

# **Romanian Financial Markets Reform Project**

**Transformation of Trading on RASDAQ:**

**A Feasibility Study**

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## Executive Summary

The Mass Privatization Program was a brave experiment. It has provided a 5 year opportunity for Romanians to decide how to deal with their patrimonial shares. Shareholders paid nothing for these shares. If they obtain little money for them now or in the future, it is not a loss, or a surprise. In order to transform trading on RASDAQ, however, it is now necessary to eliminate the distraction and risk that is represented by most RASDAQ companies that have no interest in public trading or financing via public markets; have too few shareholders; will not file timely and complete financial statements and publicize material changes to shareholders; are too small to matter; or are failing and going out of business. RASDAQ's main previous role for small companies has been to facilitate the concentration of ownership. This has mostly been done. RASDAQ now needs to move on from being a vehicle to rationalise the initial holdings of MPP shareholders, to become a market that provides liquidity and can facilitate the raising capital function for companies.

An examination of the costs and benefits of normalizing trading on RASDAQ market by reducing the number of shares traded on its system is on balance likely to benefit all the key groups of market participants, including shareholders, companies, broker-dealers, the NSC, the APAPS, and RASDAQ itself. There are two main reasons for this: first, the current structure of RASDAQ delivers few benefits, so moving away from this structure is unlikely to cause significant losses; and second, a move to a new environment which is likely to have a higher quality market may bring with it some valuable gains.

Of the many strategies that could be undertaken to transform trading on RASDAQ, three appear to be the best. None of the policies are mutually exclusive, and all can be pursued at the same time. In the short term, the most feasible policy is likely to be for RASDAQ to create some tiers on its market to signal to market participants the nature of the different shares on its system. The highest tier would contain those securities most suitable for public trading, while the lowest tier would contain the vast majority of shares whose characteristics make them unsuitable for public trading. The second viable policy is to suspend from trading on RASDAQ those shares that are unsuitable for trading. In the longer term, the third strategy, namely a move to change the status of many of the companies on RASDAQ from open to closed, would deliver the desired policy of enhancing trading on RASDAQ. It would also remove many inappropriate companies from RASDAQ, and have the attendant effect of increasing their value to strategic investors.

## TABLE OF CONTENTS

<b>1.0 INTRODUCTION</b>	<b>1</b>
<b>2.0 CONCEPTUAL BACKGROUND</b>	<b>1</b>
<b>3.0 RASDAQ: HISTORY, TRADING, AND CHALLENGES</b>	<b>5</b>
3.1 HISTORY	5
3.2 TRADING	8
3.3 CHALLENGES	9
<b>4.0 NORMALIZATION OF TRADING ON RASDAQ</b>	<b>11</b>
4.1 COST/BENEFIT ANALYSIS	11
4.2 CRITERIA	14
4.3 OPTIONS	15
<b>5.0 FINANCIAL VIABILITY OF RASDAQ</b>	<b>22</b>
Sensitivity Analysis	23
Conclusion	24
<b>6.0 CONCLUSIONS</b>	<b>24</b>
<b>APPENDIX 1.0 ACRONYMS</b>	<b>26</b>
<b>APPENDIX 2.0 INTERVIEWEES</b>	<b>27</b>
<b>APPENDIX 3.0 FIGURES AND TABLES</b>	<b>30</b>
<b>TABLE 7</b>	<b>32</b>
<b>TABLE 9</b>	<b>33</b>
<b>TABLE 10 APPENDIX 4.0 LISTING ON THE BSE</b>	<b>35</b>
<b>APPENDIX 4.0 LISTING ON THE BSE</b>	<b>36</b>
<b>APPENDIX 5.0 RASDAQ COMPLEX</b>	<b>38</b>
<b>APPENDIX 6.0 REFERENCES</b>	<b>41</b>
<b>APPENDIX 7.0 NOTES</b>	<b>43</b>

## 1.0 Introduction

This document presents a feasibility study for transforming trading on RASDAQ (the Romanian Association of Securities Dealers Automated Quotation trading system). The primary aims of the study are to:

identify[] and, to the extent possible, quantify[] the financial, social, political and legal consequences of suspending and/or de-listing a large number of RASDAQ-listed issuers, emphasizing the impact on minority shareholders and outlining a list of alternative approaches for suspending or de-listing approaches, both voluntary and involuntary ...<sup>1</sup>

As will become evident below, the nature of “listing” on RASDAQ is not what is typically called listing elsewhere, which is why the study has been entitled the transformation of *trading* on RASDAQ.

The study contains five substantive sections in addition to the introduction, and seven appendices. In Section 2, a conceptual background to some concepts relevant to the study is provided. Section 3 contains a summary analysis of the history of RASDAQ, the trading on its system, and some challenges concerning trading it currently faces. In Section 4, a range of options concerning the future of trading on RASDAQ is identified, and the implications of each option are discussed. In Section 5, the financial viability of RASDAQ is examined. Conclusions are provided in the last section.

Appendix 1 contains a list of acronyms used in the report. A list of the people interviewed for the report is presented in Appendix 2. Appendix 3 shows the tables used in the report. The listing process on the Bucharest Stock Exchange (BSE) is described in Appendix 4. The various institutions comprising the RASDAQ trading market complex are outlined in Appendix 5. Full references are provided in Appendix 6, and Appendix 7 contains the notes to the text.

## 2.0 Conceptual Background

A conceptual background to some concepts relevant to the study is provided in this section. In particular, the nature and value of listing and trading on an exchange, and the meaning and importance of whether a company is open or closed in the Romanian context, are briefly described.

### Listing and Trading

The listing of a company’s shares on an exchange normally involves a formal application by the company to have its shares listed on the exchange. An agreement is then entered into between the company and the exchange, which requires that the company adhere to certain standards and procedures vis-à-vis its shareholders and the exchange. These typically include satisfying specified

minimum initial and on-going standards for investor protection, disclosing on a regular basis relevant financial and corporate information, and also making timely disclosure concerning any material changes in the affairs of the company which are likely to impact the price of the company's shares. An exchange listing agreement typically sets minimum requirements for a company's value of market capitalization, profitability, and float. The agreement also requires the company to pay a fee to the exchange. It is always a company which has the right to choose whether to apply for its shares to be admitted for listing on a particular exchange.

For its part, the exchange agrees to promote the company as a listed company, to monitor the company's compliance with exchange rules and regulations, including those regarding corporate governance and disclosure, and to make its trading and settlement facilities available to its members for the purpose of trading the company's shares. Members of the exchange may be expected to conduct transactions in the shares of listed companies through the exchange. Admission to listing may also be subject to relevant legislation, which is supervised by a designated listing authority, sometimes different from the exchange.

The listing of a company on an exchange provides benefits to all the key types of market participants; the company itself, its shareholders, investors, the exchange, and the exchange's members – namely the broker-dealers who trade on the exchange. At the broadest level, the company benefits from the exchange's endorsement of it; shareholders benefit from having high standards of information, and being able to trade shares which are likely to be liquid; buyers, sellers and exchange members benefit from having superior facilities for trading the company's shares, and having known trading rules and procedures and protection from counterparty failure; and the exchange benefits by receiving revenues from the company, and by having securities which may be traded on its market.

More specifically, the key reasons why a company may choose to list its shares are as follows:<sup>2</sup>

1) To obtain cheap financing. Firms may decide to list their shares in order to raise capital efficiently and economically.

2) To obtain liquidity for its shares. A company may choose to list its shares on an exchange in order to attract greater investor interest, and narrow the bid-ask spreads for its shares, and thereby raise both trading activity and the price of its shares.<sup>3</sup>

3) To enhance its corporate visibility and status. By listing, a company may enhance its image and that of its products, and also obtain the prestige of being listed on a well-known exchange.

4) To support the implementation of corporate strategies. These might include raising capital

for mergers and acquisitions.

5) To develop a broad shareholder base. A listing may bring a company a wide range of individual and institutional investors, that in turn can enhance the demand for the company's shares and provide stability for its share price.

6) To obtain good analyst coverage of its stock. A listing in a financial centre with many skilled analysts may affect the terms at which equity finance is available, by reducing informational asymmetries.

7) To obtain high standards of regulation. This might include good monitoring of the trading in its securities, high disclosure requirements, and high standards of corporate governance.

For obvious reasons, the notion of "delisting" is normally only applied to listed securities. Delisting may occur when a company fails to meet the requisite standards relating to size, number of shareholders, financial reporting, solvency or deliberately abuses its shareholders. The effect of delisting is to remove the endorsement of the exchange, and exclude the company from access to the trading system that is provided by the exchange. Having been delisted from an exchange, a company may seek access to other less prestigious trading facilities, or not concern itself about trading facilities at all. Trading in its shares will then be either between private parties, or at the discretion of broker-dealers and any trading systems they organize.

On some exchanges and trading systems a distinction has arisen between a security being admitted to listing, and a security being admitted to trading. Admission to trading refers to the process by which an exchange, or other form of trading system, chooses to let a particular security be traded on its trading system. Securities can thus be admitted to *trading* on an exchange, while not being admitted to *listing*. In such circumstances, there is no endorsement by the exchange of the company traded on its system, and no contractual undertaking between the company and the exchange. Being admitted to trading is not a regulatory decision, nor is it up to the company, but rather normally remains the right of exchanges and other forms of trading systems. The withdrawal of facilities for trading in such circumstances is thus typically also the right of the exchange or trading system. If a company's shares are admitted to trading on the exchange, but not admitted to listing, there is no listing agreement between the exchange and the company. Use of the term "delisting" to describe the removal of any shares from trading on the exchange therefore does not seem appropriate.

