <p>3) The Central Depository did not make any evaluation of the probability and potential impact of the simultaneous occurrence of several participants' settlement failure.</p>
Assessment	ESCB-CESR Recommendation 9 is not observed.
Comments	<p>The rating was given considering that:</p> <ul style="list-style-type: none"> ➤ The Central Depository may not entirely ensure the timely settlement in the event that the participant with the largest payment obligation is unable to settle, because the settlement and collateral limit are not properly dimensioned. At the same time, the risk control requirements for the coverage of any potential losses and the sufficient liquidity resources to avoid participants' settlement failures have numerous weaknesses regarding the limits for the net debit positions and requirements for establishing financial collaterals; ➤ The assessment methodology reveals that for granting the “partly

	<p><i>satisfied</i>” rating, the requirement referred to in Point 1a)¹⁰ should have been partly satisfied, with some weaknesses¹¹. On the other hand, for granting the “<i>not satisfied</i>” rating, the condition is that there are numerous weaknesses, so that the requirements referred to in Point 1a) are not satisfied.¹² Given the foregoing, it may be established, without doubt, that during the period comprised between January 2010 and June 2014, the highest trading limit was covered, on average, at a rate of 0.03% through the aggregate value of financial collaterals established in RoClear system, although, according to such recommendation, the percentage should have been at least 100 percent. It is very likely that the situation is relatively the same at present, since the formula of establishing the trading limits is the same, and the aggregate value of financial collaterals established in RoClear system did not increase significantly in the meantime.¹³</p> <p>➤ As a result of the arguments presented¹⁴, the rating given to <i>ESCB-CESR Recommendation 9</i> may not be superior to the minimum level, so that we deem such recommendation “<i>not observed</i>”.</p>
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Cash Settlement Assets	
ESCB-CESR Recommendation 10	
Assets used to settle payment obligations arising from securities transactions should carry little or no credit or liquidity risk. If central bank money is not used, steps must be taken to protect the participants in the system from potential losses and liquidity pressures arising from the failure of the cash settlement agent whose assets are used for that purpose.	
Answers to key questions	<ol style="list-style-type: none"> 1) Central money bank is used for the settlement of the money funds related to the transactions in the Central Depository system, through the technical account of the Central Depository opened in ReGIS system and the National Bank of Romania acts as settlement agent of the funds for transactions denominated in lei. Settlement of cross border operations in currencies other than lei is made by the Central Depository in commercial bank money; 2) In terms of settlements in currencies other than lei, in order to minimise possible losses or liquidity risk, according to the Central Depository, it shall review the criteria for admission and maintenance of the commercial banks acting as paying agent in RoClear system, in accordance with the provisions of EU Regulation 909/2014. The term envisaged for the implementation of the requirement is the fourth quarter

¹⁰ *ESCB-CESR Recommendations*, Page 163, 1a): “*The CSD, at a minimum, ensures timely settlement in the event that the participant with the largest payment obligation is unable to settle. Rigorous risk controls, in particular collateral requirements and limits, are imposed to control potential losses and liquidity pressures from participants’ failures to settle.*” (our emphasis)

¹¹ *ESCB-CESR Recommendations*, Page 164: “*1a is partially satisfied but there are some weaknesses in risk controls such as inadequate measures to address risks from uncollateralised credit.*” (our emphasis)

¹² *ESCB-CESR Recommendations*, Page 164: “*Numerous weaknesses in risk controls imply that the CSD does not satisfy 1a.*” (our emphasis)

¹³ It must be remembered that the highest net debit position, recorded daily in RoClear system, was not always lower than the aggregate value of the financial collateral provided by the participants in this system.

¹⁴ In addition, *ESCB-CESR Recommendations* (Page 164) specify that so that the rating “*not observed*” is given, it is not necessary that the two requirements referred to in Point E2 be cumulatively met.

