COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

COMMITTEE OF EXPERTS ON THE EVALUATION OF ANTI-MONEY LAUNDERING MEASURES AND THE FINANCING OF TERRORISM (MONEYVAL)

MONEYVAL(2014)4ANN

Report on Fourth Assessment Visit - Annexes

Anti-Money Laundering and Combating the Financing of Terrorism

ROMANIA

4 April 2014

Romania is a member of MONEYVAL. This evaluation was conducted by MONEYVAL and the mutual evaluation report on the 4th assessment visit of Romania was adopted at its 44th Plenary (Strasbourg, 31 March – 4 April 2014).

LIST OF ANNEXES

ANNEX 1. DETAILS OF ALL BODIES MET ON THE ON-SITE VISIT

Ministries, other Government Authorities and Bodies

Ministry of Public Finance
Ministry of Internal Affairs
Ministry of Internal Affairs - General Inspectorate of Romanian Police
Ministry of Foreign Affairs
Ministry of Justice
Ministry of Justice - National Registry of NPOs
National Agency for Fiscal Administration

Investigation and Law Enforcement Bodies and Public Prosecutor' Office

Criminal Investigation Section of the General Prosecutor's Office
Directorate for Investigating Organised Crime and Terrorism of the General Prosecutor's Office
National Anticorruption Directorate of the General Prosecutor's Office
Regional Prosecutor's Office
High Court of Cassation and Justice
Romanian Intelligence Service
Customs Authority
Border Police

Financial Sector Bodies

National Office for the Prevention and Control of Money Laundering (FIU)
National Bank of Romania
National Securities Commission
Insurance Supervisory Commission
Private Pension System Supervisory Commission
Committee supervising the Currency Exchange Offices

Private Sector Representatives and Associations

Stock Exchange
Romanian Banking Association
Financial Companies Association
National Union of Bar Associations of Romania
Union of Public Notaries of Romania
Professional Association of Real Estates in Romania
Association of Casinos Organisers from Romania
Corps of Chartered Accounting Experts and Chartered Accountants of Romania
Private banks
Representatives of non-banking financial institutions
Representatives from payment institutions
Representatives from securities industry

Representatives from the portfolio management sector
Representatives from the insurance sector
Notaries and lawyers
Company service providers
Real estate agents
Casinos
Accountants and auditors

ANNEX 2. LIST OF ALL THE DOCUMENTS AND OTHER MATERIALS PROVIDED TO THE EVALUATION TEAM

Laws

Law No. 656, republished on December 7th, 2002 on the Prevention and Sanctioning of Money Laundering and on Setting up of Certain Measures for the Prevention and Combating Terrorism Financing

The Criminal Code

The Code of Criminal Procedure

Law no. 238 of December 5, 2011, for the approval of the Governmental Emergency Ordinance no. 53/2008 on amending and completing the Law no. 656/2002 on Prevention and Sanctioning of Money Laundering and on Setting up of Certain Measures for the Prevention and Combating Terrorism Financing

Law no. 535/2004 on Preventing and Fighting Terrorism

Law no. 297 of 28 June 2004 regarding the Capital Market

Law no. 302/2004 on International Judicial Cooperation in Criminal Matters

Law no.93/2009 on Non-bank Financial Institutions

Law no. 127 from 20/06/2011 on the Activity of Issuing Electronic Money

Law no. 144 from 21 May 2007, on the Establishment, Organization and Functioning of the National Integrity Agency

Law no. 176 from 1 September 2010 regarding the Integrity in exercising the Public Officials and Dignities, in order to Modify and Complete Law no. 144/2007 regarding Establishment, Organization and Functioning of the National Integrity Agency, as well as for the Modification and Completion of other Normative Acts

Law no. 182/2002 on Protection of Classified Information

Law no. 312/28.06.2004 on the Statute of the National Bank of Romania

Government Emergency Ordinances

GEO no. 26 of 30 January 2000 on Associations and Foundations

GEO no. 25 of 13 March 2002 approving the Statute of the National Securities Commission

GEO no.98/2006 on the Supplementary Supervision of Credit Institutions, Insurance and/or Reinsurance Entities, Investment Firms and Asset Management Companies in a Financial Conglomerate

GEO no.99/6.12.2006 on Credit Institutions and Capital Adequacy

GEO no.53/21 of April 2008 for the modification and completion of the Law no. 656/2002, on the Prevention and Sanctioning of Money Laundering and on Setting up of Certain Measures for the Prevention and Combating Terrorism Financing

GEO no. 202 of December 04, 2008 on the Implementation of International Sanctions, approved by Law no. 217 of 2 June 2009

GEO no. 77/2009 on the Organisation and Operation of Gambling Games

GEO no. 113/2009 on Payment Services

GEO no. 32 of 27 June 2012 on Undertakings for Collective Investment in Transferable Securities and Investment Management Companies, as well as for the Amendment and Supplementation of Law no. 297/2004 on Capital Market

Draft GEO on the Incorporation of the National Gambling Board and Amendment of the GEO no. 77/2009 related to Gambling Organisation and Exploitation, with further amendments and completions

Government Decisions

Government Decision no. 585/2002 on National Standards on the Protection of Classified Information

Governmental Decision no. 594/2008 on the approval of the Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts

Governmental Decision no. 1437 from 12 November 2008 for the approval of the List of third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing

Governmental Decision no. 1599/2008 for the approval of the Regulations for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering

Government Decision no. 32/2011 concerning the designation of The Office for crime prevention and cooperation for criminal asset recovery set up within the Ministry of Justice as a national office for asset recovery in the field of tracing and identification of proceeds from, or other property related to, crime

Governmental Decision no. 603 from 08 June 2011 for the approval of the Norms regarding supervision by the National Office for Prevention and Control of Money Laundering of the method of application of the international sanctions

Governmental Decision No. 989 from 10 October 2012 on amending the List of third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, approved by the Governmental Decision no. 1.437/2008

Regulations and other legislation

Ministry of Public Finance

Order no. 1856/2011 of the Ministry of Public Finance approving the procedure on issuance of the order for freezing the funds and economic resources in the field of international sanctions or for recalling the disposed measure

Order no. 1046/2012 of the Ministry of Public Finance regarding blocking of funds and economic resources held by Syrian Arab Airlines, through its representative Syrian Air

Order no. 654/2012 of the Ministry of Public Finance regarding blocking of funds held by the Syrian citizen Rami Makhlouf

National Bank of Romania

Regulation no.11/ 2007 of the NBR on the authorisation of credit institutions, Romanian legal entities, and branches in Romania of third-country credit institutions

Regulation no.9/2008 of the NBR on know-your-customer for the purpose of money laundering and terrorism financing prevention

Regulation no. 16 of the NBR from 17/09/2009 for modifying NBR Regulation no. 9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention

Regulation no. 18/2009 of the NBR on governance arrangements of the credit institutions, internal capital adequacy assessment process and the conditions for outsourcing their activities, subsequently amended by Regulation no. 1/2010

Regulation no.20/2009 of the NBR on non-bank financial institutions

Regulation no.21/2009 of the NBR on payment institutions and annexes

Regulation no.28/2009 of the NBR on monitoring the implementation of the international sanctions regarding the freezing of funds

Regulation no. 7 of the NBR from 06/07/2011 for modifying, amending and abrogating certain legal acts

Regulation no. 8 of 07/06/2011 of the NBR on electronic money institutions and annexes

National Office for the Prevention and Control of Money Laundering

Order no. 95 of the ONPCSB from January 31, 2011 on the approval of the Methodological Norms for making notifications and processing requests for authorization to carry out certain financial transactions

Decision no. 496 of the ONPCSB from July 11, 2006 for the approval of the Norms for Prevention and Combating Money Laundering and terrorism financing, the standards for know your customer and of internal control for the reporting entities which do not have overseeing prudential supervision of authorities

Decision no. 673 of the ONPCSB from May 29, 2008 on the approval of the work methodology regarding the submission of the cash transaction reports and external transaction reports

Decision no. 674 of the ONPCSB from May 29, 2008 on the form and contain of the Suspicious Transaction Report, the Cash Transaction Report and the External Transaction Report

Other

Norm no. 9/2009 of the CSSPP on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system

Order no. 24/2008 of the ISC of 22/12/2008 to apply the Regulations concerning the prevention and control of money laundering and terrorism financing through the insurance market

Order no. 13/2009 of the ISC from 30.07.2009 for the implementation of the Regulations on supervision, in the insurance field, of the implementation of international sanctions

Regulation no. 5/2008 of the NSC on the prevention and control of money laundering and terrorist financing through the capital market

Regulation no. 9/2009 of the NSC on the supervision of the enforcement of international sanctions on the capital market

Executive Order no. 8/ 11.03.2010 of the NSC

Executive Order no. 2/09.02.2011 of the NSC

Strategic documents and guidelines

National Strategy for Preventing and Combating Money Laundering and Terrorism Financing

Operational Strategy of OPCML for the period 2013 - 2016

Action Plan for Implementation of Operational Strategy of the National Office for Prevention and Control of Money Laundering for 2013 - 2016

Methodological Guidelines for Application of the Law approving the Government Emergency Ordinance no. 77/2009 on the Organisation and Operation of Gambling Games

Manual of the OPCML on Risk Based Approach and Suspicious Transaction Indicators

Guidelines of the Intesa Sanpaolo Bank on the „Know your customer" rule for the purpose of prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing INTESA SANPAOLO BANK Romania

Code of Conduct for the employees of the OPCML

Other documents provided

Organisational chart of the National Customs Authority
Organisational chart of the National Bank of Romania
Organisational chart of the Directorate for Combatting Terrorism Financing and Money Laundering
Organisational chart of the OPCML
Organisational chart of the Insurance Supervisory Commision
Organisational chart of the National Securities Commission
Organisational chart of the Directorate for Investigating Organised Crime and Terrorism
Organisational chart of the National Anticorruption Directorate
Organisational chart of the Fraud Investigation directorate
Statistics about the FATF designated categories of offences
List of AML/CFT training sessions of the National Anticorruption Directorate

ANNEX 3. STATUS OF IMPLEMENTATION OF THE VIENNA CONVENTION, THE PALERMO CONVENTION AND THE UN INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM

Implementation of the Vienna Convention

Provisions of the Vienna Convention	Romanian legislative acts and regulations that cover requirements of the Vienna Convention
Article 3 (Offences and Sanctions)	Art. 2 – art. 19 of the Law no. 143/2000 on preventing and countering trafficking and illicit consumption of drugs with subsequent modifications and completions Art. 29 of the Law 656/2002 on the prevention and sanctioning of money laundering, as well as for setting up some measures for the prevention and combating of terrorism financing acts, republished Art. 7 of the Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions
Article 4 (Jurisdiction)	Art. 3 (principle of territorial application of Criminal Law) of the Penal Code, art. 31 (the competences for the offences committed in foreign country) of the Penal Procedure Code Art. 4 (the personality of the penal law), art. 6 (the universality of the penal law) f the Penal Code
Article 5 (Confiscation) - with regard to confiscation of proceeds derived from offences involving illicit trafficking of narcotic drugs or psychotropic substances; - with regard to seizure of property (assets); - with regard to rendering mutual legal assistance.	Art. 118 (special confiscation), art. 118^2 (extended confiscation) of Penal Code Art. 17 of the Law no. 143/2000 on preventing and countering trafficking and illicit consumption of drugs with subsequent modifications and completions Art. 163 and the followings (on interim measures) of the Penal Procedure Code Art. 96 and the followings (on picking up objects and documents) of the Penal Procedure Code Art. 171 and the followings (on legal assistance in penal cases) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished Mention: - For EU, in the application of the Framework Decision no. 2006/783/JAI, section 5 (Art. 248) of the Law 302/2004 on the judicial cooperation in the criminal field, as republished;

	- For third countries art. 185 of the Law 302/2004 on the judicial cooperation in the criminal field, as republished. These provisions must be corroborated with the provisions of the conventions or with bilateral treaties, which at once ratifies are part of the internal legal system.
Article 6 (Extradition)	Art. 9 (extradition) of the Penal Code Art. 18 and the followings (extradition) – Title II of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 7 (Mutual Legal Assistance)	Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 8 (Transfer of Proceedings)	Art. 123 and the followings (transfer of proceedings in criminal matters) – Title IV of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 9 (Other Forms of Cooperation and Training)	Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished The Emergency Governmental Ordinance no. 103/2006 on some measures for the facilitating the international police cooperation
Article 11 (Controlled Delivery)	Art. 180 (controlled deliveries) Law 302/2004 on the judicial cooperation in the criminal field, as republished Art. 1 lit. j, art. 20 of the Law no. 143/2000 on preventing and countering trafficking and illicit consumption of drugs with subsequent modifications and completions
Article 17 (Illicit Traffic by Sea)	Art. 212 (piracy) of the Penal Code Law no. 110/1996 on the ratification of the United Nations Convention on Wright on the sea, signed in Montego Bay (Jamaica) on December 10, 1982, and the adhesion to the Agreement related to the application of part XI of the United Nations Convention on Wright on the sea, concluded in New York on July, 28, 1994
Article 19 (The Use of the Mails)	Art. 23 of the Law no. 143/2000 on preventing and countering trafficking and illicit consumption of drugs with subsequent modifications and completions

Implementation of the Palermo Convention

Provisions of the Palermo Convention	Romanian legislative acts and regulations that cover requirements of the Palermo Convention
Article 5 (Criminalization of Participation in an Organized Criminal Group)	Art. 7 of the Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions
Article 6 (Criminalization of the Laundering of Proceeds of Crime)	Art. 29 of the Law 656/2002 on the prevention and sanctioning of money laundering, as well as for setting up some measures for the prevention and combating of terrorism financing acts, republished
Article 7 (Measures to Combat Money-Laundering)	Law 656/2002 on the prevention and sanctioning of money laundering, as well as for setting up some measures for the prevention and combating of terrorism financing acts, republished EC Regulation no. 1889/2005 of 26 October 2005 on controls of cash entering or leaving the Community– with direct applicability
Article 10 (Liability of Legal Persons)	The provisions of the Penal Code for the penal liability of the legal persons, liability introduced in Penal Code in 2006
Article 11 (Prosecution, Adjudication and Sanctions)	Penal Code Law no. 78/2000 on preventing, discovering and sanctioning of corruption acts, with subsequent modifications and completions Law 656/2002 on the prevention and sanctioning of money laundering, as well as for setting up some measures for the prevention and combating of terrorism financing acts, republished Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions
Article 12 (Confiscation and Seizure)	Art. 118 (special confiscation), art. 118^2 (extended confiscation) of the Penal Code Art. 17 of the Law no. 143/2000 on preventing and countering trafficking and illicit consumption of drugs with subsequent modifications and completions Art. 163 and the followings (on interim measures) of the Penal Procedure Code
Article 13 (International Cooperation for	Art. 171 and the followings (judicial assistance in

Purposes of Confiscation)	penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 14 (Disposal of Confiscated Proceeds of Crime or Property)	Art. 248 and the followings, Section 5th (provisions on cooperation with EU Member States in the application of the Framework Decision no. 2006/783/JAI of October 6, 2006 application of the principle of mutual recognition to confiscation orders) Law 302/2004 on the judicial cooperation in the criminal field, as republished Art. 171 and the followings, (judicial assistance in penal matter)– Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished, specially the art. 185 of the Law 302/2004 on the judicial cooperation in the criminal field, as republished and other relevant provisions from multilateral and bilateral treaties ratified by Romania, which are part of the internal legal system, after the ratification
Article 15 (Jurisdiction)	Art. 3 Criminal Code – principle of territorial application of Criminal Law, art. 31 (competences for the offences committed in foreign countries) of the Penal Procedure Code Art. 4 (the personality of the penal law), art. 5 (the reality of the penal law), art. 6 (the universality of penal law) of the Penal Code
Article 16 (Extradition)	Art. 9 (extradition) of the Penal Code Art. 18 and the followings (extradition) – Title II of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 18 (Mutual Legal Assistance)	Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 19 (Joint Investigations)	Art. 26 of the Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions Art. 182 (joint investigative teams) of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 20 (Special Investigative Techniques)	Art. 15 and the followings (on special investigative techniques, as: surveillance of the banking accounts and of the assimilated accounts, surveillance of the communication systems, surveillance or access to the informatics systems, supervisory delivery, use of the undercover investigators and of the informers) of the

	Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 24 (Protection of Witnesses)	Art. 23 of the Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions Art. 86^1 and the followings of the Penal Procedure Code Art. 196 (witness protection) of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 25 (Assistance to and Protection of Victims)	Law no. 211/2004 on some measures for insuring the protection of the victims of the crimes, with subsequent modifications and completions
Article 26 (Measures to Enhance Cooperation with Law Enforcement Authorities)	Art. 9 of the Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions
Article 27 (Law Enforcement Cooperation)	Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 31 (Prevention)	Chapter II (prevention of organized crimes) of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 34 (Implementation of the Convention)	Law 39/2003 on the prevention and fight against organized crime, with subsequent modifications and completions

Implementation of the UN International Convention for the Suppression of the Financing of Terrorism

Provisions of the UN International Convention for the Suppression of the Financing of Terrorism	**Romanian legislative acts and regulations that cover requirements of the UN International Convention for the Suppression of the Financing of Terrorism**
Article 2	Art. 36 of the Law no. 535/2004 on prevention and combating terrorism
Article 3	Law no. 535/2004 on prevention and combating

	terrorism
Article 4	Art. 36 of the Law no. 535/2004 on prevention and combating terrorism
Article 5	The provisions of the Penal Code for the penal liability of the legal persons, liability introduced in Penal Code in 2006
Article 6	Romanian Constitution, republished The aggravating circumstance provided for by art. 75 letter. c^1 of the Penal Code: crime based on race, nationality, ethnicity, language, religion, gender, sexual orientation, opinion, political affiliation, belief, wealth, social origin, age, disability, non-contagious chronic disease or HIV / AIDS
Article 7	Art. 3 Criminal Code – principle of territorial application of Criminal Law, art. 31 (competences for the offences committed in foreign countries) of the Penal Procedure Code Art. 4 (the personality of the penal law), art. 5 (the reality of the penal law), art. 6 (the universality of penal law) of the Penal Code
Article 8	Art. 36 of the Law no. 535/2004 on prevention and combating terrorism Art. 118 (special confiscation), art. 118^2 (extended confiscation) of the Penal Code Art. 163 and the followings (on interim measures) of the Penal Procedure Code
Article 9	Law no. 535/2004 on prevention and combating terrorism
Article 10	Penal Procedure Code Art. 18 and the followings (extradition) – Title II of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 11	Art. 9 (extradition) of the Penal Code Art. 18 and the followings (extradition) – Title II of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 12	Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 13	Art. 9 (extradition) of the Penal Code Art. 18 and the followings. (extradition) – Title II of

	the Law 302/2004 on the judicial cooperation in the criminal field, as republished Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 14	Art. 9 (extradition) of the Penal Code Art. 18 and the followings. (extradition) – Title II of the Law 302/2004 on the judicial cooperation in the criminal field, as republished Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 15	Art. 9 (extradition) of the Penal Code Art. 18 and the followings. (extradition) – Title II of the Law 302/2004 on the judicial cooperation in the criminal field, as republished Art. 171 and the followings (judicial assistance in penal matter) – Title VII of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 16	Art. 141 and the followings (transferring of the convicted persons) – Title VI of the Law 302/2004 on the judicial cooperation in the criminal field, as republished
Article 17	Art. 1 and the followings (the purpose and the base rules of the penal process) of the Penal Procedure Code
Article 18	Law no. 535/2004 on prevention and combating terrorism Law 656/2002 on the prevention and sanctioning of money laundering, as well as for setting up some measures for the prevention and combating of terrorism financing acts, republished

ANNEX 4. BILATERAL AGREEMENTS SIGNED BY ROMANIA

On mutual legal assistance and legal relations and extradition

1. Treaty between the Peoples' Republic of Romania and the Peoples' Republic of Albania on judicial assistance in civil, family and criminal matters, signed on 12.09.1960
2. Convention on judicial assistance in civil, family and criminal matters between the Socialist Republic of Romania and the Peoples' Democratic Republic of Algeria, signed on 28.06.1979
3. Convention between the Socialist Republic of Romania and the Kingdom of Belgium on extradition and judicial assistance in criminal matters, signed on 14.10.1976
4. Additional Protocol to the Convention between the Socialist Republic of Romania and the Kingdom of Belgium on extradition and judicial assistance in criminal matters, signed in Bucharest, on 14.10.1976, signed on 26.03.1982
5. Treaty on extradition between Romania and the Federative Republic of Brazil, signed on 12.08.2003
6. Treaty between the Peoples' Republic of Romania and the Peoples' Republic of Bulgaria on judicial assistance in civil, family and criminal matters, signed on 03.12.1958
7. Treaty on judicial assistance in criminal matters between Romania and Canada, signed on 25.05.1998
8. Treaty between Romania and the People's Republic of China on extradition, signed on 01.07.1996
9. Convention between the Socialist Republic of Romania and the Republic of Cuba on judicial assistance in civil, family and criminal matters, signed on 28.06.1980
10. Convention between Romania and the Arab Republic of Egypt on judicial assistance in criminal matters, transfer of prisoners and extradition, signed on 28.06.2001
11. Convention between the Socialist Republic of Romania and the French Republic on judicial assistance in criminal matters and extradition, signed on 5.11.1974
12. Treaty between the Peoples' Republic of Romania and the Peoples' Republic of Hungary on judicial assistance in civil, family and criminal matters, signed on 07.10.1958
13. Convention between Romania and the Italian Republic on judicial assistance in civil and criminal matters, signed on 11.11.1972
14. Agreement between the Socialist Republic of Romania and the Democratic Peoples' Republic of Korea on judicial assistance in civil, family and criminal matters, signed on 02.11.1971
15. Treaty between the Peoples' Republic of Romania and the Federal Peoples' Republic of Yugoslavia on judicial assistance (in force between Romania and the "the former Yugoslav Republic of Macedonia"), signed on 18.10.1960
16. Additional Protocol to the Treaty between the Peoples' Republic of Romania and the Federal Peoples' Republic of Yugoslavia on judicial assistance, signed in Belgrade, on 18.10.1960 (in force between Romania and "the former Yugoslav Republic of Macedonia"), signed on 21.01.1971
17. Additional Protocol to the Treaty between the Peoples' Republic of Romania and the Federal Peoples' Republic of Yugoslavia on judicial assistance, signed in Belgrade, on 18.10.1960 (in force between Romania and "the former Yugoslav Republic of Macedonia"), signed on 21.01.1971
18. Treaty between Romania and the Republic of Moldova judicial assistance in civil and criminal matters, signed on 06.07.1996
19. Convention between Romania and the Kingdom of Morocco on judicial assistance in civil and criminal matters, signed on 30. 08. 1972
20. Treaty between the Peoples' Republic of Romania and the Republic of Poland on judicial assistance and legal relations in civil and criminal matters, signed on 25.01.1962

21. Treaty between the Peoples' Republic of Romania and the Federal Peoples' Republic of Yugoslavia on judicial assistance (in force between Romania and the Republic of Serbia), signed on 18.10.1960
22. Additional Protocol to the Treaty between the Peoples' Republic of Romania and the Federal Peoples' Republic of Yugoslavia on judicial assistance, signed in Belgrade, on 18.10.1960 (in force between Romania and the Republic of Serbia), signed on 21.01.1972
23. Convention between the Socialist Republic of Romania and the Syrian Arab Republic on judicial assistance in civil, family and criminal matters, signed on 02.12.1978
24. Treaty on extradition between Romania and the Syrian Arab Republic, signed on 10.11.2010
25. Convention between the Socialist Republic of Romania and the Republic of Tunisia on judicial assistance in civil and criminal matters, signed on 6.03.1971
26. Treaty between the Peoples' Republic of Romania and the Union of Soviet Socialist Republics on granting judicial assistance in civil, family and criminal matters, signed on 03.04.1958
27. Treaty on extradition between Romania and the United Kingdom, signed on 21.03.1893
28. Treaty between Romania and the United States of America on on judicial assistance in criminal matters, signed on 26.05.1999
29. Protocol to the Treaty between Romania and the United States of America on judicial assistance in criminal matters, signed in Washington la 26.05.1999, signed on 10.09.2007
30. Treaty on extradition between Romania and the United States of America, signed on 10.09.2007

On cooperation in combating organized crime, international terrorism and other especially dangerous crimes

1. Agreement between the Government of Romania and the Government of the Republic of Albania on cooperation in combating terrorism, organized crime, illicit trafficking of narcotics and psychotropic substances, as well as other serious crimes, signed on 07.06.2002
2. Agreement between the Government of Romania and the Government of the Republic of Armenia on collaborating in combating crime, especially in its organized forms, signed on 31.10.2001
3. Agreement between the Government of Romania and the Federal Government of Austria on cooperation in combating international organized crime, international terrorism, as well as on other purposes in the field of criminal justice, signed on 18.03.1999
4. Agreement between Romania and the Republic of Azerbaijan on cooperation in combating trans-boundary organized crime and international terrorism, signed on 28.09.2009
5. Agreement between the Government of Romania and the Council of Ministers of Bosnia and Herzegovina on cooperation in combating terrorism and organized crime, signed on 04.06.2007
6. Agreement between the Government of Romania and the Government of the Republic of Bulgaria on combating organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, terrorism and other serious crimes, signed on 10.07.2002
7. Agreement between the Government of Romania and the Government of Croatia on cooperation in combating terrorism, organized crime, illicit trafficking of narcotics and psychotropic substances, as well as on other illegal activities, signed on 30.09.2000
8. Understanding between the Government of Romania and the Government of the Republic of Cyprus on cooperation in combating international crime, signed on 07.06.1995
9. Agreement between Romania and the Czech Republic o cooperation in combating organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, terrorism and other serious crimes, signed on 13.11.2001

10. Agreement between the Government of Romania and the Government of the Arab Republic of Egypt on cooperation in the field of combating crime, signed on 13.12.2003
11. Agreement between the Government of Romania and the Government of Georgia on cooperation in combating terrorism, organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, as well as other serious crimes, signed on 14.05.2004
12. Agreement between the Government of Romania and the Government of the Federal Republic of Germany regarding the combating of organized crime, as well as terrorism and other criminal acts of serious gravity, signed on 15.10.1996
13. Agreement between the Government of Romania and the Government of the Hungarian Republic on collaboration in preventing and combating trans-boundary crime, signed on 21.10.2008
14. Agreement between the Government of Romania and the Government of the Republic of Indonesia on cooperation in the field of combating transnational organized crime, terrorism and other types of crimes, signed on 10.07.2006
15. Agreement between the Government of Romania and the Government of the Republic of Ireland on cooperation in preventing and combating illicit trafficking of drugs, money laundering, organized crime, human trafficking, terrorism, financing of terrorism and other serious crimes, signed on 17.01.2013
16. Agreement between the Government of Romania and the Government of the Hashemite Kingdom of Jordan on cooperation in combating organized crime, illicit trafficking of narcotics and psychotropic substances, terrorism, as well as on other illegal activities, signed on 17.09.1999
17. Agreement between the Government of Romania and the Government of the Lebanese Republic on cooperation in combating organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, terrorism and other serious crimes, signed on 18.03.2002
18. Agreement between the Government of Romania and the Government of the Republic of Macedonia on cooperation in combating terrorism, organized crime, illicit trafficking of drugs, psychotropic substances and precursors, as well as other illegal activities, signed on 12.11.2003
19. Agreement between the Government of Romania and the Government of Malta on cooperation in the field of combating organized crime, illicit traffic of narcotics, psychotropic substances and their precursors, as well as other serious crimes, signed on 12.06.2007
20. Agreement between the Government of Romania and the Government of the Kingdom of Morocco in the field of combating the trafficking of narcotics, clandestine immigration and organized crime signed on 26.08.1997
21. Agreement between the Government of Romania and the Government of the Republic of Poland on cooperation in combating organized crime, terrorism and other crimes, signed on 11.07.2001
22. Agreement between the Government of Romania and the Republic of Serbia on cooperation in the field of combating organized crime, illicit trafficking of narcotics and international terrorism, signed on 05.07.2007
23. Agreement between the Government of Romania and the Government of the Slovak Republic on cooperation in combating organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, terrorism and other serious crimes, signed on 16.10.2003
24. Agreement between the Government of Romania and the Government of the Republic of Slovenia on cooperation in combating organized crime, psychotropic substances, precursors, terrorism and other serious crimes, signed on 04.10.2000
25. Convention between Romania and Spain on cooperation in combating crime, signed on 30.03.2006
26. Agreement between Romania and the Government of the Kingdom of Sweden on cooperation in combating organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, human trafficking, terrorism and other grave crimes, signed on 10.05.2004

27. Agreement between Romania and the Swiss Confederation on cooperation in combating terrorism, organized crime, illicit trafficking of narcotics, psychotropic substances and precursors, as well as other transnational crimes, signed on 19.09.2005
28. Agreement between the Government of Romania and the Government of the Syrian Arab Republic on cooperation in preventing and combating organized crime, signed on 10.11.2010
29. Memorandum of Understanding between the Government of Romania and the Government of the United Kingdom of Great Britain and Northern Ireland on collaborating in combating organized crime and illicit the trafficking of drugs and psychotropic substances, signed on 14.11.1995

ANNEX 5. MoUs SIGNED BY THE NATIONAL OFFICE FOR THE PREVENTION AND CONTROL OF MONEY LAUNDERING

1.	Cyprus	June 15, 2006
2.	Liechtenstein	June 15, 2006
3.	Luxembourg	June 15, 2006
4.	Republic of Moldova	September 6, 2005
5.	Israel	May 30, 2007
6.	Russian Federation	May 31, 2007
7.	United States of America	May 31, 2007
8.	United Kingdom	May 30, 2007
9.	Hungary	September 21, 2007
10.	Finland	May 28, 2008
11.	Nigeria	May 28, 2008
12.	Norway	May 28, 2008
13.	Montenegro	October 9, 2008
14.	Turkey	September 26, 2008, October 10, 2008
15.	Lebanon	September 1, 2008, December 17 2008
16.	Paraguay	December 17, 2008, December 30, 2008
17.	Malta	May 28, 2009
18.	Armenia	May 27, 2009
19.	Turkmenistan	October 11, 2012
20.	Belgium	November 27, 2000
21.	Italy	August 02, 2001
22.	Bulgaria	April 18, 2002
23.	Helenic Republic	July 2002
24.	Poland	July 05, 2002
25.	Croatia	December 10, 2002
26.	Thailand	March 24, 2003
27.	Spain	May 14, 2003
28.	Korea	October 06, 2003
29.	Czech Republic	December 17, 2003
30.	Georgia	January 21, 2005
31.	Albania	February 24, 2005, April 06, 2005

32.	Colombia	May 16, 2005
33.	Monaco	May 24, 2005
34.	Portugal	May 24, 2005
35.	Argentina	June 28, 2005
36.	Estonia	June 30, 2005
37.	Egypt	July 21, 2005
38.	Guatemala	September 30, 2005, October 05, 2005
39.	Chile	October 06, 2005
40.	Latvia	October 13, 2005

ANNEX 6. KEY LAWS, REGULATIONS AND OTHER DOCUMENTS

LAWS

Law 656/2002 for the Prevention and Sanctioning of Money Laundering

The Parliament of Romania

Law No. 656*) republished of December 7th, 2002

on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing

The Parliament of Romania adopts the present law.

Chapter I

General Provisions

Art. 1 - This law establishes measures for the prevention and combating of money laundering and certain measures concerning the prevention and combating the terrorism financing.

Art. 2 - For purposes of the present law:

a) ***money laundering*** means the offence provided for in the Art. 29;

b) ***terrorism financing*** means the offence referred to in the Art. 36 of the Law no. 535/2004 on the prevention and combating terrorism;

c) ***property*** means the corporal or non-corporal, movable or immovable assets, as well as the juridical acts or documents that certify a title or a right regarding them;

d) ***suspicious transaction*** means the operation which apparently has no economical or legal purpose or the one that, by its nature and/or its unusual character in relation with the activities of the client of one of the persons referred to in Article 10, raises suspicions of money laundering or terrorist financing;

e) ***external transfers in and from accounts*** means cross-border transfers, the way they are defined by the national regulations in the field, as well as payment and receipt operations carried out between resident and non-resident persons on the Romanian territory;

f) ***credit institution*** means the entity defined in art. 7 paragraph (1) point 10 of Emergency Governmental Ordinance no. 99/2006 on credit institutions and capital adequacy, approved with amendments by Law no. 227/2007, with subsequent modifications and completions;

g) ***financial institution*** means any entity, with or without legal capacity, other than credit institution, which carries out one or more of the activities referred to in Article 18, para (1), points b) - l), n) şi n^1)of Government Emergency Ordinance no.99/2006 on credit institutions and capital adequacy, approved with modifications and completions by Law no. 227/2007, including postal offices and other specialized entities that provide fund transfer services and those that carry out currency exchange. Within this category there are also:

1. Insurance and reinsurance companies and insurance/reinsurance brokers, authorized according with the provisions of Law no. 32/2000 on the insurance and insurance supervision activity, with subsequent modifications and completions, as well as the branches on the Romanian territory of the insurance and reinsurance companies and insurance and/or reinsurance intermediaries, which were authorized in other member states.

2. Financial investments service companies, investment consultancy, investment management companies, investment companies, market operators, system operators as they are defined under the

provisions of Law no. 297/2004 on capital market, with subsequent modifications and completions, and of the regulations issued for its application;

h) ***business relationship*** means the professional or commercial relationship that is connected with the professional activities of the institutions and persons covered by article 10 and which is expected, at the time when the contact is established, to have an element of duration;

i) ***operations that seem to be linked to each other*** means the transactions afferent to a single transaction, developed from a single commercial contract or from an agreement of any nature between the same parties, whose value is fragmented in portions smaller than 15.000EURO or equivalent RON, when these operations are carried out during the same banking day for the purpose of avoiding legal requirements;

j) ***shell bank*** means a credit institution, or an institution engaged in equivalent activities, incorporated in a jurisdiction in which it has no physical presence, respectively the leadership and management activity and institution's records are not in that jurisdiction, and which is unaffiliated with a regulated financial group.

k) ***service providers for legal persons and other entities or legal arrangements*** means any natural or legal person which by way of business, provides any of the following services for third parties:

1. Forming companies or other legal persons;

2.Acting as or arranging for another person to act as a director or manager of a company, or acting as associate in relation with a company with sleeping partners or a similar quality in relation to other legal persons;

3. Providing a registered office, administrative address or any other related services for a company, a company with sleeping partners or any other legal person or arrangement;

4. Acting as or arranging for another person to act as a trustee of an express trust activity or a similar legal operation;

5. Acting as or arranging for another person to act as a shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in conformity with Community legislation or subject to equivalent international standards;

l) ***group*** means a group of entities, as it is defined by article 2 para (1) point 13 of Governmental Emergency Ordinance no. 98/2006 on enhanced supervision of credit institutions, insurance and/or reinsurance companies, financial investment services companies and of investment management companies all part of a financial mixture, approved with modifications and completions by Law no. 152/2007.

Art. 3 (1) In accordance with the provisions of the present law, *politically exposed persons* are individuals who work or have worked with important public functions, their families and persons publicly known to be close associates of individuals acting in an important public functions.

(2) Natural persons, which are entrusted, for the purposes of the present law, with prominent public functions are:

a) Heads of state, heads of government, members of parliament, European commissioners, members of government, presidential councilors, state councilors, state secretaries;

b) Members of constitutional courts, members of supreme courts, as well as members of the courts whose decisions are not subject to further appeal, except in exceptional circumstances;

c)Members of account courts or similar bodies, members of the boards of central banks;

d) Ambassadors, charges d'affaires and high-ranking officers in the armed forces;

e) Managers of the public institutions and authorities;

f) Members of the administrative, supervisory and management bodies of State-owned enterprises.

(3) None of the categories set out in points (a) to (f) of para (2) shall include middle ranking or more junior officials. The categories set out in points (a) to (e) of para (2) shall, where applicable, include positions at Community and international level.

(4) Family members of the persons exercising important public functions are, in accordance with this law:

a) The spouse;

b) The children and their spouses;

c) The parents

(5) Persons publicly known as close associates of individuals acting in an important public functions are:

a) any natural person who is found to be the real beneficiary of a legal person or legal entity together with any of the persons referred to in para. (2) or having any other privileged business relationship with such a person;

b) any natural person who is the only real beneficiary of a legal person or legal entity known as established for the benefit of any person referred to in para. (2).

(6) Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph (2) for a period of at least one year, institutions and persons referred to in Article 8 shall not consider such a person as politically exposed.

Art. 4 – (1) For the purposes of the present law, ***beneficial owner*** means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf or interest a transaction or activity is being conducted, directly or indirectly.

(2) The beneficial owner shall at least include:

a) in the case of corporate entities:

1. the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership over a sufficient percentage of the shares or voting rights sufficient to ensure control in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards. 2. A percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

2. the natural person(s) who otherwise exercises control over the management of a legal entity;

b) in the case of legal entities, other than those referred to in para (a), and other entities or legal arrangements, which administer and distribute funds:

1. The natural person who is the beneficiary of 25 % or more of the property of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined;

2. Where the natural persons that benefit from the legal person or entity have yet to be determined, the group of persons in whose main interest the legal person, entity or legal arrangement is set up or operates;

3.The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement.

Chapter II

Customers Identification Procedures and Processing Procedures of the Information Referring to Money Laundering

Art. 5 – (1) As soon as an employee of a legal or natural person of those stipulated in article 10, or one of the natural person referred to in art. 10 has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person

appointed according to art. 20 para (1), which shall notify immediately the National Office for Preventing and Combating Money Laundering, hereinafter referred to as the *Office*. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification. For the natural and legal persons referred to in art. 10 letter. k) notification is sent by the person who has suspicions that the transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing.

(2) The National Bank of Romania, National Securities Commission, Insurance Supervision Commission or the Supervision Commission for the Private Pension System shall immediately inform the Office with respect to the authorization or refusal of the transactions referred to in article 28 of the Law no. 535/2004 on the prevention and combating terrorism, also notifying the reason for which such solution was given.

(3) If the Office considers as necessary, it may dispose, based on a reason, the suspension of performing the transaction, for a period of 48 hours. When the 48-hour period ends in a non-working day, the deadline extends for the first working day. The amount, in respect of which instructions of suspension were given, shall remain blocked on the account of the holder until the expiring of the period for which the suspension was ordered or, as appropriate, until the General Prosecutor's Office by the High Court of Cessation and Justice gives new instructions, accordingly with the law.

(4) If the Office that the period mentioned in para (3) is not enough, it may require to the General Prosecutor's Office by the High Court of Cassation and Justice, based on a reason, before the expiring of this period, the extension of the suspension of the operation for another period up to 72 hours. When the 72-hour period ends in a non-working day, the deadline extends for the first working day. The General Prosecutor's Office by the High Court of Cassation and Justice may authorize only once the required prolongation or, as the case may be, may order the cessation of the suspension of the operation. The decision of the General Prosecutor's Office by the High Court of Cassation and Justice is notified immediately to the Office.

(5) The Office must communicate to the persons provided under Art. 10, within 24 hours, the decision of suspending the carrying o of the operation or, as the case may be, the measure of its prolongation, ordered by the General Prosecutor's Office by the High Court of Cassation and Justice.

(6) If the Office did not make the communication within the term provided under para (5), the persons referred to in the Art. 10 shall be allowed to carry out the operation.

(7) The persons provided in the article 10 or the persons designated accordingly to the article 20 para (1) shall report to the Office, within 10 working days, the carrying out of the operations with sums in cash, in RON or foreign currency, whose minimum threshold represents the equivalent in RON of 15,000EUR, indifferent if the transaction is performed through one or more operations that seem to be linked to each other.

(8) The provisions of the para (7) shall apply also to external transfers in and from accounts for amounts of money whose minimum limit is the equivalent in RON of 15,000EUR.

(9) The persons referred to in article 10 letters e) and f) have no obligation to report to the Office the information they receive or obtain from one of their customers during the process of determining the customer's legal status or during its defending or representation in certain legal procedures or in connection with therewith, including while providing consultancy with respect to the initiation of certain legal procedures, according to the law, regardless of whether such information has been received or obtained before, during, or after the closure of the procedures.

(10) The form and contents of the report for the operations provided for in the para (1), (7) and (8) shall be established by decision of the Office's Board, within 30 days from the date of coming into force of the present law. The reports provided for in articles (7) and (8) are forwarded to the Office, in maximum 10 working days, based on a working methodology set up by the Office.

(11) In the case of persons referred to in article 10 para (e) and (f), the reports are forwarded to person designate by the leading structures of the independent legal profession, which have the obligation to transmit them to the Office within three days from reception, at most. The information is sent to the Office unmodified.

(12) National Customs Authority communicates to the Office, on a monthly basis, all the information it holds, according with the law, in relation with the declarations of natural persons regarding cash in foreign currency and/or national one, which is equal or above the limit set forth by the Regulation (CE) no. 1889/2005 of European Parliament and Council on the controls of cash entering or leaving the Community, held by these persons while entering or leaving the Community. National Customs Authority shall transmit to the Office immediately, but no later than 24 hours, all the information related to suspicions on money laundering or terrorism financing which is identified during its specific activity.

(13) The following operations, carried out in his own behalf, are excluded from the reporting obligations provided by para (7): between credit institution, between credit institutions and the National Bank of Romania, between credit institutions and the state treasury, between National Bank of Romania and state treasury. Other exclusions, from the reporting obligations provided by para (7), may be established for a determined period, by Governmental Decision, subsequent to the Office's Board proposal.

Art. 6- (1) The persons provided for in the Art. 10, which know that an operation that is to be carried out has as purpose money laundering, may carry out the operation without previously announcing the Office, if the transaction must be carried out immediately or if by not performing it, the efforts to trace the beneficiaries of such money laundering suspect operation could be hampered. These persons shall compulsorily inform the Office immediately, but not later than 24 hours, about the transaction performed, also specifying the reason why they did not inform the Office, according to the Art. 5.

