

1. Basic information

1.1 CRIS Number: 2010/022-264

1.2 Title: Further Harmonisation with EU *acquis* in field of Movement of Capital and Payments and Financial Services - Securities markets and Investment services

1.3 ELARG Statistical code: 03.9

1.4 Location: Skopje

Implementing arrangements:

1.5 Implementing Agency:

The Central Financing and Contracting Department (CFCD) will be the contracting authority and will be responsible for all administrative and procedural aspects of the tendering process, contracting matters and financial management including payment of project activities. The Head of CFCD will act as the Programme Authorising Officer (PAO) of the project.

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1.6 Beneficiary (including details of SPO):

The beneficiary of the project will be the Ministry of Finance, Financial System Department

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Financing

1.7 Overall cost (VAT excluded)¹: EUR 1 300 000

¹ The total cost of the project should be net of VAT and/or other taxes. Should this not be the case, the amount of VAT and the reasons why it should be considered eligible should be clearly indicated.

1.8 EU contribution: EUR 1 170 000

1.9 Final date for contracting:

Two years from the date of the conclusion of the Financing Agreement.

1.10 Final date for execution of contracts:

Two years from the final date for contracting.

1.11 Final date for disbursements:

One year from the final date for execution of contracts.

2. Overall Objective and Project Purpose

2.1 Overall Objective:

The overall objective to which this project contributes is the establishment and implementation of contemporary, transparent and efficient payment system, as well as efficient, transparent and competitive capital market in compliance with the EU regulation governing this area.

2.2 Project purpose:

The project purpose is to ensure better regulation of the operations of all capital market participants that will result in more efficient, fair and legal capital market and to ensure successful inclusion of the country in SEPA.

2.3 Link with AP/ NPAA / EP/ SAA

The Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the **Accession Partnership** with the country and repealing Decision 2006/57/EC (2008/212/EC) outlines the following:

- Chapter 4 Free movement of capital: “Make progress in the removal of remaining restrictions on capital movement”;
- Chapter 9 Financial services: “Reinforce the legislation and the supervisory framework, including enforcement, for the financial sector, in particular for the insurance sector and securities markets”.

The Projects will fulfil the following priorities according to **NPAA**:

- The mid-term priority of Chapter 4 Free movement of capital: “Transposition of the provisions of the Directive 2007/64/EC on payment services in the internal market”;
- The mid-term priority of Chapter 3.09 Financial Services, Securities Markets and Investment Services: “Continual harmonisation of the capital market regulation with the EU *acquis* and IOSCO principles”;
- NPAA 2008: Comments by DG Market on chapters 3-7 and 9: “It is the new Directive 2007/64/EC that should be transposed before the accession”.

The link with the **SAA** is based on the following articles of the Agreement:

- Article 59 clauses 3 and 5:
 1. Clause 3: “Without prejudice to paragraph 1, the Parties shall not introduce any new restrictions on the movement of capital and current payments between residents of the Community and the Country and shall not make the existing arrangements more restrictive”;

2. Clause 5: “The Parties shall consult each other with a view to facilitating the movement of capital between the Community and the Country in order to promote the objectives of this Agreement;
- Article 60 clause 1: “During the first stage, the Parties shall take measures permitting the creation of the necessary conditions for the further gradual application of Community rules on the free movement of capital”;
 - Article 68:
 1. The Parties recognise the importance of the approximation of the existing and future laws of the Country to those of the Community. The Country shall endeavour to ensure that its laws will be gradually made compatible with those of the Community;
 2. This gradual approximation of law will take place in two stages;
 3. Starting on the date of signing of the Agreement and lasting as explained in Article 5, the approximation of laws shall extend to certain fundamental elements of the Internal Market *acquis* as well as to other trade-related areas, along a programme to be defined in coordination with the Commission of the European Communities. The Country will also define, in coordination with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken, including reform of the judiciary;
 4. Deadlines will be set for competition law, intellectual property law, standards and certification law, public procurement law and data protection law. Legal approximation in other sectors of the internal market will be an obligation to be met at the end of the transition period;
 5. During the second stage of the transitional period laid down in Article 5 the approximation of laws shall extend to the elements of the *acquis* that are not covered by the previous paragraph;
 - Article 83 Banking, insurance and other financial services, paragraph 1. indent 2, 3 and 4: “The parties shall co-operate with the aim of establishing and developing a suitable framework for the encouragement of banking, insurance and financial services”.
The cooperation shall focus on:
 1. Strengthening and restructuring of the banking, insurance and other financial sectors;
 2. Improvement of supervision and regulation of banking and other financial services;
 3. Exchange of information, in particular in respect of proposed legislation;
 - Article 84, Investment promotion and protection clause 2, indent 3: “The implementation of suitable arrangements for the transfer of capital”.

2.4 Link with MIPD

The MIPD 2009-2011 states that pre-accession assistance shall help the country, above all, to advance along the road to EU integration and support the country’s efforts to comply with Copenhagen criteria.

Therefore, this project is responding with the Component I – Transition Assistance and Institution Building from the MIPD, particularly with the following major areas of intervention:

- 1.2. Socio-Economic: “Furthermore, it is important to support the country in establishing well-regulated and properly controlled and supervised financial markets, as they are essential to sustainable growth and a prerequisite for attracting

- investment”;
- 1.3. Ability to assume the obligations of Membership: "The focus of assistance in this area will be on the adoption of the *acquis* including building institutional and administrative capacity for transposing, implementing and enforcing the *acquis* according to the priorities identified in the Accession Partnership. Particular attention should be paid to strengthening the administrative capacity in the area of financial reporting, improving the quality of financial services and addressing the issue of money laundering”.

2.5 Link with National Development Plan

N/A

2.6 Link with national/ sectoral investment plans

N/A

3. Description of project

3.1 Background and justification

The Financial System Department within the Ministry of Finance is responsible for the preparation of the regulation in respect of banking system, capital market, insurance and insurance supervision, accounting system, payment operations and audit, being obliged to harmonise the existing regulation with the *acquis*. Within the Department there are 4 units each with separate duties and employees. The activities of the Department are managed by the Head of Department and two Assistant Heads.

Other institutions the Ministry of Finance respectively the Department cooperates with in fulfilling its tasks are: in the area of payment operation - National Bank and in the area of capital market - Securities and Exchange Commission.