	<p>of 2015;</p> <p>3) Settlement banks are financial institutions regulated and supervised by BNR and other similar authorities, as appropriate. The Central Depository did not enact additional requirements for admitting and maintaining the same as settlement banks. The Central Depository does not oversee the periodic value of the concentration of exposures at the level of settlement banks due to the payment flows of transaction settlement;</p> <p>4) The participants in the settlement-clearing and registry system may use during the settlement day the money funds and/or securities resulting from the settlement operations immediately after the completion of the settlement;</p> <p>5) The payment system used for interbank transfers among settlement banks (ReGIS system) observes the relevant international standards, i.e. “Core Principles for Systemically Important Payment Systems”.</p>
Assessment	ESCB-CESR Recommendation 10 is observed.
Comments	-

Operational Risk	
ESCB-CESR Recommendation 11	
Sources of operational risk arising in the clearing and settlement process should be identified, monitored and regularly assessed. This risk should be minimised through the development of appropriate systems and effective controls and procedures. Systems and related functions should be: reliable and secure, based on sound technical solutions, developed and maintained in accordance with proven procedures, and should have adequate, scalable capacity, appropriate business continuity and disaster recovery plans that allow for the timely recovery of operations, and be subject to frequent and independent audits.	
Answers to key questions	<p>1) The Central Depository carries out activities whereby it identifies, oversees, assesses and reduces operational risks and their sources. However, such activities must be improved in terms of quality and quantity. The Central Depository undertook to have all requirements on the organisational structure, mechanisms, techniques and tools on the risk management met in the first quarter of 2015, according to ASF’s requirements;</p> <p>2) The Central Depository has in place a series of procedures on the operational risk management. However, such activities must be improved in terms of quality and quantity. The Central Depository undertook to have the requirements on the risk management system met in the first quarter of 2015. Information systems are subject to periodic annual independent audit;</p> <p>3) The Central Depository has in place a Business Continuity Plan and Disaster Recovery Plan; the Central Depository estimated that the time necessary to resume business activities is two hours after disruption, without testing the same; Adequate crisis management structures are</p>

	<p>available in the Business Continuity Plan; the analysis submitted by the Central Depository does not contain any reasonable arguments leading to the conclusion that there is an actual difference among the risk profiles of the two locations that may be used to run RoClear system;</p> <p>4) No disruption cases were recorded; all important systems are properly managed;</p> <p>5) The Central Depository did not outsource the settlement-clearing services;</p>
Assessment	ESCB-CESR Recommendation 11 is broadly observed.
Comments	<p>The rating was given considering:</p> <ul style="list-style-type: none"> ➤ the need for improvement in terms of quantity and quality of the activities and procedures whereby the operational risks and sources thereof are identified, overseen and assessed; ➤ The Central Depository must take the necessary steps to furnish and use a secondary site whose risk profile should be different from that of the primary site.

Protection of Customers' Securities	
ESCB-CESR Recommendation 12	
Entities holding securities in custody should employ accounting practices and safekeeping procedures that fully protect customers' securities. It is essential that customers' securities be protected against the claims of the creditors of all entities involved in the custody chain.	
Answers to key questions	<ol style="list-style-type: none"> 1) The Central Depository segregates in its books customers' securities from the own holdings of the entities holding securities in custody: such mechanism is provided by the legal framework. The accounting procedures used by the Central Depository are robust and based on the double-entry principle. The Central Depository has in place procedures which enable the identification of the customers' holdings in the individual accounts, and participants in RoClear system must maintain the records and accounts to identify at any time and without delay the customers' securities from the securities held by any other customer and from its own securities; 2) Entities that hold securities in custody (including for the Central Depository if it is the investor's central depository) reconcile the balances of the securities accounts daily, and the reconciliation is made throughout the custody chain; 3) The legal framework contains firm provisions on the segregation of customers' assets in order to protect customer securities; 4) Entities that hold securities in custody must audit their books daily to certify that their clients' individual holdings correspond to those in the global accounts opened at the Central Depository. According to the current legal framework, such audits are not subject to reporting obligations to the Central Depository. However, information on such audits may be sent to ASF, upon request;

	<p>5) Although at the level of the Central Depository and at the level of the participants there are various arrangements (rules, procedures and contracts) to obtain the customer's express consent for any use of the securities held by the latter, the arrangements must be improved on the transfers between Section 1 in Section 2 and vice versa, according to ASF's requests;</p> <p>6) The Central Depository does not allow for the registration of debit balances in its own system and, consequently, it does not allow for securities creation as a result of such balances;</p> <p>7) In accordance with the regulations in force, intermediaries apply measures for the protection of customers' assets. However, it does not entirely address the situation in which the holdings are through a custody chain. Customers are properly informed where their assets are deposited with a third party;</p> <p>8) All entities involved in the securities' custody chain are subject to regulation and supervision by competent authorities.</p>
Assessment	ESCB-CESR Recommendation 12 is observed.
Comments	-

