



# FONDUL PROPRIETATEA

**S.C. FONDUL PROPRIETATEA S.A.**

**a joint stock company registered in Romania under no. J40/21901/2005 managed  
by**

**Franklin Templeton Investment Management Limited, United Kingdom  
Bucharest Branch**



**PROSPECTUS FOR LISTING**

**ON THE SPOT REGULATED MARKET MANAGED BY**

**THE BUCHAREST STOCK EXCHANGE**

**Lead Manager**

**RAIFFEISEN CAPITAL & INVESTMENT**



**Manager**

**ING BANK N.V. AMSTERDAM,  
BUCHAREST BRANCH**



**Manager**

**BRD  
GROUPE SOCIETE GENERALE**



**Legal advisor to the Consortium**

**SCHOENHERR ȘI ASOCIAȚII  
schönherr**

Prospectus Date: 2 December 2010

THE AUTHORIZATION ENDORSEMENT ON THE LISTING PROSPECTUS SHALL NOT BE CONSTRUCTED AS A GUARANTEE NOR REPRESENTS OTHER FORM OF APPRECIATION BY THE NSC WITH RESPECT TO THE OPPORTUNITY, ADVANTAGES OR DISADVANTAGES, PROFIT OR RISKS THAT MAY BE IMPLIED BY THE TRANSACTIONS TO BE ON THE BUCHAREST STOCK EXCHANGE SUBJECT TO THE AUTHORIZATION DECISION; THE AUTHORIZATION DECISION CERTIFIES ONLY THE COMPLIANCE OF THE PROSPECTUS WITH THE LEGAL REQUIREMENTS AND THE NORMS ADOPTED FOR THE APPLICATION THEREOF.

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*This document constitutes the English version of the Prospectus approved by the NSC by decision no. 1647 of 16 December 2010. This translation of the Prospectus from Romanian into English language is not an official translation and is made available for informational purposes only, prepared solely for the convenience of non-Romanian speaking shareholders of the Fund and potential investors and is not a substitute for the original Romanian version of the Prospectus. This translation is not required by any law or regulation and hence has not been reviewed or approved by the NSC. The accuracy or completeness of this translation is not guaranteed. In the event of any inconsistencies between this English translations and the Romanian version, the Romanian version shall prevail.*

## **NOTE TO INVESTORS**

This Prospectus (the "**Prospectus**") has been prepared in connection with the admission to trading on the spot regulated market managed by the Bucharest Stock Exchange of the shares issued by S.C. Fondul Proprietatea S.A. (the "**Fund**"), a joint stock company, registered with the Romanian Securities Commission as a closed-end investment company, having its registered seat in Bucharest, Buzesti str., no. 78-80, 7<sup>th</sup> floor, district 1, registered with the Bucharest Trade Registry under no. J40/21901/2005, sole registration code 18253260. Reproduction or distribution of this Prospectus or use of the information contained herein for any purpose other than considering an investment in shares issued by the Fund is prohibited.

Based on this Prospectus approved by the Romanian Securities Commission, the Fund will apply to the Bucharest Stock Exchange for the admission to trading of the shares issued by the Fund on the regulated market of the Bucharest Stock Exchange.

This Prospectus has been drafted by the Consortium and the Fund based on the information provided by the Fund or based on other sources, as indicated in the Prospectus, in accordance with the applicable legislation in force. The Fund, the Fund Manager, the Consortium and the financial auditors are responsible, depending on the contribution of each such party to the Prospectus, for the accuracy, correctness and completeness of the information included in the Prospectus. In contributing to the drafting of this Prospectus, the members of the Consortium and their legal advisor have relied in good faith on the accuracy, correctness and completeness of the information provided by the Fund to the members of the Consortium.

Other than explicitly stated herein, the members of the Consortium are not entitled to make and have not made any statements or warranties, whether express or implied, regarding the accuracy, correctness or completeness of the information included in this Prospectus and nothing contained in this Prospectus is, or shall be relied upon as, a promise or representation, whether as to the past or the future.

The Prospectus for the admission to trading does not constitute an offer or an invitation from the Fund, the Fund Manager, the members of the Consortium, or any of the Fund's shareholders to invest in the Fund's shares. The admission to trading on the spot regulated market of the Bucha-

rest Stock Exchange constitutes an administrative listing not carried out through a sale public offering.

This Prospectus was prepared with the intention to create a basis for assessment by potential investors of the opportunity to invest in shares issued by the Fund and should not be construed as a recommendation by the Fund, the Fund Manager, or by members of the Consortium to acquire shares in the Fund. Each prospective investor should assess the relevance of the information included in this Prospectus and the decision to invest in the Fund's shares should be based exclusively on its own independent analysis and investigations of the information set forth in this Prospectus.

When making an investment decision, investors should rely on their own analysis of the Fund, on the conditions existing in Romania, including the merits and inherent risks involved (see Chapter "Risk Factors"). Prospective investors should be aware that an investment in the Fund's shares involves a certain degree of risk and that, if certain risks described in this Prospectus occur, investors may find their investment adversely affected. Accordingly, an investment in the Fund's shares is suitable for the investors who are knowledgeable in investment matters or who have obtained suitable independent financial advice.

Neither the Fund, the Fund Manager, nor any of the members of the Consortium make any representations or recommendations to any prospective investor in the Fund's shares regarding the legality of an investment by such prospective investor under applicable securities, investments or similar laws or regarding the profitability of the investments to be made by the prospective investors in the Fund's shares. Each prospective investor should consult its own advisors as to legal, tax, business, financial or related aspects of the investment in the Fund's shares and ensure that it complies with all applicable regulations; the Fund, the Fund Manager and the members of the Consortium do not bear any liability in this respect.

No person is or has been authorised to give any information or to make any representation not contained in this Prospectus and, if given or made, any such information or representation should not be relied upon as having been authorised by the Fund, the Fund Manager or by the members of the Consortium. Information on the Fund's website, any website referred to in this Prospectus or any website directly or indirectly linked to the Fund's or any other website referred to in this Prospectus is not, unless explicitly stated herein, incorporated by reference into this Prospectus and any decision to purchase the shares issued by the Fund should not be made in reliance on such information.

The members of the Consortium are acting exclusively for the Fund in connection with the listing process and, to the extent permitted by the law, will not be liable, legally or contractually, towards any other persons. No person, other than the Fund, (i) will be regarded as a client of any of the members of the Consortium in connection with the listing of the Fund's shares, (ii) shall benefit, by extension, of any right or protection granted by the law or contract to the respective client of any member of the Consortium, and (iii) shall be entitled to require any of the members of the Consortium to provide advice in relation to the listing of the Fund's shares or any transaction or arrangement referred to in this Prospectus.

Other than expressly stated herein otherwise, all representations herein given by the Sole Director or the Fund Manager, resulting from this Prospectus or any other listing document, will be given on behalf of the Fund and not by the Fund Manager/Sole Director personally, it being specified that no advice or contractual relationship will exist between the Fund Manager/Sole Director and third parties, as a result of this Prospectus.

This Prospectus may not be used for, or in connection with, and does not represent an offering or an invitation made by the Fund or its Fund Manager or on behalf of the Fund or by any members of the Consortium to buy shares in the Fund in the jurisdictions where such offering or invitation is not authorised or is unlawful. The distribution of this Prospectus in certain jurisdictions may, in certain circumstances, be restricted by law. The persons who come into possession of the Prospectus are required by the Fund, the Fund Manager and the members of the Consortium to inform themselves about and to observe such restrictions and limitations.

The shares issued by the Fund have not been and will not be registered under the US Securities Act of 1933, as amended or with any securities authority of any state or territory within the jurisdiction of the United States of America. The shares may not be offered, sold or delivered in the United States of America or to American citizens or nationals.

The information contained in this Prospectus has been provided by the Fund and other sources identified herein. The choice of the sources and the selection of the information have been agreed jointly among the Fund and the Consortium.

After having checked this Prospectus, the Fund acting through its Sole Director accepts responsibility for the information contained in this Prospectus and confirms that, according to the best of its knowledge (after taking reasonable care to ensure that such is the case based on the information available to the Sole Director in accordance with the Handover Protocol executed between the Fund and the Fund Manager on 29 September 2010 and the information arising to its attention after the signing of the Handover Protocol), this Prospectus contains all material information regarding the Fund, its activity and shares issued by it, that such information is real and accurate in all material respect and that forecasts and intentions included herein are expressed in good faith and there is no other fact or aspect of which the Fund acting through its Sole Director is aware of that was omitted from this Prospectus and (i) which would have been necessary so as to allow the investors and their advisors to make a fair assessment of all the assets and liabilities, financial condition, profit or loss and perspectives of the Fund, as well as the rights related to the Fund's shares; or (ii) which, in the context of the listing, would have been or would be important and necessary to be included in this Prospectus.

The Consortium and its legal advisor have carried out a legal, financial and operational due diligence exercise within the limited parameters set out in their appointment in order to ensure that, in accordance with the information and documents made available by the Fund, the information included in the Prospectus is accurate and there are no omissions which would materially affect the content of the Prospectus.

Every significant new factor, material incorrectness or inaccuracy relating to the information included in this Prospectus which is capable of affecting the assessment of a prospective invest-

ment in the Fund's shares and that arises or is noted after the approval of the Prospectus by the Romanian Securities Commission and before the commencement of trading in the Fund's shares will be included and published in a supplement to this Prospectus, after such supplement having been approved by the Romanian Securities Commission, in accordance with the provisions of the Capital Markets Law.

This document has been prepared in accordance with the Commission Regulation (EC) no. 809/2004 of 29 April 2004, as amended, and conforms to the requirements under the Capital Markets Law, and NSC Regulation 1. This Prospectus has been approved as a prospectus by the Romanian Securities Commission by Decision No. 1647/16.12.2010 and has been filed with the Bucharest Stock Exchange, as a listing prospectus, in accordance with the Bucharest Stock Exchange Rulebook.

The authorization endorsement on this Prospectus shall not be construed as a guarantee nor represents other form of appreciation by the Romanian Securities Commission with respect to the opportunity, advantages or disadvantages, profit or risks that may be implied by the transactions to be concluded as a result of admission to trading of the shares issued by the Fund subject to the authorization decision. The authorization decision certifies only the compliance of the prospectus with the legal requirements and the norms adopted for the application thereof.

This document is available at least at the Fund's headquarters; the other means by which this Prospectus shall be made available to the investors are set out in Chapter "Documents on display".

The information contained in this Prospectus is correct as of the date on which this Prospectus has been drawn up, as mentioned on the cover, unless otherwise provided expressly in this Prospectus. The Fund's activity, financial condition, financial results obtained and the information included in the Prospectus may subsequently change. Other than explicitly stated herein, the Fund, the Fund Manager and the members of the Consortium undertake no obligation to update or revise the information contained in this Prospectus.



## FORWARD-LOOKING STATEMENTS

I.1

This Prospectus contains statements, other than those related to historical facts or occurrences, pertaining to the Fund's perspectives. These forward-looking statements mainly apply to the references in this Prospectus of the Fund's plans and expectations, its objectives and strategies, growth and profitability, as well as the economic environment in which the Fund carries out its business.

In certain cases, forward-looking statements may be identified in the Prospectus by the use of forward-looking terminology, including words such as: "believes", "considers", "expects", "aims", "targets", "anticipates", "estimates", "appreciates", "intends", "has in mind", "forecasts", "may", "will", "plans", or in which case, their negative or similar expressions or by discussions regarding future strategies, plans, objectives, intentions or events. The forward-looking statements contained in this Prospectus may include certain "targets", which reflect goals that the Fund is aiming to achieve and do not constitute forecasts.

Forward-looking statements are based on current assessment made by the Fund using the best information known to it. Although the Fund believes that the expectations reflected in the forward-looking statements are reasonable, the Fund can give no assurance that they will materialise or prove to be correct. By their nature, this type of forward-looking statements may imply a series of risks, either predictable or unpredictable, a degree of uncertainty, and are dependent on future events and factors, the occurrence or non-occurrence of which can result in the actual earnings, financial conditions and profitability of the Fund differing materially from what is expressed or implied in these statements containing predictions, perspectives, projections. Such factors include, without being limited to:

- impact of certain laws and regulations and the interpretation, application or enforcement thereof;
- changes in the Fund's area of business and changes in general economic, political or legal environment;
- changes in the development of the industry sectors in which the Fund expects to invest, including any delay or discontinuation of the ongoing reforms in certain sectors (e.g. energy sector);
- liquidity of the Fund's investments, or lack thereof;
- limited pool of prospective portfolio companies;
- Fund's organisational, ownership and investment structure;
- Fund's ability to successfully implement any of its strategies;
- changes in the market expectations of the Fund;

- inflation, fluctuations of interest rates and exchange rates;
- factors not known by the Fund at this time.

Some of the factors mentioned above are discussed in more details below under the Chapters 3, 4 and 5 entitled "Risk Factors", "Description of the Fund" and "Presentation of Separate Financial Statements".

These forward-looking statements speak only as of the date of this Prospectus. The Fund undertakes no obligation to update or revise the forward-looking statements contained in the Prospectus so as to include possible changes in the Fund's expectations or in the conditions or circumstances on which such statements have been based. Considering the above, the investors are cautioned not to place undue reliance on any of the forward-looking statements herein.

## RESPONSIBLE PERSONS

Each of the:

Fund

- I.1 S.C. Fondul Proprietatea S.A., a closed end investment company, having its registered seat in Romania, Bucharest, Buzesti str., no. 78-80, 7th floor, district 1, registered with the Bucharest Trade Registry under no. J40/21901/2005, identified with the sole registration code 18253260, registered with the NSC registry as closed-end investment company based on decision no. 34/18.08.2010, legally represented by Franklin Templeton Investment Management Limited United Kingdom - Bucharest Branch, as Sole Director, represented by Grzegorz Konieczny and Adrian Cighi, as legal representatives.

and

Fund Manager

Franklin Templeton Investment Management Limited, a limited company incorporated in the United Kingdom of Great Britain, which in Romania acts primarily through its Bucharest branch with its registered seat in Bucharest, Buzesti str., no. 78-80, 7<sup>th</sup> - 8<sup>th</sup> floor, district 1, registered with the Bucharest Trade Registry under no. J40/8587/2009, having sole registration code 25851096, acting as the investment management company for the Fund, authorised by the NSC under decision no. 613/11.05.2010

and

members of the Consortium

Raiffeisen Capital & Investment S.A., an investment firm authorised by the NSC by decision no. 1990 of 30.06.2005, having its registered seat in Romania, Bucharest, Charles de Gaulle Square no. 15, district 1, registered with the Bucharest Trade Registry under no. J40/6102/1998, identified with the sole registration code 10715860, registered with the NSC registry under no. PJR01SSIF/40023, legally represented by Dana-Mirela Ionescu, as President and General Director and by Laurențiu Ciocirlan, as Head of Investment Banking

and

ING Bank NV Amsterdam Bucharest Branch, a credit institution, authorised by the NSC by decision no. 1832 of 04.10.2007, having its registered seat in Romania, Bucharest, Sos. Kiseleff, no. 11-13, district 1, registered with the Bucharest Trade Registry under no. J40/16100/1994, identified with the sole identification code 6151100, registered with the NSC registry under no. PJM01SICM/400001, legally represented by Mihaela Bitu, as Director, Head of Commercial Banking and by Bogdan Boteanu, as Director, Head of Mid Corporate Banking

and

BRD-Groupe Societe Generale S.A., a credit institution, authorised by the NSC by decision no. 255 of 06.08.2008, having its registered seat in Romania, Bucharest, Ion Mihalache blvd., no. 1-7, district 1, registered with the Bucharest Trade Registry under no. J40/608/1991, identified with the sole registration code 361579, registered with the NSC registry under no. PJROIINCR/400008, legally represented by Claudiu Alexandru Cercel Duca , as Deputy General Director

and

Legal advisor of the Consortium

Schoenherr si Asociatii SCA, attorneys at law civil partnership, registered with the Bucharest Bar under decision no. 272 of 24 January 2005, represented by Narcisa Oprea

is responsible for the information originated by it and given in this Prospectus and declares that, having taken all reasonable care to ensure that such is the case, such information contained in this Prospectus is, to the best of its knowledge, in accordance with the facts and does not omit anything likely to affect the import of such information.

# 1 DEFINITIONS AND CONSTRUCTION

## 1.1 Definitions

The following definitions apply throughout this document unless the context requires otherwise:

<b>ANRP</b>	means the Romanian Authority for Property Restitution ( <i>Autoritatea Nationala pentru Restituirea Proprietatilor</i> );
<b>AoAs</b>	means the articles of association of S.C. Fondul Proprietatea S.A., as approved in the general shareholders meeting of 29 November 2010;
<b>Auditors</b>	means the auditors appointed from time to time by S.C. Fondul Proprietatea S.A. for the audit of the financial statements thereof and other related services;
<b>AVAS</b>	means the Romanian Authority for the State Assets Recovery ( <i>Autoritatea pentru Valorificarea Activelor Statului</i> );
<b>Board of Nominees</b>	means the supervisory body created by S.C. Fondul Proprietatea S.A., in accordance with its articles of association and Government Decision no. 1514/2008;
<b>BSE</b>	means the Bucharest Stock Exchange;
<b>BSE Rulebook</b>	means the Rulebook of the Bucharest Stock Exchange – market operator, approved by NSC;
<b>Business Day</b>	means any calendar day, save for Saturdays, Sundays and Romanian legal holidays;
<b>Capital Markets Law</b>	means Law no. 297/2004 regarding capital markets, with the subsequent amendments;
<b>Central Depository</b>	means S.C. Depozitarul Central S.A., the institution providing depository, registering, clearing and settlement services in connection with the transactions in securities, as well as other operations connected therewith, as defined in the Capital Markets Law;
<b>Companies' Law</b>	means Law no. 31/1990 regarding trade companies, republished, with the subsequent amendments;
<b>Consortium</b>	means the syndicate created by Raiffeisen Capital & Investment S.A., ING Bank NV Amsterdam Bucharest Branch and BRD-Groupe Societe Generale S.A., for the purpose of providing investment services to the Fund in relation to admission to trading on BSE of the shares is-

sued by S.C. Fondul Proprietatea S.A.;

<b>Contributing Entities</b>	means all public institutions/entities who have contributed their holding in certain companies, as referred to in Law 247, in kind to the share capital of the Fund;
<b>Deloitte</b>	means Deloitte Audit SRL, the company engaged by the Fund for auditing the Fund's financial statements prepared in accordance with IFRS for the years 2007, 2008 and 2009, in accordance with the international auditing standards. Deloitte Audit S.R.L. is a company organised and functioning in accordance with the Romanian law, with headquarters in Romania, Bucharest, 4-8 Soseaua Nicolae Titulescu, 3 <sup>rd</sup> floor, district 1, sole registration number 7756924, registered with the Bucharest Trade Registry under no. J40/6775/1995;
<b>Depository</b>	means the credit institution, licensed by the NBR or by the relevant authority of a Member State, authorised by the NSC to carry out depositary services, entrusted with the safe-keeping of assets of an undertaking for collective investments, in accordance with the NSC Regulation 15, which at the date of this Prospectus is S.C. Bancpost S.A., a Romanian credit institution registered with the Bucharest Trade Registry under no. J40/9052/1991, authorised as depositary by NSC by decision no. 3755/31.10.2003;
<b>EGM</b>	means any extraordinary general shareholders' meeting of the Fund;
<b>Entitled Person</b>	means a person entitled to receive compensation for the real estate assets which have been abusively confiscated by the Romanian state during the Communist regime;
<b>Euro or EUR</b>	means the single currency unit of any Member State of the European Union that adopts or has adopted the Euro as its lawful currency;
<b>Executive Board</b>	means the former corporate body of the Fund, having management duties, as regulated under the Companies' Law and the Fund's articles of association, which has been operational prior to the Sole Director being appointed as the sole director of the Fund, regardless of the composition thereof at any time;
<b>Extended Portfolio</b>	means the portfolio of assets, cash and investments acquired by the Fund from time to time comprising primarily direct stakes in listed and unlisted Romanian companies and all income derived therefrom;
<b>Fund</b>	means S.C. Fondul Proprietatea S.A., a joint stock company, registered with the NSC as a closed-end investment company, having its registered seat in Romania, Bucharest, Buzesti street, no. 78-80, 7 <sup>th</sup> floor, district 1, registered with the Bucharest Trade Registry under no.

J40/21901/2005, sole registration code 18253260, whose shares shall be admitted to trading on the regulated market managed by the BSE;

<b>Fund Manager</b>	means Franklin Templeton Investment Management Limited, United Kingdom, a limited company incorporated in the United Kingdom of Great Britain, which in Romania acts primarily through its Bucharest branch with its registered seat in Romania, Bucharest, Buzesti str., no. 78-80, 7 <sup>th</sup> - 8 <sup>th</sup> floor, district 1, registered with the Bucharest Trade Registry under no. J40/8587/2009, having sole registration code 25851096, acting as the investment management company for the Fund, authorised by the NSC under decision no. 613/11.05.2010;
<b>Handover Protocol</b>	means the Portfolio handover protocol executed between the Fund and the Fund Manager on 29 September 2010, in accordance with the provisions of the Investment Management Agreement;
<b>IAS</b>	means International Accounting Standards, as they are applicable in the European Union;
<b>IFRS</b>	means International Financial Reporting Standards, as they are applicable in the European Union;
<b>Investment Management Agreement</b>	means the agreement concluded between the Fund and the Fund Manager on the 25 February 2010;
<b>Investment Services Contract</b>	means the contract for the provision of investment services concluded between the Fund and the Consortium on 1 October 2010, for the purpose of admission of the shares issued by the Fund on the regulated market managed by the BSE;
<b>Lead Manager</b>	means S.C. Raiffeisen Capital & Investment S.A., an investment firm authorised by the NSC by decision no. 1990 of 30.06.2005, having its registered seat in Romania, Bucharest, Charles de Gaulle Square no. 15, district 1, registered with the Bucharest Trade Registry under no. J40/6102/1998, identified with the sole registration code 10715860, registered with the NSC registry under no. PJR01SSIF/40023, legally represented by Dana-Mirela Ionescu, as President and General Director and by Laurențiu Ciocirlan, as Head of Investment Banking;
<b>Managers</b>	means S.C. ING Bank NV Amsterdam Bucharest Branch, a credit institution, authorised by the NSC by decision no. 1832 of 04.10.2007, having its registered seat in Romania, Bucharest, Sos. Kiseleff, no. 11-13, district 1, registered with the Bucharest Trade Registry under no. J40/16100/1994, identified with the sole identification code 6151100, registered with the NSC registry under no. PJM01SICM/400001, legally represented by Bogdan Boteanu, as Director, Head of Mid Cor-

porate Banking and by Mihaela Bitu, as Director, Head of Commercial Banking or S.C. BRD-Groupe Societe Generale S.A., a credit institution, authorised by the NSC by decision no. 255 of 06.08.2008, having its registered seat in Romania, Bucharest, Ion Mihalache blvd., no. 1-7, district 1, registered with the Bucharest Trade Registry under no. J40/608/1991, identified with the sole registration code 361579, registered with the NSC registry under no. PJRO1INCR/400008, legally represented by Claudiu Alexandru Duca Cercel, as Deputy General Director;

<b>NBR</b>	means the National Bank of Romania;
<b>NSC</b>	means the Romanian Securities Commission;
<b>NSC NAV</b>	means the Fund's net asset value calculated in accordance with the rules provided for within the NSC Regulation 4, NSC Regulation 15 and in other regulations issued by the NSC;
<b>NSC NAV per share</b>	means NSC NAV divided by the number of shares issued by the Fund as of the date indicated;
<b>NSC Regulation 1</b>	means NSC Regulation no. 1/2006 regarding issuers and operations in securities, as subsequently amended;
<b>NSC Regulation 4</b>	means NSC Regulation no. 4/2010 regarding the registration with NSC and the functioning of the Fund, and the trading of the Fund's shares, as subsequently amended;
<b>NSC Regulation 15</b>	means NSC Regulation no. 15/2004 regarding the authorization and operation of the investment management companies, of the undertakings for collective investments and of the depositories, as subsequently amended;
<b>Law 247</b>	means Title VII of Law no. 247/2005 regarding the reforms in the sectors of justice and property as well as certain related measures, with the subsequent amendments;
<b>Ministry of Economy</b>	means the Romanian Ministry of Economy, Commerce and Business Environment, as it has been renamed from time to time;
<b>Ministry of Public Finance</b>	means the Romanian Ministry of Public Finance, as it has been renamed from time to time;
<b>Official Gazette</b>	means the Official Gazette of Romania ( <i>Monitorul Oficial al Romaniei</i> );
<b>OGM</b>	means any ordinary general shareholders' meeting of the Fund;



<b>Portfolio</b>	means the set of all equity stakes held by the Fund from time to time in listed and unlisted Romanian companies;
<b>Portfolio Companies</b>	means all companies which are included from time to time in the Fund's portfolio;
<b>Prospectus</b>	means this document, including all annexes thereto;
<b>RAS</b>	means Romanian Accounting Standards, approved by NSC Order 75/2005 for approving the accounting regulations in compliance with the EEC Directive IV applicable to entities authorised, regulated and supervised by NSC;
<b>Relevant Market</b>	means the spot regulated market, as defined in art. 125 of the Capital Markets Law, managed by the BSE, on which the shares issued by the Fund shall be admitted to trading;
<b>RON or Leu</b>	means Romanian Leu, the legal currency of Romania;
<b>Sole Director</b>	means Franklin Templeton Investment Management Limited, United Kingdom, acting through its Bucharest branch with its registered seat in Romania, Bucharest, Buzesti street, no. 78-80, 7 <sup>th</sup> - 8 <sup>th</sup> floor, district 1, registered with the Bucharest Trade Registry under no. J40/8587/2009, having sole registration code 25851096, acting as the sole director for the Fund;
<b>Shares</b>	means any and all shares issued by the Fund at any time in a dematerialized form and registered with the Central Depository;
<b>Supervisory Board</b>	means the Fund's former corporate body having supervisory duties, as regulated under the Companies' Law, Law 247 and the Fund's articles of association, which has been operational prior to the Sole Director being appointed as the sole director of the Fund, regardless of the composition thereof at any time.

## 1.2 Construction

Unless a contrary indication appears, a reference in this Prospectus to:

- the "**Fund**", the "**Fund Manager**", the "**Consortium**", any of the "**Lead Manager**" or "**Managers**", the "**Auditors**" or any other person shall be construed so as to include its successors in title, permitted assignees and permitted transferees;
- a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality);

- a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- a provision of law is a reference to that provision as amended or re-enacted;
- a time of day is a reference to Bucharest time; and
- Chapter, Section, and Annex headings are for ease of reference only.

## **2 SUMMARY OF THE PROSPECTUS**

*The following summary is intended to serve only as an introduction to this Prospectus and it does not purport to present complete information with respect to the Fund and its activities. Furthermore, this summary is qualified in its entirety by, and is subject to, the more detailed information and financial statements contained elsewhere in this Prospectus. Certain terms used in this summary are defined under other Chapters included in this Prospectus.*

*Prospective investors should read the entire Prospectus carefully and base any decision to invest in the Fund's shares only on an examination of this Prospectus as a whole.*

*Where a claim relating to the information contained in this document is brought before a court, a plaintiff investor might, under the local jurisdiction, have to bear the costs of translating the documents before the legal proceedings are initiated.*

*No person shall be held liable, based only on the information contained in this summary or on the translation thereof, unless the summary is misleading, inaccurate, inconsistent or contradictory to the other parts of this Prospectus, in which case the responsibility shall lie with the persons responsible for preparing or translating this summary.*

### **2.1 The Fund**

The Fund is a joint stock company organised and operating as a closed-end investment company in accordance with the Romanian law, registered with and supervised by the NSC. The Fund is incorporated for an unlimited period of time.

The Fund's original articles of association were enacted by Government Decision no. 1481/2005, setting out that the Fund is an undertaking for collective investments organised as a closed end investment company. Nevertheless, the Fund has been officially registered as an investment company only in 2010, by NSC Decision no. 34/18.08.2010. Up to 29 September 2010, the Fund has been managed under a two tier management system, while afterwards it became managed under an one tier system.

The business object and purpose of the Fund is portfolio management. Apart from the main purpose referred to above, the Fund has been created for the compensation of the persons whose real estate assets have been abusively confiscated by the Romanian state during the Communist era. That purpose is still outstanding and shall be fully accomplished once all Entitled Persons opting for the conversion of their titles into Shares shall receive the respective Shares.

On the date of the Prospectus, the share capital of the Fund stands at 13,778,392,208 RON and is fully paid up. It is divided into 13,778,392,208 ordinary shares issued in a dematerialized form registered with the Central Depository, having a nominal value of 1 RON/share. The share capital of the Fund consists mainly of in kind contributions of the Romanian state, compiling a number of equity participations transferred by the Contributing Entities (e.g. AVAS, the Ministry of Economy, Ministry of Public Finance, the Ministry of Transportation) in a number of Romanian listed and unlisted companies.

The Fund is managed in a one tier management system by Franklin Templeton Investment Management Ltd. United Kingdom Bucharest Branch, acting as the Sole Director of the Fund with Grzegorz Konieczny and Adrian Cighi, acting as the legal representatives.

The members of the Consortium provide the investment services for the benefit of the Fund in relation to the listing of the Shares on the Relevant Market, and Schoenherr si Asociatii SCA is acting as the legal advisor to the Consortium.

The historical annual financial information included in this Prospectus have been audited by S.C. Deloitte Audit S.R.L..

The AoAs have been approved by the EGM of 29 November 2010.

## **2.2 The Fund Manager and the Sole Director**

The Portfolio is managed by Franklin Templeton Investment Management Ltd. (United Kingdom), a fully-owned subsidiary of Franklin Templeton Investments, acting primarily through its Bucharest Branch. The Sole Director has been appointed by EGM dated 6 September 2010. The Fund Manager takes all the investment decisions on behalf of the Fund. Furthermore, the Fund Manager is responsible for calculating the NSC NAV and NSC NAV per Share, in accordance with the applicable law. As of 31 October 2010 (the latest practicable date prior to the publication of this Prospectus), the Fund had an NSC NAV of RON 13,491,897,941.49 and a NSC NAV per Share of RON 0.9792.

The Fund Manager has an extensive global experience in managing the operations of similar closed-end investment funds in many other markets, both developed and emerging.

The activity of the Fund Manager and the Sole Director is supervised by the Board of Nominees, composed of five persons appointed by the OGM. The Fund Manager has a local team consisting of investment analysts and a range of administrative service staff covering accounting, NSC NAV calculation, investors' relations, legal and regulatory compliance matters. Each department is supported by the global resources of the Franklin Templeton Investments group. In particular, the investment team has support from more than 40 investment professionals in the Templeton Emerging Markets Group.

The Fund Manager is authorised and regulated in the United Kingdom by the Financial Services Authority, and in Romania in connection with the regulated activities of the Fund by NSC. It is also registered as an investment advisor with the United States' Securities and Exchange Commission.

## **2.3 Major shareholders and related party transactions**

As at 30 November 2010, the holding of the Romanian state, represented by the Ministry of Public Finance, in the Fund's share capital is 41.49703%. The voting rights attached to the Shares follow the principle "one share equals one vote" only for the stakes of up to 1% of the Shares. Save for the holdings of the Romanian State in the share capital of the Fund, certain restrictions to the voting rights apply for stakes over 1% of the Shares. These restrictions can only be lifted once the stake held by the Romanian state in the share capital of the Fund decreases below 33% of the Fund's share capital. Based on the voting rights restrictions, as referred to above

and described in more detail in this Prospectus, the Romanian state currently exercises direct control over the Fund. Depending on the rate of indemnification of the Entitled Persons by allocation of Shares, the Romanian state's participation in the share capital of the Fund shall decrease up to a point when it shall no longer hold the control of the Fund.

Except as set out in the Prospectus, as of 1 January 2007 and up to the date of this Prospectus, the Fund has not entered into any related party transactions.

## **2.4 Details of the admission of the Shares to trading**

Pursuant to Law no. 142/2010, the Fund is required to apply for admission to trading on the Relevant Market within 90 business days as of the date of registration thereof with the NSC as other undertaking for collective investment (i.e. 18 August 2010). Since no public offering shall be carried out with respect to the Shares, the admission to trading thereof on the Relevant Market shall be of purely administrative nature.

The Shares shall be admitted to trading on the 1<sup>st</sup> tier (*Shares*) of the Relevant Market under ISIN number ROFPTAACNOR5 and having attached the market symbol FP.

Pursuant to the Romanian capital markets legal framework, the process of admission to trading of the shares issued by a company consists of two stages: (i) approval by the NSC of a listing prospectus, accompanied by a set of documents, (ii) application and approval of the admission to trading thereof by the BSE as market operator.

## **2.5 Fund's investment objectives and policies**

The Fund is allowed to invest in transferrable securities, either currently traded or newly issued, money market instruments, units of UCITs and other UCIs, financial derivative instruments and bank deposits, while observing the principles of asset diversification and efficient relationship with the Portfolio Companies.

Fund Manager's philosophy is based on strict adherence to the principles of value investing supported by first-hand research and a long-term time horizon. Its objectives are long-term capital appreciation of the Fund's portfolio assets via investments mainly in Romanian equity or equity-linked securities, as well as short term objectives such as (i) disposal of certain portfolio assets based on a proper due diligence and (ii) aggressive pursuit for the preservation and/or recovery of assets which have already been or are in the process of being disposed of in circumstances where there is suspicion that the disposals were not or are not fair to the Fund as minority shareholder.

One of the most challenging objectives of the Fund Manager is to gradually move the structure of the Fund's portfolio towards 100% listed securities; accordingly, the Fund Manager will encourage unlisted companies within the Portfolio to improve corporate governance standards with a view to eventually listing. Furthermore, the Fund Manager targets the diversification of the Fund's portfolio across the most attractive sectors and companies, at the same time aiming to reduce the current number of Portfolio Companies, by means of sale of existing holdings through public offerings or by direct disposal transactions with strategic investors or controlling shareholders.

The approach of the Fund Manager includes the detailed analysis of each Portfolio Company and any new target investment, strict criteria for target selection, active supervision and regular contacts with Portfolio Companies, close cooperation with co-investors, facilitating the access to finance for Portfolio Companies, supporting the development of synergies among Portfolio Companies, as well as strong sell discipline based on the valuation of Portfolio Companies.

## 2.6 The Portfolio

As of 31 October 2010, the Fund's Portfolio comprises a total of 54 unlisted Portfolio Companies and 29 Portfolio Companies listed on the BSE, either on the regulated market managed by the BSE or on the Rasdaq market section. The table below provides a summary of the Portfolio from a liquidity perspective: companies listed and traded for the past 90 days, listed but not traded during the past 90 days and unlisted. The table also provides the share of each category in Fund's NSC NAV.

### *Portfolio Structure: listed vs .unlisted Portfolio Companies, as of 31 October 2010*

PORTFOLIO COMPANIES	No of companies	NSC NAV -Lei-	% in Portfolio	% in NSC NAV	Valuation method
Unlisted shares	54	7,413,167,235	60.78%	54.95%	Based on the value of Portfolio Company's equity, as reflected in the most recent financial statements;
Listed shares, traded for the past 90 days	16	4,756,704,861	39.00%	35.26%	Based on weighted average price calculated for the past 90 days
Listed shares, not traded for the past 90 days	13	26,137,414	0.21%	0.19%	Based on the value of Portfolio Company's equity, as reflected in the most recent financial statements
<b>Total Financial Assets</b>	<b>83</b>	<b>12,196,009,511</b>	<b>100.00%</b>	<b>90.40%</b>	
<b>NSC NAV</b>		<b>13,491,897,941</b>		<b>100.00%</b>	

Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

Furthermore the following table comprises the top 10 holdings of the Fund:

### *Top ten Portfolio Companies*

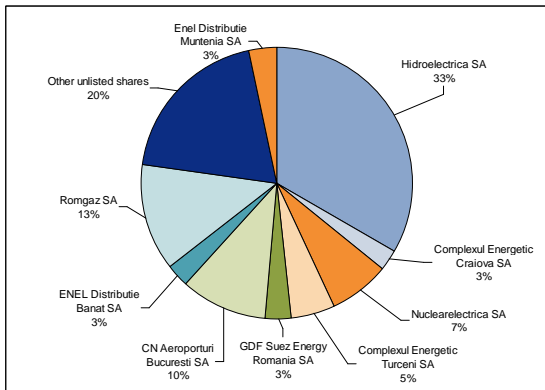
No.	Portfolio Companies	NSC NAV -Lei-	% in total NSC NAV	Category of financial asset
1	OMV Petrom SA	3,800,081,030	28.17%	Listed shares, traded for the past 90 days
2	Hidroelectrica SA	2,464,767,360	18.27%	Unlisted shares
3	Romgaz SA	934,082,214	6.92%	Unlisted shares
4	CN Aeroporturi Bucuresti SA	754,209,542	5.59%	Unlisted shares
5	Nuclearelectrica SA	528,798,011	3.92%	Unlisted shares
6	Trangaz SA	438,827,466	3.25%	Listed shares, traded for the past 90 days
7	Complexul Energetic Turceni SA	397,456,839	2.95%	Unlisted shares
8	Enel Distributie Muntenia SA	243,467,578	1.80%	Unlisted shares
9	GDF Suez Energy Romania SA	226,956,523	1.68%	Unlisted shares
10	Enel Distributie Banat SA	208,481,131	1.55%	Unlisted shares
	Other Prortfolio Companies	2,198,881,816	16.30%	
	<b>Total financial assets</b>	<b>12,196,009,511</b>	<b>90.40%</b>	
	<b>NSC NAV</b>	<b>13,491,897,941</b>	<b>100.00%</b>	

Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

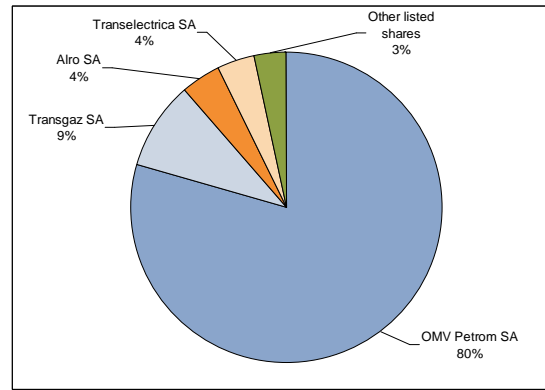
The most significant holdings in unlisted Portfolio Companies are: a 19.94% stake in Hidroelectrica SA, the largest Romanian energy producer (RON 2,464.77 mn., 18.27% of NSC NAV), a 14.99% stake in the natural gas producer Romgaz SA (RON 934.08 mn., 6.92% of NSC NAV), a 20.00% stake in the Bucharest airports operator: CN Aeroporturi SA (RON 754.21 mn., 5.59% of NSC NAV) and a 9.72% stake in Nuclearelectrica SA, the operator of Cernavoda nuclear plant Units 1 and 2 (RON 528.80 mn., 3.92% of NSC NAV).

The most significant holdings in listed Portfolio Companies are: a 20.10% stake in the largest South East Europe oil company OMV Petrom SA (RON 3,800.08 mn., 28.17% of NSC NAV), a 14.98% stake in the National gas system operator, Transgaz SA (RON 438.83 mn., 3.25% of NSC NAV), a 9.92% stake in the largest aluminium smelter in Central and Eastern Europe (excluding CIS), Alro SA (RON 201.60 mn., 1.49% of NSC NAV) and the 13.49% stake in the electricity transmission company, Transelectrica (RON 181.36 mn, 1.34% of NSC NAV).

*The Fund's Portfolio structure, unlisted shares:*



*The Fund's Portfolio structure, listed shares:*

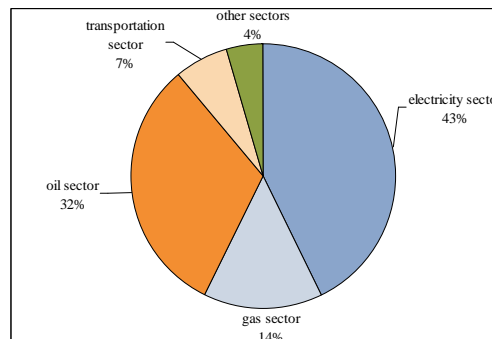


Source: Reports prepared by the Fund's Manager as of 31 October 2010 (un-audited)

In terms of sector exposure, Fund's holdings are heavily concentrated in the energy sector (electricity, gas and oil), which make approximately 80% of NSC NAV. Other important holdings are in transportation infrastructure (airports and ports), postal services and many others (chemicals, metallurgy, machinery, real estate, aluminium smelter, agriculture etc).

*Portfolio Structure: breakdown on activity sector, as of 31 October 2010*

PORTFOLIO COMPANIES	No of companies	NSC NAV -Lei-	% in NSC NAV
electricity sector	19	5,214,954,676	38.65%
gas sector	5	1,755,021,638	13.01%
oil sector	4	3,862,061,563	28.63%
transportation sector	7	820,935,042	6.08%
other sectors	48	543,036,592	4.02%
<b>Total Financial Assets</b>	<b>83</b>	<b>12,196,009,511</b>	<b>90.40%</b>
<b>NSC NAV</b>		<b>13,491,897,941</b>	<b>100.00%</b>



Source: Reports prepared by the Fund's Manager as of 31 October 2010 (un-audited)

## 2.7 Summary of Risk Factors

Prior to investing in Shares, prospective investors should consider the following risks, which could have a material impact on Fund's business, results of operations, financial condition or prospects or could impact the NSC NAV per share, the trading price or liquidity of the Shares or the Fund's ability to achieve its investment objectives.

Risks related to the Romanian business environment

- Romania is still an emerging market;
- Romania might have difficulties related to the post-accession process to the European Union;
- The amendments and ambiguities of the Romanian legal and judicial system may impact on the Fund's activity;
- Risks related to the amendment of the relevant tax regulations
- The transparency level of the issuers and the public information can be lower than in other European states;
- Risks related to the current austerity measures undertaken by the Romanian government;
- Risks related to the Romanian Government instability;
- Risks related to the volatility of the RON exchange rate with other currencies;
- Risks related to the government intervention in key infrastructure sectors;
- Risks related to the government-led reorganisation of the electricity generation sector.

Risks regarding the Fund:

- Risks related to liquidity of the Shares;
- Shares' price volatility may have an adverse impact on investors in Shares;
- Risk of frequent stops of the Shares from trading;
- Potential difficulties in implementing the Fund's strategy related to the Portfolio Companies;
- Risks related to legal challenges against the decisions passed by Fund's shareholders' meetings or other corporate bodies;
- Risks arising from the current restrictions on the voting rights attached to the Shares;



- Risks arising from the rulings of the European Court of Human Rights against Romania;
- Risks arising from potential changes in the legislation governing the Fund;
- Risks related to Fund's ability to pay dividends;
- Risks arising from force majeure events;
- Risks related to the operations of the Fund;
- Risks related to a potential dual listing of the Fund;
- Risks related to the former management of the Fund;
- Risks related to improper monitoring of litigation files until December 2009.

Risks associated with the Fund Manager and the Depositary:

- Risks related to potential conflicts of interest;
- Risks related to the departure of Fund Manager's key personnel;
- Risks related to the termination of the contract concluded with the Fund Manager;
- Risk of insolvency of the Depositary.

Risks related to the investment policy and the Portfolio:

- Risks related to the implementation of the Fund's investment policy and strategy;
- Risks related to the liquidity of investments held by the Fund;
- Risks related to fluctuations in the monthly NSC NAV;
- Risks related to Portfolio Companies which are small or poorly managed;
- Risks related to insolvency, liquidation, dissolution, reorganisation or bankruptcy of Portfolio Companies;
- Risks related to holdings in majority state-owned companies;
- Risks of Government intervention in the Fund's investment strategy;
- Risks of insolvency of banks holding Fund's cash.

## I.3 **2.8 Selected Financial Information**

### I.2.1

#### ***The Fund's financial statements' auditors***

### I.20.4.1

I.20.4.3 *The financial statements for the years ended 31 December 2009, 2008 and 2007 were prepared in accordance with IFRS and were audited. The interim financial statements for the six months ended 30 June 2010 were prepared in accordance to RAS (different from IFRS) and were not audited.*

*The audit of the financial statements for the years ended 31 December 2009, 2008 and 2007 was performed by Deloitte which issued an unqualified auditor's opinion on these financial statements (separate and consolidated) presented in Annex 5. Deloitte is a member of the Romanian Chamber of Financial Auditors as per authorization no 25/ 25.06.2001.*

*Deloitte has expressed a written consent for the reference and the inclusion of information extracted from its reports in this Prospectus in the form and context in which they are included.*

#### ***Selected financial statements information***

*The following selected financial data have been derived from the Fund's separate audited financial statements (attached to the Prospectus) prepared in accordance with IFRS for the years ended 31 December 2009, 2008 and 2007.*

*Interim financial statements for the 6 months ended 30 June 2010 prepared in accordance with RAS are also presented and are un-audited. These selected financial data should be read in conjunction with such financial statements as well as with Chapter 4 "Description of the Fund".*

## 2.8.1 Statement of Comprehensive Income snapshot – Annual results

(Prepared in accordance with IFRS and audited)

	Year ended 31 December 2009	Year ended 31 December 2008	Year ended 31 December 2007
	(audited) -lei-	(audited) -lei-	(audited) -lei-
<b>Statement of Comprehensive Income</b>			
Gross Dividend income	120,055,158	422,832,462	227,642,629
Interest income	142,469,835	84,453,833	28,005,444
Impairment losses on equity investments	(1,455,233)	(3,892,093,521)	(243,513,025)
Impairment losses on dividends receivable	0	9,427,066	(38,378,599)
Gains/(losses) on disposal of equity investments	554,433,394	0	32,398,995
Net foreign exchange gains	14,731,693	19,531,493	17,990,758
<b>Net investment income/ (loss)</b>	<b>830,234,847</b>	<b>(3,355,848,667)</b>	<b>24,146,202</b>
Personnel expenses	(13,507,594)	(6,606,081)	(2,382,266)
Other operating expenses	(9,329,468)	(11,736,611)	(3,159,592)
<b>Operating expenses</b>	<b>(22,837,062)</b>	<b>(18,342,692)</b>	<b>(5,541,858)</b>
<b>Profit/ (Loss) before tax</b>	<b>807,397,785</b>	<b>(3,374,191,359)</b>	<b>18,604,344</b>
Income tax (expense)/ benefit	(106,345,000)	569,656,826	3,115,784
<b>Profit/ (Loss) for the year</b>	<b>701,052,785</b>	<b>(2,804,534,533)</b>	<b>21,720,128</b>
<b>Other comprehensive income</b>			
Net change in fair value of available for sale equity investments	963,761,683	(569,081,488)	(240,000,400)
Income tax on other comprehensive income	(154,201,869)	91,053,038	38,400,064
<b>Total other comprehensive income</b>	<b>809,559,814</b>	<b>(478,028,450)</b>	<b>(201,600,336)</b>
<b>Total comprehensive income for the period</b>	<b>1,510,612,599</b>	<b>(3,282,562,983)</b>	<b>(179,880,208)</b>
<b>Basic and diluted earnings/ (loss) per share</b>	<b>0.05</b>	<b>(0.20)</b>	<b>0.00</b>

Source: Audited Separate IFRS Financial Statements

Note: Other comprehensive income for year 2007 is not disclosed in the Fund's IFRS financial statements; however, it is presented in the Prospectus for comparability.

## 2.8.2 Statement of Financial Position snapshot – Annual results

(Prepared in accordance with IFRS and audited)

Statement of Financial Position	31 December 2009 (audited) -lei-	31 December 2008 (audited) -lei-	31 December 2007 (audited) -lei-
<b>Assets</b>			
Financial Assets	11,725,777,522	10,062,158,108	14,143,636,998
Deferred tax assets	542,177,610	696,780,396	0
Other assets	700,128	1,944,183	864,059
<b>Total assests</b>	<b>12,268,655,260</b>	<b>10,760,882,687</b>	<b>14,144,501,057</b>
<b>Liabilities</b>			
Deferred tax liabilities	0	0	17,313,132
Other liabilities	8,303,427	11,143,453	4,888,027
<b>Total liabilities</b>	<b>8,303,427</b>	<b>11,143,453</b>	<b>22,201,159</b>
<b>Equity</b>			
Share capital	13,757,592,587	13,757,592,587	13,757,592,587
Fair value reserve on available-for-sale financial assets	859,556,589	49,996,775	528,025,225
Other reserves	199,454,493	149,458,794	38,242,608
Accumulated losses	(2,556,251,836)	(3,207,308,922)	(201,560,522)
<b>Total equity</b>	<b>12,260,351,833</b>	<b>10,749,739,234</b>	<b>14,122,299,898</b>
<b>Total liabilities and equity</b>	<b>12,268,655,260</b>	<b>10,760,882,687</b>	<b>14,144,501,057</b>

Source: Audited Separate IFRS Financial Statements

## 2.8.3 Statement of Cash Flow snapshot– Annual results

(Prepared in accordance with IFRS and audited)

Statement of cash flows	Year ended 31 December 2009 (audited) -lei-	Year ended 31 December 2008 (audited) -lei-	Year ended 31 December 2007 (audited) -lei-
<b>Cash flow from operating activities</b>			
Proceeds from sale of equity instruments	980,237,872	0	0
Redemption of treasury bills	390,456,918	0	0
Dividends received (net of withholding tax)	118,645,240	395,898,838	206,243,003
Interest received	139,629,790	71,256,895	28,807,654
Realised foreign exchange gains on cash and cash equivalents	9,728,227	12,941,854	15,661,993
Maturity of bank deposits maturing in more than three months	0	0	80,987,686
Acquisition of treasury bills	0	(390,456,918)	0
Creation of bank deposits maturing in more than three months	(1,279,523,616)	(92,248,546)	0
Cash contributions to equity investments	0	(49,845,382)	(41,242,054)
Income tax paid	(104,971,445)	(12,991,496)	(1,132,209)
Suppliers paid	(10,919,098)	(8,757,490)	(2,715,301)
Salaries and related taxes paid	(11,532,332)	(6,426,525)	(2,265,662)
<b>Net cash from/ (used in) operating activities</b>	<b>231,751,556</b>	<b>(80,628,770)</b>	<b>284,345,110</b>
<b>Cash flow from investing activities</b>			
Proceeds from sale of property and equipment	16,000	18,573	33,245
Acquisition of property and equipment	(23,561)	(392,079)	(682,327)
<b>Net cash used in investing activities</b>	<b>(7,561)</b>	<b>(373,506)</b>	<b>(649,082)</b>
<b>Cash flow from financing activities</b>			
Cash contributions to share capital	63,846,176	50,065,688	28,052,299
Dividends paid	(1,056,789)	(87,912,834)	(35,465,985)
<b>Net cash flows used in financing activities</b>	<b>62,789,387</b>	<b>(37,847,146)</b>	<b>(7,413,686)</b>
<b>Net increase/ (decrease) in cash and cash equivalents</b>	<b>294,533,382</b>	<b>(118,849,422)</b>	<b>276,282,342</b>
Cash and equivalents at 1 January	474,332,956	592,167,702	313,556,595
Effect of exchange rate fluctuations on cash and cash equivalents held	(15,241)	1,014,676	2,328,765
<b>Cash and cash equivalents at 31 December</b>	<b>768,851,097</b>	<b>474,332,956</b>	<b>592,167,702</b>

Source: Audited Separate IFRS Financial Statements

## 2.8.4 Statement of Comprehensive Income snapshot – Half year results

(Prepared in accordance with RAS and un-audited)

<b>Income Statement</b>	<b>Six months ending 30 June 2010 (un- audited)</b>	<b>Six months ending 30 June 2009 (un- audited)</b>
	<b>-lei-</b>	<b>-lei-</b>
Revenues from financial assets	173,185,462	117,163,061
Financial revenues	94,525,257	76,031,007
Other revenues	38,490	1,374,314
<b>Total revenues</b>	<b>267,749,209</b>	<b>194,568,382</b>
Salary expenses	2,569,404	5,058,301
Other operating expenses	47,603,955	11,980,625
<b>Total expenses</b>	<b>50,173,359</b>	<b>17,038,926</b>
<b>Gross profit</b>	<b>217,575,850</b>	<b>177,529,456</b>
Income tax	7,084,629	9,663,034
<b>Net profit/(loss)</b>	<b>210,491,221</b>	<b>167,866,422</b>

*Source: Un-audited RAS Financial Statements*

## 2.8.5 Statement of Financial Position snapshot - Half year results

(Prepared in accordance with RAS and un-audited)

<b>Statement of Assets, Liabilities and Equity</b>	<b>30 June 2010 (un-audited) -lei-</b>	<b>31 December 2009 (un-audited) -lei-</b>
<b>Assets</b>		
Cash and cash equivalents	2,226,598,282	2,151,216,927
Receivables	651,287,996	515,548,847
Financial assets	9,553,352,276	9,552,138,410
Fixed assets	446,425	506,076
Prepayments	132,424	56,883
<b>Total assests</b>	<b>12,431,817,403</b>	<b>12,219,467,144</b>
<b>Liabilities</b>		
Short term liabilities	9,163,505	7,377,636
Provisions	15,062,518	15,062,518
Revenues in advance	73,169	0
<b>Total liabilities</b>	<b>24,299,192</b>	<b>22,440,154</b>
<b>Equity</b>		
Share capital	14,240,540,675	14,240,540,675
Reserves	(3,242,109,133)	(3,242,109,133)
Accumulated result	1,198,595,448	504,964,040
Current financial result	210,491,221	693,631,408
<b>Total equity</b>	<b>12,407,518,211</b>	<b>12,197,026,990</b>
<b>Total liabilities and equity</b>	<b>12,431,817,403</b>	<b>12,219,467,144</b>

Source: Un-audited RAS Financial Statements

## 2.9 Documents on display

The following documents will be available for inspection and copies thereof will be provided upon request during normal business hours at the headquarters of the Fund:

- the AoAs;
- all reports, letters, and other documents, historical financial information, valuations and statements, prepared by any expert upon the Fund's request any part of which is included or referred to in this Prospectus;
- the 2007, 2008 and 2009 separate financial statements of the Fund, prepared in accordance with IFRS;
- the 2007, 2008 and 2009 consolidated financial statements of the Fund, prepared in accordance with IFRS;
- the interim financial statements and results for the six months ended 30 June 2010 of the Fund prepared in accordance with RAS.

The Prospectus will be available on the internet page of: (a) the Fund (i.e. [www.fondulproprietatea.ro](http://www.fondulproprietatea.ro)), (b) the members of the Consortium (i.e. [www.rciro.ro](http://www.rciro.ro), [www.brd.ro](http://www.brd.ro)) and (c) BSE (i.e. [www.bvb.ro](http://www.bvb.ro)), and copies thereof will be provided upon request during normal business hours at the headquarters of the Fund, located in Romania, Bucharest, Buzești str., no. 78-80, Premium Point Building, district 1.



### **3 RISK FACTORS**

I.4,  
I.9.2.3

*Any investment in securities implies certain risks. Before making a decision to invest in Shares, prospective investors should carefully consider the following risk factors, in addition to the other information contained in this Prospectus. If any of the risks described below, which are material in the Fund's view, were to occur, this could result in the Fund's business, financial condition or results of operation being adversely affected. If this were to lead to a decline in the trading price of the Shares, prospective investors may lose all or part of their investment. Additional risks and uncertainties presently unknown or currently deemed immaterial may in future also have a material adverse effect on the Fund's business, results of operations or financial condition.*

*This Prospectus also contains forward-looking statements that involve risks and uncertainties (see Section "Forward-Looking Statements" of this Prospectus). The Fund's actual results could differ materially from those anticipated in these forward-looking statements as a result of certain factors, including the risks faced by the Fund set out below and elsewhere in this Prospectus.*

*The foregoing description of the risk factors is not exhaustive and does not purport to be a complete presentation of all the risks and significant aspects involved in investing into Shares. The Fund, however, believes that the risk factors described below reflect those factors which may currently materially affect the Fund, its business and investors' rights arising out of or in connection with an investment into the Shares.*

*Thus, prospective investors should exercise particular care in assessing the risks involved and must decide for themselves whether, in the light of those risks, such an investment is appropriate.*

#### **3.1 Risk factors related to Romanian business environment**

*Romania is still an emerging market*

Investors in companies operating in emerging markets such as Romania should be aware that these markets pose higher risks than developed markets. Romania may be subject to rapid and unforeseeable political, legal, social and economic changes, including economic recessions, high inflation rates, fluctuations of the exchange rate, market disruptions and significant changes in legislation. At the same time, Romania may be subject to spill-over effects radiating from political, legal, social and economic changes occurring in the European Union or in neighbouring countries.

As the Fund's development and activities mainly depend on the Romanian political, social and economic environment, the occurrence of the events referred to above may adversely affect the Fund's business, financial condition and results, as well as the market value and liquidity of the Shares.

Investors should also note that reports of the international bodies and articles in the local or international mass-media signal the necessity to continue the fight against corruption in Romania, including in the area of justice. Pursuant to a recent country report on Romania published by the European Commission: "The majority of the Commission's recommendations in this area (Note: i.e. fight against corruption) are being addressed although a coordinated anti-corruption policy across the different sectors of government is still missing".<sup>1</sup> The proper implementation of the legislation in this area is still seen as an issue by many independent reports.

*Romania might have difficulties related to the post-accession process to the European Union*

Romania joined the European Union in January 2007. During the post-accession process, to smooth the entry of Romania, the European Union decided to establish a special "cooperation and verification mechanism" to help Romania address certain outstanding shortcomings in the various fields such as judicial reform and fight against corruption<sup>2</sup>. For Romania, the European Commission has established the following four benchmarks on which the Commission regularly verifies progress:

- ensuring a more transparent, and efficient judicial process notably by enhancing the capacity and accountability of the Superior Council of Magistracy;
- reporting and monitoring the impact of the new civil and penal procedures codes;
- establishing an integrity agency with responsibilities for verifying assets, incompatibilities and potential conflicts of interest, and for issuing mandatory decisions on the basis of which dissuasive sanctions can be taken;
- continuing to conduct professional, non-partisan investigations into allegations of high level corruption; and
- taking further measures to prevent and fight against corruption, in particular within the local government.

Failure by Romania to address these benchmarks adequately entitles the European Commission to apply safeguard measures based on the Act of Accession, including the suspension of Member States' obligation to recognise and execute, under the conditions laid down in Community law, Romanian judgments and judicial decisions, such as European arrest warrants.

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<sup>1</sup>Source: "REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL On Progress in Romania under the Co-operation and Verification Mechanism", {SEC(2010) 949}, Brussels, 20.7.2010 ([http://ec.europa.eu/dgs/secretariat\\_general/cvm/docs/com\\_2010\\_401\\_en.pdf](http://ec.europa.eu/dgs/secretariat_general/cvm/docs/com_2010_401_en.pdf))

<sup>2</sup> Source: Commission Decision 2006/928/EC of 13 December 2006 establishing a mechanism for cooperation and verification of progress in Romania to address specific benchmarks in the areas of judicial reform and the fight against corruption (OJ L 354, 14.12.2006, p. 56).

Applying any safeguard measures according the above could affect the trust in the Romanian financial environment, with potential adverse consequences on the profitability of the Fund. Romania has already received a few notifications as a result of the failure to respect European legislation<sup>3</sup>.

*The amendments and ambiguities of the Romanian legal and judicial system may impact on the Fund's activity*

The Romanian legal and judicial systems are constantly changing and often present unclear points. This legal instability and uncertainties may have an impact on the Fund's financial condition and operating result difficult to anticipate. The factors leading to this legal instability include, among others, the repeated and frequent changes in laws, including the ones directly impacting on the Fund's activity, the uncertainties of the provisions included in various laws, their inconsistent application by various competent authorities due to their novelty, ambiguity and lack of uniform formal interpretation. Also it is possible that, in certain circumstances, the legal remedies stipulated in the new laws and regulations, including in the field of insolvency, may not be obtained in reasonable time due to the material number of judicial files submitted to Romanian courts.

Considering the constant legal changes, the Fund might have difficulties in complying with the requirements of various newly issued laws. The effort of constantly adapting to the changing legal requirements might lead to significant additional costs, while possible future changes of the legal framework might adversely affect the Fund's activity and profitability.

*Risks related to the amendment of the relevant tax regulations*

Both Romanian legislation and foreign tax provisions regulating management of collective investment undertakings may adversely change (providing for increase of taxes, requiring new taxes, reducing or suspending some fiscal incentives), with the consequence that the Fund and the investors respectively may owe in the future more significant taxes than it/they currently does/do. Also, the Fund may be subject to certain taxes on the investment income impossible to predict as of the date of this Prospectus or to avoid due to the current investment policy.

*The transparency level of the issuers and public information can be lower than in other European states*

The Romanian practices regarding reporting, accounting and financial records may be different in certain respects from the ones applicable to the companies of other European Union member states, although Romania is in a continuous process of implementing internally the European legislation. The level of available information regarding the shares and financial condition of the companies admitted to trading in Romania may sometimes be lower than in case of companies

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<sup>3</sup> Source: [http://ec.europa.eu/information\\_society/policy/ecommm/implementation\\_enforcement/infringement/releases/index\\_en.htm](http://ec.europa.eu/information_society/policy/ecommm/implementation_enforcement/infringement/releases/index_en.htm)

from other European states. At the same time, it is possible that the information issued by Romanian public institutions might not be as consistent and accurate as in case of other European Union member states.

*Risks related to current austerity measures undertaken by the Romanian Government*

The Romanian government is currently implementing a severe package of fiscal austerity in order to correct a substantial imbalance in its budgetary position resulting from the recession. While in the long term this tough adjustment path may return Romania's budgetary position to a sustainable growth, such austerity measures will weigh heavily on economic growth on a short to medium term, which may have a significant impact on the investments of the Fund.

*Risks related to Romanian Government instability*

The Romanian current political environment is unstable. Over the last months the Romanian Government has faced two no-confidence motion attempts from the opposition political parties. Since the Romanian Government is a significant shareholder of the Fund and in a part of Portfolio Companies, any changes in the Romanian Government may affect the stability of the Fund and of the management in these Portfolio Companies, which in turn could adversely affect the Shares' price and the Fund's investments in such companies.

*Risks related to the volatility of the RON exchange rate with other currencies*

The Shares will be traded in RON. Significant devaluations of RON vis a vis other currencies may impact the value of the holdings held by investors whose reporting currencies are different from the RON. Factors that could trigger RON devaluation may include in particular government's inability to implement the austerity programme agreed with the International Monetary Fund and the European Commission, as well as factors such as any new sovereign debt crisis, increases in domestic prices as a result of elimination of government price controls for the prices of gas or heating, or significant increases in the prices of imported products.

In the context of the liberalization of the foreign exchange operations, a risk factor may be the right of the NBR to adopt safeguard measures for a maximum 6-month period in case the short term capital flows with significant scale exercise pressure on the foreign currency market resulting in serious disruption of the monetary policy and the foreign exchange and significant variations of the domestic liquidity.

*Risks related to government intervention in key infrastructure sectors*

Fund's portfolio has significant holdings in the infrastructure sectors such as electricity, gas and oil. State ownership in these sectors is significant or dominant and, despite the alignment of the Romanian legislation to the *acquis communautaire*, restrictive measures such as price caps, price controls and other types of restrictions cannot be excluded.

*Risks related to the government-led reorganisation of the electricity generation sector*

Fund's portfolio has a significant component in the electricity sector. The restructuring of the energy sector and in particular the ongoing projects for the creation of two very large electricity generation companies by merging the existing smaller players, could have an impact on the

Fund's Portfolio and the Fund's holdings in the Portfolio Companies involved in this restructuring process. Moreover, future changes are not excluded, as a result of potential changes in Romanian Government's strategy in the energy area, and such changes could have an adverse impact on the relevant Fund's investments.

## **3.2 Risk factors regarding the Fund**

### *Risks related to liquidity of Shares*

The Shares have not been traded previously on a regulated market/alternative trading system and the Shares have not previously been subject to a public sale offering. As a result, there is the risk that a market for the Shares after the listing will not develop or, if it develops, it will not be sustained and investors may find it difficult to dispose of their investments. Liquid trading markets generally result in more efficient execution of buy and sell orders for investors.

### *Shares' price volatility may have an adverse impact on the investors in Shares*

The market price of the Shares may be volatile and may be subject to sudden and significant declines. As a result, the investments of the Fund's shareholders may experience a material decline in market value. Price declines can result from a variety of factors, many of them outside the Fund's control, including the difference between the results the Fund announces and forecasts by analysts, adverse developments with respect to important contracts or strategic partnerships, fluctuations in the financial condition and operating results and general share price volatility on the BSE at a certain time, local and international macroeconomic environment.

### *Risk of frequent stops of the Shares from trading*

It is possible the Shares may be temporarily suspended from trading if the Fund reports special events such as litigations with material impact. Such an event may limit the investors' possibility to sell the Shares at their discretion and could result in a substantial fall in market price when the trading is resumed.

### *Potential difficulties in implementing the Fund's strategy related to the Portfolio Companies*

Currently, the Fund does not hold controlling positions in most of the Portfolio Companies. Hence, any potential strategies envisaged by the Fund for the improvement of the corporate governance in the Portfolio Companies or related to a prospective listing thereof may not be implemented by the Fund's will alone and requires a cooperation and support of the controlling shareholders of such companies. Hence, the successful implementation of the Fund's strategy for the majority of Portfolio Companies does not depend exclusively on the Fund's will.

### *Risks related to legal challenges against the decisions passed by the Fund's shareholders meetings or other corporate bodies*

Recent court practice on the annulment/nullity of decisions passed by the general shareholders meeting or other corporate bodies is diversified and lacks a common court position, a peculiarity which is also sustained by legislative inconsistency (especially discrepancies between the general provisions applicable to all companies and those instituting a special regime for listing companies) and legal texts which are subject to conflicting interpretation. Institution of a special regime applicable to the Fund which is to be applied in correlation with the general provision applicable to any joint stock company, as well as in compliance with the special provisions applicable to a listed company, which has been registered as a closed-end investment company,

creates additional premises for legal inconsistency. Under these circumstances and taking into account the conflicting court practice, the risk of a successful annulment/nullity in court of the decisions passed by the Fund's general shareholders meeting or by other corporate body of the Fund may not be ruled out. Depending on the grounds that can be proven, a shareholders' resolution may be challenged for relative nullity within 15 days as of the publication of the resolution with the Official Gazette and for absolute nullity at any time after the publication of the resolution with the Official Gazette.

*Risks arising from the current restrictions on voting rights attached to the Shares*

The restrictions instituted by law with respect to the voting rights attached to the Shares may not be changed prior to the Romanian state's holding in the Fund being diluted below 33% of the Fund's share capital. Such restrictions may adversely affect the equal treatment of the Fund's shareholders and may create difficulties for the shareholders to comply with the legal provisions requiring public disclosure of certain relevant ownership thresholds. Hence, the total number of voting rights attached to the Shares depends on the shareholders' structure, which may be subject to changes on a daily basis. In this context, whereas the disclosure requirements with respect to certain ownership thresholds are based on the holding of a certain stake in the total voting rights, it may not be ruled out that for certain periods of time the investors shall be deprived from the benefit of an accurate status of the structure of the Fund's shareholders who are subject to such disclosure requirements.

*Risks arising from the rulings of the European Court of Human Rights against Romania*

On 12 October 2010, the European Court of Human Rights ("**CEDO**") ruled in the case of Maria Atanasiu and others vs. Romania by way of a pilot-judgement procedure. Ascertaining the breach by Romania of certain provisions of the European Human Rights Convention ("**Convention**"), due to the inadequate operation of the Romanian system instituted to carry out the compensation for/or restitution of the real estate properties abusively confiscated during the communist regime, CEDO imposed on Romania inter alia to "take measures to ensure effective protection of the rights guaranteed by Article 6 § 1 of the Convention and Article 1 of Protocol no. 1<sup>4</sup>. These measures must be put in place within eighteen months from the date on which the present judgement becomes final".

On the date of this Prospectus, no public information is available concerning the legislative measures, which shall be adopted by Romania in order to comply with CEDO's ruling in the case of Maria Atanasiu and others vs. Romania. Hence, there is a risk that such legislative changes will adversely affect the Fund, and therefore its shareholders.

*Risks arising from potential changes in the legislation governing the Fund*

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<sup>4</sup> Note: by adoption by the Romanian authorities of measures capable of offering adequate redress to all persons concerned by reparation laws

The existence, operation and even the initial structure of the Fund's Portfolio are regulated by primary legislation, as well as by secondary legislation such as government decisions. Hence, it may not be ruled out that the current legal framework be changed so as to directly affect the Fund, and therefore its shareholders. This risk is sustained by the legislative history of the past few years that reveals a series of laws which have changed also the Fund's Portfolio compositions. Such legal changes would have to be carried out in compliance with the constitutional principles regulating the guarantee of the private property. Notwithstanding to the general principle described above, the numerous instances where the relevant institutional structures have ruled on the unconstitutionality of certain laws, prove that the risk of legislative changes which may adversely affect the Fund and which may be passed in breach of Constitution may not be ruled out.