The National Bank has powers with regard to smooth operation of payment systems and is responsible for the regulation, licensing and/or registration and oversight of payment, settlement and clearing systems and prescribes by-laws for the fulfilment of these responsibilities.

The Securities and Exchange Commission regulates and supervises the operation of the capital market in our country. The SEC also is responsible for preparing the acts or rules arising from the capital market regulation and undertakes measures to ensure the implementation of such acts or rules passed in accordance with the Laws within its competence.

The legal framework of the payment operations comprise the Law on Payment Operations (Official Gazette No.113/07, 22/08 and 159/08), the Law on Fast Money Transfer (Official Gazette No.77/03 and 54/07) and Manual stipulating the form and the content of the payment instruments for domestic payment operations (Official Gazette No.161/07, 56/08, 114/08, 149/08, 165/08 and 95/09).

At the moment the Law on Payment Operations is compliant with the provisions from:

- Directive 97/5/EC on cross-border credit transfers;
- Directive 98/26/ EC on settlement finality in payment and securities settlement system;
- Directive 2000/46/EC on the taking up, pursuit of and prudential supervision of the

business of electronic money institutions.

These Laws were adopted before November 2007 i.e. before the Directive 2007/64/EC on payment services in the internal market was adopted by the European Parliament and by the Council of the European Union, and consequently there is a need of their alignment with the Directive 2007/64/EC on the path of approximation of the national legislation with *acquis* in the field of payment services.

Taking into account the relevance of the Directive 2007/64/EC as a building block for SEPA and the need to design a safe and efficient payment infrastructure, the Law on Payment Operations, the Law on Fast Money Transfer and possibly the Law on Electronic Trade shall be amended in line with the requirements of the Directive.

Currently the payment services are exclusively provided by the banks (except services of fast money transfer), while the regulators and the supervisor have only theoretical knowledge for the changes that will be caused by transposing and implementing the Directive 2007/64/EC. Hence, the practical experience of the EU Member States representatives will play important role in the establishment of enforceable legal and institutional framework that will contribute to successful market liberalisation and transparency, high level of consumer protection and cheaper and more competitive payment services.

Transposing the Directive into the national legislation shall mean liberalisation of the payment services market and entrance of entities other than banks on the market, such as credit institutions, e-money providers, postal services, supermarkets, money remittance services etc.

These changes will particularly affect the bank payment process which requires preparations in the banking industry regarding the strengthened usage or application of new digital and computer devices for execution of payment transaction and regarding handling new products and services, preparation of the providers and users to interact with the new payment system.

Also, the implementation of the Directive shall mean developing institutional framework by timely preparation of the institutions responsible for regulating, licensing and supervising the service providers, introduction of new products (electronic credit transfers, electronic direct debit, mobile money etc.) etc.

Payment systems are one of the most vital components of the financial and economic infrastructure. Their efficient functioning enables safe and timely finalisation of the financial transactions thus giving a major contribution to the performances of the national economy. The efficient functioning of the payment system in the country is enabled by permanent cooperation between the Ministry of Finance and the National Bank in monitoring and improving the legal framework, in introduction of new standards in the operations, as well as in monitoring the development tendencies and enabling their implementation in the payment system in the country, in order to get ready for the integration courses in this area.

The nature of the changes caused by the transposition of the Directive on the payment system providers, access to payment systems, rights and obligations of payment system users and providers shall necessarily result in close cooperation between the Ministry of Finance and the National Bank in the process of harmonisation with Directive 2007/64.

Since the established sound payment system provides base or infrastructure for well functioning of other financial markets and execution of financial services, we have also identified a need for approximation with the EU *acquis* in the field of financial services. At the moment, the establishment and functioning of the capital market participants is regulated under the Securities Law (Official Gazette No. 95/05, 25/07 and 7/08).

As a result of the dynamic development of the capital market in the country, a need for a preparation of the new Capital Market Law has occurred. The preparation of the new Capital Market Law also arises from the need to harmonise the so far legislation in the field of Capital Market in our country with the EU Directives, governing this area.

In order to improve the regulation governing the establishment, operations and obligations of all capital market participants, the following Directives shall be transposed into the national legislation:

- Directive 2004/39/EC on markets in financial instruments;
- Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market;
- Directive 2003/71/EC on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market;
- Directive 2003/124/EC implementing Directive 2003/6/EC as regards of the definition and public disclosure of inside information and the definition of market manipulation;
- Directive 2006/49/EC on the capital adequacy of investment firms and credit institutions;
- Directive 2006/73/EC implementing Directive 2004/39/EC as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive;
- Directive 2001/34/EC on the admission of securities to official stock exchange listing and on information to be published on those securities;
- Directive 2003/6/EC on insider dealing and market manipulation (market abuse);
- Commission Directive 2003/125/EC of 22 December 2003 implementing Directive 2003/6/EC as regards the fair presentation of investment recommendations and the disclosure of conflicts of interest;
- Commission Directive 2004/72/EC of 29 April 2004 implementing Directive of 2003/6/EC as regards accepted market practices, the definition of inside information in relation to derivatives on commodities, the drawing up of lists of insiders, the notification of managers transactions and the notification of suspicious transactions;
- Directive 2006/48/EC relating to the taking up and pursuit of the business of credit institutions (OJ L 177, 30.6.2006 p. 1, hereinafter: Directive 2006/48/EC), within the scope applying to the brokerage company;
- Commission Directive 2007/14/EC of 8 March 2007 laying down detailed rules for the implementation of certain provisions of Directive 2004/109/EC on the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market;
- Directive 2007/44/EC amending Council Directive 92/49/EEC and Directives 2002/83/EC, 2004/39/EC, 2005/68/EC and 2006/48/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector;
- Other necessary directives that will be relevant for creating the Capital Market Law.

The implementation of the above mentioned Directives shall enhance the legal framework, ensure greater protection of minority stakeholders in Joint Stock Companies, greater transparency of listed companies, introduction of the new instruments in the capital market etc.

Considering that the main responsibility of the Securities and Exchange Commission is to maintain an efficient, fair and legal securities market and protection of the rights and interest of the investors and stock holders, the cooperation between the Ministry of Finance and SEC is necessary.

The previous experience has shown need for the participation of the Securities and Exchange Commission` representatives in the preparation of capital market legislation with their proposals and suggestions.

The main goal of this alignment of the existing national legislation is not only limited to the sole transposition of the provisions of the Directive into laws and relevant implementing legislation. What we see as very important for the preparation of the good and comprehensive legal framework is the exchange and implementation of the best practices from the EU MSs.