Governance	
ESCB-CESR Recommendation 13	
Governance arrangements for CSDs should be designed to fulfil public interest requirements and to promote the objectives of owners and relevant market participants.	
Answers to key questions	<p>1) The Articles of Association and the Organisation and Operation Regulation as reference documents for the governance of the Central Depository are available to the public. At the same time, the governance arrangements of the central depository do not encompass relevant aspects on the governance of the Group of which it belongs; the Central Depository undertook to implement ASF's requirements on corporate governance at the level of BSE Group.</p> <p>2) Objectives and major decisions are disclosed to shareholders, system participants and public authorities. However, the strategic objectives of the BSE Group are not in place and there is no conclusive information that the public interest was taken into account in connection with the operation of the settlement system in the decision-making process by the Central Depository. The Central Depository undertook to implement ASF's requirements on increasing corporate governance transparency;</p> <p>3) The management of the Central Depository has the required skills to achieve the objectives. The Central Depository has communicated that it has drawn up a procedure for involvement and stimulation of the executive management for achieving the objectives or performance requirements. Such procedure shall be submitted for approval at the first meeting of the Board of Governors that shall be held having the membership resulting</p>

	<p>after the validation of the members elected at the Ordinary General Meeting of Shareholders of 09/10.02.2015. The Central Depository has not presented sufficient arguments to support the opinion of such entity relating to the presence of an independent member in the administrative management, a member who must meet the requirements of <i>Commission Recommendation 2005/162/EC</i>, and of Art. 138² of <i>Company Law No. 31/1990</i>, republished;</p> <p>4) The members of the Board of Governors have post-trading operations expertise and represent the relevant interests of the shareholders and participants in the settlement-clearing system and of the public, to optimise the activity of RoClear system and avoid systemic risk;</p> <p>5) The Central Depository has in place instruments for identifying conflicts of interest between the members of the board of directors and the company. However, the procedure for managing conflicts of interest was not used. On the other hand, the Central Depository does not have in place mechanisms for identifying and managing conflicts of interest within the decision-making process within BSE Group. However, it undertook to implement, according to ASF's requirements, certain efficient mechanisms for identifying and managing conflicts of interest in the decision-making process within BSE Group, within a period of time to be set by reference to the joint schedule of CD-BSE;</p> <p>6) The only situation in which the Central Depository has credit risk exposure is that in which it offers a participant the facility to streamline cross-border settlement. However, the technical details relating to this situation make the transmission for the settlement of a buy-in transaction conditional upon the existence of necessary funds so that the Central Depository is not exposed to credit risk. It is not necessary to set up approval and reporting mechanisms in order to limit credit risk exposures. For future activities that may involve exposure of the Central Depository to credit risk, it performs an analysis concerning the establishment of a Risk Management Committee.</p>
Assessment	ESCB-CESR Recommendation 13 is broadly observed.
Comments	<p>The rating was given considering that:</p> <ul style="list-style-type: none"> ➤ Governance arrangements of the Central Depository do not encompass certain relevant aspects on the governance of the Group to which it belongs; ➤ The Central Depository has not presented sufficient arguments for identifying and managing conflicts of interest in the decision-making process within BSE Group. However, it undertook to implement, according to ASF's requirements, certain efficient mechanisms for identifying and managing conflict of interest in the decision-making process within BSE Group, within a period of time to be set by reference to the joint schedule of CD-BSE; ➤ The Central Depository has not presented sufficient arguments to support the opinion of such entity relating to the presence of an independent member in the administrative management, a member who must meet the requirements of <i>Commission Recommendation 2005/162/EC</i>, and of Art.