The public policy reason for allowing securities to be admitted to trading on a particular trading system is that the trading in the securities may be more efficient than would be the case if this practice were not allowed. The transaction facilities of the exchange or trading system may be more efficient, cheap, fair, and transparent, both to broker-dealers and to investors than the

permitted alternatives. Allowing a company's shares to be traded but not listed on a particular trading system, does not however normally mean that the company is exempt from relevant disclosure and corporate governance requirements – only from the requirements of the exchange that exceed the requirements of the applicable securities legislation.

As will be outlined below, the companies whose shares are traded on RASDAQ have been neither admitted to listing on RASDAQ nor admitted to trading in the standard sense, as described above. Instead, as a result of the privatization process outlined in the next section, these shares were compelled to be traded on RASDAQ, without the agreement of RASDAQ and without the agreement of the companies.

### **Open and Closed Companies<sup>4</sup>**

There are important distinctions to be made between “open” or “public” companies on the one hand, and “closed” or “private” companies on the other hand. Open companies are typically larger companies with more shareholders than closed companies, and as such are normally required to satisfy certain more burdensome obligations.

In an open company, a shareholder is normally entitled to sell his shares to anyone, and that buyer is entitled to be registered as a shareholder. Closed companies may, however, have restrictions on the ability of shareholders to transfer their shares. In a closed company there is usually a by-law that defers registration as a shareholder until the directors of the company have approved the new shareholder. The protection that the law offers shareholders of closed companies is normally via a country's Companies Act, and not via a Securities and Exchange Act, or by any regulatory commission supervising the securities market. In a Companies Act there are normally no provisions for insider trading, but only more general provisions related to fraudulent conduct. Normally shareholders in closed companies must seek redress for any complaints they have via the courts and the legal system.

In Romania, a “public” or “open” company<sup>5</sup> is a company established through an IPO, with a minimum of 50 shareholders and at least 10% of the outstanding shares publicly held, or a company which became public after a successful completed public offer.<sup>6</sup> Also, the company must have a minimum share capital of ROL 100 mil, and raise a minimum 20% of the initial capital. A public company is also a company with a share capital of more than ROL 1 billion, and with more than 500 shareholders, excluding the employees, who hold at least 10% of the shares outstanding.<sup>7</sup> A central duty of public companies in Romania is that they are required to provide to the National Securities Commission (NSC), the Romanian securities market regulator, annual and semi-annual financial reports, and also reports regarding any events that are material to their share prices.<sup>8</sup> A “closed” company is defined in Romania as a company with less than 100 shareholders or a share

capital of less than ROL 500 million.<sup>9</sup>

In order to be traded publicly in Romania a company must be registered at the Securities Registration Office with the NSC.<sup>10</sup> In order to be registered at the Securities Registration Office, a company must be a public/open company, either by a public offer or by a private placement.<sup>11</sup> Companies which were placed on RASDAQ via the MPP were exempted from requiring to prepare a prospectus.<sup>12</sup> When a company becomes closed, the NSC must be notified in order for the company to be withdrawn from the Securities Registration Office.<sup>13</sup>

### **3.0 RASDAQ: History, Trading, and Challenges**

This section of the report provides a summary analysis of the history of RASDAQ, the trading on its market, and some challenges concerning trading that it currently faces.

#### *3.1 History*

One cannot deal adequately with the role of RASDAQ and its associated institutions in the Romanian capital market without going back to the early 1990's and making at least a brief review of the intentions of the then Government of Romania with respect to privatization of state enterprises and the establishment of capital markets. At that time, many believed that there would be a close link between a functioning capital market and the newly privatized companies.

In mid-1991, Law 58/91 (Privatization Law) was passed by Parliament as a framework for privatization. Key features of the plan were the creation of the State Ownership Fund (SOF) now called the Autoritatea de Privatizare si Administrare a Participarilor Statului (APAPS), and five Privatization Ownership Funds (POFs). The POFs are now called SIFs (Societate de Investitii Financiare or Investment Fund Companies in English). The SOF was to hold 70% of each corporatized former state enterprise. The remaining 30% portions would be distributed to the POFs en bloc, except for the state banks which would be allocated as to 6% for each POF.

In order to be given a share in the "patrimony" of the country, each citizen over 18 years of age was provided a Certificate of Ownership (COO). Each Certificate represented an exchangeable right to redeem from the POFs an equal value of "social capital" in shares from the portfolios of the POFs. Until the distribution of shares could be effected to the citizens, each POF would hold and administer the shares of the commercial and industrial enterprises that it had been assigned. The role of the SOF under Law 58 was to "sell" most small and medium size enterprises (for COOs for the POF portion and cash/promissory notes for the SOF's portion) to the management and employees of the company (so-called privatization by MEBO). For the large companies, the SOF's function was generally to prepare them for operation in the private sector and divest them by finding strategic investors or by formal initial public offerings through the capital market.

At the same time, key capital market institutions were envisaged and draft legislation was prepared by the National Bank of Romania (with IFC assistance). The legislation was sent to Parliament in 1993. The law was passed by Parliament in 7/1994 as the Securities and Exchange Act (Law 52-94). It legislated the establishment of the NSC, the Bucharest Securities Exchange (BSE), and the Securities Exchange Association (SEA - an association of brokerage houses that would be members of the exchange and elect its Board).

In preparation for the passage of the law, the National Bank of Romania and the Ministry of Finance began in late 1992 to prepare staffs for the new institutions. They provided space and drew together two groups of young people to take training with a view to these teams becoming the administrative personnel for the BSE and the NSC respectively. Along with the securities exchange and commission staff-in-training, a small but expanding cadre of potential broker-dealers, was being trained in the principles of investment advice, securities analysis and the functioning of securities markets. Together, the administrators and the brokers were preparing to move forward along with the privatization in an organic, step-by-step growth of the securities market in Romania.

Thus, the concept envisaged by both Law 58 and Law 52 was that there would be a traditional capital market and that the anticipated securities/products in the market would be the shares of particular restructured Romanian companies, deliberately prepared for privatization and judged to be viable. In coordination with the SOF, the shares of such companies held by the POFs were to be made available through a prospectus and purchased through the offices of broker-dealers, banks and designated state agencies in exchange for the COOs and cash, where appropriate.

However, the government elected at the end of 1992 decided to re-examine the Law 58 concept and, by mid-1995 had devised a new scheme for accomplishing privatization. That scheme was expressed in Law 55/1995 (Mass Privatization Law). The Mass Privatization Program (MPP) contemplated a supplementary distribution to all citizens over 18 years of age of new privatization vouchers (or carnets) with a nominal social capital value of nearly 40 times that of the original COOs. In effect, Law 55 provided that there would be a one-time, mass exchange of the POF shares plus some of the SOF's shares for all the COOs and carnets.

In face of the MPP, two important factors became clear. First, many of the country's proposed 17 million MPP shareholders would not be "in for the long term" and would prefer to liquidate their positions for cash. Second, the companies needed to have one or more holders of significant positions in order to form effective boards of directors to guide restructuring and to monitor management. To facilitate both the provision of opportunities to sell MPP shares and also to enable re-concentration of control, the Government responded with the rapid development of the RASDAQ complex.

The RASDAQ complex consists of four entities: 1) the Romanian Registry of Shareholders

(RRA); 2) the National Association of Broker-Dealers (ANSVM); 3) the Romanian Association of Broker-Dealers Automated Quotation System (RASDAQ); and 4) the National Settlement and Depository (SNCDD). The establishment of separate entities follows the American model of having arms length arrangements between trading, depository and registry functions. In brief, the computerized registry received the names, addresses, holdings, and other details of the MPP shareholders as provided by the Privatization Agency. On behalf of the privatized companies, the job of a registry is to receive information (from the transaction system or other sources) and maintain an up-dated list of shareholders and their positions.

The National Association of broker-dealers was established to provide a focal point for training broker-dealers, and potentially to operate as a self regulatory body to supervise compliance by broker-dealers in relation to regulations governing regulatory capital, sales practices, and other relevant issues. RASDAQ is computer-communications system that supports quote-driven trading and transaction reporting. It is based on the US NASDAQ system. A central settlement and depository system (SNCDD) organizes settlements between the broker-dealers, and also functions as a nominee shareholder and custodian for positions in shares which would be held by broker-dealers or other intermediaries on behalf of their clients. Appendix 5 provides a more detailed description of the RASDAQ complex of institutions.

Work on the RASDAQ institutions began in late 1995. It was officially established on 9/27/1996 and trading in the shares of a few companies began a month later. As more company shareholders' registers were balanced against the voucher exchanges, the companies were added to the RASDAQ facilities. By the end of 1996, over 12 million Romanians had exchanged their certificates of ownership (Law 58, 1991) and vouchers (Law 55, 1995) for share interests in some 6000 companies. Most companies were available for trading by mid-1997 and considerable volumes of trade took place in 1997 and 1998.

It is an interesting side light that while the shareholder lists of MPP companies were being balanced pursuant to moving to a registry and commencement of trading, the BSE conducted a strenuous marketing campaign. The aim of the BSE effort was to persuade companies that it would be to the advantage of the companies and their shareholders to "list" their shares on the Exchange. About 100 MPP companies responded by entering into a Listing Agreement with the exchange during 1997, adding to the 30-odd non-MPP companies that had entered into listing agreements and become listed companies in 1995 and 1996. (More information is given in Appendix 4 about the nature of listing on the BSE.)

In considering the RASDAQ institutions and the companies traded thereon, it is important to note that there are several exceptional attributes and circumstances relating to their development. First, Law 55 exempted the initial distribution of shares of MPP from prospectus requirements.