3.2 Assessment of project impact, catalytic effect, sustainability and cross border impact

Implementing of the Directive shall establish the legal base for the accession to Single European Payments Area (SEPA). Also, one of the key aspects of the Payment Service Directive is the provision for a licence for payment institutions to provide payment services. According to the Directive, payments institutions can offer payments processing services to clients, this creates an opportunity for interested players from other businesses to enter the business and thereby raise the competitive threat to the banks. Consequently, increased competition in the payment sector shall result in cheaper payment services for the end consumers while affording them enough protection so as to gain their trust and support in the new established payment system.

By opening the market of payment services for the providers not only from the banking sector the cooperation and interaction between different sectors of the economy as well as between public authorities shall be more common. This interaction shall promote efficiency and promote initiatives for innovations on the market.

Collaboration between banks and IT firms offering SEPA-compliant payments processing services is a distinct possibility. Also, successful implementation shall contribute to the modernisation and efficiency of payment systems by introduction of new payment instruments in the market (electronic credit transfers, electronic direct debit, M-money etc.) and increase market transparency for both providers and users of payment services. In addition, the Project shall facilitate the ongoing process of gradual migration to a non-cash economy.

Taking into account, the objective of the Directive to ease cross border payments in the EU and the possibility under SEPA, citizens, companies and other economic agencies to make and receive payments in Euros, within Europe, whether between countries or within national boundaries under the same basic conditions, rights and obligations, regardless of their location, the sustainability and cross border impact from the realisation of this component of the project shall be more measurable after country's accession to EU and migration to SEPA.

The main impact of the project in the field of capital market is better regulation of the operations of all capital market participants. Alignment with the EU *acquis* shall enhance the legal framework, improving the procedures for establishing and operating of all capital market participants, improving the procedures for preparing the prospectus which should be published when securities are offered to the public or admitted to trading on a regulated market; ensuring greater protection of minority stakeholders in Joint Stock Companies, ensuring greater transparency of listed companies, introducing new instruments in the capital market, strengthening the supervisory function of the supervisory body etc.

Implementation of the EU Directives in the field of capital market will ensure establishing a stable, efficient, transparent and competitive capital market, which would in turn facilitate the economic development of domestic enterprises.

Successful implementation shall contribute to greater protection of the rights and interest of the investors and stock holders, increased number of capital market participants that will result in greater competition in the capital market area, improvement of the quality of financial services, greater confidence of the participants in the securities market, increased diversification of the risk for investors by introduction of new financial instruments, improvement of the investment climate in the country etc.

3.3 Results and measurable indicators

Results and measurable indicators under Component 1: Transposing the EU Directive 2007/64/EC on payment services in the internal market into the national legislation

Results:

- Established legal framework in the payment service sector compliant with the *acquis* by transposing the Directive 2007/64/EC on payment services in the internal market;
- Removed legislative barriers for entering SEPA;
- All relevant stakeholders are acquainted with the functioning and their role in the new payment system;
- Introduced new payment instruments and services to practically apply the new requirements of the Laws and by-laws in the field of payment services;
- Increased public awareness of the efficiency of new payment services and new payment system;
- Employees are acquainted with the functioning of the payment system in an EU Member State.

Measurable indicators:

- The draft Laws have been submitted to the Parliament for adoption;
- The implementing legislation is adopted;
- Organised workshops and trainings for number of representatives from the relevant stakeholders;
- Number of employees familiar with the functioning of the payment system in an EU member state;
- Number of new payment instruments and payment services introduced with the laws;
- Number of used payment instruments and services.

Results and measurable indicators under Component 2: Transposing the EU Directives in the field of capital market into the national legislation and preparation of Capital

Market Law (or Law on Financial Instruments) as replacement of the existing Securities Law

Results:

- Improved legislation governing the establishment, operations and obligations of all capital market participants in the country;
- The new Capital Market Law is prepared compliant with the *acquis*;
- Employees are acquainted with the functioning of the capital market in an EU Member State;
- Enforced regulation governing the establishment, operations and obligations of all capital market participants in the country.

Measurable indicators:

- The EU Directives in the field of the capital market are transposed into the national legislation;
- The draft Law has been submitted to the Parliament for adoption;
- Number of employees familiar with the functioning of the capital market of an EU Member State;
- Increased public awareness of the changes and benefits from the implementation of the new capital market legislation.

3.4 Activities:

Activities under Component 1: Transposing the EU Directive 2007/64/EC on payment services in the internal market into the national legislation:

- Review and evaluation of the current legislation in the field of payment services;
- Approximation of the existing legal framework with EU *acquis*;
- Transposing the EU Directive 2007/64/EC on payment services in the internal market into the national legislation;
- Drafting of the Laws and the relevant implementing legislation;
- -Workshops for the representatives of the Ministry of Finance and of the National Bank as market regulator and supervisor, on best ways to approximate the existing legal framework with EU Directive 2007/64/EC and on their role in the new payment system;
- Organisation of public promotion of the benefits from the introduction of the new payment system by designing public awareness campaign;
- Organisation and carrying out study visits for number of employees in relevant MS or Candidate country institutions.

Activities under Component 2: Transposing the EU Directives in the field of capital market into the national legislation and preparation of Capital Market Law (or Law on Financial Instruments) as replacement of the existing Securities Law:

- Review and evaluation of the current legislation in the field of capital market;
- Transposing the EU Directives in the field of capital market into the national legislation;
- Preparation of the Capital Market Law aligned with the *acquis*;
- Organisation and carrying out study visits for number of employees in relevant MS or Candidate country institutions;
- Organisation of public promotion of the benefits from the introduction of the new capital market legislation by designing public awareness campaign.

Management and contracting arrangements

The co-ordination of the activities foreseen to be carried out under different components is of key importance. Therefore, the management structure will be established so as to oversee the overall implementation of the project and to ensure appropriate coordination between the different activities supported by the project.

For guaranteeing overall project results, as outlined in the fiche and for beneficiary coordination and management, a high-level person from the Financial System Department within the Ministry of Finance will be nominated to ensure that beneficiary tasks and responsibilities are followed in parallel with the outputs of the consultants.

The contractor/provider of the TA will appoint project manager (who might be one of the key experts) who will ensure that the contractor (key experts) will properly deliver its specified results.