#### *Risks related to Fund's ability to pay dividends*

The Fund may be unable to maintain the level of dividends to be paid and investors may not receive the expected dividends upon the occurrence of extraordinary events, such as change in domestic and foreign economic conditions, increased operational expenses, changes in the laws and rules regarding assets, natural disaster and political situation. Furthermore, under the Companies' Law, the Fund may not distribute dividends in case of a loss in the net asset value is registered save where the share capital is increased or reduced accordingly.

#### *Risks arising from force majeure events*

The actual and future performance of the Fund may be negatively affected by external factors such as natural disasters, accidents, terrorism etc which could also adversely affect the Portfolio Companies.

#### *Risks related to the operation of the Fund*

Despite all reasonable efforts made, the operations of the Fund may be negatively affected by termination or renewal of relevant agreements or licences or by the potential increase in Fund's operational costs (related to staff, rental, commission costs etc.) or by legal measures that may have an impact of Fund's ability to carry out in an efficient manner certain parts of its operations.

#### *Risks related to a potential dual listing of the shares issued by the Fund*

Depending on the Fund's development, it may become appropriate at some future point to consider a dual listing of the Fund on another stock exchange in a different international market. This could be motivated, for example, by a desire for access to a wider pool of liquidity or to increase the attractiveness of the Fund to investors outside Romania. The Fund has some unique aspects and it is likely that significant changes would be required to certain aspects of the Fund's management structure and AoAs before it was in a form familiar to major foreign exchanges. There is no guarantee that the costs and administrative complications of maintaining dual listing would be rewarded with achievement of the objectives of the project. Nonetheless, such a project could not be launched and such changes could not be made without first obtaining shareholder approval.



*Risks related to former management of the Fund*

Although the Sole Director has reviewed the documentation received from the former management of the Fund delivered under the Handover Protocol as there have been significant changes in the Executive Board and Supervisory Boards in recent history, there is a risk that not all material facts have been fully disclosed in the course of such management changes or that some actions of the previous management could result in future complications and negative effects for the Fund and its performance. Furthermore, on the occasion of reviewing the interim financial statements and results for the six months ended 30 June 2010 (prepared in accordance with RAS, un-audited), the Sole Director has identified an inaccurate accounting registration as detailed in Chapter 5 "Presentation of Separate Financial Statements". It may not be ruled out that further such errors may be identified in the future by the Sole Director or the auditors.

*Risks related to improper monitoring of litigation files until December 2009*

Although the Fund had outsourced most of the litigations in which it was a party to law firms, a proper internal monitoring of these files was not undertaken during 2008 and 2009. Despite the efforts undertaken in this respect in 2010, the risk of contingent liabilities and complications in respect to litigations in which the Fund may be a party may not be ruled out.

### **3.3 Risks associated with the Fund Manager and the Depositary**

#### *Risks related to potential conflicts of interest*

The Fund Manager and its affiliates may from time to time act for other clients or manage other funds, which have a similar or different investment objective and policy to that of the Fund. In particular, the Fund Manager serves as manager to other funds with similar investment policies and may give advice to take action with respect to such other clients that differs from the advice given with respect to the Fund due, for example, to differing investment objectives of the clients or differing perspectives of the different investment personnel involved on behalf of the Fund Manager. Circumstances may arise where investment opportunities will be available to the Fund which are suitable for one or more such clients of the Fund Manager or funds managed by the Fund Manager. The Fund Manager has policies in place to identify and manage such conflicts with a view to ensuring that investment orders are placed and allocated in a manner which is fair to all clients. The mitigation of this risk depends on continued success in implementing these policies, which is also a subject of regulatory supervision.

#### *Risks related to departure of the Fund Manager's key personnel*

The ability of the Fund to successfully pursue its investment policy is significantly dependent upon the expertise of the Fund Manager and the principal members of its management team. The loss of any of the Fund Manager's management team could reduce the Fund's ability to successfully pursue its planned investment policy. Also the retention of such persons cannot be guaranteed, and a transition period might adversely affect the performance of the Fund.

#### *Risks related to termination of the contract concluded with the Fund Manager*

If the management agreement concluded between the Fund and the Fund Manager is terminated, no assurance can be given that the Fund will find a replacement investment manager of similar experience and calibre or that any delay in engaging a new investment manager will not adversely impact the value of the Portfolio.

#### *Risk of insolvency of the Depositary*

In the event that the Depositary became insolvent, cash held on behalf of the Fund would face the same risks as for cash with banks generally, as described in "Risks of insolvency of banks holding Fund's cash" below.

In respect of non-cash assets held in custody, provided the Depositary has properly recorded these as being held on behalf of the Fund, such assets should be ring-fenced and recoverable by the Fund in the event of the Depositary's insolvency. However, if these assets were not properly recorded by the Depositary, there is a risk that such assets would not be protected in case of insolvency and the Fund would have only an unsecured claim for the value of the assets and may be unable to recover some or all of the relevant amounts.

### **3.4 Risks relating to the investment policy and the Portfolio**

#### *Risks related to implementation of the Fund's investment policy and strategy*

Successful pursuit of the Fund's investment policy will depend on the Fund Manager's ability to identify, acquire and realise investments in accordance with the Fund's investment policy. There can be no assurance that the Fund Manager will be able to do so or that the Fund will be able to invest its assets on attractive terms or avoid investment losses.

The Fund Manager will seek to diversify the Portfolio, but such diversification may not be achieved if the investment opportunities or assets available for investment are insufficient. Diversification of the Fund's investments is intended to reduce the Fund's exposure to adverse events associated with specific investments; however the Fund's returns as a whole may be adversely affected by the unfavourable performance of even a single asset or asset class or market segment.

#### *Risks related to the liquidity of investments held by the Fund*

Because the investments comprising the Portfolio may be illiquid, mainly due to the fact that a great part of Portfolio Companies are unlisted or if listed have not developed a liquid market, it may be difficult to sell if the need arises. If the Fund is required to liquidate all or a portion of an investment quickly, it may realise significantly less than the value at which the investment was previously recorded, which could result in a decrease in the Fund's net asset value.

#### *Risks related to the NSC NAV fluctuations in the monthly reports*

The Fund may experience fluctuations in the NSC NAV value from month to month as net asset values may be subject to changes due to a number of factors, including changes in the values of the Fund's investments, which in turn could be owing to changes in values of Portfolio Companies, changes in the amount of distributions, dividends or interest paid in respect of investments, changes the Fund's operating expenses. Such variability may lead to volatility in the trading price of the Shares and cause the Fund's results for a particular period not to be indicative of the Fund's performance in a future period.

#### *Risks related to Portfolio Companies which are small or poorly managed*

There is no limitation on the size of the companies in which the Fund invests. Many small companies may lack management depth or need substantial capital to support expansion or to achieve or maintain a competitive position, and there can be no assurance that the Fund will have the necessary capital to provide for a Portfolio Company's future capital needs or that other sources of financing will be available. In addition, certain companies in which the Fund invests may be poorly managed, lack sound corporate governance rules or do not provide appropriate or reliable information about their operations, including financial reporting, forecasts and budgets. Such companies may face intense competition from larger or better managed companies and thus entail a greater risk than investment in larger companies. As a result, these

companies may not perform as well as the Fund Manager expects, thereby adversely affecting the NSC NAV and the price of Shares.

*Risks related to insolvency, liquidation, dissolution, reorganisation or bankruptcy of Portfolio Companies*

In the event of insolvency, liquidation, dissolution, reorganisation or bankruptcy of a Portfolio Company, the creditors of such Portfolio Company would typically be entitled to receive payment in full before distributions could be made in respect of the Fund's investment. After repaying the creditors' receivables and any other senior debt, the Portfolio Company may not have sufficient remaining assets to distribute to shareholders or to repay amounts owed in respect of the Fund's investment, if any.

*Risks related to holdings in majority state-owned companies*

The Fund holds a number of significant holdings in companies that are majority state-owned. Past experience indicates that management of these companies is often replaced whenever there are government changes. As a result, developing and implementing a long-term strategy for these companies may take longer and be more difficult than in the case of private companies, which may affect the financial results of the Portfolio Companies and Fund's overall performance.

Also, the majority state-owned companies have to comply with the public procurement regulations for their significant acquisitions, be it for their current operations or for their capital expenditure plans. It is often the case that public procurement procedures are challenged in justice by the bidders that lost the tender, with the result of long delays and increased cost. Such delays and additional costs may impact the financial results of the respective Portfolio Companies and the overall Fund performance.

The Romanian State could make use of its voting power in the shareholders' meetings of the companies it controls, to impose decisions that are detrimental to the interests of minority shareholders and/or other stakeholders. In actual fact, in August 2010, the Romanian Government issued an ordinance according to which several state-controlled companies may donate certain amounts to the Romanian state budget in 2010. On 30 November 2010, at the shareholders' meeting of Romgaz (a company in which the Romanian State holds 85% and the Fund holds 15% of the share capital respectively), based exclusively on the positive vote cast by the Romanian State it has been decided, despite the Fund's objections which voted against this resolution, that Romgaz will donate RON 400 mn. to the State's budget. Such resolution has a significant adverse effect on the Fund considering its position of minority shareholder in Romgaz. It is possible that further actions such as this one occur in future in relation to this and/or other state-controlled companies in the Portfolio.

*Risks of Government intervention in the Fund's investment strategy*

According to Law 247, certain investment restrictions included in the Fund's current investment rules may be amended only by means of an enactment of a law, with the prior endorsement of the NSC. Such formalities may trigger certain rigidity in the application of the investment policy of the Fund and affect thus the value and the performance of the Fund.

Furthermore, considering the fact that Fund holds a significant shareholding in Romanian companies of national importance (especially in energy sector) which are subject to national development strategies, pursuant to the statement on investment policy, it may be necessary, to the extent required by the law, for the Fund to correlate its decisions pertaining to such holdings with the national strategies and to procure from the Romanian Government or other relevant authority the prior consent with respect to the decisions pertaining to such holdings, which when applicable would require the Fund's shareholders' approval. When applicable, the above may cause delays in the investment decision making process which may adversely affect the performance of the Portfolio.

*Risks of insolvency of banks holding Fund's cash*

In the event of a bank's insolvency, cash held on deposit becomes an unsecured claim in the insolvency administration process and must compete alongside the claims of other creditors for a limited pool of assets. Therefore, in the event that a bank holding the Fund's cash became insolvent, the Fund might not recover some or all of these amounts. Furthermore, the vast majority of cash received by the Fund is denominated in RON; the range of banks offering RON deposit-taking services, and the quality of their credit ratings, is limited compared to more developed markets

## 4 DESCRIPTION OF THE FUND

### 4.1 General Presentation

#### I.5.1.1 4.1.1 Company name, legal form, registered office and duration

#### I.5.1.2

Legal and commercial name	S.C. Fondul Proprietatea S.A.
Place and number of registration	Bucharest Trade Registry registration no. J40/21901/2005; sole registration code: 18253260
I.5.1.3 Date of incorporation, duration	28.12.2005, indefinite
I.5.1.4 Legal form	joint stock company, organised as closed-end investment company
Registered seat	Romania, Bucharest, Buzesti str., no. 78-80, 7 <sup>th</sup> floor, district 1
Contact details	Telephone: 021 200 96 00 Fax: 021 200 96 31

#### 4.1.2 History and development of the Fund

#### I.5.1.5

##### *Incorporation*

The Fund has been incorporated by the Romanian state in 2005 as a joint stock company with a special purpose of providing compensation to the persons whose real estate assets have been abusively confiscated by the Romanian state during the Communist regime and which may no longer be subject to restitution thereto in kind. The Fund's original articles of association were enacted by Government Decision no. 1481/2005, setting out that the Fund is an undertaking for collective investments organised as a closed end investment company. Nevertheless, the Fund has been officially registered as an investment company only in 2010, by NSC Decision no. 34/18.08.2010.

The initial sole shareholder of the Fund was the Romanian state, the shares of which are continuously transferred free of charge to the persons entitled to receive compensation from the Romanian state, in accordance with the applicable law, and who choose to convert their compensation titles into shares issued by the Fund. Thus, to the extent more persons are receiving shares in the Fund by means of conversion of compensation titles into Fund's shares, the Romanian state's participation in the share capital of the Fund dilutes. On 30 November 2010, the Romanian state holds 41.49703% in the Fund's share capital, the rest being owned by the private legal or natural persons.

After the listing of the Shares on the Relevant Market, the shareholders of the Fund may freely trade in Shares having as counterpart any type of investors who deem an investment in the Shares appropriate.

*Persons entitled to receive shares issued by the Fund as means of compensation by the Romanian state*

Pursuant to Law 247, an Entitled Person, for which a decision / order has been issued by the entities vested with the settlement of the restitution claims, was entitled to submit within 60 days from the enactment of Law 247 (i.e. 22 July 2005) such decision / order together with justifying documentation with the Secretariat of the Central Commission for Compensation ("CCC").

Due to a very large number of compensation claims, the procedure described below is an ongoing process.

Based on the legal status of the real estate assets for which the compensation has been granted, the Secretariat of CCC proceeds to the analysis of the files submitted with CCC by the Entitled Persons, acknowledging the validity of the decision to reject the restitution of the real estate in kind.

Following the completion of the step set out above, the Secretariat of CCC consolidates the files and submits them to the designated evaluator / evaluation company which draws up the evaluation report. The evaluation report includes the value of the compensation which represents the value to be reflected in the compensation title (*titlu de despagubire*). The evaluation report is submitted by the evaluator / evaluation company to the CCC.

Based on the evaluation report as set out above, the CCC may either: (a) issue a decision representing the compensation title (*titlul de despagubire*) or (b) send the file for reevaluation.

Following the issuance by the CCC of the compensation title (*titlul de despagubire*), the Entitled Person may choose to either: (a) request cash compensation – in which case, ANRP issues a payment title (*titlul de plata*) or (b) request compensation in Shares - in which case, ANRP issues a conversion title (*titlul de conversie*), or (c) request cash compensation and compensation in Shares in which case, ANRP issues a conversion title (*titlul de conversie*) and a payment title (*titlul de plata*).

In case a conversion title (*titlul de conversie*) has been issued, ANRP sends the title to the Central Depository which will convert the title into Shares from the account of the Ministry of Finance, such Shares to be registered following conversion on the account of the conversion title holder.

Prior to the listing of the Fund, the conversion of the compensation/conversion titles into Shares is carried out at the nominal value of the Shares (i.e. 1 share for 1 RON). The conversion procedure shall be suspended with 10 business days prior to the first trading date and until the date falling on a Monday of the second calendar week following the first 60 trading sessions with respect to the Shares.

After the conversion procedure is resumed, the compensation/conversion titles shall be converted into Shares based on the weighted average market price of the Shares, determined as follows:

- for the conversions effected on the second calendar week following the first 60 trading sessions, the average market price determined based on the first 60 trading sessions, published by the market operator upon the closing of the 60<sup>th</sup> trading session;

- for the conversion carried out starting with the date falling on a Monday of the third calendar week following the first 60 trading sessions, the weighted average market price determined based on the last 60 trading sessions, published by the market operator.

Starting with the 61<sup>st</sup> trading session, upon closing, the BSE shall publish on its webpage and shall inform ANRP, on a daily basis, the weighted average market price of the Shares for the last 60 trading sessions.

The compensation/conversion titles submitted with ANRP on the second calendar week following the first 60 trading sessions shall be converted into Shares at the weighted average market price determined based on the first 60 trading sessions.

The compensation/conversion titles submitted with ANRP starting with the date falling on a Monday of the third calendar week following the first 60 trading sessions shall be converted into Shares at the weighted average market price determined based on the last 60 trading sessions prior to the submission of the compensation/conversion titles.

#### *Share capital*

From the incorporation of the Fund and up to the date of this Prospectus, the share capital thereof has undergone a series of changes. The milestones of such evolution are described below (for more details in relation to the history of the Fund's share capital, please refer to Section 4.4.5 "History of the Fund's share capital" below):

22 Jul 2005	the Fund was created by Law 247, without stating the amount of the Fund's share capital;
05 Dec. 2005	Government Decision no. 1481 has enacted the Fund's articles of association, pursuant to which the Fund's share capital amounted to 14,240,540,675 RON (consisting primarily of in kind contribution of the Romanian state, representing mostly stocks held by the Contributing Entities in various companies). No evaluation of the assets contributed to the Fund's share capital was carried out at the time to substantiate this figure;
Feb. 2006	Ministry of Public Finance commenced contributing to the share capital of the Fund certain amounts in cash, deriving from the foreign receivables collected by the Romanian state from various countries;
Feb. – Mar. 2006	Fund has entered into possession of its portfolio assets, at which time, a series of issues have been identified regarding these contributions in kind, e.g.: the Contributing Entities no longer owned the envisaged shares;
29 Jun. 2007	Emergency Government Ordinance 81/2007 for the acceleration of the compensation procedure related to the real estate abusively confiscated, amended Law 247, acknowledged the need to evaluate the Romanian state's contribution to the Fund's share capital and hence has established



	the evaluation criteria for the Fund's portfolio assets. By the same law certain stocks have been removed from the Fund's portfolio, while the Fund's participation in certain companies has been increased and other assets have been added;
Oct. 2007	the evaluation report prepared by an independent valuator in accordance with the provisions of Emergency Government Ordinance 81/2007 revealed that the value of the assets contributed to the share capital of the Fund, determined based on the rules set out in this emergency ordinance, amounted to 13,282,601,016 RON (i.e. 957,939,659 RON less than the value of the Fund's initial share capital of 14,240,540,675 RON). The shares corresponding to this amount were deemed unpaid and were allocated to the Romanian state;
Oct.2007–Jul.2010	Romanian state contributed cash/securities from various sources regulated by Law 247 for the payment of the un-paid shares;
17 July 2010	Law no. 142/2010 has been enacted, instituting that the Fund's share capital had to be reduced by decision of the Supervisory Board from 14,240,540,675 RON to 13,757,592,587 RON, by annulment of the total number of 482,948,088 unpaid shares of the Romanian state;
July 2010	in line with the provisions of Law 247, the Supervisory Board has approved the decrease in the Fund's share capital as referred to above;
3 Aug. 2010	the Supervisory Board has approved an increase in the Fund's share capital from 13,757,592,587 RON to 13,778,392,208 RON, reflecting the contributions of the Ministry of Public Finance from dedicated sources to the share capital of the Fund.

#### *1.5.1.4 Relevant legislation under which the Fund operates*

The Fund operates in accordance with the following laws:

- (a) Law no. 31/1990 regarding trading companies, save to the extent varied by the more specific legislation relating to the Fund described below;
- (b) Government Decision no. 1481/2005 regarding the incorporation of Fondul Proprietatea S.A.;
- (c) Title VII of Law no. 247/2005 regarding the reforms in the sectors of justice and property as well as certain related measures;
- (d) Government Emergency Ordinance no. 81/2007 for the acceleration of the compensation procedure related to the real estate abusively confiscated;
- (e) NSC Regulation no. 4/2010 regarding the registration with the NSC and operation the Fondul Proprietatea S.A., as well as trading in shares issued by it;

- (f) NSC Regulation no. 15/2004 regarding the authorization and operation of the investment management companies, of the undertakings for collective investments and of the depositories.

After the admission to trading of the Shares, the following main pieces of legislation shall supplement the laws referred to above:

- (a) Law no. 297/2004 regarding the capital market;
- (b) NSC Regulation no. 1/2006 regarding issuers and operation in securities;
- (c) NSC Regulation no. 6/2009 on the exercise of certain rights of the shareholders in the general shareholders meetings of companies.

## 4.2 Fund's organisation and management

### 4.2.1 Administrative, Management and Supervisory Bodies and Senior Management

#### 4.2.1.1 Sole Director

I.14.1 Currently, the Fund is managed in a one tier management system by the Sole Director approved by resolution of the EGM dated 6 September 2010, appointed to serve as the sole director for a period of 4 years with effect from 29 September 2010.

I.16.1

I.14.2

I.17.2

Franklin Templeton Investment Management Limited was selected to act as the investment manager of the Fund and its sole director following an international tender procedure organised by the Fund in accordance with Government Decision 1514/2008 on the organisation of the international tender for the appointment of the management company of Fondul Proprietatea. For more details with respect to the experience of the Fund Manager please refer to Chapter 6 "Fund Manager's Presentation".

In accordance with the terms of the abovementioned Government Decision 1514/2008, Franklin Templeton Investment Management Limited established a Romanian branch incorporated with the Bucharest Trade Registry on 4 September 2009, such being authorised by the NSC according to Decision 613/11.05.2010.

The following list sets out the names of all companies and partnerships in which the Fund Manager has been acting as member of the administrative, management or supervisory boards or partners (as the case may be) in the five years prior to the date of this Prospectus. The list also indicates whether or not the Fund Manager is still a member of the administrative, management or supervisory bodies or is still a partner in the respective entity.

#### Fund Manager

Name of the company	Franklin Templeton Funds (open-ended investment company registered under UCITS in UK)
Position	Authorised Corporate Director, registered with UK Financial Services Authority
Still in office	Yes
Name of the company	Templeton Emerging Markets Investment Trust PLC (listed UK investment fund)
Position	Administrator and Secretary
Still in office	Yes
Name of the company	Templeton Exempt Trust
Position	Unit trust manager
Still in office	No (starting with 2009)

Grzegorz Konieczny and Adrian Cighi are legal representatives of Franklin Templeton Investment Management Limited United Kingdom, Bucharest Branch, each of them having full management powers.

### **Grzegorz Konieczny**

Grzegorz Konieczny, executive vice president/portfolio manager, joined the Franklin Templeton organization in 1995 and has over 15 years of experience in investment and portfolio management. He has research and portfolio management responsibilities in Central and Eastern Europe. Prior to joining Templeton, Mr. Konieczny was director of Capital Market Transactions at Bank Gdanski SA, one of the largest financial institutions in Poland at the time. Mr. Konieczny earned a master's degree in economics and foreign trade from the University of Gdansk (Poland). In 1994, he obtained an investment advisor license from the Polish Securities and Exchange Commission. Grzegorz Konieczny is not and has not been a member of any other administrative, management or supervisory bodies or partner in other entity for the last 5 years prior to the date of this Prospectus. As of 30 September 2010, Mr. Konieczny held no shares issued by the Fund.

### **Adrian Cighi**

Adrian Cighi has experience in investment management and portfolio analysis. Mr. Cighi has earned a bachelor's degree in Finance from the American International University in London and a master's degree in Accounting and Finance at London School of Economics and Political Science. He was employed as analyst by major international investment banking and securities firms, such as Goldman Sachs (*London*) and Lehman Brothers (*London*). Locally, Mr. Cighi has acted as investment analyst and management counsellor to Rematinvest (*Cluj*) and BT Asset Management (*Cluj*). As of 30 September 2010, Mr. Cighi held no shares issued by the Fund.

The following list sets out the names of all companies and partnerships in which Mr. Cighi has been acting as member of the administrative, management or supervisory boards or partners (as the case may be) in the five years prior to the date of this Prospectus. The list also indicates whether or not Mr. Cighi still a member of the administrative, management or supervisory bodies or is still a partner in the respective entity.

### **Adrian Cighi**

Name of the company	Posta Romana
Position	Member of the Board of Directors
Still in office	Yes

#### **4.2.1.2 Board of Nominees**

The Board of Nominees is a body created in accordance with the AoAs and with article 224 para. (4) of NSC Regulation 15, which does not have an equivalent correspondence corporate body structure regulated by the Companies' Law. This body structure was proposed by the Romanian Government in 2008 when the Government Decision no. 1514/2008 was enacted.

The Board of Nominees currently consists of the members listed below appointed by OGM resolution dated 6 September 2010 for a mandate of 3 years which commenced on 29 September 2010. Based on the same OGM resolution, each member of the Board of Nominees shall receive a remuneration of RON 108,000 per annum, payable monthly in arrears.

### **Bogdan Alexandru Drăgoi**

Bogdan Alexandru Dragoi is the Chairman of the Board of Nominees, having experience in project management and acquisition finance, serving as business analyst to Inquam Ltd. (UK). During 2007-2008, Mr. Dragoi has acted as General Director at Bucharest City Hall, after holding the office of Secretary of State in the Ministry of Public Finance in 2006-2007. Mr. Dragoi has graduated from Tufts University, Fletcher, Boston, Massachusetts in International Relations and Economics. As of 30 September 2010, Mr. Dragoi held no shares issued by the Fund.

By decision no. 1 dated 14 October 2010, the Board of Nominees has appointed Mr. Dragoi as the Chairman of the Board of Nominees.

### **Cristian Bușu**

Cristian Busu has experience in public administration as well as in financial investments. During 2005-2009 he has acted as economic advisor to the Prime Minister of Romania. Prior to that he worked as a broker at Prudential Financial (*New York*). He has earned a master degree in business administration at Hofstra University (*New York*). Prior to his appointment as member in the Board of Nominees, Mr. Busu has acted as the Fund's Chief Financial Officer. Currently, Mr. Busu is manager of Marfin Bank S.A. (Romania), Bucharest Branch and is a lecturer at Bucharest Academy of Economical Studies.

As of 30 September 2010, Mr. Busu held a number of 1,350,000 shares issued by the Fund.

### **Monica George-Maurer**

Monica George-Maurer is currently holding the office of personal advisor to the Minister of Economy, Trade and Business Affairs, coordinating investment projects for the acquisition of financial services for state-owned companies active in energy sector. She is a member in the Investment Board of the Jeremie Fund, part of the European Investment Fund. Ms. George-Maurer has a bachelor degree in biomedical engineering from John Hopkins University and a master degree at Brown University. As of 30 September 2010, Mrs. George Maurer held no shares issued by the Fund.

### **Sorin Mândruțescu**

Sorin Mândruțescu has an extensive experience in various types of corporate financing and banking industry. During 1994-2001 he has held various positions (including management) in a number of large Romanian credit institutions: Bancorex, Bank Austria Creditanstalt or Banca Turco Romana. Currently, Mr. Mândruțescu is a managing director with Oracle Romania. Mr. Mândruțescu has earned an executive master in business administration at University of Edinburgh Management School and ENCP School of International Management (*Paris*). As of 30 September 2010, Mr. Mândruțescu held no shares issued by the Fund.

### **Corin Ioan Trandafir**

Corin Ioan Trandafir is an attorney at law, registered with the Bucharest Bar, with over 17 years expertise in commercial law, international arbitration, privatisation, competition and intellectual property law. Mr. Trandafir is a coordinating partner with SCPA Rubin, Meyer, Doru & Trandafir law firm. He is the co-author of numerous articles in prestigious Romanian publications, focusing mainly on writings with respect to the Fund and abusive confiscation of private property during the communist regime. As of 30 September 2010, Mrs. Trandafir held no shares issued by the Fund.

Mr. Trandafir has concluded agreements with a number of Fund's shareholders which own in aggregate more de 5% of the Fund's share capital. Pursuant to these agreements Mr. Trandafir represents their interests in Romania, including those related to their shareholding in the Fund; under these agreements Mr. Trandafir has the right to acquire Shares or their cash equivalent.

The following list sets out the names of all companies and partnerships in which the members of the Board of Nominees have been acting as members of the administrative, management or supervisory boards or partners (as the case may be) in the five years prior to the date of this Prospectus. The list also indicates whether or not each member of the Board of Nominees is still a member of the administrative, management or supervisory bodies or is still a partner in the respective entity.

### **Bogdan Alexandru Drăgoi**

Name of the company	S.C. Hidroelectrica S.A. (controlled by the Romanian State)
Position	Member of the Board of Directors
Still in office	Yes
Name of the company	C.N Loteria Romana S.A. (controlled by the Romanian State)
Position	Member of the Board of Directors
Still in office	No
Name of the company	S.C. CEC Bank S.A. (controlled by the Romanian State)
Position	Member of the Board of Directors
Still in office	yes
Name of the company	A.N. Apele Romane (controlled by the Romanian State)
Position	Member of the Board of Directors
Still in office	no
Name of the company	S.C. Fondul Proprietatea S.A.
Position	Member of the Selection Committee for the Fund Manager
Still in office	no

### **Cristian Buşu**

Name of the company	Government of Romania – The Prime Minister’s Cabinet
Position	Economic adviser
Still in office	no
Name of the company	S.C. Fondul Proprietatea S.A.
Position	Chief Financial Officer – member of the Executive Board
Still in office	no
Name of the company	S.C. Marfin Bank (Romania) S.A.
Position	Main Branch Manager
Still in office	yes

**Monica George-Maurer**

Name of the company	OPCOM (Romanian Electricity Market Operator, controlled by the Romanian State)
Position	Member of the Board of Directors
Still in office	Yes
Name of the company	GDF Suez Energy Romania
Position	Member of the Board of Directors
Still in office	Yes
Name of the company	The European Investment Bank "Jeremie" Programme – Joint European Resources for Micro to Medium Enterprises ( <i>Banca Europeana de Investitii "Jeremie"</i> )
Position	Member of the Development Committee
Still in office	yes
Name of the company	S.C. Eximbank S.A. (controlled by the Romanian State)
Position	Member of the Interministerial Committee for Finance, Security and Insurance ( <i>Comitetul Interministerial de Finante, Garantii si Asigurari</i> )
Still in office	yes
Name of the company	IGM Foundation New York, USA
Position	Member of the Board of Directors and shareholder (33.3%)
Still in office	yes
Name of the company	S.C. Snagov Country Club S.R.L. (Romania) – <i>activity suspended</i>
Position	Manager and sole shareholder
Still in office	yes
Name of the company	MJM Biotech INC USA - <i>activity suspended</i>
Position	Manager and sole shareholder
Still in office	yes

### **Sorin Mândruțescu**

Name of the company	Oracle Romania
Position	Managing director
Still in office	yes

Name of the company	American Chamber of Commerce in Romania
Position	President
Still in office	yes

### **Corin Ioan Trandafir**

Name of the company	Rubin Meyer Doru & Trandafir SCPA
Position	Coordinating partner
Still in office	yes

Name of the company	S.C. Compania de Administrare a Domeniului Bran S.R.L.
Position	Manager
Still in office	yes

#### **4.2.1.3 Statutory Auditors**

**I.2**

The audit of the Fund's 2007, 2008 and 2009 statutory financial statements was performed by S.C. Deloitte Audit S.R.L., having its registered seat in Romania, Bucharest, Nicolae Titulescu str., no. 4-8, district 1, registered with the Bucharest Trade Registry under no. J40/6775/1995, identified with the fiscal code RO7756924. S.C. Deloitte Audit S.R.L. has been appointed as the Fund's statutory auditor for a period of three years, by resolution of the OGM dated 25 September 2007.

S.C. Deloitte Audit S.R.L. is member of the Romanian Chamber of Financial Auditors.

#### **4.2.1.4 Conduct**

Other than indicated at Section 4.2.1.2 above, no arrangements or understandings with major shareholders, customers, suppliers or others exist, pursuant to which the Sole Director, the representatives of the Sole Director or any member of the Board of Nominees was selected as a member of administrative, management or supervisory bodies or members of the senior management of such persons.

No restrictions have been agreed by the Sole Director, the representatives of the Sole Director, or any member of the Board of Nominees on the disposal of its holdings in the Fund's shares other than as set out in the Fund's investment policy, AoAs, the internal rules of the Fund and the Fund Manager, and other applicable laws.

No family ties between the persons referred to in Sections 4.2.1.1. and 4.2.1.2. above exist.



Neither the Sole Director or any of its representatives, nor any member of the Board of Nominees has, at any time in the five years prior to the date of this Prospectus:

- (a) been convicted of a fraudulent offence; or
- (b) been associated with any bankruptcies, receiverships or liquidations in the capacity of any of the positions held; or
- (c) been subject to any official public incrimination and/or sanctioned by any statutory or regulatory authority (including any designated professional body); or
- (d) been disqualified by a court decision for acting as a member of the administrative, management or supervisory bodies of any company or from acting in the management or conduct of the affairs of any company.

#### **4.2.1.5 Conflicts of Interest**

The potential conflicts of interest of Sole Director are covered by article 22 of AoAs. According to article 22 para. (4) of AoAs, "*(4) If the Fund Manager, respectively its permanent representative and its employees, have in a certain operation, directly or indirectly, adverse interest to the interest of Fondul Proprietatea, the Fund Manager must give notice to the internal auditors and Body of Nominees of this issue and not take part in any deliberation concerning the specific situation. (5) The same obligation must be observed by the Fund Manager, respectively by its permanent representative and its employees if, in a certain operation, is being aware that an Affiliate of the Fund Manager or the wife or husband, relatives or related persons until the 4<sup>th</sup> grade inclusive of the representative and its employees, are interested.*"

Sole Director takes actual and potential conflicts of interest very seriously and it conducts all business according to the principle that it must manage any conflicts of interest fairly between itself and its client (including the Fund) or between multiple clients. The Franklin Templeton group has group-wide policies for managing conflicts of interest and ensuring the ethical conduct of all its staff which apply to the Sole Director. These policies were designed to evidence compliance with the conflicts of interest requirements as set out in the European Markets in Financial Instruments Directive of 2004 ("**MIFID**") and were also submitted to NSC during the course of the Fund Manager's licensing application. According to these policies, a '*relevant person*' includes a director, partner or equivalent, manager, employee or appointed representative of Sole Director.

Examples of the types of conflicts of interest that Sole Director may need to consider include situations where:

- (a) Sole Director or a "*relevant person*" may or does make a financial gain or loss at the expense of the client;
- (b) Sole Director or a "*relevant person*" has an interest in the outcome of a service being provided to or a transaction being made by or on behalf of a client;

- (c) Sole Director or a "*relevant person*" has a financial or another incentive to favour the interest of one client or group of clients over the interest of another client;
- (d) Sole Director or a "*relevant person*" carries on the same business as the client;
- (e) Sole Director or a "*relevant person*" receives or will receive from a person other than a client an inducement (money, goods/services) other than standard fee or commission;
- (f) Sole Director and "*relevant persons*" may be exposed to different types of conflicts of interest depending on the activities being undertaken.

The potential conflicts of interest of Board of Nominees' members are covered by article 18 of AoAs. According to article 18 of AoAs, "(4) *If a member of the Body of Nominees has, directly or indirectly, adverse interest to the interest of Fondul Proprietatea, in a certain operation, that member must give notice of such situation to the other members and to the internal auditors and not take part in any deliberation regarding that operation. (5) The same obligation must be observed by the member of the Body of Nominees, who acknowledges that in a certain operation, his/her wife or husband, relative or related persons until the 4<sup>th</sup> grade inclusive are interested.*(6) *The prohibitions stipulated in paragraphs (4) and (5) regarding the participation, deliberation and voting of the members of the Body of Nominees, are not applicable if the vote refers to:*

- (a) *the offer of shares or obligations of Fondul Proprietatea for subscription, to a member of the Body of Nominees or to the persons mentioned in paragraph (5);*
- (b) *the granting by a member of the Body of Nominees or by the persons mentioned in paragraph (5) of a loan or establishing a guarantee in favour of Fondul Proprietatea.*

*The member of the Body of Nominees not observing the provisions of paragraphs (4) and (5) is held liable for the damages caused to Fondul Proprietatea."*

With respect to Mr. Bogdan Dragoi, there are potential conflicts of interest arising from Mr. Dragoi holding simultaneously the position of member in the Board of Nominees, the position of Secretary of State in Ministry of Public Finance (the controlling shareholder of the Fund) and member of the board of directors of Hidroelectrica SA (a Portfolio Company).

With respect to Ms. Monica George-Maurer, there are potential conflicts of interest arising from Ms. George-Maurer holding simultaneously the position of member in the Board of Nominees, the position of personal advisor to the Minister of Economy (controlling shareholder in some of the Portfolio Companies), the position of member in the board of directors of Opcom (a fully owned subsidiary of Transelectrica – a Portfolio Company) and GDF Suez Energy Romania (a Portfolio Company).

With respect to Mr. Cristian Busu, there is a potential conflict of interest arising from the fact that the father of Mr. Cristian Busu is a member in the board of directors of S.C. Delfincom S.A., a Portfolio Company.

#### **4.2.1.6 Remuneration and benefits**

The remuneration received by members of the Fund's corporate bodies in 2009 financial year and up until the mandate of the Fund Manager became effective:

I.15.1

I.16.1

<i>Name</i>	<i>Office</i>	<i>Period</i>	<i>Remuneration</i>	<i>Other benefits</i>
Ioan Adam	Member of Supervisory Board	April 2009 – February 2010	297,008 RON	0 RON
Jozsef Birtalan	Member of Supervisory Board	January 2009 – April 2009	143,137 RON	0 RON
Cristian Busu*	Member of Executive Board	December 2009 – Sept. 2010	245,662 RON	127,548 RON
John Chrissoveloni	Member of Supervisory Board	January 2009 – April 2009	136,115 RON	0 RON
Laura Constantin	Member of Executive Board	January 2009 – December 2009	317,849 RON	882,776 RON
Mihai Darie	Member of Executive Board	January 2009 – December 2009	423,798 RON	1,164,844 RON
Ene Dinga*	Member of Supervisory Board	April 2009 – September 2010	337,047 RON	0 RON
Crinuta Nicoleta Dumitran*	Member of Supervisory Board	March – September 2010	5,628 RON	0 RON
Radu Florescu	Member of Supervisory Board	January 2009 – April 2009	136,115 RON	0 RON
Madalina Gheorghe*	Member of Supervisory Board	June – September 2010	0 RON	0 RON
Eduard Romulus Goean	Member of Supervisory Board	April 2009 – May 2010	334,276 RON	0 RON
Gratiela Denisa Iordache	Member of Supervisory Board	April 2009 – July 2010	367,216 RON	0 RON
Daniela Lulache	Chairman of Executive Board	January 2009 – December 2009	920,278 RON	2,648,101 RON
Valeria Nistor*	Member of Executive Board	December 2009 – September 2010	327,563 RON	0 RON
Ancuta Gianina Oprescu	Member of Supervisory Board	January 2009 – March 2010	331,419 RON	0 RON
Gheorghe Pogea	Member of Supervisory Board	March – May 2010	3,214 RON	0 RON
Ionel Popescu*	Chairman of Executive Board	December 2009 – September 2010	246,232 RON	0 RON
Giovanni Ravasio	Member of Supervisory Board	January 2009 – April 2009	123,620 RON	0 RON
Flavia Teodosiu	Member of Supervisory Board	January 2009 – April 2009	117,163 RON	0 RON
Corin Ioan Trandafir*	Member of Supervisory Board	April 2009 – September 2010	337,047 RON	0 RON
Mircea Ursache	Member of Supervisory Board	January 2009 – February 2010	593,346 RON	0 RON
Ingrid Zaarour	Member of Supervisory Board	January 2009 – April 2009	151,960 RON	0 RON

\* By resolution of the OGM no. 8 dated 6 September 2010, it has been approved the following:

- (a) revocation of the Executive and Supervisory Board, in compliance with legal provisions and contract clauses relating to termination for reasons not related to inadequate exercise and discharge of the mandate of the Supervisory Board and Executive Board members,
- (b) members of the Executive and Supervisory Board in office until September 2010 shall benefit from the contractual provisions providing for the payment of the remuneration for the holidays during which such persons have carried their duties, payment for the period of notice and payment of damages, in case such payments are envisaged in the mandate/management contracts; and
- (c) members of the Executive Board in office at 5 September 2010 shall benefit from the contractual provisions regarding the payment of the annual bonuses thereto, as well as the bonuses for the surpass of the profitability objectives for period 1 January – 28 September 2010, after the closing of the 2010 financial statements and following the analysis carried out by the Fund Manager of the income and expenditures budget approved for 2010, at the OGM on 10 February 2010.

According to management contracts signed by members of the Executive Board in December 2009, the members of the Executive Board are entitled to receive the following bonuses and compensation payments:

I.16.2

I.16.2

- (a) all members of the Executive Board are entitled to receive a net annual bonus determined by the Supervisory Board based on the proposals of the remuneration committee which will consider both (i) the performance of the members of the Executive Board and (ii) the contribution thereof to such performances<sup>5</sup>;
- (b) the Fund's legal manager and financial manager (members of the Executive Board) are entitled to receive compensation amounting to 6 (six) monthly average net remuneration but no more than the total remuneration to which he/she would have been entitled up to the end of the mandate; such compensation is due within one calendar month from the date the termination of the mandate is effective in case of a termination without cause,
- (c) all members of the Executive Board are entitled to receive an annual bonus determined by the Supervisory Board based on the proposals of the remuneration committee in case the annual profitability targets, as set out in the income and expenditure budget approved by OGM, are exceeded.

According to the management contracts and based on the OGM resolution no. 8 dated 6 September 2010, the payments of bonuses can be done only after the closing of the 2010 financial

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<sup>5</sup> The maximum annual bonus for Legal Manager is 20,000 euro and for Financial Manager is 18,000 euro.

statements and following analysis of the 2010 income and expenditures budget (approved by OGM on 10 February 2010) carried out by the Fund Manager.

The Fund has not set aside or accrued any amounts to provide pension, retirement or similar benefits, save for the mandatory contributions to the public pension system.

I.17.2 Furthermore, the contracts concluded between the Fund and the Fund Manager, the Sole Director and each of the members of the Board of Nominees respectively do not provide for benefits upon the termination of the contract.

## **4.3 Presentation of Articles of Association**

The AoAs have been approved by the EGM of 29 November 2010. Prior to that date, the Fund's articles of association have been approved by EGM of 6 September 2010. Prior to 2010, the Fund's articles of association have been enacted by the Government Decision no. 1481/2005, as further amended by Government Decision no. 1581/2007. Presently, no formal enactment by law/government decision of the AoAs or any amendments thereto is necessary, approval thereof being exclusively attributed by competence to the Fund's EGM.

### **4.3.1 The Fund's object and purposes**

I.21.2.1

Pursuant to articles 5 and 6 of the AoAs, the business object and purpose of the Fund is portfolio management. The main business area falls within the national classification of economic activities ("CAEN") code 643 ("mutual funds and other similar financial entities"), while the main business activity relates to the provision of financial investment services (CAEN code 6430).

Apart from the main purpose described above, the Fund has been initially created as a vehicle for framing the compensation of the persons whose real estate assets have been abusively confiscated by the Romanian state during the Communist era. That purpose is still outstanding and shall be fully accomplished once all shares held by the Romanian state in the share capital of the Fund shall be allocated to the Entitled Persons (for a descriptive presentation please see Section 4.1.2 "History and development of the Fund").

### **4.3.2 Corporate bodies of the Fund**

#### **4.3.2.1 General Meeting of Shareholders**

I.21.2.5

The general meetings of shareholders are either ordinary general meetings or extraordinary general meetings.

According to the AoAs, the Fund Manager convenes the general meeting of shareholders, with a prior notice to the Board of Nominees, at the registered seat of the Fund or at such other location expressly referred to in the convening notice. Under certain circumstances, the Board of Nominees may also convene the shareholders' meeting. The convening shall be carried out in accordance with the publicity and formal requirements set out by the applicable law.

Shareholders representing individually or collectively at least 5% of the Fund's share capital may:

- (a) request the Fund Manager to convene a general meeting, if such request refers to matters for which the shareholders' meeting is competent to decide upon. In this case, the meeting shall be convened within thirty (30) days and shall take place within sixty (60) days upon receipt of the request;

- (b) request the Fund Manager to supplement the agenda of the meeting within (15) days as of the date when the convening notice is duly published.

The shareholders' meeting may not be held earlier than 30 days after the publication of the convening notice in the Official Gazette and in a newspaper.

The shareholders entitled to vote in the meeting of shareholders are those registered at the reference date, determined in accordance with the Companies' Law, prior to listing and in accordance with the NSC Regulation no. 6/2009 and NSC Regulation 15, after the admission of the Shares to trading on the Relevant Market. The shareholders benefiting from the effects of any resolutions passed by the shareholders meetings shall be those registered at the registration date established by the relevant shareholders meeting as a date falling at least 10 business days following the date of the meeting.

Pursuant to the AoAs any information, documents and materials substantiating the agenda of a shareholders' meeting shall be made available to the shareholders not later than (20) days prior to the date for which the meeting has been convened. Pursuant to NSC Regulation no. 6/2009, after the admission to trading of the Shares on the Relevant Market, such supporting documents/information must be made available not later than (30) days prior to the shareholders' meeting.

#### *Ordinary General Meetings*

The OGM meets at least once a year, no later than 4 months after the end of the financial year or whenever it is necessary to be convened, in order to:

- (a) discuss, approve or amend the annual financial statements, following the analysis of the reports issued by the Fund Manager, the financial and statutory auditors;
- (b) determine the distribution of the net profit and approve payment of dividends;
- (c) appoint and dismiss the members of the Board of Nominees;
- (d) based on a selection carried out by means of a tender for the appointment of the fund manager, appoint and revoke the fund manager;
- (e) appoint and dismiss the financial auditor and determine the minimum term of the financial audit contract;
- (f) determine the remuneration of Fund Manager, of the members of the Board of Nominees and of the financial auditor for the current financial year;
- (g) express its position as concerns the fund manager's activity, evaluate the performance and discharge the management thereof;
- (h) decide upon the court summoning against the fund manager and the financial auditor, as applicable, for any damages caused to the Fund;
- (i) determine the Fund's development strategy and policies;

- (j) establish the annual budget of income and expenditures and, as applicable, the business plan for the next financial year;
- (k) decide upon the lease, creation of a security interest, mortgages over the Fund's assets; and
- (l) decide upon any other matters with respect to the Fund, in accordance with the legal duties thereof.

On the first call, quorum requirements for resolutions of the OGM are satisfied if shareholders representing at least one quarter (25%) of the shares carrying voting rights are present or represented and the resolutions shall be passed with the vote of a simple majority (more than 50%) of the votes cast. The resolutions concerning the dismissal of the Board of Nominees and of the Fund Manager shall be passed with a majority of at least two thirds (66.(6)%) of the present or represented voting rights.

For the validity of the resolutions at the second convening of the OGM, no quorum is required and the resolutions shall be passed with the vote of the simple majority of the votes cast.

#### *Extraordinary General Meetings*

The EGM meets whenever it is necessary to decide on the following:

- (a) opening and closing down of secondary establishments, such as: branches, agencies, representative offices and other business units without legal capacity;
- (b) increase or decrease of the share capital or reinstatement thereof by issuance of new shares;
- (c) conversion of shares / bonds from one category into another or conversion of bonds into shares;
- (d) issue of bonds;
- (e) approval of the admission to trading and selection of the regulated market on which the shares issued by the Fund shall be traded;
- (f) entering into any contracts/documents acts, which may impose legal obligations upon the Fund, including but not limited to: acquisition, sale, exchange or creation of security interests over the assets of the Fund which exceed 5% of the total net asset value of the Fund (calculated in accordance with the NSC regulations);
- (g) change in the management structure of the Fund;
- (h) limitation or annulment of the preference rights of the shareholders; and
- (i) any other amendment to the articles of association or other decisions for which, by law or by articles of association, the approval of the extraordinary general shareholders meeting is required.

On the first call, quorum requirements for resolutions of the EGM are satisfied if shareholders representing at least one quarter (25%) of the shares carrying voting rights are present or repre-



sented and the resolutions shall be passed with the vote of the majority of the voting rights of shareholders attending or represented (more than 50%). For the validity of the resolutions at the second convening of the EGM, quorum requirements are satisfied if shareholders representing at least one fifth (20%) of the voting rights are present or represented and the resolutions shall be passed with the majority of the voting rights of shareholders attending or represented.

Stricter quorum and/or majority rules are required by the AoAs and/or by the Companies' Law, as applicable, for the following decisions:

- (a) change of the main business purpose, increase or decrease of share capital, change of the Fund's legal form, merger, de-merger or dissolution thereof, all of which require a majority of at least two thirds (66.(6)%) of the voting rights attached to the shares held by the shareholders attending in person or by proxy;
- (b) limitation or annulment of the preference right is subject to the approval of shareholders meeting in presence of three quarters (75%) of the total subscribed share capital and with a majority of votes cast by the present shareholders; and
- (c) merger or spin-off resulting in an increase in the obligations of shareholders of one of the participants, which requires the unanimous vote of shareholders.

After the admission of Shares to trading on the Relevant Market, the following provisions of the Capital Markets Law shall supplement/replace, as applicable, the above mentioned special quorum/majority requirements:

- (a) share capital increase by contributions in kind to the extent permitted by the Capital Markets Law requires the approval of the shareholders' meeting in presence of shareholders representing three quarters (75%) of the number of shareholders and with a majority of at least 75% of the voting rights; and
- (b) in case of share capital increase by contribution in cash, annulment of preference rights requires the approval of the shareholders meeting in presence of shareholders representing three quarters (75%) of the number of shareholders and with a majority of at least 75% of the voting rights.

#### **4.3.2.2 Sole Director**

I.21.2.2 The Sole Director is Franklin Templeton Investment Management Limited United Kingdom, Bucharest Branch.

The Sole Director is selected by the general shareholders' meeting for a mandate of 4 years (the current mandate being effective as of 29 September 2010) which may be automatically renewed, unless the shareholders decide otherwise and which may be terminated prior to the expiry thereof.

The Sole Director, under control of the shareholders' meeting and supervision of the Board of Nominees, carries out all necessary and expedient acts for the implementation of the Fund's ob-

ject of activity within its competence set out by the applicable law and the AoAs. It has a diligence and loyalty duty to the Fund, acting in the best interests of shareholders.

Apart from the duties expressly set out in the law, the Sole Director and the Fund Manager have the following main responsibilities provided by the AoAs and the Investment Management Agreement:

- (a) to determine the reference date for the shareholders who are entitled to vote within the shareholders' meeting, in accordance with the applicable law and to prepare the content of the convening notice, after procuring the prior approval of the content by the Board of Nominees and after incorporating therein any matter requested by the Board of Nominees;
- (b) upon written request of a shareholder, submitted prior to the date for which the meeting has been convened, to provide answers on any matters related to the activity of the Fund, after procuring the prior approval of the Board of Nominees on such disclosure;
- (c) to make available a copy of the minutes of a shareholders' meeting, upon a shareholder's request in this respect, as well as the annual financial statement and the reports prepared by the auditors and the Fund Manager, after the publication of the convening notice for OGM;
- (d) to review and examine the annual financial statements, as prepared by the Fund's accountants, to prepare the report on the annual activity, to review the auditors' report and to present all the above documents to the Board of Nominees prior to the disclosure thereof to the shareholders' meeting for approval and to advance a proposal for the distribution of profit, after procuring the prior approval of the Board of Nominees;
- (e) to liaise with the Central Depository with respect to the operation of the shareholders' registry;
- (f) to prepare an annual report on the management and business policy of the Fund, which is to be presented to the Board of Nominees for approval, prior to being made available to the shareholders' meeting;
- (g) to propose for the prior approval of the Board of Nominees and subsequently for the approval of the shareholders' meeting, the annual budget of profit and expenditures and the business plan;
- (h) to propose for the prior approval of the Board of Nominees and subsequently for the approval of the shareholders' meeting, the general strategy in accordance with the Fund's investment policy (the Fund Manager is liable for the implementation of the investment policy and for the reaching an adequate balance between the profits and the risks associated with the Fund's portfolio). Furthermore, the Fund Manager shall periodically inform the Board of Nominees on any significant changes in the Fund's activity and portfolio structure;
- (i) to approve the outsourcing of certain activities, within the limits of the approved budget, namely the delegation of certain duties subject to prior approval of the NSC;

- (j) based on the proposal of the Board of Nominees, to submit for the approval of the shareholders' meeting any contract/document which may impose legal obligations upon the Fund, including but not limited to acquisition, sale, exchange or creation of security interests over the assets of the Fund which exceed 5% of the total net asset value of the Fund (calculated in accordance with the NSC regulations);
- (k) to propose to the shareholder's meeting the conclusion of the financial audit contract in accordance with the applicable law, after procuring the prior approval thereon of the Board of Nominees, and to approve the internal audit procedure, as well as the audit plan;
- (l) to decide upon the relocation of the registered seat, subject to it being relocated at any time on the territory of Romania;
- (m) to make available to the Board of Nominees reports, as well as any other documents which are necessary to the Board of Nominees to exercise its supervisory duties;
- (n) to immediately inform the Board of Nominees on any litigation or breach of the legislation regulating operation in securities in connection with Fund Manager, as well as on any operation which may constitute a breach of the investment policy and on any correction measures/plans to mitigate such matters;
- (o) to convene the extraordinary general shareholders meeting which shall decide upon any divergent opinion between the Fund Manager and the Board of Nominees, which may not be amicably settled between the above mentioned statutory bodies.

The AoAs also include regulatory provisions with respect to the conflict of interest and confidentiality responsibilities of the Sole Director.

The Sole Director, acting through its legal representatives, shall represent the Fund in relation to third parties. The delegation of the Fund Manager's duties to third parties shall be carried out in accordance with the applicable law.

#### **4.3.2.3 Board of Nominees**

The Board of Nominees is a body created in accordance with the AoAs and with article 224 para. (4) of NSC Regulation 15 and Government Decision 1514/2008, which does not have an equivalent correspondence in the corporate body structure regulated by the Companies' Law.

The Board of Nominees consists of members appointed by OGM for a mandate of 3 years, upon the expiry of which is automatically extended until the next OGM. Furthermore, contrary to the provisions of the applicable law, the OGM may decide upon the mandate of the members of the Board of Nominees without including such matter on the agenda of the meeting.

The members of the Board of Nominees may be the Fund's shareholders or the persons designated by the shareholders and shall hold adequate experience and qualification to decide (if necessary, by assistance of an independent consultant) whether the transactions proposed by the Fund Manager, which require the approval of the Board of Nominees, are carried out to the

benefit of the shareholders. It has a diligence and loyalty duty to the Fund, acting in the best interests of shareholders.

The Board of Nominees shall assemble at least quarterly. The convening of the meeting shall be made by the chairman of the Board of Nominees selected by the members thereof, by a member of the Board of Nominees or by the Fund Manager. The meeting of the Board of Nominees shall assemble within (7) days as of convening. The resolutions of the Board of Nominees shall be passed statutorily with a quorum representing the majority of the total members thereof with the vote of the majority of the voting rights held by the members of the Board of Nominees.

According to the AoAs, the main duties of the Board of Nominees are:

- (a) following receipt from the Fund Manager of the convening notice for OGM/EGM, requests, if necessary, the insertion of new items on the agenda which shall be included in the convening notice for the shareholders' meeting;
- (b) receives from the Fund Manager the draft responses to the queries submitted in written by the shareholders prior to the date of the shareholders' meeting with respect to items on the agenda related to the Fund's activity;
- (c) receives from the Fund Manager the annual financial statements, the annual business report presented by the Fund Manager and the auditors' financial report, prior to being submitted to the approval of the shareholders, analyses the above mentioned documents and, if necessary, issues opinions in case it has objections thereon and presents such opinions to the Fund Manager and to the general meeting;
- (d) receives from the Fund Manager for analysis the annual report, the management policy and the business policy of the Fund and presents to the Fund Manager and the general meeting an opinion thereon;
- (e) receives from the Fund Manager for analysis the annual budget of profit and expenditures and the business plan prior to being submitted to the approval of the general meeting and presents to the Fund Manager and the general meeting an opinion thereon;
- (f) receives from the Fund Manager for analysis the general strategy, in accordance with the Fund's investment policy, prior to being submitted to the approval of the general meeting and presents to the Fund Manager and the general meeting an opinion thereon;
- (g) receives from the Fund Manager for analysis and approves any by-laws regulating the Fund's operations and any other regulation issued by the Fund Manager for the Fund, in accordance with the applicable law and the capital market regulations;
- (h) receives and analyses the Fund Manager's proposal to the OGM for the conclusion of the financial audit contract and presents to the Fund Manager and the general meeting an opinion thereon;
- (i) analyses systematically the Fund's investment policy and presents to the Fund Manager and to the general meeting an opinion thereon whenever it deems useful, at least once a year on the occasion of the OGM;

- (j) receives the statutory auditors' reports and presents to the Fund Manager and the general meeting an opinion thereon;
- (k) monitors, based on the information and reports received from the Fund Manager:
- list of portfolio investments and the percentage representing each type of investments;
  - list of major transactions with assets from the Fund's portfolio for the period in review;
  - total portfolio profit and comparison of the profit against the adequate market benchmark;
  - comparison of the profit obtained against the initial objectives;
  - degree of implementation of the investments policy;
  - evaluation report on the performance of the activity,

all of the above for the purpose of preparing and presenting to the general meeting, upon request of the shareholders, but in any event not less than once a year, a report on the supervisory activity carried out by the Board of Nominees.

- (l) represents the general shareholders' meeting in relation with the Fund Manager with respect to all communication between the respective corporate bodies, save for where expressly regulated by the AoAs that the general meeting and the Fund Manager shall communicate directly;
- (m) verifies the Fund Manager's report and supervises on a permanent basis the management of the Fund by the Fund Manager; to this extent, the Board of Nominees verifies the compliance of the operations carried out by the Fund Manager with the applicable law, with the AoAs or with any relevant decision of the general shareholders' meeting;
- (n) under certain circumstances, convenes the general shareholders' meeting;
- (o) participates in the general shareholders' meetings and presents reports on all occasions expressly referred to in the AoAs or on any matter which it deems useful to be presented to the general shareholders' meeting;
- (p) recommends to the general shareholders meeting the approval or rejection of any contract/document which may impose legal obligations upon the Fund, including but not limited to acquisition, sale, exchange or creation of security interests over the assets of the Fund which exceed 5% of the total net asset value of the Fund (calculated in accordance with the NSC regulations);
- (q) recommends to the general shareholders meeting the termination of the management contract, in case it deems such termination to be to the benefit of the shareholders;
- (r) recommends to the general shareholders' meeting any other aspects which it deems important to the shareholders;

- (s) upon the proposal of the Fund Manager, recommends to the extraordinary general shareholders' meeting the appointment of the investment firm which shall carry out the public offer, as well as remuneration thereof, when such appointment shall be required for the admission to trading of the shares issued by the Fund.

The AoAs also include regulatory provisions with respect to the conflict of interest and confidentiality responsibilities of the members of the Board of Nominees.

Furthermore, the Board of Nominees will decide, within a reasonable period of time, upon any request submitted by the Fund Manager so as to permit the Fund Manager to perform its obligations.

#### **4.3.2.4 Rights, preferences and restrictions attached to the Shares**

I.21.2.3 According to the provision of the AoAs, each share issued by the Fund which is rightfully owned and paid up by a shareholder carries out the following rights: (i) voting right within the shareholders' meeting, (ii) right to elect and be elected in the managements structures of the Fund, (iii) right to participate in the distribution of profit.

As concerns the voting right, notwithstanding the above general rules, as long as the Ministry of Public Finance holds more than 33% of the Shares (see further below) the AoAs provide specifically that the exercise of the voting rights attached to the Shares is restricted, based on certain thresholds, in accordance with the following rules:

- I.21.2.4
- (a) shares held by a Fund shareholder representing in aggregate less than but including 1% of the Fund's paid up share capital, shall carry voting rights as follows: (1) share represents (1) voting right;
- (b) shares held by a Fund shareholder representing in aggregate less than but including 3% of the Fund's paid up share capital, shall carry voting rights as follows:
- (1) share carries (1) voting right for the part of the holding representing in aggregate less than but including 1% of the Fund's paid up share capital, and
  - (2) shares carry (1) voting right for the part of the holding representing between 1% and 3% of the of the Fund's paid up share capital;
- (c) shares held by a Fund shareholder representing in aggregate less than but including 5% of the Fund's paid up share capital, shall carry voting rights as follows:
- (1) share carries (1) voting right for the part of the holding representing in aggregate less than but including 1% of the Fund's paid up share capital;
  - (2) shares carry (1) voting right for the part of the holding representing between 1% and 3% of the of the Fund's paid up share capital; and
  - (3) shares carry (1) voting right for the part of the holding representing between 3% and 5% of the of the Fund's paid up share capital.

(d) shares held by a Fund shareholder representing in aggregate more than 5% of the Fund's paid up share capital, shall carry voting rights as follows:

- (1) share carries (1) voting right for the part of the holding representing in aggregate less than but including 1% of the Fund's paid up share capital;
- (2) shares carry (1) voting right for the part of the holding representing between 1% and 3% of the of the Fund's paid up share capital;
- (3) shares carry (1) voting right for the part of the holding representing between 3% and 5% of the of the Fund's paid up share capital; and
- no voting right shall be attached to the part of the holding exceeding 5%.

The above mentioned restrictions on the exercise of the voting rights attached to the Shares do not apply to the holdings of the Ministry of Public Finance. However, after the Romanian state's participation in the Fund's share capital dilutes below 33%, the general shareholders meeting may decide on the voting rights in accordance with the number of shares held, as well as on the meeting's quorum, pursuant to the applicable law. On 30 November 2010, the holding of the Ministry of Public Finance in the Fund's shares was 41.49703%.

Any other decisions that would result in changes to, or restrictions on shareholder rights are usually made by general shareholders' meetings. Save as set out above with respect to the exercise of the voting rights by the shareholders, the AoAs do not provide for other special conditions for the exercise of shareholders' rights than those provided by law.

With respect to the right to receive dividends, the AoAs set out that the Fund's net profit shall be distributed based on the decision of the general shareholders' meeting, each shareholder being entitled to receive dividends proportionally to the number of shares held by it in the Fund's share capital. Pursuant to the Companies' Law, the payment of dividends shall be carried out no later than (6) months from the approval of the annual financial statements for the previous year, under penalty of default interest payment.

Save as presented above, no rights, preference or restrictions are attached to the Shares.

Pursuant to the Companies' Law, as a rule the shares issued by a company entitle each holder to equal rights. Such rights mainly refer to the shareholders' involvement in the life of a company and the benefits distributed thereby and are regulated by the applicable laws. Shareholders must exercise their rights in good faith, without breaching the interest of other shareholders or that of the company.

#### **Voting rights and general shareholders' meeting**

One of the core rights of the shareholders in a company is the right to participate and vote in the general shareholders meeting thereof. Such rights are described in details in Section 4.3.2.1 "General Meeting of Shareholders" and Section 4.4.7 "Voting Rights" of this Prospectus.

Furthermore, shareholders representing individually or jointly at least 5% of a company's share capital may request, within a certain period of time, the supplementing of the agenda of the convening notice with additional items.

### **Right to dividend**

The financial year of the Fund begins on January 1 and ends on December 31 in accordance with the Romanian applicable law. Pursuant to the Companies' Law, dividends can be distributed only if the Fund records profits, as determined in its annual financial results. Interim dividends cannot be distributed.

Within the first four months of each financial year, the OGM adopts a resolution on the annual financial statements and the distribution of net profits for the previous year. Shareholders are entitled to dividends pro rata to their shareholdings. The term of payment of such dividends may not exceed 6 months from the approval of the decision of the general shareholders meeting.

Dividends that have not been claimed within three years after falling due shall be forfeited.

According to Romanian law, distribution of dividends in the absence of profit results in the persons responsible for distribution such as the managers of the company to incur both civil and criminal liability. Also, in case of a loss of the net asset is established, the underwritten share capital should be reinstated or reduced prior to any distribution of dividends.

### **Liquidation rights**

In the event of the liquidation of the Fund, all of the Fund's remaining assets following payment of all outstanding liabilities will be distributed among the shareholders according to their interest in the share capital. A resolution concerning the dissolution of the Fund requires a majority of at least two thirds of the voting rights attached to the shares held by the shareholders attending the meeting in person or by proxy.

### **Right to information**

The shareholders' right to be informed with respect to the Fund's activity may be generally exercised at any time. The shareholders may request to receive copies of the annual financial statements, the Sole Director's annual reports, the proposal for distribution of dividends. Furthermore, the shareholders are entitled to receive information on the shareholders' structure of the Fund and to check the registries kept by the Fund, such as the registry of the general shareholders' meeting. Furthermore, the company is required to make available a series of documents in a context of various corporate events (e.g. share capital increase, merger, spin off).

### **Pre-emption right**

In general, in case share capital increases by means of issue of new shares, existing shareholders have, according to Romanian law, pre-emption rights to the subscription of new shares, pro rata to their participation in the share capital. Upon the listing of the Shares, such pre-emption rights may only be excluded by a general meeting of the shareholders under certain justified grounds, in the presence of shareholders representing 75% of the number of shareholders and with a majority of at least 75% of the share capital.



The period for the exercise of the pre-emptive rights for subscription of new shares must be at least 1 month from publication in the Official Gazette of the decision of the general shareholders meeting approving the capital increase. Furthermore, after the listing of the Shares, the shareholders may approve the trading of pre-emption rights on the regulated market.

#### **Withdrawal right**

The shareholders who have not voted in favour of certain decision are entitled to withdraw from the Fund and request the Fund to acquire their share. This right may be exercised only if the decisions referred to above concern: (i) changes in the main activity of the Fund specified in the articles of association thereof; (ii) relocation of the Fund's registered seat to another country, (iii) change of the legal form of the Fund and (iv) merger or spin-off of the Fund.

#### **Other rights**

Shares also confer on their holders the following rights:

- (a) right to challenge a shareholders' decision passed in breach of the applicable law or of the articles of association;
- (b) right to ask questions to be answered during the shareholders' meetings;
- (c) right to receive free shares, in case of a share capital increase by incorporation of reserves or from other internal sources.

#### **4.3.2.5 Change in control**

I.21.2.6

Currently, considering the computation of the voting rights which may be exercised by the shareholders in the general shareholders' meeting, in accordance with the rules set out under Section 4.3.2.4. "Rights, preferences and restrictions attached to the Fund's shares", the Romanian state controls the majority of voting rights in the Fund. After the decrease of the Romanian state's stake in the share capital of the Fund below 33%, the computation of the voting rights, which may be exercised by the shareholders may be changed by resolution of the shareholders' meeting in this respect.

#### **4.3.2.6 Disclosure of shareholder ownership**

I.21.2.7

The AoAs do not include any thresholds above which a shareholder must disclose its ownership in the share capital of the Fund.

Following the admission to trading of the Shares, the Fund's shareholders will have to also comply with the Capital Markets Law which sets out that in case a natural or legal person, directly or indirectly, acquires or sells shares in a joint-stock company whose shares are admitted to trading on a regulated market, such person must inform (i) the NSC, (ii) the BSE and (iii) the company, within three business days of the proportion of voting rights held following such acquisition or sale, if as a consequence of such transaction, its proportion of voting rights reach, exceed or fall below 5%, 10%, 15%, 20%, 25%, 33%, 50%, 75% or 90% of the total voting rights attached to the shares issued by that company.

The three business days term is calculated starting with the day immediately following the date when the holder: (i) takes note of the relevant acquisition or disposal or of the possibility to exercise the voting rights or when, taking into consideration the circumstances, should have taken note of it, regardless of the date on which the acquisition, the disposal or the possibility to exercise the voting rights becomes effective; or (ii) takes note of the operations (other than acquisition or disposal) that trigger the reaching, exceeding or falling below the relevant threshold.

#### **4.3.2.7 Corporate Governance**

The Fund complies with all corporate governance rules and regulations instituted by the Romanian law applicable to the Fund. After admission to trading on the Relevant Market managed by the BSE, the Fund will be required to confirm to the BSE compliance with the corporate governance rules instituted by the BSE and applicable to the listed companies.

I.16.3

I.16.4

On the date of this Prospectus, the Fund has in place an audit committee and a remuneration and nomination committee.

##### **Audit Committee**

The audit committee consists of a number of 3 non-executive members, of which at least one member is required to hold accounting or financial audit experience. The members of the audit committee are acting independently from the Sole Director and the Board of Nominees.

The audit committee shall convene whenever necessary, however at least bi-annually, on the occasion of preparing the annual and bi-annual financial statements, which shall be made public. Having a consultative responsibility, the audit committee shall assist the Sole Director in carrying out of its duties and shall advance proposals and recommendations which shall be submitted to the approval and/or certification of the Sole Director and the Board of Nominees.

The main duties of the audit committee include:

- (a) periodically informing the Sole Director of any changes in the applicable legal regime/standards concerning the audit, insider trading and market manipulation;
- (b) preparing an annual activity report, based on which the Sole Director and the Board of Nominees shall assess its performance;
- (c) assisting the Sole Director in carrying out its duties pertaining to financial reporting, internal control and risk management;
- (d) constant assessment of the efficiency of implementation of financial reporting, audit control and risk management system;
- (e) ensuring that the audit analysis effected and the corresponding audit reports prepared are compliant with the audit plan approved by the Sole Director or by the audit committee,
- (f) supporting the Sole Director in monitoring the accuracy and completeness of the financial information disclosed by the Fund, especially by means of reviewing the uniformity and compliance of the accounting standards applied by the Fund (including the consolidation criteria);

- (g) deliver recommendations with respect to the selection, re-appointment, replacement of the financial auditor, as well as the terms and conditions for the remuneration thereof;
- (h) monitoring the impartiality and objectivity of the financial auditor, especially by means of supervising the rotation of the audit firm's partners dedicated to the Fund.