(2) The persons referred to in the Art. 10, which ascertain that a transaction or several transactions carried out on the account of a customer are atypical for the activity of such customer or for the type of the transaction in question, shall immediately notify the Office if there are suspicions that the deviations from normality have as purpose money laundering or terrorist financing.

(3) Persons referred to in art. 10 shall immediately notify the Office, when they finds out that regarding to an operation or several operations which were carried out on behalf of a customer there are suspicions that the funds have as purpose money laundering or terrorism financing.

Art. 7 - (1) The Office may require to the persons mentioned in the Art. 10, as well as to the competent institutions to provide the data and information necessary to fulfil the attributions provided by the law. The information connected to the notifications received under Articles 5 and 6 are processed and used within the Office under confidential regime.

(2) The persons provided for in the Art. 10 shall send to the Office the required data and information, within 30 days after the date of receiving the request.

(3) The professional and banking secrecy where the persons provided for in article 10 are kept is not opposable to the Office.

(4) The Office may exchange information, based on reciprocity, with foreign institutions having similar functions and which are equally obliged to secrecy, if such information exchange is made with the purpose of preventing and combating money laundering and terrorism financing.

Art. 8 - (1) The Office shall analyze and process the information, and if the existence of solid grounds of money laundering or financing of terrorist activities is ascertained, it shall immediately notify the General Prosecution's Office by the High Court of Cassation and Justice. In case in which it is ascertain the terrorism financing, it shall immediately notify the Romanian Intelligence Service with respect to the transactions that are suspected to be terrorism financing.

(2) The identity of the natural person designated in accordance with Art. 20 para. (1) and of the natural person which, in accordance with Art. 20 para (1), notified the Office may not be disclosed in the content of the notification.

(3) If following the analyzing and processing of the information received by the Office the existence of solid grounds of money laundering or terrorism financing is not ascertained, the Office shall keep records of such information.

(4) If the information referred to in the para (2) is not completed over a 10-year period, it shall be filed within the Office.

(5) Following the receipt of notifications, based on a reason, General Prosecutor's Office by the High Court of Cassation and Justice or the structures within Public Ministry, competent by law, may require the Office to complete such notifications.

(6) The Office is obliged to put at the disposal of the General Prosecutor's Office by the High Court of Cassation and Justice or the structures within Public Ministry, competent by law, at their request, the data and information obtained according to the provisions of the present law.

(7) The General Prosecutor's Office by the High Court of Cassation and Justice or the structures within Public Ministry, competent by law, that formulated requests in accordance with the provisions of para (5), shall notify to the Office, quarterly, the progress in the settlement of the notifications submitted, as well as the amounts on the accounts of the natural or legal persons for which blocking is ordered following the suspension carried out or the provisional measures imposed.

(8) The Office shall provide to the natural and legal persons referred to in the Art. 10, as well as, to the authorities having financial control attributions and to the prudential supervision authorities, through a procedure considered adequate, with general information concerning the suspected transactions and the typologies of money laundering and terrorism financing.

(9) The Office provides the persons referred to in article (10) para (a) and (b), whenever possible, under a confidentiality regime and through a secured way of communication, with information about clients, natural and/or legal persons which are exposed to risk of money laundering and terrorism financing.

(10) Following the receipt of the suspicious transactions reports, if there are found solid grounds of committing other offences than that of money laundering or terrorism financing, the Office shall immediately notify the competent body.

Art. 9 - (1) The application in good faith, by the natural and/or legal persons, of the provisions of articles (5)-(7) may not attract their disciplinary, civil or penal responsibility.

(2) Suspension and extension of the suspension made in violation of the law and in bad faith or made as a result of committing an unlawful deed under the conditions of delictual liability and cause damage, by the Office and by the General Prosecutor near by the High Court of Cassation Justice attract the responsibility of the State for damage caused.

Art. 10 – The provisions of this law shall be applied to the following natural or legal persons:

a) credit institution and branches in Romania of the foreign credit institutions;

b) financial institutions, as well as branches in Romania of the foreign financial institutions;

c) private pension funds administrators, in their own behalf and for the private pension funds they manage, marketing agents authorized for the system of private pensions;

d) casinos;

e) auditors, natural and legal persons providing tax and accounting consultancy;

f) public notaries, lawyers and other persons exercising independent legal profession, when they assist in planning or executing transactions for their customers concerning the purchase or sale of

immovable assets, shares or interests or good will elements, managing of financial instruments or other assets of customers, opening or management of bank, savings, accounts or of financial instruments, organization of contributions necessary for the creation, operation, or management of a company, creation, operation, or management of companies, undertakings for collective investments in transferable securities, other trust activities or when they act on behalf of and their clients in any financial or real estate transactions;

g) service providers for companies or other entities, other than those mentioned in para (e) or (f), as are defined in art. 2 letter j);

h) persons with attributions in the privatization process;

i) real estate agents;

j) associations and foundations;

k) other natural or legal persons that trade goods and/or services, provided that the operations are based on cash transactions, in RON or foreign currency, whose minimum value represents the equivalent in RON of 15000EUR, indifferent if the transaction is performed through one or several linked operations.

Art. 11 – In performing their activity, the persons referred to in article 10 are obliged to adopt adequate measures on prevention of money laundering and terrorism financing and, for this purpose, on a risk base, apply standard, simplified or enhanced customer due diligence measures, which allow them to identify, where applicable, the beneficial owner.

Art. 12 – Credit institutions shall not enter into or continue a correspondent banking relationship with a shell bank or with a bank that is known to permit its accounts to be used by a shell bank.

Art. 13 – (1) The persons referred to in the article 10 are obliged to apply standard customer due diligence measures in the following situations:

a) when establishing a business relationship;

b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

c) when there are suspicions that the transaction is intended for money laundering or terrorist financing, regardless of the derogation on the obligation to apply standard customer due diligence measures, provided by the present law, and the amount involved in the transaction;

d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

e) when purchasing or exchanging casino chips with a minimum value, in equivalent RON, of 2000 EUR.

(2) When the sum is not known in the moment of accepting the transaction , the natural or legal person obliged to establish the identity of the customers shall proceed to their rapid identification, when it is informed about the value of the transaction and when it established that the minimum limit provided for in para (1) (b) was reached.

(3) The persons referred to in the article 10 are obliged to ensure the application of the provisions of the present law to external activities or the ones carried about by agents.

(4) Credit institutions and financial institutions must apply customer due diligence and record keeping measures to all their branches from third countries, and these must be equivalent at least with those provided for in the present law.

Art. 14 - The persons referred to in the article 10 shall apply standard customer due diligence measures to all new customers. The same measures shall be applied, on a risk base, as soon as possible, to the existing clients.

Art. 15 – (1) Credit institutions and financial institutions shall not open and operate anonymous accounts, respectively accounts for which the identity of the holder or owner is not known and documented accordingly.

(2) When applying the provisions of article 14, the persons referred to in the article 10 shall apply standard customer due diligence measures to all the owners and beneficiaries of existing anonymous accounts as soon as possible and in any event before such accounts or are used in any way.

Art. 16 - (1) The identification data of the customers shall contain:

a) in the situation of the natural persons - the data of civil status mentioned in the documents of identity provided by the law;

b) in the situation of the legal persons - the data mentioned in the documents of registration provided by the law, as well as the proof that the natural person who manages the transaction, legally represents the legal person.

(2) In the situation of the foreign legal persons, at the opening of bank accounts those documents shall be required from which to result the identity of the company, the headquarters, the type of the company, the place of registration, the power of attorney who represents the company in the transaction, as well as, a translation in Romanian language of the documents authenticated by an office of the public notary.

Art. 17 - The persons referred to in the article 10 shall apply simplified customer due diligence measures for the following situations:

a) for life insurance policies, if the insurance premium or the annual installments are lower or equal to the equivalent in RON of the sum of 1000EUR or if the single insurance premium paid is up to 2500EUR, the equivalent in RON. If the periodic premium installments or the annual sums to pay are or are to be increased in such a way as to be over the limit of the sum of 1000EUR, respectively of 2500EUR, the equivalent in RON, standard customer due diligence measures shall be applied;

b) for the situation of the subscription to pension funds;

c) for the situation of electronic currency defined accordingly with the Law, for the situations and conditions provided by the regulations on the present law;

d) when a customer is a credit or financial institution, according with article 10, from a Member State of European Union or of European Economic Area or, as appropriate, a credit or financial institution in a third country, which has similar requirements with those laid down by the present law and are supervised for their application;

e) for other situations, regarding clients, transactions or products, that pose a low risk for money laundering and terrorism financing, provided by the regulations on the application of the present law.

Art. 18 – (1) In addition to the standard customer due diligence measures, the persons referred to in the article 10 shall apply enhanced due diligence measures for the following situations which, by their nature, may pose a higher risk for money laundering and terrorism financing:

a) for the situation of persons that are not physically present when performing the transactions;

b) for the situation of correspondent relationships with credit institutions from states that are not European Union's Member States or do not belong to the European Economic Area;

c) for the transactions or business relationships with politically exposed persons, which are resident in another European Union Member State or European Economic Area member state, or a third country.

(2) The persons referred to in the article 10 shall apply enhanced due diligence measures for other cases than the ones provided by para (1), which, by their nature, pose a higher risk of money laundering or terrorism financing.

Art. 19 - (1) In every situation in which the identity is required according to the provisions of the present law, the legal or natural person provided for in the Art. 10, who has the obligation to identify the

customer, shall keep a copy of the document, as an identity proof, or identity references, for a minimum of five-year period, starting with the date when the relationship with the client comes to an end.

(2) The persons provided for in the Art. 10 shall keep the secondary or operative records and the registrations of all financial operations arising from the conduct of a business relationship or occasional transaction, for a minimum of five-year period, starting with the date when the business relationship comes to an end, respectively from the performance of the occasional transaction, in an adequate form, in order to be used as evidence in justice.

Art. 20 - (1) The legal persons provided for in the Art. 10 shall design one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities.

(2) The persons referred to in the article 10 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 10 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. Credit institutions and financial institutions are obliged to designate a compliance officer, subordinated to the executive body, who coordinates the implementation of the internal policies and procedures, for the application of the present law.

(3) The persons designated according to para (1) and (2) shall be responsible for fulfilling the tasks established for the enforcement of this Law.

(4) The provisions of para (1), (2) and (3) are not applicable for the natural and legal persons provided by article 10 para (k).

(5) Credit and financial institutions must inform all their branches in third states about the policies and procedures established accordingly with para (2).

(6) The persons designated in accordance with para. (1) and (2) shall have direct and timely access to the relevant data and information necessary to fulfill their obligations under this law.

Art. 21 - The persons designated according to the Art. 20 para (1) and the persons provided for in the Art. 10 shall draw up a written report for each suspicious transaction, in the pattern established by the Office, which shall be immediately sent to it.

Art. 22-(1) The management bodies of the independent legal professions shall conclude cooperation protocols with the Office, within 60 days of the entry into force of this Law.

(2) The Office shall organize, at least once per year, training seminars in the field of money laundering and terrorism financing. On request, the Office and the supervision authorities may take part in the special training programs of the representatives of the persons referred to in article 10.

Art. 23. — (1) Licensing and / or registration of the entities performing foreign exchange in Romania, other than those subject to the supervision of the National Bank of Romania, in accordance with the provisions of the present law, shall be made by the Ministry of Public Finance, through the Commission for authorization of foreign exchange activity, hereinafter referred to as the *Commission*.

(2) The legal provisions regarding the tacit approval procedure shall not apply to the authorization procedure and/or registration of the entities referred to in para. (1).

(3) The composition of the Commission provided for in paragraph. (1) shall be determined by joint order of the Minister of Public Finance, of the Minister of Administration and Interior and of the President of the Office, part of its structure shall be at least one representative of the Ministry of Public Finance, Ministry of Administration and Interior and of the Office.

(4) The procedure for licensing and / or registration of entities referred to in para. (1) shall be established by order of the Minister of Public Finance.

Art. 24 – (1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:

a) the prudential supervision authorities, for the persons that are subject to this supervision, in accordance with the provisions of the present law, including for the branches of foreign legal persons that are subject to a similar supervision in their country of origin;

b) Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law; Financial Guard has responsibilities for the entities performing foreign exchange, except of those supervised by authorities provided for in letter. a);

c) The leading structures of the independent legal professions, for the persons referred to in article 10 (e) and (f);

d) The Office, for all the persons mentioned in article 10, except those for which the implementation modality of the provisions of the present Law is verified and controlled by the authorities and structures provided by para (a).

(2) When the data obtained indicates suspicions of money laundering, terrorism financing or other violations of the provisions of this Law, the authorities and structures provided for in para (1) (a) – (c) shall immediately inform the Office.

(3) The Office may perform joint checks and controls, together with the authorities provided for in the para (1) (b) and (c).

(4) In exercising the powers of verification and control, the appropriate representatives of the Office may consult the documents prepared or held by persons subject to its control and may retain their copies to determine the circumstances of suspected money laundering and terrorism financing.

Art. 25 - (1) The personnel of the Office must not disseminate the information received during the activity other than under the conditions of the law. This obligation is also valid after the cessation of the function within the Office, for a five-years period.

(2) The persons referred to in the Art. 10 and their employees must not transmit, except as provided by the law, the information related to money laundering and terrorism financing and, must not warn the customers about the notification sent to the Office.

(3) Using the received information in personal interest by the employees of the Office and of the persons provided for in the Art. 10, both during the activity and after ceasing it, is forbidden.

(4) The following deeds performed while exercising job attributions shall not be deemed as breaches of the obligation provided for in para (2):

a) providing information to competent authorities referred to in article 24 and providing information in the situations deliberately provided by the law;

b) providing information between credit and financial institutions from European Union's Member States or European Economic Area or from third states, that belong to the same group and apply customer due diligence and record keeping procedures equivalent with those provided for by the present Law and are supervised for their application in a manner similar with the one regulated by the present law;

c) providing information between persons referred to in article 10 (e) and (f), from European Union's Member States or European Economic Area, or from third states which impose equivalent requirements, similar to those provided for by the present Law, persons that carry on their professional activity within the framework of the same legal entity or the same structure in which the shareholders, management or compliance control are in common.

d) providing information between the persons referred to in article 10 (a), (b), (e) and (f), situated in European Union's Member States or European Economic Area, or from third states which impose equivalent requirements, similar to those provided for by the present Law, in the situations related to the same client and same transaction carried out through two or more of the above mentioned persons, provided that these persons are within the same professional category and are subject to equivalent requirements regarding professional secrecy and the protection of personal data;

(5) When the European Commission adopts a decision stating that a third state do not fulfill the requirements provided for by the para (4) (b) (c) and (d), the persons referred to in article 10 and their employees are obliged not to transmit to this state or to institutions or persons from this state, the information held related to money laundering and terrorism financing.

(6) It is not deemed as a breach of the obligations provided for in para 2, the deed of the persons referred to in article 10 (e) and (f) which, according with the provisions of their statute, tries to prevent a client from engaging in criminal activity.

Chapter III

The National Office for Prevention and Control of Money Laundering

Art. 26 - (1) The National Office for the Prevention and Control of Money Laundering is established as a specialised body and legal entity subordinated to the Government of Romania, having the premises in Bucharest.

(2) The activity object of the Office is the prevention and combating of money laundering and terrorism financing, for which purpose it shall receive, analyse, process information and notify, according to the provisions of the art.8 para (1), the General Prosecutor's Office by the High Court of Cassation and Justice.

(3) The Office carries out the analysis of suspicious transactions:

a) when notified by any of the persons referred to in article 10;

b) ex officio, when finds out, in any way, of a suspicious transaction.

(4) Office may dispose, at the request of the Romanian judicial authorities or to the request of foreign institutions which have similar functions and which have the obligation of keeping the secrecy under similar conditions, the suspension of carrying out a transaction which has the purpose of money laundering or terrorism financing, art. 5. (3) - (6) shall be apply accordingly, taking into consideration the justifications presented by the requesting institution, as well as, the fact that the transaction could be suspended if he had been subject of a report of a suspicious transaction sent by one of the natural and legal persons provided for in art. 10.

(5) In order to exercise its competences, the Office shall establish its own structure at central level, whose organisation chart is approved through Government's Decision.

(6) The Office is managed by a President, appointed by the Government, from among the Members of the Board of the Office, who shall also act as credit release Authority.

(7) The Office's Board is the deliberative and decisional structure, being made of one representative of each of the following institutions: the Ministry of Public Finances, the Ministry of Justice, the Ministry of Administration and Interior, the General Prosecutor's Office by the High Court of Cassation and Justice, the National Bank of Romania, the Court of Accounts and the Romanian Banks Association, appointed for a five-year period, by Government decision.

(8) The deliberative and decisional activity provided for in para (7) refers to the specific cases analyzed by the Office's Board. The Office's Board decides over the economic and administrative matters, only when requested by the President.

(9) In exercising its attributions, the Office's Board adopts decisions with the vote of the majority of its members.

(10) The members of the Office's Board must fulfill, at the date of the appointment, the following conditions:

a) to have a university degree and to have at least 10 years of experience in a legal or economic position;

b) to have the domicile in Romania;

c) to have only the Romanian citizenship;

d) to have the exercise of the civil and political rights;

e) to have a high professional and an intact moral reputation.

(11) The members of the Office Plenum are forbidden to belong to political parties or to carry out public activities with political character.

(12) The function of member of the Office's Board is incompatible with any other public or private function, except for the didactic positions, in the university learning.

(13) The members of the Office's Board must communicate immediately, in writing, to the Office's president, the occurring of any incompatible situation.

(14) In the period of occupying the function, the members of the Office's Board shall be detached, respectively their work report shall be suspended. At the cessation of the mandate, they shall return to the function held previously.

(15) In case of vacancy of a position in the Office's Board, the leader of the competent authority shall propose to the Government a new person, within 30 days after the date when the position became vacant.

(16) The mandate of member of the Office's Board ceases in the following situations:

a) at the expiration of the term for which he was appointed;

b) by resignation;

c) by death;

d) by the impossibility of exercising the mandate for a period longer than six months;

e) at the appearance of an incompatibility;

f) by revocation by the authority that appointed him.

(17) The employees of the Office may not hold any position or fulfil any other function in any of the institutions provided in the article 10, while working for the Office.

(18) For the functioning of the Office, the Government shall transfer in its administration the necessary real estates – land and buildings – belonging to the public or private domain, within 60 days from the registration date of the application.

(19) The Office may participate in the activities organized by international organizations in the field and may be member of these organization.

Chapter IV

Responsibilities and Sanctions

Art. 27 - The violation of the provisions of the present law brings about, as appropriate, the civil, disciplinary, contravention or penal responsibility.

Art. 28 - (1) The following acts constitute contraventions (minor offence), if not committed under such circumstances as to constitute offenses:

a) failure to comply with the obligations referred to in the Art. 5 para (1), (7), and (8) and Art. 6;

b) non-compliance with the provisions stipulated in Art. 5. (3), third sentence, Art. 7. para. (2), Art. 11, 12, 13, 14, 15, Art. 18 para. (1), Art. 19—21 and Art. 24.

(2) The contraventions provided in para (1) a) shall be sanctioned by a fine ranging from 10.000 RON to 30.000 RON, and the contraventions provided in para (1) b) shall be sanctioned by a fine ranging from 15.000 RON to 50.000 RON.

(3) The sanctions provided under par. (2) are applied to the legal persons, too.

(4)Besides the sanctions provided for in the para (3) for the legal person it could be applied one or more of the following additional sanctions:

(a) confiscation of the goods designed, used or resulted from the violation;

(b) suspending the note, license or authorization to carry out an activity or, by case, suspending the economic agent's activity, for a period of one month up to 6 month;

(c) taking away the license or the authorization for some operations or for international commerce activities, for a period of one month up to 6 month or definitively;

(d) blocking the banking account for a period of 10 days up to one month;

(e) cancellation of the note, license or authorization for carrying out an activity;

(f) closing the facility.

(5) The infringements are ascertained and the sanctions, referred to in para (2), are applied by the representatives, authorized by case, by the Office or other authority competent by law to carry out the control. When the supervision authorities carry out the control, the infringements are ascertained and the sanctions are applied by the representatives, authorized and specifically designated by those authorities."

(6) In addition to the infringement sanctions, specific sanctioning measures may be applied by the supervision authorities, according with their competencies, for the deeds provided for by para (1).

(7) The provisions of the present law referring to contraventions are completed in accordance with the provisions of the Government Ordinance No. 2/2001 regarding the legal regime of contraventions, approved with changes and completions by the Law No. 180/2002, with the subsequent changes, except the Articles. 28 and 29.

Art. 29 - (1) The following deeds represent offence of money laundering and it is punished with prison from 3 to 12 years:

a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of property or of assisting any person who is involved in the committing of such activity to evade the prosecution, trial and punishment execution;

b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity;

c) the acquisition, possession or use of property, knowing, that such property is derived from any criminal activity;

(2) The attempt is punished.

(3) If the deed was committed by a legal person, in addition to the fine penalty, the court shall apply, as appropriate, one or more of complementary penalties provided for in article 53^1, para (3) let. (a) –(c) of the Penal Code.

(4) Knowledge, intent or purpose required as an element of the activities mentioned in paragraphs (1) may be inferred from objective factual circumstances.

Art. 30 – The offender for the crime referred to in article 29, that during the criminal procedure denounces and facilitates the identification and prosecution of other participants in the offence, shall benefit of a half reduction of the penalty limits provided for by law.

Art. 31 - The non-observance of the obligations provided for in the Art. 25 represents offence and it is punished with prison from 2 to 7 years.

Art. 32 – The provisional measures shall be mandatory where a money laundering or terrorism financing offence has been committed.

Art. 33 - (1) In the case of the money laundering and terrorism financing offences, the provisions of Art. 118 of the Penal Code shall be applied with respect to the confiscation of the proceeds of crime.

(2) If the proceeds of crime, subject to confiscation, are not found, their equivalent value in money or the property acquired in exchange shall be confiscated.

(3) The income or other valuable benefits obtained from the proceeds of crime referred to in para (2) shall be confiscated.

(4) If the proceeds of crime subject to confiscation cannot be singled out from the licit property, there shall be confiscated the property up to the value of the proceeds of crime subject to confiscation.

(5) The provisions of para (4) shall be also applied to the income or other valuable benefits obtained from the proceeds of crime subject to confiscation, which cannot be singled out from the licit property.

(6) In order to guarantee the carrying out of the confiscation of the property, the provisional measures shall be mandatory as provided by the Criminal Procedure Code.

Art. 34 – In the case of the offences referred to in articles 29 and 31 and the terrorism financing offences, the banking secrecy and professional secrecy shall not be opposable to the prosecution bodies nor to the courts of law. The data and information are transmitted upon written request to the prosecutor or to the criminal investigation bodies, if their request has previously been authorized by the prosecutor, or to the courts of law.

Art. 35 - (1) Where there are solid grounds of committing an offence involving money laundering or terrorism financing, for the purposes of gathering evidence or of identifying the perpetrator, the following measures may be disposed:

a) monitoring of bank account and similar accounts;

b) monitoring, interception or recording of communications;

c) access to information systems.

d) supervised delivery of money amounts.

(2) The measure referred to in para (1) letter a) may be disposed by the prosecutor for no longer than 30 days. For well-founded reasons, such measure may be extended by the prosecutor by reasoned ordinance, provided each extension does not exceed 30 days. The maximum duration of the disposed measure is four months.

(3) The measures referred to in para (1) letters b) and c) may be ordered by the judge, according to the provisions of Articles 91^1 to 91^6 of the Criminal Procedure Code, which shall be applied accordingly.

(4) The prosecutor may dispose that texts, banking, financial, or accounting documents to be communicated to him, under the terms laid down in para (1).

(5) The measure referred to in para (1) (d) may be disposed by the prosecutor and authorized by reasoned ordinance which, in addition to the mentions referred to in article 203 of Criminal Procedure Code, should comprise the following:

a) the solid ground that justify the measure and the motives for which the measure is necessary;

b) details regarding the money that are subject of the supervision;

c) time and place of the delivery or, upon case, the itinerary that shall be followed in order to carry out the delivery, provided these data are known;

d) the identification data of the persons authorized to supervise the delivery.

Art. 36 - Where there are solid and concrete indications that money laundering or terrorism financing offence has been or is to be committed and where other means could not help uncover the offence or identify the authors, undercover investigators may be employed in order to gather evidence concerning the existence of the offence and identification of authors, under the terms of the Criminal Procedure Code.

Art. 37 – (1) The General Prosecutor's Office by the High Court of Cassation and Justice transmits to the Office, on a quarterly bases, copies of the definitive court decisions related to the offence provided for in article 29.

(2) The Office holds the statistical account of the persons convicted for the offence provided for in article 29.

Chapter V

Final Provisions

Art. 38 - The customers' identification, according to Art. 13, shall be done after the date of coming into force of the present law.

Art. 39 - Within 30 days after the date of coming into force of the present law, the Office shall present its regulations of organization and functioning to the Government for approval.

Art. 40 - The Law No. 21/1999 for the prevention and sanctioning of money laundering, published in the Official Gazette of Romania, Part I, No. 18 of January 21st, 1999, with the subsequent changes, is abrogated.

By the present law, the provisions of articles 1 para (5), article 2 para (1), article 3 points 1,2 and 6-10, article 4, 5, 6, 7, article 8 para 2, article 9 para (1), (5) and (6), article 10 para (1), article 11 para (1)-(3) and (5), article 13, 14, 17, 20, 21, 22, 23, 25, 26, 27, article 28 para (2)-(7), article 29, article 31 para (1) and (3), article 32, article 33 para (1) and (2), article 34, article 35 para (1) and (3), article 37 para (1)-(3) and (5) as well as article 39 of the Directive 2005/60/EC of the European Parliament and of the Council, of 26th October 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, published in the Official Journal of the European Union, series L no. 309 of 25th November 2005 and article 2 of the Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of financial activity conducted on an occasional or very limited basis, published in the Official Journal of the European Union, series L no. 214 of 04th August 2006, have been transposed.

Excerpts from the Criminal Code

The Criminal Code was published in the Official Bulletin No. 79-79 *bis* of 21 June 1968, republished in the Official Bulletin No. 55-56 of 23 April 1973 and republished in the Official Gazette No. 65 of 16 April 1997. Subsequently, it has been amended by:

- Law No. 197/2000 (published in the Official Gazette No. 568 of 15 November 2000);
- Government Emergency Ordinance No. 207/2000 (published in the Official Gazette No.594 of 22 November 2000), approved with amendments and supplements by Law No. 456/2001 (published in the Official Gazette No. 410 of 25 July 2001);
- Government Emergency Ordinance No. 10/2001 (published in the Official Gazette No. 62 of 6 February 2001), approved with amendments and supplements by Law No. 20/2002 (published in the Official Gazette No. 59 of 28 January 2002);
- Government Emergency Ordinance No. 89/2001 (published in the Official Gazette No. 338 of 26 June 2001), approved with amendments and supplements by Law No. 61/2002 (published in the Official Gazette No. 65 of 30 January 2002);
- Law No. 169/2002 (published in the Official Gazette No. 261 of 18 April 2002);
- Emergency Ordinance No. 58/2002 (published in the Official Gazette No. 351 of 27 May 2002);
- Emergency Ordinance No. 93/2002 (published in the Official Gazette No. 453 of 27 June 2002), approved by Law No. 574/2002 (published in the Official Gazette No. 783 of 30 October 2002);
- Emergency Ordinance No. 143/2002 (published in the Official Gazette No. 804 of 5 November 2002) approved by Law No. 45/2003 (published in the Official Gazette No. 51 of 29 January 2003).

THE GENERAL PART

TITLE I
CRIMINAL LAW AND ITS APPLICATION RESTRICTIONS

Chapter II
CRIMINAL LAW APPLICATION RESTRICTIONS

Section I
Spatial application of Criminal Law

Territorial nature of Criminal Law

Art.3. Criminal Law shall apply to offences committed on Romanian territory.

Criminal Law personality

Art.4. Criminal law shall apply to offences perpetrated outside the Romanian territory, if the perpetrator is a Romanian citizen or if he/she, while having no citizenship, domiciles in this country.

Criminal law reality

Art.5. (1) Criminal law shall apply to offences committed outside Romanian territory, against the security of the Romanian State or against the life of a Romanian citizen, or which have caused serious injury to the corporal integrity or health of a Romanian citizen, when they are committed by a foreign citizen or by a person with no citizenship who does not domicile on the territory of our country.
(2) The initiation of criminal action for the offences provided in the previous paragraph shall be done

solely with prior authorisation from the General Prosecutor.

Criminal law universality

Art.6. (1) Criminal law shall apply also to offences other than those in Art. 5 para.(1), committed outside Romanian territory, by a foreign citizen or by a person with no citizenship who does not domicile on Romanian territory, if:

a) the act is provided as an offence also by the criminal law of the country where it was perpetrated;

b) the perpetrator is in our country.

(2) For offences against the interests of the Romanian State or against a Romanian citizen, the offender can be tried also in the case when his/her extradition has been obtained.

(3) The previous paragraphs shall not apply when, according to the law of the State where the offender committed the offence, there is any cause that prevents the initiation of criminal action or the continuation of the criminal lawsuit or the service of the penalty, or when the penalty has been served or it is considered to have been served. If the penalty has not been served or has been served only partly, the course of action shall be in accordance with the legal stipulations regarding the recognition of foreign judgements.

Criminal law and international conventions

Art.7. Articles 5 and 6 shall apply, if no international convention ordains otherwise.

Jurisdiction immunity

Art.8. Criminal law does not apply to offences committed by diplomatic representatives of foreign States or by other persons who, according to international conventions, are not subject to criminal jurisdiction in Romania.

Extradition

Art.9. (1) Extradition shall be granted or may be requested based on an international convention, based on reciprocity and, in their absence, based on the law.

Title II
OFFENCES

Chapter I
GENERAL PROVISIONS

Guilt

Art.19. (1) There is guilt when an act that represents a social danger is committed with intent or out of negligence.

1. An act was committed with intent when the offender:
   a) foresaw the outcome of his/her act, and intended for this outcome to take place by the commission of that act;
   b) foresaw the outcome of his/her act and, although he/she did not intend it, accepts the possibility for it to take place.
2. An act was committed out of negligence when the offender:
   a) foresaw the outcome of his/her act, but did not accept it, because he/she unfoundedly deemed it unlikely to take place;
   b) did not foresee the outcome of his/her act, although he/she ought and would have been able to.

(2) An act that resides in an action committed out of negligence shall be an offence only when the law provides this expressly.

(3) An act consisting of inaction shall be an offence regardless of whether it was committed with intent or out of negligence, unless the law sanctions only its commission with intent.

Chapter II
ATTEMPT

Contents of attempt

Art. 20. (1) Attempt is the realisation of a resolution to commit an offence, a realisation which was interrupted or did not take effect.
(2) There is attempt also when the occurrence of the offence was impossible because of the insufficiency or faults of the means used, or because of the circumstance that, while the acts that make up the realisation were being committed, the object was missing from the place where the perpetrator thought it to be.
(3) There is no attempt when the impossibility of occurrence of the offence is because of how the execution was conceived.

Punishment of attempt

[1]**Art.21.** (1) Attempt to an offence shall be punished only when the law provides this expressly.
(2) Attempt shall be sanctioned by a penalty between the half of the minimum and the half of the maximum provided in the law for an offence that did occur, while the minimum cannot be below the general minimum of the penalty.
(3) If the penalty provided in the law is life imprisonment, the penalty of imprisonment from 10 to 25 years shall be applied.

Divestment and prevention of result occurrence

Art.22. (1) A perpetrator who divested him/herself or who prevented the occurrence of the outcome before the act was discovered shall not be punished.
(2) If the acts accomplished up to the moment of divestment or prevention of outcome occurrence represent another offence, the penalty for that offence shall be applied.

Chapter III
PARTICIPATION

Participants

Art.23. Persons who contribute to the commission of an act provided in the criminal law as authors, instigators or accomplices are participants.

Authors

Art. 24. A person directly committing an act provided in the criminal law is an author.

Instigators

Art.25. An instigator is a person who intentionally determines another person to commit an act provided in the criminal law.

Accomplices

Art.26. (1) An accomplice is a person who intentionally facilitates or helps in any way in the commission of an act provided in the criminal law. A person who promises, either before or during the commission of the offence, to conceal the proceeds emerging from it or to favour the perpetrator, even if

[1] Reproduced as amended by the Decree-Law No. 6/1990 and by Law No. 140/1996.

after commission of the offence the promise is not kept, shall also be an accomplice.

Penalty for participation

Art.27. Instigators and accomplices to an act provided in the criminal law committed with intent shall be sanctioned by the penalty provided in the law for authors. In establishing the penalty, each person's contribution to the commission of the offence, as well as Art. 72, shall be taken into account.

Personal and actual circumstances

Art.28. (1) Circumstances relating to the person of a participant shall not be transmitted onto the others.

(2) Circumstances relating to the act shall be transmitted onto the participants only to the extent that they were aware of them or foresaw them.

Chapter II
CATEGORIES AND GENERAL LIMITS OF PENALTIES

Types of penalties

[2]**Art.53.** Penalties are main, complementary or accessory.

1. The main penalties are:
   a) life imprisonment;
   b) imprisonment from 15 days to 30 years;
   c) fine from 1.000.000 lei to 500.000.000 lei.
2. The complementary penalties are:
   a) the prohibition of certain rights from one to 10 years;
   b) military degradation;
3. The accessory penalty is the prohibition of certain rights expressly provided in the law.

Chapter IV
COMPLEMENTARY AND ACCESSORY PENALTIES

Section 1
Complementary penalties

The prohibition of certain rights

[3]**Art. 64.** (1) The complementary penalty of prohibition of certain rights resides in the prohibition of one or some of the following rights:

a) the right to elect and be elected into public authorities or as elected public officials;
b) the right to hold an office involving the exercise of State authority;
c) the right to hold an office or to exercise a profession or to carry out an activity, of the nature of the one that was used by the convict to commit the offence;
d) parental rights;
e) the right to be a guardian or a curator.

(2) Prohibition of exercising the rights provided in b) cannot be handed down unless it is accompanied by the prohibition of the rights provided in a), unless the law provides otherwise.

Application of the penalty of prohibition of certain rights

Art. 65. (1) The complementary penalty of the prohibition of certain rights can be applied, if the

[2] Reproduced as amended by Law No. 140/1996 and by Law No. 169/2002.
[3] Reproduced as amended by Law No. 140/1996 and by the G.E.O. No. 93/1992, approved by Law No. 574/2002.

main penalty established is imprisonment of at least 2 years and the court finds that, with regard to the nature and seriousness of the act, the circumstances of the cause and the person of the perpetrator, this penalty is necessary.
(2) The application of the prohibition of certain rights is obligatory when the law provides this penalty.
(3) The condition provided in para.(1) concerning the quantum of the main penalty must be met also for the case when the application of the penalty provided in that paragraph is compulsory.

Service of the penalty of prohibition of certain rights

Art. 66. The service of the penalty of prohibiting certain rights shall commence after service of the penalty of imprisonment, after total pardon or pardon of the rest of the penalty, or after prescription of penalty service.

Military degradation

[4]**Art. 67.** (1) The complementary penalty of military degradation consists of loss of rank and of the right to wear a uniform.
(2) Military degradation shall be applied obligatorily to convicts in the armed forces, either active or in reserve, if the main penalty established is imprisonment over 10 years or life imprisonment.
(3) Military degradation can be applied to members of the military, either active or in reserve, for offences committed with intent, if the main penalty established is imprisonment for at least 5 years and no more than 10 years.

Section II
Accessory penalties

Contents and service of accessory penalties

[5]**Art. 71.** (1) The accessory penalty consists of the prohibition of all rights provided in Art.64.
(2) Conviction to a penalty of life imprisonment or imprisonment entails *de jure* the prohibition of rights provided in the previous paragraph from the moment when the decision of conviction remained final to the completion of penalty service, to total pardon or pardon of the rest of the penalty or to completion of the prescription term for the service of the penalty.
(3) Para. (1) and (2) shall apply also in cases when the service of the penalty at the workplace was ordained, with the exceptions in Art. 86^8, while the prohibition of the rights in Art. 64 d) and e) being left to the appreciation of the court.

Offences against representatives of foreign States

Art. 171. (1) Offences against life, corporal integrity, health, freedom or dignity, committed against a representative of a foreign State, shall be sanctioned by the penalty provided in the law for the act committed, the maximum of which shall be increased by 2 years.
(2) Criminal action is initiated upon wish expressed by the foreign government.

Some causes for non-punishment or reduction of penalty

Art. 172. (1) A participant in the offences provided in the present title shall not be punished if he/she denounces, in good time, the commission of the offence, in order for its consumption to be prevented, or if he/she him/herself prevents the offence from being consumed and then denunciates it.
A participant who, after commencement of the criminal prosecution, or after discovery of the offenders, facilitates their arrest, shall be punished by a penalty the limits of which shall be reduced by half.

[4] Reproduced as amended by Law No. 140/1996.
[5] Amended by Law No. 6/1973, by Law No. 104/1992 and by Law No. 140/1996.

Sanctions for attempt, concealment and support

[6]**Art. 173.** (1) Attempt to the offences in the present title is punishable.
(2) The act of producing or obtaining the means or the instruments, as well as of taking measures in order to commit the offences in Art. 156, 157, 159-163, 165, 166, 166[1] and Art. 158 with regard to the offence of treason by helping the enemy shall also be considered attempt.
(3) Concealment or support with regard to the offences provided in this title shall be punished by imprisonment from 3 to 10 years.
(4) The penalty applied to concealers or supporters cannot be greater than the penalty provided in the law for the author.
(5) Concealment or support committed by a spouse or a close relative for the offences in Art. 155-163, 165, 166[1] and 167 are punishable. The limits of the penalty in para.(3) shall be reduced by half, and in case of the other offences, concealment and support shall not be punished.

TITLE II
OFFENCES AGAINST PERSONS

Chapter I
OFFENCES AGAINST LIFE, CORPORAL INTEGRITY AND HEALTH

Section I - Homicide

Murder

Art. 174. (1) The killing of a person shall be punished by imprisonment from 10 to 20 years and the prohibition of certain rights.
(2) Attempt is punishable.

First degree murder

[7]**Art. 175.** (1) Murder committed in one of the following circumstances:
a) with premeditation;
b) out of a material interest;
c) against the spouse or a close relative;
d) taking advantage of the victim's inability of defence;
e) by means that jeopardise the life of several persons;
f) connected to the victim's accomplishment of service or public duties;
g) in order to elude or to elude another person's prosecution, arrest or penalty service;
h) in order to facilitate or conceal the commission of another offence;
i) in public,
shall be punished by imprisonment from 15 to 25 years and the prohibition of certain rights.
(2) Attempt is punishable.

Particularly serious murder

[8]**Art. 176.** (1) Murder committed in one of the following circumstances:
a) by means of cruelties;
b) against two or more persons;
c) by a person who has previously committed another murder;
d) in order to commit or to conceal the commission of a robbery or piracy;

[6] Reproduced as amended by Law No. 140/1996.
[7] Reproduced as amended by Law No. 140/1996.
[8] Reproduced as amended by Law No. 140/1996.

e) against a pregnant woman;
f) against a magistrate, police officer, gendarme or member of the military, during or in connection to the fulfilment of their service or public duties,

shall be punished by life imprisonment or imprisonment from 15 to 25 years and the prohibition of certain rights.
(2) Attempt is punishable.

Infanticide

Art. 177. The killing of a newborn infant, committed immediately after birth by the mother who is in a state of confusion caused by birth, shall be punished by imprisonment from 2 to 7 years.

Homicide out of negligence

[9]**Art. 178.** (1) The killing of a person out of negligence shall be punished by imprisonment from one to 5 years.
(2) Homicide out of negligence because of failing to observe legal provisions or precaution measures for the exercise of a profession or a trade, or by carrying out a certain activity, shall be punished by imprisonment from 2 to 7 years.
(3) When homicide out of negligence is committed by a person driving a vehicle with mechanical traction, with a level of alcohol concentration in the blood that exceeded the legal limits or who was inebriated, the penalty shall be imprisonment from 5 to 15 years.
(4) The same penalty shall sanction also homicide out of negligence committed by any other person in the exercise of his/her profession or trade and who is inebriated.
(5) If the act committed caused the death of two or more persons, the maximum of the penalties in the previous paragraphs can be supplemented by an increase of up to 3 years.

Chapter II
OFFENCES AGAINST THE FREEDOM OF PERSONS

Illegal deprivation of freedom

[10]**Art. 189.** (1) Illegal deprivation of freedom against a person shall be punished by imprisonment from 3 to 10 years.
(2) If the act is committed by simulating official capacities, by abduction, by a person who is armed, by two or more persons together, or if in exchange for release a material or other benefit is requested, as well as if the victim is a minor or is subjected to suffering or his/her health or life is jeopardised, the penalty shall be imprisonment from 7 to 15 years.
(3) The penalty of imprisonment from 7 to 15 years shall sanction also deprivation of freedom for the purpose of forcing the person to practise prostitution.
(4) If for the person's release it is demanded, in any way, that the State, legal entity, an international or intergovernmental organisation or a group of persons should accomplish or should not accomplish a certain act, the penalty shall be imprisonment from 7 to 18 years.
(5) If the acts in para. (1)-(4) are committed by a person who is part of an organised group, the penalty shall be imprisonment from 5 to 15 years, for para. (1), imprisonment from 7 to 18 years, for para. (2) and (3), and imprisonment from 10 to 20 years for para. (4).
(6) If the act resulted in the victim's death or suicide, the penalty shall be imprisonment from 15 to 25 years.
(7) Attempt to the acts in para. (1)-(4) is punishable.
(8) The act of producing or obtaining the means or the instruments, as well as of taking measures in order to commit the act in para. (4) shall be deemed as attempt.

[9] Reproduced as amended by Law No. 140/1996.
[10] Reproduced as amended by Law No. 169/2002.