Little authoritative information was available to MPP investors or to brokers. Second, there is no contractual undertaking between the companies and RASDAQ. Third, the management of most companies whose shares are traded on RASDAQ, did not ask to be in charge of public companies. This status was forced on them by the confluence of the MPP and securities regulation. Nevertheless, their status as open or public companies causes them to have to register with the securities Registration Office of the NSC. They must also comply with the panoply of investor protection provisions and disclosure requirements that are normally applied to public companies by securities regulation. (Being, as it were “Shanghaied”, perhaps it is not surprising that many companies/managements decided not to give high priority to conforming to securities regulation). Fourth, in the interest of protecting MPP shareholders against unregulated and non-transparent dealings, the NSC directed that all transactions in MPP companies be made on the regulated trading facility with which they were associated (RASDAQ or the BSE).

From the MPP shareholders point of view, it is necessary to remember that the value of a typical position awarded in the original distributions was in the range of US\$30-\$40. While an MPP shareholder might wish to have securities regulation enforced, the size of his position did not justify much effort or expense to learn what the requirements were, or to pursue their enforcement.

### *3.2 Trading*

As noted above, RASDAQ was officially established on 9/27/1996, and trading started one month later. Table 1 present details of the total value of trading on RASDAQ on an annual basis from its inception to the present (in both ROL and US\$). The market peaked with an annual turnover in 1998 of \$419 million, and after that declined to a turnover of \$144 million in 2000 and \$93.7 million in 2001. Table 2 presents details of the number of transactions on RASDAQ on an annual basis from its inception to the present.<sup>14</sup> The number grew from 0.80 billion shares in 1997, to 2.13 billion shares in 2000, but fell after that to 1.21 billion shares in 2000, and to 0.77 billion shares in 2001.

The number of companies available for trading on RASDAQ has not been constant, starting with 5353 in 1997. Table 3 presents details of how many companies have been traded on RASDAQ from its inception to the present. In addition to those companies which have been added to the trading list on RASDAQ, 769 companies have left RASDAQ to date.<sup>15</sup> Of the total, 61% were removed due to administrative measures (delisted, withdrawn, or companies became closed), 8% were transferred to the BSE, and the balance of 31% left the market due to so-called natural reasons (mergers, liquidation, bankruptcy). Details are provided in Table 4, and Table 5 presents the distribution of companies delisted between 1997-2001.

In 2000, the ANSVM began the process of attempting to remove about 3,200 companies

from RASDAQ in two tranches. The first tranche included 1,600 companies that met the NSC's definition of a closed company. It appears, however, that at that time the APAPS asked the NSC to stop the removal process as the APAPS had not yet completed the intended privatization process of some of its companies. Because the ANSVM's SRO status had been retracted in late 2000, the association could not remove the companies by issuing regulations. The association's managers, therefore, decided to ask companies that met the closed company requirements to seek shareholder approval to become closed, and thus be taken off RASDAQ. In effect, the companies were given an opportunity to remove themselves from the market. As a result of the APAPS's intervention, this initiative was also halted. Recently, however, it appears that the APAPS has begun to favor a program of removing small issuers from the market.

In order to clarify the situation, the NSC issued an Instruction which stated that companies where the APAPS or any other public institution is a shareholder could not be delisted.<sup>16</sup> The commission also raised the bar for closed companies to 100 shareholders and share capital less than one billion ROL (or about \$33,000). At any rate, the process of removing companies from RASDAQ initiated by ANSVM was stopped in 4/2001 for companies owned by APAPS or other state institutions. However, companies without state ownership can still be transformed into closed companies, and then removed from RASDAQ.

Recently, RASDAQ and the ANSVM have been suggesting that a series of tiers on the market be established, on a model similar to that of the BSE.<sup>17</sup> Full details of which securities would fall into which tiers have yet to be determined.

### *3.3 Challenges*

The central challenge that RASDAQ faces is that many of the shares notionally traded on RASDAQ do not actually trade. There is thus no real market for them. 2799 companies had no trades, and 1595 companies had fewer than 12 trades, i.e. less than one a month. Similarly in 2000, 2471 companies had no trades, and 1605 companies had fewer than 12 trades. Table 6 provides a distribution of the numbers of companies traded, the number of trades in these companies' shares, number of companies with no trades in 2000 and 2001. Trading in the most active 13 companies provided 50% of all trading on RASDAQ, and trading in the most active 194 companies provided 90% of all trading. Table 7 provides the annual trading value and the distribution of companies covering 50% respectively 90% of the trading value in 2000 and 2001.

Not only are there no trades in many shares, there are also many companies for which there is no evidence that anyone actually wants to buy or sell them, as indicated by a lack of bids and offers on RASDAQ. Table 6 provides a distribution of the numbers of companies on RASDAQ, and the number of bids and offers in these companies shares in 2000 and 2001. For 1780 companies

there were no bids, and for 2480 companies there were no asks throughout the year. For 994 companies there were fewer than 12 bid quotes and 315 companies with fewer than 12 ask quotes, i.e. less than one quote a month. Another indication of the lack of interest in trading is the relatively small number of brokerage accounts that are active. Different figures have been reported of between 5,000-10,000 active accounts. This number should be contrasted with the figure of about 9 mil. accounts of people who received shares from the MPP, most of whom have only traded once, to sell their coupons or voucher shares.

Four key attributes of a company which affect whether there is likely to be a reasonable market for the companies' shares, and which are directly related to the decision by a trading system to allow a security to be eligible for trading on its system, are examined here. These are the number of shareholders a company has, its market capitalization and free float, its profitability, and the extent to which it discloses relevant financial information.

There is unlikely to be a liquid market for companies with a small number of shareholders. Table 8 shows the ownership distribution of RASDAQ companies serviced by Romanian Shareholders Registry (RRA) as of year-end 2001. RRA is the dominant registrar servicing Rasdaq companies. Of the companies for which RRA has records, 1115 have less than 100 shareholders, representing 22 % of the total Rasdaq companies.

There is unlikely to be sufficient interest in the shares of companies, which are too small. Only 2739 of companies with a trading price within the past year, and their associated market capitalizations at year-end 2001 had a market capitalization of \$ 1 bln. Another way of assessing the concentration of the market is to note that the largest 10 companies on RASDAQ comprised 24% of total market capitalization.

It is beyond the scope of this feasibility study to examine in detail the other factors which currently impede the development of the Romanian capital markets. Nevertheless, it is worth noting some of the key factors, as follows:

- The disclosure function is working poorly since it is difficult to obtain copies of company reports.
- Trading of companies that have gone through liquidation and are no longer in business often continues.
- Strategic investors are apparently by and large not interested in complying with open company obligations.<sup>18</sup>
- Managers can apparently report any financial figures they want.
- Dividend payments to insiders are reportedly sometimes made immediately, while other

shareholders may not receive their money for many months or years.

- Cash flows and assets in traded companies may be diverted via abusive arrangements and transactions.

#### **4.0 Normalization of Trading on RASDAQ**

There is widespread agreement amongst both Romanian capital market participants and foreign observers, that reducing the number of stocks traded on RASDAQ (sometimes referred to as “delisting”), would be beneficial and help normalize the market.<sup>19</sup> This section of the report analyses this normalization process. It is composed of three parts. In the first, a cost-benefit analysis of the effects of reducing the number of stocks traded on RASDAQ are analysed. In the second part, the criteria for deciding which shares should remain traded on RASDAQ are discussed. In the third part, various options for removing shares from trading on RASDAQ are identified and assessed.

##### *4.1 Cost/Benefit Analysis*

The implications of enhancing trading on RASDAQ, and reducing the number of stocks traded on its system, are examined in this part. The economic, financial, political, and social effects of doing so are analysed for the key relevant groups of market participants - namely shareholders, companies, broker-dealers, the NSC, the APAPS, and RASDAQ. A summary of the cost/benefit analysis is then provided.

#### **Shareholders**

The implications of reducing the number of stocks traded on RASDAQ for both small shareholders and for strategic investors are examined in turn. The *status quo* has brought few benefits to small shareholders. The lack of liquidity in most shares has meant that it is difficult for them either to sell or to value their holdings. They have been hurt by the inappropriate classification of many companies as open companies since such a status reduces the attractiveness of these companies to potential strategic investors, which are more interested in operating the companies as closely held subsidiary enterprises. People do not have confidence in the capital markets, not least because many of them have seen the value of the holdings be reduced. However, given that most small shareholders did not pay anything for their holdings, the perception of their losses may be minimised, and such losses are now likely to be seen as having occurred in the past.

No social turmoil or political repercussions should be anticipated by reducing the number of companies traded on RASDAQ. No relevant subsequent damage will come to the many small shareholders, as a result of moving from their present status as shareholders of companies that for the most part are only notionally available for trading on RASDAQ, but in reality rarely trade at all. Many of the original 12 million shareholders have sold or transferred their shares, as evidenced by a

shrinkage in the number of accounts at the registries (excluding the SIFs) to an estimated two to four million shareholders in these original companies. An official estimate of registry accounts (not including SIFs) was done in 1999. Five million original accounts remained. Since then, there have been many formal and informal tender offers, plus a continued but slower liquidation of MPP positions.

There does not appear to be any political resistance towards reducing the number of shares traded on RASDAQ. The politicians most directly involved in the MPP have also all moved onto other endeavors.

Strategic investors have indicated that the potential legal problems and regulatory compliance costs associated with investing in open companies, under the *status quo* has caused them to reduce the valuations they associate with open companies.<sup>20</sup> This has harmful implications, both for foreign investment, and also for potential privatization revenues obtained by the state. If the reduction of shares traded on RASDAQ leads to the establishment of a transparent and fair mechanism for turning open companies into closed ones, this is thus likely to increase the value of minority shareholder shares by providing majority shareholders with an incentive to buy out the positions of the minority shareholders.