The Audit Committee consists of the 3 members:

- (i) Monica George-Maurer – chairman,
- (j) Cristian Busu; and
- (k) Sorin Mandrutescu.

#### **Remuneration and Nomination Committee**

The remuneration and nomination committee consists of a number of 3 non-executive members, acting independently from the Sole Director and the Board of Nominees.

- (a) The main duties of the remuneration and nomination committee include:
- (b) analysis of the causes based on which the replacement of the Sole Director has been requested, if applicable, and shall carry out the process of appointment of an interim Sole Director, in case of the change of the Sole Director;
- (c) preparing the remuneration policy for the directors and administrators;
- (d) preparing and presenting to the Sole Director and the Board of Nominees an analysis with respect to the carrying out of the investment management contract and shall make recommendations for the remuneration of the members of the Board of Nominees, based in the remuneration policy to be adopted by the Fund;
- (e) preparing an annual activity report, based on which the Sole Director and the Board of Nominees shall assess its performance.

Having a consultative responsibility, the remuneration and nomination committee shall assist the Sole Director in carrying out of its duties and shall advance proposals and recommendations which shall be submitted to the approval and/or certification of the Sole Director and the Board of Nominees.

The Remuneration Committee consists of 3 members:

- (a) Bogdan Alexandru Dragoi – chairman,
- (b) Corin Ioan Trandafir; and
- (c) Sorin Mandrutescu.

The members of the advisory committees are not entitled to receive an additional remuneration with respect to their responsibilities as members of such committees.

## 4.4 Presentation of the Share Capital

### 4.4.1 General Information

#### I.21.1.1

On the date of the Prospectus, the share capital of the Fund stands at 13,778,392,208 RON and is fully paid up. It is divided into 13,778,392,208 ordinary shares issued in a dematerialized form registered with the Central Depository, bearing the ISIN code ROFPTAACNOR5 and having a nominal value of 1 RON/share. Currently there is no authorised capital regulated by the AoAs or entitling the Sole Director to increase the share capital based on the resolution of the general shareholders' meeting, in accordance with the applicable law. Furthermore, there are no shares issued by the Fund, which do not represent capital (for the historical information on the un-paid and cancelled shares of the Fund, please refer to Section 4.4.5 "History of the Fund's share capital" below).

#### I.21.1.2

Prior to the Fund's listing, the Shares not owned by the Romanian state have been transferred by registration of the transfer with the shareholders' registry kept by the Central Depository. No disclosure or transparency requirements have been applicable to such transfers of ownership over the Shares.

Following the listing of the Shares on the Relevant Market, the trading in Shares shall be carried out in accordance with the capital market rules.

As described in Section 4.4.5. "History of the Fund's share capital" below, the share capital of the Fund consists mainly of in kind contributions of the Romanian state. Currently the Fund's share capital consists of 96.45% in kind contributions and 3.55% cash contributions.

The share capital information presented above reflects the status thereof as of the date of this Prospectus. The standing of the Fund's share capital in accordance with the most recent financial statements prepared by the Fund, as of 30 June 2010, was as follows:

No. of shares authorised	N/A
No. of shares issued	14,240,540,675
No. of shares fully paid up	13,757,592,587
No. of shares not fully paid	482,948,088
Par value per share	1 RON

*Source: RAS financial statements of the Fund as of 30 June 2010, un-audited*

In July 2010, the share capital of the Fund was decreased according to Law 142/2010 and in August 2010, the Supervisory Board approved the increase of the share capital by means of cash contributions made by Ministry of Public Finance in July and August 2010. As at the date of the Prospectus the share capital is as follows:

No. of shares authorised	N/A
No. of shares issued	13,778,392,208
No. of shares fully paid up	13,778,392,208
No. of shares not fully paid	N/A

Par value per share 1 RON  
*Source: Trade Registry Excerpt*

#### **I.21.1.4 4.4.2 Convertible securities, Exchangeable securities and Warrants**

Prior to the listing, the Fund has not issued any convertible securities, exchangeable securities or warrants.

#### **4.4.3 Treasury Shares**

##### **I.21.1.3**

On the date of this Prospectus, neither the Fund nor its subsidiaries hold shares issued by the Fund. Nevertheless, based on the EGM resolution of 6 September 2010, the Fund Manager has been authorised to buy-back a number of maximum 1,375,759,258 Shares during the period of 01.09.2010-01.03.2012 at a price ranging between 0.2 RON/share and 1.5 RON/share. The resolution also states that such treasury shares shall be paid up out of the Fund's distributable profit or available reserves, in accordance with the last approved annual financial statements, save for the statutory reserves.

The buy-back of the Shares shall be carried out in compliance with European legislation in particular having regard to the European Commission Regulation 2273/2003 for the application of Directive 2003/6/EC on insider dealing and market manipulation.

It is common practice among listed companies for the executives to seek shareholders' authority to buy back the company's shares from time to time if the circumstances are appropriate and in the best interests of shareholders at large. By far the most common example of such circumstances is where, in the executive's opinion, the shares are being valued in the market at significantly below their true worth and therefore buying back shares will increase shareholder value to the remaining shareholders. This process has the effect not only of returning cash to shareholders wishing to sell, but also reducing any discount between the Fund's NSC NAV and the market price by reducing the total number of Shares in issue. It also reduces the total share capital of the Fund, giving the remaining shareholders a larger percentage ownership and larger share in the future earnings of the Fund.

#### **4.4.4 Acquisition rights and options**

##### **I.21.1.5**

On the date of this Prospectus, there are no acquisition rights and/or obligations over authorized but unissued capital and no undertaking to increase the share capital of the Fund is applicable.

##### **I.21.1.6**

However, Law 247 states that the share capital increase of the Fund, in cash or in kind from the resources expressly included in the law, is to be effected *de jure*, by means of a decision issued by the Supervisory Board, without any approval of the Fund's shareholders' meeting, without launching a public offer or publication of an offer document. In this context, the Romanian state was under the obligation to request the Supervisory Board to initiate a share capital increase whenever it entered into possession of the resources expressly provided by law to be designated to be contributed to the share capital of the Fund. For more details on these special sources

dedicated to the share capital increases, please refer to Section 4.4.5 "History of the Fund's share capital" below.

Furthermore, there is no capital of the Fund, which is under option or agreed conditionally or unconditionally to be put under option.

#### **4.4.5 History of the Fund's share capital**

I.21.1.7

Pursuant the provisions of Law 247, upon incorporation, the share capital of the Fund compiled a percentage point of shares held by the Contributing Entities (e.g. AVAS, the Ministry of Economy, Ministry of Public Finance, the Ministry of Transports) in a number of companies. Nevertheless, Law 247 did not provide for the value of such initial share capital or for the value of the assets contributed to the share capital of the Fund.

In this context, there was a significant time gap captured between the date when Law 247 has entered into force (22 July 2005), the date when the articles of association of the Fund have been duly approved by the Government Decision no. 1481 (which was enacted on 5 December 2005) and the timeframe within which the Fund has effectively acquired the ownership right over the Portfolio (Feb. - Mar. 2006).

The initial value of the Fund's share capital was set up in the Government Decision no. 1481 at 14,240,540,675 RON. However, this figure has not been based on an evaluation of the assets contributed to the share capital of the Fund. Consequently, on the date of registration of the Fund with the Trade Register Office, no evaluation report has been issued with respect to the assets contributed to the Fund's share capital.

After the Portfolio has been effectively transferred into the Fund's ownership, a series of issues were identified, such as: (i) certain Contributing Entities no longer owned the envisaged holdings in certain companies as set out in Law 247 so it could not be transferred to the Fund or (ii) some of the Portfolio Companies have changed the value of the share capital.

Furthermore, starting with February 2006, the Ministry of Public Finance commenced contributing to the share capital of the Fund certain amounts in cash, deriving from the foreign debt collected by the Romanian state from various countries, a source of share capital contribution expressly regulated by Law 247. These types of contributions in cash to the share capital of the Fund by the Ministry of Public Finance represent amounts collected by the Romanian state out of the foreign receivables due by other countries and have been carried out up until 3 August 2010.

In June 2007, Law 247 has been amended by the Emergency Government Ordinance 81 which brought about two significant changes which had a major impact on the share capital of the Fund: (i) the evaluation methods with respect to the assets contributed to the share capital of the Fund for the purpose of comparing the value of the contributed assets to the Fund's share capital with the value of the share capital set out in the Fund's articles of association have been regulated and (ii) the Portfolio has undergone significant legislative changes (i.e. a number of companies have been removed from the Portfolio (e.g. Compania Națională Loteria Română S.A., Compania Națională Imprimeria Națională S.A., S.C. CEC S.A., S.C. Romtelecom S.A. while

certain other holdings held by AVAS and the Ministry of Transportation have been additionally contributed to the share capital of the Fund).

In October 2007, S.C. Finevex S.R.L. ("**Finevex**"), the selected evaluator, has finalized the evaluation of the assets contributed to the share capital of the Fund. The evaluation report revealed that the value of the Fund's assets contributed to the share capital, calculated in accordance with the methods set out in the Emergency Government Ordinance 81/2007, amounted to 13,282,601,016 RON, i.e. 957,939,659 RON less than the value of the Fund's share capital established by the Government Decision 1481 (14,240,540,675 RON). The shares corresponding to the amount of 957,939,659 RON were deemed unpaid by the Romanian state and did not carry voting and dividend rights.

Consequently, the Romanian state was under the obligation to transfer to the Fund's share capital in cash or in kind contributions corresponding to the amount of 957,939,659 RON. Pursuant to the provisions of Law 247, any contribution effected by the Romanian state to the Fund, in cash or in kind, is to be used with priority towards the discharge of the payment obligations with respect to the shares subscribed and not paid up. Following the payment of all subscribed and unpaid shares, further amounts contributed by the Romanian state to the Fund were to be used for the share capital increase of the Fund. Consequently, up until recently (i.e. 3 August 2010), the Fund did not undergo any share capital increases.

Hence, the Ministry of Public Finance has contributed cash and securities towards the payment of the unpaid shares of the Romanian State from various sources regulated by Law 247 (i.e. external receivables collected from a number of debtor countries, free of charge shares allocated to the Romanian state in a number of companies). Pursuant to the internal records of the Fund, on 29.07.2010 the Fund's paid up share capital amounted to 13,757,592,587 RON, while the subscribed share capital has been preserved at 14,240,540,675 RON as initially regulated by the Government Decision 1481.

In July 2010, Law no. 142/2010 was passed approving the Emergency Government Ordinance 81/2007 with amendments. Pursuant to the provisions of Law no. 142/2010, the share capital of the Fund had to be reduced by decision of the Supervisory Board from 14,240,540,675 RON to 13,757,592,587 RON, by annulment of 482.948.088 shares unpaid shares of the Romanian state.

Subsequent to the decrease in the share capital of the Fund described above, the capital of the Fund has undergone an increase from 13,757,592,587 RON to 13,778,392,208 RON by resolution of the Supervisory Board dated 3 August 2010. The share capital increase was effected from the funds contributed by the Romanian state from various resources regulated by the laws governing the Fund such contribution being carried out after the date when all Shares have been duly paid up.

Recently, the Emergency Government Ordinance no. 91/2010 has been enacted, setting out that the amounts collected by the Romanian state from the foreign receivables towards various debtor countries shall be contributed directly to the Romanian state's budget. The preamble of this ordinance sets out that such measure is taken in consideration of the upcoming listing of the Fund which would be impaired in case the Romanian state shall continue to increase the Fund's share capital from such resources.

Pursuant to art. 9 of Law 247, the Fund is entitled to receive from the Romanian State additional cash contributions to its share capital, which should be performed progressively, to the extent that the respective proceeds are cashed in by the Romanian State from the relevant investors, related to: (i) amounts resulted from the sale of 4% of the shares in Banca Comerciala Romana SA<sup>6</sup>, (ii) amounts resulted from the privatisation of Romtelecom SA, (iii) amounts resulted from the privatisation of Casa de Economii si Consemnatuni CEC SA, and (iv) amounts in relation to the receivable against World Trade Center București S.A.

Pursuant to Law 247, for as long as the share capital of the companies whose shares have been transferred to the Fund by the Contributing Entities is held entirely by the Fund and the Romanian state, acting through various representatives, in case of share capital increases in such companies by means of in kind contribution from the Romanian state/Contributing Entities, the Fund is entitled to receive newly issued shares in such companies so as to ensure that its quota in the share capital of such companies is not decreased as a result of the share capital increase. The newly issued shares in such companies are transferred to the Fund by the Romanian State/Contributing Entities by means of a contribution in kind to the share capital of the Fund, occasion on which the Fund is required to increase its share capital accordingly. The same rules as described above apply also on the occasion of an increase in the share capital of such companies by means of incorporation of the value of the real estate assets owned by such companies, provided that real estate asset is not sold to a third party or transferred to a rightful successor. The shares should be issued to the Fund within 15 days from the registration of the resolution regarding the share capital increase and will represent a contribution in kind performed by the Romanian state to the share capital of the Fund.

Each of the additional contributions to the Fund's share capital from the above sources will determine the Fund to initiate the procedure for the increase of the share capital. Until 29 September 2010, the procedure for the increase of the share capital *de jure* as described in the present Section. After this date, considering the latest modifications brought to the Fund's articles of association, the share capital increase will be performed by approval of the EGM in accordance with the provisions of the Fund's articles of association and Law 31/1990. The price of the newly issued shares shall be determined in accordance with NSC regulations.

Furthermore, Law 247 states that the share capital of the Fund shall be adjusted from time to time as to reflect the value of the compensation related to the real estate assets, which may not be restituted.

The summarised history of the Fund's share capital from December 31, 2005 and up to the date of this Prospectus is presented in figures below:

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<sup>6</sup> The privatization of Banca Comerciala Romana SA was performed by the Romanian State and, as a result, the Fund's share capital was increased with EUR 88,394,758.44. However, regarding the remaining part of the due amount, the Fund is part to a litigation file. For additional details on the status of the litigation, please refer to section 4.3 below.



<b>Date</b>	<b>Issued capital (in RON)</b>	<b>Paid-up capital (in RON)</b>
December 31, 2005	14,240,540,675	14,240,540,675
December 31, 2006	14,240,540,675	14,240,540,675
December 31, 2007	14,240,540,675	13,624,645,381
December 31, 2008	14,240,540,675	13,679,274,999
December 31, 2009	14,240,540,675	13,743,121,175
Prospectus Date	13,778,392,208	13,778,392,208

Source: RAS Audited Financial Statements of the Fund and Trade Registry Excerpt

#### 4.4.6 Major shareholders

On 30 November 2010, the following shareholders of the Fund held more than 5% share capital and only one shareholder held more than 5% of the Fund's voting rights:

I.18.1

<b>Shareholder</b>	<b>% of share capital</b>	<b>% voting rights</b>
Ministry of Public Finance	41.49703%	44.68664%
Malaxa Loreen , Palade Von Dusen Georgia , Palade Theodore	7.35283%	2.87164%

As of 30 November 2010, the total number of voting rights was 12,794,928,632.

Prior to the date of this Prospectus, the shareholders of the Fund were not required to disclose their holdings in the Fund's share capital, since the Fund has not been listed on a regulated market.

After the date of the admission to trading of the Shares on the Relevant Market, the shareholders shall inform the Fund, NSC and BSE of their holdings that reach, exceed or decrease below 5%, 10%, 15%, 20%, 25%, 33%, 50%, 75% and 90% of the total voting rights, within 3 business days from the date when the above stated thresholds are reached.

#### 4.4.7 Voting rights

I.18.2

The AoAs provide specifically that, for as long as the Ministry of Public Finance holds more than 33% of Shares, the exercise of the voting rights attached to the Shares is restricted, based on certain thresholds, in accordance with the following rules:

- (a) Shares held by a Fund shareholder representing in aggregate less than but including 1% of the Fund's paid up share capital, shall carry out voting rights as follows: (1) Share represents (1) voting right;
- (b) Shares held by a Fund shareholder representing in aggregate less than but including 3% of the Fund's paid up share capital, shall carry out voting rights as follows:
  - (1) Share carries (1) voting right for the part of the holding representing in aggregate less than but including 1% of the Fund's paid up share capital, and

- (2) Shares carry (1) voting right for the part of the holding representing between 1% and 3% of the of the Fund's paid up share capital;
- (c) Shares held by a Fund shareholder representing in aggregate less than but including 5% of the Fund's paid up share capital, shall carry out voting rights as follows:
- (1) Share carries (1) voting right for the part of the holding representing in aggregate less than but including 1% of the Fund's paid up share capital,
  - (2) Shares carry (1) voting right for the part of the holding representing between 1% and 3% of the of the Fund's paid up share capital; and
  - (3) Shares carry (1) voting right for the part of the holding representing between 3% and 5% of the of the Fund's paid up share capital;
- (d) Shares held by a Fund shareholder representing in aggregate more than 5% of the Fund's paid up share capital, shall carry out voting rights as follows:
- (1) Share carries (1) voting right for the part of the holding representing in aggregate less than but including 1% of the Fund's paid up share capital,
  - (2) Shares carry (1) voting right for the part of the holding representing between 1% and 3% of the of the Fund's paid up share capital;
  - (3) Shares carry (1) voting right for the part of the holding representing between 3% and 5% of the of the Fund's paid up share capital; and
  - no voting right shall be attached to the part of the holding exceeding 5%.

The above mentioned restrictions on the exercise of the voting rights attached to the Shares do not apply to the holdings of the Ministry of Public Finance. However, after the Romanian state's participation in the Fund's share capital dilutes below 33%, the EGM may decide on the voting right in accordance with the number of shares held, as well as on the meeting's quorum, pursuant to the applicable law.

#### **4.4.8 Ownership control**

I.18.3

As described above, currently the Ministry of Public Finance exercises the direct control of the Fund, based on its voting rights, granted thereto by the AoAs and by Law 247. Pursuant to the Companies' Law, the shareholders must exercise their rights in good faith, with the observance of all rights and interests of the company and of the other shareholders.

#### **4.4.9 Change in control**

I.18.4

Other than as described in Section 4.4.7. "Voting rights" above, to the best knowledge of the Fund, there are no arrangements, the operation of which may at a subsequent date result in a change in control of the Fund. Notwithstanding the above, depending on the rate of indemnifi-

cation of the Entitled Persons by allocation of Shares, the Romanian state's participation in the share capital of the Fund shall decrease up to a point when it shall no longer hold the control of the Fund.

## 4.5 The Depositary

Based on the decision of the Supervisory Board of 11 September 2008, as a result of a tender carried out by the Fund, S.C. Bancpost S.A. was appointed to act as the depositary and custodian with respect to the Fund's assets. On 24 October 2008, the Fund has concluded a depositary agreement with S.C. Bancpost S.A.

Company name, legal Form, registered office and duration

Legal and commercial name	S.C. Bancpost S.A.
Place and number of registration	Bucharest Trade Register Office registration no. J40/9052/1991; sole registration code: 404416;
Date of incorporation, duration	16.08.1991, indefinite;
Legal form	joint stock company, organised as a credit institution under Romanian law;
Registered seat	Bd. Dimitrie Pompeiu no. 6A, district 2, Bucharest, Romania
Address	Bd. Dimitrie Pompeiu no. 6A, district 2, Bucharest, Romania
Contact details	Telephone: 021/3080540 Fax: 021/3184193

The Depositary is a Romanian credit institution licensed by the NBR to carry out inter alia custody activities and management of financial instruments. Furthermore, the Depositary is registered with the NSC registry under no. PJR10DEPR/400001 and authorised by NSC by decision no. 3755/31.10.2003 as a depositary entrusted with the safekeeping of assets held by Romanian undertakings for collective investments.

The legal framework regulating the activity of a depositary entrusted with the safe-keeping of an investment company's assets is set out primarily in NSC Regulation 15. Pursuant to the above mentioned legal norms, the depositary registers, verifies, monitors and controls all assets held by an undertaking for collective investments for which it acts as depositary. Furthermore, the depositary agreement sets out the following main duties of the Depositary.

Main depositary activities:

- (a) safekeeping of all of the Fund's assets;
- (b) bookkeeping of the equity securities issued in a dematerialised form and admitted to trading on a regulated market/alternative trading system and safekeeping of equity securities issued in a materialised form and not admitted to trading on a regulated market/alternative trading system in special locations of the Depositary marked with the name of the Fund, registered

with the custody account opened by the Fund with the Depositary, so as to identify at any time such assets as the Fund's property;

- (c) safekeeping of property titles attesting the ownership rights over the Fund's real estate assets, as well as of any documents entrusted by the Fund for safekeeping;
- (d) assessing on an ongoing basis the legality of all operations carried out with respect to the Fund's assets by the competent bodies of the Fund;
- (e) ensuring that the NSC NAV per share is calculated in accordance with the AoAs, NSC regulations and other applicable laws;
- (f) complying with the Fund's/Fund Manager's instructions, unless such instructions are given in breach of the relevant legislation or of the AoAs' provisions;
- (g) ensuring that, with respect to any transactions in the Fund's assets, any amount is paid up within the prescribed term;
- (h) ensuring that the revenues of the Fund are managed and calculated in accordance with the applicable laws, NSC regulations, the AoAs and the regulations issued by the Fund, as applicable;
- (i) calculating and certifying the NSC NAV and NSC NAV per share in accordance with the applicable law, the AoAs and any by-laws issued by it, as applicable. The certification of the NSC NAV and NSC NAV per share shall be carried out on the last business day of a month or at any other prescribed terms, in accordance with and in the form prescribed by the applicable laws, based on the documents delivered by the Fund Manager; the Depositary shall certify in due time the report sent by the Fund to the NSC;
- (j) issuance in due time (but not later than 48h prior to the applicable legal term) to the benefit of the Fund/Fund Manager of any other certifications, reports and any listings in connection therewith which are in possession of the Depositary, as set out in the applicable law or expressly requested by the Fund Manager.

Main custody activities:

- (a) keeping in custody the Fund's assets, separately from own or other clients' assets and registration thereof as the Fund's property; notwithstanding the above, the following assets of the Fund shall not be kept in custody by the Depositary:
  - monetary placements with other credit institutions;
  - securities issued in a dematerialised form and not admitted to trading and not registered with the Central Depositary;
  - real estate assets;
  - accounting assets;

- assets kept by sub-depositaries to which the Depositary has transferred the safe-keeping activity, in accordance with the applicable law.
- (b) keeping in custody the participation titles held by the Fund in other undertakings for collective investments, to the extent the fund managers of such undertakings in collective investments have agreed with the Fund on the registration;
- (c) opening on behalf of the Fund the following accounts;
- settlement account used for the purpose of settlement of transactions carried out on a regulated market/alternative trading system in financial instruments held by the Fund and kept in custody by the Depositary;
  - current account used for transactions in the Fund's assets which are not qualified as financial instruments kept in custody by the Depositary or related to any other operations of the Fund;
  - custody account opened by the Depositary in the name of the Fund, where the financial instruments admitted to trading on a regulated market/alternative trading system and the financial instruments issued in a materialised form and not admitted on a regulated market/alternative trading system are registered;
- (d) effecting payments from the Fund's current account opened with the Depositary only upon receipt of instruction in this respect and for the following purposes:
- payment of pecuniary obligations, including payment of the Fund's operational costs, interests, taxes and fees;
  - acquisition of the financial instruments/units not admitted to trading on a regulated market/alternative trading system which are to be kept in the Depositary's custody;
  - for any other purpose, as set out in the relevant instructions, prepared in accordance with the AoAs and the Fund's internal regulations, as applicable;
- (e) settlement of payments and collections carried out in connection with the transactions in financial instruments from/in the settlement account;
- (f) settlement of transactions in financial instruments/units not admitted to trading on a regulated market/alternative trading system in the Fund's portfolio by used of the custody account, based on the relevant instructions received from the Fund's competent body;
- (g) disbursement of financial instruments from the custody account only upon receipt of relevant instructions from the Fund's competent body, only in the following instances:
- upon receipt of the consideration for such financial instruments;
  - upon sale of a financial instrument by an investment firm; the Depositary shall transfer the Fund's financial instruments only upon the Fund's account being credited with the amount representing the consideration paid for such financial instruments;

- as a result of the instructions received from the Fund's competent body in a context of merger, or from the liquidation officer in a context of liquidation;
- (h) upon a request from the Fund's competent body, receipt of the amounts resulted from the sale of shares issued by the Fund and crediting the Fund's current account with such amounts;
- (i) prompt notification of the Fund Manager in case the Depositary acknowledges breach of applicable legal provisions in the process of transactions' settlement;
- (j) preparing and delivering to the Fund Manger, on each settlement date, reports reflecting the operations carried out in financial instruments kept in custody, as well as with respect to the Fund Manager's instructions which have failed to be carried out by the Depositary and, upon the Fund Manager's request, informative notes on compliance with the provisions of the depositary agreement;
- (k) upon the Fund Manager's request, collection of dividends, interests and other receivables related to assets deposited.

Under the terms and conditions of the depositary agreement, the Depositary is prohibited from transferring, partially or totally, the Fund's assets and from outsourcing custody/depositary activities carried out for the benefit of the Fund to other authorised sub-depositaries, without the prior consent of the Sole Director. Currently, there are no arrangements between the Fund and other authorised legal entities with respect to delegation of custody/depositary activities.

## 4.6 Material Contracts and Significant Service Providers

I.22

The Fund has a large number of service providers, most of which render services for the Fund's day-to-day activity and the consideration paid to the most of them does not have a significant impact on the Fund's activity.

The table included below sets out the main features of the contracts concluded by the Fund with the major service providers, i.e. the Fund Manager and the Depositary.

<b>Service Provider</b>	Franklin Templeton Investment Management Ltd. United Kingdom
<b>Type of agreement</b>	Investment management agreement
<b>Signing Date</b>	25.02.2010
<b>Object</b>	Investment management services
<b>Term</b>	4 years beginning with 29.09.2010
<b>Main duties</b>	Please refer to Section 4.3.2.2 "Sole Director" of this Prospectus
<b>Consideration</b>	<p>The fee of the Fund Manager is payable on a quarterly basis (prior to listing) and on an annual basis (after listing)  The fee shall be calculated based on a fixed commission, resulted from the final offer, applied to the notional amount according to the following formula:  The fee = the fixed commission multiplied by the notional amount, multiplied by the number of calendar days of payment divided by 365.  where  the fixed commission = the number of basis points per year from the final offer;  1 basis point = 0.0001;  1 year = 365 days</p> <p><b>Calculation formula:</b></p> <p><u>Prior to listing of the Fund:</u>  The notional amount is the average of the monthly Net Asset Value of the Fund, calculated based on the regulations in force within the quarter for which the payment is made:  a) the quarterly remuneration for the administration of the Fund's Portfolio is 0.379% applied to the notional amount described above, multiplied by the number of calendar days in the quarter, divided by 365;  b) the quarterly remuneration for the administration of the Fund is 0.1% applied to the notional amount described above, multiplied by the number of calendar days in the quarter, divided by 365;</p> <p><u>After listing of the Fund:</u>  the notional amount is the market value of the Fund which is defined as the market capitalization of the Fund (the number of issued shares multiplied by the average market price of the Fund shares over the last 90 days of trading of the respective calendar year or over the number of the trading days left until the end of the year, in case there are less than 90 days of trading left from the listing until the end of the year):  a) the annual remuneration for the administration of the Fund's Portfolio</p>



	lio: 0.379% applied to the notional amount defined above. b) the annual remuneration for the administration of the Fund: 0.1% applied to the notional amount defined above.
<b>Termination</b>	Early termination by the Fund based on a 3 month prior notice; Early termination by the Fund Manager based on a 12 month prior notice for the first 3 years; subsequently based on a 6 month prior notice. During the pre-termination periods (as referred to above), the Fund Manager shall not enter into new engagements without the Fund's instructions in this respect. In case of future changes of legislation allowing the Fund to manage itself and to outsource exclusively investment management activities, the Fund may, at its own discretion, correspondingly amend the corporate governance structure of the Fund.
<b>Other material provisions</b>	Any fees paid by any Portfolio Company to the directors, employees, agents or representatives of the Fund Manager shall be transferred to the Fund or deducted from the management fee.

<b>Service Provider</b>	S.C. Bancpost S.A.
<b>Type of agreement</b>	Depository agreement
<b>Signing date</b>	24.10.2008, as amended on 23.07.2010 and effective since August 2010
<b>Object</b>	Depository and custody services for the Fund's assets
<b>Term</b>	1 year beginning with 18.08.2010, renewable
<b>Main duties</b>	Please refer to Section 4.5 "The Depository" of this Prospectus
<b>Consideration</b>	<b>monthly depository fee</b> – 0.0007% of the average monthly NSC NAV; <b>monthly custodian fee</b> – 0% of the updated average monthly value of the Portfolio under custody; <b>settlement fee</b> – 0RON/transaction;
<b>Termination</b>	Early termination by the Depository upon a 90 days prior notice

1.22

In 2008 the Fund concluded a financial advisory agreement with Schroder Investment Management Ltd. ("**Schroder**"), who was appointed as the Fund's financial adviser as a result of the selection procedure by way of competitive dialogue organised by the Fund, as regulated under the Emergency Government Ordinance 81/2007. The main features of the agreement concluded with Schroder are outlined in the table below:

<b>Service Provider</b>	Schroder Investment Management Ltd.
<b>Type of agreement</b>	Financial advisory agreement;
<b>Signing date</b>	28 May 2008;
<b>Object</b>	Specific financial advice pre- and post- appointment of the Fund's manager;
<b>Term</b>	1 year as of the Fund's shares admission to trading on the BSE;
<b>Adviser's main duties</b>	<u>Pre-appointment of the Fund manager</u> <ul style="list-style-type: none"> <li>• financial diagnosis of the Fund;</li> <li>• assistance and advice in connection with the tender process/selection/appointment of the Fund's manager;</li> <li>• management/governance structure advice;</li> <li>• advice concerning the structuring of the Portfolio and investment policy;</li> </ul>

	<ul style="list-style-type: none"> <li>• listing advice, upon request;</li> <li>• advice and assistance for the selection of the investment firm to assist the Fund in the process of listing with the BSE, upon request;</li> </ul> <u>Post-appointment of the Fund manager</u> <ul style="list-style-type: none"> <li>• delivery of periodical reports on the Fund's portfolio, investment policy and risk management procedures;</li> <li>• constant monitoring of the activity and performance of the Fund's manager;</li> <li>• analysis and assessment of the management strategy /action plan for the strategic Portfolio Companies, upon request.</li> </ul>
<b>Consideration</b>	<u>Pre-appointment of the Fund manager</u> <ul style="list-style-type: none"> <li>• Net retainer fee of 90,000EUR/month;</li> <li>• Performance fee of 0.06% of the NSC NAV;</li> </ul> <u>Post-appointment of the Fund manager</u> <ul style="list-style-type: none"> <li>• Net retainer fee of 85,000EUR/month;</li> <li>• In case of an initial public offering advice – advisory fee of 0.5% of the value of the total amounts paid and settled during the offer.</li> </ul>
<b>Termination</b>	Early termination by the Fund/Schroder upon a 60 days prior notice; Early termination by Schroder in case a waiting period exceeds 6 months/aggregated duration of the past and ongoing waiting periods exceeds 18 months.
<b>Other material provisions</b>	In case of idle (waiting periods), when no services might be needed from the adviser (due to pending approvals/enactments), the Fund shall notify the commencement of such waiting period to Schroder, during which no retainer fee is paid to Schroder.

On 30 June 2010, by decision of the Executive Board, the contract concluded with Schroder has been suspended. The Executive Board has grounded its decision as follows:

- the contract provided for the provision of financial advisory services by Schroder in connection with the process of selection of the fund manager;
- the fund manager has been selected by the selection committee, occasion on which the committee has also approved the investment management agreement and the investment policy;
- up to date of the execution of the investment management agreement, Schroder shall not carry out any advisory services to the selection committee;
- the contract concluded with Schroder provides the possibility for the Fund to suspend the contract upon a prior notice to Schroder.

Other than the agreements summarised above, the Fund has not entered into any other material contracts concluded outside the ordinary course of business for the two years period preceding the date of the Prospectus.

The other service providers of the Fund include: legal advisors, utility providers, banking services providers, translators, auditors, the consideration paid to which is immaterial.

#### **4.7 Related Party Transactions**

According to NSC Regulations 4 and 15, the Fund is required to maintain its own registered office space. In recognition of the fact that the Fund Manager's staff have responsibility for performing all the Fund's day-to-day executive functions, it was decided to relocate the Fund's registered office space to a sub-section of the Fund Manager's own office space, through a sub-lease taking effect at the date of handover of the Fund's management. The sub-lease was negotiated and executed on behalf of the Fund by the Executive Board on 30 July 2010 and took effect on 29 September 2010. However, in the Fund Manager's opinion, the sub-lease agreement is not material in terms of value.

Except as set out above, as of 1st of January 2007 and up to the date of this Prospectus, the Fund has not entered into any related party transactions.

## **4.8 Investment Policy**

### **XV.1 4.8.1 Description of the investment objective and policy**

Pursuant to the AoAs, the Fund Manager decides upon the Fund's investment strategy and objectives, however subject to the limitations set out below and further subject to the approval of the general shareholders meeting in case of certain agreements on the Fund's assets whose value exceeds 5% of the Fund's asset value.

The eligible categories of assets in which the Fund may invest are as follows:

- (a) transferable securities and money market instruments admitted to or dealt in on a regulated market, as defined in art.125 of the Capital Markets Law, in Romania or in another member state of European Union;
- (b) transferable securities and money market instruments admitted to the official listing of a stock exchange in a non-Member State or dealt in on another regulated market of a non-Member State which operates regularly and is recognized and open to the public, provided that the choice of the stock exchange or of the regulated market has been approved by the NSC or is provided for in the Fund's investment policy or in the AoAs, approved in advance by the NSC;
- (c) recently issued transferable securities, provided that:
  - the terms of issue include an undertaking that application will be made for admission to official listing on a stock exchange or to another regulated market which operates regularly and is recognized and open to the public, provided that the choice of stock exchange or regulated market has been approved by the NSC or is provided for in the AoAs, approved in advance by the NSC;
  - such admission is carried out within a maximum 1 year of issue;
- (d) participation titles of undertakings for collective investments in transferable securities (UCITS) and/or other undertakings for collective investments (other UCI), as defined in art. 76 para. (1) let. a) and let. b) of the Capital Markets Law, authorized in the Member or non-Member States, provided that such units comply with all of the following requirements:
  - other UCI are authorized under laws which provide that: (a) such UCI are subject to supervision qualified by the NSC to be equivalent to that instituted by the Community legislation, and (ii) cooperation between the NSC and the competent authority of the state of origin is sufficiently ensured;
  - the level of protection granted to the investors in such other UCI is equivalent to that provided for the investors in UCITS, and in particular that the rules on segregation, borrowing, and short sales of transferable securities and money market instruments are equivalent to the provisions set forth in the Capital Markets Law;

- the business of other UCI is subject to half-yearly and annual reporting requirements, which enable an assessment to be made with respect to the assets and liabilities, income and operations during the reporting period;
  - no more than 10% of the other UCITS and/or other UCI, in which an investment is contemplated, may, pursuant to the incorporation deeds thereof, be invested in units of other UCITS and/or other UCI.
- (e) deposits with crediting institutions, which are repayable on demand or having attached the right to be withdrawn, maturing in no more than 12 months, provided that the crediting institution has its registered office in Romania or in a Member State, or if the registered office of the crediting institution is located in a non - Member State, provided that it is subject to the prudential rules qualified by the NSC to be equivalent to those applicable in the European Union;
- (f) financial derivative instruments, including equivalent cash-settled instruments dealt in on a regulated market referred to in let. a. and let. b. and/or financial derivative instruments traded outside the regulated market, subject to compliance with all of the following requirements:
- the underlying asset consists of instruments set forth in art. 101 para. (1) of the Capital Markets Law, financial indexes, interest rates, foreign exchange rates, in which the Fund may invest according to its investment objectives as stated in the Fund's investment policy statement or in the AoAs;
  - the counterparties to transactions carried out outside the regulated market are institutions which are subject to prudential supervision, and which are included in the categories approved by the NSC;
  - the derivatives traded outside the regulated market are subject to reliable and verifiable valuation on a daily basis and can be sold, liquidated or closed by an offsetting transaction at any time at their fair value at the Fund's initiative.
- (g) money market instruments other than those dealt in on a regulated market, which are liquid and whose value may be precisely determined at any time, subject to the issue or issuer being subject the regulations on protection of investors and of savings thereof, provided that such instruments are:
- issued or guaranteed by a central, regional or local administrative authority or by the central bank of a Member State, by the European Central Bank, by the European Union or by the European Investment Bank, by a non-Member State or, in the case of a Federal State, by one of the members forming the federation, or by an international public body to which one or more Member States belong, or
  - issued by an undertaking, the securities of which are dealt in on regulated markets referred to in let. a. and let. b., or

- issued or guaranteed by an entity subject to prudential supervision, in accordance with criteria defined by Community legislation, or by an entity which is subject to and complies with prudential rules qualified by the NSC to be at least as stringent as those set forth in the Community legislation or
- issued by other entities included in the categories approved by the NSC provided that investments in such instruments are subject to investor protection rules equivalent to that previously referred to and provided that the issuer is a company whose capital and reserves amount to at least 10,000,000 EUR and which presents and publishes its annual financial statements in accordance with the applicable Community legislation, or an entity which, within a group of companies which includes one or more listed companies, is dedicated to the financing of the group or is an entity which is dedicated to the financing of securitisation vehicles which benefit from banking credit facilities.

Other rules:

- The money market instruments referred to above are liquid, and their value can be accurately determined at any time.
- Where the Fund invests in titles issued by other UCITS and/or other UCI that are managed, directly or by delegation, by the same fund manager or by any other company to which that respective fund manager is linked by common management or control, or by a substantial direct or indirect holding, that fund manager or such other company may not charge acquisition or redemption fees on account of the Fund's investments in such other UCITS and/or other UCI.

In addition, Law 247 sets out the following in connection with the Fund's portfolio:

- (a) the Fund may not hold more than 20% of its assets in non-listed securities and money market instruments, save for the treasury bills and bonds issued by the Ministry of Public Finance, in which case the holding limit is not applicable. In the computation of the limits of holdings in non-listed securities, the value of the non-listed securities acquired by the Fund from the Romanian state based on Law 247, represented by the Ministry of Public Finance, the Ministry of Communication and Information Society, AVAS and Ministry of Transportation and Infrastructure and those acquired from S.C. Electrica S.A. shall not be accounted for;
- (b) the Fund may invest in deposits set up in accordance with the provisions of art. 101 para. (1) let. e) of the Capital Markets Law, and in the money market instruments set out in art. 101 para. (1) let. a), b) and g) of the Capital Markets Law, and may hold current accounts in national and foreign currency;
- (c) the Fund may purchase only those movables and real estate assets which are necessary for the performance of its activity;
- (d) the Fund may not hold more than 10% of its assets in the shares stipulated under art. 7<sup>1</sup> para. (4) of Law no. 247 and in the money market instruments stipulated under art. 101

para. (1) let. a) and b) of the Capital Markets Law, which are issued by the one issuer, except for the treasury bills;

- (e) the Fund may not hold more than 10% of its assets in financial instruments issued by entities belonging to the same group;
- (f) the Fund may not hold more than 10% of its assets in participation titles issued by the UCITS and/or by other UCI;
- (g) the value of the current accounts and of the cash held by the Fund shall not exceed 20% of its assets. In the computation of this limit, the cash collected from the Romanian state based on the provisions of Law 247 shall be excluded from the assets value. This limit may be extended to a maximum of 50% provided that the respective amounts originate from placements reaching the maturity or from the sale of portfolio financial instruments, and that the respective extension does not last for a period of more than 90 days;
- (h) the value of the bank deposits set up by the Fund with the same crediting institution may not represent more than 10% of its assets;
- (i) the exposure of the Fund to the counterparty risk in a trading in financial derivative instruments carried out outside the regulated markets may not exceed 10% of its assets, regardless of the trading counterparty, and the overall exposure to the derivatives may not exceed 15% from the overall value of its net assets;
- (j) the Fund may exceed the limits related to any investments in financial instruments, which are included in the assets thereof or in the case of the exercise of the subscription rights related thereto, provided that the exceeding does not last for a period of more than 120 calendar days.
- (k) the Fund shall invest at least 20% of its assets in:
  - transferable securities admitted to trading on a regulated market, as defined in art. 125 from the Capital Markets Law, or traded on a multilateral trading facility, in Romania or in another Member State;
  - transferable securities admitted to the official listing on a stock exchange in a non-Member State or dealt in on another regulated market of a non-Member State which operates on a regular basis and is recognized and open to the public, provided that the choice of the stock exchange or of the regulated market has been approved by the NSC or is included in the AoAs, previously approved in advance by the NSC;
  - newly issued transferable securities, in accordance with art. 101 para. (1) let. c) of the Capital Markets Law;
  - participation titles issued by UCITS and/or other UCI set out in art. 101 para. (1) let. d) of the Capital Markets Law;
  - transferable securities issued by UCITS and/or other UCI, admitted to trading on a regulated market or on a multilateral trading facility.

Additional guidelines provided under art. 34 (*Prudential rules with respect to investment policy*) of the AoAs:

- the Fund may hold money market instruments only in financial institutions rated better than "Investment grade";
- the Fund may only invest in corporate bonds rated better than "Investment grade".

Under the AoAs, the Fund is not allowed to conclude loan agreements for investment purposes.

Furthermore, according to the statement with respect to the investment policy, the Fund Manager is prevented from carrying out short selling transactions in Portfolio securities.

Other investment policy restrictions are set out in the statement with respect to the investment policy as regulated by the Government Decision no. 1514/2008 and is attached to this Prospectus as Annex 4.

Moreover, pursuant to the Fund's investment strategy statement, the main objectives of the Fund Manager in carrying out its services to the benefit of the Fund *inter alia* are: (i) successful diversification of the Portfolio and determination of the diversification type; (ii) an efficient relationship with the Portfolio Companies and determination of the means by which such relationship would bring added value to the Fund.

Apart from the investment policy imposed by the AoAs and by the applicable laws, the Fund Manager is in the process of developing its own set of principles and objectives in carrying out its investment management duty. Its philosophy is based on strict adherence to the principles of value investing supported by first-hand research and a long-term time horizon. Its objectives include: long-term capital appreciation of the Extended Portfolio assets via investments mainly in Romanian equity or equity-linked securities; and on the short term: (i) disposal of certain Extended Portfolio assets based on a proper due diligence; (ii) aggressive pursuit for the preservation and/or recovery of assets which have already been or are in the process of being disposed of in circumstances where there is suspicion that the disposals were not fair to the Fund's minority shareholders.

The Fund Manager's investment approach shall be based mainly on the following principles:

- (a) detailed analysis of all Portfolio Companies and any new investment targets by fundamental research and the use of the proprietary emerging markets data base;
- (b) use of internal local resources as well as the expertise of the entire team of the Fund Manager;
- (c) strict decision making process with all portfolio actions being reviewed by the investment committee;
- (d) strong sell discipline based on internal valuation of Portfolio Companies;
- (e) active supervision of Portfolio Companies including non-executive board seats and voting at general shareholders' meetings;



- (f) regular visits to the Portfolio Companies including reviews of strategy and current operations;
- (g) advice to Portfolio Companies regarding financial issues, initial public offerings and international expansion;
- (h) close cooperation with co-investors in Portfolio Companies (especially the Ministry of Economy and other ministries);
- (i) promote cooperation between Portfolio Companies;
- (j) assistance in initial public offering projects and participation in capital increases;
- (k) attracting additional financing for Portfolio Companies from Romanian and foreign sources;
- (l) cooperation with investment banks in Romania and overseas to structure capital improvements in Portfolio Companies.

One of the most challenging objectives of the Fund Manager is to gradually move the structure of the Extended Portfolio towards 100% listed equities and, accordingly, the Fund Manager will encourage unlisted companies within the Portfolio to improve their corporate governance standards with a view to eventually listing. Furthermore, the Fund Manager targets the diversification of the Extended Portfolio across the most attractive sectors and companies, at the same time aiming to reduce the current number of Portfolio Companies, by means of sale of existing holdings through public offerings or by direct disposal transactions with strategic investors or controlling shareholders. All of the above shall be sustained by sound transparency and due diligence rules.

**XV.1** While the investment restrictions set forth explicitly by relevant pieces of legislation may be changed by means of an amendment of such legislation, the amendment of the other investment restrictions may be made by amendment of the AoAs.

## 4.9 Special Reporting Requirements

Pursuant to NSC Regulation 4, the Fund is subject to the following special reporting requirements:

XV.6

### **Annual and semi-annual reports**

The Fund Manager is required to prepare, submit with the NSC, publish with a national newspaper and on the websites of the Fund Manager and of the Fund annual and semi-annual reports containing the status of Fund's assets and liabilities. The annual report, audited by financial auditors is accompanied by the Fund's annual financial statements, prepared in accordance with the applicable accounting regulations. Both annual and semi-annual reports are accompanied by a detailed listing of the investments carried out during the reporting period.

The annual report is submitted with the NSC and published within 4 months as of the end of the financial year for which the reporting is made, while the semi-annual (first semester) reports are filed with the NSC and published within 2 months as of the end of that respective semester.

### **NSC NAV reports**

The Fund Manager is required to prepare, submit with the NSC and publish, within 15 days as of the end of that respective reporting period, monthly reports on the NSC NAV calculated on a monthly basis, for the last business day of a month, certified by the Depositary. Currently, the Fund publishes on its web site ([www.fondulproprietea.ro](http://www.fondulproprietea.ro)) the monthly NSC NAV per share.

Pursuant to the disclosure requirements applicable to the listed companies, the Fund is subject to the following special reporting requirements:

XV.6

### **Ad hoc Disclosure**

Under the Capital Markets Law, a company whose shares are admitted to trading on a regulated market is required to disclose to the public and submit with the NSC and the regulated market without delay, within maximum 24/48 hours, reports on any inside information, i.e. any information, not publicly known information which if it were publicly known, would be likely to substantially influence the price of the shares of that company.

### **Insiders' Dealings**

Persons bearing managerial responsibilities (in particular members of the management or members of the supervisory board) in a listed company, as well as persons associated with them must notify the NSC and the company of the existence of any transactions conducted on their own account and relating to such company's shares or to derivatives or other financial instruments having as the underlying assets such shares. The intermediary of such transactions should immediately notify the operator of the relevant regulated market. This information is usually published by the relevant market operator (i.e. BSE) on its website.

### **Company's Dealings**

Pursuant to NSC Regulation 1, a listed company who has acquired or disposed of its own shares, shall make public the portion of its own shares as soon as possible but not later than four trading days following such acquisition or disposal, if as a result of these operations the company's holdings reach, exceed or fall below the thresholds of 5% or 10% of the voting rights.

**Periodic Disclosure**

The Capital Markets Law requires a listed company to make available to the public quarterly, half yearly and yearly reports which should include any significant information which is necessary to enable the investors to make an adequate assessment regarding the relevant company's activity, profit and loss.

**Other Disclosure**

According to the relevant applicable regulations governing listed companies, the Fund will also be required to promptly and regularly disclose other categories of information e.g. distribution of dividends, amendment of the constitutive act, transactions amounting to more than EUR 50,000 of the Fund carried out with any of its directors, employees, controlling shareholders and other involved parties.

## 4.10 Dividend Policy

I.20.7

On the date of this Prospectus, all Shares carry full dividend rights.

Pursuant to the AoAs, the OGM decides, based on the proposal of the Fund Manager, with the prior approval of the Board of Nominees, upon the distribution of profit and payment of dividends. According to Companies' Law, the dividends must be paid within the period established by the shareholders' meeting, but in any event not later than 6 months after the approval of the annual financial statements for the preceding financial year. Moreover, the Capital Markets Law sets out that if the OGM does not set out the term within which the dividends shall be paid, the payment of dividends is due within 60 days as of the publication of the shareholders' decision in the Official Gazette. In case of failure to comply with the term established for the dividend payment, the company is liable for payment of default interest. Dividends which have not been collected within three years after falling due are forfeited in favour of the Fund.

The Fund's ability to pay dividends is based on its financial statements prepared in accordance with relevant legal provisions. Dividends (if any) may only be declared and paid from the current year's statutory profit and accumulated profit from prior years recorded in the Fund's annual financial statements as approved by OGM on the basis of the report of the Fund Manager, as approved in advance by the Board of Nominees. In determining the amount available for distribution, the current year's statutory profit and accumulated profit from prior years must be adjusted to account for the institution of the statutory reserves.

The Fund has declared and paid dividends for the financial years ended December 31, 2007, 2008 and 2009. The payment of dividends for the financial year ended December 31, 2007 was approved by the OGM dated 8 August 2008, while the payment of dividends for both the financial years 2008, 2009 was approved by the OGM dated 6 September 2010, due to the fact that in 2008 the Fund incurred losses in the net asset value and therefore the profit could not be distributed prior to the increase/decrease of the share capital, in accordance with the provisions of the Companies' Law. In 2010 the Parliament issued Law no. 142/2010 to solve the problem that blocked the payment of dividends and the Fund has undergone a decrease in the share capital as to match the net asset value thereof and hence, according to the opinion of the Fund the OGM dated 6 September 2010 approved the distribution of profits for 2008 and 2009 financial years in accordance with the corresponding financial statements duly approved by the shareholders.

As per NSC order no 11/11.03.2009, the undertakings for collective investments established based on articles of association are allowed to recognise the decrease in value of securities directly to equity (without recording an impairment expense in the statutory income statement). This order is applied starting with 2008 statutory financial statements.

The amount of gross dividends per share for 2007-2009 is included in the table set out below:

<b>Financial year</b>	<b>Dividend Amount per Share</b>	<b>Total no. of Shares</b>
2007	0.0065960489 RON/share	13,644,179,910 shares*
2008-2009 (aggregate)	0.0816 RON/share	13,778,392,208 shares*

*\* The total number of Shares based on which the dividends have been distributed is based on the number of Shares representing the share capital of the Fund at the registration date established by the OGM approving the payment of dividends less the total number of unpaid Shares.*

In the absence of exceptional market conditions or circumstances, for future years the Fund Manager intends to recommend to the OGM that the Fund distributes 100% of its distributable revenue profits each year, subject to any restrictions due to Romanian legal and taxation regulation. Broadly, distributable revenue profits will be calculated as gross dividend income from investments and interest earned on cash deposits, less expenses and taxation. Current legislation requires the Fund to transfer 5% of its gross profit to legal reserve until that reserve reaches a value equivalent to 20% of the value of the issued share capital of the Fund. This reserve currently stands at 79,154,937 RON which is of approximately 0,57% of the current share capital.

## 4.11 Restrictions on the use of the Fund's capital resources

- I.10.4 Other than investment policy restrictions referred to in Section 4.8. "Investment Policy" above, there are no restrictions on the use of the Fund's capital resources that have materially affected, or could materially affect, directly or indirectly, the Fund's operations.

## 4.12 Subsidiaries

### I.7.1

The Fund controls the following companies, which under Romanian applicable law, are qualified as the Fund's subsidiaries, all of which are incorporated and operate in Romania:

### I.7.2

Name	Ownership interest	Reference Date
Alcom S.A.	71.8961%	15 October 2010
Carom – Broker de Asigurare S.A.	70.0000%	7 October 2010
Comsig S.A.	69.9498%	5 October 2010
Delfincom S.A.	65.5058%	15 October 2010
Prestari Servicii S.A.	70.5591%	15 October 2010
Primcom S.A.	78.9718%	15 October 2010
Romplumb S.A.*)	57.9008%	15 October 2010
Telerom Proiect S.A.	68.6348%	15 October 2010
Zirom S.A.	100%	31 August 2007

*\*Note:* According to Law 247 the Romanian State contributed to the share capital of the Fund 1,595,520 shares in Romplumb. Pursuant to the Central Depository excerpt dated 15 October 2010, the equity participation of the Fund in Romplumb represented 57.9%. In accordance to the Trade Registry excerpt dated 15 October 2010, the equity participation of the Fund in Romplumb represented 51.0%. The difference stems from a litigation with respect to a share capital increase to which the Fund is not a party. As a result, the Fund adopted a conservative approach and considered the lowest percentage for the calculation of the NSC NAV.

In the Fund Manager's opinion, none of the subsidiaries referred above qualify as a significant subsidiary.

## 4.13 Litigations

I.20.8

For the last 12 months, the Fund has been involved in more than 50 legal proceedings. The main types of litigations in which the Fund is involved vary depending on the subject matter and on the court position of the Fund as defendant or claimant, as follows:

- Fund as claimant: (i) disputes against certain Portfolio Companies relating to the Fund's ownership right over shares issued by such companies and allocated to the Fund by law; (ii) disputes against the Romanian public authorities/institutions for recovery of certain securities/receivables attributed to the Fund by law; (iii) disputes against certain Portfolio Companies challenging certain corporate operations approved by such companies/requesting annulment of the shareholders' decision thereof; (iv) disputes against the Portfolio Companies related to payment of dividends/default interest on unpaid dividends;
- Fund as defendant: (i) complaints lodged by the Fund's shareholders requesting the annulment/nullity of certain shareholders' decisions of the Fund; (ii) complaints lodged by certain persons for the recovery of real estate assets which have been abusively confiscated during the Communist regime; (iii) complaints lodged by certain public authorities/institutions related to the recovery of certain assets/shares from the Fund's Portfolio; (iv) complaints lodged by certain shareholders for the payment of dividends/default interest on the unpaid dividends; (v) complaints lodged by the former members of the administrative bodies of the Fund for payment of benefits.

Certain litigations presented above do not have any impact on the Fund (e.g. for complaints lodged by certain natural persons for the recovery of real estate assets which have been abusively confiscated during the Communist regime, in general, the Fund generally successfully raises the defence of lack of court capacity, as the compensation procedure is not the Fund's responsibility). Nevertheless, certain litigations involving Portfolio Companies or Romanian public authorities/institution or the litigations concerning the annulment/nullity of the OGM/EGM decisions may have significant effects on the Fund's financial position or profitability.

Such litigations with a material impact or considered illustrative for the cases the Fund is facing or those referring to (i) complaints lodged by the Fund's shareholders requesting the annulment/nullity of certain shareholders' decisions of the Fund, (ii) complaints lodged by the Fund in relation to certain assets within its Portfolio or (iii) complaints lodged by the Fund against Portfolio Companies are presented below as at 30 November 2010.

### **The Fund – as Claimant: Litigations related to Portfolio assets**

#### **The Fund vs Ministry of Economy**

On 1 October 2008, the Fund has lodged a claim with the Bucharest Tribunal against the Ministry of Economy and AVAS, requesting the court to render a decision by way of which the defendants be compelled to pay the amount of EUR 154,100,680.06 representing the difference

between the amount of EUR 242,495,438.5 (the equivalent of the price collected by AVAS for 4% of the total shares issued by the Banca Comerciala Romana) and the amount of EUR 88,394,758.44 already paid to the Fund.

The Fund grounded this claim on the grammatical and the systematic interpretation of art. 9 para. (2) let. c) of Law 247, stating that first of all the 4% quota ought to be calculated upon the total number of shares issued by Banca Comerciala Romana, and not merely upon the shares held by the Romanian State in Banca Comerciala Romana and secondly that, pursuant to appendix 1 to Law 247, it is generally acknowledged that the assets to be transferred to the Fund are established by indicating a percentage of the entire share capital of the respective companies, and not a percentage of the share capital quota held by the Romanian State in the respective companies, namely that the law provides no exception from this general rule in the case of Banca Comerciala Romana.

In its statement of defence, AVAS raised the defence of lack of court capacity, alleging that it may not be compelled to pay the amount claimed by the Fund, due to the fact that the money collected by AVAS during the process of privatization of the companies in which the Romanian State was a shareholder, were paid in to the Romanian state budget, according to law. Also, AVAS claimed that the Fund is entitled only to a 4% quota of the shares transferred by the Romanian State to the strategic investor involved in the privatization of the Banca Comerciala Romana. In this respect, AVAS alleged that the systematic interpretation of ar. 9 para. (2) let. c) of Law 247 produced by the Fund is erroneous, because it disregards the fact that the law regulates two distinct cases, as follows: (i) at the time of Fund's incorporation, the assets contributed to the Fund's share capital are to be calculated as a percentage of the entire issued share capital of the companies limitedly enumerated in appendix 1 to Law 247 (Banca Comerciala Romana not being included among these) and (ii) at any time after the Fund's incorporation, the assets contributed to the Fund's share capital are to be calculated as a percentage of the funds as they are collected.

In its turn, the Ministry of Economy stated in its defence that the 4% quota ought to be applied to the funds collected from the sale of the shares held in Banca Comerciala Romana, proportionally with the amount collected from the purchaser – the strategic investor. Also, the Ministry of Economy claimed that AVAS is required by the law to pay in to the Romanian state budget only the funds collected from the sale of the shares held by the Romanian state in various companies and that ruling otherwise would mean that AVAS should pay more than it collected. Whereas, the Ministry of Economy stated that, pursuant to the Romanian Civil Code, no one can transfer more rights than they have.

On 4 March 2010, the Bucharest Tribunal rendered a decision, by which the defence of lack of court capacity raised by AVAS and the claim filed by the Fund have been dismissed. To render this judgment, the court interpreted the provisions of art. 9 para. (2) let. c) of Law 247 as referring to the financing sources of the Fund that are established proportionally with the amount collected. The court retained that these provisions were complied with by AVAS. Also, the court dismissed the legal interpretation produced by the Fund, that it is entitled to the amounts representing 4% of the total number of shares issued by Banca Comerciala Romana, particularly based on the fact that Banca Comerciala Romana is not referred to in appendix 1 to Law 247



among the companies in which the Fund has received certain quotas from various public entities. Thus, it is understood that the legislator has regulated the amounts to be transferred to the Fund as a result of privatisation of Banca Comerciala Romana distinctively from the transfer of shares in companies referred to expressly in appendix 1 to Law 247.

Against this court ruling of the Bucharest Tribunal, the Fund has filed a notice of appeal on 18 May 2010, requesting the Bucharest Court of Appeal for a formal change of the decision rendered by the Bucharest Tribunal by ruling in favour of the Fund. Against the appeal filed by the Fund, AVAS and the Ministry of Public Finance have filed statements of defence, requesting the court to dismiss the Fund's appeal. A decision has not yet been rendered in appeal.

In the OGM dated 6 September 2010, the Executive Board of the Fund has informed the shareholders of the status of the appeal and a series of arguments and counter-arguments on whether the appeal shall be pursued. Furthermore, the Executive Board have informed the shareholders that according to the legal advisors of the Fund on this matter, the chances of having the appeal granted is of 50%

Even if the appeal was successful and the assets in question were transferred to the Fund, the Fund would be obliged to award an amount of new shares to the Government to an equivalent value. Pursuing the appeal has no prospect of increasing the Fund's NSC NAV per share for existing shareholders and involves very large costs for stamp duty (RON 2,879,270) and legal fees, which would ultimately be borne by all shareholders. Given the very high costs involved, the significant risk of losing the appeal, and the fact that even a 'success' would not increase NSC NAV per Share for existing shareholders, it is likely that , the Sole Director will decide not to pursue the appeal. The next hearing date is scheduled for 12 January 2011.

### **The Fund vs Electromecanica**

In 2009, the Fund lodged with the Prahova Tribunal a claim against S.C. Electromecanica S.A. ("**Electromecanica**"), requesting the court to render a decision by way of which the defendant Electromecanica be compelled to register with its shareholders' registry the ownership title of the Fund over to 1,002,301 shares issued by Electromecanica pursuant to art. 1 para. (1) and (2) of Title II of Emergency Government Ordinance no. 81/2007.

In grounding this claim, the Fund commenced by reinstating the particularities and the purpose of its incorporation, so as to create the legal instrument for the Romanian state to repay the compensations to the Entitled Persons. For this reason, the claimant showed that its share capital was established from the shares held by the Romanian state in various companies the Fund reiterating that it became owner of the respective shares by virtue of law at the time of its incorporation. In this respect, the Fund indicated the general refusal of the companies it held shares in to acknowledge its capacity as shareholder and the litigations conducted therewith, with courts almost unanimously granting its claims. Further, the Fund stated that it acquired additional shares after its incorporation date, by virtue of Emergency Government Ordinance no. 81/2007. The Fund showed that Electromecanica was identified in the list of companies enumerated by the Emergency Government Ordinance no. 81/2007, with a number of 1,002,301 shares issued by Electromecanica transferred to the Fund. Also, the Fund referred to the express legal provisions of art. 1 para. (2) of the aforementioned ordinance, requiring the directors of the compa-

nies envisaged to update *ex officio* the shareholders registries. The Fund claimed that the defendant Electromecanica disregarded this legal obligation and refused to register the Fund with the shareholders' registry of Electromecanica, despite the repeated requests of the Fund in this respect.

Electromecanica submitted a statement of defence, requesting the Court to dismiss the claim, raising the defence of lack of court capacity with respect to the Fund, due to the fact that the Fund had no legal documents evidencing its capacity as owner of the shares indicated. In this respect, the defendant indicated that Emergency Government Ordinance no. 81/2007 regulated a transfer of shares from AVAS to the Fund, but at the time of the enactment of the ordinance ( 29 June 29 2007), the sole shareholder in Electromecanica was Compania Nationala Romarm SA ("**Romarm**"). Such alleged capacity of Romarm was upheld with excerpts from the trade registry. Electromecanica argued that its shareholding structure was changed only in 28 November 2007, when a shares transfer agreement was concluded between Romarm and the Romanian State represented by AVAS. After the shares transfer, Romarm held 81.31% of Electromecanica's share capital representing 1,663,256 shares and the Romanian state held 18.69% of Electromecanica's share capital representing 382,256 shares. Further, the defendant argued that after the conclusion of this contract, AVAS did not acquire the capacity as shareholder in Electromecanica, only the Romanian state did, AVAS acting as a representative of this shareholder. Therefore, AVAS could not have transferred the title to shares it did not own. Moreover, it was argued that even the state itself held a significantly lower number of shares in the defendant company than the number of shares allegedly attained by the Fund.

Romarm filed a claim to intervene in the court case, which was admitted in principle by the court. The intervener reinstated the legal arguments indicated by Electromecanica, requesting the court to dismiss the claim filed by the Fund.

On 1 March 2010, the Prahova Tribunal rendered the decision in this case, by way of which the court decided upon the following: the defence of Fund's lack of court capacity to file the claim, the claim filed by the Fund was dismissed, based on the following grounds: the court retained that the rightful owner of the shares at the time of the enactment of the aforementioned Government Ordinance was Romarm, not AVAS and that acknowledging the transfer by AVAS to the Fund of 1,002,301 shares in Electromecanica without a legal title thereto would represent a breach of Romarm's private ownership right to the shares. The court referred to the provisions of the Romanian Constitution protecting the private property and also to the jurisprudence of the European Court for Human Rights.

Against this decision rendered by the Prahova Tribunal, the Fund filed an appeal which was dismissed by Ploiesti Court of Appeal on 4 October 2010.

Against the decision of the Ploiesti Court of Appeal, the Fund may file a final appeal with the High Court of Cassation and Justice, after receipt of such decision.

### **The Fund vs Nuclearelectrica (I)**

On 22 April 2009, the Fund has lodged with the Bucharest Tribunal a claim against Nuclearelectrica and the Ministry of Economy, requesting the court to render a decision by way of

which the defendant Nuclearelectrica be compelled to register with its shareholders registry the transfer of 20,077,953 shares issued by Nuclearelectrica from the Ministry of Economy to the Fund, as a result of the actualization of participation of the Fund to the share capital of Nuclearelectrica regulated by Emergency Government Ordinance no. 69/2008 and taking into account the two operations of share capital increase of Nuclearelectrica registered with the Trade Registry after 28 December 2005.

In grounding its claim, the Fund stated that it became a shareholder of Nuclearelectrica by virtue of the law as of its establishment, holding a 20% quota in this company's share capital. Further, the Fund argued that the 2 resolutions of Nuclearelectrica's general shareholders meeting on the share capital increase, registered with the Trade Registry after 25 December 2005, are null and void as regards the allocation of the shares issued by Nuclearelectrica as a result of the share capital increase exclusively to the defendant, i.e. the Ministry of Economy.

With respect to the first share capital increase resolved upon on 13 December 2005, increase carried out with the amounts allocated from the Romanian state budget for 2002, 2003 and 2004, and the corresponding issue of 96,130,156 shares, the Fund claimed that such increase was carried out from the funds already existing in the company's patrimony, and not from a new contribution brought by the Romanian state. The Fund argued that, in transferring such funds, the Romanian state acted not as a shareholder in Nuclearelectrica, but as a final intervener in economy granting a subsidy to Nuclearelectrica through the defendant the Ministry of Economy, for the purpose of making investments. Hence, the Fund stated that the shares issued accordingly ought to be distributed to the shareholders proportionally with the share quotas held at the time when the resolution on share capital increase comes into effect. However, the Fund showed that the 96,130,156 shares issued were fully allocated to the Ministry of Economy, even though the Fund was entitled to 19,226,031 shares (the equivalent of its 20% quota).

With respect to the second share capital increase resolved upon on 26 September 2006, consisting of a cash contribution and of an in kind contribution, for the same legal reasons mentioned above, the Fund claimed it was entitled to 851,922 shares from the total shares issued for the cash contribution, proportionally with its 20%, share quota in Nuclearelectrica. To conclude, the Fund stated that, pursuant to the provisions of Emergency Government Ordinance no. 69/2008, a transfer by virtue of law operated from the Romanian state to the Fund with regard to the shares necessary to update the Fund's participation in the share capital of Nuclearelectrica. Therefore, the defendant Nuclearelectrica has the legal obligation to keep the shareholders registry in compliance with the shareholders structure.

In its statement of defence, the Ministry of Economy alleged that the claim filed by the Fund was ungrounded, due to the fact that Emergency Government Ordinance no. 68/2009 was repealed by the Romanian Parliament on 5 May 2009 (by Law 148/2009). Also, the Ministry of Economy stated that the Fund was incorporated, from a legal point of view, only on 28 December 2005 when it was registered with the Trade Registry and that the Fund became a shareholder of Nuclearelectrica only on 24 March 2006, when it has been duly registered with the Trade Registry as a shareholder, whereas the increases in the share capital of Nuclearelectrica was resolved upon on 13 and 14 December 2005 became effective against third parties upon the registration thereof with the Trade Registry in February 2006. Therefore, the Ministry of Economy

argued that the share capital increase decided upon on 13 December 2005 was in the sole benefit of the majority shareholder – the Romanian state acting through the Ministry of Economy – due to the fact that the registration of this increase was performed after the date of Fund’s incorporation, but before the Fund became a shareholder in Nuclearelectrica. Using the same line of arguments as for the share capital increase resolved upon on 14 December 2005, the Ministry of Economy alleged that Fund’s claim ought to be dismissed, as its legal grounds no longer subsisted, due to the fact that the repealing by the Parliament of Emergency Government Ordinance no. 68/2009 accounted for a requalification of all increases and decreases in Nuclearelectrica’s share capital as made to the sole benefit of the major shareholder.

On 8 April 2010, the Bucharest Tribunal adjourned the case until the Constitutional Court renders a decision upon the defence of unconstitutionality raised by the Fund with regard to Law 148/2009.

### **The Fund vs Romarm**

On 27 August 2009, the Fund has lodged with the Bucharest Tribunal a claim against Compania Nationala Romarm – Filiala Uzina Mecanica Bucuresti SA ("**Romarm**"), requesting the court to render a decision by way of which the defendant be compelled to register with its shareholders registry the ownership title of the Fund to 2,951,053 shares issued by Romarm, acquired by the Fund pursuant to art. 1 para. (1) and (2) of Title II of Emergency Government Ordinance no. 81/2007.

In substantiating its claim, the Fund has presented the court with the legal background regulating the Fund’s status as of its incorporation and has stated that by virtue of law it is entitled to receive certain regulated stakes in the companies expressly listed by the applicable law, among which is Romarm. Further, the Fund stated that it has acquired more shares after its incorporation date, by virtue of Emergency Government Ordinance no. 81/2007, regulating a supplementary share transfer from the Romanian State to the Fund. The claimant pointed out that the defendant Romarm was identified in the list of companies listed by the Emergency Government Ordinance no. 81/2007, with a number of 2,951,053 shares transferred to the Fund in this company. Also, the Fund referred to the express legal provisions of article 1 para. (2) of the mentioned ordinance, ordering the administrators of the companies envisaged to update *ex officio* the shareholders registries. The Fund claimed that the defendant Romarm disregarded this legal obligation and refused to register the ownership title of the Fund to the 2,951,053 shares, despite the repeated requests of the Fund in this respect.