	<p>138² of <i>Company Law No. 31/1990</i>, republished;</p> <p>➤ There is no conclusive information that the public interest was taken into account in connection with the operation of the settlement system in the decision-making process by the Central Depository. The Central Depository undertook to implement ASF's requirements on increasing corporate governance transparency.</p>
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Access	
ESCB-CESR Recommendation 14	
Central depositories should have objective and publicly disclosed criteria for participation that permit fair and open access. Rules and requirements that restrict access should be aimed at controlling risk.	
Answers to key questions	<ol style="list-style-type: none"> 1) The Central Depository uses objective, clearly stated criteria which are communicated to the authority for all categories of entities that may access RoClear system. At the same time, denial of access to RoClear system is grounded and sent in writing to all entities that request access to the system; 2) Access criteria to RoClear system are assessed by the Central Depository exclusively based on reasons referring to risks (legal risk, financial risk, operational risk) and to European legislation provisions; 3) The procedures relating to the suspension or revocation of participants' access are clearly stated and publicly disclosed. These procedures contain provisions as regards both the conditions for initiation of the mechanism of suspension or withdrawal of access and the operations relating to the transfer of customers' securities to other participants and continuation of members' access who no longer meet the participation requirements.
Assessment	ESCB-CESR Recommendation 14 is observed.
Comments	The conclusions to the recommendation are based both on the current form of the regulations applicable upon the assessment and the proposals for adjustment of regulations, at various stages of approval, so that the Central Depository complies with ASF's requirements, provisions of EU Regulation 909/2014 and technical standards to be issued for its implementation.

Efficiency	
ESCB-CESR Recommendation 15	
While maintaining safe and secure operations, securities settlement systems should be cost-effective in meeting the requirements of users.	
Answers to key questions	<ol style="list-style-type: none"> 1) The Central Depository has in place procedures for the efficient review of tariffs and fees. However, they should be supplemented to ensure application of periodical reviews; 2) The Central Depository has in place <i>The Methodology used for the periodic review of the Central Depository's operational safety</i>, approved by Decision No. 181/28.11.2014 of the Chief Executive Officer, and carries out surveys among users through a department maintaining a permanent dialogue with users.
Assessment	ESCB-CESR Recommendation 15 is observed.

Comments	-
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Communication procedures, Messaging Standards and Straight-through Processing	
ESCB-CESR Recommendation 16	
Central depositories and participants in their systems, should use or accommodate the relevant international communication procedures and standards for messaging and reference data in order to facilitate efficient clearing and settlement across systems. This will promote straight-through processing (STP) across the entire securities transaction flow.	
Answers to key questions	<ol style="list-style-type: none"> 1) Starting from November 2011, the Central Depository made available to participants the RoClear Connect online interface, secured and compatible with ISO 15022, with a flexibility comparable to that existing also at the depositories of the major markets of the European Union. Such technology facilitated the migration to SWIFT messaging with participants using such communication system; 2) The Central Depository uses several IT systems (RoClear Connect, Arena Clearing, SWIFT, SOGER and SFTP) with a high degree of automatic processing of operations. The Central Depository has taken measures to increase the interoperability degree among them, as requested by ASF.
Assessment	ESCB-CESR Recommendation 16 is observed.
Comments	-

Transparency	
ESCB-CESR Recommendation 17	
Central depositories should provide market participants with sufficient information for them to identify and accurately evaluate the risks and costs associated with securities' clearing and settlement services.	
Answers to key questions	<ol style="list-style-type: none"> 1) Market participants are informed of the Central Depository's rules and regulations, applicable legislation, services rendered, balance sheet and main statistics. The Central Depository conducted a self-assessment based on the questionnaire drawn up by CPSS-IOSCO-Disclosure Framework for Securities Settlement Systems (BIS, 1997) published on its web page in 2012 and regularly updated. The last update was made in December 2014; 2) The Central Depository published a summary of the risk management measures applied at present, to be subsequently updated as they diversify and new measures are implemented. The Central Depository does not have in place a private policy on exposures to various types of risks. After such policy is prepared, it shall be published on the Central Depository's own website; 3) The information published on the Central Depository's website may be accessed by the public both in the Romanian language and in the English languages, for the most part of it; 4) As regards the accuracy and completeness of the disclosures on its own

	Internet page, the Central Depository reviewed and updated such disclosures on 30 December 2014.
Assessment	ESCB-CESR Recommendation 17 is observed.
Comments	The Central Depository published the self-assessment based on ESCB-CESR <i>Recommendations</i> . However, it should be further adapted so as to provide answers to all key questions, except for those from ESCB-CESR Recommendation 18. ¹⁵