The key experts will act as team leaders for each component, responsible for the overall management, representation (co-ordination with the EU and other international bodies) as well as reporting on the activities of the respective component. The team leaders are responsible for an appropriate management of resources. During the inception phase of the project, a detailed deployment plan will be developed under the coordination of the Steering Committee.

A Steering Committee, consisting of the project manager, team leaders, the representatives from the Financial System department, CFCD and the SPO staff, will be established, chaired by the Head of the Financial System Department. A steering committee should meet on a monthly basis to discuss progress of the project activities and outline planning and progress. The agenda and the minutes of the meetings will be produced by the Team Leaders.

The expected contracting arrangement

One Service contract will be concluded. The duration of the contract is expected to be up to 18 months. The contract value will be approximately EUR 1 300 000, out of which IPA contribution will amount to EUR 1 170.000, while national contribution will amount to EUR 130 000.

3.5 Conditionality and sequencing:

The project includes the following conditionalities:

- Endorsement by all key stakeholders of the Terms of Reference, specifications for the individual contracts to be engaged;
- Appointment of counterpart personnel by the beneficiaries before contract signatory;
- Allocation of working space and facilities within the premises of the beneficiaries before contract signatory;
- Participation by the beneficiaries in the tender process as per EU regulations;
- Organisation, selection, appointment and participation of members of working groups, steering and coordination committees, seminars by the beneficiaries as per work plan of the project;
- Appointing the relevant staff by the beneficiaries to participate in the training activities as per work plan;
- Sufficient managerial, technical and human resources allocated to the relevant Departments;

- Ensured cooperation with the central bank regarding the payment system component and the Securities and Exchange Commission regarding the capital market component;
- EU procedures to be followed in all tender procedures.

If the conditions are not met, suspension or cancellation of the project will be considered.

3.6 Linked activities

The short - term technical assistance for preparation of the Law on investment fund within the project "USAID Business Environment Activity", 2007. The duration of the technical assistance was seven days.

Technical assistance includes engaging consultants knowing well the Directives in the field of investment funds. The provisions of the Law on investment fund were prepared by the Ministry of finance and the main responsibility of the consultants was to check up whether the provisions of the already prepared law are compliant with the following EU Directives:

- Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS);
- Directive 2001/107/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) with a view to regulating management companies and simplified prospectuses;
- Directive 2001/108/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), with regard to investments of UCITS.

3.7 Lessons learned

The experience of the Financial System Department (FSD) within the Ministry of Finance in the field of preparation of the Law on investment funds through the project "USAID Business Environment Activity" has been positive. Cooperation with the Consultants in reviewing the compliance of the draft Law on investment funds prepared by the employees of the FSD with the respective EU Directives, resulted with improvement of the quality of the Law's text.

Although the Financial System Department has modest experience with the implementation of the EU financed projects (mainly support through the TAIEX instrument), nevertheless the lessons learned and the experience in the Ministry of Finance can constitute a valuable basis for successful implementation of this project.

Drawing on the so-far experience of the Ministry of Finance with the implementation of the EU financed projects, the main mistakes to be avoided and suggestions for improvements are related to: a/ providing the appropriate working conditions for the consultants, especially placement of the consultants in the premises of the beneficiary, b/ allocation of dedicated administrative staff employed on permanent basis to work on the project, which will improve staff capacity and provide a sustainability of the project activities; c/ involvement of the beneficiary from the very beginning in the evaluation of the background and the experience of the experts to be engaged, so that they will be able to provide adequate expertise and ensure delivery of high quality results. In some cases the Contractors did not have sufficient background and lacked practical experiences to provide adequate expertise; d/ involvement and commitment of

high-level strategic decision making structures from the beginning of the project is important and essential for success and sustainability of the project results.

In addition, clear co-operation and communication will have to be established with other related institutions (stakeholders), especially in the training activities.

During the preparation of this project the experiences of the programming and implementation of the previous projects in the field were taken into account, in particular to avoid the mistakes being observed in other projects implemented by the Ministry of Finance.

4. Indicative Budget (amounts in EUR)

			SOURCES OF FUNDING										
			TOTAL EXP.RE	TOTAL PUBLIC EXP.RE	IPA COMMUNITY CONTRIBUTION		NATIONAL PUBLIC CONTRIBUTION					PRIVATE CONTRIBUTION	
ACTIVITIES	IB (1)	INV (1)	EUR (a)=(b)+(e)	EUR (b)=(c)+(d)	EUR (c)	% (2)	Total EUR (d)=(x)+(y)+(z)	% (2)	Central EUR (x)	Regional/ Local EUR (y)	IFIs EUR (z)	EUR (e)	% (3)
TA contract	x	-	1 300 000	1 300 000	1 170 000	90	130 000	10	130 000				-
TOTAL IB			1 300 000	1 300 000	1 170 000	90	130 000	10	130 000				
TOTAL INV			-	-	-	-	-	-	-	-	-	-	-
TOTAL PROJECT			1 300 000	1 300 000	1 170 000	90	130 000	10	130 000				

NOTE: DO NOT MIX IB AND INV IN THE SAME ACTIVITY ROW. USE SEPARATE ROW Amounts net of VAT

(1) In the Activity row use "X" to identify whether IB or INV

(2) Expressed in % of the **Public** Expenditure (column (b))

(3) Expressed in % of the **Total** Expenditure (column (a))

5. Indicative Implementation Schedule (periods broken down per quarter)

Contracts	Start of Tendering	Signature of contract	Project Completion
TA Contract	Q4 2011	Q3 2012	Q1 2014

All projects should in principle be ready for tendering in the 1ST Quarter following the signature of the FA.

6. Cross cutting issues

The cross-cutting issues will be addressed throughout the project. Up to 10% of the budget of the service contract for tender support supervision and training may be allocated to assist the different beneficiaries to comply with European standards and best practices, implement relevant existing Government strategies and develop internal measures to ensure each cross-cutting issue is appropriately mainstreamed.

Throughout the project cycle, in particular when developing project ToR, state actors specifically addressing (one of) the cross cutting issues shall be consulted.

The mainstreaming of the cross cutting issues is regarded on two different levels: (a) Ensuring that the internal policies, structure or operating procedures of the beneficiary agency will conform to and promote the relevant principles outlined per section below and (b) ensuring that the products, outputs produced by the beneficiaries (e.g. laws, regulations, policies, and strategies) will conform to and promote the relevant principles outlined per section below.