The OPSPI filed a claim to intervene in the case.

On 26 June 2010, the Bucharest Tribunal rendered the decision in this case, by which the claim of OPSPI was granted and the claim filed by the Fund was dismissed. The court stated that, at the time Emergency Government Ordinance no. 81/2007 entered into force, Compania Nationala Romarm had the ownership title to all the shares issued by Romarm, and not AVAS.

Against this decision of the Bucharest Tribunal, the Fund filed an appeal on 9 September 2010, the first hearing date being scheduled for 14 December 2010.

### **The Fund vs Ministry of Economy**

On 4 December 2009, the Fund has lodged with the Bucharest Tribunal a claim against the Ministry of Economy represented by the Office for State Participations and Privatization in Industry ("**OPSPI**"), requesting the court to render a decision by way of which the defendant be compelled to transfer to the Fund a number of 25,677 shares newly issued by SC Complexul Energetic Craiova SA ("**CEN Craiova**"), with a nominal value of RON 10 per share, namely with a total nominal value of RON 256,770.

In substantiating its claim, the Fund indicated that it has acquired by virtue of law at the time of its incorporation a quota of 15% of the share capital of CEN Craiova, divided at that time in 3,702,535 shares. The Fund's share stake in CEN Craiova was increased to 25% after the transfer of 2,599,134 shares from the AVAS based on Emergency Government Ordinance no. 81/2007, thus holding a total number of 6,301,669 shares issued by CEN Craiova, with a nominal value of RON 10 per share. Further, the Fund evidenced that the shareholders meeting has resolved upon two increases in the share capital of CEN Craiova by incorporation of the value of the lands indicated in the certificates attesting the ownership title thereto, as follows:

- (a) on 2 February 2008 the share capital of CEN Craiova was increased with the amount of RON 193,691.71, by issue of 19,369 new nominative shares, at par value of RON 10, which were all allocated to the majority shareholder – the Romanian State, represented at that time by AVAS; as a result of this corporate operation, the Fund's share stake in CEN Craiova decreased from 25% to 24.98%;
- (b) on 3 March 2009 the share capital of CEN Craiova was increased with the amount of RON 833,381, by issue of 83,338 new nominative shares, at par value of RON 10, which were also entirely allocated to the Romanian State, represented by the Ministry of Economy; as a result of this corporate operation, the Fund's share stake in CEN Craiova decreased from 24.98% to 24.89%.

The Fund argued that it is entitled to request the transfer of shares based on article 9<sup>1</sup> para. (6) and (7) of Law 247 that specifically sets out that in case of share capital increases of certain state-owned companies, expressly listed by law, by contributions in kind made by the Romanian State or the entities listed in article 9 para. (1) (namely the companies the shares of which have been transferred to the Fund upon its incorporation), the respective companies are required to transfer newly issued shares to the Fund, so that its participation stake held prior to the share capital increase is maintained. Therefore, the Fund argued that OPSPI is required to transfer to the Fund 4,842 shares newly issued by CEN Craiova as a result of the share capital increase resolved in 2008, and 20,835 shares newly issued by CEN Craiova as a result of the share capital increase resolved in 2009. The claimant also indicated that it has repeatedly requested OPSPI to transfer the new shares to which the Fund is entitled by law and OPSPI's refusal to act accordingly.

In its statement of defence, OPSPI indicated that the shareholding structure of CEN Craiova includes, apart from the Romanian State and the Fund, S.C. Inchidere-Conservare Mine S.A. ("**ICM**"), registered with the shareholders registry of CEN Craiova, as a result of a share capital increase carried out by means of a debt to equity swap. The defendant stated that the two share capital increases referred to by the Fund occurred after the registration of the latter two share-

holders – the Fund and ICM. Further, OPSPI claimed that the provisions of article 9<sup>1</sup> para. (6) and (7) of Law 247 are applicable only as long as the share capital of the companies listed by article 9 para. (1) is held entirely by the Romanian State represented by the respective companies and the Fund. In the case at hand, the defendant alleged that CEN Craiova is not a company held only by the Romanian State and the Fund, as it is required by the law in order for the transfer of shares to operate. In the opinion of OPSPI, the fact that the Romanian State holds 100% in the share capital of ICM, which is one of the three shareholders in CNE Craiova, does not result into the Romanian State being a direct shareholder in its own name and an indirect shareholder (by holding 100% in the direct shareholder) of CEN Craiova, as ICM is a private entity and a distinct shareholder of CEN Craiova. Under these circumstances, the defendant concluded that the legal grounds invoked by the claimant are not applicable in case of CEN Craiova and therefore the Fund is not entitled to a part of the shares newly issued by CEN Craiova.

A decision has not yet been rendered in this case.

### **The Fund – as Claimant: Litigations with respect the corporate actions of certain Portfolio Companies**

#### **The Fund vs Conpet**

In 2008, the Fund filed a claim with the Prahova Tribunal against Conpet and AVAS, requesting the court to render a decision by way of which: (i) the decisions under article 3 items a) and b) of the resolution of Conpet's shareholders general assembly dated 18 April 2008 be declared null and void, (ii) the Fund's capacity as a shareholder holding a stake of 20.056% in the share capital of Conpet (corresponding to a number of 1,736,420 shares) be attested and (iii) the Fund's capacity as beneficiary of the dividends for the fiscal year 2007 in the amount corresponding to its stake be attested.

In substantiating such claim, the Fund argued that it has acquired, by virtue of law, a number of 1,390,119 shares in Conpet's share capital from the Ministry of Economy. After the share capital decrease in Conpet, the Romanian State's shareholding in Conpet has decreased proportionally with the increase of the claimant's share stake from 10% to 16%. The Fund also argued that, after a legislative amendment in 2006, AVAS became the new majority shareholder in Conpet and that, pursuant to the Emergency Government Ordinance no. 81/2007, a supplementary number of 346,301 shares was transferred from the AVAS to the Fund, thus holding a total number of 1,736,420 shares representing a 20.0569% in Conpet's share capital. Further, the Fund stated that the state of claimant's shareholding in Conpet was acknowledged in the minutes of the defendant's general assembly held on 18 April 2008, but it was resolved that the dividends corresponding to the fiscal year 2007 be paid to the Fund for a 14% quota. Such resolution was challenged for nullity by the Fund, alleging that two legal principles regulated in the Companies' Law have been breached (i.e. dividends are distributed proportionally with the shareholder's participation quota in the paid-in share capital and the entitlement to dividends is acknowledged for those shareholders registered in the shareholders registry).

Against this claim, Conpet has filed a statement of defence, requesting the dismissal of the claim, due to the fact that the shareholders' resolution dated 18 April 2008 was passed in compliance with the mandate presented by the representative of AVAS.

In its turn, AVAS has filed a statement of defence, indicating that it does not acknowledge the Fund's capacity as holder of a 20.0567% in Conpet's share capital and that there were pending litigation with the Bucharest Tribunal with respect to the 6% quota refuted.

The court ordered the Ministry of Economy to be introduced in the case, since it acquired the shares held by AVAS in Conpet, pursuant to a 2008 law.

On 18 March 2009, the Prahova Tribunal has ruled in favour of the Fund: (i) declaring article 3 point a) and b) of Conpet's shareholders resolution of 18 April 2008 null and void and (ii) legally attesting the Fund's capacity as holder of the 20.056% stake in Conpet's share capital and as beneficiary of the dividends for the fiscal year 2007 in the amount corresponding to this stake. The court also stated that the litigations pending with respect to the debated 6% quota held by the Fund in Conpet, challenged by AVAS is of no relevance to the case, because claims over ownership have no retrospective effects. Finally, the court decided that AVAS has abusively exercised its rights as majority shareholder in Conpet by carrying out the distribution of dividends in breach of law.

Against the decision of the Bucharest Tribunal, AVAS and the Ministry of Economy filed appeals, registered on 6 August 2009.

On 17 December 2009, the Bucharest Court of Appeal dismissed the appeals as ungrounded.

On 12 October 2010 Supreme Court of Justice and Cassation dismissed the final appeal filed by the Ministry of Economy, the ruling being final and irrevocable.

### **The Fund vs Nuclearelectrica (II)**

On 22 April 2009, the Fund lodged with the Bucharest Tribunal a claim against Nuclearelectrica SA, requesting the Court to declare the Resolution of Nuclearelectrica's Shareholders' Extraordinary General Assembly dated 26 September 2006 null and void with regard to the share capital increase with the amount of 363,368,250 RON, representing the equivalent of 315 tons of heavy water transferred from the state reserves to the defendant company free of consideration, pursuant to the provisions of Law no. 297/2006, enacted with the specific scope of regulating this particular transfer.

In substantiating this claim, the Fund reinstated that it became a shareholder of Nuclearelectrica starting with the date of its registration with the Trade Registry, namely 28 December 2005. According to the Resolution dated 26 September 2006 the share capital of Nuclearelectrica was increased with the amount of 405,964,360 RON summarizing a monetary contribution of 42,596,110 RON and a contribution in kind of 363,368,250 RON. The Fund mentioned that its representative designated to attend the assembly voted against the share capital increase with the amount representing the in kind contribution. In this respect, the Fund grounded its claim on the legal nature of the title by which 315 tons of heavy water has been transferred to the patrimony of Nuclearelectrica, by stating that such transfer was not an exclusive contribution of the Roma-

nian State, but a subsidy to uphold investments granted to Nuclearelectrica from state resources with the purpose of facilitating the functioning of Unit 2 CNE Cernavoda. The express provisions of Law no. 297/2006 regulating the amount of RON 363,368,250 as a capital contribution by the sole shareholder (i.e. the Romanian state) were interpreted by the Fund as a legislative mismatch, since Nuclearelectrica's shareholder structure already included the Fund. Further, the Fund argued that the resolution challenged in court lacked the necessary legal cause prescribed by the law, and if such argumentation is not retained by the court, the Fund claims that the legal cause based on which the share capital has been increased is illegal. In the Fund's opinion, the lack of cause is based on the fact that the heavy water has been transferred as subsidy and not as a contribution to the share capital and the illegal cause is based on the fact that the provisions of by Law no. 297/2006 setting out that the transfer of heavy water has been carried out by means of the subsidy have been breached. Subsequently, the Fund pointed out that even if such transfer was regarded as an exclusive capital contribution by the Romanian state, as it was regarded by the defendant, the resolution failed to comply with the imperative provisions of the Companies' Law, requiring a valuation report of the asset representing contribution in kind prior to the share capital increase.

In its statement of defence, Nuclearelectrica refuted the interpretation of the Fund as regards the provisions of Law no. 297/2006, stating that the legal nature of the transfer title falls out of the scope of this law, enacted merely to derogate from the general legal principles, providing that assets can be removed from the Romanian state reserves only against a consideration, and not gratuitously, namely to identify the beneficiary of the heavy water transferred from the state reserves. Further, the defendant argued that the increase in Nuclearelectrica's share capital was not a contribution in kind, but a cash contribution, the amount representing the equivalent of the heavy water and, therefore, no valuation report was required. Additionally, the defendant alleged that a legal valuation was already performed within the Law no. 297/2006, stressing the particularities of heavy water, whose price is regulated by law, based on the opinion of the State Aid General Department of the Ministry of Public Finance. Nuclearelectrica rejected the subsidy nature of the contribution, claiming that the procurement of the heavy water by the Romanian state was financed from funds allocated from the state budget as a capital expense, and not as a subsidy. The defendant alleged that this share capital increase ought to have benefitted exclusively to the Romanian State, as shareholder in Nuclearelectrica. Finally, Nuclearelectrica has raised the defence of statute of limitations for challenging the shareholders' resolution on the share capital increase.

On 25 February 2010, the Bucharest Tribunal rendered the decision, by way of which the defence raised by the defendant with respect to statute of limitations was dismissed and the claim filed by the Fund was denied as ungrounded. To render this decision, the court stated that the resolution of Nuclearelectrica's general shareholders meeting dated 26 September 2006 was made in full compliance with the provisions of Law no. 297/2006, which is derogatory from the common provisions of the Companies' Law. Also, the court interpreted the relevant legal provisions as regulating a transfer of heavy water as contribution by the Romanian state to the share capital of Nuclearelectrica, and not of a subsidy, entitling the Romanian state to be allocated all shares issued as a result of Nuclearelectrica's share capital increase. The court dismissed Fund's allegations with regard to the lack of a valuation report, stating that such a report was not re-



quired, as the share capital increase was carried out by means of cash contribution and that a legal valuation was already performed by law.

Against this decision of the Bucharest Tribunal, the Fund has filed an appeal on 10 May 2010. A decision has not yet been rendered in the appeal; the next hearing date being scheduled for 24 January 2011.

#### **The Fund vs. S.C. Palace S.A.**

The Fund and Broadhurst Investments Ltd. have lodged with the Prahova Tribunal claims against S.C. Palace S.A. ("**Palace**") requesting the court to render a decision by way of which the decision passed by Palace general shareholders meeting of 1 July 2009 be declared null and void.

In substantiating its claim, the Fund showed that it is a shareholder of Palace, holding 5,832,482 shares issued by Palace, representing 15.429% of the total share capital of Palace, by means of a *de jure* transfer of the above referred shares from AVAS to the Fund, based on the provisions of Law 247. By Palace shareholders decision of 01.07.2009, it has been approved the decrease of the share capital of Palace with a value of 530,955.5RON by means of annulment of the corresponding shares, due to a restitution in kind of a real estate asset previously held by the Palace. It has been decided that given the fact that the Fund has been created for the purpose of providing compensation to the Entitled Person, and provided further that the real estate asset has been removed from the defendant's patrimony and transferred to a person who has been deprived from that asset during the communist era, the decrease of the share capital of Palace by the value of the removed real estate asset shall be borne exclusively by the Fund (i.e. by means of annulment of shares held by the Fund in the defendant's share capital).

The Fund has claimed that by the above referred Palace shareholders' decision, its right to property ownership, recognised by law, has been breached. Furthermore, the Fund showed that its voting rights have been abusively restricted during the shareholders' meeting in the sense that the Fund's voting rights has been suspended, based on a conflict of interest issue. The Fund claimed that the approval of the share capital decrease has not been passed with the majority threshold imposed by the law. Furthermore, the Fund showed that the legal provisions based on which the share capital of the defendant has been decreased by annulment of a number of shares held by the Fund are not applicable, as the defendant, in its capacity as privately owned company, falls outside the scope of the above referred legal provisions. The Fund further claims that by the annulment of the number of shares held by the Fund in the defendant, its quota in the share capital of the defendant has been diluted from 15.429% to 1.4%, simultaneously with the increase of the quotas held by other shareholders of the defendant.

In its statement of defence, the defendant alleged that the decrease of the share capital was implemented in accordance with the special provisions of Law 10/2001 and thus the general provision of the Companies' Law with respect to quorum and majority are not applicable. Furthermore, the defendant stated that the effects of the share capital decrease regulated by Law 10/2001 are to be borne by the Fund, as the Fund is the legal successor of the Romanian State from which it received the shares issued by the defendant. The defendant claimed that the real estate asset which has been removed from the defendant's patrimony was originally contributed

by the Romanian State to the share capital of the defendant – however without a valid title. Since such contribution has been annulled by restitution of the asset to the rightful owner, the Romanian State, and thus the Fund as its legal successor, was not entitled to shares in the defendants representing the value of such asset.

On 17 February 2010, Prahova Tribunal has ruled in favour of the Fund, attesting the absolute nullity of the resolution of the general shareholders' meeting of Palace passed on 01.07.2009 with respect to the share capital decrease. Against the decision rendered by the Prahova Tribunal, Palace has filed an appeal which has been dismissed by Ploiesti Court of Appeal on 16.09.2010. Against the decision rendered by Ploiesti Court of Appeal, Palace has filed a final appeal with the High Court of Justice. The case is still pending, the next hearing date being scheduled for 15 February 2011.

### **The Fund vs Nuclearelectrica (III)**

On 21 June 2010, the Fund has lodged with the Bucharest Tribunal a claim against Nuclearelectrica, requesting the court to rule upon the opposition filed with respect to the merger plan, concerning the merger among Nuclearelectrica, Complexul Energetic Rovinari SA, Complexul Energetic Turceni SA, Complexul Energetic Craiova SA, Societatea Nationala a Lignitului Oltenia SA and Hidroserv SA, published in the Official Gazette on 20 May 2010. By filing this opposition, the Fund requested the court to render a decision by way of which the defendant be compelled to amend the merger plan with respect to the shareholding structure of Nuclearelectrica at the reference date of the merger, i.e. 31 December 2009, so as to indicate that the Fund holds in Nuclearelectrica 44,754,175 shares and the Ministry of Economy holds 172,591,361 shares, namely the defendant be compelled to amend the entire merger plan with regards to the holding of the Fund in the new company established Electra. In addition, the Fund requested that the court declare the merger null and void.

The Fund justified its entitlement to file the opposition by its capacity as creditor of the defendant with respect to a number of 20,077,953 shares held in Nuclearelectrica, that the defendant refused to acknowledge its ownership right thereto and to register the Fund with the shareholders registry of Nuclearelectrica as owner of these shares. The claimant indicated that there were two other pending litigations with the Bucharest Tribunal related to the its shareholding in Nuclearelectrica as follows: (i) a court motion, by way of which the Fund requests the court to compel Nuclearelectrica to register with its shareholders registry the transfer of 20,077,953 shares from the Ministry of Economy to the Fund, as a result of the actualization of its participation to the share capital of Nuclearelectrica, as regulated by Emergency Government Ordinance no. 69/2008 and taking into account the two operations of share capital increase registered with the trade registry after 28 December 2005 and (ii) a court motion, by way of which the Fund requests the court to declare the shareholders resolution of Nuclearelectrica dated 26 September 2006 null and void with respect to the share capital increase with the amount of RON 363,368,250, representing the equivalent of 315 tons of heavy water transferred from the state reserves to the defendant company free of consideration, pursuant to the provisions of Law no. 297/2006.

The Fund also grounded the opposition filed by alleging that the implementation of the merger would irremediably prejudice its ownership right, since the merger plan did not acknowledge

Fund's ownership title to the 20,077,953 shares, thus breaching the Fund's right to be allocated shares in the new company established Electra proportionally with its quota in Nuclearelectrica's share capital.

The Fund has stated that it became a shareholder in Nuclearelectrica by virtue of the law as of the date of its establishment, holding a 20% quota in Nuclearelectrica's share capital. Also, the Fund reiterated that the two shareholders' resolutions of Nuclearelectrica concerning the share capital increase, registered with the trade registry after 28 December 2005, are null and void with respect to the allocation of the newly issued shares exclusively to the defendant, i.e. the Ministry of Economy.

With respect to the first share capital increase resolved upon on 13 December 2005, by means of a contribution in cash, representing the amounts allocated from the state budget in 2002, 2003 and 2004, and the corresponding issue of 96,130,156 shares, the Fund stated that all newly issued shares were fully allocated to the Ministry of Economy, even though the Fund was entitled to 19,226,031 shares (the equivalent of its 20% quota).

With respect to the second share capital increase resolved upon on 26 September 2006, consisting of a in cash and in kind contributions, the Fund claimed that it was entitled to 851,922 shares from the total newly issued shares, proportionally with its 20% share quota in Nuclearelectrica's share capital. Also, the Fund argued that it was entitled to a pro rata number of shares from the total number of newly issued shares as a result of the share capital increase by the contribution in kind, with the amount of RON 363,368,250, representing the equivalent of 315 tons of heavy water transferred from the state reserves to the defendant company free of consideration.

In its statement of defence, Nuclearelectrica raised the defence of lack of court capacity with respect to the claimant, by arguing that the Fund is a shareholder of Nuclearelectrica, which excludes the capacity of creditor to this company, only creditors-third parties to the merger being allowed to file such an opposition. Nuclearelectrica argued in its defence that the incorporation of Electra, as a result of a merger among a number of companies was regulated by the Government Decision 56/2010. The defendant showed that Government decision has been implemented by the shareholders resolution of Nuclearelectrica as well as of the other companies involved in the merger and that the Fund has voted in favour of the resolution approving the merger in principle. Thus, the defendant alleged that the claimant did not have the legitimate interest entitling it to file the opposition. Nuclearelectrica also alleged that the implementation of the merger would cause no prejudice to the Fund, due to the fact that Electra should be the legal successor of Nuclearelectrica, and thus a judgment granting the shares claimed by the Fund in the other pending litigations could be enforced against Electra. It was also argued that litigious rights could not have been included in the merger plan because their existence is uncertain.

On 25 November 2010, the Fund has requested the court to acknowledge the fact that due to the publication of a new merger plan following the revocation of the merger plan subject to this opposition, the current opposition remained without substance. The court has acknowledged the fact that the opposition remained without substance.

On 17 November 2010, the Fund has filed a new opposition against the new merger plan, the first hearing date being scheduled by the Bucharest Tribunal for 30 November 2011.

#### **The Fund vs. Nuclearelectrica (IV)**

On 11 November 2010, the Fund has lodged with the Bucharest Tribunal a motion for preliminary injunction against Societatea Nationala Nuclearelectrica S.A. ("**Nuclearelectrica**"), requesting the court to suspend the implementation of the merger among Nuclearelectrica with S.C. Complexul Energetic Rovinari S.A., S.C. Complexul Energetic Turceni S.A., S.C. Complexul Energetic Craiova S.A., Societatea Nationala a Lignitului Oltenia S.A. and S.C. Hidroserb S.A. and the deferral of the general shareholders meeting of Nuclearelectrica convened to approve in substance the merger plan.

In its motion of claim, the Fund attested that it is a shareholder of Nuclearelectrica holding a number of 24,676,222 shares issued by Nuclearelectrica. The Fund claims that Nuclearelectrica refuses to acknowledge and register the Fund as rightful owner of an additional number of 20,077,953 shares issued by Nuclearelectrica and transferred *de jure* to the Fund from the Ministry of Economy by means of Emergency Government Ordinance no. 69/2008. The Fund noted that there is a litigation pending before the Bucharest Tribunal on the merits of the case, i.e. registration of the Fund as rightful owner of the supplementary shares referred to above.

Furthermore, the Fund showed that its quota in the share capital of Nuclearelectrica has been significantly reduced as a result of Nuclearelectrica shareholders' resolution of 26.09.2006, where a share capital increase was approved, all of newly issued shares being allocated to the Romanian state. The Fund noted that with respect to this latter shareholders' resolution, there is a pending litigation on the annulment thereof before the Bucharest Court of Appeal.

As concerns the merger, the Fund evidenced that the merger has been approved in principle by Nuclearelectrica on 11 May 2010. The Fund showed that the merger plan is irreversibly and adversely affect the rights of the Fund, since: (i) its ownership right over a number of 20,077,953 shares issued by Nuclearelectrica is not recognised and thus it shall not receive shares in the newly incorporated company, as a result of the merger, pro rata with its effective holdings in Nuclearelectrica, (ii) the merger plan sets out the quota of the Ministry of Economy in the share capital of Nuclearelectrica which includes also the shares which have been illegally allocated to the Romanian state by shareholders resolution of 26.09.2006, which in turn shall result into the Ministry of Economy holding an increased quota in the share capital of the newly created entity as a result of the merger.

The Fund noted that it, along with other prejudiced persons have filed administrative challenges against the merger plan with the Trade Registry. In its attempts to mitigate the Fund's claims with respect to the additional shares in Nuclearelectrica to which it is entitled, the Ministry of Economy has invited the Fund on several occasions to identify suitable solutions.

On 15 October 2010 the merger plan has been revoked, with a new one being published in the Official Gazette. All administrative challenges pertaining to the former merger plan have been dismissed. The new merger plan proved to be identical with the former one; the sole difference resuming to the fact that under the former merger plan, the law provided that the administrative

challenges against a merger plan shall suspend the implementation of the merger until the claims are settled. Prior to the new merger plan being published, the Companies' Law has been amended in the sense that the administrative challenges against a merger plan no longer resulted into the suspension of the implementation of the merger. Thus, the Fund claims that the merger plan has been re-published with the sole aim of having the administrative challenges under the former legal regime being dismissed.

On 18 November 2010 hearing, the Bucharest Tribunal has dismissed the Fund's claim for preliminary injunction.

#### **The Fund vs. S.C. Complexul Energetic Craiova S.A.**

On 17 November 2010, The Fund has lodged with the Dolj Tribunal a motion for preliminary injunction against S.C. Complexul Energetic Craiova S.A. ("**CE Craiova**"), requesting the court to suspend the implementation of the merger among Nuclearelectrica with S.C. Complexul Energetic Rovinari S.A., S.C. Complexul Energetic Turceni S.A., CE Craiova, Societatea Nationala a Lignitului Oltenia S.A. and S.C. Hidroserv S.A. and the deferral of the general shareholders meeting of CE Craiova convened to approve in substance the merger plan on 19 November 2010.

In its motion of claim, the Fund claimed that apart from its holdings in the share capital CE Craiova for which it has already been registered as shareholder in the shareholders' registry of CE Craiova, the Fund is entitled to receive a number of 25,677 shares issued by CE Craiova which the Ministry of Economy refuses to transfer to the Fund. The Fund showed that there is a litigation pending in front of the Bucharest Tribunal against the Ministry of Economy, CE Craiova and OPSPI for the transfer of the above referred holding.

The merger in which CE Craiova is involved has been approved in principle by CE Craiova's shareholders meeting on 30 April 2010. The Fund showed that the merger plan is irreversibly and adversely affect the rights of the Fund, since its ownership right over a number of 25,677 shares issued by CE Craiova is not recognised and thus it shall not receive shares in the newly incorporated company, as a result of the merger, pro rata with its effective holdings in CE Craiova.

The Fund noted that it, along with other prejudiced persons have filed administrative challenges against the merger plan with the Trade Registry. In its attempts to mitigate the Fund's claims with respect to the additional shares in CE Craiova to which it is entitled, the Ministry of Economy has invited the Fund on several occasions to identify suitable solutions.

On 15 October 2010 the merger plan has been revoked, with a new one being published in the Official Gazette. All administrative challenges pertaining to the former merger plan have been dismissed. The new merger plan proved to be identical with the former one; the sole difference resuming to the fact that under the former merger plan, the law provided that the administrative challenges against a merger plan shall suspend the implementation of the merger until the claims are settled. Prior to the new merger plan being published, the Companies' Law has been amended in the sense that the administrative challenges against a merger plan no longer resulted into the suspension of the implementation of the merger. Thus, the Fund claims that the merger

plan has been re-published with the sole aim of having the administrative challenges under the former legal regime being dismissed.

For the approval of the new merger plan, a shareholders meeting of CE Craiova has been convened for 19 November 2010.

On 18 November 2010, the Dolj Tribunal has ruled upon: (i) the suspension of the merger among the above referred companies until the merger plan is duly modified and (ii) deferral of the general shareholders meeting of CE Craiova convened for 19 November 2010.

#### **The Fund vs. S.C. E.ON Moldova Furnizare S.A.**

The Fund has prepared a motion of claims to be lodged with the Bacau Tribunal against S.C. E.ON Moldova Furnizare S.A. ("**E.ON Moldova**"), requesting the court to attest the absolute nullity, and in subsidiary the annulment, of the extraordinary shareholders' resolution of E.ON Moldova passed on 2 November 2010, resolving upon: (i) the approval of the merger between E.ON Moldova, as absorbed company, and E.ON Gaz Romania S.A. ("**E.ON Gaz**"), as absorbing company and hence the merger plan in relation thereto; (ii) the dissolution of E.ON Moldova and de-registration thereof from the trade registry records; (iii) amendments to the articles of association of E.ON Gaz, as a result of the merger.

In substantiating its claim, the Fund showed that it is the registered owner of 22% of the share capital of E.ON Moldova, the other shareholders thereof being E.ON Romania S.R.L. with a 51% holding and S.C. Electrica S.A. ("**Electrica**") with a 27% holding. Furthermore, the Fund is registered with a 12% holding in the share capital of E.ON Gaz.

In the general shareholders meeting of E.ON Romania approving the merger plan, Electrica has voted in favour of the amendments to the articles of association of E.ON Gaz subject to the amendments proposed by Electrica which were read during the meeting by the secretary thereof. Thus the fact that the amendments of the articles of association as proposed by Electrica have not been included in the convening notice or in an updated convening notice, the approval thereof in the shareholders' meeting is null and void.

The Fund showed that the financial statements used by E.ON Moldova for the purpose of the merger (i.e. the 2009 annual financial statements) were not compliant with the Companies' Law, which sets out that the merger financial statements must be prepared at the latest on the first date of the third month preceding the date of the merger plan, if the last annual financial statements have been prepared for a financial year which has been closed with more than 6 months prior to that date. The merger plan has been published with the Official Gazette on 30 August 2010, thus exceeding the 6-month period referred to above.

Furthermore, the Fund claims that the financial status of both companies has been significantly changed since the end of 2009 financial year, and thus the exchange ratio determined for the purpose of the merger does not accurately reflect such changes and thus adversely affects the Fund's future holdings in the absorbing company.

The Fund also challenges the means by which the evaluation of the involved companies was carried out for the purpose of the merger. A decision has not yet been rendered in this case. The next hearing date has been scheduled for 13 December 2010.

Furthermore, the Fund has filed a claim with the Trade Registry with respect to the registration of the shareholders' resolution approving the amendments to the articles of association of E.ON Gaz, as a result of the merger. The next hearing date has been scheduled for 17 December 2010

### **The Fund – as Defendant: Litigations with respect to the rights of the Fund's former management officers/other litigations**

#### **Paunescu Nicolae Alexandru vs the Fund**

On 11 November 2009, Mr. Paunescu Nicolae Alexandru has lodged with the Bucharest Tribunal a claim against the Fund, requesting the court to render a decision by which to compel the Fund to pay to the claimant the amount of EUR 40,000, representing the pecuniary damages due for the period 1 December 2006 – 29 June 2007, according to the individual employment agreement concluded on 8 May 2006, based on which he has exercised the duty of General Director of the Fund. Mr. Paunescu also requested the rectification of its employment book so as to indicate the correct period of time during which he held the position of General Director and the corresponding remuneration.

In sustaining his claim, Mr. Paunescu indicated that he had been appointed as general director of the Fund based on the decision of the Supervisory Board dated 12 June 2006, decision which has been implemented by entering into the individual employment agreement on 8 May 2006, for an indefinite time and for a consideration of EUR 5,000/month. Further, the claimant indicated that on 2 August 2007, the Supervisory Board has decided the termination by virtue of law of the individual employment agreement, due to the legislative amendments to the Companies' Law in this matter. Mr. Paunescu claimed that he performed all his contractual duties until the termination of his employment relations on 29 June 2007, whereas the defendant paid his salary rights only until 1 December 2006.

In the statement of defence filed, the Fund requested the Court to dismiss the claimant's claim as ungrounded, indicating the following background: on 8 May 2006, the Ministry of Public Finance appointed Mr. Paunescu as chairman of the Supervisory Board, respectively on 12 June 2006, the Supervisory Board designated Mr. Paunescu as general director of the Fund, so that since June 2006 until December 2006, the claimant has exercised its duties for both office, receiving remuneration accordingly. On 1 December 2006 the Companies' Law has been amended, in the sense that the directors of a company were prohibited from having employment relationships with that company during the period for which that persons were holding the directors' position in that company; furthermore the amended legal provisions set out that if the directors are nominated from the company's employees, their individual employment agreement were suspended. Upon enactment of such legal changes, Mr. Paunescu was acting as chairman of the Supervisory Board, being remunerated accordingly. Hence, the defendant refuted claimant's allegations, arguing that Mr. Paunescu could not have performed his duties as general director after 1 December 2006, because his individual employment agreement was suspended by

virtue of law. Moreover, the Supervisory Board suspended on 2 February 2007 the claimant's right to sign contracts, addenda to pending contracts or any other written documents financially engaging the Fund. On 22 February 2007 the Supervisory Board delegated all attributions of the suspended general director to the directors of the departments within the Fund and to the Fund's deputy general director. Taking into account that the individual employment agreement had been suspended by virtue of law starting with 1 December 2006 and that until 29 June 2007 – when the employment agreement was terminated by virtue of law - Mr. Paunescu acted as a representative of the Fund on the basis of a mandate agreement, being paid accordingly, the Fund argued that the claim was ungrounded.

On 30 June 2010, the Bucharest Tribunal rendered the decision, dismissing the claim filed by Mr. Paunescu Nicolae Alexandru against the Fund.

Against this decision of the Bucharest Tribunal, Mr. Paunescu filed an appeal on 15 September 2010. A decision has not yet been rendered in the appeal, the first hearing being scheduled for 23 February 2011.

#### **Mr. Dinu Marian George vs. the Fund**

On 24 June 2010, Mr. Dinu Marian George has lodged with the Bucharest Tribunal a claim against Societatea Comerciala de Producere a Energiei Electrice in Hidrocentrale Hidroelectrica SA ("**Hidroelectrica**") and the Fund, requesting the court to rule upon the opposition filed against: (i) the split up approved in principle by the shareholders resolution of Hidroelectrica dated 6 May 2010 ("**Resolution**"), whereby Hidroelectrica was intended to be split-up by means of a universal transfer of the entire patrimony pertaining to Hidroelectrica's branches SH Ramnicu Valcea, SH Sibiu and SH Targu Jiu to C.N. Electra as well as (ii) against the incorporation of C.N. Electrica. By filing this opposition, the claimant requested the court to rule upon the nullity of the Resolution, as well as of any other deeds that have been carried out based on that Resolution and to suspend the split up until a court ruling is rendered in this matter.

In substantiating the opposition, the claimant indicated that by way of Government Decision no. 56/2010, it has been instituted the reorganisation of the electrical and thermal energy suppliers organized under the authority of the Ministry of Economy, by means of incorporation of Compania Nationala Electra S.A. ("**Electra**") and Compania Nationala Hidroenergetica SA ("**Hidroenergetica**"). Mr. Dinu underlined that Electra and Hidroenergetica shall be established based on a series of mergers and split-ups involving also the patrimony of Hidroelectrica. The claimant indicated that at the time of lodging the claim, the Resolution was not published in the Official Gazette, but that it is referred to explicitly in the split-up/merger plan of Hidroelectrica, which was published on 20 May 2010. Also, Mr. Dinu justified his court capacity to file the opposition by alleging that being a shareholder in the Fund accounts for its capacity as creditor of the Fund and that the Fund's capacity as shareholder in Hidroelectrica also accounts for the Fund being a creditor of Hidroelectrica in its turn, which entitles Mr. Dinu to claim directly against Hidroelectrica. The claimant argued that the Resolution was prejudicial to his interests because the split-up/merger plan did not state clearly the shares allocated to the Fund in the newly established entities. In particular, the claimant challenged the Resolution based on the fact that it has been passed in breach of the Companies' Law provisions, that expressly provide that in case of mergers/spin-offs/split-ups a valuation report with respect to the assets held by



the companies involved is required and institute that all resolutions passed by the shareholders meeting be made public to third parties. Moreover, Mr. Dinu raised the defence of illegality with respect to the Government Decision no. 56/2010, arguing that such decision is an administrative act that does not supersede the laws enacted by the Parliament. In the case at hand, it was alleged that by way of a government decision, the Government regulated a split-up/merger procedure which is contrary to the procedure regulated imperatively by the Companies' Law.

Against the opposition, Hidroelectrica filed a statement of defence, arguing that the merger/split-up operations instituted by the Government Decision no. 56/2010 were compliant with the imperative provisions of the Companies' Law. The incorporation of Electra simultaneously with the incorporation of Hidroenergetica was regulated by means of three simultaneous operations: (i) split-up of Hidroelectrica (i.e. by means of transfer of SH Ramnicu Valcea, SH Sibiu and SH Targu Jiu branches thereof to Electra); (ii) merger by absorption among Hidroelectrica – as absorbing company – and certain subsidiaries of Societatea Comerciala de Producere a Energiei Electrice si Termice Termoelectrica SA ("**Termoelectrica**") - as absorbed companies (i.e. Hidroserv Bistrita, Hidroserv Slatina, Hidroserv Portile de Fier, Hidroserv Curtea de Arges, Hidroserv Sebes, Hidroserv Hateg and Hidroserv Cluj); (iii) changing the corporate name of Hidroelectrica into Hidroenergetica. The defendant indicated that both the split-up and merger plans concerning Hidroenergetica and the merger plan concerning Electra had been duly submitted to the Trade Registry and published in the Official Gazette.

The defendant requested the court to dismiss the opposition on the grounds that the Fund voted in favour of the Resolution, thus waiving its right to claim for annulment of the Resolution. Hidroelectrica has also invoked Mr. Dinu's lack of court capacity to file the opposition, by stating that the capacity of shareholder did not account for the capacity as creditor. Also from a procedural point of view, the defendant requested the court to dismiss the opposition as filed by a person having no legitimate interest, due to the fact that the split-up/merger operations caused no prejudice to the claimant. As for the defence of illegality raised, the defendant argued that it ought to be dismissed, taken into account Mr. Dinu's abuse of its procedural rights, since the purpose of such defence was merely to unjustifiably extend the court proceedings. Hidroelectrica categorized the claimant's arguments as pure ungrounded allegations, based on the fact that the Companies' Law did not regulate imperatively the order of split-up/merger operations, nor the valuation of the assets of the involved companies by an expert.

Considering the fact that the new merger plan has been published with the Official Gazette on 27 November 2010, the court has dismissed the opposition lodged by Mr. Dinu Marian George, as in lack of substance.

### **The Fund – as defendant: Litigations regarding the OGM or AGEA/the Fund's assets**

#### **AVAS vs. the Fund**

On 19 April 2007, AVAS has lodged with the 5th District Bucharest Court an ownership claim against the Fund, the Central Depository, the NSC and S.C. Conpet S.A. ("**Conpet**"), requesting the court to rule upon the ownership rights of AVAS over a number of 524,366 shares issued by Conpet and to impose on the other defendants the obligation to register accordingly the shares in the shareholders' registry.

In September 2007, the 5<sup>th</sup> District First Instance Court declined its jurisdiction with regards to such claim in favour of the Bucharest Tribunal. Accordingly, the claim was registered with the Bucharest Tribunal in October 2007.

In parallel, on 7 December 2007, AVAS has lodged with the Bucharest Tribunal a new ownership claim against the same parties, with the same object and with the same legal cause.

In substantiating its claim, AVAS indicated the following: a 10% quota in Conpet's share capital has been transferred to the Fund, upon its incorporation, by virtue of Law 247. The Fund was incorporated on 28 December 2005 when it was registered with the Trade Registry. On 28 November 2005, Conpet's shareholders extraordinary general assembly was held, resolving upon the decrease in Conpet's share capital from the amount of RON 45,873,920.40 to the amount of RON 28,569,842.40, as a result of a decrease in contribution made by the Ministry of Economy (former shareholder in Conpet) to the share capital of Conpet; the reduction of the share capital of Conpet amounted to RON 17,304,078 representing 5,243,660 shares with a nominal value of RON 3.30 per share. The respective resolution was published in the Official Gazette of 22 December 2005, thus becoming effective towards third parties as of this date. Moreover, the claimant stated that Conpet's share capital decrease has been imposed by law (i.e. Emergency Government Ordinance no. 37/2005), underlying that knowledge of law is a constitutional duty. Further, AVAS indicated that on 9 March 2006, the Central Depository has registered the Fund as a shareholder of Conpet, holding a number of 1,390,119 shares, thus attesting the Fund's entitlement to such holding in the share capital by virtue of the law. The claimant alleged that the Fund should have been registered with the shareholders registry managed by the Central Depository with a shareholding of only 865,753 shares instead of 1,390,119 shares, the difference representing AVAS' shareholding. To prove such allegation, the claimant stated that the decrease in Conpet's share capital was effected prior to the incorporation of the Fund and that the Central Depository erroneously transferred 10% of Conpet's share capital registered with the shareholders' registry on 28 December 2005, instead of applying the Fund's share quota by to Conpet's share capital, as it has been decreased.

Against the ownership claim of AVAS, the NSC has filed a statement of defence, evidencing the lack of court capacity in this trial.

The Fund has also filed a statement of defence, raising the defence of *lis pendens*, as the second claim was identical with the previous claim lodged. The Fund also refuted the claim, by stating that its registration as shareholder in Conpet's shareholders registry was carried out in full compliance with the applicable legal provisions. In this respect, the Fund indicated that, even if the share capital decrease was resolved upon on 28 November 2005, the resolution of Conpet's shareholders could not have become effective prior to the expiry of the two month opposition period. Hence, the Fund argued that both, at the time of its incorporation and at the time of its registration with the Central Depository, the decrease in Conpet's share capital was not legally implemented, thus entitling the Fund to the transfer of 1,390,119 shares as provided by Law 247. The Fund also argued that the subsequent decrease in Conpet's share capital could not have affected the number of shares previously transferred to the Fund and that the reduction carried out by operation of law should have become effective exclusively with respect to the Romanian State's holdings in Conpet. On 14 May 2009, the Bucharest Tribunal awarded the *lis pendens*

exception raised by the Fund and joined the second claim filed by AVAS to the first claim registered, for common judgement.

The Bucharest Tribunal rendered a decision on 25 March 2008 declining its jurisdiction with regards to the claim filed by AVAS in favour of the Prahova Tribunal. To render this decision, the Bucharest Tribunal categorized the claim filed by AVAS as a corporate claim, the competent jurisdiction to such type of claims being awarded to the courts where the company has its registered seat. Conpet's registered seat was in Ploiesti, a town under the jurisdiction of the Prahova Tribunal.

Against this decision of the Bucharest Tribunal, the Fund filed an appeal with Bucharest Court of Appeal, registered on 21 April 2008. The appeal was grounded on the misinterpretation of the claim as being corporate, as decided by the Bucharest Tribunal, since the object of the claim filed was the interpretation of certain legal provisions with regard to the number of shares the Fund was entitled to, and not a dispute between a shareholder and the company. Moreover, the Fund stated that Conpet's shares were traded on the capital market, so that the company had no duties with regard to the registration of the shares in the shareholders registry.

On 6 June 2008, Bucharest Court of Appeal admitted the appeal, by dismissing the exception of lack of territorial jurisdiction raised ex officio by the Bucharest Tribunal and sent the case to the same court to resume the proceedings.

The NSC filed a claim against the Ministry of Economy, requesting that the Ministry of Economy be introduced in the case. In May 2009, the Ministry of Economy filed a statement of defence and requested the court to rule in favour of AVAS, for the same legal reasons indicated by AVAS.

The Fund also submitted to the court the decision rendered by the Prahova Tribunal on 18 March 2009, by way of which the Fund's capacity as a shareholder holding 20.056% stake in Conpet's share capital was attested, and argued that this is an adjudicated precedent.

A decision has not yet been rendered in the case.

#### **Ms. Ioana Sfiraiala vs. the Fund**

On 1 October 2010, Ms. Sfiraiala, as shareholder of the Fund, has lodged with the Bucharest Tribunal a claim against the Fund, asking the court to rule upon the annulment of the following resolutions passed on the occasion of OGM and EGM of 6 September 2010: (i) approval of the Fund's articles of association, (ii) appointment of the Sole Director, (iii) admission to trading of the shares issued by the Fund on the Relevant Market as well as on other international markets, (iv) dismissal and discharge of the former members of the Executive Board and of the Supervisory Board, (v) appointment of the members of the Board of Nominees. The claimant argues that the convening of the OGM and EGM dated 6 September 2010 has not been carried out in accordance with the provisions of the Companies' Law (namely, the convening notice was not published in a due term prior to the assembly and the articles of association which were to be approved in the EGM were not included in the convening notice). Ms. Sfiraiala stated that considering the fact that the appointment of the Sole Directors is conditional upon the approval of the articles of association, the appointment of the Sole Director is also an act subject to nullity.

The first hearing date for this matter has been set on 16 November 2011.

**Ms. Ioana Sfiraiala vs. the Fund**

On 6 October 2010, Ms. Sfiraiala, as shareholder of the Fund, has lodged with Bucharest Tribunal a claim against the Fund requesting the court to institute a preliminary injunction with respect to the following resolutions passed on the occasion of EGM of 6 September 2010: (i) approval of the Fund's articles of association, (ii) appointment of the Sole Director, (iii) admission to trading of the shares issued by the Fund on the Relevant Market as well as on other international markets, (iv) dismissal and discharge of the former members of the Executive Board and of the Supervisory Board, (v) appointment of the members of the Board of Nominees.

In her motion for preliminary injunction, Ms. Sfiraiala has stated that the Bucharest Tribunal has been vested with the authority to rule upon the merits of the matter (i.e. annulment of all EGM resolutions dated 6 September 2010), claiming that substantial likelihood of irreparable harm is likely to occur unless the injunction is granted, based on the fact that the management of the Fund shall be carried out by persons which will render decisions vital to the Fund which will be subject to nullity, considering the obvious nullity of the resolution appointing such persons in managements positions.

Ms. Sfiraiala iterated that the EGM resolution approving the Fund's articles of association has been passed in breach of the Companies' Law provisions regulating the convening formalities of a shareholders' meeting (i.e. minimum term for publication of an updated convening notice). Furthermore, she claimed that the nullity of the resolution approving the Fund's articles of association trigger the nullity of the resolutions concerning the appointment of the Sole Director, dismissal and discharge of the former members of the Executive and Supervisory Boards and appointment of the members of the Board of Nominees. Furthermore, Ms. Sfiraiala claimed that the admission to trading of the shares issued by the Fund may not be carried out unless the Fund's articles of association are duly enacted.

The Bucharest Tribunal has set the first hearing date to rule upon the preliminary injunction matter on 28 August 2011. Ms. Sfiraiala has requested the court to be granted an earlier hearing date and the court has changed the first hearing date for 17 November 2010. However, on 17 November 2010, the court acknowledged that the Fund has not been properly informed about the hearing date, and therefore it has been granted a new hearing date on 26 November 2010 when the Fund has requested the court to re-examine the stamp duty. The next hearing date has been scheduled for 3 December 2010.

**Mr. Cristian Rozor vs. the Fund**

Mr. Rozor, as shareholder of the Fund, has lodged with the Bucharest Tribunal a claim against the Fund, requesting the court to order a preliminary injunction with respect to the EGM and OGM resolutions of 6 September 2010 and to rule upon the annulment of such resolutions. Mr. Rozor claimed that:

- the convening of the EGM and OGM was carried in breach of the Companies' Law provisions. In this respect, Mr. Rozor claimed that the minimum term for publication of an updated convening notice has not been observed and that the shareholders' have not been informed in due time with respect to the items on the agenda of the meetings upon which the shareholders were convened to resolve, as well as with respect to the means by which the shareholders would be entitled to exercise their shareholders' rights (i.e. meeting powers of attorney templates and voting bulletins by correspondence);
- the EGM resolution approving the buy-back of shares by the Fund has been resolved upon in lack of proper information; Mr. Razor pointing that from his perspective the Fund does not hold sufficient resources as regulated by law in order to carry out such resolution, stressing that the shareholders have voted a "hypothetical" corporate operation; furthermore, the shareholders have not been informed on the scope and means of carrying out such operation;
- the Board of Nominees is a corporate body which is not regulated or recognised by the Companies' Law, stressing that the duties thereof exceed the framework of the Companies' Law, interfering with the activity of the Fund Manager/Sole Director;
- Mr. Bogdan Dragoi, as member of the Board of Nominees is in conflict of interest, considering that he was involved in the selection tender for the Fund's manager.
- the meeting power of attorney template lacked one of the most important element strictly regulated by the law i.e. the number of total voting rights.

Due to the fact that Mr. Rozor did not pay the stamp duty, on 27 October 2010, the court annulled his claim. On 15 November 2010, Mr. Rozor has lodged a claim with the Bucharest Tribunal requesting the court to institute a preliminary injunction against the EGM and OGM resolutions dated 6 September 2010. The Bucharest Tribunal has scheduled the first hearing date for 29 November 2010, which has been postponed for 13 December 2010.

### **Mr. Eugene Weissman and others vs. the Fund**

Mr. Eugene Weissman and others have lodged a claim with the Bucharest Tribunal against the Fund, requesting the court to render a decision by way of which the EGM resolution of 6 September 2010 concerning the approval of the buy-back procedure be declared null and void.

The claimants have stated that they are entitled to receive compensation from the Romanian state by means of receiving shares in the Fund, which grants upon them the title to file a claim against the Fund. The claimants have stated that based on the above referred resolution their interests have been prejudiced, due to the fact that under a buy-back programme the market price of the shares issued by the Fund may be subject to manipulation, in the sense that massive purchases of shares from the market which may lead to an ungrounded increase of the market price.

Pursuant to Law 247, after the listing of the Fund the compensation titles shall be converted into shares issued by the Fund determined by reference to the previous 60 trading sessions. Hence,

the carrying out of the buy-back may trigger an artificial increase in the market price of the shares, which in turn may trigger a significantly lower number of shares allocated to the persons who have opted to convert their compensation titles into shares issued by the Fund. The claimants have also stated that prior to the listing of the Fund, the Entitled Persons have received shares in the Fund, by means of conversion of the compensation title at an exchange ratio: 1RON/1share (i.e. at the nominal value of the Fund's shares).

The claimants have stated that considering the fact that the Entitled Persons are treated unevenly as concerns the conversion ratio (i.e. prior to listing – based on nominal value and after listing – based on the market price) it is of utmost importance that the market price of the Fund's shares is not manipulated; otherwise adversely affecting the rights of the Entitled Persons (i.e. which represent at the time of lodging the claim app. 44% of the total shares issued by the Fund) to a fair compensation by the Romanian State.

Furthermore, the claimants allege that the buy-back approved by the EGM is contrary to the capital markets law qualifying such operation as market manipulation. The claimants alleged that the Fund has no legitimate interest in acquiring own shares and neither legal cause. The first hearing was scheduled for 19 May 2011.

Save as disclosed above, the Fund has no knowledge of any material pending or threatened litigation or arbitration proceedings, with respect to which it expects to have a material adverse effect against the Fund.

I.9.1,  
I.20.1

## **5 PRESENTATION OF SEPARATE FINANCIAL STATEMENTS**

I.20.3

### **5.1 Annual Separate IFRS Financial Statements and Results**

I.20.4

*The following is a discussion of the Company's results of operations and financial position for the financial years ending 31 December 2007, 31 December 2008 and 31 December 2009. With respect to the RAS un-audited results for first half of 2010, please refer to Section 5.2 below. Prospective investors should read the following discussion, together with the whole of this document, including risk factors, and the Fund's audited historical separate financial statements and should not just rely on the key or summarized information contained in this Chapter. The financial information in this Chapter has been extracted without material adjustment from the Fund's accounting records. Operational data have been extracted from the Fund's management accounts for years 2007, 2008 and 2009 and this operational data has not been audited.*

#### **5.1.1 Basis of preparation of financial statements and significant accounting policies**

##### **5.1.1.1 Basis of preparation and presentation**

The Separate Financial Statements have been prepared in accordance with International Financial Reporting Standards (IFRSs).

##### *Presentation of financial statements*

The Fund applies revised IAS 1 Presentation of Financial Statements (2007), which became effective as of 1 January 2009. As a result, the Fund presents in the statement of changes in equity all owner changes in equity, whereas all non-owner changes in equity are presented in the statement of comprehensive income.

The audited financial statements for year 2009 contain comparative information, which has been re-presented in the new format so that it also is in conformity with the revised standard. Since the change in accounting policy only impacts presentation aspects, there is no impact on earnings per share.

The financial statements have been prepared on the historical cost basis except for equity investments that are quoted on an active market, which are measured at fair value.

##### **5.1.1.2 Significant accounting policies**

The following paragraphs describe the accounting policies that the Fund believes to be important for the understanding of the financial statements drafted according to IFRS, including policies regarding subjective or complex judgments. A more detailed description of these accounting policies can be found in the notes to the Fund's financial statements.

In these separate financial statements, investments in subsidiaries and associates are accounted for in accordance with IAS 39 Financial Instruments: Recognition and Measurement, as available-for-sale financial assets.

## **Financial assets and liabilities**

### *Recognition*

The Fund recognises financial assets and liabilities on the date it becomes a party to the contractual provisions of the instrument.

Financial assets and liabilities are recognised initially at fair value plus any directly attributable transaction costs, except for the investments in equity securities whose fair value cannot be reliably measured, which are recognised initially at cost.

The cost of equity investments which are contributed in kind by the Romanian State to the Fund's share capital is determined in accordance with the provisions of Law 247/2005, as amended by Government Emergency Ordinance (G.E.O.) 81/2007, as follows:

- for the shares received at the Fund's establishment in December 2005, the cost is equal to:
  - the weighted average price of the last 90 trading days, provided that the last of the 90 trading days is not more than 60 days prior to 24 November 2005, for companies listed on a stock exchange and whose trading volume over the last 90 trading days represented at least 0.3% of their share capital;
  - the book value of the shareholders' equity at 31 December 2004, determined in accordance with statutory financial statements, multiplied by the Fund's shareholding, for unlisted companies and for listed companies whose trading volume over the last 90 trading days represented less than 0.3% of their share capital;
- for the shares received in June 2007, in accordance with G.E.O. 81/2007, the cost is equal to:
  - the weighted average price of the last 90 trading days prior to 29 June 2007, for companies listed on a stock exchange and whose trading volume over the last 90 trading days represented at least 0.3% of their share capital;
  - the book value of the shareholders' equity at 31 December 2006, determined in accordance with statutory financial statements, multiplied by the Fund's shareholding, for unlisted companies and for listed companies whose trading volume over the last 90 trading days represented less than 0.3% of their share capital;
- for the additional shares received in companies owned by the Romanian State (through the Fund and State authorities) and to which the State has made contributions in kind,



which are received by the Fund so as not to dilute its shareholding in such companies, the cost for the Fund is determined at the par value of the shares received.

#### *Classification*

The Fund classifies financial assets/liabilities as follows:

- Cash and deposits with banks
- Held to maturity (investments like treasury bonds)
- Available-for-sale financial assets
- Other financial assets and liabilities

#### *De-recognition*

The Fund derecognises a financial asset when the contractual rights to the cash flows from the financial asset expire, or when it transfers the rights to receive the contractual cash flows on the financial asset in a transaction in which substantially all the risks and rewards of ownership of the financial asset are transferred. Any interest in transferred financial assets that is created or retained by the Fund is recognised as a separate asset or liability.

The Fund derecognises a financial liability when its contractual obligations are discharged or cancelled or expire.

#### *Offsetting*

Financial assets and liabilities are set off and the net amount presented in the balance sheet when, and only when, the Fund has a legal right to set off the amounts and intends either to settle on a net basis or to realise the asset and settle the liability simultaneously.

Income and expenses are presented on a net basis only when permitted by the accounting standards, or for gains and losses arising from a group of similar transactions.

#### *Amortised cost measurement*

The amortised cost of a financial asset or liability is the amount at which the financial asset or liability is measured at initial recognition, minus principal repayments, plus or minus the cumulative amortisation using the effective interest method of any difference between the initial amount recognised and the maturity amount, minus any reduction for impairment.

#### *Fair value measurement*

Fair value is the amount for which an asset could be exchanged, or a liability settled, between knowledgeable, willing parties in an arm's length transaction on the measurement date.

When available, the Fund measures the fair value of an instrument using quoted prices in an active market for that instrument at the reporting date. A market is regarded as active if quoted prices are readily and regularly available and represent actual and regularly occurring market transactions on an arm's length basis.

If a market for an equity security is not active, the Fund tries to establish fair value using a valuation technique (net asset).

The best evidence of the fair value of a financial instrument at initial recognition is the transaction price, i.e., the fair value of the consideration given or received, unless the fair value of that instrument is evidenced by comparison with other observable current market transactions in the same instrument (i.e., without modification or repackaging) or based on a valuation technique whose variables include only data from observable markets. When transaction price provides the best evidence of fair value at initial recognition, the financial instrument is initially measured at the transaction price and any difference between this price and the value initially obtained from a valuation model is subsequently recognised in profit or loss depending on the individual facts and circumstances of the transaction but not later than when the valuation is supported wholly by observable market data or the transaction is closed out.

Assets are measured at a bid price and liabilities are measured at an asking price.

#### *Identification and measurement of impairment*

At each reporting date the Fund assesses whether there is objective evidence that financial assets are impaired. Financial assets are impaired when objective evidence demonstrates that a loss event has occurred after the initial recognition of the asset, and that the loss event has an impact on the future cash flows of the asset that can be estimated reliably.

Impairment losses on assets carried at amortised cost are measured as the difference between the carrying amount of the financial asset and the present value of estimated future cash flows discounted at the asset's original effective interest rate. Losses are recognised in profit or loss and reflected in an allowance account against the financial assets. Interest on the impaired asset continues to be recognised through the unwinding of the discount. When a subsequent event causes the amount of impairment loss to decrease, the decrease in impairment loss is reversed through profit or loss.

Impairment losses on equity investments carried at fair value are recognised by transferring the cumulative loss that has been recognised directly in equity to profit or loss. The cumulative loss that is removed from equity and recognised in profit or loss is the difference between the acquisition cost and the current fair value, less any impairment loss previously recognised in profit or loss. If, in a subsequent period, the fair value of an impaired equity investment increases, the recovery is recognised directly in equity.

Impairment losses on equity investments carried at cost (as their fair value cannot be reliably measured) are measured as the difference between the carrying amount and the book value of the share owned in companies' net assets, as management considers this to be the best estimate under its passive management approach.

Losses are recognised in profit or loss and are not reversed.

In determining that equity investments are impaired, the Fund considers all relevant factors, such as significant or prolonged decline in fair value below cost, market and industry conditions, to the extent that they influence the recoverable amount of the investment, financial con-

ditions and near-term prospects of the issuer, including any specific adverse events that may influence the issuer's operations, recent losses of the issuer, qualified independent auditor's report on the issuer's most recent financial statements etc.

#### **Available-for-sale financial assets**

The Fund's investments in equity securities are classified as available-for-sale financial assets.

##### *Equity investments carried at fair value*

Subsequent to initial recognition, equity investments (other than those described in the Section below) are measured at fair value and changes therein, other than impairment losses, are recognised directly in equity.

When an investment is derecognised, the cumulative gain or loss in equity is transferred to profit or loss.

##### *Equity investments carried at cost*

Investments in equity securities that do not have a quoted market price in an active market, and whose fair value cannot be reliably measured using a valuation technique (net assets), are measured at cost, subject to impairment testing.

#### **Dividend income**

Dividend income relating to listed equity investments is recognised in the income statement on the ex-dividend date. Income distributions from unquoted equity investments are recognised in the income statement as dividend income when declared.

When the Fund receives or chooses to receive dividends in the form of additional shares rather than cash, the dividend income is recognised for the amount of the cash dividend alternative with the corresponding debit treated as an additional investment.

When bonus shares are received with no cash alternative and only certain shareholders are granted additional shares, the shares received are measured at fair value and a corresponding amount of dividend income is recognised. However, if all shareholders receive bonus shares in proportion to their shareholdings, no dividend income is recognised as the fair value of the Fund's interest should be unaffected by the bonus issue.

For late dividend payments, the Fund initiates legal recovery measures (conciliation, litigations etc.). The Fund is entitled to charge penalties for overdue net dividends; the penalty rate is equal to the legal interest rate (the NBR's money market rate). Penalty income on dividends is recognised in the financial year when cashed in.

Dividend income is presented gross (including the dividend taxes, withheld by the dividend payer).

The Fund recognises dividends from subsidiaries and associates as income in its separate financial statements when its right to receive the dividend is established.

**Income tax**

Income tax expense comprises current and deferred tax.

*Current tax*

Current tax includes also dividend withholding taxes.

Income tax expense is recognised in profit or loss except to the extent that it relates to items recognised directly in equity, in which case it is recognised in equity.

Current tax is the expected tax payable on the taxable income for the year, using tax rates enacted or substantively enacted at the reporting date, and any adjustment to tax payable in respect of previous years.

*Deferred tax*

Deferred tax is recognised in respect of temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for taxation purposes. Deferred tax is not recognised for the following temporary differences: the initial recognition of assets or liabilities in a transaction that is not a business combination and that affects neither accounting nor taxable profit, and differences relating to investments in subsidiaries and jointly controlled entities to the extent that it is probable that they will not reverse in the foreseeable future. Deferred tax is measured at the tax rates that are expected to be applied to temporary differences when they reverse, based on the laws that have been enacted or substantively enacted by the reporting date. Deferred tax assets and liabilities are offset if there is a legally enforceable right to offset current tax liabilities and assets, and they relate to income taxes levied by the same tax authority on the same taxable entity, or on different tax entities, but they intend to settle current tax liabilities and assets on a net basis or their tax assets and liabilities will be realised simultaneously.

A deferred tax asset is recognised to the extent that it is probable that future taxable profits will be available against which the temporary difference can be utilised. Deferred tax assets are reviewed at each reporting date and are reduced to the extent that it is no longer probable that the related tax benefit will be realised.

Additional income taxes that arise from the distribution of dividends by the Fund are recognised at the same time as the liability to pay the related dividend is recognised.

## 5.1.2 Annual performance analysis

Statement of Comprehensive Income	Year ended	Year ended	Year ended
	31 December 2009	31 December 2008	31 December 2007
	(audited)	(audited)	(audited)
	-lei-	-lei-	-lei-
Gross Dividend income	120,055,158	422,832,462	227,642,629
Interest income	142,469,835	84,453,833	28,005,444
Impairment losses on equity investments	(1,455,233)	(3,892,093,521)	(243,513,025)
Impairment losses on dividends receivable	0	9,427,066	(38,378,599)
Gains/(losses) on disposal of equity investments	554,433,394	0	32,398,995
Net foreign exchange gains	14,731,693	19,531,493	17,990,758
<b>Net investment income/ (loss)</b>	<b>830,234,847</b>	<b>(3,355,848,667)</b>	<b>24,146,202</b>
Personnel expenses	(13,507,594)	(6,606,081)	(2,382,266)
Other operating expenses	(9,329,468)	(11,736,611)	(3,159,592)
<b>Operating expenses</b>	<b>(22,837,062)</b>	<b>(18,342,692)</b>	<b>(5,541,858)</b>
<b>Profit/ (Loss) before tax</b>	<b>807,397,785</b>	<b>(3,374,191,359)</b>	<b>18,604,344</b>
Income tax (expense)/ benefit	(106,345,000)	569,656,826	3,115,784
<b>Profit/ (Loss) for the year</b>	<b>701,052,785</b>	<b>(2,804,534,533)</b>	<b>21,720,128</b>
<b>Other comprehensive income</b>			
Net change in fair value of available for sale equity investments	963,761,683	(569,081,488)	(240,000,400)
Income tax on other comprehensive income	(154,201,869)	91,053,038	38,400,064
<b>Total other comprehensive income</b>	<b>809,559,814</b>	<b>(478,028,450)</b>	<b>(201,600,336)</b>
<b>Total comprehensive income for the period</b>	<b>1,510,612,599</b>	<b>(3,282,562,983)</b>	<b>(179,880,208)</b>
<b>Basic and diluted earnings/ (loss) per share</b>	<b>0.05</b>	<b>(0.20)</b>	<b>0.00</b>

Source: Audited Separate IFRS Financial Statements

Note: Other comprehensive income for year 2007 is not disclosed in the Fund's IFRS financial statements; however, it is presented in the Prospectus for comparability.

The standard regarding Presentation of Financial Statements (IAS 1) revised the form of the statement that reflects the performance of the company (the former "Profit and Loss Account"). The new statement is renamed as "Statement of Comprehensive Income" and consists of:

- Profit and loss that is the total income less expenses;
- Other comprehensive income that comprises items of income and expenses not recognized in Profit and loss. The standard provides the list of items that should be included in this category, as follows:
  - Changes in revaluation surplus relating to property, plant and equipment and intangible assets;
  - Actuarial gains and losses on defined benefit plans when these are recognized outside of profit and loss;

- Gains and losses arising from translating the financial statements of a foreign operation
- Gains and losses on re-measuring available for sale financial assets;
- The effective portion of gains and losses on hedging instruments in cash flow hedge

The Fund's financial statements presents the changes in fair value of the holdings of the Fund in the Portfolio Companies (equity investments), classified as available for sale financial assets. The standard also requires disclosure of the amount of income tax relating to each component of other comprehensive income.

Details regarding its components are presented below in the dedicated Section 5.1.2.4 "Other comprehensive income".

I.9.2.1,  
I.9.2.3

#### **5.1.2.1 Net investment Income/Loss**

Net investment income represents the revenues generated by the main activity of the Fund that of investment in financial assets net of related impairments. In 2008 the Fund recorded a net investment loss mainly due to the negative evolution of the market price of the quoted companies in the Fund's Portfolio. In 2009 higher public market prices resulted in the increase in fair value of quoted companies, as compared with closing balance in 2008.

The 2009 Net Investment Income was also affected by the sale of participation in some companies in the Portfolio, the Fund recording a gain on such transactions, in line item "gain on disposal of equity investments".

## Gross dividend income

Gross dividend income	Year ended 31 December 2009 (un-audited) -lei-	Year ended 31 December 2008 (un-audited) -lei-	Year ended 31 December 2007 (un-audited) -lei-
Petrom	0	217,570,587	100,240,906
Romgaz	40,912,828	38,685,776	35,151,211
Alro Slatina	18,893,734	42,959,523	27,574,180
Transgaz	18,475,571	17,046,229	18,192,680
Transelectrica	2,968,564	3,562,277	14,545,961
Distrigaz Sud	14,496,020	22,759,383	7,671,707
Aeroportul International Henri Coanda Bucuresti	10,127,189	8,438,384	6,365,360
Imprimeria Nationala	0	0	7,119,436
Posta Romana	4,099	3,564,118	4,382,076
Complexul Energetic Turceni	2,331,100	8,166,104	3,029,678
Conpet	7,116,275	2,340,125	1,347,891
Complexul Energetic Craiova	464,389	1,079,249	652,626
Severnav	0	0	389,272
Administratia Canalelor Navigabile	216,938	19,569	263,660
Primcom	1,524,281	1,154,234	204,182
Complexul Energetic Rovinari	3,751	9,103,431	178,337
Oil Terminal	54,148	465,944	121,681
Aeroportul International Bucuresti Baneasa - Aurel Vlaicu	0	0	48,367
Administratia Porturilor Dunarii Maritime	0	1,448,782	33,947
Administratia Porturilor Dunarii Fluviale	464,744	518,120	27,714
Aeroportul International Timisoara - Traian Vuia	474,502	281,974	15,427
Ciocarlia	0	8,634	11,170
Semrom Oltenia	0	0	3,107
Carom - Broker de Asigurare Bucuresti	183,070	101,579	72,053
Enel Distributie Banat	0	29,471,961	0
Enel Distributie Dobrogea	0	13,219,626	0
Delfincom	0	701,954	0
Societatea Nationala a Sarii	269,771	131,997	0
Mecon Brasov	100,089	3,409	0
COMMETEX Piatra Neamt	1,810	1,500	0
IOR Bucuresti	1,493	27,993	0
Alcom	12,696	0	0
Electrica Furnizare Transilvania Nord	62,375	0	0
Electrica Furnizare Transilvania Sud	895,721	0	0
	<b>120,055,158</b>	<b>422,832,462</b>	<b>227,642,629</b>

Source: Management Accounts, un-audited

The trend of Gross dividend income was determined mainly by distribution of dividends from Petrom. In 2009 Petrom did not distribute dividends and this impacted the overall amount of dividends received.

Dividend income was subject to 10% withholding tax, unless the related shareholding had been larger than 10% in 2009 (2008: larger than 15%) for at least two years prior to the dividend distribution (in which case no withholding tax was due).

**Interest income**

Interest income arises mainly from deposits held with banks and from treasury bills.

The evolution of the interest income is due to the changes in market interest rates and the cash level of the Fund over the last three years.

**Impairment losses on equity investments**

In 2008, impairment on equity investments is mainly caused by decrease in fair value of quoted companies. From total impairment on equity investments around 94% is due to decrease in market price of Petrom SA.