Threat

[11]**Art. 193.** (1) The act of threatening a person with the commission of an offence or of a damaging act against him/her, his/her spouse or a close relative, if it is likely alarm this person, shall be punished by imprisonment from 3 months to 3 years or by fine, while the penalty applied cannot exceed the sanction provided in the law for the offence that was the object of the threat.
(2) Criminal action is initiated upon prior complaint from the injured person.
(3) Reconciliation of parties removes criminal liability.

Blackmail

[12]**Art. 194.** (1) Coercion of a person, either by violence or by threat, to give, to do, or not to do or to suffer something, if the act is committed in order to obtain an unlawful benefit, for oneself or for another, shall be punished by imprisonment from 6 months to 5 years.
(2) When coercion resides in a threat to reveal a real or imaginary act, which is likely to compromise the person threatened, his/her spouse, or a close relative, the penalty shall be imprisonment from 2 to 7 years.

Chapter III
OFFENCES REGARDING SEXUAL LIFE

Rape

[13]**Art. 197.** (1) Sexual intercourse, of any kind, with a person of the opposite sex or of the same sex, by coercion of this person or by taking advantage of the person's inability to defend him/herself or to express volition, shall be punished by imprisonment from 3 to 10 years and the prohibition of certain rights.
(2) The penalty shall be imprisonment from 5 to 18 years and the prohibition of certain rights, if:
a) the act has been committed by two or more persons together;
b) the victim is under the care, protection, education, guard or treatment of the perpetrator;
b[1]) the victim is a family member;
c) the victim suffered serious injury to corporal integrity or health.
[14](3) If the victim was under the age of 15, the penalty shall be 10 to 25 years' imprisonment and the prohibition of certain rights , and if the act resulted in the victim's death or suicide, the penalty shall be imprisonment from 15 to 25 years and the prohibition of certain rights.
(4) Criminal action for the act provided in para.(1) is initiated upon prior complaint by the person injured.
(5) *Abrogated by Law No. 197/2000.*

Sexual intercourse with a minor

[15]**Art. 198.** (1) Sexual intercourse, of any nature, with a person of the other sex or of the same

[11] Reproduced as amended by Law No. 140/1996.
[12] Reproduced as amended by Law No. 6/1973 and by Law No. 140/1996.
[13] Reproduced as amended by the Decree No. 365/1976, by Law No. 140/1996, by Law No. 197/2000, by the G.E.O. No. 89/2001, approved, with amendments and supplements, through Law No. 61/2002 and the G.E.O. No. 143/2002, approved by Law No. 45/2003.
[14] In the version previous to the amendment by the G.E.O. No. 143/2002, paragraph 3 of Art. 197 had the following text: " (3) If the victim was under the age of 15 the penalty shall be imprisonment from 10 to 20 years and the prohibition of certain rights, and if the act resulted in the victim's death or suicide, the penalty shall be imprisonment from 15 to 25 years and the prohibition of certain rights."
[15] Reproduced as amended by the G.E.O. No. 143/2002, approved by Law No. 45/2003. Prior to the amendment, Art. 198 had the following text: "**Art. 198. (1)** Sexual intercourse, of any nature, with a person of the other sex or of the same sex, who has not reached the age of 15, shall be punished by imprisonment from 2 to 7 years and the prohibition of certain rights.

sex, who has not reached the age of 15, shall be punished by imprisonment from 3 to 10 years and the prohibition of certain rights.
(2) This penalty shall sanction also sexual intercourse, of any nature, with a person of the opposite sex or of the same sex aged 15 to 18, if the act is committed by the person's guardian or curator or by his/her supervisor, by the person in charge of his/her care, by his/her physician, teacher, professor or educator, while taking advantage of their capacity, or if the perpetrator has abused the victim's confidence or his/her own authority or influence over the victim.
(3) If the sexual intercourse, of any nature, with a person of the opposite sex or of the same sex, who has not reached the age of 18, was determined by the perpetrator's offering or giving the victim money or other benefits, either directly or indirectly, the penalty shall be imprisonment from 3 to 12 years and the prohibition of certain rights.
(4) If the acts stipulated in para.(1)-(3) were committed for the purpose of producing pornographic material, the penalty shall be imprisonment from 5 to 15 years and the prohibition of certain rights, and if for the accomplishment of such a purpose coercion was used, the penalty shall be imprisonment from 5 to 18 years and the prohibition of certain rights.
(5) When the act in para.(1) has been committed under the circumstances provided in Art. 197 para.(2) b) or if the acts in para.(1)-(4) have had the consequences provided in Art. 197 para.(2) c), the penalty shall be imprisonment from 5 to 18 years and the prohibition of certain rights.
(6) If the act resulted in the victim's death or suicide, the penalty shall be imprisonment from 15 to 25 years and the prohibition of certain rights.

TITLE III
[16]OFFENCES AGAINST PROPERTY

Theft

[17]**Art. 208.** (1) The act of taking a movable asset from another person's possession or use, without the latter's consent, in order to make it one's own without right, shall be punished by imprisonment from one to 12 years.
(2) Any form of energy that has an economic value, as well as documents, shall be deemed as movable assets.
(3) The act is a theft even if the asset belongs fully or partly to the perpetrator, if at the time of commission that asset was in the legitimate possession or use of another person.
(4) Also, the act of taking, under the circumstances in para.(1), a vehicle in order to use it without right shall be a theft.

First degree theft

---

(2) This penalty shall sanction also sexual intercourse, of any nature, with a person of the opposite sex or of the same sex aged 15 to 18, if the act is committed by the person's guardian or curator or by his/her supervisor, by the person in charge of his/her care, by his/her physician, teacher, professor or educator, while taking advantage of their capacity.
(3) If the act in para. (1) was committed under the circumstances in Art. 197 para. (2) b) or if the acts in para. (1) and (2) have had the consequences in Art. 197 para. (2) c), the penalty shall be imprisonment from 3 to 15 years and the prohibition of certain rights.
(4) If the act resulted in the victim's death, the penalty shall be imprisonment from 7 to 18 years and the prohibition of certain rights.
(5) *Abrogated by Law No. 197/2000."*

[16] Denomination reproduced as amended by Law No. 140/1996.
[17] Amended by Law No. 6/1973 and by Law No. 140/1996.

[18]**Art. 209.** (1) Theft committed under the following circumstances:
a) by two or more persons together;
b) by a person holding a weapon, or a narcotic substance;
c) by a person wearing a mask or disguise;
d) against a person who is unable to express volition or to defend him/herself;
e) in a public place;
f) in means of public transportation;
g) during night time;
h) during a disaster;
i) by forced entry, scaling or by use without right of a real key or a false key,
shall be punished by imprisonment from 3 to 15 years.
(2) The same penalty shall sanction also theft with regard to:
a) an asset that is part of the cultural heritage;
b) a document proving civil status, used for identification;
[19](3) Theft regarding the following categories of assets:
a) crude oil, gasoline, condensate, liquid ethane, petrol, Diesel oil, other oil products or natural gasses from pipes, storage houses, tanks or tank wagons;[20]
b) components of irrigation systems;
c) components of electrical networks;
d) a device or system for signalling, for alarm or alert in case of fire or other public emergencies;
e) a means of transportation or any other means of intervention for a fire, for railway, road, naval or air accidents, or in case of disaster;
f) installations for railway, road, naval, air traffic safety and control, and their components, as well as the components of the related means of transportation;
g) assets the appropriation of which jeopardises the safety of traffic and persons on public roads;

[18] Reproduced as amended by the G.E.O. No. 207/2000 (approved, with amendments and supplements, through Law No. 456/2001) and by the G.E.O. No. 10/2001 (approved, with amendments and supplements, through Law No. 20/2002).
According to Art. 3 of the G.E.O. No. 10/2001, approved, with amendments and supplements, through Law No. 20/2002, "Criminal prosecution and judgement for the offence in Art. 209 para. (3) a) of the Criminal Code of Romania, republished, with its ulterior amendments, shall take place in emergency procedure, according to Law No. 83/1992 on the emergency procedure for the prosecution and judgement of certain offences of corruption".
[19] According to Law No. 456/2001, Art. 209 para. (3) shall have the following text:
"Theft regarding the following categories of assets:
a) crude oil, oil products, gasoline, condensate, liquid ethane, or natural gasses from pipes, storage houses, tanks or tank wagons;
b) components of irrigation systems;
c) components of electrical networks;
d) a device or system for signalling, for alarm or alert in case of fire or other public emergencies;
e) a means of transportation or any other means of intervention for a fire, for railway, road, naval or air accidents, or in case of disaster;
f) installations for railway, road, naval, air traffic safety and control, and their components, as well as the components of the related means of transportation;
g) assets the appropriation of which jeopardises the safety of traffic and persons on public roads;
h) cables, lines, equipment and installations of telecommunication, radio communication, as well as communication components
shall be punished by imprisonment from 4 to 18 years."
"Offences in Art. 209 para. (3) of the Criminal Code shall be prosecuted and judged according to the procedure established in Art. 467-479 of the Criminal Procedure Code."
[20] Prior to the amendment by the Law No. 20/2002, Art. 209 para. (3) a) had the text established by the G.E.O. No. 10/2001, which is: "a) crude oil, oil products, gasoline, condensate, liquid ethane, or natural gasses from pipes, storage houses, tanks or tank wagons;"

h) cables, lines, equipment and installations of telecommunication, radio communication, as well as communication components;

shall be punished by imprisonment from 4 to 18 years.

(4) Theft that caused particularly serious consequences shall be punished by imprisonment from 10 to 20 years and the prohibition of certain rights.

(5) In the case in para. (3) a), the act of digging the land in the protected area near pipes that convey crude oil, gasoline, condensate, liquid ethane, petrol, Diesel oil, other oil products or natural gasses, as well as the possession, in those places or in the vicinity of storage facilities, tanks or tank wagons, of connection hoses, installations or any other devices for clasping or perforation, shall also be considered an attempt.[21]

Punishment for certain cases of theft upon prior complaint

Art. 210. (1) Theft committed between spouses or close relatives, or by a minor against his guardian, by a person living together with the injured person or is a guest in the latter's house, shall be prosecuted only upon prior complaint from the injured person.

(2) Reconciliation of parties removes criminal liability.

Robbery

[22]**Art. 211.** (1) Theft committed by use of violence or threat, or by making the victim unconscious or unable to defend him/herself, as well as theft followed by the use of such means in order to keep the stolen goods or to remove the traces of the offence, or to ensure the perpetrator's escape, shall be punished by imprisonment from 3 to 18 years.

(2) Robbery committed under the following circumstances:

a) by a person wearing a mask or disguise;

b) during night time;

c) in a public place or in a means of public transportation;

shall be punished by imprisonment from 5 to 20 years.

(2^1) The penalty shall be imprisonment from 7 to 20 years if the robbery was committed:

a) by two or more persons together;

b) by a person carrying a weapon, a narcotic or paralysing substance;

c) in a dwelling place or the outbuildings attached to it;

d) during a disaster;

e) if the act had any of the consequences in Art. 182.

(3) Robbery that caused particularly serious consequences or that resulted in the victim's death shall be punished by imprisonment from 15 to 25 years and the prohibition of certain rights.

Piracy

[23]**Art. 212.** (1) The act of plundering by acts of violence committed for personal purposes, perpetrated by the crew on a ship or by the passengers on a ship against persons or goods on that ship, or against another ship, if the ships are in the open sea or in a place that is not in the jurisdiction of any State, shall be punished by imprisonment from 3 to 18 years.

(2) If the piracy had any of the consequences in Art. 182, the penalty shall be imprisonment from 5 to 20 years.

(3) Piracy that caused particularly serious consequences or that resulted in the death of the victim shall be

[21] According to the version established by the G.E.O. No. 10/2001, paragraph 5 had the following text:
"In the case in para. (3) a), the act of digging the land in the protected area near pipes that convey crude oil, oil products, gasoline, condensate, liquid ethane or natural gasses, as well as the possession, in those places or in the vicinity of storage facilities, tanks or tank wagons, of connection hoses, installations or any other devices for clasping or perforation, shall also be considered an attempt

[22] Amended by Law No. 6/1973, by Law No. 140/1996 and by Law No. 169/2002.

[23] Reproduced as amended by Law No. 140/1996.

punished by imprisonment from 15 to 25 years and the prohibition of certain rights.
(4) The previous paragraphs shall apply accordingly also when the offence of piracy was committed on aircraft or between aircraft and ships.

Fraudulent management

[24]**Art. 214.** (1) The act of causing prejudice to a person, in bad faith, on occasion of administering or preserving his/her assets, committed by the person charged with the administration or preservation of those assets, shall be punished by imprisonment from 6 months to 5 years.
(2) Fraudulent management committed in order to acquire a material benefit shall be punished by imprisonment from 3 to 10 years, if the act is not a more serious offence.
(3) If the asset is in private property, except for the case when it is wholly or partly State property[25], criminal action for the act in para.(1) is initiated upon prior complaint from the injured person.

Deceit

[26]**Art. 215.** (1) The act of deceiving a person, by presenting a false fact as being true or a true fact as being false, in order to obtain unjust material benefit for oneself or for another and if damage was caused, shall be punished by imprisonment from 6 months to 12 years.
(2) Deceit committed by using untruthful names or capacities or other fraudulent means, shall be punished by imprisonment from 3 to 15 years. If the fraudulent means is in itself an offence, the rules for concurrence of offences shall apply.
(3) The act of deceiving or maintaining the deceit of a person, when concluding or executing a contract, if without this deceit the person would not have concluded or executed the contract in the conditions stipulated, shall be sanctioned by the penalty provided in the previous paragraphs, according to the distinctions shown there.
(4) The act of issuing a cheque with regard to a credit institution or a person, while being aware that the supply or cover necessary for its realisation does not exist, as well as the act of withdrawing the supply, wholly or in part, after the issuing, or of prohibiting the acceptor from paying before expiry of the presentation term, for the purpose in para.(1), if damage was caused against the owner of the cheque, shall be sanctioned by the penalty provided in para.(2).
(5) Deceit that resulted in particularly serious consequences shall be punished by imprisonment from 10 to 20 years and the prohibition of certain rights.

Concealment

[27]**Art. 221.** (1) The act of receiving, acquiring or converting an asset, or facilitating its realisation, in awareness of the fact that the asset emerges from the commission of an act provided in the criminal law, if by this the obtainment of material benefits for oneself or for another was intended, shall be punished by imprisonment from 3 months to 7 years, while the sanction applied cannot exceed the penalty provided in the law for the offence from which the concealed asset has emerged.
(2) Concealment committed by a spouse or a close relative is not punishable.

Sanctions for attempt

[28]**Art. 222.** Attempt to the offences in Art. 208-212, 215, 215[1], 217 and 218, is punishable.

Bribe taking

[29]**Art. 254.** (1) The act of a clerk who, either directly or indirectly, claims or receives money or

[24] Amended by Law No. 6/1973 and by Law No. 140/1996.
[25] Unconstitutional provision.
[26] Amended by Law No. 6/1973 and by Law No. 140/1996.
[27] Amended by Law No. 6/1973 and by Law No. 140/1996.
[28] Reproduced as amended by Law No. 140/1996.

other undue benefits, or accepts the promise of such benefits or does not reject it, in order to perform, not to perform or to delay the accomplishment of an act with regard to his service duties or in order to perform an act that is contrary to these duties, shall be punished by imprisonment from 3 to 12 years and the prohibition of certain rights.
(2) The act in para.(1), if it has been committed by a clerk having prerogatives of control, shall be punished by imprisonment from 3 to 15 years and the prohibition of certain rights.
(3) The money, values or any other goods that were the object of bribe taking shall be confiscated, and of they cannot be found, the convict shall be obliged to pay their equivalent in money.

Bribe giving

[30]**Art. 255.** (1) The act of promising, offering or giving money or other benefits in the manners and for the purposes shown in Art. 154, shall be punished by imprisonment from 6 months to 5 years.
(2) The act in the previous paragraph shall not be an offence when the bribe-giver was coerced by any means by the bribe-taker.
(3) The bribe-giver shall not be punished if he/she denunciates the act to the authorities before the body of prosecution is notified for that offence.
(4) Art. 254 para.(3) shall apply accordingly, even if the offer was not followed by acceptance.
(5) The money, values or any other goods shall be returned to the person who gave them, in the cases provided in para.(2) and (3).

Receipt of undue advantage

[31]**Art. 256.** (1) The act, committed by a clerk, of receiving, either directly or indirectly, money or other benefits after having accomplished an act by virtue of his/her office and which was incumbent upon him/her because of this office, shall be punished by imprisonment from 6 months to 5 years.
(2) The money, values or other goods received shall be confiscated, and if they cannot be found, the convict shall be obliged to pay their equivalent in money.

Influence peddling

[32]**Art. 257.** (1) The receipt of or request of money or other benefits, or the acceptance of promises, gifts, be it directly or indirectly, for oneself or for another, committed by a person who is influential or who gives to believe that he/she is influential upon a clerk, in order to determine him/her to perform or not to perform an act included within his/her service prerogatives, shall be punished by imprisonment from 2 to 10 years.
(2) Art. 256 para. (2) shall apply accordingly.

Acts committed by other clerks

[33]**Art. 258.** The provisions of Art. 246-250 that regard public servants shall apply also to other clerks, in this case reducing the maximum of the penalty by one third.

Chapter IV
OFFENCES REGARDING THE LEGAL TREATMENT ESTABLISHED FOR CERTAIN LAW -

[29] Amended by Law No. 65/1992 and by Law No. 140/1996.
Art. 7 of Law No. 12/1990 increased the minimum and the maximum for the penalty , each by two years, for the offences in Art. 254, 256 and 257 of the Criminal Code. Law No. 83/1992 provided that Art. 254-257 Criminal Code shall be judged according to the emergency procedure.
[30] See the note from Art. 254.
[31] Amended by Law No. 65/1992 and by Law No. 140/1996. See also the note for Art. 254.
[32] Amended by Law No. 65/1992 and by Law No. 140/1996. See also the note for Art. 254.
[33] Amended by Law No. 65/1992 and by Law No. 140/1996.

REGULATED ACTIVITIES

Non-compliance with the legal treatment of weapons and ammunition

[34]**Art. 279.** (1) The act of possessing, carrying, manufacturing, transporting, as well as any operation concerning the circulation of weapons and ammunition or the operation of workshops for repairing weapons, without right, shall be punished by imprisonment from 2 to 8 years.
(2) The same penalty shall sanction also the failure to hand over the weapon or ammunition within the term appointed by the law to the qualified body, by the person whose request for prolongation of license validity has been rejected.
(3) The following shall be punished by imprisonment from 3 to 10 years:

a) possession, alienation or carrying, without right, of hidden weapons or military weapons, as well as of ammunition for such weapons;
b) possession, alienation or carrying, without right, of several weapons except those in a), as well as panoply weapons or the respective ammunition in large quantities.

(3^1) The act of carrying weapons without right, in the premises of units of the State or in the premises of other units referred to in Art. 145, at public meetings or in election premises, shall be punished by imprisonment from 5 to 15 years.
(4) Attempt is punishable.

Non-compliance with the legal treatment of nuclear material or of other radioactive materials

[35]**Art. 279[1]** (1) The act of receiving, possessing, using, surrendering, altering, alienating, disseminating, displaying, transporting or diverting nuclear material or other radioactive material, as well as any other operation related to their circulation, without right, shall be punished by imprisonment from 3 to 10 years and the prohibition of certain rights.
(2). If the acts in para.(1) caused public danger, had any of the consequences in Art. 181 or 182, or caused material prejudice, the penalty shall be imprisonment from 4 to 12 years and the prohibition of certain rights.
(3). Stealing or destruction of nuclear material or of other radioactive materials shall be punished by imprisonment from 5 to 15 years and the prohibition of certain rights.
(4) If the acts in para.(3) caused public danger or had any of the consequences in Art. 181 or 182, the penalty shall be imprisonment from 5 to 20 years and the prohibition of certain rights.
(5) If the acts in para.(1) and (3) had particularly serious consequences, the penalty shall be imprisonment from 10 to 20 years and the prohibition of certain rights, and if they caused the death of one or more persons, the penalty shall be life imprisonment or imprisonment from 15 to 25 years and the prohibition of certain rights.
(6) The act of threatening a State, an international organisation, a natural person or a legal entity, with the use of nuclear material or of other radioactive materials, in order to cause bodily harm or death to persons or material prejudice, shall be punished by imprisonment from 3 to 12 years.
(7) If the act in para.(6) is conditioned by the accomplishment or non-accomplishment of an act or if, by threat, in any form, one demands the handing over or surrendering of nuclear material or of other radioactive materials, the penalty shall be imprisonment from 5 to 15 years and the prohibition of certain rights.
(8) Attempt is punishable.

Non-compliance with the legal treatment of explosives

Art. 280. (1) The act of producing, experimenting with, processing, possessing, transporting or using explosive material or any other operations related to these materials, without right, shall be punished by imprisonment from 3 to 10 years and the prohibition of certain rights.

[34] Reproduced as amended by Law No. 169/2002.
[35] Inserted by Law No. 140/1996.

(2) The stealing of explosives shall be punished by imprisonment from 5 to 15 years and the prohibition of certain rights.
(3) When the acts in para.(1) and (2) concern an amount exceeding 1 kg TNT equivalent or when the amount of explosive is accompanied by instructions for use, the penalty shall be imprisonment from 5 to 20 years and the prohibition of certain rights.
(4) Acts in para.(1) and (2), if they have caused public danger or have had any of the consequences in Art. 181 or 182, shall be punished by imprisonment from 5 to 20 years and the prohibition of certain rights. The same penalty shall sanction also the act in para. (1) if it caused material prejudice.
(5) If the acts in the previous paragraphs have resulted in particularly serious consequences, the penalty shall be imprisonment from 10 to 20 years and the prohibition of certain rights, and if they caused the death of one or more persons, the penalty shall be life imprisonment or imprisonment from 15 to 25 years and the prohibition of certain rights.
(6) The act of threatening a State, an international organisation, a natural person or a legal entity, with the use of explosives in order to cause bodily harm or death to persons or material prejudice, shall be punished by imprisonment from 3 to 12 years.
(7) The act of threatening with the use of explosives, when committed under the conditions in Art. 279[1] para. (7), shall be sanctioned with the penalty provided in that paragraph.
(8) Attempt is punishable.

TITLE VII
OFFENCES OF FORGERY

Chapter I
FORGERY OF COINAGE, STAMPS OR OTHER VALUES

Forgery of coinage or of other values

[36]**Art. 282.** (1) The act of forging metallic coinage, paper coinage, public bills of exchange, cheques, bonds/securities of any kind for payment, issued by a bank or by other competent credit institutions, or of forging any other similar bonds/securities, shall be punished by imprisonment from 3 to 12 years and the prohibition of certain rights.
(2) The same penalty shall sanction also the act of placing in circulation, in any manner, the forged values in the previous paragraph, or of possessing them in order to place them in circulation.
(3) If the acts in the previous paragraphs could have caused significant prejudice to the financial system, the penalty shall be imprisonment from 5 to 15 years and the prohibition of certain rights, and if they have caused significant prejudice to the financial system, the penalty shall be imprisonment from 10 to 20 years and the prohibition of certain rights.
(4) Attempt is punishable.

Forgery of stamps, marks or transportation tickets

Art. 283. (1) The act of forging stamps, postage stamps, postal envelopes, postcards, travel or transportation tickets or sheets, international reply coupons, or placing such forged values in circulation, shall be punished by imprisonment from 6 months to 5 years.
(2) Attempt is punishable.

Forgery of foreign values

Art. 284. The provisions in the present chapter shall apply also in case that the offence concerns coinage or stamps belonging to other States or other foreign values.

[36] Reproduced as amended by Law No. 140/1996.

Possession of instruments for the forgery of values

Art. 285. The act of manufacturing or possessing instruments or materials in order to use them in the manufacture of values or bonds/securities in Art. 282-284, shall be punished by imprisonment from 6 months to 5 years.

Chapter II
FORGERY OF AUTHENTICATION OR MARKING INSTRUMENTS

Forgery of official instruments

[37]**Art. 286.** (1) The act of forging a seal, a stamp or a marking instrument used by the units in Art. 145 shall be punished by imprisonment from 6 months to 3 years.
(2) Attempt is punishable.

Use of forged official instruments

[38]**Art. 287.** (1) Use of the forged instruments in Art. 286 shall be punished by imprisonment from 3 months to 3 years.
(2) The use without right of a seal or a stamp containing the emblem of our country shall be punished by imprisonment from 3 months to 2 years or by fine.

Chapter III
FORGERY OF DOCUMENTS

Material forgery in official documents

[39]**Art. 288.** (1) The act of forging an official document by counterfeiting the writing or the signatures or by altering it in any manner, likely to produce a legal consequences, shall be punished by imprisonment from 3 months to 3 years.
(2) The forgery in the previous paragraph, if committed by a clerk during the exercise of service prerogatives, shall be punished by imprisonment from 6 months to 5 years.
(3) Tickets or any other printed documents producing legal consequences are equated with official documents.
(4) Attempt is punishable.

Intellectual forgery

[40]**Art. 289.** (1) The act of forging an official document when it is drawn up, committed by a clerk during the exercise of service prerogatives, by certifying untrue acts or circumstances or by omitting, in awareness, to insert certain data or circumstances, shall be punished by imprisonment from 6 months to 5 years.
(2) Attempt is punishable.

Forgery of documents under private signature

[41]**Art. 290.** (1) The forgery of a document under private signature by any of the means in Art. 288, if the perpetrator uses the forged document or gives it to another person for use, in order to produce legal consequences, shall be punished by imprisonment from 3 months to 2 years or by fine.

[37] Reproduced as amended by Law No. 140/1996.
[38] Reproduced as amended by Law No. 6/1973.
[39] Reproduced as amended by Law No. 140/1996.
[40] Reproduced as amended by Law No. 140/1996.
[41] Reproduced as amended by Law No. 6/1973.

(2) Attempt is punishable.

Use of forgery

[42]**Art. 291.** The use of an official document or of a document under private signature, while knowing that it is forged, in order to produce legal consequences, shall be punished by imprisonment from 3 months to 3 years when the document is official and by imprisonment from 3 months to 2 years or by fine when the document is under private signature.

Forged statements

[43]**Art. 292.** The act of making an untruthful statement before a body or institution of the State or another unit in Art. 145, in order to produce legal consequences either for oneself or for another, when, according to the law or to the circumstances, the statement made is used to produce that consequence, shall be punished by imprisonment from 3 months to 2 years or by fine.

Forged identity

[44]**Art. 293.** (1) The act of presenting oneself under a false identity or the act of ascribing such an identity to another person, in order to mislead or maintain the deceit of a body or institution of the State or of another unit in Art. 145, in order to produce legal consequences for oneself or for another, shall be punished by imprisonment from 3 months to 3 years.
(2) The same penalty shall sanction also the act of handing over a document that proves civil status or identification, in order for it to be used without right.

Forgery concerning the use of the "Red Cross" emblem

[45]**Art. 294.** (1) The use without right of the emblem or the name "Red Cross" or of an emblem or a name equated with this, as well as the use of any sign or name that is an imitation of such an emblem or name, if the act has caused material prejudice, shall be punished by imprisonment from one month to 1 year or by fine.
(2) If the act is committed in wartime, the penalty shall be imprisonment from one to 5 years.

Non-compliance with provisions on import and export operations

[46]**Art. 302.** The act of conducting any unauthorised acts considered by the law to be operations of export, import or transit, shall be punished by imprisonment from 2 to 7 years.

Drug trafficking

[47]**Art. 312.** (1) The act of producing, possessing or any operation regarding the circulation of stupefacient or toxic substances, the cultivation for purposes of processing of plants that contain such substances or the act of experimenting with toxic products or substances, all these without right, shall be punished by imprisonment from 3 to 15 years and the prohibition of certain rights.
(2) If the act in para.(1) concern was committed in an organised manner, the penalty shall be life imprisonment or imprisonment from 15 to 25 years and the prohibition of certain rights.
(3) The prescription while not necessary, by a physician, of stupefacient products or substances, shall be punished by imprisonment from one to 5 years, and the organisation or hosting of use of such products or substances in certain places shall be punished by imprisonment from 3 to 15 years and the prohibition of

[42] Reproduced as amended by Law No. 6/1973.
[43] Amended by Law No. 6/1973 and by Law No. 140/1996.
[44] Reproduced as amended by Law No. 140/1996.
[45] Reproduced as amended by Law No. 6/1973.
[46] Inserted by the Decree No. 99/1983 and amended by Law No. 140/1996.
[47] Reproduced as amended by Law No. 140/1996. Art. 312 was abrogated by Law No. 143/2000 (published in the Official Gazette No. 362 of 3 August 2000) in what concerns stupefacient products or substances.

certain rights.
(4) Attempt is punishable.

Association in order to commit offences

[48]**Art. 323.** (1) The act of becoming associated or of initiating the creation of an association in order to commit one or more offences, others than those in Art. 167, or of adhering to or of supporting in any manner such an association, shall be punished by imprisonment from 3 to 15 years, while not exceeding the penalty provided in the law for the offence that was the purpose of the association.
(2) If the act of becoming associated was followed by the commission of an offence, the penalty for that offence shall apply to those who committed it, in concurrence with the penalty in para. (1).
(3) The persons in para. (1) shall not be punished if they denounce the association to the authorities before it is discovered and before the beginning of commission of the offence that is the purpose of the association.

[48] Reproduced as amended by Law No. 140/1996.

Excerpts from the Criminal Procedure Code

THE GENERAL PART

TITLE I

BASIC RULES AND ACTIONS IN THE CRIMINAL TRIAL

Chapter l

AIM AND BASIC RULES OF THE CRIMINAL TRIAL

The aim of the criminal trial

[49]**Art. 1** - The aim of the criminal trial is to acknowledge in due time and completely the deeds that represent offences, so that any person who has perpetrated an offence is punished according to his/her guilt, and no innocent person is held criminally responsible.

The criminal trial must contribute to the defence of the rule of law, to the defence of the person's rights and liberties, to the prevention of offences as well as to the citizens' education in the spirit of law.

TITLE II

COMPETENCE

CHAPTER I

TYPES OF COMPETENCE

Section I

Competence according to matter and the quality of the person

Competence of the tribunal

[50]**Art. 27 -** The tribunal:

1. tries as first instance:

a) the offences provided by the Penal code at art. 174-177, 179, art. 189 par. 3, art. 190, art. 197 par. 3, art. 209 par. 3 and 4, art. 211 par. 2, 2 [1] and 3, art. 212, art. 215 par. 5, art. 215[1] par. 2, art. 252, 254, 255, 257, 266 – 270, 273 – 276 if the deed resulted in a railway catastrophe, art. 279[1], 298, 312 and 317, as well as the offence of contraband, if its object were weapons, ammunition or explosive or radioactive materials;

b) offences committed on purpose, which resulted in death of a person;

c) offences regarding the national security of Romania, stipulated by special laws;

d) the offence of money laundering, as well as offences regarding trafficking and illicit consumption of drugs;

[49] Art. 1 par. 2 is reproduced as it was modified by the Law no. 45/1993, published in the Official Gazette of Romania, no. 147 of July 1, 1993.

[50] Art. 27 par. 1 let. c) was abrogated by the Law no. 7/1973, published in the Official Bulletin no. 49 of April 6, 1973. Art. 27 was completely modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993, by reintroducing let. c) under par. 1 and adding par. 4. Art. 27 par. 1 let. a) is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003. Art. 27 par. 1 let. d) is reproduced as it was modified by the Law no. 456/2001, published in the Official Gazette of Romania no. 410 of July 25, 2001. Art. 27 par. 4 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

e) the offence of fraudulent bankruptcy, if the offence regards the banking system;

f) other infractions falling under its competence, under the law:

2. as appeal court, tries the appeals against the criminal decisions passed by judges at first instance, except for those regarding the offences mentioned in art. 279 paragraph 2 letter a);

3. as recourse court, tries the recourses against criminal decisions passed by first instance courts for the offences mentioned in art. 279 paragraph 2 letter a), as well as for other cases stipulated by the law;

4. resolves the competence conflicts that appear between the first instance courts within its territorial area, as well other cases stipulated by the law.

Competence of the Court of Appeal

[51]**Art. 28[1]** - The Court of Appeal:

1. tries at first instance:

a) the offences stipulated in the Penal code at art. 155-173 and 356-361;

b) the offences committed by judges of first instance courts and tribunals, by prosecutors of the prosecutor's offices attached to these courts, as well as by public notaries;

c) the offences committed by judges, prosecutors and financial controllers in the regional chambers of accounts, as well as by financial controllers of the Court of Accounts;

d) other offences falling under its competence under the law;

2. as appeal court, tries the appeals against the criminal decisions passed at first instance by the tribunals;

3. as recourse court, tries the recourses against the criminal decisions passed by the tribunals in appeal, as well as in other cases stipulated by the law;

4. resolves the competence conflicts that appear between tribunals or between judges and tribunals in its territorial area, or between judges from the circumscription of different tribunals in the territorial area of the Court, as well as in other cases stipulated by the law;

5. solves the requests by which the extradition or transfer abroad of convicted persons were solicited.

Competence of the Supreme Court of Justice

[52]**Art. 29 -** The Supreme Court of Justice:

1. tries at first instance:

a) the offences committed by senators and deputies;

b) the offences committed by members of the Government;

c) the offences committed by judges of the Constitutional Court, members, judges, prosecutors and financial controllers of the Court of Accounts, by the president of the Legislative Council and by the People's Advocate;

d) the offences committed by marshals, admirals, generals and quaestors;

e) the offences committed by the chiefs of religious orders established under the law and by the other members of the High Clergy, who are at least bishops or the equivalent;

---

[51] Art. 28[1] was introduced by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993 and modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996; Law no. 296/2001, published in the Official Gazette of Romania no. 2 of January 4, 2002.

Art. 28[1] par. 1 let. c) and par. 4 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Also, through the Law no. 281/2003, art. 28[1] par. 1 let. e) and f) were abrogated, and art. 28[1] par. 5 was introduced.

[52] Art. 29 as a whole was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Art. 29 par. 1 let. c), d) and f), as well as par. 2 let. c), are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 29 par. 5 let. d) was introduced by the Law no. 281/2003.

f) the offences committed by judges and assistant magistrates of the Supreme Court of Justice, by the judges of the courts of appeal and of the Military Court of Appeal, as well as by the prosecutors of the prosecutor's offices attached to these courts;

g) other cases falling under its competence, under the law;

2. as recourse court, tries:

a) recourses against the criminal decisions passed, at first instance, by the courts of appeal and by the Military Court of Appeal;

b) recourses against the criminal decisions passed, as appeal courts, by the courts of appeal and by the Military Court of Appeal;

c) recourses against the criminal decisions passed, at first instance, by the criminal section of the Supreme Court of Justice, as well as in other case provided by the law;

3. tries the recourses in the interest of the law;

4. tries the actions for cancellation;

5. resolves:

a) the competence conflicts in cases when the Supreme Court of Justice is the common superior court;

b) the cases in which the course of justice is interrupted;

c) the removal requests;

d) other cases specially provided by the law.

Section III

Statements of the witnesses

The witness

Art. 78 - The person who knows of any fact or circumstance that may lead to finding the truth in the criminal trial may be heard as witness.

[53]Section V[1]

Audio or video interceptions and recordings

Conditions and cases of interception and recording of conversations or communications

Art. 91[1] – The interceptions and recordings on magnetic tape or on any other type of material of certain conversations or communications shall be performed with motivated authorization from the court, upon prosecutor's request, in the cases and under the conditions stipulated by the law, if there are substantial data or indications regarding the preparation or commitment of an offence that is investigated ex officio, and the interception and recording are mandatory for revealing the truth. The authorization is given by the president of the court that would be competent to judge the case at first instance, in the council room. The interception and recording of conversations are mandatory for revealing the truth, when the establishment of the situation de facto or the identification of the perpetrator cannot be accomplished on the basis of other evidence.

The interception and recording of conversations or communications may be authorized in the case of offences against national security provided by the Penal code and by other special laws, as well as in the case of offences such as trafficking in drugs, trafficking in weapons, trafficking in human beings, terrorist acts, money laundering, forgery of money or of other values, in the case of offences provided by the Law no. 78/2000 for the prevention, detection and sanctioning of corruption deeds or of other serious offences, which cannot be discovered or whose perpetrators cannot be identified through other means, or in the case of offences perpetrated through means of telephone communication or through other means of telecommunications.

[53] Section V^1 of Chapter II (art. 91^1 – 91^6) is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

The authorization is given for the duration necessary for the recording, up to maximum 30 days. The authorization may be extended under the same conditions, for fully justified reasons, each extension being of maximum 30 days. The maxim duration for authorized recordings is 4 months.

Measures disposed by the court shall be annulled before the expiration of the due time for which they were authorized, as soon as the reasons that justified them have ceased.

The recordings stipulated in paragraph 1 may also be done at the justified request of the victim, regarding the communications addressed to him/her, having the authorization of the court.

The authorization of interception and recording of conversations or communications is done through motivated closing, which shall comprise: concrete indications and facts that justify the measure; reasons why the measure is mandatory for discovering the truth; the person, the means of communication or the place subject to supervision; the period for which the interception and recording are authorized.

The bodies performing interception and recording

Art. 91[2] – The prosecutor proceeds personally to the interceptions and recordings provided under art. 91[1] or may dispose that these are performed by the criminal investigation body. The persons called to technically support the interceptions and recordings are obliged to keep the secret of the operation performed, the violation of this obligation being punished according to the Penal code.

In emergency cases, when the delay in obtaining the authorization provided at art. 91[1] par. 1 would entail serious prejudice for the investigation activity the prosecutor may dispose, with provisional title, by motivated ordinance, the interception and recording on magnetic tape or on any other type of material of conversations and communications, transmitting this to the court immediately, but no later than 24 hours.

The court must decide in 24 hours at most on the prosecutor's ordinance and, and if it is confirmed and if necessary, shall dispose further authorization of interception and recording, in the conditions of art. 91[1] par. 1-3. If the court does not confirm the prosecutor's ordinance, it must dispose immediate ceasing of interceptions and recordings and the destruction of those already made.

The court disposes, until the end of the criminal investigation, the information, in writing, of persons whose conversations or communications were intercepted and recorded, the dates when these were performed.

Certification of recordings

Art. 91[3] – About the performing of interceptions and recordings mentioned in the art. 91[1] and 91[2], the prosecutor or the criminal investigation body draws up an official report, that will include: the authorization given by the court for their performing, the phone number or numbers involved, the names of the persons having the conversations, if known, the date and time of each conversation and the number of the magnetic tape or of any other material on which the recording was made.

The recorded conversations are entirely transcribed in writing and attached to the official report, with certificate for authenticity from the criminal investigation body, checked and countersigned by the prosecutor who performs or supervises the respective criminal investigation. In case the prosecutor proceeds to interceptions and recordings, the certification for authenticity is made by the latter, and the checking and countersigning, by the hierarchically superior prosecutor.

Correspondence in other language than Romanian is transcribed in Romanian, through an interpreter. The magnetic tape or other material containing the recorded conversation, sealed with the seal of the criminal investigation body is attached to the official report.

The magnetic tape or any other type of material containing the recording of the conversation, its written transcription and the official report are handed to the court which, after hearing the prosecutor and the parties, decides which of the gathered information is of interest for the investigation and solution of the case, drawing up an official report in this sense. The conversations or communications that contain state secrets or professional secrets shall not be mentioned in the official report. If the perpetration of offences takes place through conversations or communications which contain state secrets, they are mentioned in separate official reports, and the dispositions of art. 97 par. 3 are applied accordingly.

The magnetic tape or any other type of material, together with the entire transcription and copies of official reports, are kept at the court clerk's office, in special places, in sealed envelope.

The court may approve, upon motivated request from the defendant, from the civil party or their defender, the consultation of parties in the recording and entire transcription, transmitted at the court clerk's office, which are not included in the official report.

The court disposes through closing the destruction of recordings which were not used as means of evidence in the case. The other recordings shall be kept until the file is archived.

The recording of conversations between the defender and the defendant may not be used as a means of evidence.

Other recordings

Art. 91[4] – The conditions and modalities for making the interceptions and recordings provided at art. 91^1 – 91^3 are applicable, accordingly, also in the case of conversations through other means of telecommunication, authorized in the conditions of the law.

Image recordings

Art. 91[5] - The provisions of art. 91^1 and 91^2 are also enforceable in the case of image recording, and the certification procedure is the one stipulated in art. 91^3, except for the transcription, according to the case.

Checking the means of evidence

Art. 91[6] - The means of evidence stipulated in the present section may be technically examined at the request of the prosecutor, of the parties or ex officio.

The recordings stipulated in the present section, presented by the parties, may serve as means of evidence, if they are not forbidden by the law.

Section VII

Confiscation of objects and writings.

Performance of searches

Confiscation of objects and writings

Art. 96 - The criminal investigation body or the court must take away the objects or writings that may serve as means of evidence in the criminal trial.

Delivery of objects and writings

[54]**Art. 97 -** Any natural person or legal person who possesses an object or a piece of writing that may serve as means of evidence must appear and hand it, and take a proof for this, to the criminal investigation body or to the court, at their request.

If the criminal investigation body or the court considers that even a copy of a piece of writing may serve as a means of evidence, it keeps only the copy.

If the object or the writing has a secret or confidential character, the presentation or the delivery is done in circumstances that would ensure keeping the secret or confidentiality.

Retaining and handing over of correspondence

and objects

[55]**Art. 98 -** The court, with the prosecutor's proposal, during the criminal investigation or ex officio, may order that any post or transport office retain and deliver the letters, telegrams or any other correspondence, or the objects sent by the accused person or defendant, or addressed to him/her, either directly or indirectly.

[54] Art. 97 par. 1 and 3 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[55] Art. 98 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 97 par. 1^1 and 1^2 were introduced by the Law no. 281/2003.

The measure provided at par. 1 is disposed if the conditions shown in art. 91^1 par. 1 are met and according to the procedure provided there.

The retaining and handing over of letters, telegrams or any other correspondence or objects to which par. 1 makes reference may be disposed, in writing, in urgent and fully justified cases , by the prosecutor as well, who is obliged to immediately inform the court about this.

Retained correspondence and objects that have nothing to do with the case are returned to the addressee.