6.1 Equal Opportunity and non – discrimination

Equal opportunities and non-discrimination will be respected as regarding gender as well as minorities at the programming and implementation stage, particularly in relation to socio-economic support programmes. Potential measures to address gender issues include: under Component I, harmonisation of the national legal framework with the gender equality *acquis communautaire* and support to state institutions and NGOs dealing with gender issue.

6.2 Environmental consideration

N/A

6.3 Support to minorities and vulnerable groups

Minority and vulnerable groups' concerns will be reflected in all activities programmed under IPA, in particular when it concerns public services, legislative matters and socio-economic development.

6.4 Civil Society development and dialogue

N/A

6.5 Good governance, with particular attention to fight against corruption

Specific action instruments for the *good governance*, with particular attention to *fight against corruption*, will be incorporated on a horizontal basis. To this aim, particular attention should be put in the prevention of corrupt practices, mainly through the raising political and public awareness.

ANNEX I - Log frame in standard format

LOGFRAME PLANNING MATRIX FOR Project Fiche: Further Harmonisation with EU acquis in field of Movement of Capital and Payments and Financial Services - Securities markets and Investment services		Programme name and number: National Programme for the former Yugoslav Republic of Macedonia under the IPA Transition Assistance and Institution Building Component for 2010 CRIS number :	
	Contracting period expires two years from the date of the conclusion of the Financing Agreement	Execution period expires two years from the final date for contracting	Disbursement period expires one year from the final date for execution of contracts.
		Total budget: EUR 1 300 000	IPA budget: EUR 1 170 000

Overall objective	Objectively verifiable indicators	Sources of Verification	
The overall objective to which this project contributes is the establishment and implementation of contemporary, transparent and efficient payment system, as well as efficient, transparent and competitive capital market in compliance with the EU regulation governing this area.	The assessment on the approximation of the EU legislation	<ul style="list-style-type: none"> - EU Annual Progress Report; - Monthly monitoring progress report from SPO to CFCD. 	
Project purpose	Objectively verifiable indicators	Sources of Verification	Assumptions
The project purpose is to ensure better regulation of the operations of all capital market participants that will result in more efficient, fair and legal capital market and to ensure successful inclusion of the country in SEPA.	<ul style="list-style-type: none"> - Preparation and adoption of relevant legislation; - Enforcement of the legislation. 	<ul style="list-style-type: none"> - Final Report from the Contractor; - Official Gazette. 	Continued commitment to the EU Accession process.
Results	Objectively verifiable indicators	Sources of Verification	Assumption
Component 1: Transposing the EU Directive 2007/64/EC on payment services in the internal market into the national legislation: <ul style="list-style-type: none"> - Established legal framework in the payment service sector compliant with the <i>acquis</i> by transposing the 	<ul style="list-style-type: none"> - The draft Laws have been submitted to the Parliament for adoption; - The implementing legislation is adopted; - Organised workshops and trainings for number of representatives from 	<ul style="list-style-type: none"> - Official Gazette; - Reports for payment operations prepared by NBRM; - Monthly Progress Reports. 	<ul style="list-style-type: none"> - Commitment from national authorities in the process; - Availability of appropriate staff for trainings; - The stakeholders (including NBRM and Security Exchange Commission) ready and willing to cooperate with Financial System Department.

<p>Directive 2007/64/EC on payment services in the internal market;</p> <ul style="list-style-type: none"> - Removed legislative barriers for entering SEPA; - All relevant stakeholders are acquainted with the functioning and their role in the new payment system; - Introduced new payment instruments and services to practically apply the new requirements of the Laws and by-laws in the field of payment services; - Increased public awareness of the efficiency of new payment services and new payment system; - Employees are acquainted with the functioning of the payment system in an EU Member State. <p>Component 2: Transposing the EU Directives in the field of capital market into the national legislation and preparation of Capital Market Law (or Law on Financial Instruments) as replacement of the existing Securities Law:</p> <ul style="list-style-type: none"> - Improved legislation governing the establishment, operations and obligations of all capital market participants in the country; - The new Capital Market Law is prepared compliant with the acquis; - Employees are acquainted with the functioning of the capital market in an EU Member State; - Enforced regulation governing the establishment, operations and obligations of all capital market participants in the country. 	<p>the relevant stakeholders;</p> <ul style="list-style-type: none"> - Number of employees familiar with the functioning of the payment system in an EU member state; - Number of new payment instruments and payment services introduced with the laws; - Number of used payment instruments and services. <ul style="list-style-type: none"> - The EU Directives in the field of the capital market are transposed into the national legislation; - The draft Law has been submitted to the Parliament for adoption; - Number of employees familiar with the functioning of the capital market of an EU Member State; - Increased public awareness of the changes and benefits from the implementation of the new capital market legislation. 		
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Activities	Means	Costs	Assumptions
<p>Component 1: Transposing the EU Directive 2007/64/EC on payment services in the internal market into the national legislation:</p> <ul style="list-style-type: none"> - Review and evaluation of the current legislation in the field of payment services; - Approximation of the existing legal framework with EU <i>acquis</i>; - Transposing the EU Directive 2007/64/EC on payment services in the internal market into the national legislation; - Drafting of the Laws and the relevant implementing legislation; - Workshops for the representatives of the Ministry of Finance and of the NBRM as market regulator and supervisor, on best ways to approximate the existing legal framework with EU Directive 2007/64/EC and on their role in the new payment system; - Organisation of public promotion of the benefits from the introduction of the new payment system by designing public awareness campaign; - Organisation and carrying out study visits for number of employees in relevant MS or Candidate country institutions. <p>Component 2: Transposing the EU Directives in the field of capital market into the national legislation and preparation of Capital Market Law (or Law on Financial</p>	<p>1 Service Contract</p>	<p>Total EUR 1 300 000 (EUR 1 170 000 and EUR 130 000 national contribution)</p>	

<p>Instruments) as replacement of the existing Securities Law:</p> <ul style="list-style-type: none"> - Review and evaluation of the current legislation in the field of capital market; - Transposing the EU Directives in the field of capital market into the national legislation; - Preparation of the Capital Market Law aligned with the <i>acquis</i>; - Organisation and carrying out study visits for number of employees in relevant MS or Candidate country institutions; - Organisation of public promotion of the benefits from the introduction of the new capital market legislation by designing public awareness campaign. 			
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Pre conditions

- Endorsement by all key stakeholders of the Terms of Reference, specifications for the individual contracts to be engaged;
- Appointment of counterpart personnel by the beneficiaries before contract signatory;
- Allocation of working space and facilities within the premises of the beneficiaries before contract signatory;
- Participation by the beneficiaries in the tender process as per EU regulations;
- Organisation, selection, appointment and participation of members of working groups, steering and coordination committees, seminars by the beneficiaries as per work plan of the project;
- Appointing the relevant staff by the beneficiaries to participate in the training activities as per work plan;
- Sufficient managerial, technical and human resources allocated to the relevant Departments;
- Ensured cooperation with the central bank regarding the payment system component and the Securities and Exchange Commission regarding the capital market component;
- EU procedures to be followed in all tender procedures.