## **Companies**

The current structure of RASDAQ provides few benefits to companies. Small companies experience little benefit from RASDAQ trading. Their only prospects are from strategic investors, a merger, or carrying on alone. If they can do the latter, they do not care about trading until they need to raise capital at which time they can become public again. A subsequent decision for a public financing is not prejudiced by not being traded on RASDAQ in 2002. Being publicly traded also impedes strategic investors and probably mergers. Being an open company brings with it the costs and difficulties of satisfying the relevant disclosure requirements. The trading of companies on RASDAQ has not increased the ability of these companies to raise capital - there have been very few public offerings in Romania. Nor has such a status increased liquidity in the marketplace.

The *status quo* also does little for the larger companies. While there may be some liquidity in a few companies' shares, the general lack of confidence in the market means that investors are wary of investing in any companies on the market. If a reduction in the number of shares traded on RASDAQ lead to an enhanced perception of the value of the shares remaining on the market, this would benefit the larger companies remaining on the market.

Some companies may face higher costs in an environment with fewer but more regulated companies on RASDAQ. For those companies which currently do not comply with the relevant corporate governance and disclosure requirements, a move to a better regulated environment is

likely to lead to more direct costs if they are required in the future to satisfy the relevant regulations or face significant penalties.

### **Broker-Dealers**

On balance, a move to reduce the number of shares traded on RASDAQ, by removing those shares that are unsuitable for public trading, is likely to have beneficial consequences for broker-dealers. Most of their business is going to be in the securities that remain traded on RASDAQ, as these are likely to be the actively traded ones, so removing the other securities will not significantly harm broker-dealer revenue sources. On the contrary, to the extent that enhancing the quality of shares traded on RASDAQ leads both to more trading in these shares, and to the potential to attract new companies to the market, such a move is likely to be positive for broker-dealers. If investor confidence in the market increases, investors are likely both to invest more and to trade more frequently. Such an outcome will be clearly beneficial to broker-dealers.

It is important to note, however, that broker-dealer profits are to some extent correlated with the inefficiencies of markets. The wider that bid-ask spreads are, for example, the more profits that broker-dealers are able to make. It is therefore possible that if the removal of many illiquid securities, leads to a narrowing of average bid-ask spreads, they may lose some money. In many circumstances, however when bid-ask spreads have declined, the volume of turnover has increased at an even greater proportional rate. Overall revenues may therefore not decline.

### **NSC**

A reduction in the number of companies traded on RASDAQ would provide the NSC with two key benefits. First, it would allow the commission to focus its limited resources on supervising the remaining companies for which regulatory oversight is required. Companies that are suitable for trading, which by construction will be open companies, should form the focus of attention for the NSC. The current situation in which the NSC is required to regulate over five thousand companies is simply an impossible task for the commission.

The second benefit for the NSC is that it is likely that among the companies which are removed from trading on RASDAQ, will be companies that market opportunists might have used to cause mischief. The reputation risk in the market is therefore likely to be reduced by effectively taking many of the smaller companies off the market. The avoidance of such a risk will prove beneficial both the NSC, and to the country as whole.

### **APAPS**

RASDAQ only has value to the privatization process if it brings liquidity to the shares owned by APAPS, and allows APAPS to obtain high bids for the blocks, which it wishes to sell.

Currently, however, this is not the case. Removing those companies currently available for trading on RASDAQ, in which there are few trades and little liquidity is therefore unlikely to do any harm to the privatization process. In fact, to the extent that removing stocks makes it easier for these companies to become closed, it is likely to make it easier for the APAPS to bring in strategic investors. As discussed above, most strategic investors prefer to invest in closed companies as they find the corporate governance and disclosure requirements of being an open company burdensome.

If the APAPS was using the RASDAQ auctions as a frequent way of selling shares, there could be revenue implications. However, in the period 2000–2001, the APAPS only conducted 126 auctions through RASDAQ and 66 of those were subsequently cancelled. For those shares owned by APAPS that remain being traded on RASDAQ, any transformation of the market that did enhance liquidity would also be beneficial for the privatisation process.

## **RASDAQ**

Two key benefits are likely to accrue to RASDAQ by following a policy of removing the many securities from its trading system that are unsuitable for trading. First, it will provide a signal to investors that those companies remaining on RASDAQ are of a relatively high quality and are likely to be liquid. This signal is likely to be self-fulfilling, in that the more investors believe it, the more they will trade thereby enhancing the liquidity of the shares remaining on RASDAQ.

Second, perceptions of the RASDAQ market may improve so that companies are willing to list on the exchange, as has not been the case in the past. Such listing will bring more products and more revenues to RASDAQ.

## **Summary**

An examination of the costs and benefits of normalizing trading on RASDAQ market by reducing the number of shares traded on its system is on balance likely to benefit all the key groups of market participants, including shareholders, companies, broker-dealers, the NSC, the APAPS, and RASDAQ itself. There are two main reasons for this: first, the current structure of RASDAQ delivers few benefits, so moving away from this structure is unlikely to cause significant losses; and second, a move to a new environment which is likely to have a higher quality market may bring with it some valuable gains.

### *4.2 Criteria*

Four criteria are central in deciding which shares are likely to be suitable for trading on RASDAQ, and they are precisely the criteria which indicate whether there is likely to be a market for such shares. As noted above, these are the number of shareholders a company has, its market capitalization and free float, its profitability, and the extent to which it discloses relevant financial

information.

A decision as to the appropriate levels at which each of these parameters should be set is a judgmental exercise, and can only be undertaken by considering the precise characteristics of the securities on the RASDAQ market, with the data discussed in Section 3.3 above. The arguments presented by Saverson and Strahota for assessing which issuers (i) have less than 100 shareholders or (ii) less than 300 shareholders and less than the Romanian equivalent of \$300,000 of market capitalization are, nevertheless, convincing. A security is unlikely to be liquid with fewer than 100 shareholders; and a company with less than 0.01% of GDP is a relatively small company, and again unlikely to warrant trading in the public market.

Saverson & Strahota also stress the need for there to be sufficient publicly available information about an issuer and its securities. As they note, such information is vital for the price discovery process to work, for rational capital allocation decisions to be made, and without it, insider dealing and market manipulation are likely to undermine investor confidence in the market.<sup>21</sup> They therefore argue that if a company does not disclose such information, it is not suitable for public trading.

While it is clearly desirable that companies do disclose relevant information in a timely manner, and while Saverson & Strahota note that the implementation of the imposition of this criterion requires a judgmental approach, the situation in Romania may warrant an even more nuanced approach than they suggest. The result of the MPP is that there are many companies which were forced to have a wide and dispersed shareholder base without their permission. To suspend such companies from being traded if they do not disclose the relevant information, will simply penalise shareholders by expropriating their right to sell, without providing any incentive for the companies to act in a manner that benefits shareholders, and disclose the relevant information. Other penalties for non-disclosure, rather than being removed from RASDAQ, may therefore be more appropriate in the circumstances. It is vital to balance the need to ensure that the companies that remain traded on RASDAQ satisfy as far as possible the disclosure requirements of the NSC, while not overriding the right of MPP shareholders to sell their shares.

#### *4.3 Options*

Although there is widespread agreement about the need to enhance trading on RASDAQ, and the desirability of reducing the number of securities traded on RASDAQ, there is no consensus about how this should be effected. A range of options that may be employed to bring about these results with much the same economic consequences are identified and discussed here. These include separating the relevant shares into different tiers on RASDAQ, the suspension of these shares from trading on RASDAQ, the permanent removal of them from RASDAQ (“delisting”),

encouraging the transformation of open companies on RASDAQ into closed companies, trading halts or delays, cease and desist orders, and lastly closing RASDAQ down.

Comments are also provided on two other issues relevant to enhancing trading on RASDAQ: the nature of any transition period that might be needed between the current environment and any proposed new structure; and the possibility of establishing a dedicated investment fund for the shares that are unsuitable for trading on RASDAQ. The last part of this section contains a summary of the three strategies that are thought most appropriate in the circumstances to achieve the desired goal of enhancing trading on RASDAQ.

## **Tiering**

One way of enhancing the trading on RASDAQ is for RASDAQ itself to create several tiers of trading on its market to signal to market participants the nature of the different shares on its system. The highest tier could contain those securities most suitable for public trading, while the lowest tier would contain the vast majority of shares whose characteristics make them unsuitable for public trading. A central element of this strategy is the need to brand very clearly the different tiers of the market so that shareholders at large understand easily the differences in characteristics between the stocks in the different tiers.

This tiering strategy has several strong benefits. First, it is likely to be able to be implemented fairly rapidly. Second, it is unlikely to be adversely affected by any regulation or law, given that all RASDAQ securities would still be traded on RASDAQ. The manner in which they were presented to the public would, however, be different. Third, and has already been noted, RASDAQ itself is currently considering the possibility of creating three tiers on its market to mirror those on the BSE: one tier for the highest quality and most liquid stocks, one for stocks that satisfy a range of minimal criteria, and one for all other stocks which may be traded on its system. Finally, such a strategy would ensure that shareholders of all securities would not feel disenfranchised by not having a trading system on which they could sell their shares. The main disadvantage of the tiering strategy, however, is precisely that it perpetuates the fiction that most of the RASDAQ shares are suitable for trading publicly, and does not change the corporate status of these shares from open to closed.

This tiering strategy might allow RASDAQ to develop into a typical exchange which sells listing services, much like the BSE. Although there is little willingness currently by the majority of companies to enter voluntarily into a listing agreement with RASDAQ, it is possible that a revitalised RASDAQ might be able to attract formal listings in competition with the BSE. How many would depend on several factors, including whether companies believed that the method of negotiation and trading on RASDAQ provided a good service to shareholders and investors, the

relative costs of listing on RASDAQ and the BSE, and whether the company had a sponsoring broker who could convince it that it could make a better market on RASDAQ than on the BSE. As noted above, listing would benefit not only the relevant companies and their shareholders, but also RASDAQ, which would receive listing fees.