Regulation, Supervision and Oversight	
ESCB-CESR Recommendation 18	
Central depositories and securities settlement systems should be subject to transparent, consistent and effective regulation, supervision and oversight. In both a national and a cross-border context, central banks and securities regulators should cooperate with each other and with other relevant authorities regarding the central depositories and the securities settlement systems it operates. Central banks and securities regulators should also ensure a consistent implementation of the recommendations.	
Answers to key questions	<ol style="list-style-type: none"> 1) The Central Depository is subject to an effective and consistent regulation, supervision and oversight; 2) The responsibilities, role and main policies adopted by the Financial Supervisory Authority and National Bank of Romania, as relevant authorities at the national level, are clearly defined and publicly disclosed; 3) There is no specific protocol on the consistent implementation of ESCB-CESR Recommendations among the relevant authorities at the national level. However, there are various forms of cooperation in this respect which include <i>inter alia</i> working meetings, correspondence relating to the stage of the assessment, etc. There is a multilateral Memorandum of understanding, cooperation and exchange of information among the competent authorities at the European level; 4) The competent authorities at the national level have the resources and required skills to effectively apply regulatory, supervisory and oversight policies; 5) The competent authorities at the national level cooperate both with each other and with other institutions to fulfil their tasks and did not encounter limitations on the access to information and data deemed necessary for the exercise of their tasks.
Assessment	ASF and BNR do not consider it appropriate to offer a rating for the fulfilment of this recommendation.
Comments	

¹⁵ The requirement is provided in *ESCB-CESR Recommendations*, Page 75 (Point B4) and 76 (Point C4).

Risks in Cross-System Links or Interoperable Systems**ESCB-CESR Recommendation 19**

Central depositories that establish links to settle cross-system trades should design and operate such links so that they effectively reduce the risks associated with cross-system settlements. They should evaluate and mitigate the potential sources of risks that can arise from the linked central depositories and from the link itself.

Answers to key questions

- 1) The Central Depository prepared and used risk analyses covering the legal, contractual, financial and operational aspects of the design of the link, and an analysis of the financial and operational integrity of the interlinked/interoperable depositories, which analysis was brought to the attention of the participants. For indirect links with other depositories, the Central Depository has not established relayed links. The analysis of the risks presented by the Central Depository is not properly grounded, because it does not make any distinction between the specific risks of each of the multitude of links that have been made so far by the RoClear system administrator;
- 2) Cross-border trades are made in line with the DvP principle and the links do not permit the provisional transfer of securities. The settlement operations at the counterparty depository are made in line with its rules, and the Central Depository carries out the operations associated with the settlement completion in the RoClear system (crediting/debiting securities accounts/money funds) immediately after their registration in the system of the entity through which cross-border operations are carried out;
- 3) The Central Depository does not extend credit to another central depository with which it is interlinked/interoperable.

Assessment**ESCB-CESR Recommendation 19 is observed.****Comments**

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III. Actions to be taken by the Central Depository for the improvement or observance of the Recommendations

ESCB CESR Recommendation	Actions to be taken by the Central Depository for the improvement or observance of the Recommendation
Recommendation 1 - Legal Framework	<ol style="list-style-type: none"> 1) Harmonisation of the Code of the Central Depository SA with the amendments of Law No. 297/2004 (on financial collateral and mortgage against movable property) and with the provisions of CNVM Regulation No. 18/2011. For that purpose, the proposals for amendment of the provisions of the Central Depository's Code shall be submitted for approval at the first meeting of the Board of Governors of the Central Depository that shall be held with the membership resulting after the validation of the members elected at the Ordinary General Meeting of Shareholders of 09/10.02.2015. They shall be afterwards sent for approval by BNR and ASF; 2) The Central Depository's Internet page must provide: <ul style="list-style-type: none"> ➤ the contractual provisions generally applicable and non-negotiable, depending on the type of entity with which such company may enter into contracts (trading systems, clearing participants, clearing-settlement systems); ➤ complete information on the legal framework governing the links established by the Central Depository with various entities abroad (the rules of all systems with which various indirect links were established, and the laws, regulations and other legislation for each relevant jurisdiction, which have an impact on the functioning of those links); 3) The Central Depository should seek legal opinions¹⁶ to confirm the compatibility of the national legislation with that applicable to other system administrators and institutions through which various linkages were established and identification of any conflicts of interest of a legal nature arising in connection with the links established by the Central Depository with other settlement systems; 4) The Central Depository must have in place a formalised procedure to periodically analyse the differences among various relevant pieces of legislation¹⁷ for RoClear system, and to review the manner in which these differences may negatively influence the legal certainty on the operation of the system operated by the Central Depository ; 5) Impact or cost/benefit analyses should be conducted, as appropriate, if major changes are made to the settlement clearing-settlement systems and/or operations;

¹⁶ nor for remote participants.