If the conditions are not met, suspension or cancellation of the project will be considered.

ANNEX II - Amounts (in EUR) contracted and distributed per Quarter over the full duration of Programme

Contracted	2011				2012				2013				2014			
	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4	Q1	Q2	Q3	Q4
Service Contract							1 300 000									
Cumulated							1 300 000									
Disbursed																
Service Contract							390 000		390 000		390 000		130 000			
Cumulated							390 000		780 000		1 170 000		1 300 000			

ANNEX III - Description of Institutional framework

Ministry of Finance - Financial System Department

The Financial System Department is responsible for the creation of the legal framework in the area of banking system, capital market, insurance and insurance supervision, accounting system, payment operations and audit.

The Financial System Department within the Ministry of Finance is responsible for the preparation of the regulation in respect of banking system, capital market, insurance and insurance supervision, accounting system, payment operations and audit, being obliged to harmonise the existing regulation with the *acquis*. Within the Department there are 4 units each with separate duties and employees. The activities of the Department are managed by the Head of Department and two Assistant Heads.

The capacity of the Financial System Department currently is relatively good with a total of 16 employed civil servants and 4 persons engaged on a contract basis, and favourable age structure. In addition, according to the NPAA projected recruitments, the number of the staff in the Department by 2011 will be increased to 24.

In fulfilling its tasks the Department cooperates with National Bank, Clearing House, Securities and Exchange Commission, State Audit Office and other interested parties.

The Financial System Department is composed of 4 units:

- Banking system unit;
- Capital market unit;
- Insurance unit;
- Accounting system, payment operations and audit Unit.

The main functions of the Unit for banking and non-banking institutions are:

- Preparation of the regulation regarding banking and non banking institutions;
- Preparing analysis, information's, reports and other materials for the banking sector;
- Cooperates with National Bank;
- Give opinions upon drafted legal acts by the National Bank etc.

The main functions of the Capital market Unit are:

- Preparation of the capital market legislation;
- Giving opinions regarding the provisions and the enforcement of the Laws governing the capital market area;
- Preparing information, analysis and reports relating to happenings on the capital market;
- Cooperates with authorities responsible for Securities Market in the country (Securities Exchange Commission, the Stock Exchange, and Central Securities Depository).

The main functions of the Insurance Unit are:

- Preparation of the Insurance legislation;
- Giving opinions regarding the provisions and the enforcement of the Laws in the field of the insurance;
- Preparing information, analysis and reports relating to happenings on the insurance market;

- Issues licensees and approvals arising from the Laws within its competence etc.

The main functions of the Unit for accounting system, payment operations and audit are:

- Preparing of the primary and implementing legislation in the area of accounting, payment operations and audit;
- Preparing analysis, reports and other materials in respect of payment system, accounting system and audit
- Cooperates with other relevant stakeholders on issues from the payment system, accounting system and audit area, etc.

The beneficiaries of the Project shall be the Capital Market Unit which is responsible for preparing the regulation in the field of capital market with personal capacity of 3 employees, and the Accounting System, Payment Operations and Audit Unit which is responsible for preparing the regulation in the field of payments within the internal market with personal capacity of 6 employees.

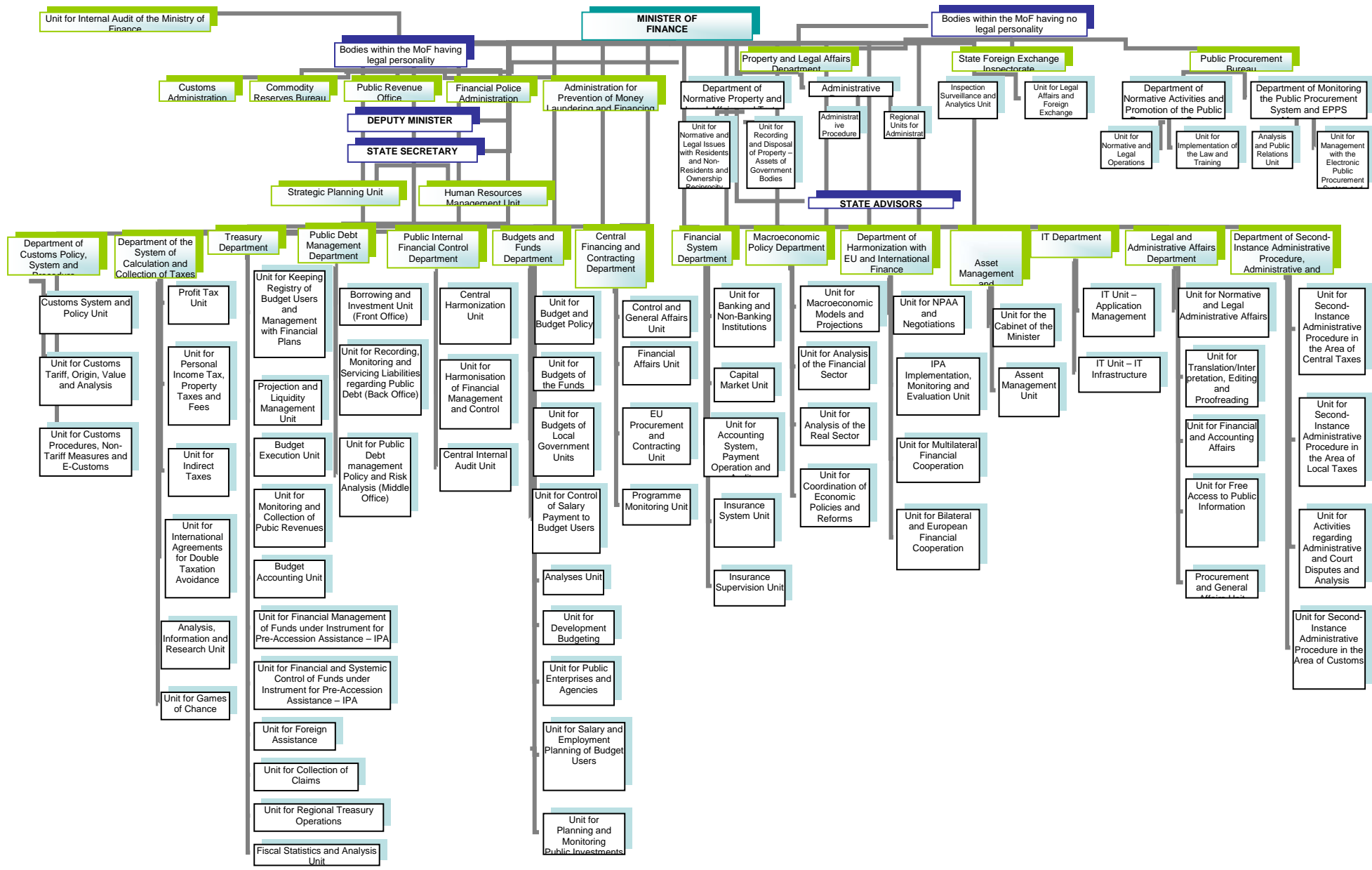
Securities and Exchange Commission (SEC)