## **Suspension**

A policy of suspending unsuitable shares from trading on RASDAQ could deliver the desired objective of enhancing the trading on RASDAQ, and has been recommended by Saverson and Strahota.<sup>22</sup>

Trading is typically suspended on an exchange in order to protect investors. This normally happens when, in the judgement of the exchange, something appears to have gone wrong with the company but further investigation is necessary before a decision is taken either to remove its shares from the exchange's trading system, or to allow trading in the shares to be resumed. The trading suspension has the effect of warning investors that the exchange has concerns about the activities of the company, or about the suitability of it for continued trading by the public. A suspension does not normally mean, however, that it is impossible to buy and sell shares. Transactions in shares of companies that are suspended from trading often take place in the same way as trading in shares of delisted companies, namely through private transactions between buyers and sellers without an intermediary.

Two possible legal bases allowing RASDAQ and its associated institutions to suspend shares from the RASDAQ trading system may be employed:

1) The RASDAQ trading system has never entered into a listing agreement or other contract with the companies that are of concern. Therefore, it can make rules directing its members that its facilities may not be used for trading shares of certain companies after a certain date. It appears that the authority the NSC has to approve this move by RASDAQ, or to take its own relevant actions, can be found under articles 6 and 14(a) of Law 52/1994.

2) Section 2 (a) and (b) of SNCDD Rule 5 may allow the Depository to remove the same securities from its list of "eligible securities".

As discussed below, the suspension of shares has several advantages over the strategy of permanently taking shares off RASDAQ.

## **Permanent Removal ("Delisting")**

Rather than suspending shares from RASDAQ on a temporary basis, as described above, a different approach could be to remove the relevant shares permanently from RASDAQ (or as is sometimes referred to as to "delist" them). While the economic effect of these two strategies will be

much the same, the legal implications may be different, and also more uncertain with the permanent removal strategy.

Existing law and NSC practice offer relatively little effective guidance on how companies can be permanently removed from trading on RASDAQ.<sup>23</sup> Two possible legal bases for permanently removing shares from RASDAQ may be employed.<sup>24</sup>

1) Article 21 of Law 55/1995 provides for an exemption from Article 26 of Law 52/1994 (NSC approval of a prospectus) for shares of companies to be distributed in the Mass Privatization. This opened the way to public trading in Mass Privatization shares. However, Article 21 of Law 55/1995 only states that the shares obtained through the MPP *may*, but not *should*, be negotiated on a securities market. Thus, the privatization law did not suggest that public trading of such shares should be sustained permanently without further action by such companies. It is an NSC Instruction that requires such shares to be traded on RASDAQ.<sup>25</sup> The NSC should thus be able to issue an Instruction reversing this policy.

2) The NSC may be able to order that trading through broker-dealers be suspended in shares of any company that fails to comply with Chapter VI of Law 52/1994 in regard to requirements that issuers make periodic and timely disclosure.

For similar reasons to those outlined by Saverson and Strahota, it is suggested here that the suspension strategy would be preferable to attempting to remove permanently the relevant shares.<sup>26</sup> A suspension, as opposed to a permanent removal of a company's shares, might make it easier for RASDAQ to sanction the resumption of trading in a company's shares. This would be desirable, for example, if the company experienced an increase in its total assets or the number of shareholders it had. Second, retaining these issuers in the NSC's Securities Registration Office's database of listed (public) issuers, as would happen with suspension but not with permanent removal, might help preserve the NSC's enforcement authority over the relevant companies.

### **Turning Open Companies into Closed Ones**

The transformation of many open companies that are currently available for trading on RASDAQ into closed companies is one strategy that could be employed to enhance trading on RASDAQ. For the great majority of companies on RASDAQ, a change to private or closed company status would be desirable. This change in status would mean that they could no longer be traded on RASDAQ, would mean they did not have to comply with the burdensome requirements of being an open company and, as discussed above, would also make them more attractive to strategic investors to buy.

In order to encourage companies to become closed, the NSC could say it was going to enforce vigorously open company rules, as an incentive to force those companies which are

currently open, to change into closed companies.

If companies are going to be removed from RASDAQ, but remain legally as open companies for a while, some form of transition period and process will be required. One such process could be to encourage the major shareholders of transitional companies to make a public offer for the remaining small blocks of shares in order to reduce the number of shareholders, and to state that public trading in the shares will be stopping once the offering has been completed, appropriate publicity has been given, and a certain period has elapsed. The American Chamber of Commerce (AMCHAM) has suggested, however, that existing Securities Law, and NSC implementing regulations, may need to be amended to allow this.<sup>27</sup>

The current legal environment also reportedly provides relatively little assistance to companies that are unable to locate many of their shareholders that became shareholders during the mass privatization process or thereafter.<sup>28</sup> In this context AMCHAM has suggested that consideration be given:

to establishing an authority to assist in tracing ownership, consolidating claims and directly purchasing and consolidating stock from disbursed owners; and

... to allowing for the de-listing of companies with greater than the minimum number of shareholders than is allowed to become a closed/unlisted company in the event a substantial percentage of small shareholders do not actively participate in the governance of the Company or fail to respond to a public offer to sell their shares.<sup>29</sup>

Despite the merits of a strategy of changing open companies currently on RASDAQ to closed ones, it is vital to stress that such a strategy is not necessary in order to enhance the trading on RASDAQ, as the other options outlined above indicate. In addition, the strategy is likely to require legislative amendments which are both uncertain and difficult to obtain rapidly, however desirable they may be. Regulators must also be careful to assure that the closing process does not create new shareholder abuses.

### **Delay or Halt of Trading**

When an exchange is concerned that there has been a material change in the circumstances of a listed company, but insufficient information is available for investors to make rational purchase and sale decisions, it may order a delay or halt in the trading of the company's securities. This period can provide a brief time for the company to prepare a press release and make the appropriate timely disclosure. The delay or halt in trading is to ensure that persons who have preferential information concerning a material change in the affairs of the company are not able to trade with investors who are not aware of the material change. Shortly after the information is disclosed, the halt or delay is typically lifted and trading resumes.

Given the typically short-term nature of such a halt or delay, this strategy will not be sufficient on an on-going basis to stop trading in a large number of securities on RASDAQ for a long period. Furthermore, a delay or halt in trading is essentially relevant for listed companies which are required to disclose all relevant information as part of their listing agreement. There are no such agreements for the companies traded on RASDAQ.

### **Cease and Desist**

If it is the judgment of a securities regulatory commission that an issuer is no longer fit for trading by the public, in some jurisdictions the regulatory commission may issue a “Cease and Desist” order. The effect of such an order is to make it an offence for any broker, or the issuer of the shares or its agents, to do anything to facilitate the transfer of the issuer’s securities. Generally companies that attract a “Cease and Desist” order have been dishonestly managed and nothing of value remains. This, however, is not the situation with all the many companies that need to be taken off RASDAQ, and therefore is not a viable strategy for the Romanian context.

### **Close RASDAQ**

One strategy that could be pursued to reduce the number of companies trading on RASDAQ is to advocate the closure of RASDAQ, and the transfer of all appropriate companies to the BSE. Doing so would lead to savings in resources, and allow the Romanian capital market to focus on and promote a single market infrastructure institution. This would be simpler both for local and foreign market participants to assess and understand.

There are however, three major disadvantages of pursuing this policy. First, it is unequivocally unacceptable at present to the ANSVM, RASDAQ, and the NSC. Any attempt to promote such a policy is therefore likely to make market participants focus their attention on a range of organizational and political manoeuvring which would only distract them from the substantive issues in the Romanian capital market that need to be addressed.

Second, notwithstanding any worries about fragmentation, the experience of competition between trading systems, both in Europe and in the US, has been unequivocally beneficial. It has led to lower transaction costs, increased the efficiency and quality of trading systems, and augmented liquidity. It has encouraged the use of better technology in trading, and has provided an incentive for trading systems to enhance their product lines. Finally, it has allowed different types of trading systems to come into existence to satisfy the needs of disparate types of traders.

Third, and as argued by Saverson and Strahota, it would seek to impose on the market a solution that is best determined by market participants themselves.

## **Transition Period**

In all the various options outlined above, it would be necessary to manage the transition period from the current environment to the proposed new market structure. One key element of such a transition would be to allow the current MPP shareholders a specified period to take whatever action they wanted to in the current environment before the new one began. Wide publicity would need to be undertaken to describe the proposed initiative – be it tiering, temporary suspension, permanent suspension (or “delisting”), or moving companies from open to closed status. It may be that over this period, public bids by insiders may have more success than in the past. Given the disadvantages of the current situation, and the anticipated benefits of the new environment, it is unlikely that there would be significant public worry about any transition that was proposed. Nevertheless, public concern about the transition would have to be closely monitored, a full public education policy about the transition would be advisable, and contingency plans would need to be made to cover potentially difficult situations.

## **Dedicated Investment Trust**

One way to seek to enhance trading on RASDAQ might be to encourage the creation of a closed end fund that would offer to exchange its shares on some economic basis for the shares of those companies that are unsuitable for trading on RASDAQ. The creation of such a dedicated investment trust fund might have certain benefits. It could leverage the pooled ownership interests in the relevant companies, and seek to exert pressure on defunct companies to disclose, restructure, rehabilitate, and perhaps regain their listing status. It might be better able to manage the shareholdings of the public, and act as a shareholder protection organization for overall improvements in corporate governance. If the shares in the fund were allowed to trade - with a prospectus, and be listed and properly regulated on a market - it could provide an exit route to shareholders. It might also provide a vehicle for diversification on the part of small shareholders.