Confiscation by force of objects or writings

Art. 99 – If the object or writing required is not delivered voluntarily, the criminal investigation body or the court order confiscation by force.

During the trial, the order of confiscation by force of objects or writings is communicated to the prosecutor, who takes enforcement measures through the criminal investigation body.

The search

[56]**Art. 100 -** When the person asked to deliver one of the objects or writings mentioned in art. 98 denies their existence or possession, as well as whenever the search is necessary in order to discover and gather evidence, a search may be ordered.

The search may be domiciliary or corporal.

Domiciliary search may be disposed only by the judge, through motivated closing, during criminal prosecution, upon prosecutor's request, or during trial.

Domiciliary search is disposed during criminal prosecution in the council room, without summoning of the parties. The participation of the prosecutor is mandatory.

Corporal search may be disposed, according to the case, by the criminal investigation body, by the prosecutor or by the judge.

Domiciliary search may not be disposed before the beginning of the criminal investigation.

Domiciliary search during criminal investigation

[57]**Art. 101 -** The search ordered during criminal investigation, according to art. 100, is performed by the prosecutor or by the criminal investigation body, accompanied, according to the case, by operational workers.

Domiciliary search during trial

Art. 102 - The court may perform a search on the occasion of a local investigation.

In the other cases, the court's order to perform a search is communicated to the prosecutor, in order to proceed with the search.

The time for making the search

[58]**Art. 103 -** Confiscation of objects and writings, as well as domiciliary search may be performed between 6 a.m. - 8 p.m., and at other times only in case of *flagrante delicto*, or when the search is to be performed in a public place. The search begun between 6 a.m. - 8 p.m. may continue during the night.

The search procedure

[59]**Art. 104 -** The judicial body that will perform the search must prove its identity and, in the cases stipulated by the law, present the authorization given by the prosecutor.

---

[56] Art. 100 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003.

[57] The marginal name and content of art. 101 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[58] Art. 103 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

The taking away of objects and writings, as well as domiciliary search are performed in the presence of the person from whom the objects or the writings are taken away, or whose place is searched and, when the person is absent, in the presence of a representative, of a member of the family or of a neighbour, having exertion ability.

These operations are performed by the criminal investigation body in the presence of assistant witnesses.

When the person whose place is searched is held or arrested, he/she will be brought to the search. In case he/she cannot be brought, the taking away of objects and writings, as well as domiciliary search, are performed in the presence of a representative or a member of the family, and, in their absence, in the presence of a neighbour having exertion ability.

Performing domiciliary search

Art. 105 - The judicial body that performs the search has the right to open the rooms or other means of enclosing where the objects or the writings wanted may be found, if the person entitled to open them refuses to do so. The judicial body must limit itself to confiscation of objects and writings connected to the deed committed; objects and writings whose circulation and possession are forbidden are always taken away.

The judicial body must take measures so that facts and circumstances in the personal life of the person whose place is searched which are not connected with the case are not made public.

Performing corporal search

Art. 106 - Corporal search is performed by the judicial body that ordered it, following the provisions of art. 104 paragraph 1, or by the person appointed by this body.

Corporal search is performed only by a person of the same gender with the person being searched.

Identifying and keeping objects

Art. 107 - Objects and writings are shown to the person from whom they are taken away and to those who assist, in order to be recognized and marked by them in order not to be changed, after which they are labelled and sealed.

The objects that cannot be marked, labelled or sealed are wrapped up or closed, together if possible, after which they are sealed.

The objects that cannot be taken away are attached and left to be kept, either by the person who has them or by a custodian.

Tests for analysis are taken at least twice and are sealed. One test is left with the person from whom they are taken or, in his/her absence, with one of the persons mentioned in art. 108, final paragraph.

Official report for search and confiscation of objects and writings

Art. 108 - An official report is drawn up mentioning the performance of the search and confiscation of objects and writings.

The official report must include, besides the specifications stipulated in art. 91, the following: place, date and circumstances in which the writings and the objects have been found and taken away, a list and detailed description of these, in order to be recognized.

The objects that have not been taken away, as well as those left for keeping are also mentioned in the official report.

A copy of the official report is left with the person to whom the search has been performed or from whom the objects or writings have been taken away, with the representative, a member of the family, the persons he lives with or a neighbour and, if such is the case, with the custodian.

[59] Art. 104 par. 1 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003. Art. 104 par. 3 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

Measures regarding confiscated objects

Art. 109 - The criminal investigation body or the court order that the objects or writings taken away, that represent means of evidence are, according to case, attached to the record or kept in another way.

The taken away objects and writings that are not attached to the file may be photographed. In this case, the photos are stamped and attached to the record.

Until the case is finally resolved, material means of evidence are kept by the criminal investigation body or by the court where the record is.

Objects and writings delivered or taken away during the search which are not connected with the case are returned to the person to whom they belong. Confiscated objects are not returned.

The objects that serve as means of evidence, if they are not subject to confiscation, may be returned to the person to whom they belong, even before the trial is finally resolved, unless the return might impede the revealing of the truth. The criminal investigation body or the court informs the person to whom the objects were returned that he/she must keep them until the case is finally resolved.

Conservation or use of confiscated objects

Art. 110 - The objects that serve as means of evidence, if they are among those mentioned in art. 165 paragraph 2 and if they are not to be returned are kept or used according to the provisions of that article.

Special provisions regarding public units and other legal persons

[60]**Art. 111 -** The provisions in the present section are also enforced accordingly when the procedural acts are performed at a unit among those referred to in art. 145 in the Penal code, provisions completed as follows:

a) the judicial body proves its identity and, according to the case, shows to the representative of the public unit or to another legal person the authorization given;

b) the confiscation of objects and writings, as well as the search, are performed in the presence of the representative of the unit;

c) when the presence of assistant witnesses is obligatory, they may be part of the unit staff;

d) a copy of the official report is left with the representative of the unit.

TITLE IV
PREVENTIVE MEASURES AND OTHER PROCEDURAL MEASURES
CHAPTER I
PREVENTIVE MEASURES

Section I

General provisions

The purpose and categories of preventive measures

[61]**Art. 136** - In cases related to offences punished by life detention or imprisonment, in order to ensure a successful unfolding of the criminal trial or to prevent elusion of the accused person or defendant from

[60] The term "institution" from art. 111 was replaced with the term "unit", according to art. II of the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. The marginal name and introductory part and let. a) of art. 111 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[61] Art. 136 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Par. 5 of art. 136 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette no. 748 of October 26, 2003.

criminal investigation, from trial or punishment enforcement, one of the following preventive measures may be taken:

a) confinement;

b) obligation not to leave the locality;

c) preventive arrest.

The purpose of preventive measures may be accomplished also by provisional release under judicial control or on bail.

The measure under par. 1 let. a) may be taken by the criminal investigation body or by the prosecutor.

The measures under par. 1 let. b) and c) may be taken by the prosecutor, during criminal investigation, or by the court, during trial.

The measure under par. 1 let. d) may be taken by the judge.

The measure of preventive arrest may not be taken in the case of offences for which the law provides alternatively the fine punishment.

Provisional release is ordered by the court.

The choice of the measure to be taken is made taking into account its aim, the degree of social danger of the offence, the health, age, antecedents and other situations related to the person against whom the measure is taken.

Content of the act by which the preventive measure is taken

Art.137 - The act by which the preventive measure is taken must show the deed that is the object of the blame or accusation, the corresponding law, the punishment stipulated by the law for the offence committed and the concrete reasons that led to the respective preventive measure.

Informing on the reasons for taking preventive measures and on the blame

[62]**Art.137[1]** - The person held or arrested is immediately informed of the reasons why he/she is held or arrested. The person arrested is informed of his/her blame as soon as possible, in the presence of a lawyer.

When preventive arrest of the accused person or defendant is ordered, the judge communicates it, within 24 hours, to a member of his/her family or to other person appointed by the accused person or defendant, which will be mentioned in an official report.

The person held may demand that a family member or one of the persons mentioned at par. 2 is informed on the measure taken. Both the request of the person held and the notification are written down in an official report. Exceptionally, if the criminal investigation body considers that this would affect the criminal investigation, it informs the prosecutor, who will decide on the held person's request.

Informing the prosecutor in order to take preventive measures

[63]**Art. 138 -** When the criminal investigation body thinks it appropriate to take one of the measures stipulated in art. 136 paragraph 1 letters b) - d), it draws a justified report that it submits to the prosecutor.

In the case of measures provided at art. 136 par. 1 let. b) and c), the prosecutor must take a decision within 24 hours.

In the case of the measure stipulated in art. 136, paragraph 1, letter d), the prosecutor, if he appreciates the conditions provided by the law are met, proceeds, as it is the case, according to art. 146 or 149[1].

The replacement or revocation of preventive measures

[62] Art. 137[1] was introduced by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993. The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003, modified par. 2 of art. 137[1] and the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003, introduced par. 3.

[63] Art. 138 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[64]**Art. 139** - The preventive measure taken is replaced with another preventive measure when the reasons that determined the first measure have changed.

When there is no longer a reason to justify the maintenance of the preventive measure, it must be revoked ex officio or upon request.

In case the preventive measure was taken, during criminal investigation, by the court or by the prosecutor, the criminal investigation body must immediately inform the prosecutor of the change or cessation of the reasons motivating the respective measure.

In case the preventive measure was taken, during criminal investigation, by the prosecutor or by the court, if the prosecutor considers that the information received from the criminal investigation body justify the replacement or revocation of the measure, he/she orders this or, according to the case, informs the court.

The prosecutor must inform the court ex officio as well, for the replacement or revocation of the preventive measure taken by the latter, when he realises that the reason which justified taking the measure no loner exists.

Also, the preventive measure is cancelled ex officio when it was taken by violation of the legal provisions, disposing, in the case of confinement and preventive arrest, the immediate release of the accused person or defendant, unless he/ she is arrested in another case.

Also, if the court establishes, based on forensic expertise, that the person under preventive arrest suffers from a disease which cannot be treated within the network of the General Direction of Penitentiaries, it orders, upon request or ex officio, the revocation of the preventive arrest measure.

The preventive arrest measure may be replaced with one of the measures provided by art. 136 par. 1 let. b) and c).

The provisions of the previous paragraphs are enforced even if the judicial body is to decline its competence.

The lawful cessation of preventive measures

[65]**Art. 140** - The preventive measures lawfully stop in the following cases:

a) expiration of the due times stipulated by the law or settled by the judicial bodies;

b) exemption from investigation, cessation of criminal investigation, closing of the criminal trial or acquittal.

The preventive arrest measure lawfully ceases when, before passing a conviction decision in first instance, the duration of the arrest has reached half of the maximum punishment stipulated by the law for the respective offence, without exceeding, during criminal investigation, the maxim provided at art. 159 par. 13, as well as in the other cases especially stipulated by the law.

In the cases shown at paragraph 1 and 2, the court, ex officio or upon notification from the prosecutor, or the prosecutor, in the case of confinement, ex officio or, as a result of informing the investigation body, must order the immediate release of the person held or arrested. Also, they must send to the administration of the detention place a copy of the ordinance or disposition, or an extract including the following specifications: the data necessary to identify the accused person or defendant, the number of the arrest warrant, the number and date of the ordinance, of the closing or decision by which the release was ordered, as well as the legal justification for release.

Section II

[64] The Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993, modified par. 3 of art. 139 and introduced par. 3^1 – 3^5. The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003, modified par. 3^4 of art. 139.

[65] Art. 140 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Par. 3 of art. 140 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette no. 748 of October 26, 2003.

Insuring measures, return of objects and reestablishment of the situation anterior to the offence

Insuring measures

[66]**Art. 163 -** The insuring measures are taken during the criminal trial by the prosecutor or by the court and consist in non-availability by instituting an attachment of movables and of real estate, in order to repair the damage caused by the offence, as well as in order to make sure the fine punishment will be executed.

The insuring measures in order to repair the damage may be taken with regard to the goods of the accused person or defendant and of the person who bears the civil responsibility, until the estimated value of the damage is reached.

The insuring measures taken as guarantee for the fine punishment execution are only taken with regard to the goods of the accused person or defendant.

One may not attach the goods that belong to one of the institutions referred to in art. 145 in the Penal code, as well as those excepted by the law.

The insuring measures for repair of the damage may be taken at the request of the civil party or ex officio.

The enforcement of the insuring measures is obligatory when:

a) abrogated;

b) the victim is the person who lacks or has limited exertion ability.

The bodies which accomplish insuring measures

[67]**Art. 164** - The insuring measure ordinance is enforced by the criminal investigation body which has taken the measure.

The closing by which the court ordered the insuring measure is enforced by the judicial executor.

The insuring measures ordered by the prosecutor or by the court may also be enforced by the execution bodies of the damaged unit, in case this unit is one of those referred to in art. 145 of the Penal code.

In case the criminal investigation is performed by the prosecutor, the latter may order that the insuring measure taken is enforced by the secretary of the prosecutor's office.

SPECIAL PART

TITLE I

CRIMINAL INVESTIGATION

CHAPTER II

COMPETENCE OF CRIMINAL INVESTIGATION BODIES

Competence of investigation bodies of the judicial police

Art. 207 - The criminal investigation is performed by the police investigation bodies for any offence that does not obligatorily tall under the competence of other investigation bodies.

Competence of special criminal investigation bodies

[66] Art. 163 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The same law, art. 163 par. 6 let. a) (declared as unconstitutional by the decision of the Constitutional Court no. 191 of October 12, 2000, published in the Official Gazette of Romania no. 665 of December 16, 2000) was abrogated. Par. 3 and 4 of art. 163 are reproduced as they were modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. The same law abrogated par. 6 let. c) of art. 163.

[67] Par. 3 of art. 164 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The term "prosecution department" was replaced with the term "prosecutor's office" according to art. II of the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. The same law abrogated the last par. of art. 164 (par. 5).

[68]**Art. 208 -** The criminal investigation is also performed by the following special bodies:

a) officers especially appointed by commanders of military units special corps and similar, for the subordinated militaries. The investigation may also be performed personally by the commander.

b) officers especially appointed by the garrison commanders, for offences committed by militaries outside the military units. The investigation may also be performed personally by the garrison commanders.

c) officers especially appointed by the commanders of military centres, for offences falling under the competence of military courts, committed by civil persons in relation with their military duties. The investigation may also be performed personally by the commanders of the military centres.

At the request of the commander of the military centre, the police body performs certain investigation acts, after which it leaves the activity to the commander of the military centre;

d) frontier police officers, especially appointed for frontier offences;

e) port captains, for offences against security of water navigation and against order and discipline on board, as well as for work or work-related offences stipulated in the Penal code, committed by the navigating staff of the civil marine, if the offence did endanger or could have endangered the security of the ship or of navigation.

In the cases stipulated at letters a), b) and c), the criminal investigation is obligatorily performed by the special bodies mentioned there.

The prosecutor's competence at the stage of investigation

[69]**Art. 209 -** The prosecutor supervises the criminal investigation; while exerting this attribution, the prosecutors directly conduct and control the criminal investigation activity performed by the judicial police and by other special investigation bodies.

The prosecutor may perform any criminal investigation acts in the cases that he/she supervises.

The criminal investigation is performed obligatorily by the prosecutor for the offences stipulated in art. 155-173, 174-177, 179, 189 paragraph 3 - 5, art. 190, 191, 211 paragraph 4, art. 212, 236, 236^1, 239, 239^1, 250, 252, 254, 255, 257, 265, 266, 267, 267^1, 268, 273-276, 279^1, 280, 280^1, 302^2, 317, 323 and 356-361 of the Penal code, for the offences specified in art. 27 point 1 letter b) – e), art. 28^1 point 1 letters b) and c), and art. 28^2 point 1 letter b) and art. 29 point 1 of the present Code, for offences against work protection, as well as in the case of other offences given by law in its competence.

The competence to perform the criminal investigation, in the cases stipulated in the previous paragraph, and to supervise the criminal investigation belongs to the prosecutor in the prosecutor's office corresponding to the court that, under the law, tries the case in first instance.

When the criminal investigation is performed by the prosecutor, the charge is submitted for acknowledgment to the prime-prosecutor of the prosecutor's office, and when the investigation is performed by the latter, the acknowledgment is done by the hierarchically superior prosecutor. When the criminal investigation is performed by a prosecutor of the Prosecutor's Office attached to the Supreme Court of Justice, the charge is subject to acknowledgement by the prosecutor head of section, and when the investigation is performed by the latter, acknowledgement is performed by the General prosecutor of this prosecutor's office.

Preliminary acts

[68] Art. 208 par. 1 let. a) and d) are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Art. 208 par. 1 let. e) is reproduced as it was modified by the Decree no. 203/1974, published in the Official Gazette no. 131 of October 31, 1974.

[69] Art. 209 par. 1, 3 and 5 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Art. 209 par. 4 is reproduced as it was modified by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993.

[70]**Art. 224 -** In order to initiate the criminal investigation, the criminal investigation body may perform preliminary acts.

Also, in order to gather evidence necessary to the criminal investigation bodies for the initiation of criminal investigation, the operative employees of the Ministry of Interior, as well as of the other state bodies having attributions related to national security, especially appointed for this purpose, may perform preliminary acts in connection with the deeds that constitute, according to the law, threats to national security.

The official report that acknowledges the performance of preliminary acts may constitute means of evidence.

Preliminary acts performed by undercover investigators

[71]**Art. 224[1] –** In case there are solid and concrete proofs that an offence against national security provided in the Penal code and in special laws, has been or is going to be perpetrated, as well as in the case of offences of trafficking in drugs and weapons, trafficking in persons, terrorist actions, money laundering, money or other values forgery, or of an offence provided by the Law no. 78/2000 for the prevention, detection or sanctioning of corruption deeds, with the ulterior modifications and completions, or of another serious offence which cannot be discovered or whose perpetrators cannot be identified through other means, investigators with an identity different from the real one may be used, with a view to gather information on the existence of the offence and identification of the persons who are supposed to have committed an offence.

Undercover investigators are operative employees of the Ministry of Interior, as well as of the state bodies which perform, under the law, information activities for the assurance of national security, they are especially appointed for this purpose and may be used only for a determined period, in the conditions provided by art. 224[2] and 224[3].

The undercover investigator gathers data and information on the basis of the authorization issued according to provisions of art. 224[2], that he/she leaves, as a whole, at the disposal of the criminal investigation body.

[70] Art. 224 par. 1 is reproduced as it was modified by the Law no. 7/1993, published in the Official Gazette of Romania no. 49 of April 6, 1973. Par. 2 of art. 224 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.

[71] Art. 224[1] – 224[2] were introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

Excerpts from the Law No. 312 / 28.06.2004 on the Statute of the National Bank of Romania

CHAPTER I

General provisions

ARTICLE 1

Legal status

(1) The National Bank of Romania is the central bank of Romania and has legal personality.

(2) The National Bank of Romania is an independent public institution with its headquarters in Bucharest. It may have branches and agencies in Bucharest and within the territory of Romania.

ARTICLE 2

Primary objective and main tasks

(1) The primary objective of the National Bank of Romania shall be to ensure and maintain price stability.

(2) The main tasks of the National Bank of Romania shall be:

a) to define and implement the monetary policy and the exchange rate policy;

b) to conduct the authorisation, regulation and prudential supervision of credit institutions and to promote and oversee the smooth operation of the payment systems with a view to ensuring financial stability;

c) to issue banknotes and coins as legal tender on the territory of Romania;

d) to set the foreign exchange regime and to supervise its observance;

e) to manage the official foreign reserves of Romania.

(3) Without prejudice to its primary objective of ensuring and maintaining price stability, the National Bank of Romania shall support the general economic policy of the State.

ARTICLE 3

Co-operation with other authorities

(1) When carrying out their tasks, the National Bank of Romania and the members of its decision making bodies shall not seek or take instructions from public authorities or from any other institution or authority.

(2) Prior to its adoption, any draft legal act issued by the central public authorities, concerning the fields related to the National Bank of Romania's tasks, shall be passed after having regard to the opinion of the National Bank of Romania. The opinion shall be submitted within 30 days at most from the date it was sought.

(3) The National Bank of Romania shall co-operate with the Ministry of Public Finance in setting the macroeconomic indicators based on which the annual draft budget shall be drawn up.

(4) The National Bank of Romania draws up, for its own needs, surveys and research studies on money, exchange rate, credit, as well as payment systems and credit institutions operations.

(5) In order to fulfil the commitments arising from agreements, treaties and conventions Romania is part of, the National Bank of Romania shall co-operate with domestic and foreign authorities by providing information, by taking the necessary steps, or in any other way consistent with this law.

(6) In order to implement the provisions of the banking activity legislation, concerning the co-operation with the competent authorities of the EU Member States, hereinafter referred to as *Member States*, the National Bank of Romania shall ensure the conditions required to perform the exchange of information

with these authorities. The information provided to the competent authorities of Member States shall be subject to the professional secrecy requirements, defined in Art. 52 para. (1).

(7) The National Bank of Romania may conclude co-operation agreements, referring to the exchange of information, with the competent authorities of third countries or with authorities or bodies of third countries as defined in para. (8) hereof, provided the information disclosed is subject to professional secrecy requirements according to Art. 52. The exchange of information must be performed solely for the purpose of exercising the supervisory duties of the authorities and bodies concerned. Where the information originates in a Member State, it may not be disclosed without the express consent of the competent authority, which has disclosed it, and solely for the purposes for which that authority gave its consent.

(8) In exercising its supervisory task, the National Bank of Romania shall ensure the exchange of information with:

a) authorities responsible for the supervision of other financial institutions and insurance companies and the authorities responsible for the supervision of financial markets in Romania and in Member States;

b) bodies and institutions in Romania and in Member States involved in the bankruptcy and windingup of credit institutions as well as in other similar proceedings;

c) persons in Romania and in Member States responsible for carrying out the financial audit of credit institutions and other financial institutions;

d) bodies managing deposit-guarantee schemes in Romania and in Member States.

(9) The National Bank of Romania may co-operate, through exchange of information as well, with authorities in Romania and in Member States, responsible for:

a) supervising the bodies and institutions involved in the bankruptcy and winding-up of credit institutions as well as in other similar proceedings;

b) supervising the persons carrying out the financial audit of credit institutions, financial investment firms, insurance companies and other financial institutions.

(10) The exchange of information referred to in para. (9) shall be made by complying with the following minimum requirements:

a) the information shall be for the sole purpose of performing the supervisory tasks referred to in para. (9);

b) the information received shall be subject to the professional secrecy requirements as defined in Art. 52;

c) where the information originates in a Member State, it may not be disclosed without the express consent of the competent authority, which has disclosed it, and solely for the purposes for which that authority gave its consent.

(11) In order to strengthen the financial stability and preserve the integrity of the financial system, the National Bank of Romania may co-operate, through exchange of information as well, with the authorities or bodies responsible by law for the tracing out and investigation of breaches of corporate law. The exchange of information shall be performed by complying with the following minimum requirements:

a) the information shall be used by the said authorities for the sole purpose of performing their tasks;

b) the information received shall be subject to professional secrecy requirements as defined in Art. 52;

c) where the information originates in a Member State, it may not be disclosed without the express consent of the competent authority, which has disclosed it, and solely for the purposes for which that authority gave its consent.

(12) The National Bank of Romania shall communicate to the European Commission and to Member States the names of the Romanian authorities, which may receive information pursuant to para. (9) - (11) hereof.

(13) The National Bank of Romania may exchange information with monetary authorities, central banks or other bodies with similar functions, as well as with other public authorities responsible for overseeing payment systems for the purpose of performing the National Bank of Romania's tasks of authorisation, regulation and prudential supervision of credit institutions and of fulfilling the tasks of the above-mentioned authorities.

(14) In order to ensure the smooth operation of the payment systems, the National Bank of Romania may communicate information of the nature of professional secrecy to clearing houses or to other similar bodies, established by law, with a view to providing clearing and settlement services for any market in Romania or in a Member State.

(15) The information the National Bank of Romania receives from the competent authorities of Member States may not be disclosed to clearing houses or to other similar bodies without the express consent of the competent authorities which disclosed it.

(16) The entities which received information, as laid down in para. (8) – (11) and para. (13) and (14) hereof, shall be bound by professional secrecy requirements.

(17) Public authorities and institutions shall provide the National Bank of Romania with the information they deem necessary or with the information required by the National Bank of Romania in order to perform effective supervision and to fulfil the primary objective and tasks of the central bank.

(18) Until the date of Romania's accession to the European Union, the exchange of information provided for in this Article shall be made solely on a mutual basis.

(19) Upon Romania's accession to the European Union, the provisions of para. (18) hereof shall also apply to the exchange of information with entities in third countries.

———

ARTICLE 57

Sanctions

(1) For failure to observe the provisions of this law as well as the regulations and decisions of the National Bank of Romania's Board, unless the cases are governed by the provisions of Law No. 58/1998 on banking activity, as subsequently amended and supplemented, the Governor, the Senior Deputy Governor and the Deputy Governors, in compliance with the bylaw approved by the National Bank of Romania's Board, may apply the following sanctions:

a) written warning;

b) fine from ROL 5 million to ROL 50 million; the collections shall be revenues to the State budget;

c) partial or total suspension of the authorisation granted by the National Bank of Romania for 90 days at most;

d) withdrawal of the authorisation granted by the National Bank of Romania.

(2) Appeals may be filed within 15 days from the date the sanction was notified and shall be solved by the National Bank of Romania's Board in 30 days at most from the date they were received.

(3) The decisions of the National Bank of Romania's Board may be appealed in the Bucharest Appeal Court within 15 days from the notification.

(4) Within the period referred to in para. (2) hereof, the appeals may be filed directly to the Bucharest Appeal Court as well.

Excerpts from the Law No. 297 of 28 June 2004 regarding the capital market

Title I
General Provisions

Art. 2

(5) In order to perform its supervisory activity, C.N.V.M. may:

a) verify the modality of fulfilling the legal and statutory attributions and obligations of managers, directors, chief executive officers, as well as of other persons linked to the activity of the regulated or supervised entities;

b) require the Board of the regulated entities referred to in subparagraph a) to convoke its members meeting or, as the case may be, the general shareholders meeting, establishing the topics which must be included in the agenda;

c) require the competent court to decide upon the convocation of the general shareholders meeting provided that the provisions set out in subparagraph b) are not complied with. The court shall settle such requests as a matter of urgency and with priority;

d) require information and documents from the issuers whose securities are subject to public offers, or which have been admitted to trading on a regulated market or are traded in an alternative trading system;

e) conduct controls at the premises of the entities regulated and supervised by C.N.V.M.;

f) hear any person in connection with the activities conducted by the entities regulated and supervised by C.N.V.M.

Chapter II
Financial Investment Services

Art. 5

(1) The investment services and activities regulated by this law are:

a) reception and transmission of orders in relation to one or more financial instruments;

b) execution of orders on behalf of the clients;

c) dealing for own account;

d) managing portfolios;

e) consultancy for investments;

f) the subscription in any financial instruments and/or the placement of such financial instruments based on a firm commitment;

g) placement of financial instruments without a firm commitment;

h) of an alternate trading system;

(1^1) The non-core services regulated by this law are:

a) safekeeping and management of financial instruments in the account of clients, including custody and services in connection therewith, such as management of funds or guarantees

b) granting credits or loans to an investor to allow him to trade in one or more financial instruments, where the firm granting the credit or loan is involved in the transaction;

c) advice to entities on capital structure, industrial strategy and aspects related thereto, as well as advice and service relating to mergers and the purchase of entities;

d) foreign exchange services in connection with the investment services rendered;

e) investment research and financial analysis or other forms of general recommendation regarding the transactions with financial instruments;

f) services regarding the subscription of financial instruments based on a firm commitment;

g) the investment services and activities provided in paragraph (1), and also the related services such as those provided in a) to f) related to the support asset of the derivative instruments included in art. 2, paragraph (1), item 11, letters e), f), g) and j), if such are in connection with the provisions regarding the investment services and activities and related services

(2) C.N.V.M. shall issue regulations on the provision of investment services and activities in accordance with the provisions laid down in paragraph (1).

Chapter III
Investment firms

Art. 6

(1) Investment firms, hereinafter referred to as S.S.I.F., are Romanian legal persons, established as joint-stock companies, issuers of nominative shares, according to Law no. 31/1990, regarding business entities, republished, as subsequently amended and supplemented.

(2) S.S.I.F. operate only based on C.N.V.M. authorization and render, under a professional title, within the limit of the authorization granted, the investment services and activities, as well as the related services provided in art. 5 and other activities which, according to the regulations to be issued by C.N.V.M. or according to the provisions of art. 776 of Law No. 287/2009 regarding Civil Code, republished, as subsequently amended, may be rendered by S.S.I.F.

(3) The activities that, according to the regulations to be issued by C.N.V.M. or according to the provisions of art. 776 of Law No. 287/2009, republished, as subsequently amended, subject to authorizations, approvals or endorsements may be carried out by S.S.I.F. only after obtaining such authorizations.

(4) C.N.V.M. supervises S.S.I.F. only with regard to the object of activity authorized by such.

Section 1
Initial capital

Art. 7

(1) The initial capital of a S.S.I.F. shall be determined according to C.N.V.M. regulations issued in compliance with the Community legislation in force and shall be equal to at least:

a) the lei equivalent of EUR 50,000 calculated at the reference rate communicated by the National Bank of Romania, if the S.S.I.F. which provides the investment services referred to in art. 5 paragraph (1), indent 1 subparagraph a), b) and d), does not hold funds and/or financial instruments which belong to investors, does not trade financial instruments for its own account and does not subscribe securities issues based on a firm contract;

b) the lei equivalent of EUR 125,000 calculated at the reference rate communicated by the National Bank of Romania, if the S.S.I.F. provides the investment services referred to in art. 5 indent 1 subparagraph a), b) and d) and indent 2 subparagraph a), b), d) f) and g), does not trade financial instruments for its own account and does not subscribe securities issues based on a firm contract;

c) the lei equivalent of EUR 730,000 for the S.S.I.F. authorised to provide all the investment services referred to in art. 5, paragraph (1)

(2) By 31 December 2004, the S.S.I.F. referred to in paragraph (1) subparagraph b) must increase their initial capital to at least the lei equivalent of EUR 85,000, and the S.S.I.F. referred to in paragraph (1)

subparagraph c) must increase their initial capital to at least the lei equivalent of EUR 315,000, calculated at the reference rate communicated by the National Bank of Romania.

(3) By 31 December 2005, the S.S.I.F. referred to in paragraph (1) subparagraph b) must increase their initial capital to at least the lei equivalent of EUR 105,000, and the S.S.I.F. referred to in paragraph (1) subparagraph c) must increase their initial capital to at least the lei equivalent of EUR 530,000, calculated at the reference rate communicated by the National Bank of Romania.

(4) By 31 December 2006, the S.S.I.F. referred to in paragraph (1) subparagraph b) must increase their initial capital to at least the lei equivalent of EUR 125,000, and the S.S.I.F. referred to in paragraph (1) subparagraph c) must increase their initial capital to at least the lei equivalent of EUR 730,000, calculated at the reference rate communicated by the National Bank of Romania.

(5) The initial capital shall be considered part of own funds, including the called-up and the paid-up share capital, as well as other items of the balance sheet, calculated in accordance with the methodology set out in C.N.V.M. regulations, in compliance with the Community legislation in force.

(6) In order to comply with the requirements laid down in the Community legislation in force, C.N.V.M. shall modify, by order of its President, the initial capital level of S.S.I.F.

(7) The reference exchange rate referred at this article is the one of the day when the reporting is made.

(8) S.S.I.F. provided at paragraph (1) subparagraph b) may hold financial instruments on its own account, if the following conditions are simultaneous fulfilled:

a) holdings of the financial instruments on its own account arise only as a result of a failure of a S.S.I.F. to match the investors' orders precisely;

b) total market value of all financial instruments held on its own account is subject to a ceiling of maximum 15% of the initial capital of the respective company;

c) S.S.I.F. observes the requirements referring to capital adequacy in accordance with the Community legislation;

d) financial instruments holdings on its own account are accidental and provisional in nature and strictly limited to the time required to carry out the transaction in question.

Section 2

Authorisation, suspension and withdrawal of authorisation

Art. 8

(1) S.S.I.F. will be authorised by C.N.V.M. to provide investment services if they cumulatively meet the following conditions:

a) the firm is established under the legal form of a joint-stock company;

b) the registered office and the head office, as the case may be, representing the main office where the activity is managed and controlled are established in Romania;

c) the object of activity consists of the supply of services and performance of investment activities, and also the supply of the related services, as the case may be, provided in art. 6 which the company shall supply;

d) the qualification, professional expertise and integrity of managers, directors, auditors and employees within the internal control department comply with the provisions set out in C.N.V.M. regulations;

e) evidence of the minimum initial capital, called-up and fully paid-up in cash, according to the investment services provided;

f) submission of the business plan, description of the organisational structure and of internal regulations;

g) submission of the contract concluded with a financial auditor, member of the Financial Auditors Chamber of Romania (CAFR) and who fulfils common criteria set up by C.N.V.M. and the Financial

Auditors Chamber of Romania;

h) the shareholders holding a qualified participation within S.S.I.F. observe the criteria established by C.N.V.M. regulations regarding procedure rules and criteria applicable to the prudential assessment of acquisitions and increase of the participations in a financial investment services company;

i) other requirements laid down in C.N.V.M. regulations.

(2) The authorisation granted by C.N.V.M. to a S.S.I.F. shall clearly mention the investment services it is allowed to provide according to the provisions of art. 5, paragraph (1) indent 1 and 2 and cannot include only the non-core services set out in art. 5, paragraph (1) indent 2.

(3) Where close links exist between S.S.I.F. and another natural or legal person, C.N.V.M. grants authorisation to provide investment services to the said S.S.I.F. only if those links do not prevent the exercise of its supervisory functions in compliance with the provisions of this law.

(4) C.N.V.M. shall grant authorisation to a S.S.I.F. within maximum 6 months from the date when the complete documentation required by the regulations in force has been submitted, or shall issue, provided that the application has been rejected, a motivated decision which may be contested within 30 days from the date of its communication.

(5) S.S.I.F. may start its activity on the date authorisation has been granted provided that it has also become a member of the Investor Compensation Fund.

ART. 9

A S.S.I.F. must comply with the conditions for authorisation, with prudential and capital adequacy requirements as laid out by this law and by C.N.V.M. regulations, during the time it carries out its activities, and shall notify or first submit for authorisation, as the case may be, any change in its organisation and functioning in compliance with the provisions of C.N.V.M. regulations.

Art. 10***)**

C.N.V.M. has the right not to grant an authorisation to a firm for the provision of investment services if:

a) insolvency proceedings are in place, in compliance with the law;

b) any of its significant shareholders, members of the Board or managers:

1. are incompatible according to C.N.V.M. regulations or hold a significant position in a company referred to in the provisions laid out in subparagraph a);

2. have been charged with mismanagement, breach of trust, forgery, use of forgery, fraud, embezzlement, false swearing, giving or receiving bribe, as well as with other economic crimes;

3. have been sanctioned by C.N.V.M., the National Bank of Romania, the Insurance Supervision Commission or by any other financial market regulator, by being prohibited from exercising any professional activity, for the period during which this prohibition is in force.

c) C.N.V.M. acknowledges that the legal provisions, the regulations issued for their

enforcement as well as the administrative regulations of the non-Member State, which govern the status of the persons with close links with S.S.I.F., or that difficulties in their implementation prevent the effective exercising of prudential supervision functions or that the supervision by the non-Member State of a foreign intermediary which has applied for authorisation for a subsidiary, are insufficient;

d) C.N.V.M. has not been informed of the identity of shareholders, natural or legal persons, which directly or indirectly hold significant positions within S.S.I.F. or of the amounts of these holdings;

e) C.N.V.M. acknowledges that the shareholders, natural or legal persons, which directly or indirectly hold significant positions within the S.S.I.F., do not comply with the requirements of ensuring sound and prudent management of the S.S.I.F. as well as effective prudential supervision in compliance with this law;

f) the requesting company does not have the initial capital set out in C.N.V.M.

regulations;

g) although the requirements laid down in art. 8, paragraph (1) are met, there is evidence that sound and prudent S.S.I.F management cannot be ensured.

*) According to art. 152 Item 1 and art. 247 of Law No. 187/2012 (**#M10**), starting from 1 February 2014 (the date of coming into force of Law No. 286/2009 regarding the Criminal Code), under art. 10 letter b), item 2 shall read as follows:

"2. Is incapable or has been convicted for offences against the property by disregarding trust, offences of corruption, embezzlement, offences of forgery of written documents, fiscal evasion, offences provided by Law No. 656/2002 for the prevention and fight against money laundering as well as for setting out measures for the prevention and fight against the financing of terrorist acts, republished, or for those provided hereby;"

Art. 11

C.N.V.M. has the right to suspend the authorisation of a S.S.I.F. for a period from 5 to 90 days, provided that the provisions of this law or C.N.V.M. regulations are not complied with, only if the conditions for the withdrawal of the authorisation or for other more serious sanctions set out in the law are not met. The suspension of the authorisation may be extended when the initial term expires, but for no longer than 30 days over the maximum referred to in this article.

Art. 12

(1) C.N.V.M. has the right to withdraw the authorisation issued to a S.S.I.F. only when:

a) that S.S.I.F. does not make use of the authorisation within 12 months or has not provided any of the services authorised by C.N.V.M., as laid down in art. 5 paragraph (1) indent 1, for a time period longer than 6 months, with the exception of the situation when C.N.V.M. has suspended the authorisation for this period of time;

b) S.S.I.F. does no longer comply with the conditions according to which the authorisation has been issued;

c) S.S.I.F. does not comply with the capital adequacy regulations set out by C.N.V.M.;

d) S.S.I.F. or its investment services agents do not comply with C.N.V.M. regulations and/or of the regulated markets;

e) if events subsequent to the granting of the authorisation result in an incompatibility as regards the provision of investment services;

f) other situations set out in C.N.V.M. regulations.

(2) At the express request of a S.S.I.F. on the basis of a renunciation statement, C.N.V.M. withdraws its authorisation for performing the investment services, in accordance with the regulations issued for this purpose;

(3) C.N.V.M. cancel the authorisation of a S.S.I.F. if the authorisation has been granted based on false or misleading statements or information;

(4) S.S.I.F. that received the authorization to supply only the investment services and activities mentioned in Art. 5 paragraph (1) letters d) and e), may be authorized to administer OPCVMs as «investment administration companies», if they waive the authorization obtained according to Art. 8.

Art. 13

(1) C.N.V.M. shall require information or shall consult the competent authorities of a Member State before authorising a S.S.I.F., when this is:

a) a subsidiary of an intermediary authorised in that Member State;

b) a subsidiary of the parent undertaking of an intermediary authorised in that Member State;

c) controlled by the same natural or legal persons that control an intermediary authorised in that Member

State.

(2) The competent authorities of Member States, in charge of supervising credit institutions or insurance companies, shall be consulted before hand when granting authorisation to a S.S.I.F. when this is:

a) a subsidiary of a credit institution or insurance company authorised in another Member State;

b) a subsidiary of the parent undertaking of a credit institution or insurance company authorised in another Member State;

c) controlled by the same natural or legal persons that control a credit institution or insurance company authorised in another Member State.

Section 3

Managers, directors, internal control and significant shareholders

Art. 14

(1) The management function of the S.S.I.F. must be provided by at least two persons. The managers must be S.S.I.F. employees by means of individual employment contracts and can be members of the Board.

(2) Managers are the persons, who, according to the instruments of incorporation and/or the decisions of the statutory structures within the S.S.I.F., are empowered to manage and co-ordinate its day-to-day activity and are competent to undertake intermediation liabilities; the persons who provide for the effective management of S.S.I.F. departments, branches or other secondary offices are not included in this category. In the case of branches of intermediaries that are foreign legal persons, which provide investment services on the territory of Romania, managers are persons empowered by the foreign legal person intermediary to manage the activity of the subsidiary and to legally commit the foreign legal person intermediary in Romania.

(3) Managers must effectively ensure the current management of S.S.I.F. activities, exclusively carry out the function for which they have been appointed, and at least one of them has to make proof of his knowledge of Romanian language. They must have academic studies graduated with a degree in either the economic or the legal field, or in other field related with financial activity and/or must have graduated post-graduate courses in one of the fields mentioned above and have at least 3 years' experience in the banking - finance or capital market field

Art. 15

The management of a S.S.I.F. can be provided only by natural persons.

Art. 16

S.S.I.F. shall organise an internal control department specialised in the supervision of compliance by the firm or by its employees with the legislation in force concerning the capital market, as well as with its internal regulations.

Art. 17

The requirements for the authorisation of the staff, and the organisation and functioning of the internal control department shall be laid down in C.N.V.M regulations.

Art. 18

(1) Any person who proposes to acquire directly or indirectly the shares of a S.S.I.F., by which it could become a significant shareholder, must notify C.N.V.M. in advance, mentioning the size of the intended holding.

(2) Any significant shareholder who proposes to increase its holding, so that the proportion of the voting rights or of the share capital that he holds would reach or exceed 20%, 33% or 50% or so that the S.S.I.F.

would become its subsidiary, should notify C.N.V.M. in advance.

(3) C.N.V.M. shall announce within 90 days from the notification date, and, if deemed appropriate, may prohibit by its decision the holding of such a position. In case of approval, the decision of C.N.V.M. shall set out the maximum term until the notified holding is reached.

(4) Any person who proposes to dispose, directly or indirectly, its significant position within a S.S.I.F., shall notify C.N.V.M. in advance, mentioning the size of the envisaged holding.

(5) Any significant shareholder that proposes to reduce, directly or indirectly, its holding so that the proportion of the voting rights or of the share capital held by him would fall below 20%, 33% or 50% or so that the S.S.I.F. would cease to be his subsidiary, should notify C.N.V.M. first.

(6) If the person referred to in paragraph (1) and (2) is a S.S.I.F., a credit institution, or an insurance company authorised in another state, or the parent undertaking of a S.S.I.F., a credit institution or an insurance company authorised in another state, or a person controlling a S.S.I.F., a credit institution or an insurance company authorised in another state, and if, as a result of that acquisition, the S.S.I.F where the person proposes to acquire shares shall become its subsidiary or shall be controlled by it, the share purchase shall be subject to beforehand consultation, as provided for by art. 13.