<b>Impairment losses on equity investments</b>	<b>Year ended 31 December 2009</b>	<b>Year ended 31 December 2008</b>	<b>Year ended 31 December 2007</b>
<b>Equity investments at fair value</b>			
Petrom SA	0	3,652,402,697	0
Transelectrica	0	153,767,081	0
Alro Slatina	0	79,576,343	0
Oil Terminal	0	6,132,991	0
<b>Total impairment losses on equity investments at fair value</b>	<b>0</b>	<b>3,891,879,112</b>	<b>0</b>
<b>Equity investments at cost</b>			
Carom Asigurari Bucuresti	20,785	0	0
Telerom Proiect Bucuresti	119,257	0	0
World Trade Hotel	313	0	0
Zirom Giurgiu	1,314,878	0	0
Severnav Drobeta	0	214,409	0
Nuclearelectrica	0	0	185,301,395
Electromecanica Ploiesti (filiala Romarm)	0	0	21,436,245
Uzina Mecanica Bucuresti (filiala Romarm)	0	0	20,024,890
Cez Vanzare	0	0	2,152,134
Electrica Muntenia Nord Furnizare	0	0	2,869,940
Enel Energie	0	0	6,846,255
Simtex	0	0	3,059,858
Carbid Fox Tarnaveni	0	0	305,749
Cez Servicii	0	0	337,622
Societatea Nationala a Sarii	0	0	298,159
Prestari Servicii Bucuresti	0	0	227,153
Turdapan	0	0	240,000
Alcom Timisoara	0	0	194,432
Administratia Canalelor Navigabile	0	0	141,840
Resib Sibiu	0	0	48,905
Comcereal Fundulea	0	0	12,979
Administratia Porturilor Dunarii Maritime	0	0	6,955
Remat Timis Timisoara	0	0	6,020
Retizoh	0	0	2,494
<b>Total impairment losses on equity investments cost</b>	<b>1,455,233</b>	<b>214,409</b>	<b>243,513,025</b>
<b>Total impairment losses on equity investments</b>	<b>1,455,233</b>	<b>3,892,093,521</b>	<b>243,513,025</b>

Source: Management Accounts, un-audited

More than 75% of the 2007 impairment is due to decrease in Fund's participation in Nuclearelectrica, resulting from the share capital increase performed by Nuclearelectrica without transferring the related shares to the Fund. This resulted in a decrease in Fund's participation from 20% to 9.72% as at 31 December 2007.

Please refer also to Section 4.13 "Litigations".

For the same year, impairment of Electromecanica Ploiesti and Uzina Mecanica Bucuresti of (21,436,245 lei and 20,024,890 lei respectively) represents the amount related to the whole participation in these two companies based on the fact that the transfers of the property rights have not been performed until the Prospectus date

Please refer to litigation Section 4.13 "Litigations": "The Fund vs. Romarm" and "The Fund vs. Electromecanica".

The Fund initiated the legal steps to recover these dividends.

### **Impairment losses on dividends receivable**

In 2006, several companies paid dividends for the year ended 2005 to the State authorities from which the Fund received its shareholdings at its establishment, instead of making such payments to the Fund, as a shareholder at the date when the dividends were declared. The Fund initiated legal proceedings to recover such dividends. At 31 December 2007 and 31 December 2008, the Fund recognised impairment losses on such dividends for which recoverability was not certain (in 2008: RON 204,714 and in 2007: RON 38,378,599)

	Year ended 31 December 2009	Year ended 31 December 2008	Year ended 31 December 2007
<b>Impairment loss allowance on dividends receivable</b>			
Romgaz SA	0	0	18,510,456
Transgaz SA	0	0	9,634,993
Imprimeria Nationala SA	0	0	6,029,884
Complexul Energetic Rovinari SA	0	0	2,697,838
Complexul Energetic Craiova SA	0	0	565,927
Administratia Canalelor Navigabile	0	0	189,805
Conpet SA	0	194,556	441,450
Carom	0	10,158	159,920
Complexul energetic Turceni	0	0	148,326
	<b>0</b>	<b>204,714</b>	<b>38,378,599</b>

Source: Audited Separate IFRS Financial Statements

In 2008, for some companies the dividends were recovered so the Fund reversed part of previous year impairment:

	Year ended 31 December 2008
<b>Reversal of Dividends receivable Impairment allowances with reference to:</b>	
Imprimeria Nationala SA	6,029,884
Complexul Energetic Rovinari SA	2,697,838
Complexul Energetic Craiova SA	565,927
Administratia Canalelor Navigabile	189,805
Complexul energetic Turceni	148,326
	<b>9,631,780</b>

Source: Audited Separate IFRS Financial Statements

## Gains/Losses on disposal of equity investments

During 2009 the Fund sold the shareholdings held in: Centrofarm S.A. (17.34%), CEZ Distribuție S.A. (30%), CEZ Vanzare S.A. (30%), CEZ Servicii S.A. (12%) and Petrom Aviation (3%).

The gain on disposal of these equity investments was RON 554,433,394, representing the difference between the cash received (RON 980,237,872) and the carrying amount of the shares (RON 425,804,478).

No disposal of equity investments occurred in 2008.

In 2007, the Fund transferred back to the Romanian State thirty-nine shareholdings, in accordance with the provisions of Government Emergency Ordinance 81/2007. The equity investments were transferred at their initial cost to the Fund and previously recognised impairment losses were recognised as gains on disposal of equity investments, amounting to RON 43,454,445.

During 2007, Nuclearelectrica S.A. transferred non-core assets to the Navodari Local Council. The transfer was structured as a de-merger with a consequent decrease in the share capital of Nuclearelectrica S.A. The Fund recognised the related decrease in the carrying amount of its equity investment in Nuclearelectrica S.A. as a loss on disposal, amounting to RON 11,055,450.

	<b>Year ended</b>
<b>Gains on disposal of equity investments</b>	<b>31 December 2007</b>
Gain from transfer of 39 holdings back to Romanian state whose impairments were reversed	43,454,445
Transfer by Nuclearelectrica of non core assets to Navodari City Council, recorded as disposal	(11,055,450)
	<u><u>32,398,995</u></u>

*Source: Audited Separate IFRS Financial Statements*

### 5.1.2.2 Expenses

	Year ended 31 December 2009 (un-audited) -lei-	Year ended 31 December 2008 (un-audited) -lei-	Year ended 31 December 2007 (un-audited) -lei-
<b>Total operating expenses</b>			
Salaries of Members of the Supervisory Board	3,168,031	2,504,418	859,020
Directors' salaries	5,468,040	904,593	763,602
Other personnel salaries	2,056,951	1,843,917	403,087
Salary related contributions	2,814,572	1,353,153	356,557
<b>Total salaries expense</b>	<b>13,507,594</b>	<b>6,606,081</b>	<b>2,382,266</b>
Third party services	8,452,723	8,078,349	1,737,642
Other operating expenses	876,745	3,658,262	1,421,950
<b>Total operating expenses</b>	<b>22,837,062</b>	<b>18,342,692</b>	<b>5,541,858</b>

Source: Management Accounts, un-audited

The increase in Directors' salaries in 2009 as compared to 2008 is based on the Supervision Council Decision no 301/22.12.2009 to pay compensation salaries for the directors' contracts termination, to allow performance bonuses for exceeding profit expectations and payment for outstanding vacation days.

<b>Breakdown of Directors' salaries</b>	Year ended 31 December 2009 (un-audited) -lei-	Year ended 31 December 2008 (un-audited) -lei-
Monthly gross salaries	1,692,597	904,593
Performance bonuses	2,596,088	0
Compensation salaries (for contract termination)	1,051,234	0
Vacation not taken	128,121	0
<b>Directors' salaries</b>	<b>5,468,040</b>	<b>904,593</b>

Source: Management Accounts, un-audited

### 5.1.2.3 Income tax

	Year ended 31 December 2009 (audited) -lei-	Year ended 31 December 2008 (audited) -lei-	Year ended 31 December 2007 (audited) -lei-
<b>Income tax expense</b>			
<b>Current tax expense</b>			
Current tax (16%)	104,054,192	13,296,780	4,985,512
Dividend withholding tax (10%)	1,889,891	40,086,884	22,764,265
	<b>105,944,083</b>	<b>53,383,664</b>	<b>27,749,777</b>
<b>Deferred tax expense/ (benefit)</b>			
Impairment losses on equity investments	237,283	(622,726,250)	(32,009,373)
Provisions for restructuring	163,634	(314,240)	0
Unused tax losses	0	0	1,143,812
	<b>400,917</b>	<b>(623,040,490)</b>	<b>(30,865,561)</b>
<b>Total income tax expense/ (benefit)</b>	<b>106,345,000</b>	<b>(569,656,826)</b>	<b>(3,115,784)</b>

Source: Audited Separate IFRS Financial Statements

	Year ended 31 December 2009 (audited) -lei-	Year ended 31 December 2008 (audited) -lei-	Year ended 31 December 2007 (audited) -lei-
<b>Income tax expense - Reconciliation</b>			
<b>Reconciliation of effective tax rate</b>			
Profit/ (Loss) for the year	701,052,785	(2,804,534,533)	21,720,128
Income tax expense/ (benefit)	106,345,000	(569,656,826)	(3,115,784)
<b>Profit/ (Loss) excluding income tax</b>	<b>807,397,785</b>	<b>(3,374,191,359)</b>	<b>18,604,344</b>
<b>Income tax using the standard tax rate (16%)</b>	<b>129,183,646</b>	<b>(539,870,617)</b>	<b>2,976,695</b>
Effect of:			
Lower tax rate on dividend income	(17,318,933)	(27,566,308)	(13,658,556)
Profit appropriation to legal reserve	(5,479,910)	(701,997)	(346,650)
Impairment losses on dividends receivable	0	(1,508,331)	6,140,576
Loss on decrease on Nuclearelectrica share capital	0	0	1,768,872
Other non-deductible expenses	(39,802)	(9,573)	3,279
<b>Total income tax expense/ (benefit)</b>	<b>106,345,000</b>	<b>(569,656,826)</b>	<b>(3,115,784)</b>
<b>Income tax recognised directly in equity</b>			
Related to changes in fair value of Equity investments carried at fair value	154,201,869	(91,053,038)	(38,400,064)
	<b>154,201,869</b>	<b>(91,053,038)</b>	<b>(38,400,064)</b>

Source: Audited Separate IFRS Financial Statements

#### 5.1.2.4 Other comprehensive income

	Year ended 31 December 2009 (audited) -lei-	Year ended 31 December 2008 (audited) -lei-	Year ended 31 December 2007 (audited) -lei-
<b>Other comprehensive income</b>			
Net change in fair value of available for sale equity investments	963,761,683	(569,081,488)	(240,000,400)
Income tax on other comprehensive income	(154,201,869)	91,053,038	38,400,064
<b>Total other comprehensive income</b>	<b>809,559,814</b>	<b>(478,028,450)</b>	<b>(201,600,336)</b>

Source: Audited Separate IFRS Financial Statements

The net change in fair value of available for sale equity investments represents the before tax annual increase/decrease in value of the fair value reserve on available for sale financial assets account presented in the Statement of Financial Position.

The accounting standard also requires disclosure of the amount of income tax relating to each component of other comprehensive income, this representing the deferred tax expense/benefit of 16% applied to change in fair value for each company in the Portfolio.

The breakdown of the changes in fair value of the available for sale financial assets is presented below:

<b>Change in Fair value for available for sale assets</b>	<b>Year ended 31 December 2009</b>	<b>Year ended 31 December 2008</b>	<b>Year ended 31 December 2007</b>
<b>Equity investments at fair value</b>			
Petrom	774,596,852	52,805,559	(674,411,177)
Petrom Aviation	(645,654)	(155,680)	750,600
Transgaz	61,761,700	37,930,126	0
Transelectrica	24,738,030	(133,194,067)	61,350,314
Alro Slatina	85,739,518	(440,529,495)	284,145,015
Conpet SA	7,813,890	(44,278,710)	46,607,745
Oil Terminal	4,659,442	(39,879,000)	39,372,286
Azomures	5,097,905	(1,780,221)	2,184,817
	<b>963,761,683</b>	<b>(569,081,488)</b>	<b>(240,000,400)</b>

Source: Management Accounts, un-audited

### 5.1.3 Annual financial position analysis

Statement of Financial Position	31 December 2009 (audited) -lei-	31 December 2008 (audited) -lei-	31 December 2007 (audited) -lei-
<b>Assets</b>			
Cash	1,483,261	1,499,993	492,149
Deposits with banks	2,167,824,861	578,716,223	593,729,763
Treasury bills	0	397,648,315	0
Dividends receivable	18,348	498,321	4,224,515
Receivables in respect of equity contributions	14,471,412	78,317,588	129,014,506
Equity investments	9,541,979,640	9,005,477,668	13,416,176,065
Deferred tax assets	542,177,610	696,780,396	0
Other assets	700,128	1,944,183	864,059
<b>Total assests</b>	<b>12,268,655,260</b>	<b>10,760,882,687</b>	<b>14,144,501,057</b>
<b>Liabilities</b>			
Deferred tax liabilities	0	0	17,313,132
Other liabilities	8,303,427	11,143,453	4,888,027
<b>Total liabilities</b>	<b>8,303,427</b>	<b>11,143,453</b>	<b>22,201,159</b>
<b>Equity</b>			
Share capital	13,757,592,587	13,757,592,587	13,757,592,587
Fair value reserve on available-for-sale financial assets	859,556,589	49,996,775	528,025,225
Other reserves	199,454,493	149,458,794	38,242,608
Accumulated losses	(2,556,251,836)	(3,207,308,922)	(201,560,522)
<b>Total equity</b>	<b>12,260,351,833</b>	<b>10,749,739,234</b>	<b>14,122,299,898</b>
<b>Total liabilities and equity</b>	<b>12,268,655,260</b>	<b>10,760,882,687</b>	<b>14,144,501,057</b>

Source: Audited Separate IFRS Financial Statements

#### 5.1.3.1 Financial assets

Financial assets of the Fund are presented in the table below:

	31 December 2009 (audited) -lei-	31 December 2008 (audited) -lei-	31 December 2007 (audited) -lei-
<b>Financial Assets</b>			
Cash	1,483,261	1,499,993	492,149
Deposits with banks	2,167,824,861	578,716,223	593,729,763
Treasury bills	0	397,648,315	0
Dividends receivable	18,348	498,321	4,224,515
Receivables in respect of equity contributions	14,471,412	78,317,588	129,014,506
Equity investments	9,541,979,640	9,005,477,668	13,416,176,065
<b>Total</b>	<b>11,725,777,522</b>	<b>10,062,158,108</b>	<b>14,143,636,998</b>

Source: Audited Separate IFRS Financial Statements

## **Equity investments**

Equity investments refer to the participations of the Fund in the Portfolio Companies.

### *Accounting treatment*

Equity investments are available-for-sale financial assets and are carried at fair value, except for the investments whose fair value cannot be reliably measured, which are carried at cost less impairment.

### *Annual financial data*

Fair values of equity investments at 31 December 2007, 31 December 2008 and 31 December 2009 were determined by reference to published price quotations on the Bucharest Stock Exchange, where applicable. Equity investments quoted on the Bucharest Stock Exchange, which are not traded in an active market, and unquoted securities are carried at cost less impairment.

At 31 December 2007, 31 December 2008 and 31 December 2009, for equity investments carried at cost, no fair values could be determined using valuation techniques as the range of reasonable fair value estimates was significant and the probabilities of the various estimates could not be reasonably assessed.

The valuation of the shares contributed by the Romanian State in December 2005 and June 2007 was performed in October 2007 by an independent evaluator (Finevex S.R.L. Constanta), who followed the valuation methodology set forth by Government Emergency Ordinance 81/2007. The value of the shareholdings, as determined by the evaluator, represents the cost of the equity investments.

The structure of the Fund's equity investments Portfolio is the following:



<b>Equity Investments</b>	<b>31 December 2009</b>	<b>31 December 2008</b>	<b>31 December 2007</b>
	<b>(audited)</b>	<b>(audited)</b>	<b>(audited)</b>
<b>Equity investments at fair value</b>	<b>-lei-</b>	<b>-lei-</b>	<b>-lei-</b>
Petrom SA	2,836,391,416	2,061,794,564	5,661,391,702
Transgaz SA	277,045,340	215,283,640	0
Transelectrica SA	133,585,362	108,847,332	395,808,480
Alro Slatina SA	175,021,992	89,282,474	609,388,312
Other	77,440,064	61,186,547	153,413,149
	<b>3,499,484,174</b>	<b>2,536,394,557</b>	<b>6,820,001,643</b>
<b>Equity investments at cost</b>			
Hidroelectrica SA	2,761,181,429	2,761,181,429	2,760,645,619
Nuclearelectrica SA	581,846,011	581,846,011	581,846,011
Romgaz SA	416,301,444	416,301,444	416,275,934
CEZ Distributie	0	414,080,000	414,080,000
Complexul Energetic Turceni SA	282,299,927	282,299,927	282,299,927
Complexul Energetic Craiova SA	250,169,153	250,169,153	250,169,153
Transgaz SA	0	0	177,353,514
Electrica Muntenia Nord SA	165,223,950	165,223,950	153,227,340
Complexul Energetic Rovinari SA	137,615,732	137,615,732	137,615,732
E.ON Moldova SA	131,073,011	131,073,011	131,073,011
Aerportul International Henri Coanda Bucuresti SA	124,980,198	124,980,198	124,980,198
Electrica Muntenia Sud SA	90,180,075	90,180,075	96,063,662
Posta Romana SA	84,384,880	84,384,880	84,384,880
Other	1,017,239,656	1,029,747,301	986,159,441
	<b>6,042,495,466</b>	<b>6,469,083,111</b>	<b>6,596,174,422</b>
	<b>9,541,979,640</b>	<b>9,005,477,668</b>	<b>13,416,176,065</b>

Source: Audited Separate IFRS Financial Statements

From total equity investments 37% as at 31 December 2009, 27% as at 31 December 2008, respectively 50% as at 31 December 2007 represent the value of listed companies in the Portfolio.

The Movement of Equity Investments is presented below:

<b>Movement in Equity investments</b>	<b>Equity investments at fair value</b>	<b>Equity investments at cost</b>	<b>Total equity investments</b>
<b>31 December 2006</b>	<b>3,875,081,272</b>	<b>5,671,182,575</b>	<b>9,546,263,847</b>
Contribution in kind - G.E.O. 81/2007	3,185,226,520	1,320,504,953	<b>4,505,731,473</b>
Equity investments transferred back to state - G.E.O. 81/2007	0	(186,425,134)	<b>(186,425,134)</b>
Other contribution in kind	0	3,932,700	<b>3,932,700</b>
Cash contributions to companies in Portfolio	0	41,242,054	<b>41,242,054</b>
Loss on decrease in Nuclearelectrica S.A. share capital	0	(11,055,450)	<b>(11,055,450)</b>
Transfer between categories	(305,749)	305,749	<b>0</b>
Impairment losses	0	(243,513,025)	<b>(243,513,025)</b>
Changes in fair value	(240,000,400)	0	<b>(240,000,400)</b>
<b>31 December 2007</b>	<b>6,820,001,643</b>	<b>6,596,174,422</b>	<b>13,416,176,065</b>
Share contributions in kind by the state	0	631,230	<b>631,230</b>
Cash contributions to companies in portfolio	0	49,845,382	<b>49,845,382</b>
Transfer between categories	177,353,514	(177,353,514)	<b>0</b>
Impairment losses	(3,891,879,112)	(214,409)	<b>(3,892,093,521)</b>
Changes in fair value	(569,081,488)	0	<b>(569,081,488)</b>
<b>31 December 2008</b>	<b>2,536,394,557</b>	<b>6,469,083,111</b>	<b>9,005,477,668</b>
Disposals	(672,066)	(425,132,412)	<b>(425,804,478)</b>
Impairment losses	0	(1,455,233)	<b>(1,455,233)</b>
Changes in fair value	963,761,683	0	<b>963,761,683</b>
<b>31 December 2009</b>	<b>3,499,484,174</b>	<b>6,042,495,466</b>	<b>9,541,979,640</b>

Source: Audited Separate IFRS Financial Statements

In 2007, the shares of Carbid - Fox S.A. Tarnaveni were de-listed from the Bucharest Stock Exchange and consequently they were transferred from the "equity investments at fair value" category to the "equity investments at cost" category (see "Transfer between categories" in the table above).

In December 2007, the shares of Transgaz S.A. started to be traded on the Bucharest Stock Exchange. As their market was active in 2008, they were transferred to the "equity investments at fair value" category from the "equity investments at cost" category (see "Transfer between categories" in the table above).

In 2008, Hidroelectrica S.A., Electrica Distributie Muntenia Nord S.A. and Romgaz S.A. (2007: Hidroelectrica S.A.) received ownership titles over several plots of land, which were treated as contributions in kind made by the Romanian State to the share capital of these companies. In accordance with Law 247/2005, as amended, the Fund received additional shares in these companies, so that its shareholding would not be diluted, and such shares were recognised at par value against the receivables in respect of equity contributions (see "Share contributions in kind by state" in the table above).

During 2009 the Fund sold the shareholdings held in: Centrofarm S.A. (17.34%), CEZ Distributie S.A. (30%), CEZ Vanzare S.A. (30%), CEZ Servicii S.A. (12%) and Petrom Aviation (3%) (see "Disposals" above).

## Deposits with banks and treasury bills

Breakdown of bank deposits on maturities and currency for the last three years are presented below:

Deposits' maturity	Less than 1 month	1 to 3 months	3 to 12 months	Deposits' ccy exposure	EUR	RON
2009	0.9%	26%	74%	2009	55%	45%
2008	0.6%	82%	17%	2008	28%	72%
2007	0.1%	99.9%	0%	2007	46%	54%

Source: Management accounts, un-audited

The balance of treasury bills as at 31 December 2008 includes the face value of owned treasury bills and the related accrued interest of RON 7.191.397. The treasury bills were cashed in 2009.

## Dividends receivable

Fund's dividends receivable was RON 18,348 at 31 December 2009, RON 498,321 at 31 December 2008 and RON 4,224,515 at 31 December 2007.

Dividend income is recognised in the income statement on the ex-dividend date (quoted equity securities) or on the date dividends are declared (unquoted equity securities).

Dividends receivable	31 December 2009	31 December 2008	31 December 2007
	(audited)	(audited)	(audited)
	-lei-	-lei-	-lei-
Romgaz SA	18,510,456	18,510,456	18,510,456
Transgaz SA	9,634,993	9,634,993	9,634,993
Imprimeria Nationala SA	0	0	7,685,153
Complexul Energetic Rovinari SA	0	0	2,697,838
Transelectrica SA	0	0	2,569,246
Other dividends receivable	824,433	1,304,406	1,505,428
	<b>28,969,882</b>	<b>29,449,855</b>	<b>42,603,114</b>
<b>Impairment loss allowance</b>			
Romgaz SA	(18,510,456)	(18,510,456)	(18,510,456)
Transgaz SA	(9,634,993)	(9,634,993)	(9,634,993)
Imprimeria Nationala SA	0	0	(6,029,884)
Complexul Energetic Rovinari SA	0	0	(2,697,838)
Other dividends receivable	(806,085)	(806,085)	(1,505,428)
	<b>(28,951,534)</b>	<b>(28,951,534)</b>	<b>(38,378,599)</b>
	<b>18,348</b>	<b>498,321</b>	<b>4,224,515</b>

Source: Audited Separate IFRS Financial Statements

For the dividends for which recoverability was not certain the Fund recognised impairment losses of RON 204,714 in 2008 and RON 38,378,599 in 2007.

In 2008, the Fund recovered part of the dividends and reversed losses of RON 9,631,780 (2007: nil) following their recovery.

### **Receivables in respect of equity contributions**

The receivables in respect of equity contributions represent the equity investments with no bearing interest that need to be made, in cash or in kind, by the majority shareholder of the Fund (the Romanian State, represented by the Ministry of Economy and Finance) for the subscribed share capital to be fully paid in.

The receivables in respect of equity contributions amounted to RON 14,471,412 at 31 December 2009 (31 December 2008: RON 78,317,588 and at 31 December 2007: RON 129,014,506).

In accordance with Law 247/2005 (as amended by Government Emergency Ordinance 209/2005), these receivables are derecognised subject to the majority shareholder making:

- cash contributions, representing the following types of amounts to be received by the State:
  - (i) the recovery of certain foreign trade receivables;
  - (ii) the sale to a strategic investor of 4% of B.C.R. S.A. shares;
  - (iii) the initial trading on a domestic or foreign stock exchange of 3% of Romtelecom S.A.;
  - (iv) 20% of the amounts received in respect of the privatisation of Romtelecom S.A.;
  - (v) 9.9% of the amounts received in respect of the privatisation of C.E.C. S.A.; or
- Contributions in kind of other types of assets (to be decided upon in the future).

### **5.1.3.2 Deferred tax - assets and liabilities**

#### *Accounting Treatment*

Deferred tax asset/liability refers to the unrealised gains/losses of the equity investments accumulated up to the financial statements date.

Deferred tax assets/liabilities are computed for each available for sale asset, depending on the change in value:

- increases in fair value of equity investments, which would have increased the taxable profit if the equity investment were sold, generate a deferred tax liability;

- decreases in the fair value of equity investment, which would have decreased the taxable profit if the equity investment were sold, generate a deferred tax asset.

The final deferred tax liability or asset represents the net amount between:

- 16% of the accumulated losses as compared with historical cost and provisions (the deferred tax asset), and
- 16% of the cumulative change in fair value of equity investments as compared with historical cost (the deferred tax liability).

Deferred tax is recognised using the balance sheet method, providing for temporary differences between the carrying amounts of assets and liabilities for financial reporting purposes and the amounts used for taxation purposes. A deferred tax asset is recognised to the extent that it is probable that future taxable profits will be available against which the temporary difference can be utilised. Deferred tax assets are reviewed at each reporting date and are reduced to the extent that it is no longer probable that the related tax benefit will be realised.

	31 December 2009	31 December 2008	31 December 2007
	(audited)	(audited)	(audited)
	-lei-	-lei-	-lei-
<b>Deferred tax assets and liabilities</b>			
<i>Temporary differences deductible/ (taxable) at 16%</i>			
Impairment losses on equity investments	4,410,950,425	4,412,433,444	520,394,381
Changes in fair values of equity investments	(1,023,281,650)	(59,519,967)	(628,601,458)
Provisions	941,286	1,964,000	0
	<u>3,388,610,061</u>	<u>4,354,877,477</u>	<u>(108,207,077)</u>
<b>Deferred tax assets/ (liabilities) at 16%</b>	<b>542,177,610</b>	<b>696,780,396</b>	<b>(17,313,132)</b>

Source: Audited Separate IFRS Financial Statements

The "impairment losses on equity investments" represent the cumulative losses in value on equity investments compared with historical cost.

The "changes in fair value of equity investments" represent the cumulative increases in value on equity investments compared with historical cost. This item, net of the corresponding deferred tax, can be traced back to the „fair value reserves on available for sale financial assets” in the Statement of Financial Position.

The effective tax rate used to calculate the deferred tax position of the Fund for the years ended 31 December 2009, 31 December 2008 and 31 December 2007 was 16% (standard tax rate).

### 5.1.3.3 Shareholders equity

#### Share capital

At 31 December 2009, the authorized and issued share capital comprised 14,240,540,675 ordinary shares (31 December 2008: 14,240,540,675 shares and at 31 December 2007: 14,240,540,675 shares), at a nominal value of RON 1 per share.

At 31 December 2009, 482,948,088 ordinary shares (31 December 2008: 482,948,088 shares and 31 December 2007: 482,948,088 shares) were not recognised as receivables in respect of equity contributions and share capital. In August 2010 the Supervisory Board has approved the cancellation of these shares.

As a result the total share capital as per IFRS financial statements for the three years ended 31 December 2009, 31 December 2008 and 31 December 2007 is RON 13.757.592.587.

The share capital of the Fund had not been fully paid in by the Romanian State at 31 December 2009.

Shareholders' structure is presented below:

<b>Shareholders structure As at 31 December 2009</b>	<b>No of shareholders</b>	<b>No of shares</b>	<b>Amount</b>	<b>% held</b>
Romanian State	1	8,102,262,012	8,102,262,012	58.89%
Individuals	3037	4,267,122,366	4,267,122,366	31.02%
Companies	68	1,388,208,209	1,388,208,209	10.09%
	<b>3,106</b>	<b>13,757,592,587</b>	<b>13,757,592,587</b>	<b>100%</b>

Source: Audited Separate IFRS Financial Statements

<b>Shareholders structure As at 31 December 2008</b>	<b>No of shareholders</b>	<b>No of shares</b>	<b>Amount</b>	<b>% held</b>
Romanian State	1	9,545,896,737	9,545,896,737	69.39%
Individuals	2003	3,552,209,525	3,552,209,525	25.82%
Companies	29	659,486,325	659,486,325	4.79%
	<b>2,033</b>	<b>13,757,592,587</b>	<b>13,757,592,587</b>	<b>100%</b>

Source: Audited Separate IFRS Financial Statements

<b>Shareholders structure As at 31 December 2007</b>	<b>No of shareholders</b>	<b>No of shares</b>	<b>Amount</b>	<b>% held</b>
Romanian State	1	12,012,950,786	12,012,950,786	87.32%
Individuals	3024	1,737,616,107	1,737,616,107	12.63%
Companies	3	7,025,694	7,025,694	0.05%
	<b>3,028</b>	<b>13,757,592,587</b>	<b>13,757,592,587</b>	<b>100%</b>

Source: Audited Separate IFRS Financial Statements

The movements in share capital components are presented below:

Share capital	Share capital paid in (audited) -lei-	Share capital not paid in (audited) -lei-	Total share capital (audited) -lei-
<b>31 December 2006</b>	<b>9,320,741,189</b>	<b>4,436,851,398</b>	<b>13,757,592,587</b>
Contribution in kind - G.E.O. 81/ 2007	4,505,731,473	(4,505,731,473)	0
Equity investments transferred back to the State - G.E.O. 81/ 2007	(229,879,580)	229,879,580	0
Other contributions in kind	3,932,700	(3,932,700)	0
Cash contributions	28,052,299	(28,052,299)	0
<b>31 December 2007</b>	<b>13,628,578,081</b>	<b>129,014,506</b>	<b>13,757,592,587</b>
Shares contributed in kind by the State	631,230	(631,230)	0
Cash contributions	50,065,688	(50,065,688)	0
<b>31 December 2008</b>	<b>13,679,274,999</b>	<b>78,317,588</b>	<b>13,757,592,587</b>
Cash contributions	63,846,176	(63,846,176)	0
<b>31 December 2009</b>	<b>13,743,121,175</b>	<b>14,471,412</b>	<b>13,757,592,587</b>

Source: Audited Separate IFRS Financial Statements

Shares not paid in (14,471,412 shares at 31 December 2009, 78,317,588 shares at 31 December 2008 and 129,014,506 shares at 31 December 2007) do not entitle their holder to vote or to receive dividends.

#### Fair value reserves for available for sales financial assets

Fair value reserves give a picture of the changes in fair value of equity investments as at year end. It represents the increase in value of equity investments held at fair value as compared with their historical (acquisition) cost. Fair value reserves are evaluated for each company in the Fund's Portfolio. In case of the Fund the fair value equity investments represent the value of the participations in listed companies, the fair value resulting from the year end market price. In the statement of financial position the amounts presented are net of related deferred tax liability due to the fact that the deferred tax asset/liability position is presented separately.

The fair value reserves of RON 859,556,589 at 31 December 2009 (31 December 2008: RON 49,996,775 and at 31 December 2007: RON 572,025,225) comprise the cumulative annual net change in the fair value of available-for-sale financial assets until the investments are derecognized or impaired.

The gross amounts of the fair value reserves (before 16% deferred income tax) recognised per each company in the Fund's Portfolio are presented below.

Fair Value Reserve breakdown (gross amounts)	Year ended 31 December 2009 (un-audited)	Year ended 31 December 2008 (un-audited)	Year ended 31 December 2007 (un-audited)
Alro Slatina	85,739,518	0	440,529,495
Azomures Targul Mures	5,502,501	404,596	2,184,817
Oil Terminal	4,659,442	0	39,879,000
Petrom	774,596,852	0	(52,805,559)
Transelectrica Bucuresti	24,738,030	0	133,194,067
Transgaz	99,691,826	37,930,126	0
Conpet Ploiesti	28,353,484	20,539,594	64,818,304
Petrom Aviation Bucuresti	0	645,654	801,334
	<b>1,023,281,653</b>	<b>59,519,970</b>	<b>628,601,458</b>

Source: Management Accounts, un-audited

## Other reserves

Other reserves	31 December 2009 (audited) -lei-	31 December 2008 (audited) -lei-	31 December 2007 (audited) -lei-
Legal reserve	79,154,937	29,159,238	5,774,167
Other reserves	120,299,556	120,299,556	32,468,441
	<b>199,454,493</b>	<b>149,458,794</b>	<b>38,242,608</b>

Source: Audited Separate IFRS Financial Statements

As required by the Romanian law, a minimum 5% of the statutory profit for the year must be transferred to the legal reserve. Such annual transfers must be discontinued when the reserve equals 20% of the issued share capital. The legal reserve cannot be used for distributions to shareholders.

Other reserves are created throughout appropriation of statutory net profits and are used or distributed in accordance with decisions taken by general shareholders' meeting.



### 5.1.3.4 Statement of changes in Shareholders equity

Statement of Changes in Shareholders Equity 2007	Share Capital	Fair Value reserves on available for sale financial assets	Other reserves	Accumulated losses	Total attributable to equity holders of the Fund
All amounts are in RON					
<b>Balance at 31 December 2006</b>	<b>13,757,592,587</b>	<b>729,625,561</b>	<b>3,607,605</b>	<b>(152,569,600)</b>	<b>14,338,256,153</b>
Net change in fair value of available for sale equity investments	0	(240,000,400)	0	0	(240,000,400)
Income tax on income and expense recognised directly to equity	0	38,400,064	0	0	38,400,064
<b>Income and expense recognised directly in equity</b>	<b>0</b>	<b>(201,600,336)</b>	<b>0</b>	<b>0</b>	<b>(201,600,336)</b>
Profit for the year	0	0	0	21,720,128	21,720,128
Transfers to other reserves	0	0	34,635,003	(34,635,003)	0
Dividends declared	0	0	0	(36,076,047)	(36,076,047)
<b>Balance at 31 December 2007</b>	<b>13,757,592,587</b>	<b>528,025,225</b>	<b>38,242,608</b>	<b>(201,560,522)</b>	<b>14,122,299,898</b>

Source: Audited Separate IFRS Financial Statements

Statement of Changes in Shareholders Equity 2008	Share Capital	Fair Value reserves on available for sale financial assets	Other reserves	Accumulated losses	Total attributable to equity holders of the Fund
All amounts are in RON					
<b>Balance at 31 December 2007</b>	<b>13,757,592,587</b>	<b>528,025,225</b>	<b>38,242,608</b>	<b>(201,560,522)</b>	<b>14,122,299,898</b>
<b>Total Comprehensive Income for the period</b>					
Profit or loss	0	0	0	(2,804,534,533)	(2,804,534,533)
<b>Other comprehensive income</b>					
Net change in fair value of available for sale equity investments	0	(569,081,488)	0	0	(569,081,488)
Income tax on income and expense recognised directly to equity	0	91,053,038	0	0	91,053,038
<b>Total other comprehensive income</b>	<b>0</b>	<b>(478,028,450)</b>	<b>0</b>	<b>0</b>	<b>(478,028,450)</b>
<b>Total comprehensive income for the period</b>		<b>(478,028,450)</b>		<b>(2,804,534,533)</b>	<b>(3,282,562,983)</b>
<b>Transactions with owners, recorded directly to equity</b>					
Transfers to other reserves	0		111,216,186	(111,216,186)	0
Dividends declared	0		0	(89,997,681)	(89,997,681)
<b>Total transactions with owners recorded directly in equity</b>	<b>0</b>	<b>0</b>	<b>111,216,186</b>	<b>(201,213,867)</b>	<b>(89,997,681)</b>
<b>Balance at 31 December 2008</b>	<b>13,757,592,587</b>	<b>49,996,775</b>	<b>149,458,794</b>	<b>(3,207,308,922)</b>	<b>10,749,739,234</b>

Source: Audited Separate IFRS Financial Statements

Statement of Changes in Shareholders Equity 2009	Share Capital	Fair Value reserves on available for sale financial assets	Other reserves	Accumulated losses	Total attributable to equity holders of the Fund
All amounts are in RON					
<b>Balance at 31 December 2008</b>	<b>13,757,592,587</b>	<b>49,996,775</b>	<b>149,458,794</b>	<b>(3,207,308,922)</b>	<b>10,749,739,234</b>
<b>Total Comprehensive Income for the period</b>					
Profit or loss	0	0	0	701,052,785	<b>701,052,785</b>
<b>Other comprehensive income</b>					
Net change in fair value of available for sale equity investments	0	963,761,683	0	0	<b>963,761,683</b>
Income tax on income and expense recognised directly to equity	0	(154,201,869)	0	0	<b>(154,201,869)</b>
<b>Total other comprehensive income</b>	<b>0</b>	<b>809,559,814</b>	<b>0</b>	<b>0</b>	<b>809,559,814</b>
<b>Total comprehensive income for the period</b>	<b>0</b>	<b>809,559,814</b>	<b>0</b>	<b>701,052,785</b>	<b>1,510,612,599</b>
<b>Transactions with owners, recorded directly to equity</b>					
Transfers to other reserves	0	0	49,995,699	(49,995,699)	<b>0</b>
<b>Total transactions with owners recorded directly in equity</b>	<b>0</b>	<b>0</b>	<b>49,995,699</b>	<b>(49,995,699)</b>	<b>0</b>
<b>Balance at 31 December 2009</b>	<b>13,757,592,587</b>	<b>859,556,589</b>	<b>199,454,493</b>	<b>(2,556,251,836)</b>	<b>12,260,351,833</b>

Source: Audited Separate IFRS Financial Statements

## 5.1.4 Liquidity and Capital Resources

Statement of cash flows	Year ended 31 December 2009 (audited) -lei-	Year ended 31 December 2008 (audited) -lei-	Year ended 31 December 2007 (audited) -lei-
<b>Cash flow from operating activities</b>			
Proceeds from sale of equity instruments	980,237,872	0	0
Redemption of treasury bills	390,456,918	0	0
Dividends received (net of withholding tax)	118,645,240	395,898,838	206,243,003
Interest received	139,629,790	71,256,895	28,807,654
Realised foreign exchange gains on cash and cash equivalents	9,728,227	12,941,854	15,661,993
Maturity of bank deposits maturing in more than three months	0	0	80,987,686
Acquisition of treasury bills	0	(390,456,918)	0
Creation of bank deposits maturing in more than three months	(1,279,523,616)	(92,248,546)	0
Cash contributions to equity investments	0	(49,845,382)	(41,242,054)
Income tax paid	(104,971,445)	(12,991,496)	(1,132,209)
Suppliers paid	(10,919,098)	(8,757,490)	(2,715,301)
Salaries and related taxes paid	(11,532,332)	(6,426,525)	(2,265,662)
<b>Net cash from/ (used in) operating activities</b>	<b>231,751,556</b>	<b>(80,628,770)</b>	<b>284,345,110</b>
<b>Cash flow from investing activities</b>			
Proceeds from sale of property and equipment	16,000	18,573	33,245
Acquisition of property and equipment	(23,561)	(392,079)	(682,327)
<b>Net cash used in investing activities</b>	<b>(7,561)</b>	<b>(373,506)</b>	<b>(649,082)</b>
<b>Cash flow from financing activities</b>			
Cash contributions to share capital	63,846,176	50,065,688	28,052,299
Dividends paid	(1,056,789)	(87,912,834)	(35,465,985)
<b>Net cash flows used in financing activities</b>	<b>62,789,387</b>	<b>(37,847,146)</b>	<b>(7,413,686)</b>
<b>Net increase/ (decrease) in cash and cash equivalents</b>	<b>294,533,382</b>	<b>(118,849,422)</b>	<b>276,282,342</b>
Cash and equivalents at 1 January	474,332,956	592,167,702	313,556,595
Effect of exchange rate fluctuations on cash and cash equivalents held	(15,241)	1,014,676	2,328,765
<b>Cash and cash equivalents at 31 December</b>	<b>768,851,097</b>	<b>474,332,956</b>	<b>592,167,702</b>

Source: Audited Separate IFRS Financial Statements

#### **5.1.4.1 Proceeds from sale of equity instruments**

In 2009, proceeds from sale of equity instruments are related to the sale of the Fund shareholdings held in: Centrofarm S.A. (17.34%), CEZ Distributie S.A. (30%), CEZ Vanzare S.A. (30%), CEZ Servicii S.A. (12%) and Petrom Aviation (3%).

#### **5.1.4.2 Treasury bills**

Cash inflow from redemption of treasury bills represents the face value of the treasury bills, while the related interest received is included under the position cash inflow from interest received.

#### **5.1.4.3 Cash contributions to share capital**

Cash contributions to share capital represent the consideration paid in cash by the majority shareholder of the Fund (the Romanian State, represented by the Ministry of Economy and Finance) for the subscribed share capital that is not fully paid in.

#### **5.1.4.4 Dividends received**

The breakdown of dividends collected from companies in the Funds Portfolio is presented below:

<b>Dividends received, out of which:</b>	<b>Year ended 31 December 2009 (un-audited) -lei-</b>	<b>Year ended 31 December 2008 (un-audited) -lei-</b>	<b>Year ended 31 December 2007 (un-audited) -lei-</b>
<b>1. Dividends (net of withholding tax) declared and paid in same year</b>			
Petrom	0	195,813,528	90,216,815
Primcom S.A.	1,524,281	1,154,234	183,764
Distrigaz Sud S.A.	14,496,020	20,483,445	6,904,536
Alcom SA	12,327	0	0
Oil Terminal S.A.	54,108	200,000	109,513
Carom - Broker de Asigurare S.A. Bucuresti	164,763	91,421	0
Transelectrica S.A.	2,968,564	3,206,049	13,091,365
Transgaz S.A.	18,475,571	15,341,606	16,373,412
Alro Slatina S.A.	17,004,361	38,663,571	24,816,762
Conpet S.A.	7,116,275	1,470,106	1,213,102
Posta Romana S.A.	4,099	3,564,118	3,943,868
Romgaz S.A.	40,912,828	34,817,198	31,636,090
Administratia Porturilor Maritime SA	1,360	1,303,904	30,552
Complexul Energetic Turceni S.A.	2,331,100	8,166,104	2,726,710
Societatea Nationala a Sarii SA	269,771	118,797	0
Aeroportul International Henri Coanda Bucuresti S.A.	10,127,189	8,438,384	5,728,824
Administratia Porturilor Dunarii Fluviale S.A.	463,384	518,120	24,943
Electrica Furnizare Transilvania Nord SA	62,375	0	0
Aeroportul International Timisoara - Traian Vuia S.A.	474,502	0	13,884
Commetex SA	1,810	1,500	0
Complexul Energetic Craiova S.A.	464,389	971,324	587,363
Complexul Energetic Rovinari S.A.	3,751	8,193,088	160,503
IOR SA	1,344	0	0
Administratia Canalelor Navigabile S.A.	216,938	19,569	237,294
Mecon SA	100,089	3,068	0
Electrica Furnizare Transilvania Sud SA	895,721	0	0
Enel Distributie Banat S.A.	0	26,524,765	0
Enel Distributie Dobrogea S.A.	0	11,897,663	0
Delfincom SA	0	631,759	0
Ciocarla S.A.	0	7,771	10,053
Imprimeria Nationala S.A.	0	0	4,752,223
Severnav S.A.	0	0	350,345
Aeroportul International Bucuresti Baneasa - Aurel Vlaicu S.A.	0	0	43,530
Semrom Oltenia S.A.	0	0	2,796
<b>2. Dividends (net of withholding tax) declared before and paid in</b>			
IOR SA Bucuresti	25,194	0	0
Aeroportul International Timisoara - Traian Vuia S.A.	253,777	0	27,465
Oil Terminal S.A.	219,350	0	285,594
Conpet S.A.	0	441,450	0
Complexul Energetic Craiova S.A.	0	565,927	0
Imprimeria Nationala S.A.	0	7,685,153	0
Complexul Energetic Turceni S.A.	0	148,326	0
Complexul Energetic Rovinari S.A.	0	2,697,838	0
Administratia Canalelor Navigabile S.A.	0	189,805	0
Transelectrica S.A.	0	2,569,246	0
Aeroportul International Henri Coanda Bucuresti S.A.	0	0	2,604,068
Romgaz S.A.	0	0	153,401
Administratia Porturilor Dunarii Fluviale S.A.	0	0	14,228
<b>Total dividends received</b>	<b>118,645,240</b>	<b>395,898,838</b>	<b>206,243,003</b>

Source: Management Accounts, un-audited

### **5.1.5 Subsequent Events**

In June 2009, Franklin Templeton Investment Management Ltd United Kingdom was selected as Fund Manager and Sole Director of Fondul Proprietatea. The investment management agreement was signed in 25 February 2010. In 29 September 2010, Franklin Templeton Investment Management Ltd United Kingdom Sucursala Bucuresti took over effectively the management of Fondul Proprietatea.

In March 2010, the National Securities Commission (NSC) issued Regulation 4/2010 regarding the Fund's registration with NSC, its functioning and the trading of its shares.

In August 2010, in accordance with Law 142/2010, the share capital of the Fund was reduced to RON 13,778,392,208 through the cancellation of 482,948,088 unpaid shares of the Fund by the Romanian State, represented by the Ministry of Public Finance. In September 2010, the share capital was increased to RON 13,778,392,208 following contributions made by the State.

In August 2010, the Fund has been officially registered as an undertaking for collective investments by NSC Decision no. 34/18.08.2010.

Through Government Ordinance 18/2010 regarding the revision of 2010 state budget, the Government decided to request from a number of companies in the Portfolio of the Ministry of Economy to donate significant amounts to the state budget, in order to cover the macroeconomic deficit this year.

Through Government Emergency Ordinance 91/2010 regarding the allocation of amounts from the recovery of Romania's foreign currency denominated receivables, the Government decided not to transfer to the Fund additional amounts, resulting from the foreign trade and economic cooperation carried out by Romania before 31 December 1989 and from recovery of rights resulting from commercial and governmental payment agreements and the related technical banking arrangements.

The Fund's General Shareholders' Meeting approved in September 2010 the distribution of dividends of RON 0.0816 per share, in relation to 2008 and 2009 statutory profits.

## 5.2 Interim financial statements and results for the six months ended 30 June 2010

I.20.5

I.20.6

The following is a discussion of the Company's results of operations and financial position as disclosed in the RAS un-audited interim financial statements for the six months ended 30 June 2010. Prospective investors should read the following discussion, together with the whole of this document, including risk factors, the Fund's audited historical separate financial statements and the Fund's interim financial statements and should not just rely on the key or summarized information contained in this Chapter. The financial information in this Chapter has been extracted without material adjustment from the Fund's accounting records. Operational data have been extracted from the Fund's management accounts for related interim periods for the years 2009 and 2010.

	Six months ending 30 June 2010 (un-audited)	Six months ending 30 June 2009 (un-audited)	Statement of Assets, Liabilities and Equity (un-audited)	30 June 2010 (un-audited)	31 December 2009 (un-audited)
	-lei-	-lei-		-lei-	-lei-
<b>Income Statement</b>			<b>Assets</b>		
Revenues from financial assets	173,185,462	117,163,061	Cash and cash equivalents	2,226,598,282	2,151,216,927
Financial revenues	94,525,257	76,031,007	Receivables	651,287,996	515,548,847
Other revenues	38,490	1,374,314	Financial assets	9,553,352,276	9,552,138,410
<b>Total revenues</b>	<b>267,749,209</b>	<b>194,568,382</b>	Fixed assets	446,425	506,076
Salary expenses	2,569,404	5,058,301	Prepayments	132,424	56,883
Other operating expenses	47,603,955	11,980,625	<b>Total assests</b>	<b>12,431,817,403</b>	<b>12,219,467,144</b>
<b>Total expenses</b>	<b>50,173,359</b>	<b>17,038,926</b>	<b>Liabilities</b>		
<b>Gross profit</b>	<b>217,575,850</b>	<b>177,529,456</b>	Short term liabilities	9,163,505	7,377,636
Income tax	7,084,629	9,663,034	Provisions	15,062,518	15,062,518
<b>Net profit/(loss)</b>	<b>210,491,221</b>	<b>167,866,422</b>	Revenues in advance	73,169	0
			<b>Total liabilities</b>	<b>24,299,192</b>	<b>22,440,154</b>
			<b>Equity</b>		
			Share capital	14,240,540,675	14,240,540,675
			Reserves	(3,242,109,133)	(3,242,109,133)
			Accumulated result	1,198,595,448	504,964,040
			Current financial result	210,491,221	693,631,408
			<b>Total equity</b>	<b>12,407,518,211</b>	<b>12,197,026,990</b>
			<b>Total liabilities and equity</b>	<b>12,431,817,403</b>	<b>12,219,467,144</b>

Source: Un-audited RAS Financial Statements

### 5.2.1 Income Statement

#### Revenues from financial assets investments



Revenues from financial assets investments represent revenues from dividends distributed by the companies in the Fund's Portfolio, as follows:

Revenues from financial assets investments: dividend income	Six months ending 30 June 2010 (un-audited) -lei-	Six months ending 30 June 2009 (un-audited) -lei-
Primcom	1,731,351	1,524,281
Carom	27,636	183,070
Transgaz	22,975,352	18,475,571
Romgaz	87,829,620	40,912,828
Oil terminal	37,391	52,419
Alro	11,964,287	17,004,361
Conpet	3,810,281	7,116,275
Hidroelectrica	6,501,711	0
Transelectrica	494,761	2,968,564
Complexul energetic Rovinari	124,947	3,751
Complexul energetic Craiova	114,721	464,389
GDF Suez Energy Romania (former Distrigaz Sud)	30,000,001	14,496,020
Administratia Porturilor Dunarii Maritime	18,210	1,360
Administratia Porturilor Dunarii Fluviale	368,363	463,384
Aeroportul International Henri Coanda Bucuresti	5,869,426	10,127,189
Aeroportul International Baneasa Bucuresti	714,645	0
Aeroportul International Traian Vuia Timisoara	353,329	474,502
IOR	162	0
Administratia Canale Navigabile Constanta	244,827	216,938
Retizoh	4,443	0
Alcom SA	0	9,005
Commetex SA	0	1,809
Electrica Furnizare Transilvania Nord SA	0	62,376
CN Posta Romana SA	0	4,099
Societatea Nationala a Sarii SA	0	269,771
Complexul energetic Turceni SA	0	2,331,100
<b>Total</b>	<b>173,185,462</b>	<b>117,163,061</b>

Source: Management accounts, un-audited

Since the Fund Manager took over the management of the Fund, it identified the necessity to perform two accounting corrections of the above mentioned un-audited financial statements with respect to the dividend revenues related to the participations in Alro SA and GDF Suez Energy Romania SA (former Distrigaz Sud) – please see Section 5.3 "Significant Changes in the financial or trading position of the Fund" below.

**Financial revenues** refer to revenues from investments in deposits and treasury bills and foreign exchange revenues, which resulted from monthly revaluation of balance accounts denominated in foreign currencies, due to appreciation of foreign currencies as compared with RON.

**Other operating expenses** – refer mainly to third parties expenses and to foreign exchange expenses resulted from revaluation of monthly balances of accounts denominated in foreign currency (especially to bank deposits).

## 5.2.2 Statement of Assets, Liabilities and Equity

### Financial assets

Financial assets breakdown per company is presented below:

Financial assets	30 June 2010	31 December 2009
	(un-audited)	(un-audited)
	-lei-	-lei-
Petrom SA	2,836,391,416	2,836,391,416
Hidroelectrica SA	2,813,119,998	2,812,270,038
Nuclearelectrica SA	696,087,850	696,087,850
Romgaz SA	416,301,444	416,301,444
Complexul Energetic Turceni SA	282,299,927	282,299,927
Transelectrica SA	133,585,362	133,585,362
Complexul Energetic Craiova SA	250,169,153	250,169,153
Alro SA	168,858,817	168,858,817
Electrica Distributie Muntenia Nord SA	171,634,031	171,634,031
ENEL Distributie Banat SA	156,203,772	156,203,772
E.ON Moldova Distributie SA	150,738,991	150,738,991
Complexul Energetic Rovinari SA	137,615,732	137,615,732
Transgaz SA	177,353,514	177,353,514
Compania Nationala „Aeroporturi Bucuresti”	131,168,263	131,168,263
ENEL Distributie Dobrogea SA	126,260,018	126,260,018
Electrica Distributie Transilvania Sud SA	132,147,006	132,147,006
Electrica Distributie Transilvania Nord SA	118,478,309	118,478,309
Enel Distributie Muntenia SA	110,111,032	110,111,032
Other financial assets	544,827,641	544,463,735
<b>Financial assets - total</b>	<b>9,553,352,276</b>	<b>9,552,138,410</b>

Source: Management accounts, un-audited

**Cash and cash equivalents** represent mainly the bank deposits as part of the Fund’s investment instruments.

### Provisions

PROVISIONS	30 June 2010	31 December 2009
	(un-audited)	(un-audited)
	-lei-	-lei-
Provisions for taxes	14,121,232	14,121,232
Provisions for restructuring	941,286	941,286
<b>Total provisions</b>	<b>15,062,518</b>	<b>15,062,518</b>

Source: Management accounts, un-audited

The provisions for taxes are in nature a deferred tax liability related to the value of the Hidroelectrica shares received by the Fund for free as a result of the capital increase operated in 2008 by Hidroelectrica, via the incorporation of reserves. The shares received by the Fund for free resulted in an increase in its equity investment in Hidroelectrica with a corresponding increase in a reserve account and in the above-mentioned provision for deferred tax liability.

The provisions for restructuring were recognised in relation to the changes in the Fund's corporate governance structures following the appointment of the Fund Manager (compensation salaries for management and employees for termination of labour contracts).

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### **5.3 Significant Change in the financial or trading position of the Fund**

No significant changes have occurred in the financial or trading position of the Fund since the end of the last financial period for which interim financial information has been published, except for the following:

- After the appointment of the Fund Manager, the dividend payments were verified against supporting documents and it was identified that GDF Suez Energy Romania (former Distrigaz Sud) did not declare dividends at the GSM held in May 2010. The decision for dividend distribution was postponed and did not take place up to date. As a consequence, the Fund canceled the revenue from dividends from GDF Suez Energy Romania in October 2010.
- As per RAS, dividend income is recorded net of dividend tax. In April 2010, the Fund recorded net dividends from Alro applying a 10% tax on dividends valid as at the date the dividends have been announced. Starting with 1 July 2010, the tax on dividends has been increased to 16%. The dividends from Alro have been collected in July 2010, and the tax on dividends applied was 16% as in force at collection date. As a result, the Fund corrected the amount of revenues from dividends from Alro in October 2010, from RON 11.96 million to RON 11.16 million.

## **6 FUND MANAGER'S PRESENTATION**

### **6.1 Franklin Templeton Investments group**

The Fund Manager is an integral part of and has access to the global resources of Franklin Templeton Investments and its group companies, with offices in 31 countries, investors in over 150 countries, just under 8,000 employees, and on-the-ground research capabilities around the world.

The Fund Manager, Franklin Templeton Investment Management Limited United Kingdom, plays a leading role in the group's investment management activities throughout Europe and the Middle East. Backed by the group's global reach and technological resources, the Fund Manager generates innovative investment ideas to meet a broad range of client needs.

Franklin Resources Inc. is the holding company of the global investment management organization known as Franklin Templeton Investments. The Fund Manager is an indirect wholly-owned subsidiary of Franklin Resources Inc.: it is a subsidiary (100%) of Franklin Templeton Global Investors Limited, which in turn is a subsidiary (100%) of Templeton International Inc., which in turn is a subsidiary (100%) of Templeton Worldwide Inc., which in turn is a subsidiary (100%) of Franklin Resources Inc.

The group structure chart of the Franklin Templeton Investments group is presented in Annex 2.

The products and services of the Franklin Templeton Investments group are branded according to six distinct investment management platforms: Franklin Equity Group, Templeton, Mutual Series, Franklin Templeton Fixed Income Group, Franklin Templeton Real Estate Advisors, and Darby Investments. Each of these platforms maintains its own process and approach to investment under its own brand, while retaining its individual style and specialties.

**FRANKLIN TEMPLETON INVESTMENTS**

Total Combined Assets Under Management (AUM): US\$570.5 Billion<sup>1</sup>

	<b>Franklin Equity Group</b>	<b>Templeton</b>	<b>Mutual Series</b>	<b>Franklin Templeton Fixed</b>	<b>Franklin Templeton Real Estate</b>	<b>Darby</b>
<b>Established</b>	1947 <sup>2</sup>	1940	1949	1971 <sup>3</sup>	1984 <sup>4</sup>	1994
<b>Focus</b>	Global, International, & U.S. Equity	Global, International, & Emerging Markets Equity	Global & U.S. Equity; Distressed Debt	Global & Regional Fixed Income	Global Real Estate	Emerging Markets Private Equity & Mezzanine Finance
<b>Style</b>	<b>Growth, Value, Core/Hybrid</b>	<b>Core Value</b>	<b>Deep Value</b>	<b>Single - Sector, Multi - Sector</b>	<b>Multi - Sector, Multi - Region</b>	<b>Multi-Sector</b>
<b>AUM<sup>1</sup></b>	US\$100.0 Billion	US\$128.8 Billion	US\$56.4 Billion	US\$234.4 Billion	US\$3.5 Billion	US\$1.7 Billion

Institutional AUM: US\$149.3 Billion<sup>1</sup>

Single Business Development, Relationship Management, and Consultant Relations Platform

*Sources:*

1. Franklin Templeton Investments, as of 30.06.2010. Assets under Management (AUM) combine the institutional and non-institutional AUM of U.S. and non-U.S. investment management subsidiaries of the parent company, Franklin Resources Inc. [NYSE: BEN], a global investment organization operating as Franklin Templeton Investments. Institutional AUM is the combined institutional assets of Franklin Templeton Institutional, LLC, and its affiliates. Figures for the assets under management above may not correspond precisely to the assets under management for the units of Franklin Templeton Investments as defined for purposes of the Global Investment Performance Standards (GIPS<sup>R</sup>). For GIPS<sup>R</sup> purposes, Franklin Equity Group and Franklin Templeton Fixed Income are both units of the firm Franklin. Numbers may not equal 100% due to rounding. The table above does not include Bissett Asset Management or Bissett's SMA business (combined AUM of US\$11.4 billion as of 30.06.2010), or Fiduciary Trust Company International (AUM of US\$19.2 billion as of 30.06.2010). The firms are wholly owned subsidiaries of Franklin Templeton Investments and offer solutions to Canadian (Bissett) and high-net worth (Fiduciary) investors.
2. Franklin Equity Group, a unit of Franklin, combines the expertise of the Franklin Advisers, Inc., Franklin Advisory Services LLC, and Fiduciary Global Advisors (formerly Fiduciary Trust Company International) equity teams (with origins dating back to 1947, 1987, and 1931, respectively).
3. Franklin Templeton Fixed Income, a unit of Franklin, combines the expertise of the Franklin Advisers, Inc., and Fiduciary Trust Company International fixed income teams (originating in 1971 and 1973, respectively).
4. Franklin Templeton Real Estate Advisors originated in 1984 as the global real estate team of Fiduciary Trust Company International.

Franklin Templeton Investments is one of the world's largest asset management groups with \$570bn in assets under management on behalf of over 23 million private, professional and institutional investors (as of June 30, 2010).

The group manages investment vehicles and discretionary investment mandates for a wide variety of individuals, institutions, pension plans, trusts, partnerships and other clients. The chart below depicts the main investment solutions proposed by Franklin Templeton Investments to its clients:

**FRANKLIN TEMPLETON INVESTMENTS**

	U.S. Fixed Income	Global Fixed Income	Core/Hybrid	Value Equity	Growth Equity	Global Equity	Int'l Equity	Emerging Markets	Local Asset Mgmt	Private Equity	Real Estate
<b>Key Strategies</b>											
<b>U.S. Retail</b>	35 Municipal Bond Funds (1977)	Templeton Global Bond Fund (1986)	Franklin Income Fund (1948)	Mutual Shares Fund (1949)	Franklin Growth Fund (1948)	Templeton Growth Fund (1954)	Templeton Foreign Fund (1982)	Templeton Developing Markets Trust (1991)	Franklin India Growth Fund (2008)	N/A	Franklin Real Estate Securities Fund (1994)
<b>Int'l Retail</b>	FTIF Franklin U.S. Government Fund (1991)	FTIF Templeton Global Bond Fund (1991)	FTIF Templeton Global Balanced Fund (1994)	FTIF Franklin Mutual Beacon Fund (1997)	FTIF Franklin U.S. Opportunities Fund (2000)	Templeton Growth Fund (1982) <i>Germany</i>	FTIF Templeton European Fund (1991)	Templeton Emerging Markets Investment Trust (1989) <i>UK</i>	FTIF Franklin World Perspectives Fund (2008)	Darby FT Private Equity Strategy (2008) <i>India</i>	FTIF Franklin Global Real Estate Fund (2005)
<b>Global Inst.</b>	Franklin Templeton U.S. High Yield (2002)	Franklin Templeton Global Bond Plus (1986)	Franklin Templeton Global & Non-U.S. Blend (2002)	Templeton Global Equity (1980)	FGA Global Equity (1991)	Templeton Global Equity (1980)	Templeton Non-U.S. Equity (1989)	Templeton Emerging Markets Equity (1992)	Franklin India Equity (2005)	Templeton Strategic Emerging Markets Fund III (2008)	Franklin Templeton Global Private Real Estate (1984)

Dates are inception dates for funds and institutional composites or strategies.

The shares of Franklin Resources Inc. are listed on the New York Stock Exchange, under the ticker BEN, and included in the S&P Index 500. Currently, the company has the following credit ratings:

- Standard & Poor's long-term and short-term ratings are AA- and A-1+, respectively
- Moody's long-term and short-term ratings are A1 and P-1, respectively

Franklin Resources Inc. shares are also listed on the Pacific Exchange (ticker BEN) and the London Stock Exchange (ticker FRK).

As of June 30, 2010, Franklin Resources Inc shares are owned by approximately 700 institutional investors, employees and other private investors, of which the top ten largest shareholders are listed below:

<b>Name</b>	<b>Number of Shares (mn)</b>	<b>Stake</b>
Charles B. Johnson	37.7	16.7%
Rupert H. Johnson, Jr.	37.0	16.4%
T. Rowe Price Associates, Inc.	12.4	5.5%
Vanguard Group, Inc	6.3	2.8%
BlackRock Global Investors.	5.5	2.5%
State Street Global Advisors	5.5	2.4%
Fidelity Management & Research	5.3	2.4%
AllianceBernstein LP	4.9	2.2%
Harris Associates LP	3.1	1.4%
Northern Trust Investments	2.8	1.3%

## **6.2 Fund Manager's Appointment**

In June 2009 the Fund nominated Franklin Templeton Investment Management Limited winner of the international tender procedure organized by the Fund for the selection of the Fund's investment manager and sole director.

In September 2009, the Fund's shareholders approved the investment policy and the financial offer proposed by Franklin Templeton Investment Management Limited. The Romanian branch of Franklin Templeton Investment Management Limited was established in September 2009 and is subject to the global policies, procedures and best practices already in place within Franklin Templeton group, and Franklin Templeton Investment Management Limited particularly.

In February 2010, Fund's OGM approved the final form of the Investment Management Agreement which has been endorsed by NSC Decision no. 254 dated 23 February 2010. The Investment Management Agreement was signed on 25 February 2010, its entry into force being dependent on the cumulative fulfilment of the following conditions: (i) the execution of the Investment Management Agreement, (ii) the publication of the general shareholders' meeting resolution with the Official Gazette, (iii) the completion of the registration of the Romanian branch of Franklin Templeton Investment Management Limited and (iv) the conclusion between the Fund and the Fund Manager of the Handover Protocol regarding the Extended Portfolio.

By decision no. 613 dated 11 May 2010, NSC authorized the Romanian branch of Franklin Templeton Investment Management Limited for the purpose of the investment management of the Fund.

On 18 August 2010, NSC authorized registration of the Fund as a closed end investment company.

The appointment of the Romanian branch of Franklin Templeton Investment Management Limited as the Sole Director was approved in the EGM of 6 September, 2010, and the appointment as Sole Director and Fund Manager under the investment management agreement became effective on 29 September 2010.

## **6.3 Fund Manager Incorporation information**

The Fund Manager was incorporated in 1985 in the United Kingdom as a private limited company. It is a member of the Franklin Templeton Investments group and an indirect wholly-owned subsidiary of the group's parent, Franklin Resources Inc.

Legal and commercial name	Franklin Templeton Investment Management Limited
Place and number of registration	United Kingdom Companies House registration number: 1902009
Date of incorporation, duration	1985, indefinite
Legal form	Private Limited Company
Registered seat	The Adelphi, 1-11 John Adam Street, London, WC2N 6HT, United Kingdom
Contact details	Telephone: +44 20 7073 8500 Fax: +44 20 7073 8700

The branches of the Fund Manager worldwide and the opening date of these offices are presented in the table below:

<b>Location</b>	<b>Date of Opening</b>
Bucharest, Romania	August 2009
Frankfurt, Germany	July 2007
Dubai, United Arab Emirates	November 2004
Madrid, Spain	September 1998
Stockholm, Sweden	June 1998
Amsterdam, Netherlands	April 1997

The Fund Manager has been licensed in the UK since its inception to perform investment management and other regulated financial services and through the registered ‘passporting’ rights under the European Markets in Financial Instruments Directive 2004 to provide services on a cross-border basis throughout the European Union, including in Romania. The Fund Manager has also set up local branches in certain countries and, in August 2009, set up a Romanian branch; this branch is registered as sole director of the Fund and its activity is licensed by NSC.



## **6.4 Franklin Templeton Investment Management Limited United Kingdom Bucharest Branch**

Franklin Templeton Investment Management Limited United Kingdom Bucharest Branch, the Sole Director of the Fund, was registered in Romania on September 4, 2009, as a branch of the Fund Manager.

In May 2010, this branch was authorised by NSC in view of carrying out the management activity of the Fund according to NSC decision no 613/11.05.2010, the branch being subject to the supervision of NSC in connection with its regulated activities relating to the Fund.

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Legal& Commercial name	Franklin Templeton Investment Management Limited United Kingdom Bucharest Branch
Place of registration& number	Bucharest, J40/8587/2009
Country of Registration	Romania
Address	78-80 Buzesti Street, 7 <sup>th</sup> - 8 <sup>th</sup> floor, District 1, Bucharest, Romania
Telephone number	+40 21 200 96 00

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According to NSC Regulation 4, the Fund Manager is required to draft and submit to the NSC annual and biannual reports regarding its own activity. The contents and the form of the biannual report are not currently regulated. The annual report will be drafted and submitted in the form provided by NSC Regulation 4, will be certified by the chartered financial auditor and will include, among other information regarding the Fund Manager's internal organization, the balance sheet, the profit and loss account and the report of the internal controller.

## **6.5 Important events in the evolution of the Fund Manager**

Franklin Templeton Investment Management Limited has been the base for the group's European management activities for the past 25 years. Over these decades, the Fund Manager has provided European investors with an easier way to invest in a large number of asset classes and financial markets, as well as companies of different sizes and sectors, through investment funds established by the Fund Manager offering a variety of strategies. For institutional investors, the Fund Manager offers a specially designed share class on a number of funds, and for those with specific requirements, the Fund Manager offers segregated account and sub-advisory services.

In 1988, the Fund Manager launched the Templeton Growth Fund, the first sub-fund in Templeton's open-ended investment company (OEIC) platform which is registered under the European harmonizing directive for Undertakings for Collective Investment in Transferable Securities. The Franklin Templeton OEIC range continues to grow, offering UK and European investors access to a variety of investment opportunities. It is worth noting that, in addition to acting as investment manager for this fund platform, the Fund Manager is also registered as the sole director.

The products launched under the UK OEIC Funds are presented below:

<b>Fund Name</b>	<b>Fund inception date</b>
Templeton Growth Fund	15-Sep-88
Franklin Biotechnology Fund	10-Jul-00
Templeton Europe Fund	08-Sep-03
Franklin U.S. Equity Fund	08-Sep-03
Franklin Mutual Shares Fund	08-Sep-03
Templeton UK Equity Fund	15-Mar-04
Templeton Global Emerging Markets Fund	15-Mar-04
Franklin Global REIT Fund	28-Apr-06
Templeton Strategic Bond Fund	02-Jun-08
Templeton Global Total Return Bond Fund	02-Jun-08
Franklin U.S. Opportunities Fund	30-Jan-09

*Source: Fund Manager's presentation*

In addition, the Fund Manager acts as investment manager to several sub-funds of the Franklin Templeton Investment Funds range (FTIF) and the Franklin Templeton Strategic Allocation Funds range, both incorporated in Luxembourg under the laws of the Grand Duchy of Luxembourg as investment companies with variable capital (Fr. "société d'investissement à

capital variable"). The FTIF range is the flagship of Franklin Templeton Investments retail fund offering outside North America: it is registered under the European harmonizing directive for Undertakings for Collective Investment in Transferable Securities, it is licensed for distribution in nearly 40 countries around the world and it currently has over \$110bn of assets under management (as of 26 November 2010).