There would, however, be many problems in setting up such a fund. It is difficult to see how individual shareholders could fairly exchange their shares for those of the dedicated fund without some form of objective valuation of the shares, but this is precisely a key problem in the current environment. The complexity and costs of establishing the fund should not be underestimated. Such a fund would have to be responsibly staffed, probably with the involvement of foreign turnaround managers, given local concern about domestic investment funds. It is likely to be difficult to operate the fund profitably, given both that most individual shareholders have portfolios which are worth only a small amount (perhaps \$30-\$40), and that many of the small and inactive companies on RASDAQ are likely to be worthless. There is in any event no need to promote such a fund, as it should be economically viable by itself, and the private sector in Romania has sufficient incentive

to assess whether such a fund could be profitable or not.

## Summary

Of the many strategies that could be undertaken to transform trading on RASDAQ, three appear to be the best. None of the policies are mutually exclusive, and all can be pursued at the same time. In the short term, the most feasible policy is likely to be for RASDAQ to create some tiers on its market to signal to market participants the nature of the different shares on its system. The highest tier would contain those securities most suitable for public trading, while the lowest tier would contain the vast majority of shares whose characteristics make them unsuitable for public trading. The second viable policy is to suspend from trading on RASDAQ those shares that are unsuitable for trading. In the longer term, the third strategy, namely a move to change the status of many of the companies on RASDAQ from open to closed, would deliver the desired policy of enhancing trading on RASDAQ. It would also remove many inappropriate companies from RASDAQ, and have the attendant effect of increasing their value to strategic investors. In all three strategies, it is vital to balance the need to ensure that the companies that remain traded on RASDAQ satisfy as far as possible the disclosure requirements of the NSC, while not overriding the right of MPP shareholders to sell their shares.

## 5.0 Financial Viability of RASDAQ

An analysis of RASDAQ's financial results shows a company that has been remarkably resilient in meeting the challenges of sharply dropping business indicators. From 1999 to 2001 operating revenue declined by 43% in dollar terms, yet operating income before depreciation while also down was positive each year. In addition, the company is quite liquid and is generating a sizeable amount of interest income. RASDAQ has coped quite well with its well advertised problems, partly through aggressive cost cutting

Table 9 shows the financial results for the past three years. The first three columns of data show the results in current ROL, unadjusted for currency decline. The second three columns show the same figures adjusted for the average ROL/USD exchange rate since most cost elements are ultimately expressed in dollar terms. The third set of three columns shows the various data items as a percentage of operating revenues. This last form of analysis is called common size analysis and is useful for focusing on trends. Table 10 also shows an abbreviated balance sheet for the past three years in both lei and dollar terms.

For the three years, operating revenues remained steady around the 11 billion ROL level while the exchange rate dropped almost in half. The value of transactions declined in ROL terms from 3.6 trillion ROL to 2.7 trillion. The market has been through a very difficult operating environment.

Among the cost items, labor costs have declined in real terms, but not as rapidly as the drop in revenue. Over the three-year period, labor costs as a percent of operating revenues have risen from 30.58% to 45.95%. There probably is a limited degree of flexibility in reducing head count in such a small enterprise. On a more positive side, service costs and depreciation costs were cut sharply in 2001. As a percent of sales, service costs went from 43.99% in 1999 to 40.06% in 2001. To reduce costs, RASDAQ cut space rental costs by 80% in 2001 and has also made sharp reductions in communications costs by negotiating more effectively with suppliers. Depreciation costs have come down as old equipment was written down and not replaced. This strategy cannot be continued indefinitely, but until business activity improves, the existing technology should probably be adequate.

Operating P/L in 2001 was a negative 4.17% of operating revenues, a pretty good result considering the 34% drop in the dollar based level of transactions in the year. The market, however, has a very liquid balance sheet generating substantial investment income. On Table 10 we show that at year end 2001, liquid interest earning assets were 69% of total assets. Capital assets have been written down and not replaced and earnings have been invested short term. This strategy will not allow RASDAQ to grow in the long term, but while revenues are declining, the strategy allows the market to survive and preserve resources to invest under better conditions.

Our best measure of RASDAQ's ability to survive is the company's Total Cash Flow (Net Financial Income plus Operating Cash Flow which is operating P/L with depreciation added back.) This figure represents the cash generated by the business and is particularly useful when a company does not have significant investment needs. In 2001 this figure amounted to 2.42 billion ROL or \$83,449. Barring another major decline in trading volume or major capital needs, RASDAQ appears to have achieved a level of operations and expense where it can survive indefinitely.

### **Sensitivity Analysis**

While the current situation is sustainable, we must also consider RASDAQ's ability to handle further changes in business activity. One major assumption necessary for sensitivity analysis in this situation is the degree to which costs are fixed versus variable, that is how much costs will fluctuate as activity changes. Given the large amount of cost cutting that has occurred and the technical aspect of the business, a good assumption would be that 90% of costs are fixed. The other ten percent of costs will fluctuate with business conditions. Depreciation is not included in this analysis since we are looking at the amount of cash flow from operations. With this assumption, Operating Cash Flow would amount to \$2,143 if business drops another 10% and negative \$32,012 on a 20% drop in business. In both cases, the Net Financial Income of \$47,149 would cover the decline. Only with a 30% decline in business, does RASDAQ experience a net

cash loss of \$19,019.

On the other hand, gains in activity generate much larger cash flow. A 20% increase in business would bring Total Cash Flow to \$151,760

## **Conclusion**

RASDAQ is not in a good situation with such low activity. Resources are constrained and must be watched very carefully. Expansion is not an option.

However, the market is not in dire straits. It has managed its affairs wisely and cut costs effectively. The balance sheet is highly liquid and its only debts support current operations. Cash flow is surprisingly positive and sustainable without an additional major drop in business. Since further cost cutting will not be as productive as in the past, the market does need a business plan to bring in more trading activity.

## **6.0 Conclusions**

The MPP was a brave experiment. It has provided a 5 year opportunity for Romanians to decide how to deal with their patrimonial shares. Shareholders paid nothing for these shares. If they obtain little money for them now or in the future, it is not a loss, or a surprise. In order to transform trading on RASDAQ, however, it is now necessary to eliminate the distraction and risk that is represented by most RASDAQ companies that have no interest in public trading or financing via public markets; have too few shareholders; will not file timely and complete financial statements and publicize material changes to shareholders; are too small to matter; or are failing and going out of business. RASDAQ's main previous role for small companies has been to facilitate the concentration of ownership. This has mostly been done. RASDAQ now needs to move on from being a vehicle to rationalise the initial holdings of MPP shareholders, to become a market that provides liquidity and can facilitate the raising capital function for companies.

An examination of the costs and benefits of normalizing trading on RASDAQ market by reducing the number of shares traded on its system is on balance likely to benefit all the key groups of market participants, including shareholders, companies, broker-dealers, the NSC, the APAPS, and RASDAQ itself. There are two main reasons for this: first, the current structure of RASDAQ delivers few benefits, so moving away from this structure is unlikely to cause significant losses; and second, a move to a new environment which is likely to have a higher quality market may bring with it some valuable gains.

Of the many strategies that could be undertaken to transform trading on RASDAQ, three appear to be the best. None of the policies are mutually exclusive, and all can be pursued at the same time. In the short term, the most feasible policy is likely to be for RASDAQ to create some

tiers on its market to signal to market participants the nature of the different shares on its system. The highest tier would contain those securities most suitable for public trading, while the lowest tier would contain the vast majority of shares whose characteristics make them unsuitable for public trading. The second viable policy is to suspend from trading on NASDAQ those shares that are unsuitable for trading. In the longer term, the third strategy, namely a move to change the status of many of the companies on NASDAQ from open to closed, would deliver the desired policy of enhancing trading on NASDAQ. It would also remove many inappropriate companies from NASDAQ, and have the attendant effect of increasing their value to strategic investors.

## Appendix 1.0 Acronyms

ANSVM	Asociatia Nationala a Societatilor de Valori Mobiliare (English equivalent = NASD)
APAPS	Autoritatea de Privatizare si Administrare a Participarilor Statului (The Authority for Privatization and Management of the State Ownership) (Previously SOF)
BSE	Bucharest Stock Exchange (Romanian equivalent = BVB)
BVB	Bursa de Valori Bucuresti (English equivalent = BSE)
CNVM	Comisia Nationala a Valurilor Mobiliare (English equivalent = NSC)
COO	Certificate of Ownership
EU	European Union
GOR	Government of Romania
IAS	International Accounting Standards
IFC	International Finance Corporation
IPO	Initial Public Offering
MBO	Management Buy-Out
MEBO	Management and Employees Buy-Out
MOF	Ministry of Finance
MPP	Mass Privatization Program
NSC	National Securities Commission (Romanian equivalent = CNVM)
OTC	Over-the-Counter
POF	Privatization Ownership Funds
RASDAQ	Romanian Association of Securities Dealers Automated Quotation system
ROL	Romanian Lei
RRA	Registrul Roman al Actionarilor (Romanian Shareholders Registry)
SIF	Societate de Investitii Financiare (Financial Investment Company)
SOF	State Ownership Fund
SME	Small and Medium Enterprise
SNCDD	National Securities Clearing Corporation Settlement and Depository
SRL	Societate cu Raspundere Limitata - Limited Liability Company (LTD)
UNOPC	Uniunea Nationala a Organismelor de Plasament Colectiv (National Association of Investment Funds)

## Appendix 2.0 Interviewees

Alexandru, Petra; Deputy General Manager, Bucharest Stock Exchange (BSE)

Anderson, Charles T. (CFA); Government Debt Issuance & Management Advisor, US Department of the Treasury, Office of Technical Assistance, Ministry of Finance

Andrei, Elena; General Manager, BCR Securities (Bank Broker Dealer Subsidiary) and Member of Board/RASDAQ

Andrei, Siminel C; NCH Advisors (Broadhurst), General Manager and Chairman, Association of Broker Dealers (ANSVM)

Anghel, Dan; Director General, United Grains

Apostol, Camil; CEO, Central European Financial Services, S.A.