(7) S.S.I.F. shall inform C.N.V.M. as soon as it finds out of any acquisitions or disposals of holdings in its capital that cause holdings to exceed or, respectively, fall below any of the thresholds referred to in paragraphs (1), (2), (4) and (5).

(8) Periodically, at least annually, S.S.I.F. shall inform C.N.V.M. of the identity of its significant shareholders and of the size of their holdings, and, if needed, any other data and information regarding these persons, as required by C.N.V.M. regulations.

Art. 19

(1) C.N.V.M. may prohibit one person from reaching a holding position, such as that provided by art. 18 paragraph (1) and (2), if, taking into account the requirement to ensure the sound and prudent management of the S.S.I.F., it appreciates that the person who may hold such a position, could prevent the well-functioning of the firm or its effective supervision.

(2) In order to verify the integrity of a S.S.I.F. shareholder or of a person who intends to purchase, directly or indirectly, the shares of a S.S.I.F, C.N.V.M. may require the submission of identification data for any shareholder, natural and/or legal person, which holds directly or indirectly a significant position.

Art. 20

(1) Where the influence exercised by significant shareholders, members of the Board, managers or employees within the internal audit department is likely to be prejudicial to the sound and prudent management of a S.S.I.F., C.N.V.M. shall take appropriate measures to put an end to that situation, measures that may consist, for example, in injunctions, sanctions against the directors and/or the management, as well as against persons within the internal audit department.

(2) Similar measures shall apply to persons failing to comply with the obligations imposed in art. 18, paragraph (1) and (2).

(3) If a significant holding is acquired or increased despite the opposition of C.N.V.M., the underlying voting rights are considered null and possible votes cast shall be annulled accordingly.

Art. 21

If the influence exercised by the persons referred to in art. 18 paragraph (1) and (2), and art. 20 shall be prejudicial to the management of a S.S.I.F., C.N.V.M. shall take measures in order to suspend voting rights underlying the shares held by the said shareholders.

TITLE X
LIABILITIES AND SANCTIONS

Art. 271

The breach of the provisions of this law and of the regulations adopted in its application is sanctioned according to law.

Art. 272

(1) The following deeds perpetrated by the following shall be deemed as minor offenses:

a) S.S.I.F. and/or by the members of the board of administration or supervisory board, directors or members of the directorate, representatives of the internal control compartment, financial investment service agencies of S.S.I.F. and delegated agents, and by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the conditions based on which the authorization was granted and the operation conditions provided in art. 3 paragraphs (2) and (3), art. 4 paragraphs (1) and (2), art. 6, art. 8 paragraph (5), Arts. 9, 14, 15, 16, art. 18 paragraphs (1), (2), (4), (5), (7) and (8) and art. 20 paragraph (3);

2. failure to observe the prudential rules provided in art. 23 paragraphs (1) and (4), arts. 24 and 25;

3. failure to observe the conduct rules provided in art. 26 paragraph (1), art. 27 and art. 28 paragraphs (1) and (7);

4. failure to observe the provisions of art. 37, art. 38 paragraphs (1) and (4), arts. 39 and 39^1 regarding cross-border operations of S.S.I.F.;

5. failure to observe the provisions existing in the own regulations and/or market/system operator/central depositary/clearing house approved by C.N.V.M.;

b) credit institutions and/or by the leaders of the organisational structure related to the operations on the capital market, the representatives of the internal control department and financial investment service agents and delegated agents of credit institutions, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the requirement for registration in C.N.V.M. Register and the operation conditions provided in art. 3 paragraphs (2) and (3), art. 4 paragraphs (1) and (2) and art. 16;

2. failure to observe the prudential rules provided in art. 23 paragraphs (1) and (4), arts. 24 and 25;

3. failure to observe the conduct rules provided in art. 26 paragraph (1), art. 27 and art. 28 paragraphs (1) and (7);

4. failure to observe the provisions existing in the regulations of the market/system operator/central depositary/clearing house approved by C.N.V.M.;

c) intermediaries from other Member States, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the requirement for registration in C.N.V.M. Register provided in art. 3 paragraph (2) for performing financial investment services and activities on the territory of Romania;

2. failure to observe the provisions of art. 41 paragraphs (l)-(3), paragraphs (5) and (6) and art. 42 paragraph (2) regarding intermediaries from other Member States;

3. failure to observe the provisions existing in the regulations of the market/system operator/central depositary/clearing house approved by C.N.V.M.;

d) intermediaries from non-Member States, and also by the natural persons exercising de jure or de facto

management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the requirement for registration in C.N.V.M. Register provided in art. 3 paragraph (2) for performing financial investment services and activities on the territory of Romania;

2. failure to observe the provisions of art. 43 regarding intermediaries from non-Member States;

3. failure to observe the provisions existing in the regulations of the market/system operator/central depositary/clearing house approved by C.N.V.M.;

e) traders, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the requirement for registration in C.N.V.M. Register provided in art. 30 paragraph (1);

2. failure to observe the provisions of art. 31 regarding the agreement of the market operator and observance of the regulations of such regulated market;

3. failure to observe the provisions of art. 32 regarding the clearing and settlement of the transactions made by traders;

4. failure to observe the provisions of art. 33 regarding the interdictions established for traders;

5. failure to observe the prudential and conduct rules provided in art. 23 paragraphs (1) and (4), art. 24 paragraph (1) letter d) and art. 26 paragraph (1);

6. failure to observe the provisions existing in the regulations of the market/system operator approved by C.N.V.M.

f) investment consultants, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the interdictions established under art. 35 paragraph (4);

2. failure to observe the conduct rules to which art. 35 paragraph (5) refers;

g) the entities authorized, regulated and supervised by C.N.V.M., issuers of securities and/or by the members of the board of administration or of the supervisory board, managers or members of the directorate of the authorized, regulated and supervised entity or issuers of securities, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law or have connection with the activity of the entities authorized, regulated and supervised by C.N.V.M. and/or issuers of securities, as the case may be, in connection with:

1. breach of the provisions regarding public offers and operations of withdrawal of shareholders from a business entity provided in art. 173 paragraph (2), art. 174 paragraph (2), art. 175 paragraphs (1), (3^1) and (4), arts. 176, 177, art. 178 paragraphs (l)-(3), art. 179, Art. 183 paragraphs (1) and (2), art. 184, art. 185 paragraph (2) and (4), art. 186 paragraph (1), art. 187, arts. 190-192, art. 193 paragraphs (2) and (3), art. 195 paragraph (1), art. 196 paragraphs (2) and (3), art. 197, art. 198 paragraph (1), art. 199 paragraph (1), art. 200, art. 204 paragraph (7), art. 206 paragraphs (5) and art. 208;

2. breach of the provisions regarding admission to trading of the securities provided in art. 211 paragraph (1), arts. 212, 215, 216, art. 217 paragraph (1), art. 219, art. 220 paragraphs (l)-(3), arts. 221, 222 and art. 223 paragraph (1);

3. breach of the obligations for reporting, performance of the operations and observance of conduct and conditions provided in arts. 209, 210, Art. 224 paragraphs (l)-(5) and (8), art. 225, art. 226 paragraphs (l)-(5) and (7), art. 227, art. 228 paragraphs (1), (3) and (4), arts. 229-233, arts. 236, 237, 239, art. 240 paragraph (3), art. 241 paragraphs (1) and (2), art. 242 and art. 243 paragraphs (1), (4) and (9)-(11);

4. carrying out of a public offer without C.N.V.M.'s approval of the prospectus/offer document, and also

the carrying out without C.N.V.M.'s approval of any activities or operations for which this law or C.N.V.M. regulations require approval;

5. failure to observe the conditions established by C.N.V.M. decision for approval of the prospectus/offer document, some amendments thereto, and the notice/preliminary notice or advertising materials related to a public offer;

6. failure to observe the obligation provided in art. 146 paragraph (4) regarding conclusion of contracts with the central depositary;

h) market/system operators, administrators and persons holding management positions of market/system operators, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. failure to observe the conditions based on which the authorization was granted and the operation conditions of market operators provided in art. 126 paragraphs (2) and (3), arts. 129, 130, 131 and 133;

2. failure to observe the provisions regarding the regulations issued by the market operators provided in art. 134 paragraphs (4) and (5), arts. 141 and 249;

3. failure to observe the provisions existing in the regulations of the market/system operator approved by C.N.V.M.;

4. failure to observe the provisions regarding the supervision of the regulated markets provided in art. 135 paragraph (2);

5. failure to observe the obligations stipulated in art. 136 paragraphs (1) and (2) regarding provision of data, information and documents, and for amendment of own regulations;

6. failure to observe the provisions regarding alternative trading systems provisions under art.141;

7. failure to give, without grounds, access to the intermediaries from Member States according to art. 42 paragraph (1);

i) self-administered SAI, AOPC or depositary and/or by the members of the board of administration or supervisory board, managers or members of the directorate and the representatives of the internal control department of a self-administered SAI or AOPC, and also by the natural persons exercising de jure or de facto management positions or exercising under a professional title activities regulated by this law, as the case may be, in connection with:

1. breach of the conditions for establishment, registration with C.N.V.M. and operation of AOPC provided in art. 115 paragraphs (1) and (4), art. 117 paragraph (1), art. 118, art. 119 paragraph (2), art. 120 paragraphs (1), (3) and (4) and art. 286 paragraph (l)-(3);

2. failure to observe the provisions of the internal regulations of the self-administered closed-type investment companies, rules of the fund/constitutive act of the closed-type investment companies and/or issuance prospectus of AOPC;

j) central depositaries, clearing houses, central counterparts, intermediaries and/or by the members of the board of administration or supervisory board, managers or members of the directorate, and also by the natural persons exercising de jure or de facto management positions within the entities previously mentioned or by other responsible persons, as the case may be, in connection with:

1. failure to observe the conditions based on which the authorization was granted and the operation conditions to which art. 148 paragraphs (1) and (2) and art. 159 paragraphs (2) and (3) refer;

2. refusal to provide C.N.V.M. with the requested information, according to art. 144 paragraph (2), regarding the clearing and settlement of the transactions;

3. refusal to provide the issuers with the information necessary for exercising the rights related to the securities deposited according to art. 146 paragraphs (4) and (5);

4. refusal to report to the central depositaries the holders of the individualized sub-accounts held by

intermediaries according to art. 146 paragraph (6);

5. failure to observe by the intermediaries of the reporting obligations within the terms provided in art. 146 paragraph (7);

6. failure to observe the obligations regarding the recording of the securities and the encumbrances upon such provided in art. 151;

7. refusal to fulfil C.N.V.M.'s requests provided in art. 153 paragraph (2) and art. 154;

8. failure to observe by the responsible persons of the obligations regarding the acquisition, possession and alienation of the shares of the central depositary according to art. 150;

9. failure to observe by the responsible persons of the obligations regarding the acquisition, possession and alienation of the shares of the clearing house/central counterpart according to art. 160;

10. use of margins in a purpose other than that specified in the regulations to which art. 158 refers;

11. failure to observe by the clearing house and/or central counterpart of the obligations provided in arts. 163 and 164;

12. refusal to fulfil C.N.V.M.'s requests provided in art. 153 paragraph (2) and arts. 165 and 166;

13. failure to observe the provisions regarding the establishment and execution of the financial guarantees and movable mortgages provided in art. 151 paragraphs (4)-(6);

14. failure to observe the provisions existing in the regulations of the market/system operator approved by C.N.V.M.;

15. failure to observe the provisions existing in the regulations of the central depositary/clearing house approved by C.N.V.M.;

16. failure to give, without reason, access to the intermediaries from Member States according to art. 42 paragraph (1);

k) the responsible persons from the Investors' Clearing Fund in connection with:

1. failure to observe the clearing payments according to art. 47 and publication of the information provided in art. 48;

2. failure to observe the regulations of the Investors' Clearing Fund approved by C.N.V.M.

(2) The following deeds shall be deemed minor offenses:

a) failure to observe the measures established through acts of authorization, supervision, regulation and control or further to such acts;

b) failure to observe the provisions regarding the manner of drafting the financial and accounting statements and their auditing, provided in art. 258 paragraph (1);

c) breach of the provisions of arts. 245-248 regarding abuse on market;

d) failure to observe the reporting and conduct obligations provided in art. 250;

e) unauthorized use of the expressions investment services and activities, financial investment service company, financial investment service agent, regulated market and stock exchange, associated with any of the financial instruments defined under art. 2 paragraph (1) item 11, or of any combination between such;

f) failure to observe the obligations provided in art. 2861;

g) prevention without right from exercising the rights granted by law to C.N.V.M., and the ungrounded refusal of any person to answer C.N.V.M.'s requests in the exercise of the prerogatives incumbent upon it according to law.

Art. 273

(1) The perpetration of the minor offenses provided in art. 272 shall be punished as follows:

a) in the case of the minor offenses provided in art. 272 paragraph (1) letters a)-f), letters g) items 4 and 5, letters h), i), letter j) items 1-9 and 11-13 and paragraph (2) letter e), by:

(i) warning or fine from RON 1,000 to RON 50,000 for natural persons;

(ii) warning or fine from 0,1% up to 5% of the total turnover achieved in the financial year prior to sanctioning, depending on the seriousness of the of the perpetrated deed, for legal persons;

b) in the case of the minor offenses provided in art. 272 paragraph (1) letter g) items 1, 2, 3 and 6, letter j) item 10), letter k), paragraph (2) letters a), b), d), f) and g), by:

(i) fine from RON 10,000 to RON 100,000 for natural persons;

(ii) fine from 0,1% up to 10% of the total turnover achieved in the financial year prior to sanctioning, depending on the seriousness of the of the perpetrated deed, for legal persons;

c) in the case of the minor offenses provided in art. 272 paragraph (2) letter c), by derogation from Art. 8 of Government Ordinance No. 2/2001 regarding legal regime of minor offenses, approved as amended and supplemented by Law No. 180/2002, as subsequently amended and supplemented, hereinafter referred to as Government Ordinance No. 2/2001:

(i) between half of and total value of the transaction made;

(ii) by fine from RON 10,000 to RON 100,000, if no transaction was made.

(2) If the turnover achieved in the financial year prior to sanctioning is not available upon sanctioning, the turnover related to the financial year in which the legal person recorded the turnover shall be taken into account, a year immediately prior to the reference year. Reference year means the year prior to sanctioning.

(3) By exception from the provisions of art. 8 of Government Ordinance No. 2/2001, in the case of the newly-established legal person that did not record the turnover in the year prior to sanctioning or in the case of the legal person whose turnover is not accessible to C.N.V.M., such shall be punished by:

a) fine from RON 10,000 to RON 1,000,000, in the case of the minor offenses provided in paragraph (1) letter a);

b) fine from RON 15,000 to RON 2,500,000, in the case of the minor offenses provided in paragraph (1) letter b).

(4) C.N.V.M. may apply the following complementary minor offense related sanctions, applied as the case may be:

1. suspension of the authorization;

2. withdrawal of the authorization;

3. prohibition for a period comprised between ninety (90) days and five (5) years of the right to hold a position, to carry out an activity or to perform a service for which the authorization in the conditions hereof is required.

Art. 273^1

The performance without authorization of any activities or operations for which this law requires authorization shall be deemed offense and shall be punished according to criminal law.

Art. 273^2

(1) Failure to observe the obligations provided by art. 203 regarding the initiation, within the term provided by law, of a public offer of mandatory takeover shall be deemed minor offense and shall be punished as follows:

(i) for natural persons:

a) warning or fine from RON 1,000 to RON 25,000, if the legal term for the offer was exceeded by maximum thirty (30) days;

b) fine from RON 25,001 to RON 50,000, if the legal term was exceeded by maximum sixty (60) days;

c) by exception from the provisions of art. 8 of Government Ordinance No. 2/2001, fine from RON

50,001 to RON 500,000, if the legal term was exceeded by more than sixty (60) days;

(ii) for legal persons:

a) warning or fine from 0,1% up to 1% of the total turnover achieved in the financial year prior to sanctioning, if the legal term was exceeded by maximum thirty (30) days;

b) fine from 0,1% up to 5% of the total turnover achieved in the financial year prior to sanctioning, if the legal term was exceeded by maximum sixty (60) days;

c) fine from 0,1% up to 10% of the total turnover achieved in the financial year prior to sanctioning, if the legal term was exceeded by more than sixty (60) days.

(2) Failure to observe the interdiction to acquire shares provided in Art. 203 paragraphs (2) and (4) shall be deemed minor offense and shall be punished as follows:

(i) for natural persons, warning or fine from RON 10,000 to RON 500,000;

(ii) for legal persons, warning or fine from 0,1% up to 10% of the total turnover achieved in the financial year prior to sanctioning.

(3) If the turnover achieved in the financial year prior to sanctioning is not available upon sanctioning, the turnover related to the financial year in which the legal person recorded the turnover shall be taken into account, a year immediately prior to the reference year. Reference year means the year prior to sanctioning.

(4) By exception from the provisions of art. 8 of Government Ordinance No. 2/2001, in the case of the newly-established legal person that did not record the turnover in the year prior to sanctioning or in the case of the legal person whose turnover is not accessible to C.N.V.M., and which does not observe the obligations provided under paragraph (1), such shall be punished by:

a) fine from RON 5,000 to RON 500,000, if the legal term was exceeded by maximum thirty (30) days;

b) fine from RON 10,000 to RON 1,000,000, if the legal term was exceeded by maximum sixty (60) days;

c) fine from RON 15,000 to RON 2,500,000 if the legal term was exceeded by more than sixty (60) days.

(5) By exception from the provisions of art. 8 of Government Ordinance No. 2/2001, in the case of the newly-established legal person that did not record the turnover in the year prior to sanctioning or in the case of the legal person whose turnover is not accessible to C.N.V.M., and that does not observe the obligations provided in paragraph (2), such shall be punished by fine from RON 5,000 to RON 2,500,000.

(6) The provisions of paragraphs (1), (3) and (4) shall also apply accordingly in the case of failure to fulfil the obligations provided by art. 205 paragraphs (3)-(5).

Art. 274

(1) The perpetration of the minor offenses provided in arts. 272 and 273^2 shall be established by C.N.V.M.

(2) C.N.V.M. may delegate the establishment of perpetration of minor offenses to agents authorized to fulfil duties of supervision, investigation and control of the observance of the legal provisions and of the regulations applicable to the capital market.

(3) Upon receipt of the verification acts resulting further to the authorization, supervision or control activity, if the perpetration of a minor offense is found, C.N.V.M. shall order the application of the sanctions provided in arts. 273 or 273^2. Also, by individual acts, C.N.V.M. may order the extension of the investigations, the taking of conservatory measures and/or the auditing of the persons considered by the verification acts.

(4) C.N.V.M. may make public any measure or sanction imposed for failure to observe the provisions hereof and of the regulations adopted for the application hereof.

Art. 275

(1) When customising the sanction, the personal and real circumstances of the deed and the conduct of the doer shall be taken into consideration.

(2) ***Abrogated.

(3) If two or more offences are acknowledged, the highest penalty, increased by up to 50%, shall be applied, as the case may be.

#M8

Art. 278

(1) By derogation from the provisions of art. 13 of Government Ordinance No. 2/2001, the application and execution of the minor offense related sentence shall be prescribed after three (3) years from the perpetration date of the deed.

(2) In the case of continuous minor offenses, the prescription period of three (3) years shall start running from the establishment date of the deed.

Art. 279*)

(1) Committing intentionally the deeds referred to in art. 237, paragraph (3) and art. 245-248, are considered crimes and are punished with imprisonment from 6 months to 5 years or with a fine.

(2) The intentional accessing by unauthorised persons of the electronic trading, clearing and settlement systems is considered a crime and is punished with imprisonment from 6 months to 5 years or with a fine.

*) According to art. 152 item 3 and art. 247 of Law No. 187/2012 (**#M10**), starting from 1 February 2014 (the date of entry into force of Law No. 286/2009 regarding the Criminal Code), article 279 shall read as follows:

"ART. 279

The following deeds are deemed offenses and are sanctioned by prison from 6 months to 5 years and prohibition of certain rights:

a) the intentional presentation by the administrator, director or executive manager of the company to the shareholders of inaccurate financial statements or unreal information regarding the company's economic condition;

b) the perpetration of the deeds provided under arts. 245 - 248;

c) the intentional accessing by unauthorised persons of the electronic trading, deposit or clearing and settlement systems."

———

Art. 289

3. In Article 7, after the paragraph (2), the paragraphs (2^1) and (2^2) with the following content shall be introduced:

"(2^1) The obligation to comply with professional secrecy cannot be opposed to C.N.V.M. in its exercising the powers set out in the law.

(2^2) The information regarded as part of professional secrecy received by C.N.V.M. in its exercising its powers may be used only in the following situations:

a) for verifying compliance with the conditions required to grant authorisation to regulate entities, facilitating supervision on either consolidated or unconsolidated basis for the carrying out of its activities by the regulated entity, especially as

regards capital adequacy requirements, accounting and administrative procedures and internal control mechanisms;

b) for imposing sanctions;

c) within administrative complaints and claims filed against individual regulations issued by C.N.V.M."

4. In Article 7, paragraph (15) shall have the following content:

"(15) The regulations and instructions issued by C.N.V.M. are approved by order of the President of C.N.V.M. The approval order shall be published in the Official Gazette of Romania, Part I. The complete text of the regulations and instructions approved shall be published for reasons of opposability in the C.N.V.M. Newsletter."

5. In Article 11, paragraph (1) shall have the following content:

"Art. 11

(1) The members and the employees who are working or have worked with C.N.V.M, as well as the representatives and the employees of the entities to which C.N.V.M. has delegated one or more prerogatives, which it has been invested with by law, must comply, with respect to the information obtained during or as a result of exercising their duties and which have not been made public, with the legal framework applicable to professional secrecy. For the purposes of this law, delivery of information in accordance with the provisions laid down in art. 6 paragraph (2) and (3) shall not be considered a breach of this obligation."

Law no.182/2002 on Protection of Classified Information

CHAPTER I

General Provisions

SECTION 1

Principles

Art. 1 – The purpose of this Law is to protect classified information and the confidential sources that provide it. The protection of such information is ensured by establishing the national system for the protection of classified information.

Art. 2 – (1) This Law grants access to public information.

(2) Access to classified information shall be granted only under the circumstances and terms provided by the law, with the observance of the legal procedures.

Art. 3 – No provision of the present Law shall be deemed as limiting the access to information of public interest or as eluding the provisions of the Constitution, the Universal Declaration on Human Rights, agreements or other treaties relating to the right to receive and disclose information, to which Romania is part of.

Art. 4 – The main objectives for the protection of classified information are:

a) to protect classified information against espionage, compromise or unauthorized access, distortion or alteration of its content, as well as against sabotage and unauthorized damage;

b) to ensure the security of the informatics and transmission systems of classified information.

Art. 5 – Measures deriving from the enforcement of this Law are meant:

a) to prevent unauthorized access to classified information;

b) to identify circumstances and individuals who, by their actions, could endanger the security of classified information;

c) to ensure that classified information is released exclusively to those entitled to know it;

d) to ensure the physical protection of classified information, as well as of the personnel required to protect classified information.

Art. 6 – (1) The national standards for the protection of classified information are mandatory and shall be established by the Romanian Intelligence Service, only with the approval of the National Security Authority.

(2) The standards referred to in subparagraph (1) shall be in accordance with the national interest and consistent with NATO criteria and recommendations.

(3) In case of a dispute between the domestic standards on the protection of classified information and the NATO standards, the NATO standards shall prevail.

Art. 7 – (1) The individuals who will have access to state secret information shall be subject to prior clearance regarding their loyalty and professionalism in handling such information.

(2) For candidates to public positions involving handling classified information, and the competence to grant access to this information, the vetting shall be conducted prior to their appointment, at the request of the vesting authority.

(3) The vetting procedures are those mandatory for employees of the National Security Authority handling NATO classified information, according to the equivalence between the secrecy levels provided by this Law.

Art. 8 – The personnel specially designated to ensure the protection of classified information shall regularly participate in a permanent training and advanced training system, in conformity with the national protection standards.

Art.9– The protection of classified information refers to:

a) legal protection;

b) protection by procedural measures;

c) physical protection;

d) protection of personnel with access to classified information or designated to ensure its security;

e) protection of information-generating sources.

Art. 10 – (1) The institutions holding or handling classified information shall keep a record of the security clearances issued under signature to their personnel.

(2) Each security clearance shall be reviewed whenever necessary to guarantee its consistency with the standards of the position filled by the individual.

(3) The reviewing of the security clearance shall be mandatory and shall be a priority whenever there are indications that maintaining it, is no longer consistent with the security interests.

Art. 11 – Access to buildings and IT infrastructures where classified information activities are carried out or where such information is stored is allowed only in authorized situations.

Art. 12 – The standards for the protection of classified information entrusted to individuals or organizations outside governmental structures shall be unconditionally consistent with those established for these structures.

Art. 13 – The request of issuing security clearance certificates for individuals with direct responsibilities in the field of the protection of classified information is mandatory.

Art. 14 – The Supreme Council of National Defense ensures the coordination of all programs for the protection of classified information, at national level.

SECTION 2

Definitions

Art. 15 – In the meaning of this Law, the terms below are defined as follows:

a) *information* – any documents, data, objects and activities, irrespective of their frame, form, way of expression and issue;

b) *classified information* – any information, data, documents of interest for the national security, which must be protected because of their degree of importance and the consequences that might arise due to their unauthorized disclosure or dissemination

c) *secrecy classes* are: secrete de stat (state secret) and secrete de serviciu (restricted information);

d) *state secret information* – any information related to the national security whose disclosure could be detrimental to the national security and state defense;

e) *restricted information* – any information whose disclosure could be detrimental to a public or private legal entity;

f) the secrecy levels are assigned to classified information within the state secret class, and they are:

- *strict secret de importanta deosebita* (equivalent to NATO COSMIC TOP SECRET) – information whose unauthorized disclosure may bring about damage of an exceptional gravity to the national security;

- *strict secret* (equivalent to NATO SECRET) – information whose unauthorized disclosure may bring about serious damage to the national security;

- *secret* (equivalent to NATO CONFIDENTIAL) – information whose unauthorized disclosure may bring about damage to the national security;

g) *legal protection* – all constitutional norms and other legal provisions in force, that state the protection of classified information;

h) *protection through procedural measures* – all regulations based on which the originators and holders of classified information settle the internal working and domestic order measures meant to ensure the protection of classified information;

i) *physical protection* – all activities related to the safeguard, security and protection of classified information, carried out by measures and physical control devices and through technical means;

j) *personnel protection* – all vetting procedures and measures applied to individuals who fulfill tasks related to classified information in order to prevent and deter security risks for the protection of classified information;

k) *personnel security clearances* – documents certifying the vetting and authorization of an individual to hold, have access or handle classified information.

CHAPTER II

State Secret Information

Art. 16 – Protection of state secret information is an obligation incumbent upon authorized individuals who originate and manage such information or who are going to be entrusted with it.

Art. 17 – The state secret category includes information representing or relating to:

a) national defense system and its basic elements, military operations, manufacturing technologies, technical specifications of arms and combat techniques used exclusively within the national defense system;

b) military plans and units, troops and missions of the forces assigned;

c) the national cipher code and other encrypting elements established by relevant state authorities, as well as the activities related to their creation and use;

d) the organization of the protection and defense systems of the special and military targets, sectors and computer networks, their security mechanisms included;

e) the data, schemes and programs related to special and military communication systems and computer networks, their security mechanisms included;

f) intelligence activities carried out by the public authorities established by law, for national defense and security;

g) means, methods, know-how and working equipment, as well as specific sources of information, used by the public authorities conducting intelligence activities;

h) maps, topographic plans, thermo-grams and air recordings of any kind reproducing elements or objectives classified as state secret;

i) studies, geological and gravimetrical surveys with a density higher than one dot/square kilometer by which national reserves of rare, precious, disperse and radioactive metals and ores, and the data and information related to material reserves under the authority of the State Reserves National Administration.

j) systems and plans of electric power and heating and water supplies and other agents needed for the proper functioning of the facilities classified as state secret;

k) scientific, technologic and economic activities and investments related to the national security or defense and of special importance for the economic, technical and scientific interests of Romania.

l) scientific research in the field of nuclear technologies, excepting fundamental research, as well as the programs for the protection and security of nuclear materials and facilities.

m) issuance and printing of banknotes, the coinage, the Romanian National Bank monetary pattern designs and the security elements of the monetary items against counterfeiting, not of public knowledge,

as well as printing of securities such as state bonds, treasury bonds and government bonds for financing the budgetary deficit;

n) the foreign relations and activities of Romania, which, according to the law, are not intended for public knowledge as well as information of other states or international organizations, whose protection is binding upon the Romanian state under international treaties and agreements.

Art. 18. – (1) State secret information shall be classified on secrecy levels based on the importance of the protected values.

(2) Secrecy levels assigned to state secret information are:

(a) - strict secret de importanta deosebita (equivalent to NATO COSMIC TOP SECRET)

(b) - strict secret (equivalent to NATO SECRET)

(c) - secret (equivalent to NATO CONFIDENTIAL)

Art.19. – The authorities entitled to assign a certain secrecy level to the information, when it is drawn up, are:

a) for strict secret de importanta deosebita (equivalent to NATO COSMIC TOP SECRET):

1) the President of Romania;

2) the Presidents of the Senate and Chamber of Deputies;

3) members of the Supreme Council of National Defense;

4) the Prime Minister;

5) members of the Government and the Secretary General of the Government;

6) the Governor of the Romanian National Bank;

7) the Director of the National Intelligence Service;

8) the Director of the Guard and Protection Service;

9) the Director of the Special Telecommunications Service;

10) the secretary General of the Senate and the Secretary General of the Chamber of Deputies;

11) the President of the National Institute of Statistics;

12) the Director of the National Administration of State Reserves;

13) other authorities invested by the President of Romania or the Prime Minister;

b) for strict secret (equivalent to NATO SECRET) – the persons under paragraph a) and the officials with the rank of secretaries of state, according to their area of competence;

c) for secret (equivalent to NATO CONFIDENTIAL) - the persons under paragraph a) and b) and the officials with the rank of sub-secretaries of state, secretaries general or directors general, according to their area of competence.

Art. 20. – Any Romanian natural or legal person may dispute the classification of the information, its period of classification and the way in which the secrecy level was assigned to it, with the authorities that classified such information. The dispute shall be settled under the legal terms of the contentious administrative courts.

Art. 21. – (1) The National Registry Office for Classified Information shall be established and subordinated to the Government.

(2) The National Registry Office for Classified Information shall organize the accounting of lists and classified information, of the classification maintaining terms, of the personnel cleared and authorized to manage classified information, and of the records with security clearances mentioned at Art. 10.

Art. 22. – (1) The public authorities shall draw up their own lists with categories of state secret information related to their fields of activity.

(2) The lists with state secret information on classification levels, drawn up or held by public authorities or institutions shall be approved and updated under Government Decision.

(3) The Government Decisions on the endorsement of the lists with state secret information shall be notified to the Romanian Intelligence Service, Foreign Intelligence Service and, as appropriate, to other intelligence structures which, according to the law, are responsible for setting up specialized protective measures.

Art. 23. – (1) The institutions holding state secret information are responsible for establishing and enforcing the procedural measures of physical protection and protection of the personnel with access to such information.

(2) The measures under paragraph (1) shall be in conformity with the national standards for the protection of classified information.

Art. 24. – (1) The documents containing state secret information shall bear on each page the secrecy level and, when directed to certain persons, also the marking "personal".

(2) Identification and marking rules, mandatory inscriptions and specifications on state secret documents, depending on their secrecy levels, requirements for recording the number of copies and addressees, time frames and condition of storage, interdictions of reproduction and circulation shall be established under Government Decision.

(3) Assignment of a secrecy level under Article 15 (f) as well as the standards related to the minimum protective measures within each level shall be established by Government Decision.

(4) Information classified according to Art. 15 (f) can be declassified under Government Decision at the justified request of the originator.

(5) Classification as state secrets, of information, data or documents with the purpose to conceal law violations, administrative errors, to limit access to information of public interest, to illegally restrict certain rights of a person or to cause damage to other legitimate interests shall be forbidden.

(6) Information, data and documents referring to a fundamental scientific research having no justified connection with national security shall not be classified as state secret.

(7) The public authorities working out or handling classified information shall draw up a guide for the correct and uniform classification of state secret information, in strict conformity with the law.

(8) The guide shall be approved personally and in writing by the senior official authorized to classify state secret information.

(9) The authorized persons who copy, make excerpts or summarize the content of certain secret documents shall apply the markings of the original document on the derived document.

(10) Declassification or downgrading of the information shall be made by the persons or public authorities entitled to approve the classification and the secrecy level of the respective information.

Art. 25. – (1) The specialized structure in the Romanian Intelligence Service shall coordinate the activity and the control of measures for the protection of state secret information.

(2) The Ministry of National Defence, the Ministry of Interior, the Ministry of Justice, the Romanian Intelligence Service, the Foreign Intelligence Service, the Guard and Protection Service and the Special Telecommunications Service shall establish, for their fields of activity and responsibility, their own structures and measures regarding the coordination and control of the activities related to the protection of state secret information, according to the law.

(3) The specialized structure in the Ministry of National Defence shall coordinate and control the measures for the protection of state secret information for the Central State Office on Special Issues and National Administration of State Reserves.

(4) The Parliament, the Presidential Administration, the Government and the Supreme Council of National Defence shall set up their own measures for the protection of the state secret information,

according to the law. The Romanian Intelligence Service shall provide specialized assistance to these institutions.

(5) The protection of information not intended for public knowledge, released to Romania by other states or international organizations as well as the access to their information shall be carried out under the terms of international treaties or agreements to which Romania is part of.

Art. 26. - (1) The Foreign Intelligence Service shall coordinate the activities and control of measures for the protection of state secret information at the Romanian missions abroad under the provisions of this law.

(2) The specialized structure in the Ministry of National Defence shall coordinate and control the measures for the protection of state secret information in what concerns the specific activity of defence attachés at the Romanian diplomatic missions and of military representatives to international bodies.

Art. 27. – The National Security Authority performs regulation, authorization and control tasks on the protection of NATO classified information, under the terms of the law.

Art. 28. – (1) Access to state secret information shall be granted only on the basis of a written authorization, issued by the head of the legal person holding such information, after prior notification to the National Registry Office for Classified Information.

(2) The authorization shall be granted for the secrecy levels under Art. 15 (f), following the vetting conducted on the person with his/her written consent. The legal persons, except those under Art 25 paragraphs (2) and (3), shall notify the National Registry Office for Classified Information on the issuance of the access authorization.

(3) Access to NATO classified information shall be granted based on the authorizations and security clearances issued by the National Security Authority, after the vetting has been conducted by the competent authorities.

(4) The validity period of the authorization is up to 4 years; during this period the vetting may be repeated whenever necessary.

(5) The denial of authorization or its justified withdrawal legally results in the interdiction to have access to state secret information.

Art. 29. – Managers of economic units or of other private legal persons as well as natural persons that were granted access to state secret information shall observe the provisions of the law related to the protection of such information within the cooperation relationships.

Art. 30. – Access of foreign citizens, of Romanian citizens who also have the citizenship of another state as well as of stateless persons to state secret information and places where state secret activities are carried out and objects or works of this category are exhibited shall be granted only under the circumstances and terms of the international treaties to which Romania is part of or under Government Decision.

CHAPTER III

Restricted Information

Art. 31. – (1) Restricted information shall be established by the head of the legal person based on the standards provided by Government Decision.

(2) The information provided under paragraph (1) shall bear on each page the marking “personal”, when directed to certain persons.

(3) The provisions of Article 28 shall apply appropriately in the field of restricted information.

(4) Negligence in handling restricted information results in criminal liability, according to the law.

Art. 32. – Managers of public authorities and institutions, of economic units with integral or partial state share capital and of other private or public legal persons shall designate the information which are

restricted and the rules to protect it, shall coordinate the activity and control the measures for the protection of restricted information, according to their competences and in compliance with the provisions established under Government Decision.

Art. 33. – Classification as restricted of the information which, by its nature or content, is designated to ensure public awareness on certain issues of public or private interest, in order to facilitate or cover law evasion or obstruct the justice shall be forbidden.

CHAPTER IV

Attributions of the Romanian Intelligence Service

Art. 34. – In order to coordinate the activity and control the measures related to the protection of classified information within its area of competence, the Romanian Intelligence Service has the following attributions:

a) to work out the national standards for classified information and their implementation objectives, in cooperation with the public authorities;

b) to supervise the activities of public authorities for the implementation of this law;

c) to provide specialized assistance for the programs designed to prevent the leakage of information drafted by public authorities and institutions, autonomous administrations and other companies holding such information;

d) to control the manner in which the standards regarding the protection of classified information are observed and applied by the public authorities and institutions;

e) to carry out checks and reviews of programs related to the protection of classified information, in certain locations;

f) to cooperate with the National Registry Office for Classified Information and with the National Security Authority on all issues related to the implementation of the present law;

g) to grant support for the setting of objectives and places of special importance for the protection of classified information, at the request of the heads of public authorities and institutions, of economic units

and private legal persons and to submit their centralized records to the Government's approval;

h) to organize, collect, transport and dispatch across the country the state secret mail and restricted official mail, in compliance with the provisions of the law;

i) to assess and establish measures relating to the complaints and suggestions on the implementation of the programs for the protection of classified information;

j) to identify any infringement of the norms on the protection of classified information, impose the contravention sanctions provided by the law, and notify the criminal investigation bodies in case of criminal offences.

Art. 35. - Annually or whenever deemed necessary, the Romanian Intelligence Service shall inform the Parliament and the Supreme Council of National Defence of the findings and conclusions related to the activity for the protection of classified information within its area of competence.

CHAPTER V

Obligations, Liabilities and Sanctions

Art. 36. – (1) The persons who have been granted access to classified information shall ensure its protection and shall observe the provisions of the programs for the prevention of classified information

leakage.

(2) The obligations under paragraph (1) shall continue after ceasing of work, duty or professional relationships, as long as the information remains classified.

(3) The person who is going to work or to be employed in a job requiring access to classified information shall provide to the head of the organization a written nondisclosure agreement.

Art. 37. – (1) Public authorities and other legal persons holding or being entrusted with state secret or restricted information shall provide the funds required to fulfill their obligations, and to take measures for the protection of such information.

(2) The responsibility for the protection of classified information rests with the head of the public authority, institution or other legal person holding such information.

Art. 38. – (1) State secret information shall be disseminated, carried and stored according to the legal provisions.

(2) It is forbidden to disseminate state secret information by wire or by air, without using means specific to the state cipher system or other cryptographic elements established by the competent public authorities.

Art. 39. - (1) Infringement of the norms on the protection of classified information entails disciplinary, contravention, civil or criminal liabilities.

(2) The authority shall be irrevocably removed to the persons employed in intelligence, security, army, foreign relations services, as well as to the persons specially assigned to protect state secret information who**,** willfully**,** or negligently, encouraged the disclosure or leakage of classified information.

Art. 40. – (1) Offences to the norms on the protection of classified information shall be established by Government Decision.

(2) Sanctions may be applied to legal persons as well.

CHAPTER VI

Final Provisions

Art. 41. – (1) Special compartments where classified information is recorded, developed, processed, stored, handled and reproduced under safe conditions shall be set up within authorities, public institutions and economic units holding such information.

(2) The special compartments under paragraph (1) shall be subordinated to the head of the authority, public institution or economic unit.

Art. 42. – Not later than 60 days from the date when this Law is published in the Romanian Official Journal, Part I, the Government shall determine under Decision:

a) the classification of the state secret information and the norms on the minimum protective measures within each level;

b) general rules for the accountability, drawing up, storage processing, reproduction, handling, carriage, transmission and destruction of state secret information;

c) facilities, premises or places with special relevance for the protection of information classified as state secret;

d) obligations and liabilities of the authorities, public institutions and economic units, of other legal persons regarding the protection of classified information;

e) norms on the access to classified information and the vetting procedure;

f) provisions for photographing, filming, map-drawing, producing works of fine arts, in premises, areas or places with special relevance for the protection of information classified as state secret;

g) regulations relating to the access of the foreign persons to state secret information;

h) other norms relating to the enforcement of the present Law.

Art. 43. – This Law shall be effective 60 days from the date of its publication in the Romanian Official Journal, Part I.

Art. 44. – (1) On the date when this Law comes into force, Law no. 23/1971 on the protection of state secrets in Romania, published in the Official Journal, Part I, no. 157/17 December 1971, the Decision of the Ministers' Council no.19/1972 related to certain measures for the protection of state secrets, published in the Official Journal, Part I, no. 5 /14 January 1972, and any other contrary provisions shall be abrogated.

(2) On the same date, the phrase "state secrets" in the legal documents in force shall be replaced with the phrase "state secret information".

This Law was ratified by the Chamber of Deputies in the meeting of 26th February 2002, with the observance of the provisions stipulated in Art 74 paragraph (2) of the Romanian Constitution.

This Law was ratified by the Senate in the meeting of 8th March 2002, with the observance of the provisions stipulated in Art 74 paragraph (2) of the Romanian Constitution.

Excerpts from the Law no. 127 from 20/06/2011 on the activity of issuing electronic money

CHAPTER I

Subject matter, scope and definitions

Art. 4. - (1) For the purposes of this law, the terms and expressions bellow have the following meaning:

a) agent – a natural or legal person which acts on behalf of an electronic money institution in providing payment services;

b) consumer – a natural person who is acting for purposes other than his trade, business or profession;

c) payment account – an account held in the name of one or more electronic money holders and payment service users which is used for the execution of payment transactions;

d) distributor – a natural or legal person which distributes and, where applicable, redeems electronic money on behalf of an electronic money institution;

e) electronic money institution – a legal person that has been granted authorisation under Chapter II to issue electronic money;

f) electronic money - electronically, including magnetically, stored monetary value as represented by a claim on the issuer which is issued on receipt of funds for the purpose of making payment transactions and which is accepted by a natural or legal person other than the electronic money issuer;

g) Member State – any Member State of European Union, as well as any other state member of the European Economic Area;

h) home Member State – the Member State in which the registered office of the electronic money issuer is situated, or if the electronic money issuer has, under its national law, no registered office, the Member State in which its head office is situated;

i) host Member State – the Member State, other than the home Member State, in which an electronic money issuer has a branch, a distributor, an agent or it issues electronic money or it provides payment services;

j) branch – a place of business other than the head office which is a part of an electronic money institution, which has no legal personality, and which carries out directly some or all of the activities of an electronic money institution.