¹⁷ such as the laws applicable to non-resident institutions participating in RoClear system, the laws applicable to agreements based on which direct and indirect links were established with systems in other states (including agreements with the custodians through which *indirect link* type linkages were established), the laws applicable to the operation of these systems abroad and their operators (including custodians), and the laws under which the securities registered in RoClear system were issued and those governing the rights over the same.

	<p>6) The Code of the Central Depository should be supplemented with additional clarification on the fact that the irrevocability of a transfer order, as provided in its Code, refers to the unilateral and not absolute irrevocability, so as to allow the Central Depository to revoke transfer orders in clearly defined situations.</p> <p>In this respect, the proposals for supplementation of the provisions of the Central Depository's Code were approved in the meeting of the Central Depository of 19.12.2014 and were sent to BNR and ASF for approval purposes.</p>
Recommendation 3 - Settlement Cycles and Operating Times	<ol style="list-style-type: none"> 1) The Central Depository shall approve various provisions on the deferral of the settlement of transactions of the current settlement date to the following settlement date when the relevant payment system is open, if the relevant payment system is closed due to a force majeure event; 2) The Central Depository shall finalise in the fourth quarter of 2015 the implementation of ASF's recommendation on the implementation of mechanisms to encourage and boost settlement on the intended settlement date, in accordance with the Technical Standards issued based on EU Regulation No. 909/2014.
Recommendation 5 - Securities lending	<p>The Central Depository should take all necessary steps to use securities lending as a risk management measure pursuing the application of the applicable legislation and the best practices for achieving the following objectives:</p> <ul style="list-style-type: none"> ➤ streamlining securities lending operations; ➤ safe and efficient creation, publicity, assessment, enforcement, acknowledgment and release of guarantees in the form of securities, in particular mortgages against movable property; ➤ increase the usability of the loan facility offered by the Central Depository through the RoClear system; ➤ cost-benefit analysis indicating the need for a centralised securities lending facility.
Recommendation 6 - Central Securities Depositories	<p>The Central Depository should take all measures so that the plan ensuring continuity of participants' access to the Central Depository's functions, submitted to ASF, be further adapted so that it includes all steps to be followed by the Central Depository in case of its insolvency, provided that it is not covered by the provisions of Arts. 264-266 of Capital Market Law 297/2004.</p>
Recommendation 9 - Measures implemented by the Central Depository to address risks generated by participants' failures to settle	<ol style="list-style-type: none"> 1) For the coverage of any potential losses and the sufficient liquidity resources to avoid participants' failures to settle, the Central Depository must re-evaluate the guarantee fund (size, level of contributions and modality of use so that it covers the largest payment obligation) and implement rigorous mechanisms on risk management through the use of additional financial collateral and trading limits calculated based on liquidity ratios (of the liquid assets' category) and not on solvency ratios (such as own funds); 2) The Central Depository must evaluate the probability and potential impact of multiple settlement failures relative to costs to ensure settlement in such an event. Such evaluations should be conducted periodically, at least quarterly;