Ashton, Vivien; Director, Foreign & Colonial Investment Fund

Barbulescu, Dan; Managing Director CH Romanian Investment Advisors Association, Bucharest Equity Investment Group

Bucurenciu, Aura; Director Marketing Operations, RRA, Romanian Shareholders Registry

Cantona, Ioan; Chairman of the Board/Regisco Shareholder Independent Registry, S.A. and Deputy Director/Ministry of Industry and Resources

Christache, Dragos; Chair man and CEO, SIRA Invest

Ciurezu, Tudor; Deputy Manager, Oltenia Financial Investment Company

Cristi, Sandu Neculai; Investment Officer, Romanian American Enterprise Fund

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## Appendix 3.0 Figures and Tables

**Table 1**

### Annual Trading Value

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
<b>Annual trading value (mil. ROL)</b>	2,828,234	3,723,108	3,620,794	3,066,127	2,718,400
<b>Change in ROL (%)</b>	-	31.6%	-2.7%	-15.3%	-11.3%
<b>Annual trading value (ths. USD)</b>	386,099	419,296	242,225	144,472	93,700
<b>Change in USD (%)</b>	-	8.6%	-42.2%	-40.4%	-35.1%

**Table 2**

### Annual Number of Trades and shares Traded

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
<b>Number of trades</b>	447,099	539,809	272,276	140,506	87,100
<b>Change (%)</b>	-	20.7%	-49.6%	-48.4%	-38.0%
<b>Number of shares traded (ths)</b>	796,388	1,353,002	2,133,810	1,209,137	770,311
<b>Change (%)</b>	-	69.9%	57.7%	-43.3%	-36.3%

**Table 3**

### Number of Companies Available for Trading

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
<b>Number of companies available for trading</b>	5,353	5,496	5,365	5,425	5,081
<b>Change (%)</b>	-	2.7%	-2.4%	1.1%	-6.3%

Note: as at the end of the year

**Table 4**  
**Distribution of Companies Delisted from RASDAQ**

<b>Administrative Delisted</b>	<b>No.</b>	<b>Natural Delisted</b>	<b>No.</b>	<b>Transferred to BSE</b>	<b>No.</b>
<i>Withdrawn</i>	364	<i>Closed business</i>	132		
<i>Closed companies</i>	104	<i>Suspended SNP Petrom</i>	43		
<i>Delisted</i>	2	<i>Merged</i>	42		
		<i>Bankrupt</i>	10		
		<i>Taken-over</i>	5		
		<i>Liquidated</i>	3		
		<i>Dissolved</i>	1		
		<i>Spin-off</i>	1		
<b>Total</b>	<b>470</b>	<b>Total</b>	<b>237</b>	<b>Total</b>	<b>62</b>
				<b>Total Delisted</b>	<b>769</b>

**Table 5**  
**Distribution of Companies Delisted per Year**

	<i>1997</i>	<i>1998</i>	<i>1999</i>	<i>2000</i>	<i>2001</i>
<b>Number of companies delisted</b>	103	113	23	76	455
<b>Change (%)</b>	-	9.7%	-79.6%	230.4%	498.7%

**Table 6**  
**Number of Companies Traded, Number of Companies with no Trades, Number of Trades**

	No. of companies traded	No. of companies with no trades				No. of companies with no trades	No. of trades	No. of companies with less than 12 trades
		<i>no bids</i>	<i>less 12 bids/year</i>	<i>no asks</i>	<i>more 12 asks/year</i>			
<b>2001</b>	2,739	1,780	994	2,480	315	2,799	87,119	1,595
<b>2000</b>	3,137	1,301	1,135	2,110	357	2,471	140,506	1,605

**Table 7**  
**Annual Trading Value and the Distribution of Companies Covering 50% Respectively**  
**90% of the Trading Value in 2000 and 2001**

	Trading value (USD)		No. of most active companies	
	(including the public offers)	(without public offers)	(covering 50 % of trading value)	(covering 90 % of trading value)
<b>2001</b>	93,730,645	53,353,149	13	194
<b>2000</b>	144,472,647	94,307,640	27	287

**Table 8**  
**Distribution of the Numbers of Companies with the Respective Amounts of**  
**Shareholders they had at Year End 2001**  
 (Companies with the Romanian Shareholders Registry)

<b>No. of shareholders</b>	<i>fewer than 100</i>	<i>101-500</i>	<i>501-1000</i>	<i>more than 1000</i>
<b>No. of companies</b>	1115	1047	400	537
<b>% of total no. of companies*</b>	21.9%	20.6%	7.9%	10.6%

\* 5081 Rasdaq companies as of Dec. 2001.

## **Appendix 4.0 Listing on the BSE**

New BSE listing requirements were requested in 1999, approved by the NSC in 2000 and became effective in 2001. They create four listing tiers: the first and second (or basic) attempt to comply with EU standards, while the other two are informal categories. The listing requirements are as follows.

For the first tier (of which there are 19 companies), a company must have: 1) minimum share capital or a market capitalization of 8,000,000 Euros; 2) three years of business activity; 3) net profit for two of the past three years; 4) if have loss in 1 year of 3 years, must have profit prior annum; 5) 15% of issues and outstanding shares must be held by at least 1,800 shareholders; A public float of 15% of the total issue or at least 75,000 shareholders; 6) report Financials in IAS; 7) pay dividends within 60 days of shareholder approval; 8) a 2-year written business plan; and 9) 2 year positive cash flow.

For the second (or basic) tier (of which there are 46 companies), a company must: 1) have a minimum share capital or a market capitalization of 2,000,000 Euros; 2) prepare and file an annual report audited by external independent auditors; 3) continue to meet listing and maintenance requirements; 4) comply with NSC continuous disclosure requirements (financial reports issued two times per year), and 5) maintain securities in a dematerialized form that are freely tradable. The BSE permits some flexibility for a company to transition between the two top tiers. For instance, two companies are still working to raise their social capital to BSE 1<sup>st</sup> tier requirements.

The third tier contains companies which have been delisted but the shares of which are still traded on the BSE. There are 53 such companies. This informal tier requires no disclosure, according to BSE rules, although the NSC requires disclosure twice each year. Some of these companies may move to RASDAQ.

The BSE announced one further listing tier “extra” on 12/11/2001.<sup>30</sup> In this tier, companies voluntarily agree to abide by some corporate governance recommendations prepared by the OECD.

### **Delisting procedures**

The law requires that:

the securities listed on the Stock Exchange shall be withdrawn from listing upon the removal of their registration with the Securities Registration Office. The Stock Exchange Committee may order withdrawal from listing if it considers that an orderly market of the respective securities cannot longer be maintained or re-established. The decision in respect of withdrawing from listing on the Stock Exchange of shares offered publicly or of other securities conferring rights on the issuer shall be made with the approval of NSC.<sup>31</sup>

The Securities Registration Office is authorized to remove the securities registration of a

company under the following circumstances:<sup>32</sup> 1) Issuer's bankruptcy procedure; 2) Total redemption of the outstanding securities made by the issuer; 3) Merger; 4) Justified issuer's request; 5) When the NSC believes that there is an excessive concentration of the securities holding, leading to a low public interest; 6) When a company becomes closed company.<sup>33</sup> 7) When the issuer fails repeatedly to apply the legislation and regulations considered essential for investor protection.

Delisting may take place at the BSE in the following circumstances: 1) the company fails to meet the minimum share capital requirement; 2) at the request of the General Shareholders Meeting; 3) there is a merger, consolidation, successful tender, or corporate reorganization. 4) the company fails to pay its registry fees for two months or its maintenance fee to the exchange (which is based on trading activity); 5) the bankruptcy procedure has started; 6) the company fails to comply with the financial reporting requirements; 7) the company becomes a closed company; 8) if the issuer fails to meet the legislative and regulatory conditions deemed essential for investor protection.<sup>34</sup>

The delisting process is initiated when the Listing Committee reviews each company. The Committee recommends candidate companies for delisting to the Board of Governors, which votes on each company. The NSC must then approve each delisting. The NSC takes the decision to send the company in the unlisted, but traded, companies' section. The NSC can also decide upon the company withdrawal with or without the BSE proposal.<sup>35</sup> The rules do not, however, specify when the NSC can take such a decision. Under the existing and proposed securities law, the NSC composes the listing and delisting rules and procedures of the exchange. The BSE does send several warnings to a company prior to initiating the delisting process.

Since 7/2001, the BSE delisted 36 companies, and moved their shares into the "unlisted" but traded tier. 5 moved to RASDAQ, and 31 went to the unlisted tier. Of the 36 delisted companies, 22 were delisted due to failing the minimum share capital requirement or market capitalization, 9 failed the performance requirements (i.e. had losses in 2 of the last 3 years), and the balance of 5 companies failed both the capital and performance requirements. Since 10/2001, the BSE board prolonged the completion of the delisting procedure, to allow 7 of the 36 to attempt to come into compliance with the relevant regulations. 6 of the 7 companies were able to do so, and were re-admitted to listing. As of 1/1/2002, the Board planned to review this one outstanding company's compliance with BSE listing standards.

After the "pilot" IAS program is completed in 2002, all listed companies must report under Romanian IAS. No date has been specified for this compliance yet, however. This will impact many BSE issuers. As EU requirements state that all companies listed on European exchanges must report using IAS by 2005, the NSC, and BSE, will need to determine how to manage these companies' compliance with this new financial requirement.

## Appendix 5.0 RASDAQ Complex

### Trading System

The National Association of Broker-Dealers is a “civil legal person” managed by a Board, a General Manager, and staff. It appoints the Board of RASDAQ market, which is an SRL that it owns. ANSVM has 5 employees and expenses of about 10 billion ROL.