(2) For all the terms and expressions used in the present law that were not defined in paragraph (1), the definitions specified in Government Emergency Ordinance no.113/2009 on payment services, as approved with amendments by Law no.197/2010, as subsequently amended and supplemented, will be used accordingly.

(3) For determining a subsidiary's statute, the provisions of Article 6 of Government Emergency Ordinance no.113/2009 on payment services, as approved with amendments by Law no.197/2010, as subsequently amended and supplemented, shall apply.

CHAPTER II

Authorisation and prudential supervision of electronic money institutions

SECTION 1

Minimum requirements for the taking up of the activity

Art. 7. - **(1)** All entities intending to issue electronic money in Romania shall possess an authorisation, in accordance with this Chapter, before starting the business.

(2) The National Bank of Romania shall grant an authorisation only to a Romanian legal person set up in accordance with Law no. 31/1990 on companies, republished, as further amended and supplemented.

Art. 8. - **(1)** The National Bank of Romania shall grant an authorisation to an entity only if the information and evidence accompanying the application comply with all the requirements under this Chapter and the regulations issued for its purpose and if the overall assessment of the proposed project is favourable.

(2) For the purpose of applying paragraph (1), the National Office For Prevention And Control Of Money Laundering provides the National Bank of Romania with the information required on persons and entities exposed to money laundering and the financing of terrorist acts risks.

(3) For the purpose of taking a decision on the licensing application, the National Bank of Romania may consult other relevant public authorities.

Art. 9. - Electronic money institutions authorised by the National Bank of Romania shall have their head offices in Romania.

Art. 10. - The National Bank of Romania shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of an electronic money institution, the electronic money institution has robust governance arrangements for its electronic money issuance, which include a clear organisational structure with well-defined, transparent and consistent lines of responsibility, effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed, and adequate internal control mechanisms, including sound administrative and accounting procedures. The governance arrangements, procedures and mechanisms shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided and the electronic money issuance done by the electronic money institution.

Art. 11. - **(1)** The National Bank of Romania shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of an electronic money institution, it is satisfied that the persons responsible for the management and administration of the electronic money issuance activity are of good reputation and possess appropriate knowledge and experience adequate to the nature, scale and complexity of the activity envisaged.

(2) The persons responsible for the management and administering the electronic money issuance activity are, depending on the legal form of the company and the type of the activities:

a) the administrators, the active partners, directors or, if the case may be, the members of the board and members of the directorate, for the electronic money institutions that have as main activity the electronic money issuance, or

b) the persons responsible for coordinating the electronic money issuance business department, in case of the electronic money institutions that do not have as main activity the issuance electronic money.

(3) Every person specified in paragraph (2) must be approved by the National Bank of Romania before starting to carry on its responsibilities.

Art. 12. - The National Bank of Romania shall grant an authorisation only if, taking into account the need to ensure the sound and prudent management of an electronic money institution, it considers that the shareholders or associates that have qualifying holdings are suitable.

Art. 13. - Where close links exist between the electronic money institution and other natural or legal persons, the National Bank of Romania shall grant an authorisation only if those links or the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the electronic money institution has close links, or difficulties involved in the enforcement of those laws, regulations or administrative provisions do not prevent the effective exercise of its supervisory functions.

Art. 14. – The requirements set out in Article 10-13 shall apply accordingly to the activity of providing payment services by the electronic money institution.

Art. 15. - Where an electronic money institution is engaged in business activities, other than electronic money issuance and payment services providing, the National Bank of Romania may require the establishment of a separate entity for the electronic money issuance and payment services business, if it considers, either in the procedure of granting authorisation or in the process of supervision of the electronic money institution, that the other business activities impair or are likely to impair either the financial soundness of the electronic money institution or the ability of the National Bank of Romania to monitor the electronic money institution's compliance with all obligations laid down by this Chapter and the regulations issued for its application.

Art. 16. - The authorisation granted by the National Bank of Romania shall allow the electronic money institution Romanian legal person to issue electronic money and to provide payment services covered by the authorisation in any Member State, in accordance with the provisions of Section 5.

Art. 17. - Without prejudice to the provisions of this Chapter, the National Bank of Romania shall issue regulations establishing the documentation accompanying the application for licensing, as well as the criteria on the basis of which the fulfilment of the requirements set out in Article 11 paragraph (1) and Article 12 are examined.

Art. 18. - **(1)** Electronic money institutions shall hold, at the time of authorisation, an initial capital of not less than EUR 350.000, equivalent in Lei.

(2) The National Bank of Romania sets out through regulations issued for the application of this Chapter the elements that will be taken into consideration for calculating the initial capital, as well as other criteria for its calculation.

Art. 19. - Electronic money institutions shall issue electronic money without delays on the receipt of funds.

Art. 20. - **(1)** Electronic money institutions may open and hold payment accounts for their clients used exclusively for payment transactions.

(2) Electronic money institutions are prohibited to conduct the business of taking deposits or other repayable funds from the public, as defined in the Government Emergency Ordinance no.99/2006 on credit institutions and capital adequacy, as approved with amendments and supplements by Law no.227/2007, as subsequently amended and supplemented.

(3) The receipt of funds for the issuance of electronic money as set out in article 19 or for providing payment services shall not be considered as taking a deposit or other repayable funds from the public.

Art. 21. - (1) Apart from the issuance of electronic money, the electronic money institutions shall be entitled to engage in the following activities:

a) the provision of payment services as laid down in Article 8 of Government Emergency Ordinance no.113/2009 on payment services, approved with amendments by Law no.197/2010, subsequently amended and supplemented;

b) the provision of operational and closely related ancillary services to the issuance of electronic money and payment services provision, such as: ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data;

c) the operation of payment systems;

d) business activities, other than the issuance of electronic money and provision of payment services, having regard to applicable legislation.

(2) Electronic money institutions may carry on in Romania the activities set out in paragraph (1) with the observance of the applicable national legislation.

Art. 48. - (1) The electronic money institutions may provide payment services through agents in accordance with the provisions of Section 4, Title II and Articles 56-58 and Article 60 of Government Emergency Ordinance no.113/2009 on payment services, approved with amendments by Law no.197/2010, subsequently amended and supplemented, with the regulations issued for its application and with the present Law.

(2) The electronic money institutions shall ensure that the agents acting on their behalf inform accordingly the payment services user of this fact.

(3) When applying the provisions of paragraph (1), the referral to the payment institution's register will be understood as a referral to the electronic money institutions register foreseen in Article 60.

SECTION 7

The notification procedure for performing activities by the electronic money institutions from other Member States on Romania's territory

Art. 57. - (1) An electronic money authorised in a Member State may issue electronic money in Romania directly or through the establishment of a branch on the basis of the notification transmitted to the National Bank of Romania by the competent authority from the home Member State.

(2) The notification set out in paragraph (1) shall contain information on the name and address of the electronic money institution, the kind of services it intends to provide in Romania and, if the case may be, the names of the persons responsible for the management of the branch and its organisational structure.

(3) After receiving a notification regarding the establishment of a branch as set out in paragraph (1), at the request of the National Bank of Romania, the National Office For Prevention And Control Of Money Laundering and other relevant authorities provide information related to risks of money laundering and financing of terrorist acts that the project presented in the application implies.

(4) Where the consultation undertaken in accordance with paragraph (1) reveals reasonable grounds to suspect that by the establishment of the branch the risk of money laundering or terrorist financing could increase or, in connection with the intended establishment of the branch, money laundering or terrorist financing is taking place, has taken place or been attempted, the National Bank of Romania shall so inform the competent authority of the home Member State.

SECTION 9

The competent authority responsible for supervision

Art. 61. - (1) The National Bank of Romania is the competent authority responsible for supervision of the compliance with this Chapter and the regulations issued for its application.

(2) The National Bank of Romania shall prudentially supervise the authorised electronic money institutions, Romanian legal persons, including the activity regarding electronic money issuance and provision of payment services through branches and agents.

(3) The paragraphs (1) and (2) shall not imply that National Bank of Romania is required to supervise the business activities of the electronic money institution, other than the issuing of electronic money, the provision of payment services and the activities listed in Article 21 paragraph (1) letter b).

Art. 62. - (1) The supervision activity exercised by the National Bank of Romania for checking continued compliance with this Chapter and the regulations issued for its application shall be proportionate, adequate and responsive to the risks to which electronic money institutions are exposed.

(2) The inspections at the entities foreseen at paragraph (3) letter b) shall be undertaken by the National Bank of Romania authorised personnel or by financial auditors or experts appointed by the National Bank of Romania.

(3) In order to exercise its supervision function, the National Bank of Romania shall be entitled to:

a) require the electronic money institution to provide any information needed to monitor compliance with the requirements laid down in this Chapter and the regulations issued for its application;

b) carry out on-site inspections at the electronic money institution Romanian legal person, at any of its agents or branches or at any entity to which activities were outsourced, including distributors;

c) issue recommendations, guidelines and impose measures;

d) suspend or withdraw the authorisation.

(4) The electronic money institutions shall allow the personnel empowered by the National Bank of Romania and the financial auditors or experts appointed by the National Bank of Romania to examine their records, accounts and operations, for that purpose providing all documents and information regarding their governance, internal control and operations, as requested by these persons.

(5) The electronic money institutions shall communicate to the National Bank of Romania any information requested for the purpose of supervision.

Art. 70. – The National Bank of Romania may impose sanctions where acknowledges that a electronic money institution Romanian legal person and/or any of the persons responsible for the administration and/or management of the electronic money issuance and payment services activity, are found guilty of :

a) breaching of any provision of this Chapter or the regulations issued for its application;

b) not complying with the measures adopted by the National Bank of Romania;

c) breaching any condition or restriction within the authorization;

d) performing fictive operations for the purposes of the presentation of an incorrect financial situation;

e) failing to report, delaying to report or reporting incorrect data and information transmitted to National Bank of Romania.

Art. 71. - (1) In the cases set out in Article 70, the National Bank of Romania may impose the following penalties:

a) written warning;

b) fine applicable to the electronic money institution, ranging from 5,000 lei to 50,000 lei;

c) fine applicable to the persons responsible for the administration and/or management of the electronic money issuance and payment services activity, equal to 1 up to 6 medium net wages paid by the electronic money institution, in accordance with the payroll records of the month previous to the discovery of the breach;

d) the withdrawal of the approval of the persons responsible for the administering and/or the management of the electronic money issuance and payment services activity of the electronic money institution;

e) the suspension or withdrawal of the authorisation of the electronic money institution.

(2) When setting the penalty, the gravity of the breach, as well as the personal and real circumstances, shall be taken into account.

(3) The penalties set out in paragraph (1) letters c) and d) shall be applied to the persons to which the breach can be ascribed to, as the breach would not have been produced if those persons had adequately exercised their responsibilities deriving from their position, in accordance with the legislation applicable to companies, this Chapter and regulations issued for its application and the internal governance arrangements.

(4) The penalties set out in paragraph (1) may be imposed concomitantly with the adoption of measures in accordance with art. 69, or independently.

Excerpts from the Law no. 302/2004 on international judicial cooperation in criminal matters

TITLE II
EXTRADITION

CHAPTER I
Passive Extradition

SECTION 1
Conditions for extradition

ARTICLE 18
Persons subject to extradition

According to this law, upon request from a foreign State, persons who are in Romanian territory and who are under criminal prosecution or brought to justice for the commission of an offence, or who are wanted for serving a penalty or a preventive measure in the Requesting State, may be extradited from Romania.

ARTICLE 19
Persons exempt from extradition

(1) The following may not be extradited from Romania:
   a) Romanian citizens, if the conditions mentioned in Article 24 are not met; persons who were afforded asylum by Romania;
   b) foreign persons enjoying jurisdiction immunity in Romania, according to the conditions and limits established through conventions or other international agreements;
   c) foreign persons summoned from abroad for being heard as parties, witnesses or experts by a requesting Romanian judicial authority, subject to the immunities provided by international conventions.

(2) The capacity of Romanian citizen or political refugee in Romania shall be assessed at the date when the judgment on extradition becomes final. If this capacity is acknowledged between the date when the judgment of extradition becomes final and the date agreed upon for surrender, a new judgment shall be delivered on the case.

ARTICLE 20
Extradition of Romanian citizens

(1) Romanian citizens may be extradited from Romania based on the multilateral international conventions to which Romania is a party and based on reciprocity, only if at least one of the following conditions is met:
   a) the person sought domiciles in the Requesting State at the date when the request for extradition is made;
   b) the person sought also has the citizenship of the Requesting State;
   c) the person sought committed the act in the territory or against a citizen of a European Union Member State, if the Requesting State is a Member of the European Union.

(2) In the events provided in paragraph (1) a) and c), when extradition is being requested in view of criminal prosecution or trial, a supplementary condition requires that the Requesting State provide assurances deemed as sufficient that, should he or she be sentenced to a custodial penalty through a final court judgment, the extradited person will be transferred to Romania

to serve the penalty.

(3) Romanian citizens may be extradited also based on the provisions of bilateral treaties and based on reciprocity.

(4) In view of finding whether the conditions in paragraphs (1) to (3) are met, the Ministry of Justice may request the production of a document issued by the competent authority of the Requesting State.

ARTICLE 21

Mandatory grounds for refusing extradition

(1) Extradition shall be refused if:

a) The right to a fair trial under the European Convention for the Protection of Human Rights and Fundamental Freedoms concluded in Rome on 4 November 1950 or under any other relevant international instrument ratified by Romania, has not been observed;

b) there are serious reasons to believe that extradition is being requested in order to prosecute or punish a person for reasons of race, religion, sex, nationality, language, political or ideological opinion or belonging to a certain social group;

c) the person's status is at a risk of worsening for one of the reasons shown in b);

d) the request is submitted in a case that is pending with extraordinary courts, others than those created by the relevant international instruments, or in view of serving a penalty imposed by such a court;

e) it refers to an offence of political nature or to an offence related to a political offence;

f) it refers to a military offence that is not an offence of ordinary law.

(2) The following shall not be deemed as political offences:

a) attempts against the life of the leader of a State or against that of a member of his family;

b) crimes against humankind as provided by the Convention for the prevention and punishment of crimes of genocide, adopted on 9 December 1948 by the General Assembly of the United Nations;

c) offences provided in Article 50 of the Geneva Convention of 1949 for the Amelioration of the Condition of the Wounded and Sick in. Armed Forces in the Field, in Article 51 of the Geneva Convention of 1949 for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea, in Article 129 of the Geneva Convention of 1949 Relative to the Treatment of Prisoners of War and in Article 147 of the Geneva Convention of 1949 Relative to the Protection of Civilian Persons in Time of War;

d) any similar violations of war laws, which are not provided in the Geneva Conventions mentioned in c);

e) the offences mentioned in Article 1 of the European Convention on the Suppression of Terrorism, adopted in Strasbourg on 27 January 1977 and in other relevant international instruments;

f) offences mentioned in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 17 December 1984 by the General Assembly of the United Nations;

g) any other offence the political nature of which has been removed by the international treaties, conventions or agreements to which Romania is a Party.

ARTICLE 22

Optional grounds for refusing extradition

(1) Extradition may be refused when the act that motivates the request is the object of pending criminal proceedings or when this act may be the object of criminal proceedings in Romania.

(2) Extradition of a person may be refused or postponed where the surrender of such person is likely to entail particularly serious consequences for him or her, especially because of his/her

age or health. In the event that extradition is refused, Article 25 paragraph (1) shall apply accordingly

ARTICLE 23

Transfer of criminal proceedings in case of refusal to extradite

(1) A refusal to extradite an own citizen or a political refugee obliges Romania, upon request from the Requesting State, to submit the case to its competent judicial authorities, in order for the criminal prosecution and trial to take place, if appropriate. For this purpose, the Requesting State should send to the Ministry of Justice in Romania, free of charge, the files, information and objects that regard the offence. The Requesting State shall be informed of the results of its request.

(2) Should Romania opt for the solution of refusing to extradite a foreign national who was accused or convicted in another State for one of the offences in Article 85 paragraph (1) or for any other offence for which the law of the Requesting State provides the penalty of imprisonment with a special maximum of at least 5 years, the examination of its own competence and the exercise, if necessary, of criminal action shall take place ex officio, without exception and without delay. The Romanian authorities shall decide according to the same conditions as those for any serious offence provided and punished by the Romanian law.

ARTICLE 24

Double criminality

(1) Extradition may be allowed only if the deed of which the person the extradition of whom is being requested has been accused or for which he has been convicted is provided as an offence both in the law of the Requesting State and in Romanian law.

(2) By derogation from paragraph (1), extradition may be granted even if the act concerned is not provided in Romanian law, if for this act the prerequisite of double criminality is excluded by an international convention to which Romania is a party.

(3) The differences between the legal classification and the name given to the same offence by the laws of the two States are irrelevant, if an international convention or, in its absence, a declaration of reciprocity, does not provide otherwise.

ARTICLE 25

Fiscal offences

(1) In matters of fees and taxes, of customs and currency exchange, extradition shall be granted according to the international agreement applicable, for acts that have a correspondent, according to Romanian law, in offences of the same nature.

(2) Extradition cannot be refused for the reason that Romanian law does not levy the same type of fees or taxes or does not comprise the same type of regulations in matters of fees and taxes, customs or currency exchange as the legislation of the Requesting State.

ARTICLE 26

Seriousness of the penalty

Extradition shall be granted by Romania, in view of criminal prosecution or trial, for acts the commission of which entails, according to the legislation of the Requesting State and to Romanian law, a custodial penalty of at least one year, and in view of serving a penalty, provided it is at least 4 months long.

ARTICLE 27

Capital punishment

If the act for which extradition is requested is punished by death in the law of the Requesting State,

extradition can be granted only under the condition that the Requesting State provide guarantees deemed as sufficient by the Romanian State, that the capital punishment will not be executed, and that it is to be commuted.

ARTICLE 28

Penalty with suspension of service

A person sentenced to a custodial penalty with conditional suspension of service may be extradited in case of partial suspension, if the part of the penalty still to be served meets the requirements of seriousness provided in Article 28 and there are no other legal impediments for extradition.

ARTICLE 29

Offences committed in a third State

In case of offences committed on the territory of a State other than the Requesting State, extradition may be granted when Romanian law ascribes the competence of prosecution and judgment to the Romanian judicial authorities for offences of the same type that are committed outside Romanian territory, or when the Requesting State proves that the third State on the territory of which the offence was committed will not request extradition for that act.

ARTICLE 30

Lack of prior complaint

Extradition shall not be granted if, according to both Romanian law as well as the legislation of the Requesting State, criminal action can be initiated only upon prior complaint from the injured person, and this person is opposing the extradition.

ARTICLE 31

The right to defense

Romania shall not grant extradition if the person sought would be tried in the Requesting State by a court that does not provide the fundamental safeguards of procedure and protection of the right to defense or by a national court set up especially for that case, or if the extradition is requested in view of service of a penalty delivered by that court.

ARTICLE 32

Judgment *in absentia*

(1) If extradition of a person is requested in view of service of a penalty handed down in a judgment in absentia against this person, Romania may refuse extradition for this purpose, if it deems that the trial procedure has disregarded the right to defense acknowledged to any person accused of having committed an offence. However, extradition shall be granted if the Requesting State provides safeguards deemed as sufficient to guarantee the right of the person sought to a new trial that would safeguard his right to defense. Such a decision of extradition entitles the Requesting State either to try the case again, in the presence of the convict, if the latter has no objections, or, if otherwise, to prosecute the extradited.

(2) When Romania announces the person whose extradition has been requested, about the judgment delivered against him in absentia, the Requesting State shall not take this announcement to be a notification that entails effects upon the criminal proceedings in this latter State.

ARTICLE 33

Periods of time limitation

(1) Extradition shall not be granted if the period of time limitation for criminal liability or the period of time limitation for penalty service has expired according either to Romanian legislation or to the legislation of the Requesting State.

(2) The submission of the request for extradition shall interrupt the period of time limitation previously not expired.

ARTICLE 34

Amnesty

Extradition shall not be allowed for an offence that has been amnestied in Romania, if the Romanian State was competent to prosecute this offence, according to its own criminal law.

ARTICLE 35

Pardon

A pardon act adopted by the Requesting State shall render the request for extradition inoperative, even if the other conditions for extradition were met.

SECTION 2

The procedure of extradition from Romania

ARTICLE 36

The request for extradition and the documents attached

(1) A request for extradition, made in writing by the competent authority of the Requesting State, shall be addressed to the Ministry of Justice. If the request is being made through diplomatic channels, it shall be sent without delay to the Ministry of Justice. Another way of transmission may be agreed upon directly by the Requesting State and the requested Romanian State.

(2) To support the request, the following shall be attached:

a) according to the stage of the criminal trial, the originals or the authenticated copies of the final sentence, with a mention of the fact that it has become final, of the decisions handed down following the exercise of means of judicial review, of the warrant for the service of imprisonment, and respectively, the originals or authenticated copies of the provisional arrest warrant, of the prosecutor's charges and of other documents that have legal power. The certification of copies shall be provided free of charge by the competent court or public prosecutor's office, as appropriate;

b) a presentation of the deeds for which extradition is being requested. The date and place of their commission, their legal classification and references to the legal provisions that are applicable to them shall be provided in the most accurate manner possible;

c) a copy of the legal provisions applicable or, if this is not possible, a statement concerning the law applicable, as well as the most accurate distinctive marks of the person sought and any other information likely to determine the latter's identity and nationality;

d) data concerning the length of the penalty not served, in case of requests for extradition of a sentenced person who has served only part of the penalty.

ARTICLE 37

The procedure for passive extradition

(1) Extradition from Romania shall be decided upon by the Judiciary.

(2) The procedure of passive extradition is urgent and takes place also during the judicial recess.

(3) The role of the Ministry of Justice consists of exercising the competences bestowed upon it, as a central authority, by the law and the international treaties to which Romania is a party.

(4) In the exercise of its competences as a central authority, the Ministry of Justice mainly performs, through its specialized directorate, the following activities:

a) receipt of the request for extradition;

b) examination of the request for extradition and of the documents attached thereto, from the point of view of international regularity, according to Article 38.

c) transmission of the request for extradition and of the documents attached to it to the competent general prosecutor, according to Article 40.
d) reasoned restitution of the request for extradition and of the documents attached thereto, in the cases in Article 38 paragraph (4);
e) execution, in collaboration with the Ministry of Administration and Interior, of the final decision that ordained extradition.
f) communication to the central authority of the Requesting State, of the solution given to the request for extradition or to the request for provisional arrest in view of extradition, delivered by the competent judicial authority

ARTICLE 38

The international regularity check

(1) The international regularity check is aimed at checking whether the extradition request and the documents attached thereto comply with the provisions of applicable international treaties, including with the declarations made by Romania based on the provisions of certain multilateral conventions.
(2) Through its specialized directorate, the Ministry of Justice shall, within 3 working days from the date of receipt of a request, perform the international regularity check provided in paragraph (1), in order to find whether:
a) between Romania and the Requesting State there are conventional norms or there is reciprocity for extradition;
b) the request for extradition is accompanied by the documents set forth in the applicable international treaty;
c) the request and the attached documents are accompanied by translations, under Article 17;
d) there exists one of the limits for granting judicial co-operation, according to Article 3.
(3) Where the extradition of a Romanian citizen is being requested, during the international regularity check, the Ministry of Justice shall check also the existence of reciprocity concerning the extradition of own nationals.
(4) If the international regularity conditions provided in paragraph (2) a) and b) and in paragraph (3) are not met, as well as when it finds the existence of the situation provided in paragraph (2) d), the Ministry of Justice shall return the request and the attached documents, explaining the reasons.
If the request for extradition and the attached documents are not accompanied by translations into Romanian, the competent public prosecutor's office shall take measures to provide a translation as soon as possible.
(5) In the event of requests for provisional arrest in view of extradition, the international regularity check shall be performed within 24 hours from the receipt of the request

ARTICLE 39

Concurrence of requests

(1) If extradition is requested by several States either for the same act or for different acts, Romania shall decide, while taking into account all the circumstances and, in particular, the seriousness and the place of commission of the offences, the dates when the requests were lodged, the nationality of the requested person, the existence of extradition reciprocity in relation to Romania and the possibility of a further extradition towards another Requesting State.
(2) In the situation provisioned in paragraph (1), the Ministry of Justice will decide, if may be the case, to which Requesting State the person sought will be surrendered, according to the international obligations Romania assumed according to the international treaties in this matter or according to the obligations deriving from the status of Member State of the

European Union, taking into account the enforceable judgments applied to each of the requests for extradition, as well as the criteria set in paragraph (1).

(3) The Ministry of Justice shall urgently notify the concurrence of requests to the competent authorities of the Requesting States.

ARTICLE 40

Notification of the competent public prosecutor

Except for the cases of restitution provided in Article 39 paragraph (2), the request for extradition and the documents attached to it shall be sent by the Ministry of Justice, within 48 hours, to the general prosecutor attached to the court of appeal in the jurisdiction of which the person sought domiciles or has been seen or, if the location of the person is unknown, to the general prosecutor from the prosecutor's office attached to the Court of Appeal in Bucharest.

ARTICLE 41

Representation of the Requesting State

(1) Within the procedure of passive extradition, the Requesting State shall be represented by the central authority and the Public Ministry in Romania. At the express request of the Requesting State, its own representatives may participate to the resolution of the extradition request, with the approval of the competent court.

(2) Paragraph (1) shall apply accordingly also for active extradition.

ARTICLE 42

The judicial procedure and special rules of competence

(1) The judicial procedure of extradition is of the competence of the court of appeal within the jurisdiction of which the person sought domiciles or has been identified and to the public prosecutor's office attached to it.

(2) The requests for provisional arrest in view of extradition and the requests for extradition shall be solved by the criminal section of the competent court of appeal, in a panel consisting of one judge.

(3) The decision handed down regarding the request for extradition is subject to appeal on points of law, according to Article 52 paragraph (8) and Article 53.

(4) The norms of criminal procedure concerning prosecution, trial and enforcement shall apply for the procedure of extradition as well, to the extent that this law does not provide otherwise.

ARTICLE 43

Provisional arrest and notification of the court

(1) The competent general prosecutor or the public prosecutor whom he designates shall, within 48 hours from receipt of the request for extradition and of the documents attached to it, proceed to identifying the person sought, to whom he shall hand the arrest warrant, as well as the other documents sent by the authorities of the Requesting State.

(2) After identification, the competent general prosecutor shall immediately notify the competent court of appeal, in order for it to decide upon the measure of provisional arrest in view of extradition of the person sought and of continuing the judicial procedure of solving the request for extradition.

(3) Provisional arrest in view of extradition shall be ordered and extended by the same panel empowered to solve the request for extradition, through a closure, and the provisional arrest may not exceed 180 days. After the rendering of the decision according to which the arrest was ordered, the judge shall at once issue a provisional arrest warrant in view of extradition. The provisions of the Code of Penal Procedures concerning the contents and execution of the arrest warrant shall apply accordingly.

(4) The person sought regarding whom the measure of provisional arrest has been taken shall be placed in arrest with the police.
(5) During the resolution of the case, the court shall re-examine periodically, but not later than 30 days the need to maintain the measure of provisional arrest, and may ordain, according to case, either extension or the replacement of this measure by the measure of obligation not to leave the country or city. The measure of provisional arrest is replaced with the obligation of not leaving the country or city only in well-grounded cases and only if the court considers that the person sought will not try to evade the judgment of the request for extradition.
(6) Once the request for extradition is granted, by issuing a sentence, the court shall also order the arrest of the extradited person in view of his/her surrender.
(7) The measure of arrest in view of the surrender shall cease by law if the extradited person is not taken into the custody of the competent authorities in the Requested state in 30 days from the date agreed upon for surrender, except for the case provisioned in Article 57 (6). In this case, the court shall order at once the release of the extradited person and shall inform in this respect the Ministry of Justice and the Centre for International Police Cooperation within the General Inspectorate of the Romanian Police.
(8) If against the person sought the Romanian judicial authorities have issued a warrant for provisional arrest or a warrant of service of imprisonment, for acts committed in Romanian territory, the warrant for provisional arrest in view of extradition shall take effect from the date when the person concerned is no longer under the rule of the warrant for provisional arrest or of the warrant for service of imprisonment.
(9) The closure, according to which the measure of provisional arrest in view of extradition was ordered to be imposed, maintained, replaced or ceased, may be filed against by appeal in recourse in 24 hours from pronunciation. The file shall be submitted to the appeal court in 24 hours and the appeal in recourse shall be judged in 3 days from the registration of the case. The appeal in recourse filed against the closure according to which the provisional arrest measure was ordered or maintained is not liable to suspension.

ARTICLE 44

Provisional arrest in cases of emergency

(1) In cases of emergency, the competent authorities of the Requesting State may request the provisional arrest of the requested person, even before the drawing up and sending of the formal request for extradition.
(2) A request for provisional arrest in view of extradition must specify the existence of a warrant for provisional arrest or of a warrant for service of a penalty applied by a final court judgment against the requested person, a brief presentation of the acts, which needs to specify the date and place of commission and mention the legal provisions applicable, as well as the available data regarding the identity, citizenship and location of this person.
(3) Requests for provisional arrest in view of extradition shall be sent, through the Centre for International Police Cooperation, to the competent prosecutor's office, with the notification of the Ministry of Justice. If the provisional arrest in view of extradition shall be requested on the basis of reciprocity, as well as when the request for extradition concerns one of the persons provisioned in Article 19, the request shall be sent on a mandatory basis to the Ministry of Justice in view of performing the international regularity examination provisioned in Article 38, which will apply accordingly.
(4) A request for provisional arrest in view of extradition may be executed only when there is no doubt concerning the competence of the requesting authority and the request contains the elements mentioned in paragraph (2).
(5) Article 45 shall apply accordingly.
(6) The court may, either ex officio, upon notification from the competent public prosecutor or upon request from the person sought, ordain the cessation of the provisional arrest in view of

extradition if, within 18 days from the taking of the measure, the Romanian State is not notified with a request for extradition, accompanied by the documents mentioned in Article 36. Provisional arrest ceases de jure after 40 days, if in this time interval the request for extradition and the necessary documents are not received, unless a bilateral treaty specifies a different limit for the duration of provisional arrest.

(7) The provisional release does not exclude a new provisional arrest in view of extradition, nor does it exclude extradition, should a request for extradition be received later on.

ARTICLE 45

Detainment in view of extradition

The judicial body, from the area in which the person whose provisional arrest in view of extradition is requested by the competent authorities in the Requested State, is located, may order the detainment for no more than 24 hours. If the detainment was decided by the criminal investigation bodies of the judicial police, it is mandatory for such authority to present the international sought person to the competent prosecutor in the first 10 hours.

ARTICLE 46

The procedure with the court of appeal

(1) In the first hearing, the court shall take a statement from the person sought, who shall be assisted free of charge by an interpreter and a defender appointed ex officio, if there is no chosen lawyer. The presence of the public prosecutor is obligatory. The procedure shall be public, unless the person sought or the public prosecutor opposes its publicity, and it shall be also oral and contradictory.

(2) The person sought or the session prosecutor may request that the court allow a supplementary term of 8 days, for sufficiently justified reasons. The public prosecutor's office shall be obliged to contribute to the collection of data and documents needed in order to establish whether the conditions are met for an extradition and to ordain the seizure and depositing with the court of the objects referred to in Article 17.

(3) After the questioning, the person sought may opt either for voluntary extradition, or for continuation of the procedure, in case of opposition to extradition.

ARTICLE 47

Voluntary extradition

(1) A person sought shall have a right to declare before the court that he renounces the benefits of defending himself against the request for extradition that are provided to him by the law, and that he gives his consent to being extradited and surrendered to the competent authorities of the Requesting State. His statement shall be recorded in an official record, signed by the president of the judgment panel, by the court clerk, by the person sought, by his lawyer and by the interpreter. If the court finds that the person sought is fully aware of the consequences of his option, the court, taking note of the public prosecutor’s conclusions also, examines whether there are any impediments for extradition. If it is found that voluntary extradition is admissible, the court shall take act of this through a sentence and ordain upon the measure of provisional arrest to be taken until the person sought is surrendered. This sentence is final and shall be drawn up within 24 hours, and an authenticated copy of it shall be sent at once to the Ministry of Justice, which shall proceed according to the law.

(2) Under the conditions mentioned in paragraph (1), the person sought may declare that he renounces the application of the speciality rule provided in Article 74.

ARTICLE 48

Simplified extradition

In the case mentioned in Article 47, it is no longer necessary to present a formal request for

extradition and the documents provided in Article 36 paragraph (2) if it is thus provided in the international convention applicable in relation to the Requested State or if the legislation of that State allows such a simplified extradition procedure and it has been applied to requests for extradition submitted by Romania.

ARTICLE 49

Opposition to extradition by the person sought

(1) Should the person sought oppose the request for extradition, he shall be able to defend himself orally and in writing; and also to bring evidence.

(2) After hearing the person sought, the file of the case shall be made available to the latter's defender for presenting, in writing, within 8 days, a reasoned opposition to the request for extradition and for showing the evidence allowed by Romanian law. The number of witnesses shall not exceed two.

(3) Opposition may be founded only upon the fact that the person arrested is not the person requested or that the conditions for extradition are not met.

(4) Once the opposition has been presented or the time limit for presenting it has expired, the public prosecutor may request a term of 8 days to reply to the opposition or to produce evidence, according to paragraph (2).

ARTICLE 50

Production of evidence

The evidence approved by the court shall be produced within 15 days, in the presence of the person sought assisted by the defender and, if necessary, by an interpreter, as well as in the presence of the public prosecutor.

ARTICLE 51

Additional information

(1) Should the information provided by the Requesting State prove insufficient for allowing the Romanian State to render a decision in the application of this law, the competent court shall request the information needed. It shall appoint a term of 2 months to this aim.

(2) The request for additional information, as well as the reply shall be sent by one of the means mentioned in Article 36.

ARTICLE 52

Resolution of the case

(1) After examining the request for extradition, the evidence and the conclusions of the party sought and of the public prosecutor, the court of appeal may:

a) ordain, in case of concurrence of requests as provided in Article 39, a connection of the cases, even if they refer to different acts or are registered with different courts of appeal. The jurisdiction belongs to the court of appeal that was the first notified;

b) ordain, in case of need for additional information from the Requesting State according to Article 51, a postponement of the resolution of the request for extradition for a term of 2 months. The request may be reiterated, and then a last term of 2 more months shall be granted;

c) find, through a sentence, whether or not the conditions for extradition are met.

(2) The court of appeal is not competent to decide upon the correctness of the prosecution or conviction for which the foreign authority is requesting extradition, nor upon the desirability of the extradition.

(3) Should the court of appeal find that the conditions for extradition are met, it shall decide to allow the request for extradition and ordain the maintenance of the provisional arrest in view of extradition, until the extradited person is surrendered, in Article 57.

(4) The decision ordaining extradition shall be reasoned within 5 days from its handing down.
(5) In case of temporary or conditional extradition, the court shall make mention in the enacting terms of the sentence, of the conditions provided in those Articles.
(6) Where the request for extradition is allowed, if any objects are to be handed over according to Article 17, this shall be mentioned in the sentence, perhaps attaching an inventory of the objects.
(7) Should the court find that the conditions for extradition are not met, it shall reject the request and ordain the release of the person sought. The decision shall be reasoned within 24 hours and sent to the general prosecutor attached to the court of appeal, which shall send it at once to the specialized compartment in the Ministry of Justice.
(8) Decisions upon extradition may be appealed against on points of law by the competent general prosecutor and by the person sought, within 5 days from its handing down, with the Criminal Section of the High Court of Cassation and Justice. The competent general prosecutor may file an appeal on points of law ex officio or upon the request of the minister of justice.
(9) An appeal lodged against a decision rejecting a request for extradition shall stay the execution. An appeal against a decision ordaining extradition shall stay the execution, subject to the provisions on provisional arrest in view of extradition.

ARTICLE 53

Judgment of the appeal on points of law and notification of the decision

(1) After the sentence of the court of appeal is reasoned, the file of the case shall be at once forwarded to the Criminal Section of the High Court of Cassation and Justice.
(2) Upon receiving the file, the president of the Criminal Section of the High Court of Cassation and Justice shall appoint a term for judgment regardless of the existence of other pending cases, with priority.
(3) The appeal on points of law shall be judged within 10 days, by a panel of 3 judges.
(4) To solve the appeal on points of law, the panel president may designate one of the judges or an assistant magistrate to make a written report.
(5) The file of the case shall be returned to the court of appeal within 3 days from resolution of the appeal on points of law.
(6) The final decision upon extradition shall be notified to the general prosecutor attached to the court of appeal that judged the case in first instance, and to the specialized directorate within the Ministry of Justice.

ARTICLE 54

Analogy

Article 52 paragraph (8) and Article 53 shall apply accordingly also where the court decides upon postponement of extradition, upon conditional admission of extradition, upon consent for extension of the object of extradition and upon re-extradition to a third State.

ARTICLE 55

Escape of the extradited person

An extradited person who, after having been surrendered to the Requesting State, escaped before the resolution of the case or before serving the penalty for which extradition was granted, and who returns to or is identified in Romania, shall be arrested and surrendered once again, based on a warrant issued by the competent judicial authority of the Requesting State, unless the latter breached the conditions on which extradition was granted.

SECTION 3

Effects of extradition from Romania

ARTICLE 56

Surrendering the extradited person

(1) An excerpt of the final court decision ordaining extradition shall be deemed as necessary and sufficient legal basis for surrendering the extradited.

(2) In order to establish the place and date of the surrender, the Ministry of Justice shall inform the Centre for International Police Cooperation within the General Inspectorate of the Romanian Police an excerpt of the enforceable court decision.

(3) The date of surrender shall be communicated to the Ministry of Justice and to the competent court of appeals within 15 days from the date of the transmission of the court decision provisioned in paragraph (1). If the surrender date was not set within the 15 days period, the Centre for International Police Cooperation within the General Inspectorate of the Romanian Police shall submit an information note pertaining to the measures taken and the reasons for which the surrender date could not be set during this period.

ARTICLE 57

Terms for surrender of the extradited person

(1) The Ministry of Justice shall at once make known to the competent authority of the Requesting State the solution adopted with respect to the extradition, and it shall also send it an excerpt of the final decision.

(2) Any solution of total or partial rejection shall be reasoned.

(3) In case of approval of extradition, the Requesting State shall be informed of the place and date of surrender, as well as of the length of arrest in view of extradition served by the person sought.

(4) The place of surrender shall be, usually, a border point of the Romanian State. The Centre for International Police Cooperation within the General Inspectorate of the Romanian Police, through the National Office Interpol shall ensure the surrender, and then it shall notify the Ministry of Justice and the competent court of appeals. The person sought shall be surrendered and taken over under escort.

(5) Except for the case in paragraph (6), if the person sought is not taken over at the appointed date, he may be released within 15 days from this date; this term may be extended only by 15 days more.

(6) In case of force majeure that prevents the surrender or taking-over of the person subject to extradition, the Romanian authorities and those of the Requesting State shall agree upon a new date of surrender, and provisions of Article 56 (3) are applicable.

ARTICLE 58

Postponed surrender

(1) The existence of a criminal trial pending with Romanian judicial authorities against the person sought or the fact that the person sought is serving a penalty of imprisonment, shall not prevent extradition.

(2) In the cases mentioned in paragraph (1), the surrender of the extradited may be postponed. In case of postponement, extradition may take effect only after the criminal trial has ended, and in case of sentence to a custodial penalty, only after this penalty has been served or deemed as served.

(3) The surrender of an extradited may be postponed also when it is found, based on medical expertise, that he is suffering from a disease that poses a threat to his life.

(4) In case of postponement of surrender while extradition has been approved, the court shall issue a warrant for provisional arrest in view of extradition. If the extradited person is, at the time when the request for extradition is allowed, under the rule of a warrant for provisional arrest or a warrant for service of imprisonment issued by the Romanian judicial authorities,

the warrant for provisional arrest in view of extradition shall come into force on the date when the reasons that justified the postponement cease to exist.

ARTICLE 59

Temporary or conditional surrender

(1) In the case under paragraph (1) of Article 60, the extradited person may be surrendered temporarily, if the Requesting State proves that a postponement of surrender would cause serious prejudice, such as expiry of the period of time limitation, on the condition that this surrender is not detrimental to the criminal trial pending in Romania and that the Requesting State give guarantees that, once the proceedings for which the extradition was granted are completed, it shall return the extradited.

(2) Upon request from the Requesting State, sent by one of the means provided in this law, temporary surrender shall be approved, through a closure handed down in the council chamber, by the president of the criminal section of the court of appeal that tried in first instance the request for extradition.

(3) In view of solving the request, the court shall analyze the meeting of the criteria in paragraph (1), also requesting the endorsement of the judicial authority with which the cause is pending or, the case being, that of the executing court.

(4) Should the person surrendered temporarily be serving a penalty or a preventive measure, its service shall be deemed as suspended starting with the date when the person was surrendered to the competent authorities of the Requesting State until the date when he is returned to the Romanian authorities.

ARTICLE 60

Transit

(1) The transit, in Romanian territory, of an extradited who is not a Romanian citizen, may be granted on condition that no reasons of public policy is opposed to this and that extradition is granted for the offence, according to the Romanian law.

(2) Should the extradited person have Romanian citizenship, the transit shall not be granted unless the situation is one in which the extradition of Romanian citizens can be approved.