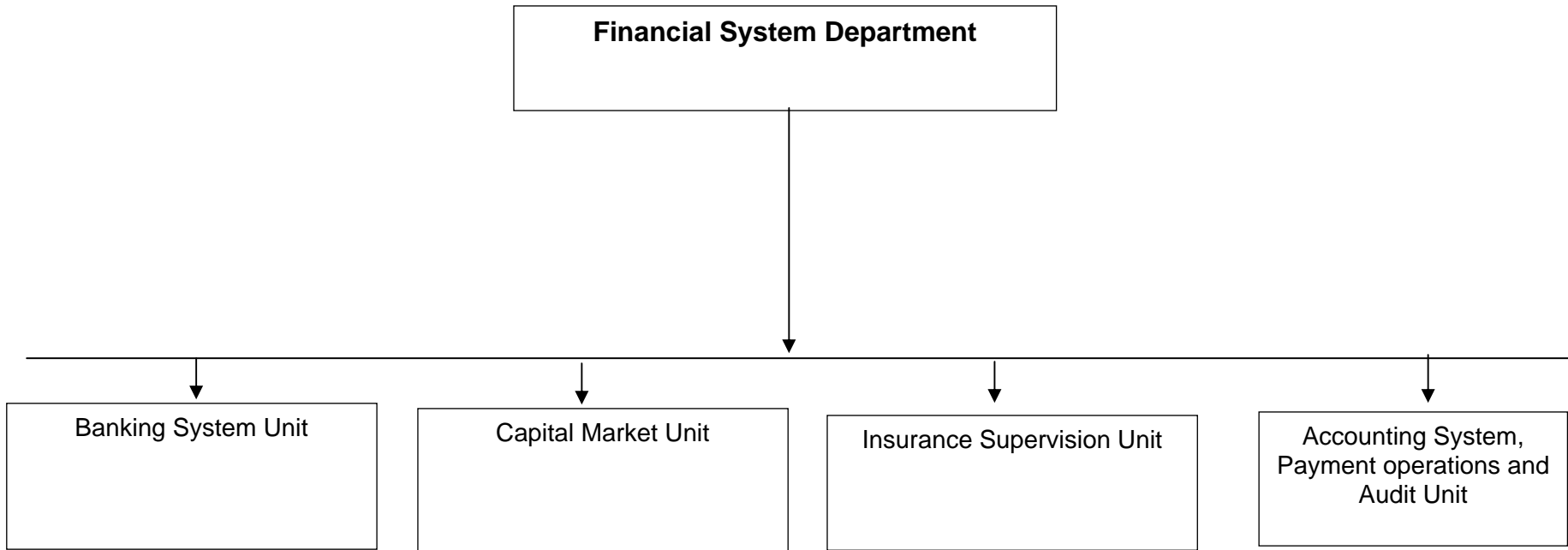
The working group for preparation the capital market law will comprise the representatives from the Securities and Exchange Commission.

Securities and Exchange Commission is an autonomous and independent legal entity that regulates and supervises all participants within the securities market (brokerage houses, investment fund management companies). The main responsibility of the MSEC is to maintain an efficient, fair and legal securities market, guaranty of the confidence of the participants in the securities market and protection of the rights and interest of the investors and stock holders. The SEC also undertakes measures to ensure the implementation of such acts or rules passed in accordance with the Laws within its competence.

The National Bank (NBRM)

The NBRM is the central bank of the country and it is fully independent in performing the functions entrusted. The functions of the NBRM within the framework of its rights and responsibilities are to establish and conduct the monetary policy; to regulate the general liquidity of the banking system; to regulate the liquidity in the payments abroad; to establish and conduct the Denar exchange rate policy; to hold and manage the foreign exchange reserves; to regulate the payment system in accordance with a law; to coordinate the payments and settlement of accounts among banks and distribute cash; to grant founding and operating license to a bank and a savings house and supervise the banks and savings houses; to issue banknotes and coins; to perform activities for the account of the central government and the government administration bodies; etc.





ANNEX IV - Reference to laws, regulations and strategic documents:

Reference to Laws, Regulations and Strategic Documents:

The existing legal framework regulating payment services include:

- Law on payment operations (Official Gazette No.113/07, 22/08 and 159/08);
- Law on Fast Money Transfer (Official Gazette No.77/03 and 54/07);
- Manual stipulating the form and the content of the payment instruments for domestic payment operations (Official Gazette No.161/07, 56/08, 114/08, 149/08, 165/08 and 95/09).

The existing legal framework regulating capital markets in the country includes the following:

- Securities Law (Official Gazette, No. 95/05, 25/07 and 7/08);
- Law on Investment Funds (Official Gazette, No. 12/09);
- Law on Taking Over Joint Stock Companies (Official Gazette, No. 4/02, 37/02 and 36/07).