	<p>3) The evaluation of costs required to ensure settlement in the event of several participants' settlement failure (to consider at least two participants and their affiliates with the highest exposure). Such evaluations should be performed periodically, at least quarterly;</p>
Recommendation 10 – Cash Settlement Assets	<p>The Central Depository should:</p> <ul style="list-style-type: none"> ➤ lay down clear and robust conditions and criteria for admission of settlement banks to the Central Depository system, based on liquidity criteria reported and calculated by banks in accordance with the requirements established by BNR or competent authorities, as appropriate, on capital adequacy, to reduce any losses or liquidity risk. Such conditions and criteria shall consider the technical standards to be issued for the implementation of EU Regulation 909/2014, and the term envisaged for the implementation of the requirement is the fourth quarter of 2015; ➤ periodically oversee and evaluate the exposures of the settlement banks admitted to the Central Depository system, to evaluate exposure concentration, and request from them financial statements relative to the capital adequacy.
Recommendation 11 – Operational Risk	<p>1) The Central Depository should implement the operational risk management function providing:</p> <ul style="list-style-type: none"> ➤ operational risk management policies and procedures approved and reviewed from time to time by the Central Depository's Board of Governors; ➤ distinct organisational structure, and to ensure the business continuity; at least two persons responsible for indentifying, overseeing, evaluating and mitigating all operational risks should be considered; ➤ an operational risk register to include the measures adopted to mitigate the same and the residual risks evaluated after adoption of such measures; ➤ periodic reporting, at least quarterly, of the application of the operational risk management procedure, to the Central Depository's Board of Governors (responsible for the application of such procedures in accordance with the prerogatives of the Central Depository's Articles of Association), ➤ operational risk management resulting from all activities carried out by the Central Depository (clearing, settlement, registry and other related activities). <p>The term proposed by the Central Depository for the fulfilment of the requirements relative to the implementation of the risk management function is the first quarter of 2015;</p> <p>2) The Central Depository should periodically test the Business Continuity Plan and the Disaster Recovery Plan under actual and operational transfer to the secondary site, and such testing should inclusively consider the activity disruption between 11:00 and 13:00 hours (between the hours relative to settlement operations);</p> <p>3) The Central Depository should take all necessary steps to furnish and use a secondary site whose risk profile should be different from that of the primary site.</p>
Recommendation 12 – Protection of Customers'	<p>The Central Depository should take measures (rules, procedures, operational segregation, alerts) to improve and make mechanism more efficient against theft, losses and abusive/unauthorised use (without the customer's consent) in the case of</p>

Securities	transfer of securities from Section 1 to Section 2 and vice versa.
Recommendation 13 - Governance	<ol style="list-style-type: none"> 1) The Central Depository should have in place efficient mechanisms for the identification and settlement of conflicts of interest in the decision-making within BSE Group; 2) The corporate governance transparency should be improved at the level of the Central Depository; 3) The Central Depository should take actual actions for the presence of an independent member in the administrative management, a member who must meet the requirements of <i>Commission Recommendation 2005/162/EC</i>, and of Art. 138² of <i>Company Law No. 31/1990</i>, republished; 4) The Central Depository should provide conclusive information that the public interest was taken into account in connection with the operation of the settlement system in the decision-making process by the Central Depository.
Recommendation 14 - Access	<ol style="list-style-type: none"> 1) The Central Depository Code's provisions should be supplemented in order to establish certain access criteria to the operations carried out through the clearing-settlement system for other depositaries, central counterparty and system operators, market operators and other trading venues; 2) The Central Depository Code's provisions should be supplemented in order to define certain objective requirements of technical and operational nature aimed at managing risks associated with RoClear system so that the clearing-settlement and registry operations may be evaluated and made compatible with those conducted by other central depositaries and central counterparty, on non-discriminatory and continuous grounds; 3) The Central Depository Code should be supplemented with express provisions concerning the grounds for access denial to the following categories: clearing participants and members (central counterparties and other depositaries); 4) The Central Depository Code should be supplemented with provisions in order to facilitate access by indirect participants to the clearing-settlement and registry system managed by the Central Depository; the term proposed by the Central Depository to fulfil the requirement is the third quarter of 2015 (the term proposed for introduction of indirect participant); 5) The Central Depository Code should be supplemented with provisions that allow direct participants the continuation of the activity after their withdrawal, as indirect participants in the clearing-settlement and registry system managed by the Central Depository. The rating given is based on both the current form of the rules applicable at the time of the evaluation and the proposals of the Central Depository for adjustments to the rules, at various stages of approval, in order to comply with the requirements of EU Regulation No 909/2014 and the technical standards to be issued for its application.

Recommendation 15 - Efficiency	The Central Depository shall prepare the periodic review procedure of tariffs and fees (first quarter of 2015).
Recommendation 17 - Transparency	<ol style="list-style-type: none"> 1) The Central Depository should adopt and publish a risk exposure policy and risk management methodology. After the preparation of the risk exposure policy and risk management methodology, the Central Depository shall take all necessary steps to publish the risk control measures depending on their materialisation; 2) The Central Depository published the self-assessment based on ESCB-CESR <i>Recommendations</i>. However, it should be further adapted so as to provide answers to all key questions, except for those from SCB-CESR Recommendation 18.
Recommendation 19 - Risks in Cross-System Links or Interoperable Systems	The Central Depository should properly substantiate the risk analysis relative to the links with other depositories, since the current document does not make any distinction between the specific risks of each of the multitude of links that have been made so far by the RoClear system administrator.