The Fund Manager's role of advisor for a variety of sub-funds from the FTIF fund range results in a valuable range of expertise covering all major asset classes, regional and country specific funds, as well as sector funds. The funds managed are as follows:

- Franklin Euroland Core Fund;
- Franklin European Growth Fund\*;
- Franklin High Yield (Euro) Fund\*\*;
- Franklin Mutual Beacon Fund\*\*\*;
- Franklin Mutual Global Discovery Fund\*\*\*;
- Templeton Euro Government Bond Fund;
- Templeton Euro Liquid Reserve Fund;
- Templeton Euro Money Market Fund;
- Templeton Euroland Fund;
- Templeton European Fund;
- Templeton European Total Return Fund\*\*;
- Templeton Global Balanced Fund\*\*;
- Templeton Global Equity Income Fund;
- Templeton Global Fund; and
- Templeton U.S. Value Fund.

\* The Fund Manager has been appointed as co- investment manager of this Fund, together with Franklin Templeton Institutional LLC.

\*\* The Fund Manager has been appointed as co- investment manager of these Funds, together with Franklin Advisers, Inc.

\*\*\* The Fund Manager has been appointed as co- investment manager for these Funds, together with Franklin Mutual Advisers, LLC.

The Fund Manager is also the registered sub-adviser to the Franklin Templeton Emerging Market Debt Opportunities Fund PLC, a company authorised by the Central Bank of Ireland as a designated investment company.

In addition to its fund management and advisory activity, the Fund Manager also provides services such as fund administration, transfer agency and distribution of Franklin Templeton products.

Assets under management for the Fund Manager (as opposed to the whole Franklin Templeton Investments group) are diversified by fund strategy, clientele, management brand and geographic region – this diversity helps the Fund Manager to maintain healthy operating margins even when volatile markets affects a specific asset class. The following figures reflect the total assets under the Fund Manager’s management in discretionary investment accounts and in investment funds for which the Fund Manager is registered as investment manager/adviser.

<b>2010</b>	<b>2009</b>	<b>2008</b>	<b>2007</b>	<b>2006</b>
GBP 20.4bn	GBP 15.8bn	GBP 10.8bn	GBP 9.5bn	GBP 5.9bn

*Note: Dates as at 30 September, each year.*

## **6.6 Roles and Responsibilities of Fund Manager**

The Fund Manager’s prime function is to manage the Fund and to contribute, as required, in enhancing the Fund’s performance. In addition to researching and managing investment opportunities on behalf of the Fund, the Fund Manager’s personnel take care of the daily administration of the Fund’s business and its interactions with third parties.

In relation to portfolio management activities, the Fund Manager has a locally based team in Bucharest including a team of portfolio analysts and the Fund’s portfolio manager, Grzegorz Konieczny. Using an in-depth bottom-up stock evaluation process, the investment team will review the potential and future strategy for each existing Portfolio asset and consider other investment opportunities, which may be appropriate to achieving the Fund’s investment objectives. The investment team has support from more than 40 investment professionals in the Templeton Emerging Markets Group headed by Dr. Mark Mobius.

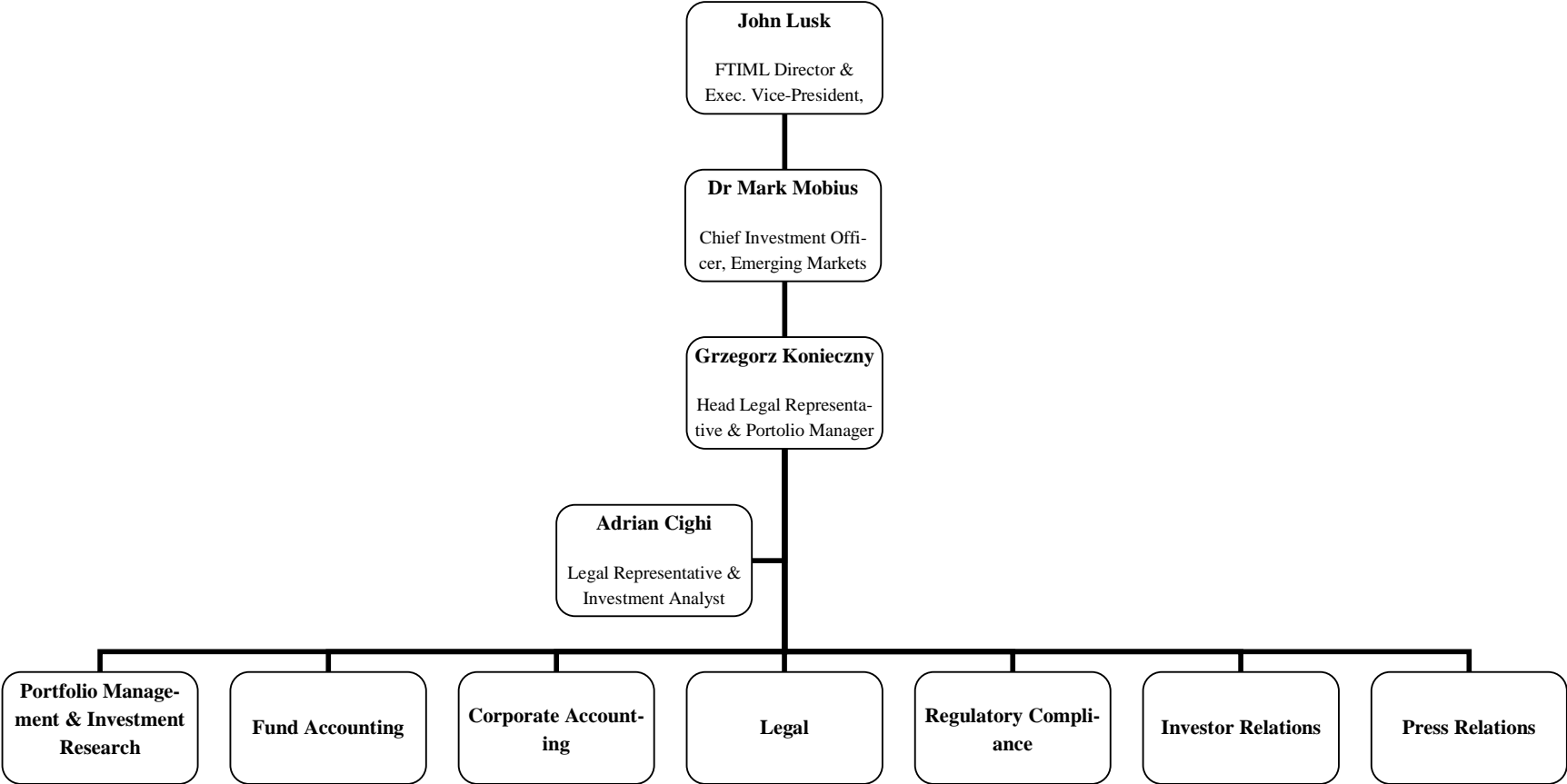
In addition, the Fund Manager will provide a range of integrated administrative, operational and accounting services covering the entire investment cycle. A team based in the Bucharest branch covers fund administration, corporate accounting, regulatory compliance and legal matters. This

team also leverages from the expertise and processing capability of the Fund Manager's other offices.

The Fund is not responsible for the performance by the Depositary of the latter's safekeeping duties with respect to the Fund's assets, as described in more detail in Section 4.5 of this prospectus.

Please find below, the organization chart of the local branch of Fund Manager:

*Organisation Chart Franklin Templeton Investment Management Limited, United Kingdom, Romanian Branch*



## 7 THE FUND PORTFOLIO

### 7.1 The Fund Holdings

As presented within the previous Sections, the Fund was incorporated by effect of Law 247. Its holdings have suffered several changes over the years, changes implemented by legislation applicable.

According to Fund's Manager report as of 31 October 2010, the holdings in Portfolio Companies' share capital are presented below:

*The Fund's holdings, listed in decreasing order of stake size*

<u>Portofolio Companies</u>		<u>The Fund's Holdings</u>	<u>Portofolio companies</u>		<u>The Fund's Holdings</u>
1	Zirom SA	100.00%	42	CN Aeroporturi Bucuresti SA	20.00%
2	Primcom SA	78.97%	43	Aeroportul International Mihail Kogalniceanu SA	20.00%
3	Alcom SA	71.89%	44	Aeroportul International Timisoara - Traian Vuia SA	20.00%
4	Prestari Servicii SA	70.55%	45	CN Administratia Porturilor Maritime SA	19.99%
5	Carom - Broker Asigurare SA	70.00%	46	Hydroelectrica SA	19.94%
6	Comsig SA	69.94%	47	World Trade Center Bucuresti SA	19.90%
7	Telerom Proiect SA	68.63%	48	World Trade Hotel SA	19.90%
8	Delfincom SA	65.50%	49	Salubriserv SA	17.48%
9	Romplumb SA	51.00%	50	Commetex SA	15.99%
10	Electromecanica Ploiesti SA	49.00%	51	Palace SA	15.42%
11	Plafar SA	49.00%	52	Romgaz SA	14.99%
12	Societatea Nationala a Sarii SA	48.99%	53	Transgaz SA	14.98%
13	Vitacom SA	46.91%	54	Transelectrica SA	13.49%
14	Turdapan SA	44.06%	55	Mecon SA	12.51%
15	Transilvania Com SA	39.99%	56	FECNE SA	12.12%
16	Severnav SA	39.10%	57	Enel Distributie Muntenia SA	12.00%
17	Uzina Mecanica Bucuresti SA	36.59%	58	Enel Energie Muntenia SA	12.00%
18	Bat Service SA	33.00%	59	Enel Energie SA	12.00%
19	Simtex SA	30.00%	60	GDF Suez Energy Romania sa	12.00%
20	Forsev SA	28.14%	61	E.ON Gaz Distributie SA	11.99%
21	Posta Romana SA	25.00%	62	E.ON Gaz Romania SA	11.99%
22	Complexul Energetic Turceni SA	24.78%	63	Comcereal Cluj SA	11.36%
23	Complexul Energetic Craiova SA	24.35%	64	Mecanoenergetica SA	10.07%
24	Enel Distributie Banat SA	24.12%	65	Comcereal Miercurea Ciuc SA	10.03%
25	Enel Distributie Dobrogea SA	24.09%	66	Oil Terminal SA	10.00%
26	Complexul Energetic Rovinari SA	23.60%	67	Alro SA	9.92%
27	E.ON Moldova Distributie SA	22.00%	68	Gerovital Cosmetics SA	9.76%
28	E.ON Moldova Furnizare SA	22.00%	69	Nuclearelectrica SA	9.72%
29	Electrica Furnizare Muntenia Nord SA	22.00%	70	Celuloza si Otel SA	8.62%
30	Electrica Distributie Transilvania Nord SA	22.00%	71	Carbid Fox SA	7.96%
31	Electrica Furnizare Transilvania Nord SA	22.00%	72	Azomures SA	7.69%
32	Electrica Furnizare Transilvania Sud SA	22.00%	73	Electroconstructia Elco Cluj SA	7.61%
33	Electrica Distributie Muntenia Nord SA	21.99%	74	Retizoh SA	7.37%
34	Electrica Distributie Transilvania Sud SA	21.99%	75	Zamur Targu Mures SA	7.06%
35	Romaero SA	20.99%	76	Comcereal Fundulea SA	5.35%
36	Cetatea SA	20.43%	77	Marlin SA	4.95%
37	OMV Petrom SA	20.10%	78	Laromet SA	4.20%
38	Conpet SA	20.05%	79	Resib SA	2.87%
39	CN Administratia Canalelor Navigabile SA	20.00%	80	IOR SA	2.81%
40	CN Administratia Porturilor Dunarii Fluviale SA	20.00%	81	Familial Restaurant SA	2.75%
41	CN Administratia Porturilor Dunarii Maritime SA	20.00%	82	Petrotel - Lukoil SA	2.18%
			83	Ciocirlia SA	1.68%

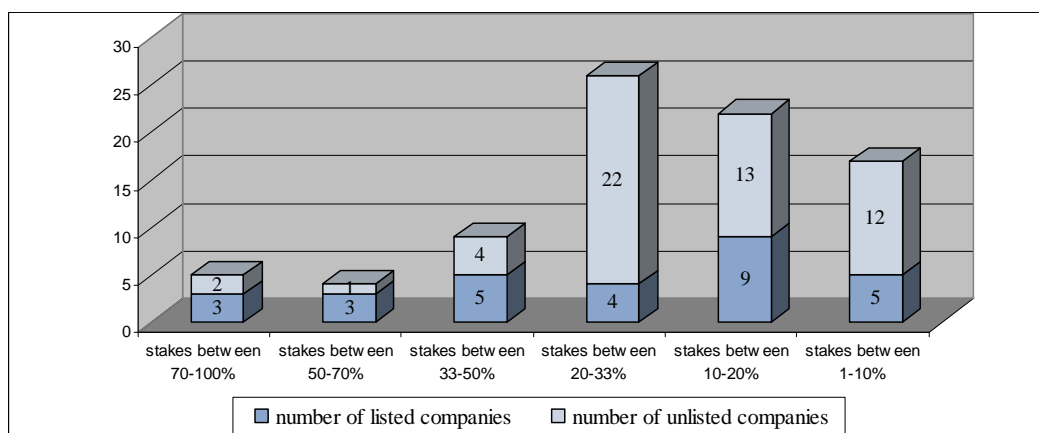
Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

*Note:* S.C. Electromecanica Ploiesti S.A. and S.C. Uzina Mecanica Bucuresti S.A. do not recognize the Fund as a shareholder. For more details please refer to Section 4.13 "Litigations".

Top five holdings in terms of stakes owned by the Fund in the share capital of Portfolio Companies are holdings of more than 70% in three companies listed on the Bucharest Stock Exchange and two unlisted companies. However, in terms of value, these stakes are not significant, representing only 0.40% of the NSC NAV as of 31 October 2010.

The following figure is aiming in establishing six groups of Fund's holdings in Portfolio Companies, function of the various stake sizes the Fund owns:

**Breakdown of the Fund's Portfolio on stake sizes and number of companies**



*Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)*

Extending the analysis, the most numerous groups are: (i) the Fund's holdings between 20-33% (representing 48.34% of the NSC NAV as of 31 October 2010) and (ii) the Fund's holdings between 10-20% (representing 35.30% of the NSC NAV as of 31 October 2010).



## XV.6.1 7.2 Valuation Method

The Fund determines the NSC NAV based on the set of rules provided in NSC Regulation 4 and NSC Regulation 15.

On the date of this Prospectus, the NSC applicable regulation do not provide for any exceptions from the legal requirement of calculation and publication of the NSC NAV by the Fund.

As a general principle, the NSC NAV represents the total value of assets less the aggregated value of liabilities and revenues registered in advance. The total value of the Fund's assets is calculated on a monthly basis by aggregating: (i) the fixed assets (i.e. intangible, tangible and financial fixed assets), (ii) current assets, (iii) derivative instruments, (iv) prepaid expenses.

The valuation of the assets referred to above is carried out in accordance with the applicable accounting regulations, save for exceptions expressly regulated by law and listed below:

- (a) Valuation of securities and monetary market instruments admitted to trading or traded on a regulated market operated in Romania, in a member state or a non-member state, and booked in the Fund's accounting as long term financial assets or current assets is carried out by applying:
- method of weighted average price calculated for the past 90 days, for securities and money market instruments traded within the respective time interval;
  - method of weighted average price calculated as of the date of occurrence of an event such as changes in the nominal value of a share, free of payment distribution of shares or similar events which affect the market value of the securities or of the money market instruments set out in paragraph above, where the event occurs within the 90 days time interval set out in paragraph above;
- (b) Valuation of shares issued by a company, not admitted to trading on a Romanian regulated market and held by the Fund is based on the value of such company's own capital, as reflected in the most recent financial statements thereof registered with the trade registry. For credit institutions, the valuation is based on the value of own capital as reflected in the reports submitted with the NBR. The same valuation principles are applied to securities which are not traded within the last 90 days.

Calculation peculiarities:

- for Fund's holdings representing more than 50% of the company's share capital, by applying the respective percentage holding to the own capital of the company;
- for Fund's holdings ranging between 33%-50% of the company's share capital, by applying a percentage of 85% to the value resulted from the application of the respective holding in the company's share capital to the own capital of the company;

- for Fund's holdings ranging between 5%-33% of the company's share capital, by applying a percentage of 75% to the value resulted from the application of the respective holding in the company's share capital to the own capital of the company;
  - for Fund's holdings of less than 5% of the company's share capital, by applying a percentage of 50% to the value resulted from the application of the respective holding in the company's share capital to the own capital of the company.
- (c) Shares issued by companies, which are subject to insolvency/reorganization/judicial liquidation proceedings, or other similar reorganization and liquidation procedures, as well as by companies whose activities have been temporarily or definitively ceased, are included in the calculation of the net assets with zero value, until completion of the respective procedures.
- (d) Shares issued by companies registering negative value of own capital are included in the calculation of the net assets with zero value.
- (e) Valuation of shares held by the Fund in credit institutions, in insurance, insurance-reinsurance and reinsurance companies is based on the holding of the Fund in the share capital of such institutions/companies applied to the own capital of such institutions/companies, irrespective of the size of the respective holding.
- (f) Valuation of fixed income financial instruments admitted to trading on a regulated market is based on one of the following calculation methods, provided that such method is maintained at least one year:
- based on the closing price of the main market section on the day for which the calculation is made;
  - based on the daily calculation of the interest for the time interval accrued from the date of the placement.
- (g) Valuation of fixed income financial instruments which are not admitted to trading on a regulated market in Romania, in a member state or a non-member state is based on the daily calculation of interest accrued from the date of acquisition. The same valuation rules is applied to money market instruments, which are not traded within the past 90 days.
- (h) Bank deposits and deposit certificates are evaluated by adding the respective bank's standard interest payable up to the calculation date based on their nominal value, with the available funds in the current account being evaluated based on the available account balance as at net asset calculation date.
- (i) Participation units issued by an undertaking for collective investments in transferable securities (UCITS)/other undertakings (other UCI) in collective investments which are not traded on a regulated market are evaluated at the latest net asset value per unit calculated and published by the respective undertakings. Participation units issued by UCITS/other UCI, which are traded on a regulated market are evaluated based on the weighted average price thereof calculated for the past 90 days.

- (j) Bills of exchange and promissory notes are evaluated by the same rules as those applied for the evaluation of fixed income financial instruments;
- (k) Evaluation of derivative instruments is based on the following rules:
- for traded derivatives, the evaluation is based on the closing market price of such derivative;
  - for derivatives traded outside the regulated markets, the evaluation is based on the techniques specific for the financial markets (e.g. current value of another similar financial instrument, cash flow analysis and option valuation) in order to ensure the observance of the real value principle.
- (l) Amounts available in the Fund's current accounts opened with credit institutions which are subject to bankruptcy proceedings shall be reflected in the net asset value calculation of the Fund at zero value;
- (m) Valuation of securities admitted to trading on more than one regulated market must reflect the market price of such securities traded on the most liquid and active in terms of trading frequency market and is calculated based on the following methods:
- method of weighted average price calculated for the past 90 days, for securities traded within the respective time interval;
  - method of weighted average price calculated as of the date of occurrence of an event such as changes in the nominal value of a share, free of payment distribution of shares or similar events which affect the market value of the securities set out in paragraph above, where the event occurs within the 90 days time interval set out in paragraph above;
  - calculation based on the value of the issuer's own capital, as reflected in the most recent financial statements thereof registered with the trade registry, for securities which are not traded within the last 90 days.

Furthermore for reporting purposes:

- (n) securities traded within the past 90 days, participation units issued by UCITS and money market instruments are qualified as current assets;
- (o) securities never traded or not traded within the last 90 days, newly issued securities and other securities than those mentioned above are qualified as financial fixed assets;
- (p) participation units issued by other UCI are qualified as current assets or financial fixed assets.

However, according to the NSC recent enactment 17 dated 25 November 2010 (Rom. "*dispunere de masuri*"), the NSC has suspended, with effect as of 25 November 2010, the applica-

tion of the valuation rules set forth in NSC Regulation 4 for the following types of assets in the Extended Portfolio of the Fund:

- (a) securities and monetary market instruments admitted to trading or traded on a regulated market operated in Romania, in a member state or a non-member state, and booked in the Fund's accounting as long term financial assets or current assets;
- (b) shares issued by a company, not admitted to trading on a Romanian regulated market and held by the Fund;
- (c) shares held by the Fund in credit institutions, in insurance, insurance-reinsurance, reinsurance companies;
- (d) units issued by an undertaking for collective investments in transferable securities (UCITS)/other undertakings in collective investments (other UCI) which are not traded on a regulated market; and
- (e) securities admitted to trading on more than one regulated market.

In respect to the valuation of the above mentioned assets of the Fund, the NSC intends to amend NSC Regulation 4. However, during the period until amendment of the regulation, the NSC enactment 17/2010 provides that the following valuation rules will apply:

- (1) Valuation of the securities and money market instruments admitted to or traded in a regulated market of Romania, of a member state or non-member state and booked in the Fund's accounting as long term financial assets or current assets shall be conducted, as follows:
  - a) the method of the closing price on the market segment deemed as the core market of the relevant market on the day for which the calculation is made, for securities and money market instruments traded in the past 30 days;
  - b) valuation methods complying with the International Valuation Standards (consistent with the fair value principles), approved by the executives of the management company of S.C. Fondul Proprietatea S.A., in case of occurrence of an event consisting of a change in the shares' face value, a distribution of bonus shares or of other similar situations influencing the market value of the securities or money market instruments specified under item a), provided that such event occurred during the time interval set forth under item a);
  - c) the methodology set forth under paragraph (2), for securities not traded during the time interval established under item a);
  - d) a method based on the daily acknowledgement of the interest relating to the period expired from the purchase date, for money market instruments not traded during the time interval established under item a).
- (2) Valuation of the shares not admitted to trading in a regulated market, held by S.C. Fondul Proprietatea S.A. in an issuer, is based on the issuer's equity according to its last financial

statement or valuation methods compliant with the International Valuation Standards (conform to the fair value principles), approved by the executives of the management company of S.C. Fondul Proprietatea S.A.

- (3) The units of another UCI and/or an UCITS not traded in a regulated market, in the Portfolio of S.C. Fondul Proprietatea S.A. are valued at the last net asset value per share calculated for such units and published. The units of another UCI and/or UCITS traded in a regulated market shall be valued according to the provisions of paragraph (1) above, item a).
- (4) In valuating securities part of the Fund's Portfolio admitted to trading in several regulated markets, the value considered for such securities has to be represented by the price of the market having the highest liquidity and frequency level in trading such securities, calculated in accordance with paragraph (1) above.

The valuation methods compliant with International Valuation Standards (i) shall have to be included in the internal regulations of the Fund within 10 days as of the entry into force of NSC enactment 17/2010, (ii) shall be applied by persons having the professional capacity to understand and apply such standards (i.e. ANEVAR members or members of similar professional bodies), and (iii) may be used only following authorization of the revised internal rules of the Fund including such valuation methods by the NSC.

The choice of the valuation methods in accordance with the above will be made to ensure protection of the investors' interests and integrity of the market, the Fund Manager acting in good faith, correctly and with professional diligence.

The monthly report on the situation of the net asset to be filled by the Fund Manger will have to indicate (i) the valuation methods used for each one of the assets of the Fund and, in case of amendment of the valuation method, (ii) the reasons determining such an amendment and the way such amendment affects the interests of the shareholders. The report shall be published on the websites of the Fund and of the BSE.

## 7.3 Net Assets Value Analysis

### 7.3.1 NSC NAV

XV.6.1 The Fund is required to prepare a NSC NAV report as at close of business on the last business day of each month. This NSC NAV is certified by the Depository, after which it is published on the Fund's website ([www.fondulproprietaea.ro](http://www.fondulproprietaea.ro)) and it is also submitted to the NSC at the same time. The deadline for publication is 15 calendar days after the last business day of the prior month. The Fund also intends to make available monthly factsheets. Such factsheet includes the NSC NAV per share figure together with a brief commentary about the Fund's performance and its portfolio breakdown.

The Fund appointed KPMG Romania SRL to prepare the monthly NSC NAV for each month end between 31 May 2010 - 31 October 2010 inclusive. The following NSC NAV have already been published on the Fund's website, as shown in the table below:

#### *NSC NAV published on the Fund's website*

<b>Date</b>	<b>NSC NAV -mn Lei-</b>	<b>NSC NAV per share -Lei/share-</b>
31.10.2010	13,491.90	0.9792
30.09.2010	13,396.92	0.9723
31.08.2010	14,322.83	1.0410
30.07.2010	14,643.47	1.0283
30.06.2010	14,842.85	1.0423
31.05.2010	14,869.26	1.0442

*Source: [www.fondulproprietaea.ro](http://www.fondulproprietaea.ro)*

At the date of the Prospectus, the latest NSC NAV published was calculated by the Fund and certified by the Depository at 31 October 2010 and amounted Lei 13,491.90 mn. (NSC NAV per share of RON 0.9792).

## XV.8.3

*NSC NAV calculation, at 31 October 2010*

NSC NAV	31 October 2010
	-Lei-
<b>Assets</b>	
Cash and cash equivalents	1,458,665,739
Receivables	98,487,740
Financial assets	12,196,009,511
Other financial assets	84,837
Prepayments	30,927
<b>Total assests</b>	<b>13,753,278,753</b>
<b>Liabilities</b>	
Short term liabilities	247,259,580
Provisions	14,121,232
Revenues in advance	
<b>Total liabilities</b>	<b>261,380,812</b>
<b>NSC NAV</b>	<b>13,491,897,941</b>
<b>Number of issued shares</b>	<b>13,778,392,208</b>
<b>NSC NAV per share ( Lei /share)</b>	<b>0.9792</b>

*Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)*

***Cash and cash equivalents***

Cash and cash equivalents (11% of total assets) are mainly bank deposits in Lei and EUR (98% of the total cash and cash equivalent position), while the cash in the bank current accounts component represents only 2%. At the end of 2009, the Fund's cash position grew, as it has accumulated over the years the dividends paid by Portfolio Companies, disinvested some stakes (e.g. CEZ Distributie, Petrom Aviation) and only paid dividends for 2007. However, as mentioned before in the Prospectus, the Fund's OGM held on 6 September 2010 has decided to pay dividends amounting to Lei 0.0816/share for years 2009 and 2008.

***Financial assets***

This component brings together all the stakes held by the Fund in the share capital of Portfolio Companies. In terms of NSC valuation methods, the financial assets are categorised in the following main categories: (i) listed securities, traded for the past 90 days; (ii) listed securities, not traded for the previous 90 days and (iii) unlisted securities.

**7.3.2 Overview of the Fund's portfolio**

The main determinant of the NSC NAV as of 31 October 2010 is the value of the Fund's financial assets. The most significant stakes the Fund holds in the Portfolio Companies are presented bellow, in decreasing order of their value and contribution to the NSC NAV:

*Financial assets in the Fund's portfolio, as of 31 October 2010*

No.	Portfolio Companies	NSC NAV -Lei-	% in total NSC NAV
1	OMV Petrom SA	3,800,081,030	28.17%
2	Hidroelectrica SA	2,464,767,360	18.27%
3	Romgaz SA	934,082,214	6.92%
4	CN Aeroporturi Bucuresti SA	754,209,542	5.59%
5	Nuclearelectrica SA	528,798,011	3.92%
6	Transgaz SA	438,827,466	3.25%
7	Complexul Energetic Turceni SA	397,456,839	2.95%
8	Enel Distributie Muntenia SA	243,467,578	1.80%
9	GDF Suez Energy Romania SA	226,956,523	1.68%
10	ENEL Distributie Banat SA	208,481,131	1.55%
11	Alro SA	201,579,985	1.49%
12	Complexul Energetic Craiova SA	200,424,235	1.49%
13	Complexul Energetic Rovinari SA	188,445,164	1.40%
14	Transelectrica SA	181,360,435	1.34%
15	Electrica Distributie Muntenia Nord SA	174,096,875	1.29%
16	ENEL Distributie Dobrogea SA	145,736,848	1.08%
17	E.ON Moldova Distributie SA	135,670,432	1.01%
18	Electrica Distributie Transilvania Sud SA	135,629,438	1.01%
19	Posta Romana SA	127,118,607	0.94%
20	Electrica Distributie Transilvania Nord SA	126,732,566	0.94%
21	E.ON Gaz Distributie SA	80,932,160	0.60%
22	E.ON Gaz Romania SA	74,223,275	0.55%
23	Societatea Nationala a Sarii SA	66,721,034	0.49%
24	Conpet SA	46,889,765	0.35%
25	CN Administratia Porturilor Maritime SA	45,271,247	0.34%
26	Zirom SA	34,715,824	0.26%
27	Enel Energie Muntenia	27,773,809	0.21%
28	E.ON Moldova Furnizare SA	24,539,783	0.18%
29	Azomures SA	20,780,033	0.15%
30	Primcom SA	18,086,731	0.13%
31	ENEL Energie SA	17,710,061	0.13%
32	Romaero SA	16,073,986	0.12%
33	Oil Terminal SA	15,090,768	0.11%
34	CN Administratia Canalelor Navigabile SA	11,792,152	0.09%
35	Electrica Furnizare Transilvania Sud SA	6,654,051	0.05%
36	Electrica Furnizare Transilvania Nord SA	4,863,132	0.04%
37	Aeroportul International Traian Vuia SA-Timisoara	3,703,991	0.03%
38	CN Administratia Porturilor Dunarii Fluviale SA	2,819,291	0.02%
39	Electrica Furnizare Muntenia Nord SA	2,346,927	0.02%
40	Aeroportul International Mihail Kogalniceanu - Constanta SA	1,872,702	0.01%
41	CN Administratia Porturilor Dunarii Maritime SA	1,266,117	0.01%
	Other Portfolio Companies	57,960,392	0.43%
	<b>Total financial assets</b>	<b>12,196,009,511</b>	<b>90.40%</b>
	<b>NSC NAV</b>	<b>13,491,897,941</b>	<b>100.00%</b>

Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

Information about the financial assets presented above is detailed in Annex 6 in the form of Portfolio Company profiles for the significant stakes clearly identified in the table, while for the stakes gathered under the heading "Other Portfolio Companies" the Annex 6 identification information is provided.



### 7.3.3 The Fund's Portfolio structure – breakdown on listed vs. unlisted companies

As of 31 October 2010, the Fund's Portfolio comprises a total of 54 unlisted Portfolio Companies and 29 Portfolio Companies listed on the Bucharest Stock Exchange, either on main BSE market or on Rasdaq section. At the same date, the value of unlisted holdings is Lei 7,413.17 mn (54.95% of the total NSC NAV), while the listed holdings amounts Lei 4,782.84 mn (35.45% of the total NSC NAV). However, in consideration of the valuation methods provided for by the NSC regulations, the Fund's stakes in listed companies are divided into: (i) 16 Portfolio Companies, listed and traded for the past 90 days and (ii) 13 Portfolio Companies, listed and not traded for the past 90 days.

#### *Portfolio Structure: listed vs .unlisted Portfolio Companies, as of 31 October 2010*

<b>PORTFOLIO COMPANIES</b>	<b>No of companies</b>	<b>NSC NAV -Lei-</b>	<b>% Portfolio</b>	<b>% in NSC NAV</b>	<b>Valuation method</b>
Unlisted shares, out of which:	54	7,413,167,235	60.78%	54.95%	Based on the value of Portfolio Company's equity, as reflected in the most recent financial statements;
<i>companies in insolvency, reorganization or bankruptcy</i>	4	0			Zero value
<i>other companies with zero value in NSC NAV calculation *)</i>	4	0			Zero value
Listed shares, traded for the past 90 days	16	4,756,704,861	39.00%	35.26%	Based on weighted average price calculated for the past 90 days
Listed shares, not traded for the past 90 days, out of which:	13	26,137,414	0.21%	0.19%	Based on the value of Portfolio Company's equity, as reflected in the most recent financial statements
<i>companies in insolvency, reorganization or bankruptcy</i>	2	0			Zero value
<i>other companies with zero value in NSC NAV calculation *)</i>	1	0			Zero value
<b>Total Financial Assets</b>	<b>83</b>	<b>12,196,009,511</b>	<b>100.00%</b>	<b>90.40%</b>	
<b>NSC NAV</b>		<b>13,491,897,941</b>		<b>100.00%</b>	

Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

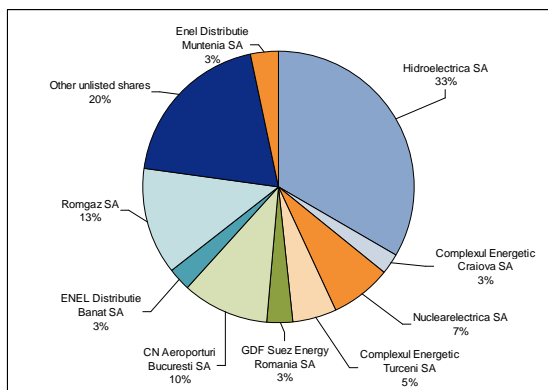
\*) Note: Other companies with zero value in NSC NAV calculation are companies with negative equity and S.C. Electromecanica Ploiesti S.A. and S.C. Uzina Mecanica Bucuresti S.A., which do not recognize the Fund as a shareholder. For more details with respect to Electromecanica Ploiesti S.A. and S.C. Uzina Mecanica Bucuresti S.A. please refer to Section 4.13 "Litigations".

The most valuable holdings in unlisted Portfolio Companies are: the 19.94% stake in Hidroelectrica SA, the largest Romanian electricity producer (Lei 2,464.77 mn, 18.27% of NSC NAV), the 14.99% stake in the natural gas producer Romgaz SA (Lei 934.08 mn, 6.92% of the NSC NAV), the 20.00% stake in the Bucharest airports operator: CN Aeroporturi SA (Lei 754.21 mn, 5.59% of the NSC NAV) and the 9.72% stake in Nuclearelectrica SA, the operator of Cernavoda nuclear plant Units 1 and 2 (Lei 528.80 mn, 3.92% of the NSC NAV).

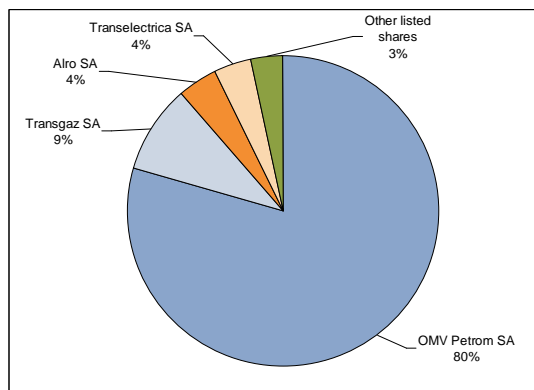
The most valuable holdings in listed Portfolio Companies are: the 20.10% stake in the largest South East Europe oil company OMV Petrom SA (Lei 3,800.08 mn, 28.17% of NSC NAV), the

14.98% stake in the National gas system operator, Transgaz SA (Lei 438.83 mn, 3.25% of NSC NAV), the 9.92% stake in the largest aluminium smelter in Central and Eastern Europe (excluding CIS), Alro SA (Lei 201.60 mn, 1.49% of the NSC NAV) and the 13.49% stake in the electricity transmission company, Transelectrica (Lei 181.36 mn, 1.34% of the NSC NAV).

*The Fund's Portfolio structure, unlisted shares:*



*The Fund's Portfolio structure, listed shares:*



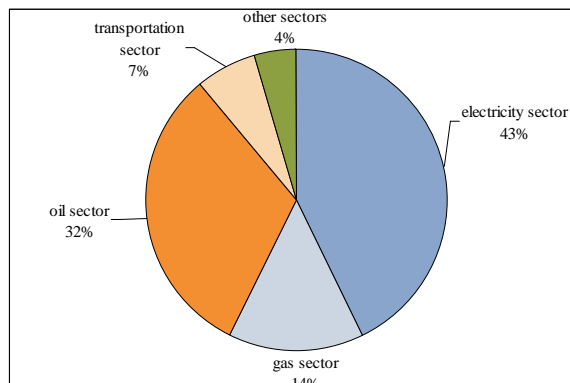
Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

### 7.3.4 The Fund's portfolio structure – breakdown on activity sector

The Fund's portfolio is diversified in terms of the sectors the Fund has exposure to, which ranges from electricity sector (production, transmission and distribution and supply), oil & gas, transportation (airports and ports), courier services and many others (chemicals, metallurgy, machinery, real estate, aluminium smelter, agriculture etc). However, the Fund's portfolio is heavily weighted on electricity and oil & gas sectors, as the stakes in Portfolio Companies belonging to such key sectors are weighting about 80% of the NSC NAV.

*Portfolio Structure: breakdown on activity sector, as of 31 October 2010*

PORTFOLIO COMPANIES	No of companies	NSC NAV -Lei-	% in NSC NAV
electricity sector	19	5,214,954,676	38.65%
gas sector	5	1,755,021,638	13.01%
oil sector	4	3,862,061,563	28.63%
transportation sector	7	820,935,042	6.08%
other sectors	48	543,036,592	4.02%
<b>Total Financial Assets</b>	<b>83</b>	<b>12,196,009,511</b>	<b>90.40%</b>
<b>NSC NAV</b>		<b>13,491,897,941</b>	<b>100.00%</b>



Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)

Considering the dependence of the Fund's Portfolio on some key activity sectors for the Romanian economy, a more detailed description of each such sector is provided in the next sections.

By far, the most valuable stake within the electricity sector is the 19.94% stake in Hidroelectrica SA, as it weights almost half of the electricity sector entire exposure. Only one of the stakes in the electricity sector is listed on BSE, Transelectrica SA. The dispersion within the sector exposure is 81.15% in electricity generators, 3.48% in electricity transmission, and the rest of 15.37% in distribution & supply.

In terms of oil & gas exposure, the most valuable stake is the one in OMV Petrom SA, which actually is also the most valuable stake of the entire Fund's Portfolio (67.65% of oil & gas exposure), followed by Romgaz SA (16.63% of oil & gas exposure) and Transgaz SA (7.81% of oil & gas exposure).

## 7.4 Portfolio Performance

### *The Fund's assessment of Portfolio performance until the appointment of the Fund Manager*

Given the strategic objective of selecting an international asset manager as well as listing the Fund on a local and/or international stock exchange, the Fund has adopted a conservative approach. The main aims have been:

- (a) the preservation of the existing portfolio through limited number of exits
- (b) avoiding dilution by participating in cash share capital increase operations
- (c) proper cash management

During 2007, the management has not conducted any divestment operation. However, the enactment of Government Emergency Ordinance 81/2007 generated changes in the portfolio. During that year the Fund used its pre-emption rights and contributed in cash a total amount of RON 41.24 mn to the share capital of a number of Portfolio Companies. The most important operation has been the RON 39.82 mn capital increase of the national gas producer Transgaz SA. Also, the Fund contributed RON 0.73 mn for 12% of the shares in the newly set up service company CEZ Servicii.

During 2008, the only divestment operation was the sale of the 3% stake in Petrom Aviation. The Fund sold its stake in the public take-over offer launched at RON 0.243 per share. The operation was finalized in February 2009, the total value of the transaction amounting to RON 1.35 mil.

During 2008, the Fund participated with around RON 49.85mn at the share capital increase of four electricity distribution companies as follows: Electrica Distributie Transilvania Sud (RON 11.93mn), Electrica Distributie Transilvania Nord (RON 11.93mn), Electrica Distributie Muntenia Nord (RON 11.93mn) and Enel Distributie Muntenia (RON 14.05mn).

During 2009, the Fund sold its participations in several Portfolio Companies, the most important transactions involved its minority participations in the Romanian subsidiaries of Czech energy group CEZ. In September 2009, the Fund sold its entire 12% stake in CEZ Servicii for EUR 1.60mn (EUR 2.19 per share). Also, in September 2009, the Fund simultaneously sold to CEZ Group the shares in the electricity supply and distribution companies CEZ Vanzare and CEZ Distributie. The operation was a result of the exercise of the CALL option included in the privatization contract of Electrica Oltenia (the predecessor of CEZ Vanzare and CEZ Distributie) by CEZ Group – the majority shareholder. For 30% of the shares in both companies, the Fund received EUR 229.59 mn. Also, in October 2009, the Fund sold the entire 17.34% stake in Centrofarm for around RON 6.82mn (RON 6.0 per share).

The Fund did not participate in any capital increase operations during 2009.

During the first six months of 2010, as well as during the subsequent months until the appointment of the Fund Manager, the management of the Fund did not carry out any investment operations.

In February 2010, the merger between the two international airports in Bucharest (Aeroportul International Henri Coanda Bucuresti S.A. and Aeroportul International Bucuresti Baneasca Aurel Vlaicu S.A.) became effective. The Fund supported the merger, endorsing the operation at the shareholders meetings of the two companies involved in the merger, held at the end of November 2009.

*The Fund's assessment of Portfolio performance after the appointment of the Fund Manager*

The Fund Manager has not made any changes to the Portfolio until the date of the Prospectus. However, the Fund Manager has taken an active approach in conserving and enhancing the value of the Portfolio. The Fund Manager has been actively opposing initiatives that may dilute the stakes of the Fund in certain Portfolio Companies or make preferential payments prejudicial to the Fund's interest.

## **7.5 Independent Valuation**

In April 2010, the Fund initiated a selection process for independent valuation services to be carried on according to international valuation standards. The purpose of such independent valuation was to establish the market value for the assets within the Fund portfolio, in view of the Fund's future listing process. The main qualification criteria was that the participant to the selection process had to be certified by Romanian National Association of Valuators (ANEVAR) and registered by NSC as authorized valuator. Other qualification criteria were: (i) company credentials and recommendation letters from former clients; (ii) adequate personnel structure and availability of resources; (iii) reputation; (iv) financial standing with regards to valuation services (turnover, liquidity and solvability ratios as of end of December 2009); (v) other financial statements positions.

The Fund was entitled to exclude from the selection process any participant in the following situations: (i) it is in bankruptcy at the moment of selection process; (ii) has knowledge about any employee or legal representative being convicted by final decision of a court of law for criminal activities, corruption, fraud and money laundry; (iii) has not paid its taxes due in accordance with applicable legislation; (iv) was convicted by a court of law for breach of professional ethics; (v) provides false or insufficient information (vi) its proposal does not cover the entire list of assets that the Fund provided or as set out within the tender book (except in cases of conflict of interests).

In accordance with the invitation to tender, which was published in two nationwide newspapers by 15 April 2010, the valuator was supposed to finalise the valuation process in two months from the date on which it received the instruction to commence work. The offers were delivered by 23 April 2010 and had a validity period of 120 days.

The invitation to tender also stated that the contract shall be awarded based on "the most advantageous technical –economical offer", meaning that the final score was allocated in a certain proportion between the technical and financial offer.

Besides elements which proved the technical capabilities and expertise of the participant to the selection process, the technical offer was supposed to include a proposed valuation methodology including valuation methods, bases of using discounts or premiums, etc.

Following the above-mentioned procedure, during May 2010, the Fund has selected three independent valutors, which were awarded service agreements for valuation of the Fund's assets, as follows:

- (a) KPMG Romania SRL – 15 Portfolio Companies,
- (b) JPA Audit si Consultanta SRL – 40 Portfolio Companies and
- (c) Darian DRS SA – 20 Portfolio Companies.

The independent valuers have used a wide range of valuation methods in accordance with international valuation standards. The resulting values for the Fund's stakes in Portfolio Companies are listed in Annex 1.

## **7.6 Planned Privatisations through the Capital Market**

The Government has decided in 2010 the sale of minority stakes in four companies and has adopted Government decisions in this respect, as follows:

- selling of 15% of Romgaz share capital through an initial public offering
- selling of 9.84% of OMV Petrom share capital through capital market methods (public offer or public tender offer)
- selling of 15% of Transelectrica share capital through a public offering
- selling of 15% of Transgaz share capital through a public offering

The Government decisions provide for the selection of a broker authorized to intermediate the offerings and for the rules for the appointment of the commissions in charge with monitoring the above mentioned privatization process.

It is however, uncertain by when the above will be completed.



## 7.7 Overview of Electricity Sector

### 7.7.1 The Fund exposure in the electricity sector

The companies active in the Romanian electricity sector and, in which the Fund has an exposure, are presented in the table below. More detailed company profiles are provided in Annex 6 of the Prospectus.

Portfolio Companies	Sector	The Fund stake (%)	Listed/unlisted
Nuclearelectrica SA	Electricity producer	9.72%	unlisted
Hidroelectrica SA	Electricity producer	19.94%	unlisted
Complexul Energetic Rovinari SA	Electricity producer	23.60%	unlisted
Complexul Energetic Craiova SA	Electricity producer	24.35%	unlisted
Complexul Energetic Turceni SA	Electricity producer	24.78%	unlisted
Transelectrica SA	Electricity transmission	13.49%	listed
Enel Distributie Muntenia SA	Electricity distribution	12.00%	unlisted
Electrica Distributie Muntenia Nord SA	Electricity distribution	21.99%	unlisted
Electrica Distributie Transilvania Sud SA	Electricity distribution	21.99%	unlisted
E.ON Moldova Distributie SA	Electricity distribution	22.00%	unlisted
Electrica Distributie Transilvania Nord SA	Electricity distribution	22.00%	unlisted
Enel Distributie Dobrogea SA	Electricity distribution	24.09%	unlisted
Enel Distributie Banat SA	Electricity distribution	24.12%	unlisted
Enel Energie Muntenia SA	Electricity supply	12.00%	unlisted
Enel Energie SA	Electricity supply	12.00%	unlisted
E.ON Moldova Furnizare SA	Electricity supply	22.00%	unlisted
Electrica Furnizare Transilvania Sud SA	Electricity supply	22.00%	unlisted
Electrica Furnizare Muntenia Nord SA	Electricity supply	22.00%	unlisted
Electrica Furnizare Transilvania Nord SA	Electricity supply	22.00%	unlisted

*Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)*

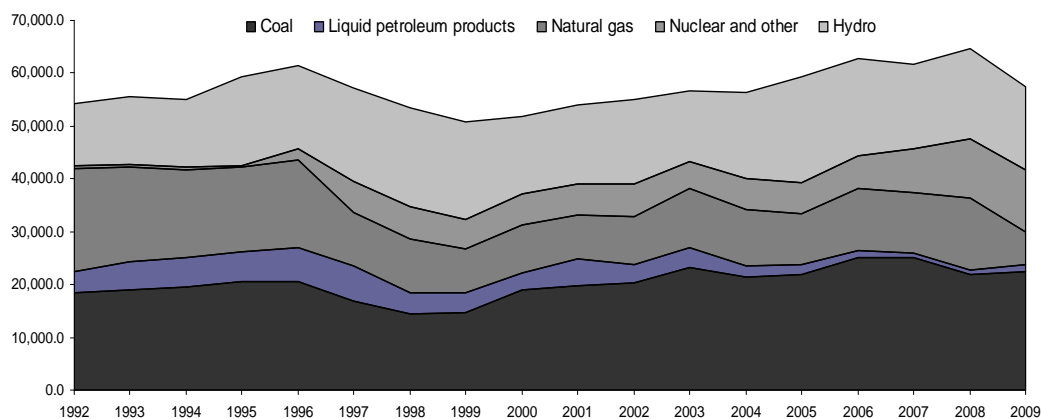
### 7.7.2 Brief presentation of the electricity sector main drivers

#### 7.7.2.1 Consumption, Production, Installed capacity

Electricity demand peaked in 1989 and then fell considerably during the 1990s with the beginning of the economic restructuring. By 1999, Romanian electricity consumption was around 40% lower than a decade earlier. Afterwards, quantities edged higher every year until 2008. The economic recession brought a new slump in consumption as, according to the Regulatory Authority in the Energy Sector, Romania's energy consumption in 2009 dropped by 9% year-on-

year to 41.6 TWh. The production of energy followed a similar trend and in 2009, the total energy generated in Romania decreased by 11% compared to 2008, to 56.7 TWh. Around 37% of the energy produced in 2009 came from coal-fired plants, 29% was generated by hydro-plants and 11% was nuclear energy, the rest coming from natural gas and liquid petroleum products.

### *Evolution of electricity production, GWh*



Source: National Statistics Office, Regulatory Authority in the Energy Sector

In 2009 exports of electricity dropped by 41% year-on-year to 3.15 TWh, accounting for around 6% of the quantity delivered into the national system, down from 9% in 2008. At the same time, electricity imports amounted to 0.68 TWh, down 27% year-on-year, at around 2% of quantities delivered.

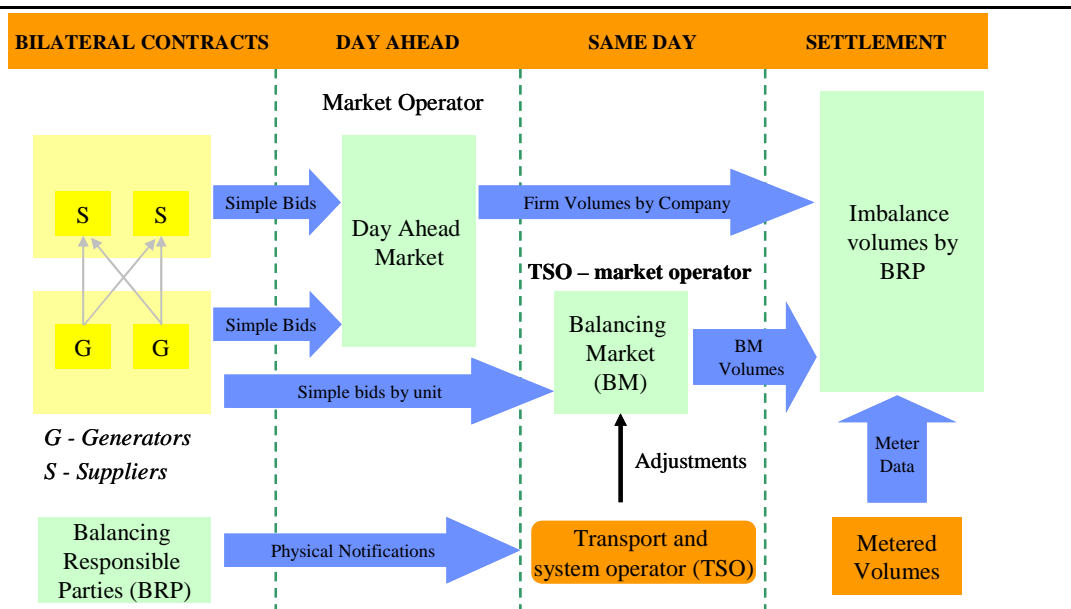
The total installed energy production capacity in Romania amounts to 20.4 GW. Almost 36% of this capacity corresponds to coal-fired power stations, 26% to hydrocarbon-based power plants, 31% to hydro-electric plants, while nuclear energy represents roughly 7% of total capacity.

#### **7.7.2.2 Market players**

In 2009, on the Romanian electricity market operated the following main players:

- 100 licensed energy generators
- one operator of the national energy grid – Transelectrica and one market operator, Opcom (managed by Transelectrica)
- eight regional energy distributors (three of which are fully state owned)

## Structure of the wholesale electricity market



Source: Regulatory Authority in the Energy Sector

The sector comes under the supervision of the Regulatory Authority in the Energy Sector (ANRE) which elaborates the regulatory framework of the sector, approves the tariffs for the regulated players (mainly for the monopolistic activities like transport and distribution, as well as the tariffs for production and supply on the regulated market), sets technical standards and grants operating licenses to the market players.

In order to comply with EU regulations, both the natural gas and electricity markets have been fully liberalized starting July 2007, which allowed consumers to choose their preferred supplier. In 2009, the consumers that exercised this option and have chosen their supplier (mainly industrial companies acting on the competitive market) accounted for 45% of the total electricity consumption, or 18.5 TWh. Thus the real market opening reached 45%. The consumption on the regulated market of "captive" consumers reached 23 TWh, with households accounting for 48% of this market (11 TWh).

### 7.7.2.3 Market segments

The energy wholesale market comprises the bilateral contracts market (regulated and negotiated), the centralized market (where transparency is ensured through a bidding system), the balancing market and the day-ahead market.

#### *Bilateral contracts*

Bilateral contracts can be regulated or directly negotiated (non-regulated). Regulated contracts are set-up between electricity producers and suppliers of "captive" consumers. ANRE sets the

regulated electricity prices for both the supplier and the producer engaging in regulated activities.

Directly negotiated contracts include contracts signed between producers or suppliers with other parties. The details of the contracts are not public. Some of these contracts are for long-term periods and the average prices on this segment of the market are usually the lowest.

#### *Centralized market*

The centralized market (CMBC) was launched in December 2005 and offers a transparent venue for contracts on the open market. It is operated by Opcom, and is now split into two separate markets: public auctions and continuous negotiation. On the public auction market the offers are not standardized in terms of duration, quantities and supply schedule, and at the end of the session the list of the offers is made public. The shortest admissible duration of a contract is one month. On the continuous negotiation market, the trading is run online, from the workstations of the registered market participants. The market is opened for participation for producers, suppliers and industrial consumers. Participation in the auction sessions is conditioned by the posting of tender guarantees by the buyers, as well as by the sellers.

#### *Day-ahead market*

On the day-ahead market, operated by Opcom as well, active electricity is traded for each trading interval of the corresponding delivery day. Market participants are only able to submit a single buy offer and a single sell offer for each trading period but this offer may include up to 25 price-quantity pairs. Offers are aggregated into a total supply curve, bids are aggregated into the total demand curve and the hourly Market Clearing Price is the price at which these curves intersect.

#### *Balancing market*

The balancing market operates since July 2005 and the transmission system operator (TSO), Transelectrica, is responsible for its operation. The market was set up to cover the differences between contracted consumption and production values and their real-time values. The system operator buys or sells energy to dispatchable producers and the participants that caused the disequilibrium, organized in balancing responsible parties, are required to pay for the energy excess/shortage.

**Table: Energy market segments**

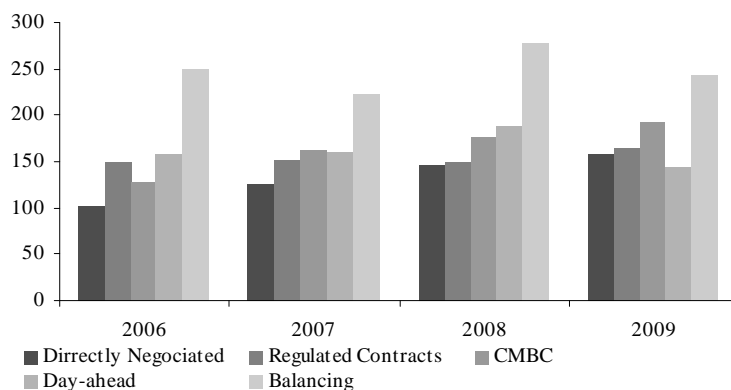
Energy Market Component	Quantities	year-on-year growth	% of total traded volume	Average price 2009	year-on-year growth
	TWh	%	%	RON/MWh	%
Bilateral Negotiated Contracts	34.6	-1%	41%	158.7	9%
Bilateral Regulated contracts	30.3	4%	36%	164.4	4%
Exports	3.2	-41%	4%	170.2	-11%
Centralized Market for Contracts	6.3	-28%	8%	192.5	9%

Day Ahead Market	6.3	22%	8%	144.8	-23%
Balancing Market*	3.2	-10%	4%	243.1	-13%
<b>Total</b>	<b>83.9</b>	<b>-3%</b>	<b>100%</b>	<b>n.a.</b>	<b>n.a.</b>

Source: ANRE, \*deficit prices for the balancing market

Around 80% of the transactions with electricity (in terms of physical volumes) either take place through regulated contracts or through directly negotiated bilateral contracts. The historical average price data indicates that there has been some degree of convergence between the various market mechanisms since 2006, as would be anticipated as the wholesale market matures.

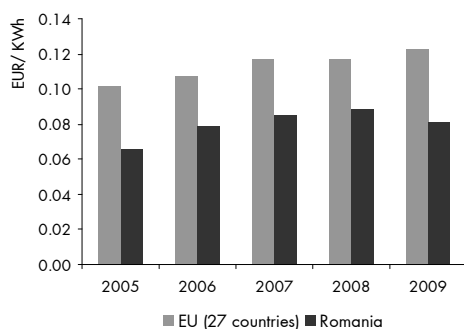
### Breakdown of electricity prices evolution, RON/MWh



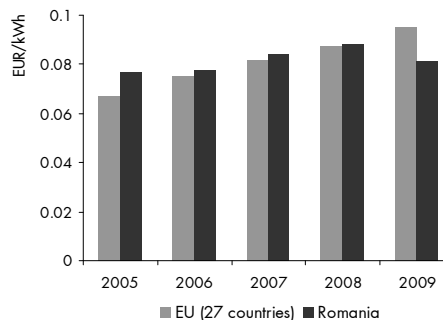
Source: ANRE

Data from Eurostat shows that regulated prices are lower compared to EU averages, especially when we look at regulated prices paid by households.

### Electricity prices for households



### Electricity prices for industrial consumers



Source: Eurostat

### **7.7.3 History**

In 1998, Romania started a process of restructuring the electricity sector. The first step was to split the vertically integrated Romanian Electricity Agency (RENEL) into three separate entities: (i) Electrica (distribution and supply); (ii) Termoelectrica (generation of electricity from coal, gas and fuel oil thermal power plants, as well as district heating and related fuel supply) and (iii) Hidroelectrica (hydropower plants). These three companies were put under the umbrella of a holding company National Electricity Company (CONEL), which also managed the national transmission grid and provided system and market administration services.

Two additional generation companies were established in 1998 outside of CONEL, SC Nuclearelectrica SA (the nuclear energy producer) and the Romanian Authority for Nuclear Activities (RAAN), a producer of heavy water and electricity and heat generator. In the same year, the Regulatory Authority in the Energy Sector (ANRE) became an independent institution regulating the electricity market.

In 2000, CONEL was dissolved and each of the three companies within its composition were spun off. A fourth company, Transelectrica was established to manage the operation and dispatch of the National Electricity Transmission System.

Over the next years, Termoelectrica was further split by divesting some generators into separate legal entities, which remained state-owned (Electrocentrale Rovinari, Electrocentrale Turceni, Electrocentrale Bucuresti and Electrocentrale Deva).

In 2001 Electrica was split into eight regional distribution and supply companies. Five of these were subsequently privatized. European regulations required the unbundling of supply and distribution operations and in 2007 the operations of the main distribution companies were split between the two activities.

The government issued several decisions designed to gradually liberalize the retail market. Between the end of 2000 and 2007 the degree of market opening for industrial end users increased from 10% (governed by a 100 GWh consumption threshold) to 100%. From July 2007 the market was fully liberalized.

The new phase of the strategy for the restructuring of the energy sector implies the formation of two "energy giants" by merging several state-owned generators and mining companies.

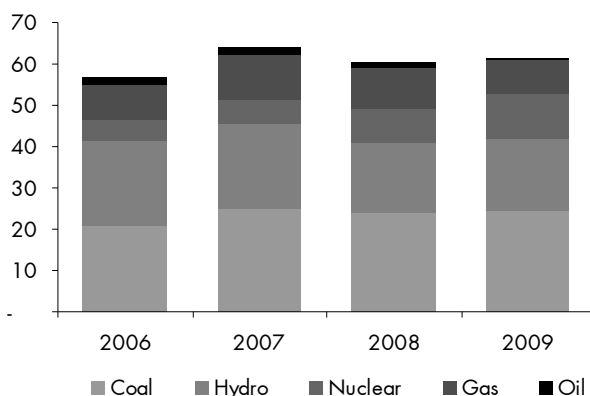
### **7.7.4 Production**

#### **7.7.4.1 Generation mix, main players**

At the end of 2009 Romania's total installed electricity generating capacity stood at 20,411 MW with the breakdown by primary sources as follows: (i) coal fired plants – 7,278 MW, (ii) hydrocarbons (oil & gas) fired plants – 5,306 MW, (iii) hydro plants – 6,414 MW and (iv) nuclear plant – 1,413 MW. In 2009 the energy delivered into the national energy system was of 52

TWh, which is 11% lower compared to the previous year. Over the last ten years the share of the nuclear and hydro plants increased at the expense of oil & gas fired plants. The graph below exemplifies how the mix of electricity generation by primary source has changed over the last four years.

*Electricity generation by primary source, TWh*



Source: ANRE

The next table illustrates the breakdown of electricity generation by the main electricity producers.

*Table: Electricity generation by producer, GWh*

Producer	2008	2009
S.C. Termoelectrica S.A.	1,517	1,554
S.C. Electrocentrale Bucuresti S.A.	5,803	4,393
S.C. CE Rovinari S.A.	5,937	5,354
S.C. CE Turceni S.A.	7,681	6,220
S.C. CE Craiova S.A.	4,843	4,369
S.C. Electrocentrale Deva S.A.	3,823	2,648
S.C. Hidroelectrica S.A.	17,004	15,513
S.N. Nuclearelectrica S.A.	11,226	11,752
Others	6,174	4,890

Source: ANRE

#### 7.7.4.2 Regulatory framework – production

The production of electricity destined to the captive consumers, namely sold through bilateral regulated contracts, is regulated by ANRE, which sets the prices and the quantities sold by the producers under these contracts. The producers subject to this regulation can choose to participate in the regulated market or are selected by the authority. The same methodology applies to the thermal energy produced in cogeneration groups. The methodology is designed to allow the

producers to earn a certain (before tax) return on regulated assets. The real return on regulated assets is based on the before tax weighted average cost of capital (in RON terms) and is capped at 9%. The operating costs agreed with ANRE are divided in variable costs, such as the fuel acquisition costs, and fixed costs, such as maintenance, staff expenses and amortization. In certain and clearly defined cases, some prior year costs/revenues could be taken into consideration when setting the regulated prices. For example, for thermo producers such costs might be a justified difference between regulated fuel acquisition costs and the effective fuel acquisition costs. The authority, based on the info/estimates gathered from market participants, sets the quantities and the prices for the regulated segment of the market for the next year, as well as the regulated fixed and variable costs.

#### **7.7.4.3 Current status of production facilities, investments planned**

The majority of Romania's electricity producing facilities need significant investments to increase efficiency and to comply with the environmental regulations as most facilities were commissioned more than 20 years ago, before the fall of the communist regime. The need for investments is most acute for the thermo producers, such as Termoelectrica or the cogeneration companies and to a lesser extent for hydro producers (i.e. Hidroelectrica).

Several projects have been announced during the past years, for revamping and erection of new facilities. The table presented below, provided by Transelectrica, shows the expected additions to Romania's generating capacity for the next three years (split by primary sources).

*Table: Additions to the disposable electricity generation capacity, MW*

	2011	2012	2013
Thermal Power Plants	1,074	557	570
Lignite	-	-	-
Hard Coal	-	-	-
Gas	1,074	557	570
Hydro Power Plants	27	173	49
Nuclear Power Plants	-	-	-
Renewable Energy Power Plants	260	284	486
Wind Power Plants	260	270	486
Others	-	14	-
Total	1,361	1,014	1,105

*Source: Transelectrica*

Regarding investments in existing facilities, the investment needs of the coalfired plants are mainly related to the fulfilment of the environmental requirements or to meet other EU standards (such as having desulphurization installations by 2012). The projects of this kind are eligible to be co-financed with EU funds, but require a company's own funding component.



Regarding new projects, one of the largest investments in a new gas power plant is the one carried out by OMV Petrom, which should have an installed capacity of 860 MW and should be commissioned by 2012.

The most active segment is the wind one, where the players are almost entirely from the private sector. The majority of the projects are developed in Dobrogea region, which is the country's most favourable from this point of view. The largest project announced so far will have an installed capacity of 600 MW.

On the nuclear segment, due to the capital-intensive nature of the business, no additions to capacity are expected in the near future. In 2008 a project company for building the third and fourth reactors of Cernavoda nuclear plant was established. Nuclearelectrica has a 51% stake in this project company. Since its establishment there were several delays and the timing for the construction is uncertain.

#### **7.7.4.4 Reorganization plan for the electricity generating sectors**

In 2009 the Ministry of Economy started the discussion regarding the reorganization of the electricity production sector into two energy giants. After several delays, on January 29, 2010, the government ratified the setup of the two energy companies by Government Decision no. 56/2010, later revised by the Government Decision no. 357/2010. The details of the plan for the creation of the two energy giants were published in the Official Gazette on October 15, 2010. The two companies will be named ELECTRA and HIDROENERGETICA. Basically, the process for the set-up of the two companies implies simultaneously (i) spinning-off several Hidroelectrica subsidiaries that will be merged with other electricity producers (thus, creating ELECTRA), and (ii) merging the rest of Hidroelectrica assets with two thermo electricity producers (thus, creating HIDROENERGETICA).

ELECTRA will be formed through the merger of Nuclearelectrica, Societatea Nationala a Lignitului Oltenia (The National Lignite Company), Complexul Energetic Turceni (Thermo Power Plant), Complexul Energetic Rovinari (Thermo Power Plant) and Complexul Energetic Craiova (Thermo Power Plant) with Hidroelectrica's spun-off assets, namely Ramnicu Valcea, Sibiu, Targu Jiu and Hidroserv Ramnicu Valcea subsidiaries. The spun-off assets were valued by KPMG based on end-2009 financial statements at RON 3.17 bn and accounted for 19.15% of Hidroelectrica net asset value.

HIDROENERGETICA will be formed through the merger of the remaining Hidroelectrica assets (valued by KPMG at RON 13.38 bn and representing 80.85% of Hidroelectrica net asset value as of end-2009) with two Termoelectrica subsidiaries - Electrocentrale Deva and Electrocentrale Bucuresti (thermo power plants).

This reorganisation plan for the electricity generating sectors has faced delays and opposition from various stakeholders.

### *Shareholding Electra and Hidroenergetica*

	Electra	Hidroenergetica
Ministry of Economy	84.4%	63.8%
Fondul Proprietatea	15.1%	15.9%
Termoelectrica	0.3%	20.2%
National Company for Mines Closing and Conservation	0.1%	
Hidroelectrica	0.1%	

*Source: Ministry of Economy, Official Gazette as of 15 October 2010*

#### **7.7.4.5 Planned merger**

According to the merger plan prepared by E.ON Gaz Romania S.A. in June 2010 and published in the Official Gazette no 3619/20 August 2010 and based on the extraordinary shareholders' meeting resolutions passed on 2 November 2010 approving the merger between E.ON Moldova Furnizare S.A. and E.ON Gaz Romania S.A., the merger shall be implemented as of 31 December 2010.

The Fund has voted against the merger and challenged various resolutions related to this merger. Please refer to the Section 4.13. "Litigations".

#### **7.7.5 Electricity Supply and Distribution**

##### **7.7.5.1 Privatization and unbundling**

The eight regional distribution and supply companies were separated from one entity, Electrica SA, in 2001. Five of the eight distribution companies have been privatized in the last six years, the state continuing to keep minority stakes in four of them. For the three distribution companies that have remained in the hands of the state so far there are no clear plans for privatization.

The state applied the same privatization method in the case of four of the five energy distributors that have been through this process so far. Electrica sold a stake of around 25% initially to each buyer. Afterwards a share capital increase followed, where only the buyer had the right to participate, diluting the government's stake to less than 50%. The cash injected by the buyer was to be used in subsequent investments needed to upgrade the distribution grid. In 2007, the distribution and supply activities had to be legally separated.

##### **Privatization history**

###### *Enel Dobrogea, Banat and Muntenia*

In 2005, Enel purchased 24.6% of Electrica Dobrogea and afterwards increased its stake to 51% through a capital increase. The total value of the transaction stood at EUR 42.7 mn. In the same year, Enel bought a 24% stake in Electrica Banat and performed a capital injection to reach a stake of 51%, for a total value of transaction of EUR 69.1 mn. When the distribution and supply activities were separated, there was a single entity created for the supply in both regions (Do-

brogea and Banat), called Enel Energie, the distribution activity being performed by Enel Distribuție Banat and Enel Distribuție Dobrogea.

In 2008, Enel purchased 50% of Electrica Muntenia Sud for EUR 395 mn and increased its stake to 64.4% by injecting another EUR 425 mn in the company. In 2010, Enel disbursed an additional EUR 38 mn (an adjustment following 2009 results) to Electrica. After the unbundling, Enel Distribuție Muntenia provides the distribution service and Enel Energie Muntenia provides the supply activity.