Reference to AP/NPAA /SAA/Progress report

Reference to AP

The Council Decision of 18 February 2008 on the principles, priorities and conditions contained in the Accession Partnership and repealing Decision 2006/57/EC (2008/212/EC) outlines the following:

- Chapter 4: Free movement of capital: “Make progress in the removal of remaining restrictions on capital movement”;
- Chapter 9: Financial services:” Reinforce the legislation and the supervisory framework, including enforcement, for the financial sector, in particular for the insurance sector and securities markets”.

Reference to NPAA

The Projects will fulfil the following priorities according to NPAA:

- The mid-term priority of Chapter 4 Free movement of capital: “Transposition of the provisions of the Directive 2007/64/EC on payment services in the internal market”;
- The mid-term priority of Chapter 3.09 Financial Services, Securities Markets and Investment Services: “Continual harmonisation of the capital market regulation with the EU *acquis* and IOSCO principles”;
- NPAA 2008: Comments by DG Market on chapters 3-7 and 9: “It is the new Directive 2007/64/EC that should be transposed before the accession”.

Reference to SAA

The link with the SAA is based on the following articles of the Agreement:

- Article 59 clauses 3 and 5:
 1. Clause 3: “Without prejudice to paragraph 1, the Parties shall not introduce any new restrictions on the movement of capital and current payments between residents of the Community and the Country and shall not make the existing arrangements more restrictive”;
 2. Clause 5: “The Parties shall consult each other with a view to facilitating the movement of capital between the Community and the Country in order to promote the objectives of this Agreement;
- Article 60 clause 1: “During the first stage, the Parties shall take measures permitting

the creation of the necessary conditions for the further gradual application of Community rules on the free movement of capital”;

- Article 68:
 1. The Parties recognise the importance of the approximation of the existing and future laws of the Country to those of the Community. The Country shall endeavour to ensure that its laws will be gradually made compatible with those of the Community;
 2. This gradual approximation of law will take place in two stages;
 3. Starting on the date of signing of the Agreement and lasting as explained in Article 5, the approximation of laws shall extend to certain fundamental elements of the Internal Market *acquis* as well as to other trade-related areas, along a programme to be defined in coordination with the Commission of the European Communities. The Country will also define, in coordination with the Commission of the European Communities, the modalities for the monitoring of the implementation of approximation of legislation and law enforcement actions to be taken, including reform of the judiciary;
 4. Deadlines will be set for competition law, intellectual property law, standards and certification law, public procurement law and data protection law. Legal approximation in other sectors of the internal market will be an obligation to be met at the end of the transition period;
 5. During the second stage of the transitional period laid down in Article 5 the approximation of laws shall extend to the elements of the *acquis* that are not covered by the previous paragraph;
 - Article 83 Banking, insurance and other financial services, paragraph 1. indent 2, 3 and 4: “The parties shall co-operate with the aim of establishing and developing a suitable framework for the encouragement of banking, insurance and financial services”.
- The cooperation shall focus on:
1. Strengthening and restructuring of the banking, insurance and other financial sectors;
 2. Improvement of supervision and regulation of banking and other financial services;
 3. Exchange of information, in particular in respect of proposed legislation.
- Article 84, Investment promotion and protection clause 2, indent 3:”The implementation of suitable arrangements for the transfer of capital”.

Reference to Progress Report 2009

The Progress Report 2009, in the Chapter 4: Free movement of capital, concludes that: “There was no further progress in the field of **payment systems**. A new Payment Services Law was adopted, but it is not aligned with Directive 2007/64/EC. Full implementation of the law was postponed, as the Ministry of Finance amended the regulations on the payment instruments and prolonged the deadline for their implementation in the country from 1 August 2009 to 1 January 2010. The definition of ‘global electronic money system’ in the Law on Fast Money Transfers creates an effective barrier to entry to the money remittance market. The charges for cross-border electronic payment transactions are still disproportionate to those for domestic electronic payments”.

In the area of payment systems, the country has partially meets its targets

Reference to Enlargement Strategy Paper 2008 - 2009

The Enlargement Strategy and Main Challenges 2008-2009 regarding financial services

underlines following conclusions: “There has been progress in legislative alignment with the *acquis* in the area of *financial services*”.

Reference to MIPD

The MIPD 2009-2011 states that pre-accession assistance shall help the country, above all, to advance along the road to EU integration and support the country’s efforts to comply with Copenhagen criteria.

Therefore, this project is responding with the Component I – Transition Assistance and Institution Building from the MIPD, particularly with the following major areas of intervention:

- 1.2. Socio-Economic: “Furthermore, it is important to support the country in establishing well-regulated and properly controlled and supervised financial markets, as they are essential to sustainable growth and a prerequisite for attracting investment”;
- 1.3. Ability to assume the obligations of Membership: "The focus of assistance in this area will be on the adoption of the *acquis* including building institutional and administrative capacity for transposing, implementing and enforcing the *acquis* according to the priorities identified in the Accession Partnership. Particular attention should be paid to strengthening the administrative capacity in the area of financial reporting, improving the quality of financial services and addressing the issue of money laundering”.

Reference to National Development Plan

N/A

ANNEX V - Details per EU funded contract

Management and contracting arrangements

The co-ordination of the activities foreseen to be carried out under different components is of key importance. Therefore, the management structure will be established so as to oversee the overall implementation of the project and to ensure appropriate coordination between the different activities supported by the project.

For guaranteeing overall project results, as outlined in the fiche and for beneficiary coordination and management, a high-level person from the Financial System Department within the Ministry of Finance will be nominated to ensure that beneficiary tasks and responsibilities are followed in parallel with the outputs of the consultants.

The contractor/provider of the TA will appoint project manager (who might be one of the key experts) who will ensure that the contractor (key experts) will properly deliver its specified results.

The key experts will act as team leaders for each component, responsible for the overall management, representation (co-ordination with the EU and other international bodies) as well as reporting on the activities of the respective component. The team leaders are responsible for an appropriate management of resources. During the inception phase of the project, a detailed deployment plan will be developed under the coordination of the Steering Committee.

A Steering Committee, consisting of the project manager, team leaders, the representatives from the Financial System department, CFCD and the SPO staff, will be established, chaired by the Head of the Financial System Department. A steering committee should meet on a monthly basis to discuss progress of the project activities and outline planning and progress. The agenda and the minutes of the meetings will be produced by the Team Leaders.

The expected contracting arrangement

One Service contract will be concluded. The duration of the contract is expected to be up to 18 months. The contract value will be approximately EUR 1 300 000, out of which IPA contribution will amount to EUR 1 170 000, while national contribution will amount to EUR 130 000.