(3) Transit is granted upon request from the State concerned, made and sent by the means in Article 38 (1), to which shall be attached at least the warrant for provisional arrest or the warrant for service of the penalty of imprisonment that justified the granting of extradition.

(4) Decisions regarding transit shall be made by the Ministry of Justice.

(5) The Ministry of Justice shall at once notify its decision to the competent authority of the Requesting State and to the Ministry of Administration and the Interior.

(6) In case of air transit, when no landing on Romanian territory is intended, it is sufficient that a notification be made by the competent authority of the Requesting State to the Romanian Ministry of Justice. In case of forced landing, this notification shall have the same effects as a request for provisional arrest in view of extradition, and the Requesting State shall immediately address a formal request for transit. Paragraph 3 shall apply accordingly.

(7) An extradited person who is in transit shall remain in a state of provisional arrest for the duration of his stay in Romanian territory.

ARTICLE 61

Re-extradition to a third State

(1) Outside the case in Article 11 (1) (b), Romania's consent is required in order to allow the Requesting State to surrender to another State the person who was surrendered to it and who is wanted by the third State for offences previous to the surrender. Romania may request that the documents in Article 36 paragraph (2) be presented.

(2) Articles 52 and 53 shall apply accordingly.

CHAPTER II
Active Extradition

SECTION 1
Conditions for requesting extradition

ARTICLE 62
Obligation to request extradition

The extradition of a person against whom the competent Romanian judicial authorities have issued a warrant for provisional arrest or a warrant for service of imprisonment or to whom a preventive measure was imposed shall be requested from a foreign State on the territory of which he was located, in all cases where the conditions provided in this law are met.

ARTICLE 63
Legal framework

(1) Section I of Chapter I of this Title shall apply accordingly if Romania is the Requesting State.
(2) In addition to the condition concerning the seriousness of the penalty provided in Article 26, there is a supplementary condition in order for Romania to be able to request the extradition of a person in view of criminal prosecution: criminal action must have been initiated against that person, according to the conditions mentioned in the Code of Penal Procedure.

SECTION 2
The procedure for requesting extradition

ARTICLE 64
Competence

The competence to draw up and send requests for extradition on behalf of Romania belongs to the Ministry of Justice.

ARTICLE 65
International search in view of extradition

(1) Where a warrant for provisional arrest or for penalty service cannot be carried out because the defendant or convicted person is no longer in Romanian territory, the court that issued the warrant for provisional arrest or the executing court, where appropriate, at the request of the prosecutor notified by the police, shall issue a warrant for international search in view of extradition, which shall be sent to the Centre for International Police Co-operation within the Romanian General Police Inspectorate, in view of dissemination through the relevant channels.
(2) The warrant for international search in view of extradition shall contain all the elements needed for identifying the person sought, a summary of the factual situation and data on the legal classification of the acts, and also the request for provisional arrest in view of extradition.
(3) A notice entered into the Schengen Information System shall be equivalent to a warrant for international search in view of extradition.
(4) The provisions of this article shall not prejudice the provisions of Article 88, which shall apply in relation to the Member States of the European Union. If the state on whose territory the person concerned is located is not known, the provisions of this article and the provisions of Article 88 shall apply simultaneously.

ARTICLE 66
The procedure for active extradition

(1) As soon as it is informed, by any means capable of producing a written record and the authenticity of which can be verified, by the Centre for International Police Co-operation from the Romanian General Police Inspectorate, through its specialized structure, or by the Ministry of Justice, about the fact that a person who is sought internationally or wanted by the Romanian judicial authorities for enforcing a warrant for service of imprisonment or a warrant for provisional arrest, has been located in the territory of a foreign State, the executing court or the court that issued the warrant for provisional arrest shall establish, through a reasoned conclusion, whether the conditions set forth in this Law are met for requesting extradition.

(2) The Centre for International Police Co-operation is obliged to inform, through its specialized structure, the executing court or the court that issued the warrant for provisional arrest, as soon as the corresponding Central National Interpol Office notifies the fact that the person who is the object of the warrant has been located. The information shall be sent directly, and a copy thereof shall be sent to the Ministry of Justice.

(3) The court shall decide through a conclusion, handed down in the council chamber by a single judge, with the participation of the prosecutor and without summoning the parties, on an emergency and priority basis. The conclusion shall not be handed down in a public session and shall be entered into a special register.

(4) In order to keep evidence of the court activity a separate registry shall be kept for rulings in respect of notifications concerning extradition. This registry shall contain the files in each hearing, separated for each panel, the closure rendered and its number, as well as the initials of the judge having drawn it. At the same time, the registry for recording notifications concerning extradition shall be prepared and kept, where the following mentions shall be written: running number; name and forename of the defendant or convicted person; number and date of the warrant for provisional arrest or for serving the sentence; number and date of the letter from the International Police Cooperation Office within the Romanian General Police Inspectorate or the Ministry of Justice; the number of the court file; the number and date when the closure was delivered; the date when the closure was served to the Ministry of Justice. The appeal court shall keep a separate registry for these cases. The registry evidencing notifications concerning extradition is not intended for to be made public.

(5) The conclusion in paragraph (3) may be appealed by the prosecutor, within 24 hours from its handing down. The case file shall be forwarded to the appellate court within 24 hours. The appeal shall be tried within no more than 3 days by the higher-ranking court. The appellate court shall return the case file to the first court within 24 hours from the resolution of the appeal.

(6) The final conclusion finding that the legal conditions are met for requesting extradition, together with the documents in Article 36 (2), shall be sent at once to the Ministry of Justice. The final conclusion finding that the conditions are not met for requesting extradition shall be sent to the Ministry of Justice within 3 days from its rendition.

(7) Within no more than 3 days of the receipt of the final conclusion finding that the conditions are met for requesting extradition, the Ministry of Justice shall perform, through its specialized directorate, an international regularity check, under Article 38, which shall apply accordingly.

(8) Depending on the conclusions of the international regularity check, the specialized directorate of the Ministry of Justice shall either draw up the extradition request and send it, together with the attached documents, to the competent authority of the Requested State, or draw up a reasoned document suggesting to the Minister of Justice to notify the general prosecutor attached to the High Court of Cassation and Justice, in view of initiating the procedure for revision of the final conclusion that ordained the request for extradition. In both cases, it shall inform the Centre for International Police Co-operation within the Romanian General Police Inspectorate. If it finds the documents to be incomplete, before drawing up and sending the extradition request, the specialized directorate of the Ministry of Justice may require the competent court to send within no more than 72 hours the additional documents needed according to the appropriate international treaty.

(9) When it is found that the conditions of international regularity are not met for requesting

extradition, the Minister of Justice, through the general prosecutor attached to the High Court of Cassation and Justice, shall request the initiation of the procedure for revision of the final decision having ascertained fulfillment of the conditions required to request extradition. The Minister of Justice may not request initiation of the procedure of revision for any other reasons than those relating to the conclusions of the international regularity check.

(10) Requests for revision shall be submitted within no more than 3 days, if the person referred to in paragraph (1) is detained in view of being extradited to Romania. In all other cases the request shall be submitted within no more than 15 days. The period shall start running from the date when the general prosecutor receives the request whereby the Minister of Justice requires the former to support the revision of the final court decision having ascertained fulfillment of the conditions necessary to request extradition. The court competent to judge the revision request shall be the court referred to in paragraph (1). If the person specified in paragraph (1) is arrested in view of being extradited to Romania, the revision request shall be settled as a matter of emergency and priority. In all other cases, the revision request shall be settled within no more than one month after the cause registration date.

(11) If it finds that the request for revision is justified, the court shall cancel the appealed conclusion. Where the court finds that the request for revision is not justified, it shall reject it and uphold the conclusion. The revision court's decision shall be final and must be notified within 24 hours from rendition to the Minister of Justice and to the general prosecutor attached to the High Court of Cassation and Justice.

(12) Requests for extradition and the documents attached thereto, together with the documents in Article 36 (2) and by certified translations into the language of the Requested State or into English or French, shall be sent to the competent authority of the Requested State, through one of the channels provided in Article 36 (1).

(13) If extradition is requested for a person convicted *in absentia*, for the case where the Requested State informs the pursued person of the decision rendered *in absentia*, such a notice shall not produce effects in consideration of the Romanian criminal procedure.

(14) Where the person sought is not provisionally arrested in view of extradition, the procedure provided in this Article shall be confidential until the Requested State receives an extradition request.

ARTICLE 67

Withdrawal of the extradition request

(1) Where the person sought is no longer under the power of the warrant for provisional arrest or of the warrant for penalty service, the competent court shall, either *ex officio* or at the prosecutor's request, establish through a reasoned conclusion that the legal conditions for requesting extradition no longer exist and shall at once ordain the withdrawal of the extradition request. This decision shall be sent to the Ministry of Justice within 24 hours from its pronouncement. The Ministry of Justice shall withdraw without delay the extradition request and announce this to the Centre for International Police Co-operation within the Romanian General Police Inspectorate.

(2) Article 66 shall apply accordingly.

ARTICLE 68

Transmission of additional information
at the request of the Requesting State

(1) Where, in order to solve an extradition request, the authorities of a foreign State request the transmission of additional information, it shall be sent to it within the time limit set by the authorities of the Requested State, either through the Ministry of Justice or directly, by the competent court.

(2) The task of having the documents translated belongs to the Ministry of Justice or, where appropriate, to the competent court.

ARTICLE 69

Re-trial for the extradited person

The assurance of re-trial in case of extradition of the person convicted *in absentia* shall be provided by the Ministry of Justice, upon the request of the Requested State.

ARTICLE 70

Request for re-extradition to Romania

Article 61 shall apply accordingly if Romania requests to a foreign State the re-extradition of a person whose extradition has previously been granted to the latter by a third State.

SECTION 3

Effects of extradition into Romania

ARTICLE 71

Taking over the extradited

The provisions concerning the surrender/taking-over of the extradited person included in Articles 56 and 57 shall apply accordingly in the case of persons extradited from abroad into Romania.

ARTICLE 72

Receipt of the extradited

(1) When brought to Romania, an extradited person shall be at once handed over to the prison administration or to the competent judicial authority, according to case.

(2) Should the extradited have been sentenced *in absentia*, he shall be re-tried, upon request, while observing the rights in Article 32 (1).

ARTICLE 73

Notification of the solution

The Ministry of Justice shall inform the competent Romanian judicial authority of the manner in which the request for extradition was solved by the Requested State and, the case being, of the length of provisional arrest in view of extradition, so that it may be deducted according to Article 15.

ARTICLE 74

The speciality rule

(1) A person surrendered as an effect of extradition shall not be prosecuted, tried or detained in view of serving a penalty, or subjected to any other restraint of his/her personal freedom for any act that is previous to the surrender, other than the one that motivated the extradition, unless:
   a) the State that surrendered the person so consents; for this purpose, the competent Romanian authorities shall deliver to the Requested State a request in this respect, together with the documents stipulated in Article 36 (2) and a protocol recording of the statements of the extradited person;
   b) while being able to do so, the extradited person has not left the territory of Romania, within 45 days from his final release, or when he returned to Romania after having left it;

(2) The Romanian authorities may however take the necessary measures in view of, on the one hand, a possible sending of the person away from the Romanian territory, and on the other hand, an interruption in the period of time limitation according to its legislation, including the recourse to a procedure *in absentia*.

(3) When the classification of the act incriminated is to be amended during the procedure, the extradited person shall not be prosecuted or tried except to the extent that the elements that make up the re-classified offence would allow extradition.

(4) In the case in paragraph (1) (a), the request to the foreign State shall be submitted by the Ministry of Justice, based on a conclusion by the court that has competence to solve the case in first instance, at the reasoned proposal of the Public Ministry or based on a conclusion by the court with which the case is pending, where extradition has been granted after the beginning of the trial of the extradited person, as the case may be.

ARTICLE 75
Effects of conditional extradition

(1) Where extradition has been granted subject to a condition, the court that requested extradition shall take the measures needed in view of observing the condition imposed by the Requested State and shall provide guarantees in this respect.
(2) Where the condition imposed is the resending of the extradited person into the territory of the Requesting State, the court shall ordain that such person be escorted to the border in view of being taken over by the competent authorities of the Requesting State.

CHAPTER III
Common provisions

ARTICLE 76
Costs

(1) Costs regarding the procedure of extradition performed in Romanian territory shall be borne by the Romanian State, through the budgets of the authorities and institutions involved, according to the competences given to each of them by this Law. Article 16 (4) shall apply accordingly.
(2) Transit costs shall be borne by the Requesting State.

ARTICLE 77
Extradition fraud

The surrender of a person by expulsion, readmission, re-escort to the frontier or another measure of the same type is prohibited whenever it conceals a will to elude extradition rules.

CHAPTER IV
Provisions for the implementation of legal instruments relating to extradition and adopted within the European Union

ARTICLE 78
Scope of application

(1) This Chapter is aimed at implementing the provisions of the Convention of 10 March 1995 on simplified extradition procedures between the Member States of the European Union and the Convention of 27 September 1996 relating to extradition between the Member States of the European Union, as well as the provisions regarding extradition included in the Convention of 19 June 1990 applying the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, Schengen, in relation to the Member States of the European Union that have submitted statements on the non-application of the Council Framework Decision of 13 June 2002 on the European Arrest Warrant and the surrender procedures between Member States of the European Union for acts committed prior to a certain date.
(2) Chapters I and II of this Title shall apply accordingly, however without affecting the obligations that emerge from accession to the Convention of 10 March 1995 on simplified extradition procedures between the Member States of the European Union, and to the Convention of 27 September 1996 relating to extradition between the Member States of the European Union.

ARTICLE 79

Political offences

In the application of the Convention of 27 September 1996 relating to extradition between the Member States of the European Union, no offence may be considered to be a political offence.

ARTICLE 80

Statutory limitation, amnesty and other causes that remove criminal liability or the consequences of sentencing

(1) As regards the statutory limitation of criminal liability and penalty service, only the provisions included in the legislation of the Requesting State shall be applicable.

(2) Amnesty granted by Romania shall not prevent extradition, unless the act provided in criminal law is of the competence of Romanian courts.

(3) The absence of a prior complaint or of another condition required for initiating criminal actions under Romanian law, shall not affect the obligation to extradite.

ARTICLE 81

Extradition in matters of excise taxes, value-added tax and customs

Romania shall grant extradition for acts provided in criminal law in matters of excise taxes, value-added tax and in matters of customs, under the Law.

ARTICLE 82

Entry into the Schengen Information System

An entry into the Schengen Information System shall have the same effect as a request for provisional arrest in view of extradition, within the meaning of Article 16 of the European Convention on Extradition, concluded in Paris on 13 December 1957.

ARTICLE 83

Simplified extradition

Simplified extradition shall apply in relations with the Member States of the European Union, without checking the special conditions provided in Article 48, whenever the conditions in Article 47 are met.

TITLE IV

Transfer of proceedings in criminal matters

CHAPTER I

Requests for transfer of criminal proceedings

ARTICLE 123

General provisions

The exercise of criminal proceedings or the continuation of proceedings initiated by the competent Romanian judicial authorities for an act that is an offence according to Romanian law, may be transferred to a foreign State under the conditions set forth in this Title.

ARTICLE 124

Conditions

(1) Romanian judicial authorities may request the competent authorities of another State to exercise criminal proceedings or continue the same if transfer of the criminal proceedings benefits the interests of proper management of justice or promotes social re-inclusion in case of a conviction, in one of the following cases:

a) the person accused of having committed the offence is currently serving a sentence in

the territory of the Requested State, for an offence that is more serious than the one committed in Romania;

b) the person accused of having committed the offence resides in the territory of the Requested State and, according to the law of the latter State, extradition or surrender was refused or would be refused if a request were submitted or a European Arrest Warrant issued;

c) the person accused of having committed the offence resides in the territory of the Requested State and, according to the law of the latter State, the recognition of the final penal sentence rendered by the Romanian court was refused or does not comply with the national legal order of such State, if the convicted person did not start serving the sentence, and execution is not possible even of the way for extradition or surrender is clear.

(2) Transfer of criminal proceedings may also be requested when the Romanian judicial authorities deem, depending on the particulars of the case, that the presence of the person accused of having committed the offence during the criminal investigation cannot be ensured and this is possible in the foreign State.

ARTICLE 125

Procedure

(1) Transfer of criminal proceedings shall be requested based on the decision of the court that would be competent to settle the case in first instance, if the proceedings refer to criminal prosecution, or of the court with which the case is pending, if the proceedings refer to a trial.

(2) In this respect, upon proposal by the prosecutor carrying out or monitoring criminal prosecution or *ex officio*, provided that the conditions required by law are fulfilled, the court shall order, by closure based on reasons, to transfer the criminal proceedings. If the criminal prosecution is being transferred, the prosecutor's proposal shall be settled behind closed doors by a panel consisting of a single judge, irrespective of the nature of the offence, and attendance by the prosecutor is mandatory.

(3) The conclusion in paragraph (2) may be appealed. The time limit for appeal shall be 5 days from its rendition. The file shall be submitted to the appeal court within 5 days, and the appeal shall be judged within 30 days after the registration of the case. The appeal shall stay the execution.

(4) The final conclusion ordaining transfer of proceedings shall stay the period of time limitation for criminal liability, as well as the continuation of the criminal proceedings already initiated, subject to acts and steps of urgent nature.

(5) The request shall be submitted by the prosecutor carrying out or monitoring the criminal prosecution or by the court, as appropriate, and shall be delivered to the Prosecutor's Office attached to the High Court of Cassation and Justice or to the Ministry of Justice, in accordance with Article 10, together with copies certified by a competent Romanian magistrate of all relevant documents, save where the foreign State requests that the original of the file be sent.

(6) If not transmitted to the Requested State, the original of the file shall be archived. If the original is delivered, o certified copy of the file shall be kept in the archives. Return of the original is requested if the criminal prosecution or trial is not taken over by the Requested State.

ARTICLE 126

Transmission of requests

The Ministry of Justice or, where appropriate, the Prosecutor's Office attached to the High Court of Cassation and Justice, shall ensure the transmission of requests for transfer of criminal proceedings by one of the means provided in this Law.

Article 127

Effects of transfer

(1) After the approval of the transfer of criminal proceedings by the Requested State, no other proceedings for the same act can be initiated by the Romanian judicial authorities.

(2) Suspension of the period of time limitation for criminal liability shall be maintained until the cause is solved by the competent authorities of the Requested State.

(3) Romania shall regain its right to initiate, or, the case being, resume criminal prosecution for that act if:

a) the Requested State informs it that it cannot complete the criminal prosecution that was transferred to it;

b) it subsequently becomes aware of a reason that, according to this law, would prevent the request for transfer of criminal proceedings.

(4) In case of conviction, the decision handed down in the proceedings initiated or continued in the Requested State, once it is final, shall be mentioned in the judicial record and take the same effects as if it had been handed down by a Romanian court.

CHAPTER II

Taking over criminal prosecution or criminal proceedings

ARTICLE 128

Requests for taking over the criminal proceedings

(1) Any request for taking over the criminal proceedings made by a foreign State to the Romanian public prosecutor's offices or courts shall be forwarded, according to case, to the Ministry of Justice or to the public prosecutor's office attached to the High Court of Cassation and Justice.

(2) Requests for taking over the criminal prosecution shall be solved by the public prosecutor's office attached to the court of appeal that has jurisdiction over the domicile or the location of the requested person. Requests for taking over a trial shall be solved by the criminal section of the court of appeal that has jurisdiction over the domicile or location of the requested person.

(3) The competent general prosecutor or the public prosecutor designated by him shall decide upon the request according to the Code of Penal Procedure.

(4) Requests for taking over a trial shall be sent by the Ministry of Justice to the public prosecutor's office attached to the court of appeal that is competent to solve it. The competent general prosecutor shall notify his proposal for admission or rejection of the request to the court of appeal.

(5) Once invested with a request for taking over a trial, the competent court of appeal shall ordain upon the admissibility of the request, through a reasoned conclusion. The conclusion may be appealed within 5 days from its handing down.

(6) If the request is deemed as admissible, the trial shall continue according to the Code of Penal Procedure.

(7) The Prosecutor’s Office attached to the High Court of Cassation and Justice or the Ministry of Justice shall inform the authorities of the Requesting State in respect of the admission or dismissal of the request to transfer the criminal proceedings.

CHAPTER III

Provisions for the implementation of the Convention of 19 June 1990 applying the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders, Schengen

ARTICLE 129

Application of the *non bis in idem* principle

(1) A person who has been finally judged by a Member State of the Schengen Area may not be prosecuted or tried by another for the same acts provided that, where he is sentenced, the sentence has been served or is currently being served or can no longer be carried out under the law of the sentencing State.

(2) Nevertheless, paragraph (1) shall not apply where:

a) the acts to which the foreign judgment relates took place in whole or in part in Romanian territory. In this case, this exception shall not apply if the acts took place in part in the territory of the Member State where the judgment was given;

b) the acts to which the foreign judgment relates constitute an offence against State security or other equally essential interests of Romania;

c) the acts to which the foreign judgment relates were committed by a Romanian official in violation of the obligations of his office.

The exceptions in paragraph (2) shall not apply where the Member State concerned has, in respect of the same acts, requested the taking over of criminal prosecution or has granted the extradition of the person concerned.

ARTICLE 179

Spontaneous exchange of information

(1) Romanian judicial authorities may, without prior request, forward to the competent authorities of a foreign State information obtained within the framework of their own investigations, when they consider that the disclosure of such information might assist the receiving State in initiating criminal proceedings, or might lead to a request for judicial assistance by that State.

(2) Romania may impose conditions on the use of the information sent, according to paragraph (1). The receiving State shall be bound by the conditions imposed.

ARTICLE 180

Controlled delivery

(1) Romanian judicial authorities shall authorize, upon request, under the conditions provided in Romanian law, controlled deliveries, within the framework of criminal proceedings relating to offences for which extradition is granted.

(2) Controlled deliveries shall take place in accordance with Romanian law.

(3) This Article shall apply accordingly where assistance is requested by Romanian judicial authorities.

ARTICLE 181

Covert investigations

(1) Romania and a foreign State may agree to assist one another in the conduct of investigations by officers under covert or false identity.

(2) The competent Romanian authorities shall decide, in each individual case, according to Romanian law.

(3) The actual modalities of carrying out the investigation and the legal status of the officers concerned shall be agreed between the Romanian and foreign judicial authorities, under Romanian law.

ARTICLE 182

Joint investigation teams

(1) In view of facilitating the resolution of a request for rogatory letters, joint investigation teams may be set up for a specific purpose and a limited period, which may be extended by mutual consent. The composition of the team shall be agreed upon.
(2) A joint investigation team may, in particular, be set up where:
   a) pending proceedings with the requesting State require difficult and demanding investigations having links with both States;
   b) a number of States are conducting investigations into criminal offences in which the circumstances of the case necessitate coordinated, concerted action in the States concerned.
(3) A request for the setting up of a joint investigation team may be made by any of the States involved. The team shall be set up in one of the States in which the investigations are expected to be carried out.
(4) Requests for the setting up of a joint investigation team shall include proposals for the composition of the team.
(5) The members of the team who are designated by Romanian authorities shall be referred to as "members", while members from the foreign State shall be referred to as "seconded members".
(6) A joint investigation team shall operate in the territory of Romania under the following general rules:
   a) the leader of the team shall be a representative of the competent Romanian judicial authority;
   b) the team shall carry out its operations according to Romanian law. The members and seconded members of the team shall carry out their tasks under the leadership of the person in (a).
(7) Seconded members of the joint investigation team shall be entitled to be present when any procedural steps are taken, unless the leader of the team decides otherwise.
(8) Where the joint investigation team needs procedural steps to be taken in the requesting State, seconded members may request their own competent authorities to take those steps.
(9) A seconded member of the joint investigation team may, in accordance with his or her national law and within the limits of his or her competence, provide the team with information available in the State which has seconded him or her for the purpose of the criminal investigations conducted by the team.
(10) Information lawfully obtained by a member or seconded member while part of a joint investigation team which is not otherwise available to the competent authorities of the States involved may be used for the following purposes:
   a) for the purposes for which the team has been set up;
   b) subject to the consent of the State where the information was obtained, for detecting, investigating or prosecuting other criminal offences;
   c) for preventing an immediate and serious threat to public security, and without prejudice to the provisions of b);
   d) for other purposes to the extent that this is agreed between the States setting up the team.
(11) In the case of joint investigation teams operating in the Romanian territory, the seconded members of the team shall be assimilated to the Romanian members in relation to the offences committed against or by them.

ARTICLE 183
Cross-border observations

(1) Subject to any contrary provisions existing in the convention applicable in relation to that State, the agents of a foreign State who, within the framework of a judicial investigation, are

keeping under observation in their country a person who is presumed to have taken part in a criminal offence to which extradition may apply, or a person who it is strongly believed will lead to the identification or location of the abovementioned person, shall be authorized to continue their observation in the territory of Romania, based on a request for judicial assistance which has been previously submitted. On request, the observation may be entrusted to the competent Romanian authorities.

(2) The request for judicial assistance referred to in paragraph (1) must be sent to the Prosecutor's Office attached to the High Court of Cassation and Justice and contain all the relevant information on the case, according to the provisions of the applicable convention. Through its authorization, the Prosecutor's Office attached to the High Court of Cassation and Justice may impose certain conditions.

(3) When, for particularly urgent reasons, prior authorization of Romania cannot be requested, the foreign officers conducting the observation within the framework of a criminal investigation shall be authorized to continue in Romanian territory the observation of a person presumed to have committed any of the offences listed in paragraph (5), provided that the following conditions are met :

a) the crossing of the border shall be notified at once, during the observation, to the Prosecutor's Office attached to the High Court of Cassation and Justice, as well as to the structure of the Border Police operating within the border crossing point;

b) a request for judicial assistance submitted in accordance with paragraph (1) and outlining the grounds for crossing the border without prior authorization shall be submitted without delay.

(4) The observation referred to in paragraphs (1) and (2) shall be carried out only under the following conditions:

a) the officers conducting the observation must observe this Article and Romanian law;

b) subject to the situations in paragraph (3), the officers shall, during the observation, carry a document certifying that authorization has been granted;

c) The officers conducting the observation must be able at all times to provide proof that they are acting in an official capacity;

d) The officers conducting the observation may carry their service weapons during the observation, save where specifically otherwise decided by Prosecutor's Office attached to the High Court of Cassation and Justice through the authorization; their use shall be prohibited save in cases of legitimate self-defense;

e) Entry into private homes and places not accessible to the public shall be prohibited;

f) The officers conducting the observation may neither stop and question, nor arrest, the person under observation;

g) All operations shall be the subject of a report to the Prosecutor's Office attached to the High Court of Cassation and Justice, which may require that the officers conducting the observation appear in person;

h) The authority of the State from which the observing officers have come shall, when requested by the competent Romanian authority, assist the enquiry subsequent to the operation in which they took part, including legal proceedings;

i) the authorities of the State from which the observing officers have come shall, at the request of the Romanian authorities, contribute to the proper course of the investigation subsequent to the operation in which they took part, including legal proceedings.

(5) The observation in paragraph (3) may take place only for one of the following acts:

a) homicide, assassination and murder;

b) serious sexual offences, including rape and sexual abuse of children;

c) destruction and aggravated destruction, committed through arson, explosion or any

other such means;
d) counterfeiting and forgery of means of payment;
e) aggravated theft and robbery, as well as receiving stolen goods;
f) extortion;
g) kidnapping;
h) traffic in human beings and related offences;
i) traffic in narcotic drugs or precursors;
j) breach of the laws on arms, ammunition, explosives, nuclear materials and other radioactive substances;
k) illegal carriage of toxic and dangerous waste;
l) smuggling of aliens;
m) blackmail.

The observation in paragraph (3) shall cease where the authorization has not been obtained within 5 hours of the border being crossed, as well as at the request of the Prosecutor's Office attached to the High Court of Cassation and Justice.

ARTICLE 184
Interception and recording of conversations and communications

(1) In view of solving a criminal case, the judicial authorities of the requesting State or the competent authorities thus designated by the requesting State may make a request to the Romanian authorities for judicial assistance relating to the interception of telecommunications and their immediate transmission to the requesting State or to the interception of the recording and of the subsequent transmission of the recording of telecommunications to the requesting State, where the prosecuted person:
   a) is in the territory of the requesting State and the latter needs technical assistance to intercept communications from the target;
   b) is in Romanian territory, in the event that the communications from the target can be intercepted by Romania;
   c) is in the territory of a third State, which has been informed and if the requesting State needs technical assistance for intercepting communications from the target.

(2) Requests made under this Article must meet the following conditions:
   a) specify and confirm the issuing of an order or a warrant for interception and recording, within the framework of criminal proceedings;
   b) contain information that would allow the target of the interception to be identified;
   c) specify the criminal acts that are the object of the criminal investigation;
   d) mention the duration of interception;
   e) if possible, contain sufficient technical data, in particular the number for connecting to the network, in order to allow the processing of the request.

(3) Where the request is made under paragraph (1) (b), it must contain also a description of the facts. The Romanian judicial authorities may require any other additional information needed for establishing whether the requested measure would have been taken in a similar national case.

ARTICLE 185
Confiscation

Property emerging from the offence on which a request for letters rogatory is based shall be confiscated under the legal provisions in force.

REGULATIONS AND OTHER LEGISLATION

Emergency Ordinance no. 202 of December 04, 2008 on the implementation of international sanctions

Published in Romanian Official Journal Nr. 825 of 8 December 2008
approved by Law no. 217 of 2 June 2009

Given the international commitments assumed by Romania as a member of the United Nations and the European Union bearing in mind that legally binding acts of these organizations compel the Member States to adopt specific legislative measures for the implementation of international sanctions adopted by the Security Council of the United Nations under Article 41 of the Charter of the United Nations and by the European Union under the Common Foreign and Security Policy, given that Romania has not adopted so far certain measures of this type, such as determining the competent authorities to resolve the demands of natural and legal persons of private law for the protection of their rights and legitimate interests affected by international restrictive measures, or the establishment of sanctions for

Non-compliance with obligations set out in binding documents adopted at the international level,

Taking into account the need for speedy elimination of such gaps, and considering that this is an extraordinary situation the regulation of which cannot be postponed and that contributes to the fulfillment of obligations assumed by Romania as a Member State of the European Union and of the United Nations and to avoiding bringing claims against the Romanian State before national courts, before the Court of Justice of the European Communities or before the European Court of Human Rights,

Taking also into account the need to create the legal framework for the implementation at national level of non binding international sanctions, adopted within international organizations or by other states, as well as sanctions adopted by unilateral decisions taken by Romania or other States under art. 115 para. (4) of the Constitution of Romania, republished, the Government of Romania adopts this emergency ordinance.

Chapter I
General provisions

Article 1 – Scope

(1) This emergency ordinance regulates the implementation, at national level, of international sanctions established by:

a) resolutions of the United Nations Security Council or other acts adopted pursuant to art. 41 of the United Nations Charter;

b) regulations, decisions, common positions, joint actions and other legal instruments of the European Union.

(2) This emergency ordinance also regulates the implementation at national level of non binding international sanctions, adopted within international organizations as well as those adopted by unilateral decisions taken by Romania or by other states in fulfillment of the goals set out in art. 2 (a).

Article 2 – Definition of certain terms

For the purposes of this emergency ordinance, the terms and phrases below have the following meaning:

a) international sanctions - restrictions and obligations in connection with the governments of certain States, with non- State entities or natural or legal persons, adopted by the United Nations Security Council, the European Union, other international organizations or by unilateral decision of Romania or other states, in a purpose to maintain international peace and security, prevent and combat terrorism, ensure respect for human rights and fundamental freedoms, develop and consolidate democracy and the

rule of law and achieve other goals in line with the objectives of the international community, international law and the law the European Union.

International sanctions target, in particular, freezing of funds and economic resources, trade restrictions, restrictions on transactions with dual-use products and technology and military products, restrictions on travel, restrictions on transportation and communications, diplomatic sanctions or sanctions in the scientific and technical, cultural or sports field;

b) designated persons and entities – governments of States, non-State entities or persons subject to international sanctions;

c) good - any technology or product with an economic value or serving for satisfying a particular purpose, tangible or intangible, which belongs, or is held or under the control of designated persons or entities or which is prohibited to

import or export from or to a certain destination; the funds, economic resources and dual-use products or technologies is treated as goods;

d) funds - funds and benefits of any kind, including but not limited to:

(i) cash, checks, cash receivables, bills, orders and other payment instruments;

(ii) deposits in financial institutions or other entities, balances on accounts, debts and debt obligations;

(iii) securities negotiated at public and private level, debt securities, including stocks and shares, certificates representing securities, debentures, ticket orders, securities, unwarranted debentures and derivate contracts;

(iv) interests, dividends or other income or asset value charged on assets or generated by them;

(v) credits, compensatory rights, guarantees, performance guarantees or other financial commitments;

(vi) letters of credit, bills of lading, contracts of sale;

(vii) shares of the funds or economic resources and documents attesting to their ownership;

(viii) any other means of financing or document evidencing export financing.

e) blocking of funds - preventing any transfer, access to or use of funds in any manner that would produce a change in the volume, character, location, ownership, possession, destination or other change that would allow the use of funds, including portfolio management;

f) economic resources - assets of any kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, products or services;

g) blocking of economic resources - preventing the use of economic resources to obtain funds, products or services in any way, including through sale, lease or mortgage;

g^1) restrictions on certain funds and financial services transfers, adopted with the purpose of prevention the nuclear proliferation – prior notification and authorization of certain financial transactions with the purpose of prevention providing financial services or transfer of any funds which can contribute to the nuclear activities sensitive to the nuclear proliferation risk performed in certain states which are subjects to the international sanctions;

h) products and dual-use technologies - those products and technologies defined under Council Regulation (EC) no. 428/2009 of 5 May 2009 setting up a Community regime for the control of exports, transfer, brokering and transit of dual-use items, published in the Official Journal of the European Union no. L134 of 29 May 2009;

i) to have under control - all situations where, without holding a property title, a natural or legal person or entity has the possibility to dispose in any way with respect to goods, without obtaining a prior approval from the legal owner or to influence in any way designated persons or entities or other natural or legal persons.

Chapter II

Implementation of international sanctions

Article 3 - Mandatory character

(1) The acts referred to in Article 1 (1) are mandatory in international law for all national authorities and public institutions in Romania and for the natural or legal persons of Romanian citizenship or on the territory of Romania, in terms of rules that define legal regime of each category of acts.

(2) The provisions of domestic legislation cannot be invoked to justify the lack of implementation of international sanctions referred to in Article 1 (1).

Article 4 - National implementation measures

(1) The authorities and public institutions in Romania, according to their field of competence, have the obligation to take the necessary measures to ensure implementation of international sanctions established by the acts referred to in Article 1, in accordance with this emergency ordinance.

(2) In case of international sanctions established by the acts referred to in Article 1 (1), which are directly applicable in Romania, there will be adopted, where necessary, national regulations in order for the sanctions to be directly implemented, and if deemed necessary, in order to criminalize breaches of sanctions.

(3) In case of international sanctions established by the acts referred to in Article 1 (1), which are not directly applicable in Romania, provided they are not detailed at Community or international level by directly applicable acts, the necessary regulations for national implementation shall be adopted, which will also provide for the necessary measures for implementation, indicating the type and content of international sanctions, the designated persons and entities and, if deemed necessary, the criminalization of their infringement.

(4) International sanctions referred to in international Article 1 (2) become binding in domestic law by adoption of a national regulation that will also provide for the necessary measures for implementation, including the criminalization of their violation, as appropriate.

(5) The draft national regulations mentioned in para. (2) - (4) are drawn up at the initiative of the Ministry of Foreign Affairs, together with the authorities and public institutions with attributions in the field. They are adopted by emergency procedures.

(6) The regulations referred to in para. (2), which create the framework for the implementation of international sanctions established by directly applicable Community acts, shall be communicated to the Department for European Affairs immediately after adoption.

(7) The regulations referred to in paras. (2) - (4) take precedence over contracts concluded before or after their entry into force, unless specified otherwise.

Article 5 - Measures for publicity

(1) The authorities and public institutions referred to in art. 12. (1) and art. 17. (1), in their field of competence, ensure immediate public information on the acts establishing international sanctions, mandatory for Romania, by posting them on their website or other forms of publicity.

(2) In order to ensure publicity, by order of the minister of foreign affairs, the free publication in the Romanian Official Journal, Part I, is ensured, for the United Nations Security Council resolutions establishing international sanctions adopted under Article. 41 of the Charter of the United Nations, within 5 days of their adoption.

Article 6 - Information to Parliament and the Supreme Council for State Defense Periodically, but not less than once a year, the Prime Minister shall, according to art. 107 para. (1) of the Constitution of Romania, republished, present detailed reports to the Parliament and the Supreme Council for State Defense on the measures taken by Romania with a view to implementation of international sanctions.

Article 7 - Obligation of notification

(1) Any person who has data or information regarding designated persons or entities, or who holds or controls certain property or any person who has data or information about transactions related to goods or involving designated persons or entities is required to notify the competent authority under this emergency ordinance from the moment when he/she has obtained the information about the situation which requires notification.

(2) The authority or institution notified under para. (1), if it finds that it is not competent under this emergency ordinance, shall transmit the notification within 24 hours to the competent authority. If the competent authority cannot be identified, notification shall be forwarded to the Ministry of Foreign Affairs, in his capacity of coordinator of the Inter-institutional Committee provided for in art. 13.

(3) The notification must include minimum data for identification and contact of the sender.

Article 8 - Authorizing exemptions from the international sanctions

(1) To obtain an exemption from the application of international sanctions, respecting the conditions laid down by the Act referred to in Article 1 (1) or the Act or regulation referred to in art. 4 (4), any person may address, in writing, a request accompanied by all relevant documents to the competent Romanian authority under this emergency ordinance.

(2) The competent authority seized in this manner decides on authorizing the derogation, after obtaining the notice of compliance with international law from the Ministry of Foreign Affairs, which will be transmitted no later than 5 working

days from receipt of the request made by the competent authority.

(3) The response to the request made under para. (1) shall be communicated to the applicant, in writing by the competent authority, within 15 days of the receipt of the request, if not otherwise provided by special legislation. If the exemption is required in order to meet certain basic needs or for humanitarian reasons, the response of the competent authority shall be communicated within 5 days from receipt of the request.

(4) When granting the exemption provided in para. (1), the competent authorities shall take all necessary measures to prevent its use for purposes inconsistent with the reason for its authorization, respecting the conditions provided for in the acts establishing the international sanction.

Article 9 - General rules on decision making for the implementation of international sanctions

(1) In making decisions on the implementation of international sanctions, the competent authorities under this emergency ordinance make all

further inquiries they deem necessary, taking into account the circumstances, including, if necessary, consultations with the competent authorities of any other state.

(2) Persons filing a request under this emergency ordinance, persons who hold the goods subject to investigation under this emergency ordinance and, where appropriate, other public authorities or institutions required, communicate to the competent authority under this emergency ordinance, and upon request, within the specified timeframe, all information they have on goods, including the circumstances relating thereto, or the persons who in any way connected with such property. Upon request of the competent authority all documents regarding goods,

persons or other relevant circumstances will be presented and the access to these documents will be ensured for the empowered representatives.

(3) The decision of a competent authority may be challenged under administrative provisions of the Law no. 554/2004, with subsequent amendments.

(4) In making decisions on the implementation of international sanctions, the competent authority may request the advisory opinion of the Inter-institutional Council under Article 13, if not otherwise provided in this emergency ordinance.

Article 10 - Referral of identification errors

(1) Any person may refer in writing the competent authority under this emergency ordinance, to signal any identification error regarding designated persons, entities or goods.

(2) The competent authority shall communicate its decision on the referral in para. (1) within 15 working days from the receipt of referral, and shall, if deemed necessary dispose the relevant measures.

(3) The provisions of art. 8 and 9 shall apply accordingly.

Article 11 - Coordination of the implementation of international sanctions

(1) The public authorities and institutions in Romania inform the Romanian Ministry of Foreign Affairs, twice a year or whenever necessary, on the manner in which international sanctions are applied in their field of competence, on violations of the sanctions, on pending cases, as well and any other incidents of application.

(2) Ministry of Foreign Affairs, on the basis of information received from the competent authorities under para.(1), informs the international organizations or the Community institutions which adopted the international sanction regarding the measures taken and, if necessary, about the difficulties of their implementation at national level and transmits the information on the outcome to the authorities and institutions concerned.

Chapter III

Attributions of the public authorities and institutions in the implementation of international sanctions

Article 12 - Competent authorities to address certain requests

(1) Depending on the type of international sanction, the competent authorities to receive and resolve requests or notifications made under art. 7. (1), 8, 10, 18, 22 and 23 are the following:

a) for freezing of funds or economic resources, the Ministry of Public Finance, through the National Agency for Fiscal Administration;

b) in case of other international sanctions, the public authorities with legal powers in the field in which the specified type of international sanctions applies.

(1^1) in case of restrictions applied on certain financial services and funds transfers provided by the laws mentioned in art. 1 and which have as purpose the prevention of nuclear proliferation, the competent authority which shall receive notifications and shall solve the requests of authorization is the National Office for Prevention and Control of Money Laundering.

(2) Within 60 days after entry into force of this emergency ordinance, the competent authorities referred to in para. (1) adopt specific methodological rules regarding the procedure of resolving the notices or requests provided for in para.

(1).

Article 13 - The Inter-institutional Council

(1) With a view to ensure the general framework of cooperation for the implementation of international sanctions in Romania, the Inter-institutional Council, hereafter referred to as "the Council", is established. It is composed of

representatives of the Chancellery of the Prime-Minister, Ministry of Foreign Affairs, Department for European Affairs, Ministry of Justice and Citizens' Freedoms, Ministry of Interior and Administrative Reform, Ministry of Defense,

Ministry of Public Finance, Department of Foreign Trade of the Ministry for Small and Medium Size Enterprises, Commerce, Tourism and Liberal Professions, Ministry of Communications and Information Technology, Ministry of Transportation and Infrastructure, Romanian Intelligence Service, Foreign Intelligence Service, National Agency for Export Control, National Bank of Romania, Romanian National Securities Commission, Insurance Supervisory Commission, Private Pension System Supervisory Commission, the National Office for Preventing and Control of Money Laundering.