The privatization agreement of the electric power supply and distribution company Electrica Muntenia Sud S.A., dated 11 June 2007, was entered into by Electrica S.A and Enel S.p.A. before the Fund became a shareholder of Electrica Muntenia Sud. The agreement contains specific references granting the Fund 'tag-along' rights: should Enel intend to sell its controlling participation to a third party (except to an affiliate or certain other specified parties) the Fund shall have the right to sell all its shares on substantially the same terms and conditions as Enel.

#### *E.On Moldova Distribuție & Furnizare*

In 2005, E.ON paid EUR 31.4 mn (subsequently increased by EUR 0.84mn based on the adjustment mechanism included in the contract) for 24.6% of Electrica Moldova and increased the share capital by EUR 68.6 mn. In 2007 the distribution and supply operations were separated into two distinct legal entities. E.On Moldova Distribuție provides the distribution services and E.On Moldova Furnizare provides the supply services.

The privatization agreement of electric power supply and distribution subsidiary Electrica Moldova S.A dated 5 April 2005 contains clauses referring both to put and call options. As the Fund was not a party to this privatization agreement and considering the fact that the company has since been partially spun-off (with part of the business transferred to E.ON Moldova Furnizare S.A. and Electrica Moldova renamed E.ON Moldova Distribuție S.A), a court ruling might be necessary to decide on whether such put and call options are exercisable in respect of the Fund's shareholding, which has not occurred to date.

#### *CEZ Distribuție and CEZ vanzare*

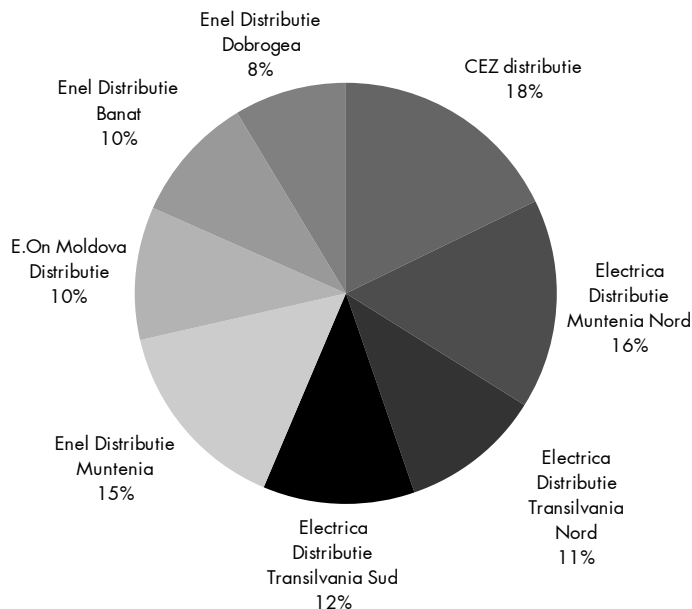
In 2005 CEZ group took over 24.6% of Electrica Oltenia from state-owned Electrica for EUR 47.4 mn and increased its stake to 51% after a share capital increase worth EUR 103.6 mn. In September 2009 CEZ purchased the remaining 49% from the Fund and Electrica for EUR 375 mn. CEZ distribuție provides the distribution services and CEZ Vanzare is in charge of the supply activity.

### **7.7.5.2 Main players - distribution**

The total client base of the distribution network comprises around 8.8 mn users and 39.5 TWh were distributed through the entire network in 2009. The quantity distributed to end -consumers

fell by 7% year-on-year in 2009 and represented around 75% of the electricity volume produced over the same year.

### *Energy Distributors Market Share 2009*



Source: ANRE

#### **7.7.5.3 Regulatory framework – distribution**

The distribution activity is regulated by the "tariffs basket cap" methodology, the tariffs being set by the National Authority in the Energy Sector (ANRE). The first regulatory period began in 2005 and lasted for three years, while the subsequent periods span over five years. The methodology allows for a regulated real return on assets above the costs agreed with the authority. The costs are split into controllable (incl. maintenance and salaries) and uncontrollable (taxes, etc) costs, grid losses costs and regulated depreciation. Revenues are set in real terms and adjusted annually with inflation and the expected efficiency factor (X-factor). Also, revenues are smoothed over the regulatory period to avoid uneven variations. During the regulatory period, revenues are adjusted for the differences of the previous year between estimated and realized distributed quantities, grid losses price and quantity and uncontrollable costs.

In order to improve operational efficiency, the distributors were required to reduce controllable operating costs by 1% in real terms during the first regulatory period (2005-2007) and with a minimum 1% per year over the second regulatory period.

The agreed return on assets is set using the before tax weighted average cost of capital and for the first regulatory period it stood at 12%. For the current period (2008-2012) the return on assets was set at 10% for the privatized electricity distributors and 7% for the distributors still controlled by the Romanian State through Electrica SA.

#### 7.7.5.4 Main suppliers

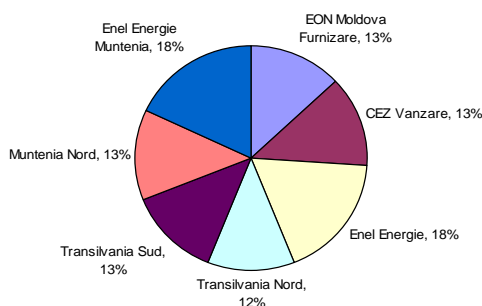
In December 2009 the number of registered suppliers on the market reached 71. Out of these, 30 operate only on the wholesale market, and 41 operate on both wholesale and retail market (including the seven "implicit" suppliers that act on the regulated segment of the retail market).

Legally, the electricity market opening degree is 100%, enabling the consumers to choose their supplier. However, at the end of 2009 the real opening degree of the market stood at around 45%, meaning that out of the total consumption of 41.6 TWh, 55% represented the consumption of captive consumers (out of which almost half is represented by households).

The companies that were split from the regional distribution companies after the unbundling process called "implicit" suppliers, supply the captive consumers. In 2009 the cumulated electricity supplied by these companies to captive consumers amounted to 23.05 TWh.

#### *Implicit suppliers - market share on the regulated market - 2009*

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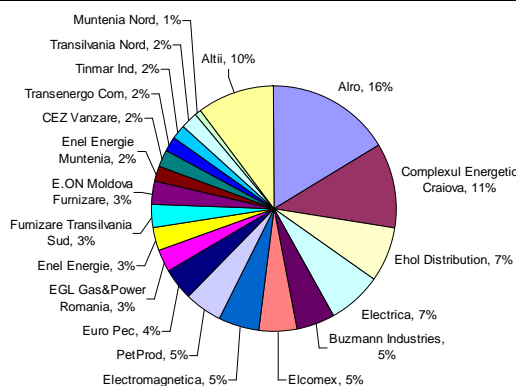

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Source: ANRE

The electricity supplied on the competitive segment of the market stood at 18.5 TWh in 2009.

#### *Market share of suppliers – competitive segment of the retail market - 2009*

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Source: ANRE

A common issue faced by electricity supply companies in Romania is that they have significant over-due unpaid receivables by the state-owned railways companies (CFR). Due to this, companies in the electricity supply sector had to record provisions. The issue is on the Romanian authorities agenda. This has led to some solutions being implemented. For example, in 2010, the Government found a solution to settle RON 111.2 mn of unpaid receivables towards E.ON Moldova Furnizare S.A. (according to Government Ordinance 18/2010 published in the Official Gazette 590 /19 August 2010). There are no assurances whatsoever when or how will the other receivables from CFR be paid.

#### **7.7.5.5 Regulatory framework - supply**

The revenues of the suppliers to captive consumers are regulated. ANRE sets the energy mix to be acquired by each "implicit" supplier and the methodology allows for a 2.5% return on the electricity acquisition cost. The revenues agreed with the authority account for the cost of the energy supplied, the regulated return and differences to be recovered or deducted from the previous period. The energy can be acquired through bilateral regulated contracts, from the Day-Ahead market, or from Transelectrica, following imbalances. The energy cost includes the electricity acquisition cost, the distribution, transmission, system services and settlement costs plus other costs related to the supply service. The tariffs can be revised every six months.

### **7.7.6 Electricity Transmission**

#### **7.7.6.1 Transelectrica role, services provided**

Electricity transmission is a natural and legal monopoly in Romania, with the service being provided by Transelectrica. The company transported in 2009 around 52.3 TWh, 11% lower year-on-year. As the transmission system operator, the company manages the grid and the dispatch infrastructure, the allocation of interconnection capacity and of green certificates. The company operates the balancing market platform and the trading platform for the centralized market and for green certificates through OPCOM. Transelectrica is in charge of the metering for the wholesale electricity market through its branch OMEPA.

In terms of operational segments, Transelectrica provides three main services: (i) electricity transmission: (ii) electricity system management by dispatcher consisting of technological system services and functional system services and (iii) administration of the balancing market. The revenues from technological system and market balancing services, which account for some 60% of total turnover, are pass-through revenues, having an equal correspondent in costs.

Technological system services are needed to maintain the safe operation of the Romanian Power System and the quality parameters of the electricity transmitted according to the applicable norms. Some of the main components of these services are: primary and secondary control reserves, other electricity reserves, voltage control, reactive electricity for loss coverage, etc.

Given the different resources used for each type of system service, the resulting revenues were divided into two separate tariffs, functional and technological.

Transelectrica performs the market administration service through its specialized subsidiary OPCOM SA, mainly responsible for providing the trading platform and the settlement of the Day-Ahead Market (DAM).

#### **7.7.6.2 Regulatory framework – transmission**

Starting 2005, the transmission tariff charged by the company is set based on a revenue cap methodology. The regulatory authority sets annual target revenues within a five-year framework (however, the first such framework extended over three years, 2005-2007). The regulated revenues are meant to cover the operating expenses of the company and the return on the regulated asset base. The costs included are operating costs split between controllable (including mainly salaries and maintenance) and uncontrollable (like taxes paid), amortization and grid losses, over the border transfers and congestions costs. Revenues are set in real terms and are smoothed during the regulatory period to avoid uneven variations. Tariffs are annually adjusted for inflation. In order to encourage efficiency, controllable costs are required to decrease annually during the current regulatory period with an efficiency factor (larger than 1% for the current regulatory period).

During the regulatory period, revenues should be adjusted annually to account for differences between realized and estimated quantities and for certain differences between realized and estimated costs (like congestion and grid losses) over the previous year.

The investments are agreed between the company and the regulator before each regulatory period. The regulated return on the asset base (RAB) in real terms has been agreed for the period 2008-2012 at 7.5%. The return on assets reflects a before tax weighted average cost of capital.

## 7.8 Overview of Gas Sector

### 7.8.1 The Fund exposure in the gas sector

The companies active in the Romanian gas sector, and in which the Fund has an exposure, are presented in the table below. More detailed company profiles are provided in Annex 6 of the Prospectus.

Portfolio Companies	Sector	The Fund stake (%)	Listed/unlisted
Romgaz SA	Gas producers	14.99%	unlisted
GDF Suez Energy Romania SA	Gas supply	12.00%	unlisted
E.ON Gaz Distributie SA	Gas distribution	11.99%	unlisted
E.ON Gaz Romania SA	Gas supply	11.99%	unlisted
Transgaz SA	Gas transportation	14.98%	listed

*Source: Reports prepared by the Fund Manager as of 31st of October 2010 (un-audited)*

### 7.8.2 Overview

Romania is Central and Eastern Europe's largest producer of natural gas. However, Romania's production has fallen significantly in recent years, due to depleting reserves, making it a net natural gas importer, with supplies coming from Russia along the southbound Progress pipeline. Romania lies on the route of the EU-planned Nabucco pipeline and is also considered an alternative of the South-stream pipeline promoted by the Russian Federation.

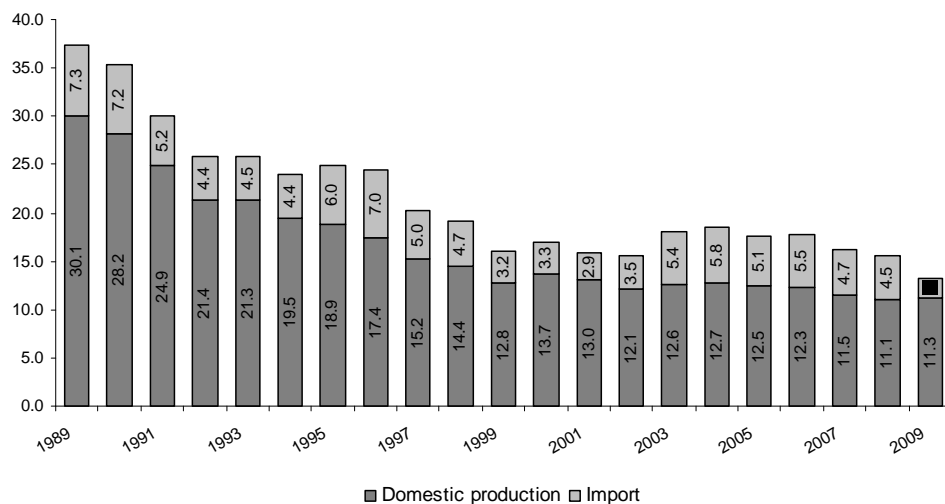
#### 7.8.2.1 Consumption, production, proven reserves, privatisation and unbundling

##### *Demand*

Gas demand peaked in mid- '80s (at 38 bcm), and fell considerably during the '90s, during the post-communist economic restructuring. Demand experienced some brief upturns afterwards, but the level of consumption remained at less than 50% of the volumes consumed in 1989. Natural gas consumption has remained relatively stable over recent years, at around 150-160 TWh, but dipped 15% year-on-year in 2009 (140 TWh or 13.1 bcm), with non-household consumption accounting for c.80% of the total, according to ANRE.



## Evolution of gas consumption, bcm



Source: Regulatory Authority in the Energy Sector

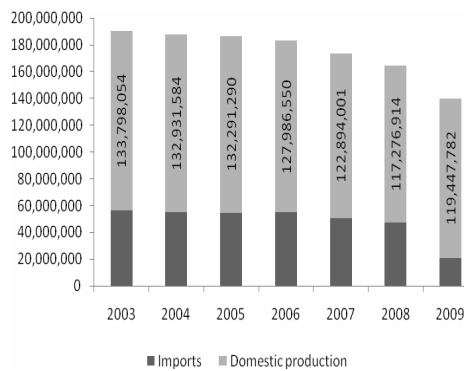
Gas is the second most important fuel for Romania, with 30% of primary energy demand, after crude oil (33% of primary energy demand), and is followed by coal (19% of primary energy demand). The largest consumer in 2009 was the electricity generation industry with a share of 22%, followed by the chemical industry (fertilizers producers) with a share of 20%, while households consumed just below 20% of the total. Much of the fall in demand in 2009 came from reduced consumption by chemical companies.

### Production & imports

Although it is Central and Eastern Europe's largest producer of natural gas, Romania's production has slumped in recent years due to maturing gas fields coupled with increased energy efficiency.

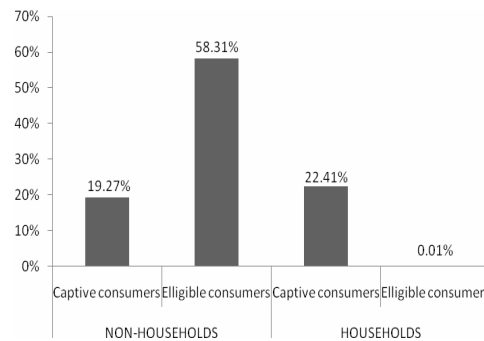
Domestic production peaked in mid-1980s at 30 bcm, only to slide to 11 bcm (119.4 TWh) in 2009, due to the depletion of reserves, which led to a negative annual rate of growth of 2-5%.

### Evolution of gas consumption (MWh)



Source: ANRE

### Breakdown of gas consumption in 2009



Source: ANRE

### Imports

Romania is a net gas importer. Imports accounted for 14.7% of total domestic consumption in 2009, down from 28.7% in 2008. Gas imports are carried out through two interconnection pipes at Isaccea and Mediesu Aurit, while through the pipe at Negru Voda the Russian gas is transited to other SEE countries. The maximum capacity of the interconnection pipelines stands at 28bcm/year. The Arad (Romania) – Szeged (Hungary) pipeline (700mm diameter), connecting Romania to the western European network, became operational in 2010.

### Proven reserves

Estimates on Romanian natural gas reserves vary depending on quoted source. At the end of 2009, according to the regulatory authority, the ANRE, natural gas reserves stood at 141 bcm (876 mn boe).

### Privatisation & unbundling

Following EU Competition Directive 96/92/EC, in 2000 the gas market was unbundled through the spin-off of the vertically integrated energy company Romgaz into gas E&P (Romgaz), transmission (Transgaz) and distribution and supply (Distrigaz Nord and Distrigaz Sud).

In June 2005, the State privatised the two gas distribution companies in tandem with GdF Suez and E.ON. Starting from 1 July 2007, the activities of gas distribution and supply had to be unbundled to comply with EU norms.

### 7.8.2.2 Market segments and players

#### Market segments

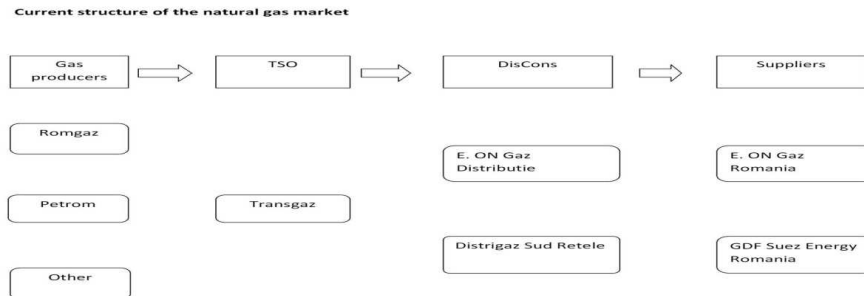
The natural gas market structure consists of the following segments:

- Production;
- Transmission;

- Distribution & Supply.

### *Current structure of the natural gas market*

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Source: SNTGN Transgaz SA

### *Main players*

The gas market players comprise:

- 1 operator of the national gas grid – SNTGN Transgaz S.A. Mediaș;
- 7 domestic gas producers – Romgaz, OMV Petrom, Amromco Ploiești, Amromco New York, Aurelian Oil&Gas, Toreador, Wintershall Mediaș (with Romgaz and OMV Petrom accounting for 99% of the total);
- 3 operators of the underground storage facilities – Romgaz, Amgaz and Depomures;
- 39 distributors and suppliers to captive consumers – GDF Suez Energy Romania and E.ON Gaz Romania holding a cumulative market share of above 90%;
- 90 suppliers on the wholesale market.

### **7.8.2.3 Regulatory authority and general regulatory issues**

#### *Regulatory authority*

The regulatory body for the natural gas market, as well as for the electricity, is the Regulatory Authority in the Energy Sector ("ANRE").

#### *Market liberalisation*

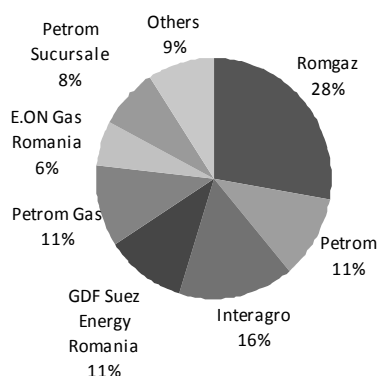
Romanian gas market is, nominally, an open market since mid-2007, as consumers are allowed to change their supplier. As of December 2009, the real market openness stood at 56%, meaning that 56% of consumers (in volume terms) actively chose their supplier, the rest being considered captive consumers.

### Market components

Therefore, the natural gas market has two components:

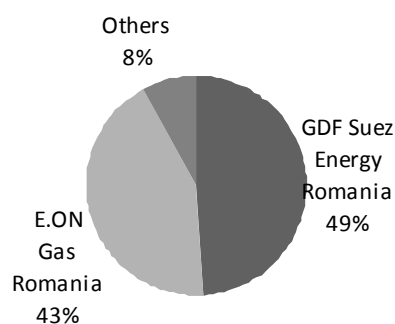
- the free-market (56.5%): where the gas is supplied to consumers who changed their initial supplier or renegotiated the contractual terms with the same supplier (eligible consumers);
- the regulated market (43.5%): gas is supplied to captive consumers at regulated prices established through framework contracts.

*Free market gas suppliers in 2009 (%)*



Source: ANRE

*Regulated market gas suppliers 2009 (%)*



Source: ANRE

### Price regulation

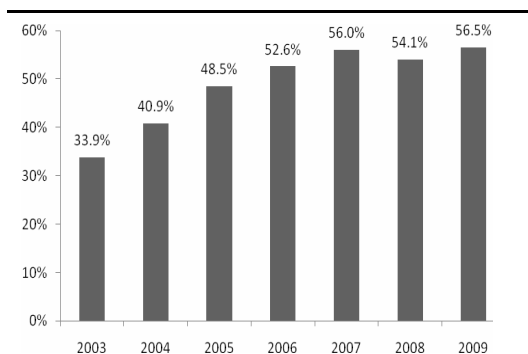
The regulated price comprises:

- the acquisition price of domestic gas (traditionally set by the ANRE at c.50% below the imported gas price) and the acquisition price of imported gas – both carrying the weights assigned by the ANRE (gas basket);
- underground storage tariff;
- transport tariff;
- distribution tariff;

With regard to the captive consumer, the responsibility for blending the domestic and imported gas to obtain the gas basket belongs to the supplier undertaking the regulated supplying activity. In the case of eligible consumers, the responsibility for achieving the mix falls into the supplier's hands, only if it provides the entire quantity needed by the customer. Otherwise, if several suppliers deal with an eligible consumer, the consumer itself is responsible for observing the basket.

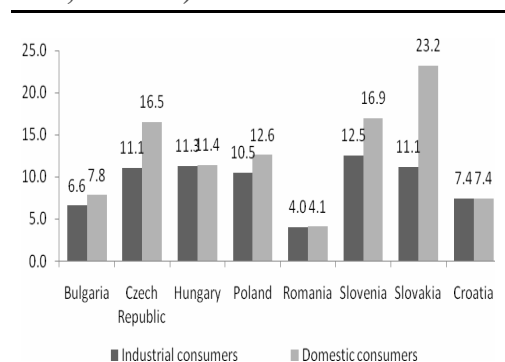
As an EU member, Romania needs to align the domestic natural gas price to that traded in the other Member States. Romania's Prime Minister has stated that the process will be gradual, but the exact deadline remains unknown. The price of gas in Romania to the end consumer continues to be the lowest in the EU and CEE. The prices for the domestic gas are set at USD 160/1,000 m<sup>3</sup>, while the imported gas price is close to the European levels (currently at USD 360/1,000 m<sup>3</sup>).

*Degree of market liberalization (%)*



Source: ANRE

*Gas prices to end consumer (second half 2009, EUR/GJ)*



Source: Eurostat

The Gas Law no. 351/2004 stipulates that the distributors and suppliers of gas have the duty to provide public utility services, consisting of:

- guaranteeing the access of any consumer to a public utility of general interest;
- insuring the security and continuity of the gas supply, in accordance to the law.

In exchange for this obligation the State ensures that licenced operators, for storage, transmission, distribution and regulated supply, obtain, through approved end-user prices, a reasonable rate of return on the asset base used to provide the respective services.

The regulation of licenced operators on the natural gas market is implemented along the so-called "regulatory periods".

- the first regulatory period started in April 2004 for storage, July 2004 for transmission and January 2005, for distribution and regulated supply and lasted for three years;
- the subsequent regulatory periods span five years each.

The regulated revenues for the first year of the regulatory period are calculated according to the following formula:

$$BR = OPEX + RRoR \times RAB + RD$$

where:

- BR – base revenue, estimated for the first year;
- OPEX – operating expenses, estimated for the first year;
- RRoR – regulated rate of return;
- RAB – regulated asset base, as recognised by ANRE;
- RD – regulated depreciation, for the first year.

The regulated revenues for the subsequent years within the regulatory period are adjusted with:

- the inflation rate minus an efficiency factor designed to encourage cost savings;
- the return on the investments commissioned
- differences between realized and forecast in certain costs;
- differences between forecast volumes and real volumes;
- unforeseen costs (force majeure);

The regulated return on assets for the second regulatory period has been set at 7.88% for the storage and transmission activities and at 8.63% for the regulated supply and distribution services. The efficiency factor was set at 8% for storage and transportation and at 6% for supply and distribution activities.

### **7.8.3 Production and storage**

Total domestic production was 11 bcm in 2009, which covered c.85% of total domestic consumption. As regards storage, the eight existing storage facilities allow for 3.2 bcm.

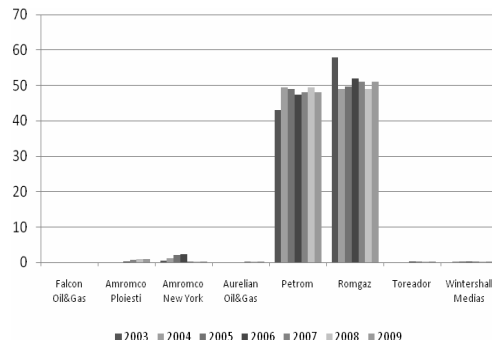
#### **7.8.3.1 Market players – production and storage**

The two main producers, accounting for 99.1% of total domestic production, were:

S.N.G.N. Romgaz S.A.: 5.7 bcm (51.8%);

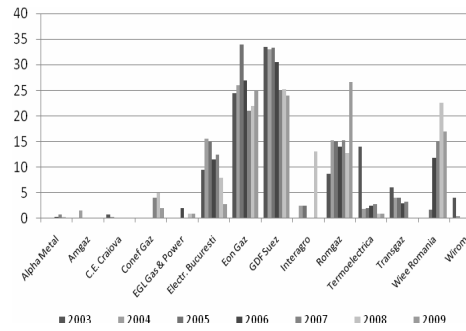
S.C. OMV Petrom S.A.: 5.2 bcm (47.3%).

### Structure of domestic gas production (%)



Source: ANRE

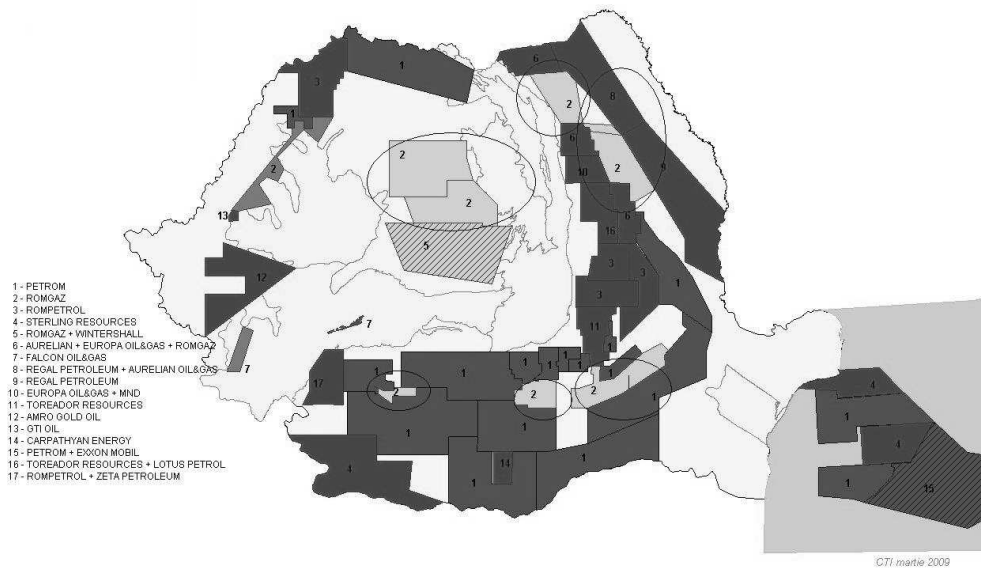
### Structure of gas imports (%)



Source: ANRE

Romgaz is Romania's largest gas producer with a share of around 50%. The company is also one of the three licensed providers of gas storage facilities. Over the past years Romgaz's production kept on lowering as the majority of its fields is mature, especially the largest ones, being exploited for more than 25-30 years. The company is currently operating around 153 reservoirs spread around the country, mainly in Transylvania and Moldova.

### E&P exploration blocks

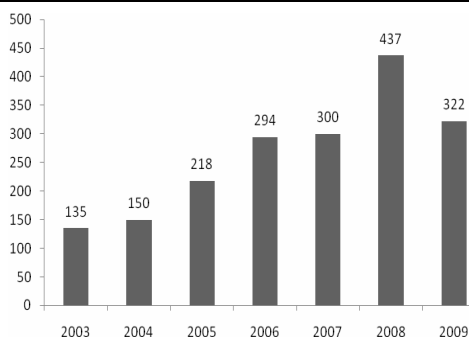


Source: ANRM

The eight existing storage facilities allow for only 3.2 bcm. Romgaz owns six of these deposits (2.8 bcm) and management announced plans to increase the storage capacity by 40% (to 3.9 bcm) by 2015. According to local media reports, Gazprom has also expressed its interest to create a JV with the Romanian State and explore a 2-2.6 bcm storage facility by developing an underground gas deposit at Margineni in the eastern part of the country.

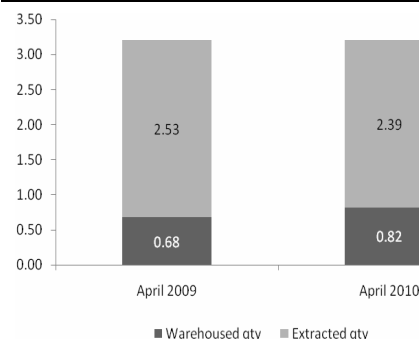
The other two natural gas deposits were acquired by Gaz de France in 2009, who intends to triple the storage capacity by 2012 (to 1.2 bcm).

**Domestic gas production prices (USD/tcm)**



Source: ANRE

**Gas storage – existing stocks (bcm)**



Source: ANRE

### 7.8.3.2 Regulatory framework – production & storage

Although the ANRE claims that gas price can be set freely by the domestic producers, so far the "indicative prices" – set at c.50% of the international gas price – have been observed by both Romgaz and OMV Petrom. Therefore, it can be inferred that the E&P gas business in Romania is still partly regulated.

Gas storage activity is regulated through the revenue-cap methodology, which allows for a 7.88% return on the regulated asset base above the costs agreed with the authority. ANRE establishes annual target revenue, which translates into binomial tariffs, with a fixed component (capacity reservation) and a volumetric component (with two sub-components: injection and withdrawal) related to the actual rates of storage and withdrawal. The current regulatory period of five years started in April 2007 and during the period revenues are adjusted with inflation minus an efficiency factor (set at 8% for the the whole period), differences between estimated and realized quantities stored and certain differences between costs.

### 7.8.4 Transmission

Natural gas transmission is a natural and legal monopoly in Romania, with Transgaz being the only company that holds a license for natural gas transmission.



#### 7.8.4.1 Market players – Transgaz

Transgaz has a threefold role within the Romanian natural gas market structure:

- domestic gas transmission;
- natural gas dispatch;
- international transit.

##### *Domestic gas transmission*

As the technical operator of the National Transmission System (NTS), Transgaz ensures the connection between natural gas producers/suppliers on one side and distributors/consumers on the other side.

The legal right to operate the NTS was granted to Transgaz by the National Agency for Mineral Resources based on a concession agreement valid until 2032, in exchange of a 10% royalty fee on the domestic and transit transport revenues. The gas transportation pipelines are state property, and at the end of the concession period the company has the obligation to return them to their owner.

In 2009, the length of the transport pipelines network was of 13,097 km with a transport capacity of around 40 bcm of natural gas per year. NTS comprises 9 regional gas transmission sub-systems and 53 sectors.

##### *Components of the National Transmission System*

<b>Component</b>	<b>Value</b>
Main gas transmission pipelines and gas supply joints	13,097 km that include 560 km transit pipelines
Gas metering and regulating stations	1,060 units
Valve control stations	21 units
Import gas metering stations	2 units
Metering stations on the gas transit pipelines	6 units
Gas compressor stations	5 units
Cathodic protection stations	942 units
Gas odorization stations	732 units

*Source: SNTGN Transgaz SA (Directors' Report 2009)*

Following the privatisation and unbundling of the gas market players, Transgaz inherited an asset base out of which 80% was reaching the end of the normal economic life. In order to encourage investments, the National Agency for Mineral Resources included in the concession

agreement the obligation of the transmission system operator to rehabilitate and develop the NTS and observe the 5 years minimal investment programme established by the regulator.

#### *Natural gas dispatch*

As a system operator, Transgaz must maintain a permanent correlation between the natural gas uploaded to and downloaded from the NTS and assure the balance between demand and supply.

#### *International transit*

The natural gas transit activity is carried out exclusively through dedicated major pipelines according to the transit contracts and, therefore, the resulting revenues are not regulated.

Transgaz concluded two contracts with Gazprom regarding the transit of Russian natural gas over the Romanian territory to Bulgaria, Turkey, Greece and Macedonia. The contracts expired in 2012 and 2023 respectively, and can be automatically extended over a 5 years period provided no party notifies their intention to terminate the contract 4 years prior to the maturity. According to the management no such notification has been received.

Transgaz has also signed a contract with the Bulgarian gas transmission company, Bulgargaz, for the transit of natural gas acquired by the latter. The contract matures at year-end 2011, it has an addendum (signed in 2009) for extending the contract for 5 years.

Transgaz currently owns three interconnection pipelines between Isaccea and Negru-Voda that have a total maximum capacity of 28 bcm/year. Transgaz has also been carrying out three interconnection projects:

- Arad (Romania)-Szeged (Hungary) – completed in 2010;
- Siret (Romania) – Cernauti (Ukraine);
- Giurgiu (Romania)-Ruse (Bulgaria).

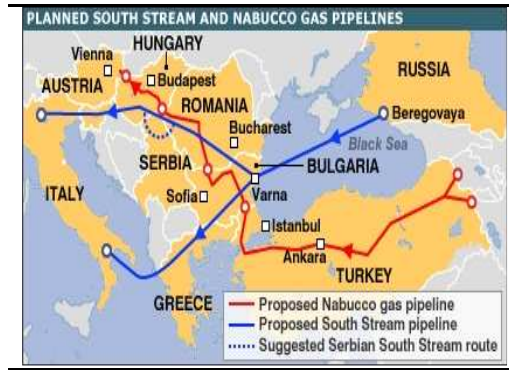
Gas prices in Romania are almost 50% below the prices in other EU countries, which, ceteris paribus, could provide an incentive for natural gas producers to export a greater weight of their output, once that will be technically feasible. The Arad (Romania) – Szeged (Hungary) interconnection pipeline, with an estimated annual capacity of 4.4 bcm/year (500,000 cm/h), will make this export possible in the future.

### Existing "Progress" Pipeline



Source: Energy Information Administration

### Pipeline projects



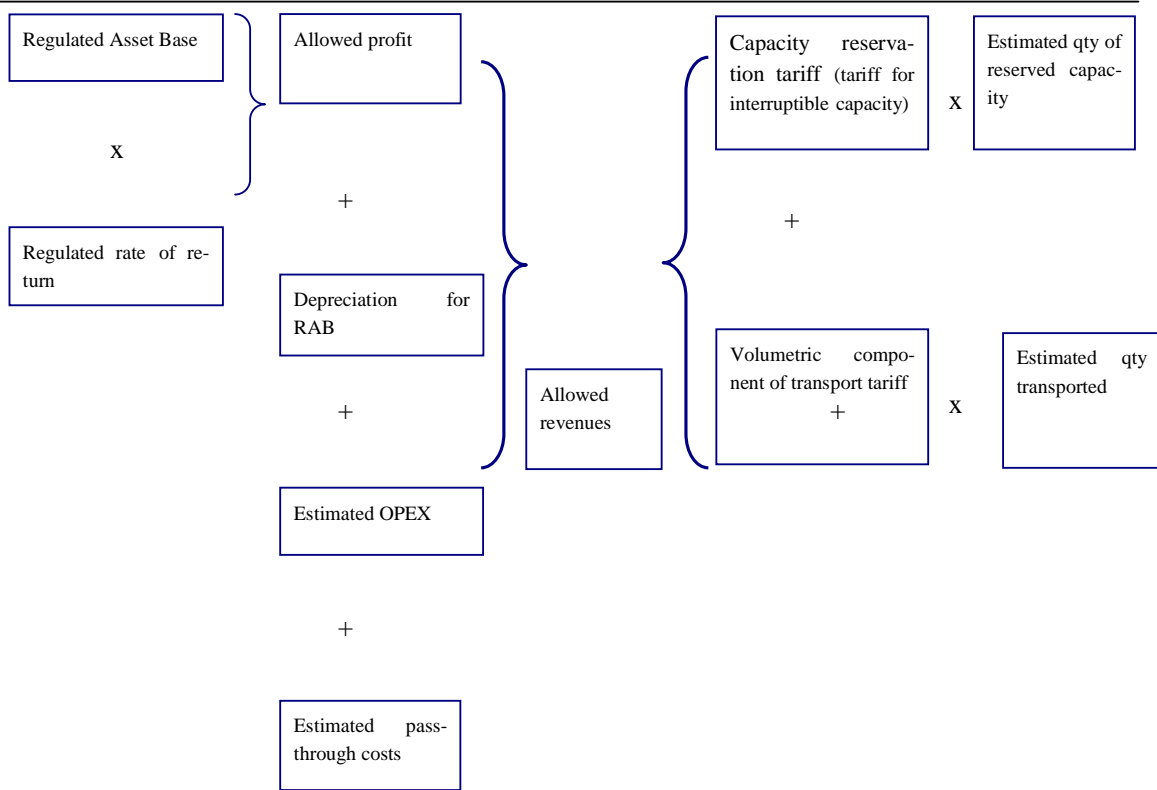
Source: BBC

Transgaz is also one of the six companies, with a 16.6% participation, that intend to develop the Nabucco project to transport natural gas from Turkey to Austria, via Bulgaria, Romania and Hungary. The pipeline that is projected to run from Erzurum in Turkey to Baumgarten an der March in Austria, stretches across 3,300 km out of which 457 km are across Romanian territory. Nabucco is designed for a maximum capacity of 31 bcm/year.

#### 7.8.4.2 Regulatory framework – transmission

Starting mid-2004, the transmission tariff charged by the company is set based on a revenue cap methodology. The ANRE and Transgaz agree on tariffs that reflect the allowed rate of return (RRoR) on the regulated asset base (RAB) plus the operating costs associated with running these assets and the pass through costs (mainly state dues and the royalty payable for the concession of the National Transmission System).

*Simplified rate of return formula for Transgaz regulated revenues*

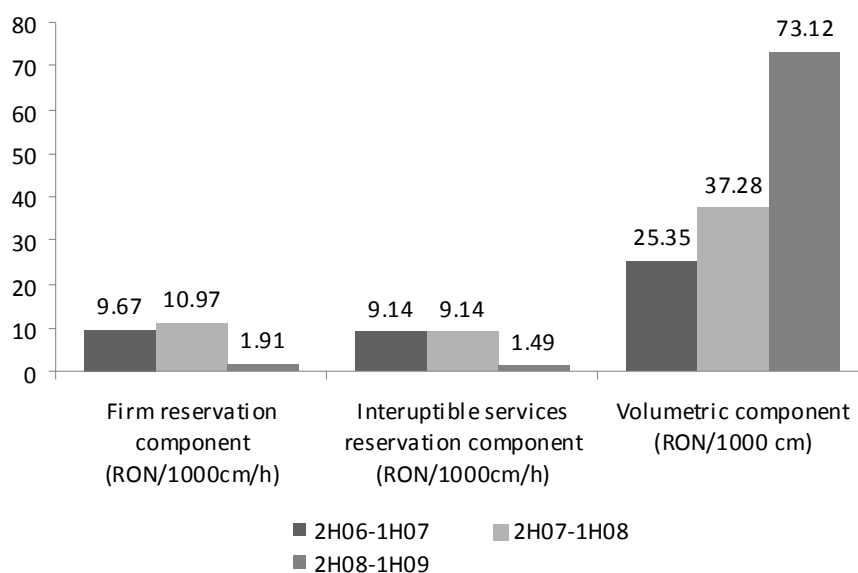


Source: *SNTGN Transgaz SA, ANRE*

The regulated rate of return is the real, pre-tax allowed return on RAB and results from a regulated WACC, which is nominal, post-tax. Within a regulatory period of 5 years, annual regulated revenues are indexed with inflation less the efficiency factor. The regulated return was set at 10.84% over the first regulatory period and at 7.88% for the second regulatory period.

Based on the cost structure: fixed vs. variable, the transport revenues are split into a fixed component (the capacity reservation component) and a volumetric component (related to the gas effectively transported through the National Transmission System). Some of the consumers that reserve capacity have agreed to be considered "interruptible" so that their gas supply can be temporary limited or cut off during extreme weather conditions in order to meet the needs of other consumers, especially households.

*Transmission tariff evolution (2<sup>nd</sup> semester 2006 – 1<sup>st</sup> semester 2009)*



Source: ANRE

The transit activity also generates unregulated revenues. International gas transit is the transport of natural gas from Russia to Bulgaria through three dedicated pipelines crossing the Dobrogea region (South-eastern part of Romania). Transit contracts are based on reservation of capacity, which leaves the flow of transit revenues unaffected by changes in quantities transported. Some 75% of transit revenues are charged in USD.

## 7.8.5 Distribution and supply

### 7.8.5.1 Privatization and unbundling – distribution and supply

Following EU Competition Directive 96/92/EC, in 2000 the gas market was unbundled, creating, in the process, two distribution and supply companies (Distrigaz Nord and Distrigaz Sud). In June 2005, the State privatised the two gas distribution companies in tandem with GdF Suez and E.ON, respectively.

*Privatisation details for gas utilities*

Company	Main shareholder	Stake (%)	Date
E.ON Gaz Distribuție	E.ON Romania SRL	51	2005
E.ON Gaz Romania	E.ON Romania SRL	51	2005
Distrigaz Sud (Distrigaz Sud Retele and GdF Suez Energy Romania)	Romania Gas Holding	51	2005

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Source: GDF Suez Energy Romania – F/S notes 2009, E. ON Gaz Distributie – F/S notes 2009, E.ON Gaz Romania – F/S notes 2009

#### *Distrigaz Sud*

The privatization process of Distrigaz Sud started in 2003, and the negotiations between the Romanian State and Gaz de France were concluded in August 2004. In 2005, Gaz de France Group became the main stakeholder of Distrigaz Sud by acquiring 30% of its shares for EUR 128 mn and completing a share capital increase for an additional 21%. Its total stake added up to 51%, the transaction value amounting to EUR 311 mn.

Distrigaz Sud started the unbundling process in November 2006. As a result of the unbundling procedures, Distrigaz Sud Retele, which holds the distribution license, was separated from Distrigaz Sud. Distrigaz Sud kept the trading license and continued its activity as a natural gas supplier. In 2009 Distrigaz Sud became GDF Suez Energy Romania. Gas network is still owned by GDF Suez Energy Romania, but leased to Distrigaz Sud Retele.

#### *Distrigaz Nord*

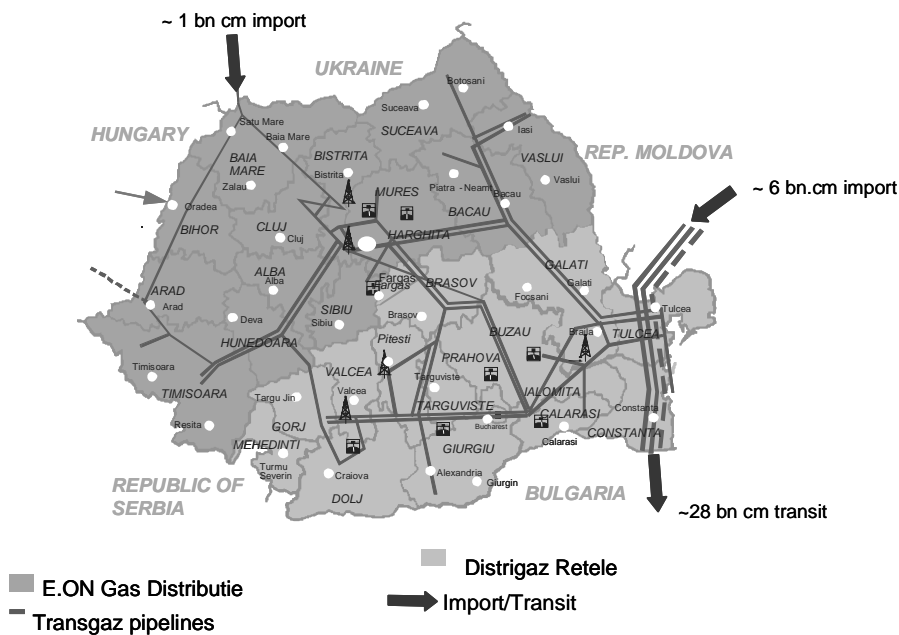
The privatization process of Distrigaz Nord was carried out in 2005, when E.ON Ruhrgas, a division of the German energy group E.ON, acquired a stake of 30% in the company for EUR 125 mn. Afterwards, the buyer increased its participation with another 21% by share capital increase. As a result, E.ON.'s total stake added up to 51%, or EUR 304 mn. Subsequently, in 2006 Distrigaz Nord changed its name to E.ON Gaz Romania.

Since July 1, 2007, the company has separated its distribution and supply activities; E.ON Gaz Distributie took over the distribution activity, while E.ON Gaz Romania performs the supply activities.

#### **7.8.5.2 Main players – distribution and supply**

There are 19 distributors, but the market is dominated by Distrigaz Sud Retele (controlled by Gaz de France) and E.ON Gaz Distributie (controlled by E.ON-Ruhrgas), which are distributors of natural gas in the southern and respectively, northern parts of the country. The two distribution companies accounted for 92% of the market in 2009: Distrigaz Sud Retele had a market share of 56%, while E.ON. Gaz Distributie had a share of 36%. Together they operate over 30,000 km of pipelines.

## Gas transmission and distribution pipes



Source: SNTGN Transgaz SA

## Gas distribution companies (2009)

Company (Region)	Length of pipes network (km)
Distrigaz Sud Retele (19 counties in Oltenia, Muntenia, Dobrogea)	16,000
E.ON Gas Distributie (20 counties in Crisana, Maramures, Moldova and Banat)	18,800

Source: [www.eon-gaz-distributie.ro](http://www.eon-gaz-distributie.ro) (19.10.2010), JPA Audit & Consultanta report, May 2010

## Gas suppliers (2009)

Company	No of clients (mn)
GdF Suez Energy Romania	1.3
E.ON Gas Romania	1.5

Source: GdF Suez Energy Romania- DIRECTORS' REPORT 2009, E.ON Gas Romania – Directors' Report 2009

### 7.8.5.3 Regulatory framework – distribution and supply

Gas distribution and the supply on the regulated market are regulated activities with an established rate of return (8.63%) on the regulated asset base. Based on the cost structure, i.e. fixed

versus variable, regulated revenues are binomial, which means they are split into a fixed component (capacity reservation) and a volumetric component related to the gas transported through the pipes. The binomial structure of tariffs makes gas utilities less vulnerable to unexpected falls in the gas volume shipped through the network.

The regulated revenues for gas distributors/suppliers are determined during the first year of each regulatory phase, by summing up the agreed operating expenses, the depreciation and the regulated return on assets (currently set at 8.63%) multiplied by the regulated asset base (RAB). The regulated revenues are updated during the regulatory period with the inflation rate minus an efficiency factor (set at 6% for the entire period 2008-2012), return on commissioned investments and other adjustments, including differences between realized and estimated revenues in the previous year.



## 7.9 Overview of Oil Sector

### 7.9.1 The Fund exposure in the oil sector

The companies active in the Romanian oil sector and, in which the Fund has an exposure, are presented in the table below. More detailed company profiles are provided in Annex 6 of the Prospectus.

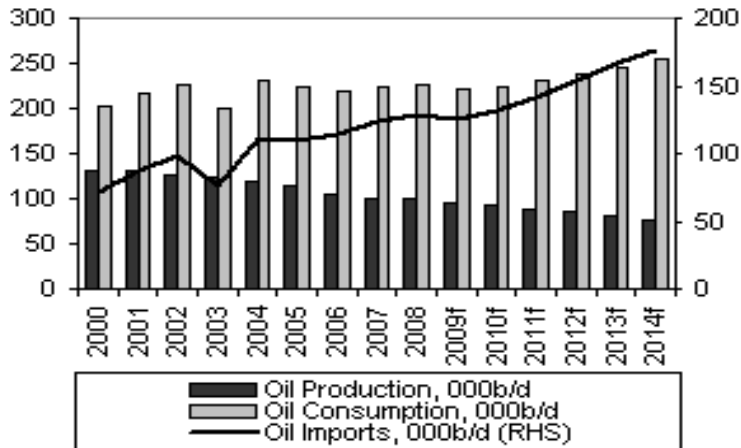
<b>Portfolio Companies</b>	<b>Sector</b>	<b>The Fund stake (%)</b>	<b>Listed/unlisted</b>
OMV Petrom SA	Oil&gas	20.10%	listed
Oil Terminal SA	Oil&gas	10.00%	listed
Petrotel - Lukoil SA	Oil&gas	2.18%	unlisted
Conpet SA	Oil&gas	20.05%	listed

*Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)*

### 7.9.2 Brief Overview of Oil Sector

Romania is Central Eastern Europe's most oil-rich country, with a long tradition in oil exploration and production. Although today the country is a net importer of oil, in the twentieth century, Romania's role in the European oil market far exceeded its own borders and the country's oil industry.

### 7.9.3 Consumption, production, proven reserves



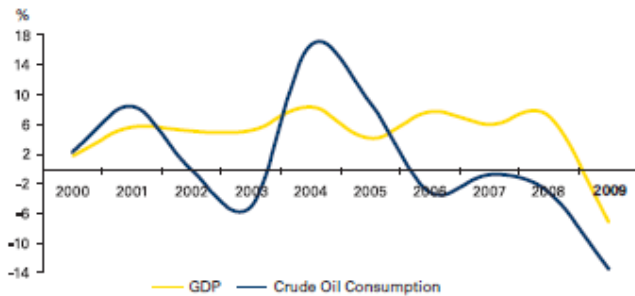
Source: Source: BMI – Romania Oil & Gas Report (2009).

### 7.9.3.1 Demand

Crude oil is the most important fuel for Romania, representing 33% of primary energy demand, followed by gas (30% of primary energy demand) and coal (19% of primary energy demand).

In 2009, Romania’s oil demand stood at 11.1mn tons of oil equivalent, down by 13.5% compared to previous year.

### Romanian GDP and Crude Oil Consumption Annual Change



Source: OMV Petrom, Directors’ Report 2009.

### Romania’s crude oil consumption, production and imports

‘000 tons of oil equivalent/year	2007	2008	2009 <sup>1)</sup>
Domestic consumption of crude oil	13,182	13,036	11,243
Domestic production of crude oil	4,651	4,619	4,349
Import of crude oil	8,531	8,417	6,894

1) – Provisional data

Source: National Institute of Statistics - Romania in figures 2010.

### 7.9.3.2 Exploration and production

Traditionally, Romania has been a supplier of oil and gas for European countries, with its weight gradually decreasing after the Second World War and a further slump occurring after the collapse of the Communist regime given the widening gap in technological capabilities between Romanian and Western industry. Currently, the potential of the country is limited given that only few small additional oilfields have been discovered, contributing to the continuous decline in internal production over the last three decades.

Internal extraction fell from 15mn tons in 1976 to approximately 4.4mn tons in 2009.

#### *Crude oil produced in Romania (mn tons/year):*

1976	1993	2000	2005	2007	2008	2009
15	6.7	6	5.2	4.5	4.5	4.4

*Source: National Institute of Statistics - Monthly Statistical Bulletin.*

The sole domestic crude oil producer is OMV Petrom. OMV Petrom's exploration activities are located in Romania and Kazakhstan. In 2009, the domestic oil production is 86,420 boe/d, 3% lower than the level of the previous year. OMV Petrom has announced a series of oil discoveries onshore and in the Black Sea. The finds include field "Abramut" which showed oil and gas and two oil discoveries at "900 Ochiuri" and "Delta4". The most important of these is Delta4, which is the first successful offshore exploration in eight years, according to a company statement. Delta4 was drilled in the Histria XVIII exploration block in the Black Sea. Tests showed a flow rate of 2,618boe/d of crude. Further appraisal and development of the discovery is being undertaken.

OMV Petrom is also conducting exploration activities in 17 additional exploration blocks. All of the company's operations are based on concession agreements with a government body, the National Agency for Mineral Resources (ANMR). OMV Petrom's existing concessions will expire in 2028, but can be extended by 15 years to 2043 if the fields are still productive.

In Romania, OMV Petrom holds exploration licenses for 15 onshore and 2 offshore blocks, with a total area of 59,100 km<sup>2</sup> (of which 13,730 km<sup>2</sup> is offshore) and operates 256 commercial oil and gas fields.

*OMV Petrom's Exploration, Development and Production Concession in Romania.*



Source: OMV Petrom – Directors' Report 2009.

**7.9.3.3 Oil Reserves**

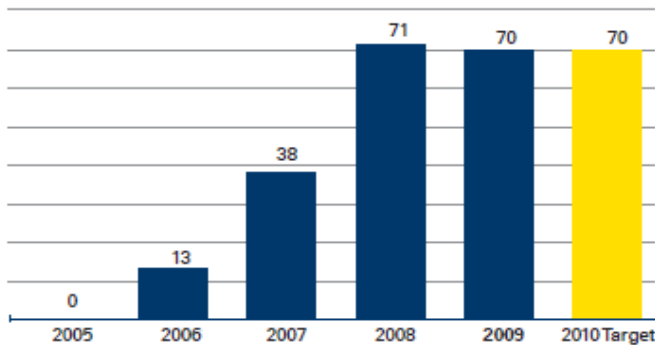
The following figures present the estimated crude oil reserves, according to various sources, for a better transparency.

*Estimated crude oil reserves for 2008*

June 2009 BP Statistical Review of World Energy	Government claim	Oil&Gas Journal (OGJ)
480mn bbl	1bn bbl	600mn bbl

Source: BMI – Romania Oil & Gas Report (2009)

**Reserve replacement rate in Romania**



Source: OMV Petrom, Directors' Report 2009.

### 7.9.3.4 Import/Export

Currently, South and Central Eastern Europe offers ideal conditions for transit and processing platforms to bridge East and West given that crude production does not cover local demand, while refining capacity substantially surpasses local demand. Romania has the potential to become a major exporter of refined products in the region given its geographical competitive position with easy access to international maritime routes.

#### *Crude oil refining, by physical units*

'000 tons	2007	2008	2009
Import crude oil	8,534	8,419	6,894
Imported oil products	1,154	1,446	1,538
Exported oil products	4,364	4,989	4,476

*Source: calculated on NIS data, National Institute of Statistics ("NIS") - Monthly Industry Statistical Bulletin.*

#### *Petroleum, petroleum products and related materials*

mn EUR	2007	2008	2009
Export FOB	2,010.2	2,695.4	1,484.0
Import CIF	3,837.2	5,005.3	2,894.0

*Source: National Institute of Statistics – International trade statistics bulletin 12/2007, 12/2008, 12/2009.*

## 7.9.4 Refining and marketing

### 7.9.4.1 Overview

The refining segment has followed the trend registered by the oil sector in general. While nominal refining capacities were significantly developed during the Communist era, reaching a maximum of 33.5mn tons/year, the decline in the export market and domestic demand for petroleum products right after the end of this period triggered a cut in refining capacity to 15.6mn tons/year currently.

The refining sector in Romania comprises 10 refineries, but only 5 are currently operational. The non operational refineries are: Astra, Darmanesti, Petrolsub, Steaua Romana and Rafo. The operational ones have a total processing capacity of 15.6mn t/year. In 2009, they processed a total quantity of 11.71mn t crude oil.

*The largest refining capacities in Romania*

<b>Refinery</b>	<b>Rompetrol Rafinare</b>	<b>Petrobrazi</b>	<b>Arpechim</b> (in process of divestment)	<b>Rafo</b> (in process of modernisation)	<b>Petrotel Lukoil</b>	<b>Vega</b> (Rompetrol SA)
Main shareholder at 31 December 2009	The Rompetrol Group (50.59%)	the refinery is an asset of OMV Petrom SA OMV Aktiengesellschaft Wien Aut (51.01%)	The refinery is an asset of OMV Petrom SA OMV Aktiengesellschaft Wien Aut (51.01%)	Petrochemical Holding GmbH 1010 Viena (96.51%)	Lukoil Europe Holdings BV (94.65%)	The Rompetrol Group (98.99%) as of 31 December 2008
Installed capacity	100,000 bbl/d (5mn t/year)	84,000 bbl/d (4.2mn t/year)	70,000 bbl/d (3.5mn t/year)	50,000 bbl/d (2.5mn t/year)	48,000 bbl/d (2.4mn t/year)	10,000 bbl/d (0.5mn t/year)
Crude oil processed in 2009	4.03mn t	2.99mn t	2.17mn t	0	2.21mn t	0.31mn t
Crude oil source	Imported crude oil from Russia and Kazakhstan, brought through Midia and Constanta harbor	Main from OMV Petrom production	Main from OMV Petrom production	Not applicable	Imported ural crude oil brought through Constanta harbor	Imported crude oil from Russia and Kazakhstan brought through Midia and Constanta harbor

Source: OMV Petrom – Directors’ Report 2009, Rompetrol Rafinare – Directors’ Report 2009, Petrotel-Lukoil F/S notes 2009, Lukoil Fact book 2010 ([www.lukoil.com](http://www.lukoil.com)).

In 2009, the refinery’s capacity utilisation rate was 65% for OMV Petrom, while for Rompetrol it stood at 80.66%. The low level of utilisation on OMV Petrom’s refineries is due to the divestment process started at Arpechim.

**7.9.4.2 The Romanian retail market**

Retail market for oil products has followed a different path to the downstream segment, growing steadily since the collapse of the Communist regime. The main drivers of this evolution have been:

- changing lifestyles (mainly translated here as a higher number of cars); and
- increased purchasing power of the two main target segments: individuals and corporate fleets.

Future growth in demand should be driven by increases in car ownership and in consumption per car. In terms of ownership, based on the limited data available, it can be concluded that Ro-

mania started from a very low base versus other countries in the region, and despite the accelerated pace of development, the number of cars per thousand inhabitants still lags behind, reinforcing the potential for growth.

*Main players in filling station segment, as for 2009s:*

Company	OMV Petrom	Rompetrol	Lukoil	MOL
Number of filling stations	550	299	317	126
Market share by sales	40%	25%	25%	10%

Source: OMV Petrom – Directors’ Report, Rompetrol Rafinare - Directors’ Report 2009, KPMG report-15 companies, Lukoil Fact book 2010 ([www.lukoil.com](http://www.lukoil.com)).

The Romanian retail market is made up of: Petrom-OMV holding approximately 40% of the market by volume; Rompetrol covering 25% of the market; Lukoil, which captures 25% of the market by volume; MOL, which after acquiring Shell’s filling station network on the local market has reached a 10% market share.

**7.9.4.3 The wholesale market**

The wholesale market is also dominated by the two best-positioned players: Petrom-OMV with a wholesale depot network spread across the country (having 23 distribution depots that supply both Petrom-OMV own gas stations and third parties); and Rompetrol administrating six regional depots. The wholesale activity’s customers are own stations and large industrial consumers, in both the domestic and the export markets, the latter of which has been gaining ground in the last years.

**7.9.4.4 Refinery margins**

EMEA refineries are facing tough times again with the fundamentals having deteriorated since the middle of 2010 – the Med Complex refining margin turned lower to around US\$1.5/bbl, the crude oil price weakened to US\$75-80/bbl, and the Ural-Brent differential shrank below US\$1/bbl.

The following figure shows the evolution of crude oil prices and refining margins, which shows a sharp erosion of margins in 2009. Market analysts expect a recovery in refining margins to continue over the next few years, albeit at a slow pace.

*Crude oil prices and refining margins*

	2005	2006	2007	2008	2009
<b>Crude oil (USD/bbl)</b>					
Brent crude oil price	54.3	64.9	72.7	97.7	62
Ural crude oil price	50.8	61	69.4	95.1	61.3
<b>Downstream margin (USD/bbl)</b>					

Ural/Brent differential	3.5	3.9	3.3	2.6	0.7
Ural crack Mediteranean refining margin	5.3	5.3	5.3	5.5	2
Brent crack refining margin	6.2	4.8	4.9	7.4	3.4

*Source: Bloomberg*

The high supply/full stock has led to a lower refining margin environment. On the demand side, the slowing US and European markets pose an additional risk in the short run. Slowing industrial production leads to lower product demand, which could be reflected in the margins.

In its "Medium-Term Oil & Gas Markets 2010 report", the IEA predicted that some 9mbpd of new refining capacity is expected to enter the global marketplace before 2015, mainly from China, other Asian countries and the Middle East. This complex or strategically placed capacity could further undermine tenuous OECD refinery economics, according to the Paris-based institution. Parallel to this, a continued destruction of demand in the OECD countries could lead to capacity rationalization beyond the 1.4mbpd that has already been announced. This could lead to a surplus of some 7mbpd in the OECD world, mainly Japan, North America and Europe. The IEA predicts that this surplus capacity will be taken off the market in order to avoid oversupply.

Furthermore, there is a mismatch between demand and planned investment upgrades, which suggests a distillate shortage and light-end surplus tendency. This phenomenon is advantageous for EMEA refiners as all have taken steps to maximize distillate output. Although the past ten years have seen more widespread diesel and jet production to the detriment of light products, such as gasoline, China, for example, has moved towards petrol-run cars instead of diesel, and European developments aim to increase the efficiency of petrol-fuelled and hybrid engines.

For OMV Petrom's refineries, in 2009, the refinery margin dropped to zero, as compared to the 2008's value of USD 1.43/bbl, mainly due to deterioration in product spread.

For Rompetrol Rafinare, the refinery margin was USD 2.9/bbl in 2009 versus USD 8.23/bbl in 2008.

### **7.9.5 Infrastructure**

*Suppliers of crude oil to refineries:*

- (a) Conpet SA insures transportation of crude oil from extractors to refineries via pipelines (part of the National Pipeline Grid) or railway. The company operates a pipeline network of 3,800 km. In 2002, Conpet signed a concession agreement with ANRM (National Authority for Mineral Resources) for using the National Pipeline Grid for transportation of crude oil, gasoline, ethane.
- (b) Oil Terminal operates in the Constanta harbour and ensures receipt, loading, unloading, storage and conditioning of crude oil, petroleum, petrochemical and chemical liquids for import, export and transit, having the following capacities:



- crude oil vehicular capacity of 24mn t/year;
- storage capacity of 550,000 tons;
- oil products export capacity of 10mn t/year.

Oil Terminal signed with ANRM a concession agreement for exploitation activity of tanks, pipelines for crude oil and petroleum products transportation, pumping facilities and other related machinery and equipment.

- (c) Rompetrol Midia Marine Terminal (starting 2009), having a crude oil transfer capacity of 24mn t/year.

*Final product distribution:*

- (a) domestically: by vehicles and rail;
- (b) exports: by vehicles, rail and through the Constanta and Midia ports (terminals: Oil Terminal, Rompetrol Midia Marine Terminal).

Conpet and Oil Terminal are shareholders of the PEOP (Pan European Oil Pipeline). The Constanta-Trieste pipeline should be supplied with oil brought through the Black Sea from Kazakhstan and Azerbaidjan. The Memorandum of PEOP PDC PLC, the company for the development of the project PEOP has been signed on July 1st, 2008 by Oil Terminal SA (16.67%), Conpet SA (16.67%), Transnafta from Serbia (33.34%) and Janaf from Croatia (33.34%). The pipeline is still a project, as it faces political hurdles (Italy, one of the beneficiaries of the project, has not yet signed the association documents).

## 7.10 Overview of Transportation Sector

### 7.10.1 Stakes owned by the Fund in airports and ports

The Fund has an important exposure to the transportation sector, with 20% equity interest in three of Romania's airport operator companies and the four port administrations. More detailed company profiles are provided in Annex 6 of the Prospectus.

Portfolio Companies	Sector	The Fund stake (%)	Listed/unlisted
CN Aeroporturi Bucuresti	Airports	20.00%	unlisted
Aeroportul International Mihail Kogalniceanu	Airports	20.00%	unlisted
Aeroportul International Timisoara Traian Vuia	Airports	20.00%	unlisted
CN Administratia Porturilor Maritime	Ports	19.99%	unlisted
CN Administratia Porturilor Dunarii Maritime	Ports	20.00%	unlisted
CN Administratia Porturilor Dunarii Fluviale	Ports	20.00%	unlisted
CN Administratia Canalelor Navigabile	Ports	20.00%	unlisted

*Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)*

### 7.10.2 Brief sector highlights

Romania has a key geographical location, at the cross-roads of the major routes which link Western Europe to the Black Sea and to Middle East, and of the corridors which connect the Baltic Sea area to the Balkan Peninsula and to the Mediterranean basin. Three of the ten Pan-European transport corridors pass through Romania: corridor IV Dresden/Nuremberg -Vienna - Budapest - Bucharest - Constanta - Sofia - Istanbul, corridor IX Helsinki - Kiev - Bucharest - Alexandroupolis, and corridor VII which follows the route of the navigable Danube and together with the Main-Rhine waterway and the Danube-Black Sea waterway provides the routes between the North Sea and the Black Sea.

The largest part of Romania's transportation infrastructure includes roads and bridges, with a total length of the road network of 81,713 km, out of which 23,847 km are modernized roads. The railway network totals 10,784 km, of which around one third is electrified track. The waterway network is mostly situated in the south and south-eastern part of the country.

The total length of navigable water is of 1,779 km out of which Danube River and its branches account for 1,599 km, the Danube – Black Sea waterway 64 km, Poarta Alba – Midia – Navodari waterway 28 km, and other with 88 km. River traffic is almost exclusively conducted in the south and south-eastern area of the country, on the Danube River, from its entry in the country

in Bazias up to Braila for 2m draught ships, whereas the maritime Danube, between Braila and Sulina, is navigable for up to 7m draught ships. Due to low costs and important cargo volumes that can be transported, the Danube is one of the most advantageous means of transportation, an efficient alternative to the European rail and road congested transport.

The Romanian airport infrastructure is composed of 16 commercial airports, the most important one being Aeroportul International Henri Coanda located in Bucharest which has serviced almost half of the passengers in 2009.

The transport infrastructure is public property of the state. Therefore, these assets are being administered by national or local government entities, or companies, under the jurisdiction of the Ministry of Transportation and Infrastructure who may award these assets for concession.

The Ministry is in charge with developing the general transport strategy and policy, defining the needs in terms of networks development, dealing with international organizations and organizing the transport operation through licensing of operators and setting up regulations for the transport sector.

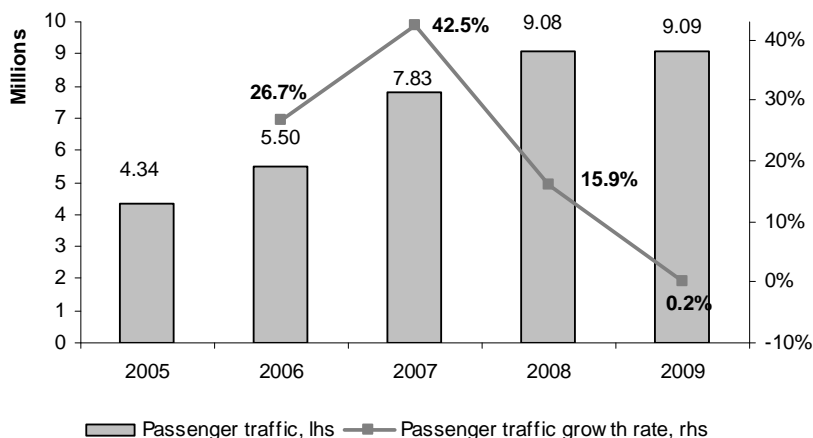
### 7.10.3 Airports

#### 7.10.3.1 Brief presentation of the sector main drivers

##### Passenger traffic, Cargo traffic, Aircraft movements

Passenger air traffic in Romania has increased significantly starting with 2005 and posted a positive growth rate ever since. This growth was explained by a growing economy as well as by the liberalization of Romanians' travel inside the EU.