Trading terminals are used by dealers to enter quotations to reflect trading interest. Negotiation is via terminal or by phone. Trades are reported through the system. Montages of current quotes (by stock) and of executed trades are displayed on the trading terminal. Trading terminals are not connected to the shareholder registries. When a sale of shares is initiated, the selling broker requisitions the shares of the selling client to be changed from the client’s name to the SNCDD registration. At the SNCDD the shares are recorded in the broker’s name.

The RASDAQ STRATUS trading system is quote-driven, enabling brokers to input and negotiate orders on the screen.<sup>36</sup> Trading takes place from Monday to Friday, between 10.00-14.00. Trading is limited to the members of ANSVM, who are supposed to have a minimum share capital level. According to NSC Regulation 1/2001 as of 5/2002, the level is set at ROL 2 billion for brokers, ROL 4 billion for dealers, and ROL 12 billion for underwriters. At the same time, the brokers – as individuals, must be employed by a RASDAQ member and must be authorised as both securities agent and broker.

After 1997’s high volume of trading RASDAQ purchased a second more powerful STRATUS server. This new server is currently used for daily trading, and its software was recently updated by RASDAQ IT experts to adjust the system to include new rules expected to be approved by the NSC in 2002. These new rules include trading in tiers, and bid/offer spread parameters, and issues involving the role of RASDAQ as an SRO. The older server is now employed for testing and training, and as the disaster recovery system.

Brokerage houses are allowed to register as market makers for an unlimited number of listed companies, either for round lots (minimum 200 shares) or for odd lot trading (between 40 and 199 shares). Market makers are obliged to maintain quotations for at least 10 days for round lots and 30 days for odd lots, but are allowed to change the bid and asked prices during the trading day.

Change in bid/ask quotations are allowed within a minute after the conclusion of a deal on a security, however the new quotes must be reasonably linked to the security’s prevailing market price. Hence, market makers’ firm quotes should be within a 10% range of the best bid/ask prices, while for securities with a single market maker, firm quotes should be within a 20% range from the last trade. Practically, there are situations when market makers change their quotes consecutively without making any deals in between.

Brokerage houses not registered as market makers can only introduce “indicative quotes” for any securities, which can be modified or cancelled at any time during the trading session. RASDAQ imposes the following restrictions on trading prices: 1) if there are firm quotes for both bid and ask positions, the trading price should be within the best bid/ask range; 2) if there are firm quotes only for the bid (ask) position, the trading price should be within 20% range from the firm quote; 3) if there are no firm quotes, the trading price should be within 20% from the last trading price; however, a deal can be concluded at any price, if no trade has been done in that stock over the previous two weeks. A market maker is allowed to buy or sell securities from or to a client outside the best bid/ask range if the operation favours the client.

There are two methods of reaching a deal on Rasdaq, namely the direct deal process and the negotiated process. In the direct deal process, the deal is agreed before sending the offer through the system, with the other party having to accept it “as is”. In the negotiated process, the orders are sent through the system’s computerised facility to the other party, which can accept, modify or reject them within a specified period within the session. In order to enter the settlement process, all orders, which are introduced in the system, must be confirmed by the other side. Block trades (over ROL 200m or at least 5,000 shares with a nominal value of ROL 25,000 or 125,000 shares with a nominal value of ROL 1,000) can be done at virtually any price.

## **Governance and Regulatory Structure**

RASDAQ market was formed as an SRL, it has a Board and General Manager and staff. The Board is nominated by ANSVM. RASDAQ owns a computer communication system, which was supplied by USAID in 1996. Fees for terminals and transactions are collected from broker-dealers. It has 10-15 employees and annual expenses of about 11 billion ROL.

Neither RASDAQ nor the ANSVM are formally a “stock exchange” under Romanian Law, which defines a stock exchange as:

... an institution with judicial personality, assuring for the public, through the activity of the authorised intermediaries, appropriate systems, mechanisms and procedures for the continuous, orderly, transparent and equitable performance of the securities transactions and representing the official and organised market for the negotiation of the securities accepted for listing, offering to the savings invested in them moral guarantees and financial security through the continuous assessment of the liquidity of the respective securities.<sup>37</sup>

SRO status was initially given to the ANSVM on a temporary basis in 1996, to be renewed every year. In 9/1999, NSC retracted this status, due to the ANSVM’s failure to meet its obligations regarding market participants’ training, its lack of compliance with market regulations, and also the history of legal processes the ANSVM started against NSC. ANSVM has a new board of directors

and will request to receive its SRO status back again.

## **Clearing and Settlement**

Clearing and settlement is run by the Societatea Nationala de Compensare Decontare si Depozitare (SNCDD). SNCDD is a commercial company with a Board and General Manager. It is owned by a number of financial institutions, and its Board is made up of 4 banks, 4 brokers and an insurance company representative. Fees are charged for membership and transactions.

At the end of the trading day, the 3 day settlement cycle is commenced. All trades involving two brokers are reported to and settled through the SNCDD. Both money and share deliveries are netted. Usually the purchaser keeps his shares registered under the control of his broker and registered in the name of SNCDD. The SNCDD makes a charge for re-registering out in customer name at the company's registry.

## **Registries**

There are eleven "independent" registries. Initially, there was the BSE registry (for companies choosing to list on the BSE), and only one Romanian Registry of Shareholders (RRA) started in 1997 with 12 million registered shareholders in nearly 6,000 companies. By mid 1999 competing "independent" registries had been established and several hundred companies choose to move to RRA's competitors. The major competitor, Regisco, won the job of holding the registry of the SIFs some 45 million-shareholder positions in 15 million accounts. The other competitors are smaller and are regionally based. All except the BSE registry are commercial companies with separate Boards and staff. Charges are made to their corporate clients for maintaining the register of shareholders and other services. Aggregate employees and annual expenses are not known.

Each traded company has engaged a registry to manage its list of shareholders, apart from 1,500 companies, which have not done so. The registries transfer share positions on the electronic instructions of RASDAQ broker-dealers' back office terminals or on the written instructions of shareholders. Registries also provide shareholder lists to their issuer clients and may be engaged to administer dividends and other entitlements on behalf of the company. When a list of shareholders is requested by a company, that company's registry requests the SNCDD to require the broker-dealers to refer to their client records to provide the registry with the names, addresses and number of shares held by each of their clients. This provides the company with a complete list of beneficial owners.

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## Appendix 7.0 Notes

- <sup>1</sup> p. 19, Deloitte Touch Tohmatsu/USAID (2001).
- <sup>2</sup> See Baker & Johnson (1990), LSE (1999), NYSE (1999), and Pagano, Roëll & Zechner (12/2000).
- <sup>3</sup> See Foerster & Karolyi (1996) and Smith & Sofianos (1997).
- <sup>4</sup> This section will be confirmed by legal counsel.
- <sup>5</sup> Articles 1.2(j), 2.1-(1), 2.1.2., 2.4(1),(2), NSC Rule No. 6/1995.
- <sup>6</sup> Minimum 60% of the shares offered are subscribed and fully paid.
- <sup>7</sup> Article 2.4(7) NSC Rule No. 6/1995.
- <sup>8</sup> Currently all the companies traded on RASDAQ need only obey Rule No. 2/1996 regarding periodic and continuous disclosure.
- <sup>9</sup> Article 3, NSC Instruction 2/2001.
- <sup>10</sup> Securities Law 52/1994, and Article 71, NSC Instruction No. 13/1996.
- <sup>11</sup> Article 6-(2), NSC Instruction No. 13/1996.
- <sup>12</sup> Article 21, Law No. 55/1995.
- <sup>13</sup> Article 2.4-(8), NSC Rule No. 6/1995, & Articles 4. & 5., NSC Instruction No. 2/2001, Article 10, NSC Instruction 13/1996.
- <sup>14</sup> Source RASDAQ.
- <sup>15</sup> See RASDAQ website.
- <sup>16</sup> Instruction No. 2/2001.
- <sup>17</sup> See an article by M. Botta, Chairman, in Ziarul Financiar (2/11/2002), and also a news article in Romanian Business Journal.
- <sup>18</sup> It is notable in this context that 1,500 lawsuits have been launched (or are outstanding) by minority shareholders, although few of them have been successful.
- <sup>19</sup> See American Chamber of Commerce in Romania (1/2002), p. 19, Huitfeldt (10/2000), p. 5, Saverson & Strahota (7/6/2001).
- <sup>20</sup> American Chamber of Commerce in Romania (1/2001).
- <sup>21</sup> See p. 6, Saverson & Strahota (7/6/2001).
- <sup>22</sup> p. 5, Saverson & Strahota (6/7/2001).
- <sup>23</sup> See American Chamber of Commerce in Romania (1/2002).
- <sup>24</sup> Saverson & Strahota (6/7/2001) discuss other legal bases for the suspension of shares.
- <sup>25</sup> Article 3, NSC Instruction 13/1996.
- <sup>26</sup> See p. 11, Saverson & Strahota (6/7/2002).
- <sup>27</sup> American Chamber of Commerce in Romania (1/2002).
- <sup>28</sup> See American Chamber of Commerce in Romania (1/2002).
- <sup>29</sup> American Chamber of Commerce in Romania (1/2001).
- <sup>30</sup> At the OECD Conference, sponsored by USAID.
- <sup>31</sup> Article 72, Securities Law 52/1994.
- <sup>32</sup> Article 10, NSC Instruction 13/1996, regarding registering securities, issuers and other

institutions.

<sup>33</sup> Article 2.4.-(8), NSC Rule No. 6/1995 regarding the public offer.

<sup>34</sup> CNVM regulation Art. 10 Instruction 13/1996.

<sup>35</sup> Article 8, Rule No. 2/1999.

<sup>36</sup> This section is taken from Alpha Finance Romania (11/8/2000).

<sup>37</sup> Article 2.16, Securities and Stock Exchanges Act, Law No. 52 (7/7/1994).