*Passenger Traffic evolution for 2005 – 2009 period*



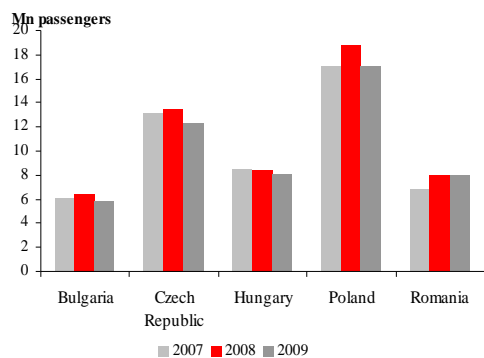
Source: [www.mt.ro](http://www.mt.ro), [www.insse.ro](http://www.insse.ro)

In 2008 and 2009 the air traffic was resilient to the weak economic conditions, mainly due to low cost flights, as many frequent passengers switched from traditional flights to low cost flights. However, the aggressive annual growth rate of passenger air traffic has slowed down since 2008, from more than 40% in 2007 year-on-year to not more than 0.2% in 2009 year-on-year. The number of passengers recorded in Romania for 2009 was of 9.09 mn, almost flat compared to 2008. Out of the total number of passengers transported in 2009, around 86% were in international flights (7.86 mn passengers).

In the area of cargo air transportation in Romania the developments showed a similar pattern with passenger transportation, with quantities transported in 2009 virtually flat year-on-year. In 2009 the quantities transported have decreased by 8% compared to 2008, from 26 th tons to 24 th tons.

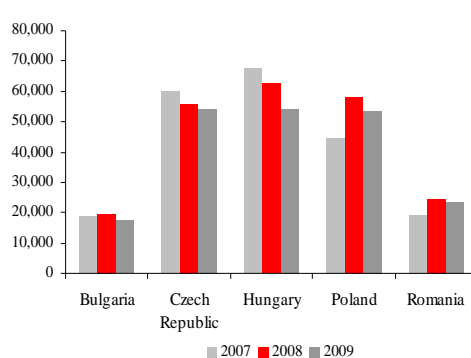
The graph below shows the number of passengers and cargo traffic evolution in Romania and other CEE countries:

*Passenger Traffic (million passengers)*



Source: Eurostat

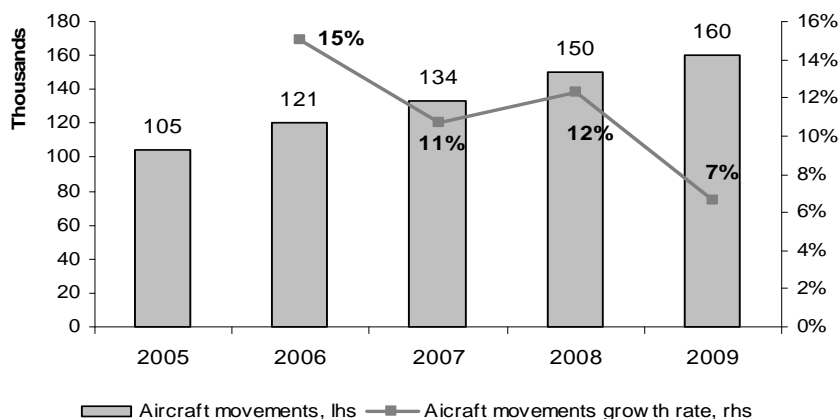
*Cargo air transportation (tons)*



Source: Eurostat

At the same time, aircraft movements (landings and take-offs) witnessed an uptrend in the period 2007 – 2009, due mainly to the increasing number of passenger traffic. In 2009, aircraft movements rose by 6% compared to 2008, to 160 thousand.

### Aircraft movements evolution for the period 2005 - 2009



Source: [www.mt.ro](http://www.mt.ro), [www.insse.ro](http://www.insse.ro)

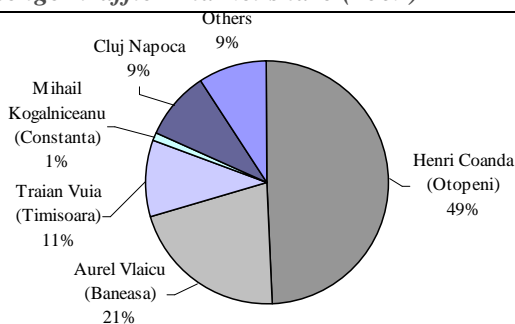
### Main players

Romania is serviced by 16 operational airports located across the country in Arad, Bacau, Baia Mare, Cluj-Napoca, Constanta, Craiova, Iasi, Oradea, Satu Mare, Sibiu, Suceava, Targu Mures, Timisoara, Tulcea and two airports in Bucharest. Most of these airports operate both national and international flights. The airports located in Bucharest, Timisoara and Constanta are under the administration of the Ministry of Transportation and Infrastructure, while the others operate under the administration of county councils.

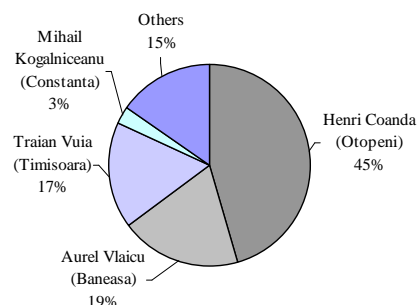
Following the Government Decision no. 1208 issued in 2009, the two companies operating the Bucharest airports, respectively Aeroportul International Henri Coanda and Aeroportul International Aurel Vlaicu, merged into a new entity called Compania Nationala Aeroporturi Bucuresti. The new company provides the management and operational coordination of the two airports servicing Bucharest. The company has commenced its activity in February 2010. As the airports publish independently their traffic figures, we continue to present each airport separately.

The market share recorded in 2009 by the most important airports for passenger air transportation and aircraft movements is presented below:

Passenger traffic - market share (2009)



Aircraft movements - market share (2009)



Source: [www.otp-airport.ro](http://www.otp-airport.ro), [www.baneasa-airport.ro](http://www.baneasa-airport.ro), [www.aerotim.ro](http://www.aerotim.ro), [www.mk-airport.ro](http://www.mk-airport.ro), [www.airportcluj.ro](http://www.airportcluj.ro), [www.mt.ro](http://www.mt.ro)

The largest Romanian airport is Henri Coanda Airport (Bucharest) having serviced almost half of the total passengers in 2009, namely 4.5 million passengers. It is also the main airport for aircraft movements, as around 45% of aircrafts landed on and took-off from its runways during 2009. Other important airports are Traian Vuia Airport located in Timisoara servicing 0.96 million passengers and Cluj-Napoca Airport servicing 0.83 million passengers in 2009.

**Henri Coanda Airport (Otopeni)**, located 20 km from Bucharest, is by far the largest and most technically advanced Romanian airport. Flights operated on the airport are serviced by two runways of 3,500 m length and 45 m width and 45 standing posts for aircrafts. Most of the European national airlines and some low cost companies operate flights from this airport.

**Aurel Vlaicu Airport (Baneasa)** is the smaller airport of Bucharest and is focused mainly on low-cost flights. Its traffic figures rose from 0.17 million passengers recorded in 2003 to almost 2 million passengers in 2009. Flights operated on the airport are serviced by one runway of 3,200 m length, including 22 standing posts for aircrafts.

**Traian Vuia Airport (Timisoara)** is the country's third airport in terms of passenger traffic and the largest regional airport, located in the western part of Romania. In 2002 the airport posted a number of 0.27 million passengers and rose to almost 1 million passengers transported in 2009. Flights operated on the airport are serviced by one runway of 3,500 m length and 45 m width, including 22 standing posts for small and medium aircrafts.

**Cluj-Napoca Airport** is Romania's fourth airport as per the number of passengers transported, covering almost 9% of passenger traffic in the last two years. In 2003 it transported 0.12 million passengers and increased to around 0.83 million passengers in 2009. Flights operated on this airport are serviced by one runway of 2,100 m length and 30 m width.

**Mihail Kogalniceanu Airport (Constanta)** located in the eastern part of Romania was designed to facilitate tourists flow to seaside resorts. Flights operated on the airport are serviced by one runway of 3,500 m length and 45 m width, including 7 standing posts for medium and large aircrafts.

<i>Main airports – passenger traffic (million passengers)</i>	<i>2005</i>	<i>2006</i>	<i>2007</i>	<i>2008</i>	<i>2009</i>
Aeroportul Henri Coanda (Otopeni)	3.0	3.5	5.0	5.0	4.5
Aeroportul Aurel Vlaicu (Baneasa)	0.4	0.7	0.9	1.8	1.9
Aeroportul Traian Vuia (Timisoara)	0.6	0.8	0.9	0.9	1.0
Aeroportul Cluj-Napoca	0.2	0.2	0.4	0.8	0.8
Aeroportul Mihail Kogalniceanu (Constanta)	n/a	n/a	n/a	0.1	0.1

Source: [www.otp-airport.ro](http://www.otp-airport.ro), [www.baneasa-airport.ro](http://www.baneasa-airport.ro), [www.aerotim.ro](http://www.aerotim.ro), [www.mk-airport.ro](http://www.mk-airport.ro), [www.airportcluj.ro](http://www.airportcluj.ro)

The airline carriers working with Romanian airports include around 30 airline companies such as airliners like the Romanian Air Transport Company TAROM or European national airliners like Air France – KLM, Austrian Airlines, and low cost companies like Wizz Air, Blue Air, and GermanWings etc.

The airports' main activities refer to arrivals, departures, and ground maneuvering of aircrafts, parking of the aircrafts remaining at the airport, airport services and transport of persons, cargo and mail. Their revenues are incurred by airport charges related to their main scope of business and by non-aviation activities like rental of spaces for duty-free stores, restaurants, offices, parking lots etc.

### **7.10.3.2 Brief history**

Romania has a rich tradition in the aviation field. At the beginning of the 20th century, flight pioneers like Aurel Vlaicu, Traian Vuia and George Valentin Bibescu brought important contributions to early aviation history, building revolutionary airplanes.

In 1906, in Paris, Traian Vuia was the first to design and pilot a heavier-than-air flying machine able to take off without a catapult by entirely relying on its own engine. Four years later, Aurel Vlaicu made the first public demonstration by flying his own designed and built airplane, near Bucharest.

In 1912, Henri Coanda, designed the first jet aircraft, thus anticipating by more than 30 years the first commercial applications of the jet engine.

In 1920, the French-Romanian Company for Air Navigation (CFRNA) was set up using Romanian capital and French technical equipment. The company provided passenger, mail and cargo air transportation from Paris to Bucharest, via Strasbourg, Prague, Vienna and Budapest. CFRNA was the first operative Trans-continental airline in the history of aviation.

In 1926, the first domestic Romanian route between Bucharest and Galati was opened.

The first national airline LARES (The Romanian Air Lines) was established in 1930 and seven years later LARES merged with SRTA (The Romanian Air Transport Society).

In 1954 the Romanian Air Transport Company TAROM was founded.

Until 1970, when Otopeni Airport was built, Baneasa Airport had been the only airport open to international air traffic.

### **7.10.3.3 Investment plans**

The airport network is planned to expand with the construction of new airports. The most important announced project is the construction of an international airport in the center part of the country. In this respect, in 2006, the Government announced investment plans for building and commissioning the Brasov-Ghimbav International Airport. A Canadian company was selected to build a medium-sized airport and caterwards to coordinate the operational activities. The local authorities involved in this process are Brasov County, the city of Brasov, Covasna and Har-

ghita counties and Ghimbav town. The airport is designed with a capacity of 1 million passengers annually. In April 2008 the construction of the airport was inaugurated and the deadline for the completion of the works was set at 24 – 30 months. However, due to various reasons, the construction works have not started.

New airports have been announced to be built in Alba Iulia, Bistrita, Deva, Galati - Braila, but these plans were put on hold and no further information regarding the deadline and probability of these projects is available.

Other investment works regard the modernization of the current airport infrastructure by building new terminals, extending and modernizing the current runways of the airports currently operating (i.e. Henri Coanda – Otopeni Airport, Sibiu Airport).

#### **7.10.3.4 Regulatory framework**

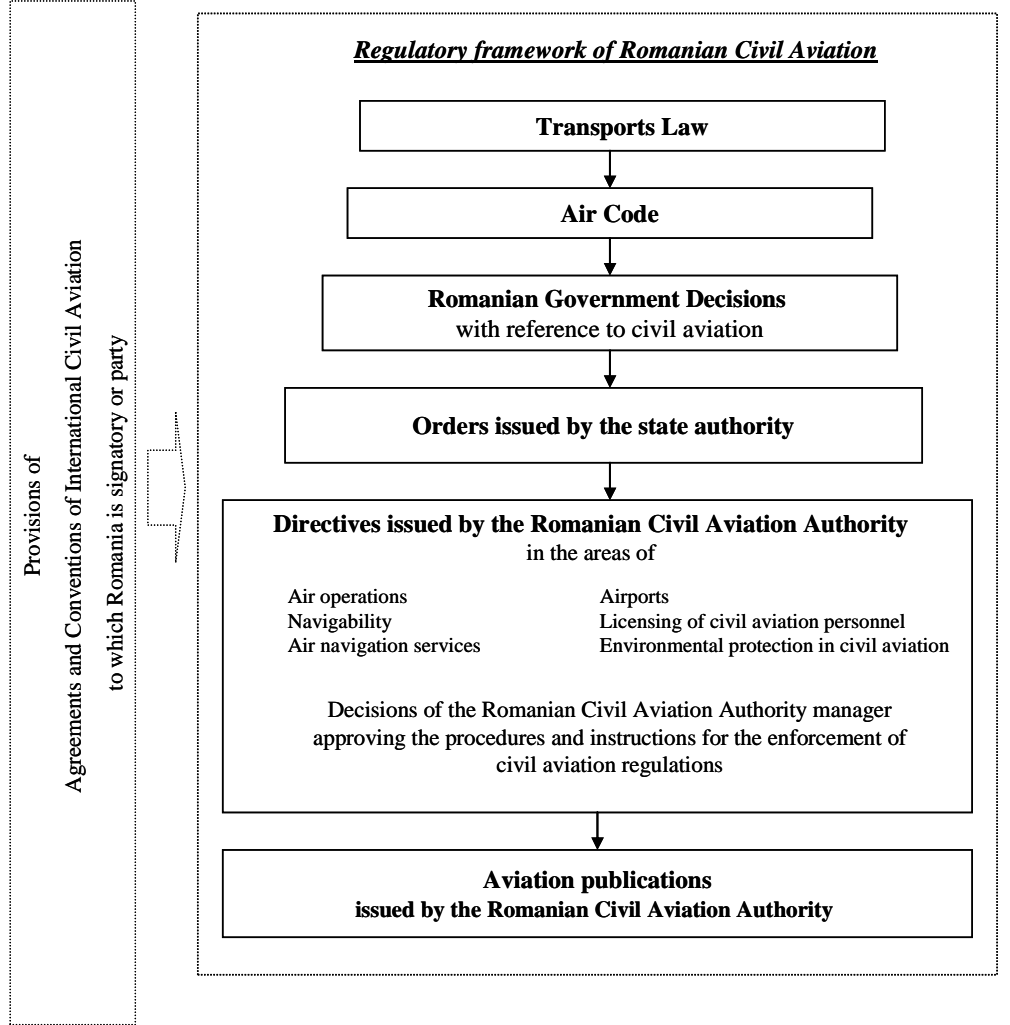
The Ministry of Transportation and Infrastructure is the state authority in the field of transportation, which elaborates the adequate legislative framework, the economical policy and the development strategies for transport infrastructure.

The Romanian Civil Aviation Authority is the specialized technical body of the Ministry of Transportation and Infrastructure delegated to elaborate regulations, implement and enforce the national civil aviation, license the civil aviation personnel, certify aircrafts, products and associated parts of civil aircraft, register aircrafts.

The chart below presents the regulatory system of the civil aviation in Romania.



*Regulatory system of the Romanian Civil Aviation*



Source: [www.caa.ro](http://www.caa.ro)

**7.10.3.5 Tariff policy**

The tariffs charged by the airports for their main scope of business are negotiated with the airline companies and refer to passenger tariff, landing, lighting, parking, handling activities etc.

The airports can collect a security tariff in accordance with the Order 1322/2002 issued by the Ministry of Transportation and Infrastructure. The security tariff is applicable to each carrier for each passenger embarking on commercial flights in Romanian civil airports. The tariff level is set for each airport. The amounts collected from this tariff are used only to supplement the funding sources for activities and works approved by the Ministry of Transportation and Infrastructure in relation to airport security: investments and capital repairs, purchases of equipment ensuring the security of the airport activity, training of personnel engaged in the airport security activities, payment of security services.

### 7.10.3.6 Privatization status

According to Law no. 247/2005, Government Decision no. 574/2006, Government Emergency Ordinance no. 81/2007, the first step towards the privatization of the national companies which operate Henri Coanda Airport, Aurel Vlaicu Baneasa Airport, Mihail Kogalniceanu Constanta Airport, and Timisoara Traian Vuia Airport, should have been through launching a secondary public selling offer for a stake of 5% of each company's shares on Bucharest Stock Exchange. However, this process which started in 2008, was suspended and there is no applicable legal provision for re-launching it.

### 7.10.4 Ports

#### 7.10.4.1 Brief presentation of the sector main drivers

##### *Passenger traffic, Cargo traffic*

Starting with 2008, the number of passengers has followed a downward path, which accelerated in 2009. Thus, in 2008 the number of passengers transported through Romanian river ports has declined by almost 8% compared to the previous year, while in 2009 it faced a decline of around 17% year-on-year.

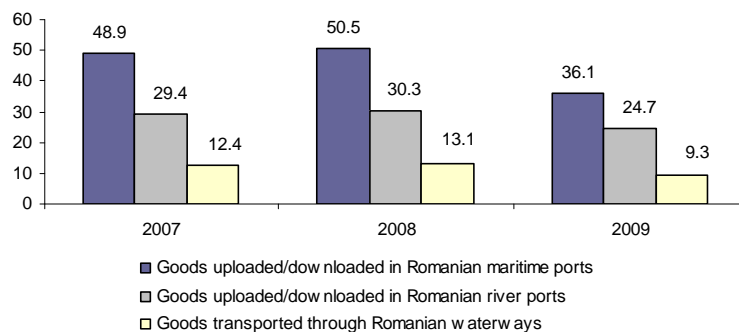
##### *Passengers transported through Romanian ports (thousand passengers)*



Source: [www.mt.ro](http://www.mt.ro), [www.insse.ro](http://www.insse.ro)

The cargo traffic through ports was influenced by the economic downturn that the Romanian economy faced in 2009. In volume terms, the 2009 dive was of almost 28% for the goods carried through Romanian maritime ports and around 18% for those carried through the river ports. As for the goods transported through waterways, the drop was of 29% in 2009.

*Cargo traffic through Romanian maritime and river ports and waterways (million tons)*



Source: [www.insse.ro](http://www.insse.ro), [www.mt.ro](http://www.mt.ro)

*Main players*

Most of Romanian ports are managed by four state-owned companies, which award concessions to private bodies for port operations: Administratia Porturilor Maritime, Administratia Porturilor Dunarii Maritime, Administratia Porturilor Dunarii Fluviale, and Administratia Canalelor Navigabile. The four national companies design and implement the strategies and policies for the development of the ports under their administration, ensure the functionality of the ports and naval transport infrastructure.

**CN Administratia Porturilor Dunarii Fluviale (APDF)** is the port authority for the ports situated along the upper Danube, upstream from Braila, except for the Turnu Magurele and Zimnicea ports which are managed by County Councils. The main ports under the administration of APDF are: Bechet, Calarasi, Calafat, Cernavoda, Corabia, Drobeta Turnu-Severin, Giurgiu, Orsova, Oltenita, Moldova Veche. These ports have an annual handling capacity of 15 million tons and a total quay length of 16.2 km. Seven of the ports administered by APDF are part of the Trans-European Transport Network (TEN-T).

In its executive meeting held on 20th October 2010, the Government approved the memorandum initiated by the Ministry of Transportation and Infrastructure whereby the ports Svinita, Tisovita, Dubov, Gruia, Cetate, Bechet and port land of 14,588 sqm of Oltenita port will be managed by local authorities. According to the memorandum, all revenues from shipping infrastructure will be used to cover development, operation, maintenance and repair costs of such infrastructure. The step is part of the Government's strategy for decentralization of public administration.

**CN Administratia Porturilor Dunarii Maritime (APDM)** is the port authority for the ports located on the Danube river from Sulina to Harsova, except for Sulina port which is managed by Administratia Portului Liber Sulina. APDM manages the entire port infrastructure situated along the lower Danube, downstream from Braila, including ports (Galati, Braila, Tulcea, Isaccea, Macin, Chilia Veche, Mahmudia, Smardan and Harsova), working points (Gura Arman and Turcoaia) and unloading docks (Crisan, Maliuc, Gorgova, Partizani and Babarada). Galati, Braila and Tulcea are the largest ports on the Danube River. They are located at the intersection

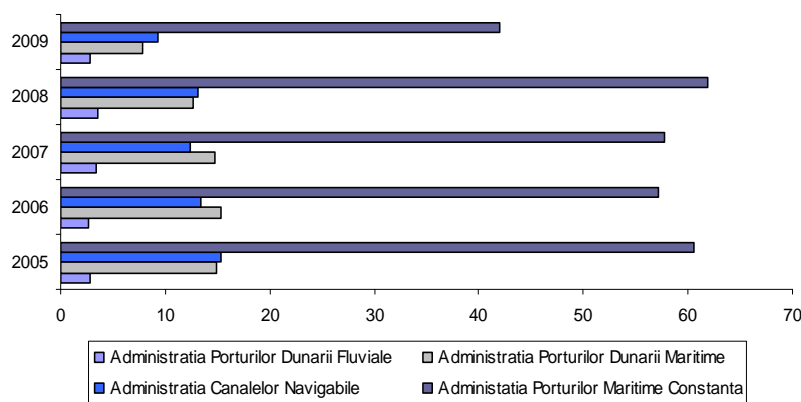
of lower and upper Danube and offer access to Pan-European Corridor VII, through the Rhine-Main-Danube inland waterway.

**CN Administratia Porturilor Maritime Constanta (APM)** is the harbor authority for three maritime ports on the Black Sea seaside, Constanta port and its two satellite ports, Mangalia and Midia, and a touristic port Tomis Marina. Constanta is the main Romanian port ranking among the first 10 European ports. The importance of the port is emphasized by the favorable geographical location, having connections with two Pan-European Transport Corridors: Corridor VII Danube and Corridor IV. The port of Constanta operates both as maritime and river port. The port has an annual handling capacity of 100 million tons and 156 berths, of which 140 berths are operational. The total quay length is 29.83 km, while depths range between 8 and 19 meters.

**CN Administratia Canalelor Navigabile (ACN)** is the owner of the water way between the Danube and the ports on the Black Sea. The company acts as port authority for 4 ports and 4 locks. The main waterway is Danube – Black Sea with a length of 64 km. It links Cernavoda port with the maritime port of Constanta shortening the route of cargo by 400 km from the Black Sea to the ports along the Danube. It includes the locks Agigea, Cernavoda, Ovidiu, Navodari and the ports Medgidia, Basarabi, Ovidiu and Luminita. The second waterway is Port Alba – Midia – Navodari, which links Midia and Luminita ports to the Danube – Black Sea waterway.

The cargo traffic for the four ports administrations is presented below:

*Cargo traffic by Port administration (million tons)*



Source: [www.acn.ro](http://www.acn.ro), [www.apdf.ro](http://www.apdf.ro), [www.romanian-ports.ro](http://www.romanian-ports.ro), [www.portofconstantza.com](http://www.portofconstantza.com)

The main Romanian ports are presented in the chart below:

## Romanian ports



### Ports administered by

- Administratia Porturilor Dunarii Fluviale
- Administratia Porturilor Maritime
- Administratia Porturilor Dunarii Maritime
- Administratia Canalelor Navigabile
- Local Councils
- Administratia Portului Liber Sulina

Source: [www.acn.ro](http://www.acn.ro), [www.apdf.ro](http://www.apdf.ro), [www.romanian-ports.ro](http://www.romanian-ports.ro), [www.portofconstantza.com](http://www.portofconstantza.com), [www.azlsulina.ro](http://www.azlsulina.ro)

### 7.10.4.2 Regulatory framework

The Romanian Naval Authority is the specialized technical body of the Ministry of Transportation and Infrastructure in the field of navigation security, having the following tasks: inspection, control and surveillance of the navigation in Romanian inland waterways, Port State Control and Flag State Control, protection of navigable waters against pollution by vessels, registration of ships under Romanian flag, technical surveillance and certification of maritime and inland water ships, offshore drilling units flying the Romanian flag.

### 7.10.4.3 Tariff policy

According to the Government Decision no. 22/1999, the tariffs charged for the usage of port infrastructure as well as for other related services are set by the administrative authority in charge with managing the respective port.

### 7.10.4.4 Investment plans

Investment plans announced by the Government for this sector are aimed at developing the Romanian port infrastructure and improving the navigations conditions in the Romanian ports.

In this respect, there are several development works at Constanta Port, which enable the setting up of new operational areas. Some of these investments refer to the building of a road bridge across the Danube – Black Sea waterway in Agigea, linking Constanta to the Bucharest – Constanta highway.

Further investments refer to the extension of the North Breakwater in Constanta port to improve operating conditions and stationing of ships at dockside in Constanta Sud – Agigea. These projects are co-financed with EU funds.

Regarding the ports located on upper Danube River, APDF is currently running the DANUBE project ("Danube Access Network – Unlocking Bottlenecks in Europe by developing a high quality TEN-T ports infrastructure in Romania, on optimal economic terms"), which benefits of EU funds. The project's main purpose is to promote a well-developed transport system in Romania, which will increase safety and facilitate transport of passengers and cargo. Within this project, a feasibility study was developed in 2007 as a first phase in finding the best technical and economical solution for the modernization of the port infrastructure in seven TEN-T ports: Moldova Veche, Drobeta Turnu Severin, Calafat, Giurgiu, Oltenita, Calarasi, and Cernavoda. The feasibility study proposes the modernization of the port infrastructure and services through investments, which exceed 140 million EUR. As for the ports located on lower Danube River, announced investments mainly concern Galati, Braila and Tulcea ports for modernization and rehabilitation of quays and docks.

#### **7.10.4.5 Privatization status**

According to Government Decision no. 574/2006, with subsequent changes, the first step towards the privatization of ports companies, (Administratia Porturilor Dunarii Fluviale, Administratia Porturilor Dunarii Maritime and Administratia Nationala a Canalelor Navigabile) should have been through launching a secondary public selling offer for a stake of 5% of each company's shares on Bucharest Stock Exchange. The process was suspended in 2009 without any details for the timing and probability of this process.

## 7.11 Overview of other stakes of the Fund

As mentioned before, the Fund has a diversified portfolio, having some exposures in various sectors. Except sectors briefly described above (electricity, oil & gas and transportation) the Fund owns shares in other sectors, as presented in the table below:

<b>Portfolio Companies</b>	<b>Activity</b>	<b>The Fund's stake (%)</b>	<b>Listed/unlisted</b>
Alro SA	Aluminium	9.92%	listed
Posta Romana SA	Postal services	25.00%	unlisted
Societatea Nationala a Sarii SA	Salt production	48.99%	unlisted
Zirom SA	Titanium processing	100.00%	unlisted
Azomures SA	Fertilizers producer	7.69%	listed
Primcom SA	Real estate	78.97%	listed
Romaero SA	Aviation & engineering	20.99%	listed
Severnav SA	Shipbuilding	39.10%	listed
Delfincom SA	Real estate	65.50%	listed
Romplumb SA*)	Lead production	51.00%	listed
Salubriserv SA	Waste collection	17.48%	unlisted
Forsev SA	Metallurgy	28.14%	listed
Laromet SA	Metal production	4.20%	unlisted
Palace SA	Hotels	15.42%	listed
Mecon SA	Metal products	12.51%	listed
Zamur Targu Mures SA	Sugar trading	7.06%	unlisted
IOR SA	Optical products	2.81%	listed
Carom - Broker Asigurare SA	Insurance broker	70.00%	unlisted
Transilvania Com SA	Real estate	39.99%	listed
Comcereal Cluj SA	Agriculture	11.36%	listed

Alcom SA	real estate	71.89%	listed
Turdapan SA	Real estate	44.06%	listed
Vitacom SA	Real estate	46.91%	listed
Electroconstructia Elco Cluj SA	Electric installation services	7.61%	unlisted
Celuloza si Otel SA	Recycling	8.62%	unlisted
Cetatea SA	Real estate	20.43%	unlisted
Ciocirlia SA	Restaurants	1.68%	unlisted
Comcereal Miercurea Ciuc SA	Agriculture	10.03%	listed
Commetex SA	Wholesale	15.99%	unlisted
Comsig SA	Real estate	69.94%	unlisted
Comcereal Fundulea SA	Agriculture	5.35%	listed
Telerom Proiect SA	IT&C design	68.63%	listed
Mecanoenergetica SA	Metallurgy	10.07%	listed
Prestari Servicii SA	Services	70.55%	listed
Retizoh SA	Insulation works	7.37%	unlisted
Marlin SA	Real estate	4.95%	unlisted
World Trade Hotel SA	Hotels	19.90%	unlisted
Familial Restaurant SA	Restaurants	2.75%	unlisted
Bat Service SA	Road transport	33.00%	listed
Carbid Fox SA	Chemicals	7.96%	unlisted
Electromecanica Ploiesti SA**)	Military equipment	49.00%	unlisted
FECNE SA	Metallurgy	12.12%	listed
Gerovital Cosmetics SA	Cosmetics	9.76%	unlisted
Plafar SA	Healthcare	49.00%	unlisted
Resib SA	Real estate/Hotels	2.87%	listed
Simtex SA	Research&development, engineering services	30.00%	unlisted



Uzina Mecanica Bucuresti SA**)	Military equipment	36.59%	unlisted
World Trade Center Bucuresti SA	Real estate/ rental	19.90%	unlisted

*Source: Reports prepared by the Fund Manager as of 31 October 2010 (un-audited)*

*\*)Note: According to Law 247 the Romanian State contributed to the share capital of the Fund 1,595,520 shares in Romplumb. Pursuant to the Central Depository excerpt dated 15 October 2010, the equity participation of the Fund in Romplumb represented 57.9%. In accordance to the Trade Registry excerpt dated 15 October 2010, the equity participation of the Fund in Romplumb represented 51.0%. The difference stems from a litigation with respect to a share capital increase to which the Fund is not a party. As a result, the Fund adopted a conservative approach and considered the lowest percentage for the calculation of the NSC NAV.*

*\*\*Note: S.C. Electromecanica Ploiesti S.A. and S.C. Uzina Mecanica Bucuresti S.A. do not recognize the Fund as a shareholder. For more details please refer to Section 4.13 "Litigations".*

## 8 LISTING ON THE BSE

### III.6.1

Pursuant to Law no. 142/2010, the Fund is required to apply for admission to trading on the BSE spot regulated market within 90 business days as of the date of registration with the NSC as an undertaking for collective investment, as of 18 August 2010, respectively. Since no public offering shall be carried out with respect to the Shares, the admission to trading on the regulated market managed by the BSE shall be of purely administrative nature.

Pursuant to the Romanian Capital Markets Laws, the process of admission to trading of the shares issued by a company consists of two stages: (i) approval by the NSC of a prospectus, accompanied by a set of documents, (ii) application for and approval of the admission to trading by the BSE as market operator.

#### **Approval of the prospectus**

This Prospectus is prepared in accordance with the provisions of Annex I, III and XV of EC Regulation no. 809/2004 and in compliance with the Romanian applicable laws and has been approved by the NSC.

#### **Application for admission to trading**

Once the NSC approves the prospectus, the company applies for admission to trading on a regulated market, by submitting to the market operator a set of documents. The application for admission to trading is analysed by the competent bodies of the BSE in 3 stages:

- (a) The admission to trading application and accompanying documents are analysed by the BSE's Listing Department. The Listing Department certifies compliance of the company with the relevant legal provisions and requests additional documents to supplement the file, if necessary;
- (b) Once the admission to trading file has been supplemented, if necessary, and duly analysed, the Listing Department files a request for admission to trading with the BSE's Listing Commission, accompanied by a recommendation note. The Listing Commission convenes the company's representatives and, if applicable, the brokers who support the request for admission to trading in front of the members of the commission. The Listing Commission may request any information or documents which it deems useful in taking the decision. The Listing Commission issues a notice within one month as of the date of submission by the Fund of all required documents. The notice is then submitted with the BSE's Council;
- (c) BSE's Council is the competent body within BSE to decide upon the admission to trading of the shares for which admission has been requested, based on the Listing Commission's notice.

Compliance with all of the requirements set out by BSE's regulations does not trigger *eo ipso* the approval of the request for admission to trading.

The Fund intends to request admission to trading on the spot regulated market managed by the BSE in tier I (shares) of the Equity Sector of the market. The BSE Rulebook sets out certain requirements for the companies listing on tier I (shares) of the Equity Sector, namely:

- (a) shares for which admission to trading is requested are:
- registered with the NSC;
  - transferable, fully paid up, issued in a dematerialised form and enlisted by registration into an account;
  - of the same class, distributed to more than 2,000 shareholders and with a free float of at least 25 per cent of the share capital;
- (b) the company requesting admission to trading of its shares:
- has prepared a prospectus approved by the NSC;
  - is a company incorporated and functioning in compliance with the applicable law;
  - has been operational for at least 3 years prior to the submitting the request for admission to trading and has prepared and published its financial statements for the same period in accordance with the applicable law;
  - has submitted all required documents for admission to trading;
  - has paid all fees due to the BSE and has no outstanding debts to BSE;
  - has nominated two persons to keep up the correspondance with the BSE;
  - has adhered to the terms and conditions of the admission and maintenance to trade arrangement;
  - complies with one of the following requirements: (i) the value of own capital for the last financial year is at least the RON equivalent of EUR30 million or (ii) the anticipated capitalisation is at least the RON equivalent of EUR30 million;
  - has registered net profit for the last two financial years;
  - prepares and submits a business plan for at least the next three calendar years;
  - submits with the BSE a presentation memorandum having the content approved by the BSE's Council.

## III.4.11 **9 TAXATION**

*The information presented below is a summary of the most important consequences of holding and selling listed securities (shares other than those held in private companies) in terms of the Romanian taxation system.*

*This information is based on the laws, norms and regulations in force on the date of the present Prospectus and is not intended to be a legal opinion or an approach of all the tax issues related to the acquisition, holding or selling the shares traded on a regulated market.*

*The application of tax laws in each case depends on the individual circumstances of each investor; accordingly, the Fund recommends potential investors, before deciding on the opportunity to buy shares, to consult their own financial advisors regarding the specific tax regulations, including the conventions for the avoidance of double taxation and possible changes in the tax legislation.*

### **9.1 Taxation of dividends**

#### **9.1.1 Romanian residents**

##### **9.1.1.1 Natural persons**

Dividends paid by Romanian entities to resident individuals, including payments derived from holding shares in closed-end investment companies are subject to an income tax of 16%. The tax is withheld by the company paying the dividends, when the payment is made. If the dividends have not been paid by the end of the year in which the annual financial statements were approved, the tax on such dividends is payable by 25 January of the next year, inclusively. The tax payment is considered final and the natural person is deemed to have fulfilled the tax payment obligations.

##### **9.1.1.2 Legal persons**

Dividends paid by Romanian legal persons to another Romanian legal person are subject to a tax of 16% withheld by the company paying the dividends. The tax is payable until the 25<sup>th</sup> day of the month following that in which dividends were paid. No tax is paid in the case of dividends paid by a Romanian legal person if the legal person receiving the dividends (i) holds a minimum of 10% of the share capital of the legal person paying the dividend at the date on which dividends are paid, over a period of more than 2 years until payment date thereof or (ii) is a public administration authority exercising by law its shareholder's rights and obligations on the name and behalf of the Romanian state. If the dividends have not been paid by the end of the year in which the annual financial statements were approved, the tax on such dividends is payable by 25 January of the next year, inclusively.

Dividends paid by a Romanian company to a Romanian legal person are not part of the beneficiary's taxable income for profit tax purposes.

## **9.1.2 Non-residents**

### **9.1.2.1 Natural persons**

Dividends paid by Romanian legal persons to non-resident natural persons are subject to a tax of 16%, withheld by the company paying the dividends, when the payment is made. The tax is payable by the 25<sup>th</sup> day of the month following that in which such dividends were paid.

Depending on the country in which the natural person has its tax residence, this tax may be reduced or eliminated based on a convention for the avoidance of double taxation and on the European Union legislation. In order to benefit from the provisions of the convention for the avoidance of double taxation and the European Union legislation, the non-resident person should obtain and submit to the dividend payer a tax certificate issued by the tax authorities of its country of residence, in original and copy, and the notarised translation thereof and a statement indicating the fulfilment of the requirements to be a beneficiary under the European Union legislation.

### **9.1.2.2 Legal persons**

Dividends paid by Romanian legal persons to non-resident legal persons are subject to a tax of 16%, withheld by the company paying the dividends, when the payment is made.

Dividends paid by a Romanian legal person to a legal person resident in another European Union member state or in the European Free Trade Association member state, respectively Iceland, Liechtenstein or Norway, or to a permanent establishment thereof located in the European Union or in a European Free Trade Association member state are subject to a 10% withholding tax. The dividends are tax exempted if, *inter alia*, the recipient of the dividends holds at least 10% of the share capital of the Romanian legal entity for a continuous period of at least two years by the date of dividend payment, due to the implementation of the Council Directive 2003/123/EC of 22 December 2003 on the common system of taxation applicable in the case of parent companies and subsidiaries of different member states, as amended. A refund of the tax may be requested in case the two-year term requirement is fulfilled after the payment of the dividend.

Depending on the country in which the foreign legal person has its tax residence, this tax may be reduced or eliminated based on a convention for the avoidance of double taxation and on the European Union legislation. In order to benefit from the provisions of the convention for the avoidance of double taxation and the European Union legislation, the non-resident person should obtain and submit to the dividend payer a tax certificate issued by the tax authorities of its country of residence, in original and copy, and the notarised translation thereof and a statement indicating the fulfilment of the requirements to be a beneficiary under the European Union legislation.

## **9.2 Taxation of capital gains**

### **9.2.1 Romanian residents**

#### **9.2.1.1 Natural persons**

The annual capital gains obtained by resident natural persons from the sale of listed shares is subject to a 16% income tax, irrespective of the period for which the shares are held.

The resident natural persons have the obligation to declare the gain or loss on a quarterly basis cumulated as from the beginning of the fiscal year as well as to make quarterly payments in advance, determined as 16% of the net capital gain cumulated by reference to the end of each quarter, cumulated as from the beginning of the fiscal year, by the 25<sup>th</sup> day of the month following the respective quarter.

The intermediary has the obligation to inform the resident natural person on a quarterly basis and the tax authorities on an annual basis on the gains or losses derived by each natural person.

The natural persons by way of an annual tax return declare the annual gains or losses. Annual losses incurred from the sale of securities are carried forward for a period of up to 7 (seven) years.

For the 2010 fiscal year, specific transitional rules are included in the Emergency Government Ordinance 58/2010, as amended to date, for the purpose of determining the personal income tax due on capital gains derived from the sale of such securities. For the period 1 January 2010 – 30 June 2010, the net gain or loss is assimilated to the annual gain or loss and a 1% or 16% income tax would be applicable depending on the period such securities are owned. The net loss attributable to the period 1 January 2010 – 30 June 2010 is assimilated to the net annual loss and it is compensated with the net gain assimilated to the net annual gain attributable to the period 1 July 2010 – 30 December 2010. Any loss resulted from such compensation is reported to the taxable annual net gains attributable to the year 2011.

The income derived from the first transfer of Shares pursuant to the titles I and VII of the Law 247/2005 concerning the reform in property and justice fields as well as certain related measures, as subsequently amended, is tax exempted.

#### **9.2.1.2 Legal persons**

The gains obtained by a Romanian legal person from the sale of shares held in a Romanian legal person are part of its taxable income, to which the 16% quota is applied.

### **9.2.2 Non-residents**

### **9.2.2.1 Natural persons**

Gains obtained by non-resident natural persons from the sale of shares held in a Romanian legal person are subject to the Romanian income tax, according to the regulations applicable to the Romanian natural persons. A non-resident natural person may appoint a proxy or a fiscal representative (Romanian natural or legal person) for the purpose of fulfilling the tax payment and statement obligations.

Depending on the country in which the foreign legal person has its tax residence, this tax may be reduced or eliminated based on a convention for the avoidance of double taxation. In order to benefit from the provisions of the convention for the avoidance of double taxation, the non-resident person should obtain and submit to the proxy or a fiscal representative a tax certificate issued by the tax authorities of its country of residence, in original and copy, and the notarised translation thereof. A copy of the tax certificate will be attached to the tax return. In case of transaction made through intermediaries, they have the obligation to inform the resident natural person on a quarterly basis and the tax authorities on an annual basis on the gains or losses derived by each natural person.

### **9.2.2.2 Legal persons**

The gains obtained by a non-resident legal person from the transfer of shares held in a Romanian legal person are subject to the Romanian income tax of 16%.

A non-resident legal person obtaining capital gains may appoint a proxy or a fiscal representative in Romania, which shall fulfil the tax payment and statement obligations.

Depending on the country in which the foreign legal person has its tax residence, this tax may be reduced or eliminated based on a convention for the avoidance of double taxation. In order to benefit from the provisions of the convention for the avoidance of double taxation, the non-resident person should obtain and submit to the proxy or the fiscal representative in Romania a tax certificate issued by the tax authorities of its country of residence, in original and copy, and the notarised translation thereof.

If the non-resident legal person holds the shares through a permanent establishment in Romania, the profit obtained by such a permanent establishment – including, if applicable, gains from the sale of shares – will be subject to the Romanian profit tax of 16%. With respect to the permanent establishment, the non-resident legal person will have tax obligations similar to those of the residents.

## **9.3 Other taxes and fees**

### **VAT**

Transactions with shares are expressly exempted from value added tax.

## **9.4 Important note on the Fund's tax treatment**

The Fund is a joint stock company and is treated as such under the Romanian taxation legislation; the Fund does not benefit from the type of tax treatment applicable to unincorporated investment funds and hence it is subject to corporate tax.



## 10 SOURCES OF INFORMATION

Certain information included in this Prospectus has been sourced from the reports, opinions or other documents prepared by the Fund's auditors, evaluators and other financial advisors. Such information is included, in the form and the context in which it is included, with the consent of the person originating such information who has authorised the contents of that part of the Prospectus.

Most of the reports and opinions referred to above have been prepared by the following experts:

- S.C. JPA Audit & Consultanta S.R.L., a limited liability company, organised and functioning under Romanian law, having its registered seat in Romania, Bucharest, blvd. Mircea Voda no. 35, 3<sup>rd</sup> floor, district 3, registered with the Bucharest Trade Registry under no. J40/8639/2002 ("**JPA Audit**"). JPA Audit has prepared evaluation reports with respect to certain Portfolio Companies, upon the Fund's request.
- S.C. KPMG Romania S.R.L., a limited liability company, organised and functioning under Romanian law, having its registered seat in Romania, Bucharest, Victoria Business Park, DN1 Bucuresti Ploiesti no. 69-71, district 1 registered with the Bucharest Trade Registry under no. J40/1829/2005 ("**KPMG**"). KPMG has prepared evaluation reports with respect to certain Portfolio Companies, upon the Fund's request. KPMG has also prepared the Fund's IFRS financial statements for the 2007, 2008 and 2009 financial years.
- S.C. Darian DRS S.A., a joint stock company, organised and functioning under Romanian law, having its registered seat in Romania, Cluj county, Cluj Napoca, Nicolae Cristea str. no. 25, registered with the Cluj Trade Registry J12/595/1991. ("**Darian**"). Darian has prepared evaluation reports with respect to certain Portfolio Companies, upon the Fund's request.
- S.C. Deloitte Audit S.R.L., a limited liability company, organised and functioning under Romanian law, having its registered seat in Romania, Bucharest, Soseaua Nicolae Titulescu no. 4-8, 3<sup>rd</sup> floor, district 1, registered with the Bucharest Trade Registry under no. J40/6775/1995 ("**Deloitte**"). Deloitte has been engaged by the Fund for auditing, in accordance with the international auditing standards, the Fund's financial statements, as they were prepared in accordance with IFRS for the years 2007, 2008 and 2009.

Apart from the consideration to be paid or already paid by the Fund thereto, the above referred experts do not have any material interest in the Fund.

Furthermore, certain information included in this Prospectus has been sourced from third parties, as identified throughout its content.

The Fund, the Fund Manager, the members of the Consortium and their legal advisor have not verified the correctness of the information from third party sources which are referred to in this Prospectus. Accordingly, the Fund, the Fund Manager, the members of the Consortium and their

legal advisor cannot accept any responsibility for the accuracy of information from third party sources. The Fund, the Fund Manager, the members of the Consortium and their legal advisor have accurately reproduced this information from such third party sources, and have not omitted any facts known to thereto and available from such third party sources, the omission of which would make the data inaccurate or misleading. Notwithstanding to the above, the information included in this Prospectus which has been sourced from third parties was accurately reproduced in this Prospectus as of the date when such third party sources have been consulted or the information included therein has been dated. Thus, certain information included in this Prospectus from third party sources may be outdated and may not reflect the current status of facts.

## 11 DOCUMENTS ON DISPLAY

I.24 The following documents will be available for inspection and copies thereof will be provided upon request during normal business hours at the headquarters of the Fund:

- the AoAs;
- all reports, letters, and other documents, historical financial information, valuations and statements, prepared by any expert upon the Fund's request any part of which is included or referred to in this Prospectus;
- the 2007, 2008 and 2009 separate financial statements of the Fund, prepared in accordance with IFRS;
- the 2007, 2008 and 2009 consolidated financial statements of the Fund, prepared in accordance with IFRS;
- the interim financial statements for the six months ended 30 June 2010 of the Fund prepared in accordance with RAS.

This Prospectus will be available on the internet page of (a) the Fund ([www.fondulproprietatea.ro](http://www.fondulproprietatea.ro)), (b) the members of the Consortium ([www.rciro.ro](http://www.rciro.ro), [www.brd.ro](http://www.brd.ro)) and (c) BSE ([www.bvb.ro](http://www.bvb.ro)), and copies thereof will be provided upon request during normal business hours at the headquarters of S.C. Fondul Proprietatea S.A., located in Buzești str., no. 78-80, 7<sup>th</sup> floor, Premium Point Building, district 1, Bucharest, Romania.

## 12 ANNEXES

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<b>Annex:</b>	<b>Annex Name</b>
Annex 1	Independent valuation – results
Annex 2	Franklin Resources Incorporated Organization Chart
Annex 3	Glossary –Units of measurement
Annex 4	Investment Policy Statement
Annex 5	Financial statements: <ul style="list-style-type: none"><li>• Financial statements (individual and consolidated) prepared in accordance with IFRS for the year 2007,2008 and 2009,</li><li>• Audit reports for the financial statements prepared in accordance with IFRS for the years 2007,2008 and 2009,</li><li>• Interim financial statements for the six months ended 30 June 2010 prepared in accordance with RAS.</li></ul>
Annex 6	Portfolio Companies

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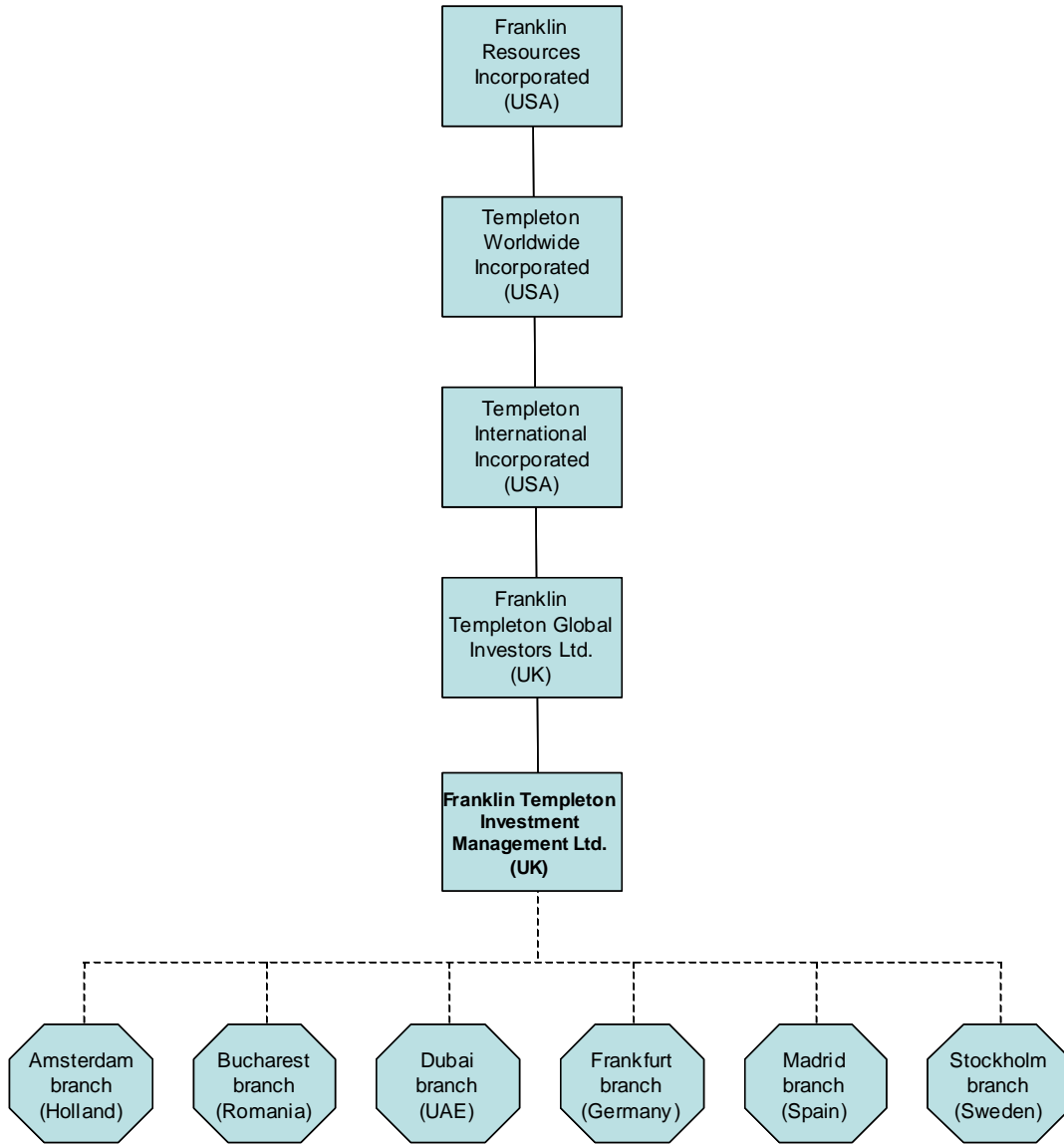
## Annex 1: Independent valuation – results

Portfolio company	Valuator	The Fund's stakes in Portfolio Companies (%)	Value of the Fund's stakes in Portfolio Companies (Lei)	Valuation date
OMV Petrom SA	KPMG Romania	20.1100%	3,642,208,954	31 mai 2010
Hydroelectrica SA	KPMG Romania	19.9400%	2,675,469,440	31 mai 2010
Nuclearelectrica SA	KPMG Romania	9.7300%	644,281,680	31 mai 2010
Complexul Energetic Turceni SA	KPMG Romania	24.7900%	400,606,400	31 mai 2010
CN Aeroporturi Bucuresti SA	KPMG Romania	20.0000%	322,411,414	31 mai 2010
Complexul Energetic Craiova SA	KPMG Romania	24.3600%	213,393,600	31 mai 2010
Complexul Energetic Rovinari SA	KPMG Romania	23.6000%	201,449,600	31 mai 2010
Romaero SA	KPMG Romania	21.0000%	65,318,400	31 mai 2010
CN Administratia Porturilor Maritime SA	KPMG Romania	20.0000%	58,080,000	31 mai 2010
Zirom SA	KPMG Romania	100.0000%	41,351,389	31 mai 2010
Aeroportul International Timisoara Traian Vuia SA	KPMG Romania	20.0000%	18,584,872	31 mai 2010
CN Administratia Canalelor Navigabile SA	KPMG Romania	20.0000%	13,088,000	31 mai 2010
Romplumb SA *)	KPMG Romania	51.0000%	9,945,000	31 mai 2010
CN Administratia Porturilor Dunarii Fluviale SA	KPMG Romania	20.0000%	3,360,000	31 mai 2010
Aeroportul International Mihail Kogalniceanu SA	KPMG Romania	20.0000%	2,788,049	31 mai 2010
Enel Distributie Banat SA	JPA Audit & Consultanta	24.1278%	474,839,000	31 mai 2010
SNTGN Transgaz SA	JPA Audit & Consultanta	14.9876%	445,995,000	31 mai 2010
Enel Distributie Muntenia SA	JPA Audit & Consultanta	12.0000%	434,635,000	31 mai 2010
GDF Suez Energy Romania SA	JPA Audit & Consultanta	12.0000%	368,070,000	31 mai 2010
Enel Distributie Dobrogea SA	JPA Audit & Consultanta	24.0937%	304,904,000	31 mai 2010
Electrica Distributie Muntenia Nord SA	JPA Audit & Consultanta	22.0000%	239,321,000	31 mai 2010
Electrica Distributie Transilvania Sud SA	JPA Audit & Consultanta	22.0000%	227,467,000	31 mai 2010
EON Moldova Distributie SA	JPA Audit & Consultanta	22.0000%	226,387,000	31 decembrie 2009
Electrica Distributie Transilvania Nord SA	JPA Audit & Consultanta	22.0000%	220,945,000	31 mai 2010
Alro SA	JPA Audit & Consultanta	9.9273%	195,193,000	31 mai 2010
CNTEE Transelectrica SA	JPA Audit & Consultanta	13.5000%	184,541,000	31 mai 2010
EON Gaz Distributie SA	JPA Audit & Consultanta	12.0000%	165,689,000	31 decembrie 2009
EON Gaz Romania SA	JPA Audit & Consultanta	12.0000%	105,757,000	31 decembrie 2009
Electrica Furnizare Transilvania Sud SA	JPA Audit & Consultanta	22.0000%	61,454,000	31 mai 2010
Electrica Furnizare Muntenia Nord SA	JPA Audit & Consultanta	22.0000%	61,366,000	31 mai 2010
Conpet SA	JPA Audit & Consultanta	20.0568%	58,357,000	30 iunie 2010
Enel Energie Muntenia SA	JPA Audit & Consultanta	12.0000%	56,420,000	31 mai 2010
Primcom SA	JPA Audit & Consultanta	78.9719%	54,107,000	31 mai 2010
Electrica Furnizare Transilvania Nord SA	JPA Audit & Consultanta	22.0000%	51,430,000	31 mai 2010
EON Moldova Furnizare SA	JPA Audit & Consultanta	22.0000%	44,598,000	31 decembrie 2009
Enel Energie SA	JPA Audit & Consultanta	12.0000%	40,670,000	31 mai 2010
Azomures SA	JPA Audit & Consultanta	7.6900%	18,317,000	30 iunie 2010
Oil Terminal SA	JPA Audit & Consultanta	10.0000%	16,343,000	31 mai 2010
Prestari Servicii SA	JPA Audit & Consultanta	70.5592%	13,500,000	31 mai 2010
Salubriserv SA	JPA Audit & Consultanta	17.4900%	13,444,000	31 mai 2010
Laromet SA	JPA Audit & Consultanta	6.5200%	9,854,000	31 decembrie 2009
Forsev SA	JPA Audit & Consultanta	28.1436%	7,162,000	31 mai 2010
Petrotel Lukoil SA	JPA Audit & Consultanta	2.1800%	3,542,000	31 mai 2010
Mecon SA	JPA Audit & Consultanta	12.5111%	3,448,000	31 mai 2010
Zamur SA	JPA Audit & Consultanta	7.0669%	3,019,000	31 mai 2010
Turdapan SA	JPA Audit & Consultanta	44.0700%	1,973,000	31 mai 2010
Mecanoenergetica SA	JPA Audit & Consultanta	10.0760%	1,207,000	31 mai 2010
Palace SA	JPA Audit & Consultanta	15.4295%	1,168,000	31 decembrie 2009
Comcereal Cluj SA	JPA Audit & Consultanta	11.3648%	1,106,000	31 mai 2010
Commex SA	JPA Audit & Consultanta	15.9960%	901,000	31 mai 2010
Comcereal Fundulea SA	JPA Audit & Consultanta	5.3547%	786,000	31 mai 2010
Cetatea SA	JPA Audit & Consultanta	20.4350%	403,000	31 mai 2010
Resib SA	JPA Audit & Consultanta	2.8786%	81,700	31 mai 2010
Bat Service SA	JPA Audit & Consultanta	33.0000%	0	31 mai 2010
World Trade Center Bucuresti SA	JPA Audit & Consultanta	19.9000%	0	31 mai 2010
SNGN Romgaz SA	Darian DRS	14.9930%	1,534,318,000	31 mai 2010
CN Posta Romana SA	Darian DRS	25.0000%	240,000,000	31 mai 2010
Societatea Nationala a Sarii SA	Darian DRS	49.0000%	87,082,000	31 mai 2010
Alcom SA	Darian DRS	71.8961%	21,488,000	31 mai 2010
Delfincom SA	Darian DRS	65.5059%	14,367,000	31 mai 2010
Severnav SA	Darian DRS	39.1100%	13,190,000	31 mai 2010
Transilvania Com	Darian DRS	39.9900%	5,971,000	31 mai 2010
IOR SA	Darian DRS	2.8191%	2,072,000	31 mai 2010
CN Administratia Porturilor Dunarii Maritime SA	Darian DRS	20.0000%	2,062,000	31 mai 2010
Comsig SA	Darian DRS	69.9500%	1,559,000	31 mai 2010
Carom - Broker de Asigurari SA	Darian DRS	70.0000%	1,119,000	31 mai 2010
Celuloza si Otel SA	Darian DRS	8.6292%	683,000	31 mai 2010
Ciocirlia SA	Darian DRS	1.6900%	646,000	31 mai 2010
Electroconstructia Elco SA	Darian DRS	7.6100%	561,200	31 mai 2010
Vitacom SA	Darian DRS	46.9100%	325,000	31 mai 2010
Telerom SA	Darian DRS	68.6300%	303,000	31 mai 2010
Comcereal Miercurea Ciuc SA	Darian DRS	10.0300%	222,000	31 mai 2010
Marlin SA	Darian DRS	5.8900%	86,000	31 mai 2010
Familial Restaurant SA	Darian DRS	2.7550%	72,000	31 mai 2010
Retizoh SA	Darian DRS	7.3800%	59,000	31 mai 2010

*\*)Note:* According to Law 247 the Romanian State contributed to the share capital of the Fund 1,595,520 shares in Romplumb. Pursuant to the Central Depository excerpt dated 15 October 2010, the equity participation of the Fund in Romplumb represented 57.9%. In accordance to the Trade Registry excerpt dated 15 October 2010, the equity participation of the Fund in Romplumb represented 51.0%. The difference stems from a litigation with respect to a share capital increase to which the Fund is not a party.

As a result, the Fund adopted a conservative approach and considered the lowest percentage for the calculation of the NSC NAV.

**Annex 2: Franklin Resources Incorporated Organization Chart**



————— Indicates 100% equity ownership (rounded to nearest whole percent)

- - - - - Indicates legal branch relationship

Note: This chart shows only the chain of parent companies and branches relating to Franklin Templeton Investment Management Ltd – it is not a complete depiction of the whole Franklin Templeton Investments group.

### Annex 3: Glossary –Units of measurement

<i>bbl</i>	barrel/s
<i>bcm</i>	billion cubic metre/s
<i>bn</i>	billion/s
<i>boe</i>	barrel of oil equivalent
<i>boe/d</i>	barrel of oil equivalent per day
<i>cm/h</i>	cubic meter per hour
<i>cm/m<sup>3</sup></i>	Cubic meter/s
<i>GJ</i>	Gigajoule
<i>GW</i>	gigawatt
<i>GWh</i>	gigawatt-hour
<i>km</i>	kilometre/s
<i>m</i>	meter/s
<i>mm</i>	milimeter/s
<i>mn</i>	million/s
<i>MW</i>	megawatt
<i>MWh</i>	megawatt-hour
<i>sqkm/km<sup>2</sup></i>	square kilometer/s
<i>sqm/m<sup>2</sup></i>	square meter/s
<i>t</i>	ton/s
<i>tcm</i>	thousand cubic meter/s
<i>th</i>	thousand/s
<i>TWh</i>	terawatt-hour



## **Annex 4: Investment Policy Statement**

### GENERAL PRINCIPLES

#### **I. SCOPE OF THE INVESTMENT POLICY STATEMENT**

This annex contains only the general principles of the investment policy statement (IPS) applicable to the Fund. The detailed IPS is to be found in the AoAs.

The IPS identifies and explains the investment goals and objectives, establishes the decision-making process for selecting investments and states the procedures and tools used to assess the performance of the Portfolio in accordance with the investment objectives.

The IPS shall be used as a basis for measurement and evaluation of the future investment performance. This policy shall be reviewed on a regular basis by the Board of Nominees.

The IPS is set forth within the legal framework established by Law 247 and, in accordance with the law, the general shareholders' meeting is responsible for approval of the IPS.

#### **II. ROLES, RESPONSABILITIES AND PROCEDURES**

The Board of Nominees competences and designation conditions as well as the Fund Manager competences are provided in the AoAs.

#### **III. PORTFOLIO OBJECTIVES**

The overall objective of the Portfolio is to achieve stable capital growth while maintaining a prudent level of diversification. Diversification is an important objective of the Fund within the practical constraints of the existing market and without jeopardizing the other objectives.

The objectives of Portfolio:

- to provide returns in excess of the performance of the Romanian economy measured over the long-run (as measured by nominal GDP growth);
- to achieve improved diversification over a period of 3 years (within the framework of permitted asset allocation to invest and eligible investment);
- to achieve a balance between the stability of growth and overall return;
- after listing to minimize the potential gap between the Shares price and the NSC NAV.

The Fund Manager manages the Portfolio in order to achieve these objectives in a balanced manner.

Qualitative objectives that are set for the Fund Manager are:

- clarity of Fund Manager's investment strategy and how it contributes to achieving the main Portfolio objectives;
- the success in diversifying the Portfolio and the type of diversification chosen (by sector, by size-small caps/large caps);
- the effectiveness of the engagement with the investee companies and how this brings value added to the Fund ;
- the effectiveness of communication and interaction with the Board of Nominees.

#### Return expectation

A total rate of return based on the NSC NAV shall be used. It is expected that over the long-run, the rate of returns generated shall be positive and in excess of nominal Romanian GDP growth.

#### Risk tolerance

The Fund recognizes that risk is necessary in order to meet the objectives established in its policy. The Fund Manager is required to actively manage the risk so that there is a constant balancing of risk and expected returns. Therefore, the Fund acknowledges that both risk and return management are critical.

In accordance with modern portfolio theory, risk cannot be fully eliminated, but can be managed and reduced. The Fund expects proper compensation (in investment returns) for the risks assumed and expects the Fund Manager to have appropriate tools for measuring and monitoring the risk. The level of risk taken at a portfolio level should be consistent with the return objectives.

After the appointment of the Fund Manager, the IPS will be subject to joint review by the Board of Nominees and the Fund Manager in order to define appropriate risk levels.

#### **IV. INVESTMENT LIMITS**

The investment policy observes the prudential limits of investments provided by the regulations in force and the AoAs.

#### **V. ASSET MIX/ALLOCATION**

Pursuant to the legislation in force, the Fund may not hold more than 20% of its assets in securities and money market instruments, which were not admitted to trading, except for the t-bills and bonds issued by the Ministry of Public Finance, for which a holding limit is set-up. In calculating such holding limit, the non-listed securities acquired from the Romanian state pursuant to Law 247 are not counted. Therefore, any portion of the initial Portfolio (as set up, from the non-listed securities acquired from the Romanian State according to Law no. 247, including the amendments made by GO no. 81/2007) will be exempted from the general allocation rules.

However, any new acquisition made by the Fund shall be subject to the general allocation rules. As one of the key objectives of the Portfolio over the short-run is to achieve diversification, it is expected that the whole portfolio will migrate over time towards the benchmark allocation rules.

The provisions regarding the mode of allocation of the asset exclude the assets acquired from the State pursuant to Law no. 247.

#### Asset Mix

Combining the cumulative provisions of Law 247 and Capital Markets Law together with the Fund's objectives, the targeted asset mix is provided below. The Asset Mix includes Asset Classes, Target Allocation, Minimum Allocation and Maximum Allocation (the percentages are to be calculated based on asset value). The limits can be exceeded only in accordance with the IPS and the regulatory framework. The Fund Manager is expected to maintain a balance between incurring transaction costs and the need to remain within the pre-determined asset allocation guidelines.

Item. No.	ASSET CLASS	Target Allocation	Minimum Allocation	Maximum Allocation
1	EQUITIES	95%	80%	100%
1.1.	Transferable/listed shares	95%	70%	100%
1.1.1.	Romanian shares	95%	70%	100%
1.1.2.	EU shares (except RO)	0%	0%	10%
1.1.3.	Non-EU shares	0%	0%	1%
1.2.	Unlisted shares	0%	0%	20%
1.2.1.	Romanian shares	0%	0%	20%
1.2.2.	EU shares (except RO)	0%	0%	1%
2	BONDS	0%	0%	10%
2.1.	Transferable/listed sovereign bonds	0%	0%	10%
2.1.1.	Romanian bonds	0%	0%	10%
2.1.2.	EU bonds (except RO)	0%	0%	5%
2.1.3.	Non-EU bonds	0%	0%	1%

2.2.	Transferable/listed corporate bonds	0%	0%	10%
2.2.1.	Romanian bonds	0%	0%	10%
2.2.2.	EU bonds (except RO)	0%	0%	5%
2.2.3.	Non-EU bonds	0%	0%	1%
3	MONEY MARKET INSTRUMENTS	0%	0%	10%
3.1.	Romanian instruments	0%	0%	10%
3.2.	EU instruments (except RO)	0%	0%	5%
3.3.	Non-EU instruments	0%	0%	1%
4	UNITS of UCITS(OPCVM and AOPC)	0%	0%	10%
4.1.	Romanian assets	0%	0%	10%
4.2.	EU assets (except RO)	0%	0%	5%
4.3.	Non-EU assets	0%	0%	1%
5	CASH	5%	Less than 1%	20%
		Less than		
5.1.	Deposits	5%	Less than 1%	20%
		Less than	Less than	
5.2.	Cash in hand	0.1%	0.1%	0.20%

#### Additional guidelines

Subject to current AoAs constraints and other legal requirements, all decisions regarding sector and security selection, Portfolio construction, timing of buy or sale are delegated to the Fund Manager.

Transactions which involve a broker acting as a “principal”, where the broker is also the investment manager (or an affiliate of such investment manager) who makes the transaction (or an affiliate of such investment manager) are not permitted.

Transactions should be executed at the lowest possible cost (including commissions, efficiency of execution and the impact of the market) and best execution should be provided at all times.

#### Cash allocation by currency

Item. no.	Cash Mix	Target Allocation	Minimum Allocation	Maximum Allocation
1	Lei	95%	50%	100%
2	EUR	5%	0%	30%
3	USD	0%	0%	10%
4	Other currencies	0%	0%	10%

## **VI. LIMITATIONS ON DISCRETIONARY MANAGEMENT**

The Fund Manager assumes discretionary management of the Portfolio according to the legislation in force.

The Fund Manager is subject to the statutory limitations set out by the AOA's and by the applicable legislation in force.

## **VII. LIQUIDITY**

The Fund Manager shall maintain adequate liquidity in order to at least meet the following requirements:

- cover the operating and tax expenses of the Fund ;
- cover the capital expenditure requirements for the Fund 's on-going activities;
- ensure appropriate funds for dividend payments and share repurchases (where the case).

The operational budget of the Fund will be drawn up annually by the Fund Manager and will be submitted for approval by the general shareholders meeting.

## **VIII. TAX CONSIDERATIONS**

The Fund is established as a commercial undertaking and is subject to corporate tax in accordance with the Romanian Fiscal Code. The Fund Manager shall take into consideration the tax consideration of various operations over the Fund net profitability.

## **IX. CONSTRAINTS**

The Fund shall not invest in any other type of asset class, except those specifically mentioned in this IPS. The use of derivatives is restricted to the limits specified herein. Short-selling of securities is prohibited.

Amongst the Fund shareholdings are a number of significant stakes in strategically important Romanian companies (notably including companies in the energy sector) which are subject to national development strategies for the respective economic sector. Consequently, some of the

decisions in connection with such shareholdings may be required to be consistent with the national strategies and may require the prior approval of the Romanian Government or of the competent ministry or of a regulation or resort authority, for which reason a general shareholders' meeting decision with this purpose shall be required.

#### **X. POLICY REVIEW**

This policy shall be reviewed on an annual basis by the Fund in order to ensure that it remains consistent with the overall objectives of the Fund and with prudent investment practices. The IPS may be reviewed and updated more frequently if necessary. The review of the investment policy shall be done by the amendment of the AoAs.