(2) Depending on the nature of international sanctions discussed, the Council may require participation to its meetings of representatives of other authorities or public institutions.

(3) The Council is coordinated by the Ministry of Foreign Affairs, through head of the Office for Implementation of International sanctions, and the representatives of public authorities and institutions referred to in para. (1) and (2), participating in the Council, are appointed by the heads of these institutions and have authorization to access classified information to the appropriate classification level for information used in Council meetings, according to Law no. 182/2002 on the protection of classified information, with subsequent amendments.

(4) The Council shall be convened whenever necessary, by the Ministry of Foreign Affairs, at the request of any of its members.

(5) To develop the advisory opinion under Article 14 (1) c) The Council shall meet within 3 working days from the receipt by the Ministry of Foreign Affairs of the request from the competent authority

(6) The advisory opinion is submitted to the competent authority which requested it, within two working days after the Council meeting.

(7) The Ministry of Foreign Affairs provides the secretariat of the Council.

(8) The expenditure involved for the Secretariat is supported from the annual budget approved by the Ministry of Foreign Affairs.

Article 14 - Duties of Council

(1) The Council has the following tasks:

a) to ensure consultation in order to harmonize the activities of authorities and public institutions in Romania in the

field of implementation of international sanctions;

b) to ensure the consultation between the Romanian authorities and public institutions in order to fundament Romania's position regarding the adoption, modification, suspension or termination of international sanctions;

c) to prepare and issue, at the request of the relevant competent authority, advisory opinions on the basis of decisions relating to the application of international sanctions;

d) to submit to the Prime Minister of Romania recommendations on the advisability of adopting at national level nonbinding international sanctions;

e) to present whenever necessary, but at least once a year, information on measures adopted by Romania in the implementation of international sanctions, to fundament the Prime Minister's reports referred to in art. 6;

f) to ensure, whenever possible, the dissemination of information to natural and legal persons that own or control property in connection with the imminent adoption of international sanctions under art. 1, in order to allow their implementation, from the time of the adoption and afterwards, without delay.

(2) The rules of organization and procedure of the Council are approved by the Government, within 60 days from the entry into force of this emergency ordinance.

Article 15 - Database

(1) The Ministry of Public Finance, through the National Agency for Fiscal Administration, creates and manages the centralized database of the frozen funds and economic resources.

(2) The authorities and public institutions referred to in art. 17. (1) keep their own records on the implementation of international sanctions in their field of competence, which they make available to the Ministry of Public Finance.

(3) For other types of international sanctions, the public authorities and institutions responsible with their implementation create and manage their own database on the implementation of international sanctions in their field of activity.

(4) For setting up the databases referred to in paragraph. (1) - (3), the public authorities and institutions will exchange information according to art. 16.

(5) The provisions regarding the protection and processing of personal data shall apply accordingly. With regard to the expression of consent, the exceptions provided in art. 5 (2) c) and d) of *Law no. 677/2001 for the Protection of Individuals with regard to the processing of personal data and the free movement of such data*, with subsequent amendments are applicable.

(6) The information contained in these databases, with the exception of classified information under relevant legislation, will be stored for a period of 5 years from the date of the cessation of application of international sanctions.

Article 16 - Exchange of information and cooperation between authorities

(1) public authorities and institutions shall cooperate with each other and with competent authorities of other states, according to the relevant law, including through the exchange of data and information for the effective implementation of international sanctions.

(2) The cooperation between public authorities and institutions to implement the provisions of this emergency ordinance shall be conducted so as to allow obtaining rapid and efficient data and information.

Article 17 - Supervision of the implementation of international sanctions

(1) Supervision of the implementation of international sanctions of freezing of funds, as well as the supervision of the application of the restrictions applied on certain financial services and funds transfers, adopted with the purpose of prevention nuclear proliferation, are done by prudential supervisory authorities of the financial sector, by the management structures of liberal professions, and, respectively, by the National Office for Prevention and Control of Money Laundering, for natural and legal persons within their area of activity, according to the regulations in force in the field of preventing and combating money laundering and terrorist financing.

(2) Overseeing the implementation of international sanctions of freezing of funds by natural and legal persons that do not fall within the competence of authorities and public institutions referred to in para. (1), as well as the control of the implementation of international sanctions of blocking economic resources is done by the Ministry of Public Finance, the National Agency for Tax Administration.

(3) Overseeing the implementation of international sanctions, other than freezing of funds or financial services, adopted with the purpose of prevention nuclear proliferation, as well as the sanctions of freezing funds or economic resources shall be done by the competent authorities according to art. 12(1) b).

(4) If, during the work referred to in para. (1) - (3), the public authorities or institutions, through the authorized representatives, find violations of international sanctions committed by natural and legal persons, they apply the penalties provided for in art. 26 or they notify the criminal investigation bodies, as appropriate. In case of violations according to art. 26, the public authorities and institutions may apply other specific sanctions.

(5) In case of liberal professions, the sanctions imposed by their structures of management are provided by the rules governing these professions.

(6) The authorities and public institutions referred to in para. (1), as well as the competent authorities provided for in art. 12 (1) b) issue, in accordance with the present emergency ordinance, specific regulations referring to the supervision of implementation of international sanctions, to be published in the Official Journal of Romania.

Part I. Such specific regulations shall be adopted within 180 days from the date of publishing in the Official Journal of Romania, Part I, of the Law of adoption of this emergency ordinance.

Chapter IV

Specific provisions on goods subject to international sanctions

Article 18 - Obligation of identification and reporting of frozen funds and economic resources (1) Natural and legal persons that have the obligation to report suspicious transactions under the anti-money laundering and / or financing of terrorism legislation, must apply the know – your – customer measures, in order to

establish if their customers include designated persons or entities or if the operations undertaken with their customers involve goods within the meaning of this emergency ordinance.

(2) Reports made pursuant to para. (1) shall be transmitted to the Ministry of Public Finance – National Agency for Fiscal Administration and the authorities and public institutions referred to in art. 17(1). Reports include data on people, contracts and accounts involved, as well as the total value of the goods.

(3) The mechanism and the reporting model are set out in specific regulations of the authorities and public institutions referred to in art. 17(1) and (2). The Council's advisory opinion shall be requested in order to establish a unitary model of reporting.

Article 19 – The order for blocking of funds or economic resources

(1) After carrying out the necessary investigations, the Ministry of Public Finance, through the National Agency for Fiscal Administration, shall, by order of the Minister of Public Finance, within 5 working days from the receipt of the notification or reporting under art. 7 or 18, block the funds or economic resources that are held, owned by or under the control of natural or legal persons that have been identified as designated persons or entities.

(2) The Order referred to in para. (1) shall be immediately communicated to the natural or legal persons who have done the report, according to art. 7 and 18, as well as to the authorities or institutions referred to in art. 17 (1), responsible for the supervision, the public authorities responsible for recording the blocking, where appropriate, and to the persons or entities covered by the order, if possible.

(3) The Order referred to in para. (1) shall be notified in all cases to the Romanian Intelligence Service and Foreign Intelligence Service.

(4) The Ministry of Public Finance, through the National Agency for Fiscal Administration, shall publish the order referred to in para. (1) in the Romanian Official Journal, Part I, within 3 working days from issuance.

(5) The Order referred to in para. (1) may be appealed under the administrative procedure. The Ministry of Public Finance, through the National Agency for Fiscal Administration, is bound to periodically examine the measures disposed by the order referred to in para. (1) and to cancel ex officio or upon request when it finds that retention is no longer justified. The decision of rejecting the application for revocation may be appealed under the administrative procedure.

Article 20 - Obligation of confidentiality

(1) Information held in connection with designated persons or entities can be transmitted only under conditions provided by law.

(2) The obligation of confidentiality cannot be invoked in the following cases:

a) at the request of the criminal investigation bodies;

b) at the request of the courts;

c) at the request of the competent authorities provided for in this emergency ordinance;

d) at the request of the United Nations, the European Union and other international organizations mentioned in Article 1(2) or of other states, where this is necessary for the implementation of international sanctions mandatory for Romania under this emergency ordinance;

e) upon request by persons interested in applying the right to compensation, but only under conditions expressly prescribed by law;

f) at the request of the Romanian intelligence services.

Article 21 – Recording the blocked economic resources

(1) In case of immovable property block, the Office of Cadastre and Real Estate Advertising in the circumscription of which the immovable property is situated records in the real estate registry the blocking measure, at the request of the Ministry of Public Finance, based on the order issued under Article 19 (1).

(2) The request for blocking record, submitted pursuant to para.(1) should contain the cadastral or topographic number and the real estate registry number, where the immovable property is enlisted in the real estate registry. If the immovable property is not enlisted in the real estate registry, the request for recording the blocking measure will include the number of land portion, the parcel number and the mailing address, as appropriate.

(3) For immovable property which does not have a real estate registry open, the blocking measure is recorded in the old real estate records.

(4) Requests for recording the blocking measures, as well as for removal are exempt from tariffs.

(5) In the case of movable property block, the record of the measure is made at the request of the Ministry of Public Finance - National Agency for Fiscal Administration, addressed to the legal persons responsible for the registration

or recording such goods.

Article 22 - Authorization of transactions with the view to protect the rights of third parties

(1) Designated persons or entities can invoke the blocking measures to justify the failure to fulfill certain obligations, only if they had requested, according to art. 8, an authorization to that effect and the request have been rejected.

(2) Persons other than those referred to in para. (1), having a right over the goods, within the purposes of this emergency ordinance, as well as the creditors of designated persons and entities may, in accordance with the procedure laid down in art. 8, request an authorization for the use of the goods subject to international sanctions, in order to fulfill their right.

(3) The competent authority under this emergency ordinance shall, wherever possible, inform the designated natural or legal person on the exemptions requests made by interested parties to have access to frozen funds or economic resources in its possession or under its control.

(4) Authorization under art. 8 do not constitute legal recognition of the title claim.

(5) When analyzing the type of applications referred to in para. (1) and (2), the competent authority under this emergency ordinance shall take into account the evidence provided by the creditor and the designated person or entity regarding the existence of an obligation to return the goods in question, in order to check if there is a risk of circumvention of the blocking.

Article 23 - Authorization of transactions to utilize the rights of designated individuals and entities

(1) A person or entity who, for whatever reason, wants to make goods available to a designated person or entity, must request a permit to that effect, according to art. 8, if the act that establishes the international sanction specifies otherwise.

(2) When analyzing such requests, the competent authority under this emergency ordinance shall examine all the evidence provided in support of request and verifies if the links between the applicant and the designated person or entity are not likely to suggest that they work together in order to circumvent the international sanctions.

Article 24 – The regime of the goods subject to international sanctions

(1) Natural or legal persons who are in a legal relationship or are in any other way in connection with any goods subject to international sanctions, and find out about the existence of situations which require notification or reporting under art. 7 and art. 18, are required without delay and prior notification to the competent authorities, not to perform any operation with regard to those goods, except for the operations covered by this emergency ordinance and to notify immediately the competent authorities.

(2) Natural or legal persons, except designated persons or entities who hold the goods subject to international sanctions, have the right to ask the state to cover the necessary expenses for the conservation and management of these goods, in order to prevent impairment or loss of value. Applications for coverage of these costs is addressed to Ministry of Public Finance - National Agency for Fiscal

Administration, and the right to compensation for administration costs begins from the moment of notification of the competent authority, according to art. 7 or 18, as

appropriate.

(3) If any natural or legal persons, except for designated persons or entities, do not wish to or cannot manage the property in question, upon request, by decision of the Ministry of Public Finance, the property may be transferred to the state administration, through the Ministry of Public Finance - National Agency for Fiscal Administration.

(4) Ministry of Public Finance, through the National Agency for Fiscal Administration, may request the transfer of the good, if it considers it necessary for the proper administration thereof. Property that is not voluntarily handed over to

the administration is seized, without consent of the person who owns it.

(5) On the transfer or seizure for management of the frozen asset, a report is drawn up. A copy of the report shall be issued to the person who surrendered the property or from which property has been transferred for administration.

(6) Ministry of Public Finance, through the National Agency for Fiscal Administration, shall immediately transfer the property to the entitled person, as follows:

a) the person who proves that, according to art. 10, is the owner or the holder of asset and is not subject to international sanctions or this fact is established by the Ministry of Public Finance in its investigations according to art. 19;

b) the legal owner or holder, who proves, according to art. 10 that the respective property is not subject to international sanctions, or this fact is established by the Ministry of Public Finance in its investigations according to art. 19;

c) the person determined to be the one that should receive the good, by the act establishing the international sanction mentioned in Article 1;

d) the person determined by the decision of a competent authority of another state or an international organization, which is binding for the Romanian authorities.

(7) In cases referred to in para. (5) and (6), the provisions of Article 19. (2) shall apply accordingly.

Article 25 - Administration of the goods to which international sanctions apply

(1) The Ministry of Public Finance, through the National Agency for Fiscal Administration, decides on how to manage blocked assets subject of international sanctions under the conditions laid down by order of the Minister of Public Finance.

(2) In situations in which, according to the law or due to their characteristics, the goods handed over according to art. 24 cannot be managed by the Ministry of Public Finance, through the National Agency for Fiscal Administration, they will be handed over for administration to the public institution with competencies in the field.

(3) If the goods handed over under Article 24 cannot be administered by the Ministry of Public Finance – National Agency for Fiscal Administration or by any other public institution, according to para. (2), the Ministry of Public Finance, through the National Agency for Fiscal Administration, may conclude written contracts to manage those assets with any person or entity working in the field. Contracts for management must include, under penalty of cancellation, the amount to be paid for administration, the assignment of responsibility for damage caused during administration and the limits of the right to administer.

(4) The administrator has the right to make all acts of administration of goods to which their owner is entitled.

(5) To cover expenses related to administration of goods, the increased value and revenues achieved during their administration are firstly used.

(6) Where increased value or revenues referred to in para.(5) do not exist or are insufficient and no other source to cover the costs of administration can be identified, the Ministry of Public Finance - National Agency for Fiscal Administration may decide to sell goods or parts thereof, made in strict proportion to cover expenses.

(7) Where there is a risk of depreciation of assets, the Ministry of Public Finance - National Agency for Fiscal Administration may decide to block the sale of goods or a part thereof. Funds from such sales represent frozen funds during the validity of the relevant international sanction.

(8) The Ministry of Public Finance keeps inventory of all assets under management, according to this emergency ordinance.

(9) During the administration of property under this emergency ordinance, the manager takes care first of the conservation, the efficient and economical administration, protection against damage, destruction, loss, or abuse, aiming to meet the right to remedy of the owner and to submit the undue gain resulted from unjust enrichment, maintaining the integrity of property by pursuing the debtors to fulfill timely and in full their obligations to the goods subject to international sanctions, including by claim from the owner of his rights at maturity, seeking not to expire the term at which these claims become due and avoid termination of such rights.

(10) During the administration of blocked goods, the goods cannot be encumbered by the burdens of movable security or real estate securities and cannot be concluded:

a) contracts for leasing the use of goods with the clause for the transfer of ownership of assets at the end of the lease;

b) contracts for the sale of the company or its representative;

c) the right of usufruct on such goods.

(11) The value of the goods referred to in para. (6) and (7), and the manner in which the provisions of art. 24 para. (2) and (4) - (6) are implemented is approved by order of the Minister of Public Finance.

(12) In carrying out the tasks specified in para. (1) - (3), (6) and (7), the Ministry of Public Finance requires the advisory opinion of the Council.

Chapter V
Contraventions

Article 26 - Contraventions

(1) The following deeds constitute contraventions and are punished with a fine between 10,000 lei and 30,000 lei and the confiscation of property used or resulted from the contravention:

a) failure to respect the restrictions and obligations under international instruments referred to in art. 1 (1), which are directly applicable, or acts under art. 4 (2) - (4), if the deed does not constitute a criminal offense;

b) non-compliance with the obligation referred to in art. 24 para. (1) if the deed does not constitute a criminal offense;

c) non-compliance with the obligations referred to in art. 9 (2) and art. 18 (2) and (3).

(2) If the deeds set out in para. (1) are committed by a person belonging to the staff of a public authority or institution, besides the fine, specific penalties may also be applied.

(3) The penalties provided in para. (1) also apply to legal persons.

(4) In addition to the penalty provided for in para. (1), one or more of the following contraventional complementary sanctions may be applied:

a) suspension of the advisory opinion, license or authorization for the exercise of an activity or, where appropriate, suspension of the legal person's activity over a period from one month to 6 months;

b) withdrawal of license or advisory opinion for certain transactions or activities for a period from one to 6 months or perpetually.

(5) The provisions of Government Ordinance no. 2 / 2001 on the legal regime of contraventions, approved with amendments and completions by Law no. 180/2002, as amended, except art. 8 (3) and (4) shall apply accordingly.

Article 27 - Exclusion of liability

Application in good faith of the provisions of this emergency ordinance by natural and / or legal persons cannot result in their disciplinary, civil or criminal accountability.

Chapter VI

Transitional and Final Provisions

Article 28 - Nomination of representatives in the Council

Nomination of representatives of public authorities and institutions in the Council is made within 5 days after the entry into force of this emergency ordinance.

Article 29 - Repeal

On the date of entry into force of this Emergency Ordinance, Law no. 206/2005 on the implementation of international sanctions, published in the Romanian Official Journal, Part I, no. 601 of 12 July 2005 is repealed.

PRIME MINISTER

Călin Popescu-Tăriceanu

Countersigned:

p. Minister of Foreign Affairs

Anton Niculescu,

Secretary of State

Minister of Economy and Finance,

Varujan Vosganian

Executive order no. 2/09.02.2011

(Published in the C.N.V.M. Newsletter no. 6/2011)

According to the provisions of Article 2, Article 7, paragraphs (1) and (10), as well as Article 9, paragraph (1) of the Statute of the Romanian National Securities Commission adopted by the Government Emergency Ordinance no 25/2002, approved and amended by the Law no 514/2002,

Taking into account the provisions of Articles 11 and 12 of the C.N.V.M. Regulation no. 5/2008 for setting up measures for prevention and combating money laundering and terrorism financing acts through capital market,

According to the Decisions of the Parliament of Romania no. 69/12.09.2007, no. 71/03.10.2007 and no. 2/14.01.2010,

On the basis of the debates in the meeting of 09.02.2011, the National Securities Commission hereby disposes as follows:

Art. 1. The enforcement of the provisions of Article 2, paragraph (2), letter m) of the C.N.V.M. Regulation no. 32/2006 regarding financial investment services shall be suspended until the amendment of this Regulation.

Art. 2. During the suspension period provided for in Article 1, the following provisions shall apply:

For the purposes of the C.N.V.M. Regulation no. 32/2006, the wording "***identification data"*** shall have the following meaning:

a) for natural persons: the data set out in Article 11, paragraph (1) of the C.N.V.M. Regulation no. 5/2008;

b) for legal persons: the data set out in Article 12, paragraph (1) of the C.N.V.M. Regulation no. 5/2008.

Art. 3. For the purposes of Article 11, paragraph (2) of the C.N.V.M. Regulation no. 5/2008, identity document, in case of the S.S.I.F. clients who are natural persons, shall mean:

a) the identity document for the Romanian citizens;

b) the national identity document or passport for citizens of the European Union Member States or of the European Economic Area (EEA);

c) the passport or, by mutual agreement or unilaterally, for the citizens belonging to the States established by Decision of the Government of Romania according to Article 10, paragraph (1), letter b) of the Government Emergency Ordinance no. 194/2002 on the status of foreigners in Romania, republished, the identity card or other similar document, for the citizens of third countries.

Art. 4. (1) Within 6 months since the date of coming into force of this Executive Order, the clients' identification data defined according to the C.N.V.M. Regulation no. 32/2006 shall be updated by the intermediaries.

(2) Within 6 months since the date of coming into force of this Executive Order, the data provided for in Article 11, paragraph (1), respectively, Article 12, paragraph (1) of the C.N.V.M. Regulation no. 5/2008 shall be updated by the asset management companies.

(3) Within 7 months since the date of coming into force of this Executive Order, the fulfillment of the obligation provided for in paragraph (1) or paragraph (2) shall be reported to C.N.V.M. by the intermediaries or by the asset management companies, as the case may be.

Art. 5. At the date of coming into force of this Executive Order, the Executive Order no. 4/19.03.2009 shall be repealed.

Art. 6. On the date of its publishing in the C.N.V.M. Newsletter and on its websit**e** (www.cnvmr.ro), this Executive Order shall come into force.

For PRESIDENT, Eugenia Carmen NEGOITA

(On the basis of Decision no. 123/03.02.2011)

Executive order no. 8/ 11.03.2010

Romanian National Securities Commission (N.S.C./C.N.V.M.)

(Published in the C.N.V.M. Newsletter no. 10/2010)

According to the provisions of Article 2 and Article 7, paragraphs (1) and (10) of the Statute of the Romanian National Securities Commission adopted by Government Emergency Ordinance no 25/2002 as approved and amended by the Law no 514/2002, and amended and completed by Law no 297/2004 on the capital market, as further amended,

According to the Decisions of the Parliament of Romania no. 37/27.06.2005, no. 69/12.09.2007, no. 71/03.10.2007 and no. 2/14.01.2010,

Taking into account the public Statements / Recommendations issued by MONEYVAL Committee (Committee of Experts on the Evaluation of Anti-Money Laundering Measures and the Financing of Terrorism) and the public Statements / Recommendations issued by the Financial Action Task Force,

In compliance with the provisions of Law no. 656/2002 for prevention and sanctioning money laundering, as well as for prevention and combating terrorism financing acts, as further amended, and the provisions of the Government Emergency Ordinance no. 202/2008 on the enforcement of the international sanctions, as further amended,

According to the review conducted by the directorates of specialty and the debates during the meeting of 10.03.2010, the Romanian National Securities Commission hereby

DECIDES

Art. 1. The entities authorized, regulated and supervised by C.N.V.M. shall have and update a Web page.

Art. 2. In order to ensure clients are informed with regard to the prevention and combating of money laundering and financing of terrorism acts, the entities provided for in Article 1 and which fall under the provisions of the *Law no. 656/2002 for prevention and sanctioning money laundering, as well as for prevention and combating terrorism financing acts, as further amended,* shall create on their own Web page a section which shall include at least:

a) Public Statements issued by MONEYVAL Committee;

b) Public Statements issued by the Financial Action Task Force (GAFI/F.A.T.F.);

c) Warnings referring to any news appeared in the field of the prevention and combating of money laundering and terrorism financing acts;

d) Links to the Web pages of the Financial Action Task Force (GAFI/F.A.T.F.) - (www.fatf-gafi.org), the MONEYVAL Committee – (www.coe.int/moneyval) and the National Office for Prevention and Control of Money Laundering (O.N.P.C.S.B.) – (www.onpcsb.ro);

Art. 3. The entities provided for in Article 1 and which fall under the provisions of the Government Emergency Ordinance no. 202/2008 on the enforcement of the international sanctions, as further

amended, shall create on their own Web pages a separate section regarding the international sanctions, which shall include at least one link to the "*international sanctions"* section in the Web page of C.N.V.M.

Art. 4. The entities provided for in Article 1 and which fall under the provisions of the *Law no. 656/2002, as further amended,* shall acknowledge the documents provided for in letters a), b) and c) of Article 2, published by C.N.V.M. on its own Web page, and they shall identify and take special care of the business relationships and the transactions with persons and financial institutions in the jurisdictions specified in the relevant documents.

Art. 5. Within 30 working days since the date of coming into force of this Executive Order, the entities provided for in Article 1 shall implement the provisions of this Executive Order.

Art. 6. The failure to comply with the provisions of this Executive Order shall be sanctioned in accordance with Title X of the Law no. 297/2004 on the capital market, as further amended.

Art. 7. This Executive Order shall come into force at the date of its publishing in the C.N.V.M. Electronic Newsletter on the website www.cnvmr.ro.

Art. 8. The General Supervision Directorate, the Information Technology Department and the CEO shall monitor the putting into execution of this Executive Order.

PRESIDENT
PhD. Gabriela ANGHELACHE

Regulation no. 9/2009 on the supervision of the enforcement of international sanctions on the capital market

Chapter I
General Provisions

Art. 1. This Regulation shall establish standards for the supervision by the Romanian National Securities Commission, hereinafter referred to as C.N.V.M., of the observance of the rules concerning enforcement of the international sanctions established by the United Nations Security Council and European Union acts, as well as by the acts of other international organizations or adopted by unilateral decisions of Romania or other States, as they are regulated by the provisions of the Government Emergency Ordinance no. 202/2008 on to the enforcement of the international sanctions, approved as amended by the Law no. 217/2009, hereinafter referred to as the G.E.O. no 202/2008.

Art. 2. (1) The terms, abbreviations and wordings used in this Regulation shall have the meaning provided for in the Law no. 656/2002 *for prevention and sanctioning money laundering, as well as for prevention and combating terrorism financing acts, as further amended*, in the Law no. 297/2004 on the capital market, as further amended, hereinafter referred to as the Law no. 297/2004 and in the G.E.O. no 202/2008.
(2) To the purposes of this Regulation, the terms, abbreviations and wordings below shall have the following meaning:

a) *regulated entities* –the entities whose activity is authorized, regulated and supervised by C.N.V.M. for the fulfillment of its legal duties and which fall under the provisions of G.E.O. no. 202/2008;

b) *financial instruments* – the financial instruments defined according to Article 7, paragraph (1), sub-paragraph 14^1 of the Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, approved, as amended, by the Law no. 227/2007, as further amended, which belong to or are held by or are under the control of persons who are subject to the international sanctions provided for in the G.E.O. no. 202/2008.

Art. 3. – C.N.V.M. shall ensure the publicity for the acts establishing international sanctions mandatory in Romania, by posting under emergency regime, some warnings on its own Web page, with links to the Web pages of the organizations establishing the international sanctions.

Art. 4. (1) C.N.V.M. shall supervise the compliance of the regulated entities acting on the capital market with the rules for enforcing the international sanctions.
(2) In the supervision process, C.N.V.M. may request the regulated entities to provide any relevant information or document.
(3) When it finds breaches of the international sanctions, C.N.V.M. shall apply the sanctions provided for in Article 26 of G.E.O. no. 202/2008 to the responsible natural or legal persons or shall notify the criminal prosecution bodies, as applicable.

Art. 5. (1) C.N.V.M. shall develop and manage its own records with regard to the compliance with the rules for enforcing the international sanctions in the capital market field.
(2) The documentation referring to the international sanctions enforced in the capital market field shall be kept with the C.N.V.M. own records provided for in paragraph (1), according to the law, for a period of five years since the date of cessation of the application of the relevant sanctions and such documentation shall be submitted to the Ministry of Public Finance, upon its request, in compliance with the legal regime applicable to information obtained during or following the exercise of its legal duties by C.N.V.M and which are not public.

(3) C.N.V.M. shall cooperate with the other authorities and public institutions in Romania or in other States, having competences to enforce the international sanctions, including by data exchange and information communication only as provided for by law.
(4) The confidentiality obligation may not be claimed when C.N.V.M. requests information.

Chapter II
Obligations of regulated entities

Art. 6. – (1) If a regulated entity holds data and information about persons and/or entities designated as subject of international sanctions, holds or controls financial instruments or has data and information about them, about transactions involving financial instruments or appointed persons or entities, it shall notify C.N.V.M. as soon as it acknowledges a circumstance imposing the notification.
(2) The provisions of paragraph (1) shall also apply to the staff employed by the regulated entities, including their seniors, as well as to shareholders, auditors, members in the Supervision Council and other persons who, by the nature of their activity, receive data and information provided for in paragraph (1).
(3) C.N.V.M. shall take into account only those notices which include at least personal and contact data allowing the identification of their authors.
(4) After receiving the notices provided for in paragraph (1), C.N.V.M. shall inform the Ministry of Foreign Affairs on the international sanctions enforcement methods in those particular cases, as well as on any breach or difficulty in their application.

Art. 7. – (1) The regulated entities shall notify C.N.V.M. in writing, attaching all the relevant documents, if they find an identification error regarding the persons or entities designated as subject of international sanctions, as well as the financial instruments. The C.N.V.M. decision in relation to the notice, as adopted after its verification or after consultation with other authorities, as applicable, shall be communicated to the Ministry of Foreign Affairs, the Ministry of Public Finance and to the regulated entity in question within maximum 15 working days.
(2) The C.N.V.M. decision provided for in paragraph (1) may be contested according to the provisions of the Law no. 554/2004 administrative disputed claims, as further amended.

Art. 8. – (1) The regulated entities shall identify the clients holding or controlling financial instruments or belonging or being controlled by persons or entities designated as subject of international sanctions and shall immediately report them to the Ministry of Public Finance – National Agency for Fiscal Administration and to C.N.V.M. For such purpose, the regulated entities shall apply the standard actions for knowing their clients, provided for in the C.N.V.M. Regulation no. 5/2008 on the prevention and control of money laundering and terrorist financing through the capital market, as further amended, hereinafter referred to as the C.N.V.M. Regulation no. 5/2008. The reporting to the Ministry of Public Finance and C.N.V.M. shall be made in writing, according to the provisions of Article 22 of the said Regulation.

(2) C.N.V.M. shall register in its own records provided for in Article 5, paragraph (1), every frozen fund that is owned, held or controlled by the clients of the regulated entities identified as persons or entities designated as subject of international sanctions, after the freezing was decided by an Order issued by the Minister of Public Finance and was applied and notified to C.N.V.M. by the authorized Central Depository where the financial instruments and other categories of frozen funds are deposited.

Chapter III
Internal procedures of the regulated entities on the international sanctions management

Art. 9. (1) The regulated entities shall keep all the information held on the international sanctions, including in their secondary offices, according to the law, for a period of five years since the date of cessation of enforcement of the relevant international sanctions.
(2) The regulated entities shall develop and submit to C.N.V.M., within 45 days since the date of coming into force of this Regulation, the internal procedures on international sanctions, approved by their Internal Audit Department, as applicable.
(3) The regulated entities shall appoint by an internal act, at least one employee to be in charge with the proper management of the international sanctions and shall notify such appointment to C.N.V.M. within the term provided for in paragraph (2). In order to carry out this activity, the compliance officer, who coordinates the implementation of internal policies and procedures for the prevention and combating of money laundering and terrorist financing acts, appointed according to the provisions provided for in Article 5 of the C.N.V.M. Regulation no. 5/2008, may be appointed.
(4) The regulated entities shall notify C.N.V.M. within maximum 5 working days on any change occurred in their internal procedures provided for in paragraph (2), as well as in the appointment of the person provided for in paragraph (3).
(5) The regulated entities shall constantly ensure the training of their own staff in the international sanctions enforcement field.

Chapter IV
Contraventions and Final Provisions

Art. 10. (1) Breaching the provisions of this Regulation shall constitute contravention and it shall be sanctioned according to the Title X in the Law no. 297/2004 corroborated with the provisions of Article 26 of the G.E.O. no. 202/2008.
(2) Contract confidentiality clauses or the professional secret may not be claimed by the regulated entities in order not to comply with the provisions of this Regulation.
Art. 11. For the reporting provided for in Article 8, the regulated entities shall only use the standard reporting form developed according to the provisions of the G.E.O. no. 202/2008.
Art. 12. This Regulation shall be lawfully completed with the other legal provisions applicable to the enforcement of the international sanctions at national level.

Norm no. 11/2009 regarding supervision procedure of the implementation of international sanctions in the private pension system

Supervision Commission of the Private Pensions System

Published in the Official Gazette, Part I, nr. 328 from 18/05/2009

Includes amendments brought by Norm no. 4/2010, published in the Official Gazette no. 217/07.04.2010

Having regard to the provisions of art. 16, art. 23 lett. f) and art. 24 lett. o) of the Government Emergency Ordinance no. 50/2005 regarding the foundation, organization and functioning of the Private Pensions System Supervisory Commission, approved with modifications and completions by Law no.313/2005.

Taking into account the provisions of the Law no. 204/2006 regarding voluntary pensions, with subsequent amendments and completions and of the Law no. 411/2004 on privately administrated pension funds, republished, with modifications and completions,

Based on the provisions of the art. 12 para. (2) and art. 17 para. (6) of the Government Emergency Ordinance no. 202/2008 oh the implementation of international sanctions,

The Private Pensions System Supervisory Commission referred to as Commission in the following issues the following norm.

CHAPTER I
General provisions

Art. 1. – The present norm set methodology regarding the implementation of international sanctions of the entities authorized by the Commission of international sanctions imposed by the acts referred to Art. 1 of Government Emergency Ordinance no. 202/2008 on the implementation of international sanctions.

Art. 2. – The terms and expressions used in the present norm have the meaning indicated in the Government Emergency Ordinance no. 202/2008, in the Law no. 204/2006 regarding voluntary pensions, with subsequent amendments and completions, hereinafter referred to as "the Law nr. 204/2006" and of the Law no. 411/2004 on privately administrated pension funds, republished, with modifications and completions, hereinafter referred to as "the Law nr. 411/2004".

CHAPTER II
The activity of supervision regarding the implementation of international sanctions

Art. 3. – The Commission shall establish the advertising of the provisions law of international sanctions mandatory in Romania, by posting on its website.

Art. 4. – **(1)** Following the adoption of an act by which international sanctions are imposed, any entity authorized by the Commission, which has data and information on persons or entities designated which owns or has control of property or who has data and information about them, about related transactions involving goods or persons or entities designated must

to notify the Commission as soon as becomes aware of circumstances requiring disclaimer.

(2) The Commission will consider only those notices which contain at least the personal and minimum contact information to identify its author.

(3) When it finds that the notification received is not subject to its scope jurisdiction, the Commission sent within 24 hours notice to the competent authority. In where the competent authority can not be identified, the notice shall be sent Ministry of Foreign Affairs as the coordinator of the Interinstitutional Committee.

Art. 5 – In its supervision, the Commission shall verify compliance by entities provided in art. 1 measures ordered by the acts that establish international sanctions.

Art. 6 – (1) Entities referred to in art. 1 are required to prepare, set and implement appropriate internal procedures and mechanisms, under legislation relating to money money and / or financing of terrorist acts.

(2) Entities referred to in art. 1 are required to send the Commission copies of internal procedures under par. (1) within 90 days of the date of entry into force of this rules.

(3) Any modification of internal procedures to notify the Commission within 5 days working the date of such change.

Art. 7 – (1) Entities referred to in Art. 1 are required to report transactions suspected to be suspicious transactions, according to legislation relating to money laundering and / or funding of acts of terrorism and to send Ministry Public Finance reports made by National Tax Administration Agency and the Commission.

(2) Reports should include all relevant data relating to contracts and accounts involved and the total value of goods.

(3) The entities provided at art. 1 have the obligation to report to the Commission, in written and electronically, relevant data on designated persons and entities and operations which involve goods under Governmental Emergency Ordinance no. 202/2008 for implementation of international sanctions, as approved by the Law no. 217/2009, according to the Annex, integral part of this Norm.

Art. 8. - Committee held its own records on the implementation of sanctions international private pension system and transmits this information upon request, the Ministry Public Finance.

CHAPTER II
Final provisions

Art. 9. – The terms stipulated by the present norm, which shall expire in a day of legal holiday or in a non-working day, shall be prolonged until the end of the next working day.

Art. 10. – Failure to comply with the provisions stipulated by the present norm shall be sanctioned in accordance with the legal provisions in force, namely art. 16, art. 81 para (1) letter c), art. 140 para (1), art.141 para (1) letter g), para (2), (3), (4), (6), (7), (9), (10) of the Law no. 411/2004 and of art. 38 letter c), art. 120 para (1), art. 121 para (1) letter k) and para (2), (3), (4), (6), (7), (9) and (10) of the Law no. 204/2006, and in accordance with art. 26 of the Government Emergency Ordinance no. 202/2008.

Art. 11. – This norm is completed as with other legal provisions incidents.

Regulation no.28/2009 on monitoring the implementation of the international sanctions regarding the freezing of funds

Romanian National Bank

Having regard to the provisions of art.5 para (1), art.15 para (2), art.17 para (1), (4) and art.18 of Government Emergency Ordinance no.202/2008 on the implementation of international sanctions, approved with amendments by Law no.217/2009, of art.17 para (1) of Law no.656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, with subsequent amendments and supplements, of art.4 para (1) of Government Emergency Ordinance no.99/2006 on credit institutions and capital adequacy, approved with amendments and supplements by Law no.227/2007, with subsequent amendments and supplements, of art.62 para of Government Emergency Ordinance no.113/2009 on payment services, approved with amendments by Law no.197/2010, with subsequent amendments and supplements, of art.44 of Law no.93/2009 on non-bank financial institutions, with subsequent amendments and supplements, of the Council of the European Union recommendations from " EU Best Practices for the effective implementation of restrictive measures" 2008 Edition, as well as Financial Action Task Force on Money Laundering recommendations from" Best Practices: Freezing of Terrorist Assets" 2009 Edition,

In virtue of the provisions of art. 17 para (6) and art. 18 para (3) of Government Emergency Ordinance no.202/2008, approved with amendments by Law no.217/2009, and of art. 48 of Law no.312/2004 on the statute of National Bank of Romania,

The National Bank of Romania issues this Regulation.

Chapter I
General provisions

Art.1 – (1) This Regulation is applicable to credit institutions Romanian legal entities, payment institutions Romanian legal entities, electronic money institutions Romanian legal entities and to the non-bank financial institutions Romanian legal entities registered in the Special Register held by the National Bank of Romania and establishes the minimum standards for the implementation of the international sanctions regarding the freezing of funds according to Government Emergency Ordinance no.202/2008 approved with amendments by Law no.217/2009, subsequently supplemented and modified.

(2) This Regulation is correspondingly applicable, for the purpose mentioned in para (1), also to the branches established in Romania by foreign credit institutions, foreign payment institutions, foreign electronic money institutions and foreign financial institutions registered in the Special Register held by the National Bank of Romania.

(3) For the purpose of this Regulation the entities mentioned in para (1) and para (2) are further referred to as institutions.

Art.2 - The terms and expressions used in this Regulation shall have the meaning provided for in GEO no.202/2008 approved with amendments by Law no.217/2009.

Chapter II
Provisions regarding the implementation of the international sanctions regarding the freezing of funds

Art.3 – For the purpose of ensuring the performance of their activity in accordance with the requirements of GEO no.202/2008, approved with amendments by Law no.217/2009, the institutions shall issue internal norms for the implementation of the international sanctions regarding the freezing of funds.

Art.4 – The internal norms for the implementation of the international sanctions regarding the freezing of funds shall include at least the following:

a) procedures to detect the designated persons and entities and operations involving goods within the meaning of GEO no. 202/2008, approved with amendments by Law no. 217/2009, applicable to potential clients or when performing occasional transactions;

b) the policy regarding the acceptance as a customer and the occasional transactions regime for designated persons and entities and the regime applicable for persons or entities that require transactions involving goods within the meaning of GEO no. 202/2008, approved with amendments by Law no. 217/2009;

c) procedures to detect designated persons and entities and operations involving goods within the meaning of GEO no. 202/2008, approved with amendments by Law no. 217/2009, applicable to existing customers where the international sanctioning regimes of funds freezing are amended and/or supplemented;

d) the applicable regime for customers identified in the past as designated persons or entities, starting from the date they are no longer subject to international sanctions regarding the freezing of funds and the regime applicable to persons or entities that have requested to carry out operations involving goods within the meaning of GEO no. 202/2008, approved with amendments by Law no. 217/2009;

e) adequate drawing up and record-keeping procedures for the designated persons and entities and operations involving goods within the meaning of GEO no. 202/2008, approved with amendments by Law no. 217/2009;

f) the access of the staff with responsibilities in the field to the information in order to examine the operations performed in the past with persons identified as designated persons or entities;

g) the responsibilities of the persons in charge with the application of the internal norms for the implementation of the international sanctions regarding the freezing of funds, pursuant to art. 6;

h) reporting procedures, internally and to the competent authorities.

Art.5 – (1) The internal norms mentioned in art.3 shall be approved by the institution's management bodies and shall be reviewed whenever necessary.

(2) The internal norms for the implementation of the international sanctions regarding the freezing of funds shall be known by the entire staff with responsibilities in the field.

(3) The internal norms for the implementation of the international sanctions regarding the freezing of funds shall be submitted to National Bank of Romania – Supervision Department in 5 days after their approval or their amendment, by the institution's competent bodies.

Art.6 – (1) The institutions shall appoint one or several persons with responsibilities in the coordination of the internal norms for the implementation of the international sanctions regarding the freezing of funds, including for matters related to the permanent updating of the information regarding the international sanctions regarding the freezing of funds, administering of the alerts sent by the National Bank of Romania – Supervision Department regarding the update of the information regarding the acts establishing international sanctions posted on the website according to art.5 para (1) of GEO no. 202/2008, approved with amendments by Law no. 217/2009, as well as responsibilities related to the reporting obligations.

(2) The name and the position of the persons mentioned in para (1) shall be communicated to the National Bank of Romania – Supervision Department within 5 days from their delegation.

Art.7 – In order to identify the designated persons and entities the institutions shall use the information, including those regarding the beneficial owner, obtained by applying the know-your-customer rules for the purpose of money laundering and terrorism financing prevention.

Art.8 – In those situations in which the know-your-customer norms do not impose the obligation to identify the client, the institutions shall apply specific procedures established in the internal norms for the implementation of the international sanctions regarding the freezing of funds, according to art.3.

Art.9 – The reports shall be sent to the National Bank of Romania – Supervision Department, electronically and written, using the template elaborated according to art.18 of Government Emergency Ordinance no. 202/2008, approved with amendments by Law no. 217/2009, and approved by the National Bank of Romania Governor.

Art. 10 – The institutions shall provide to the National Bank of Romania – Supervision Department, at its request, any supplementary relevant information as it was requested.

Chapter III

Supervision of compliance and sanctions

Art.11 – In the supervisory process, the National Bank of Romania may impose the following specific measures:

a) requesting the adjustment of the internal norms for the implementation of the international sanctions regarding the freezing of funds mentioned in art.3;

b) requesting the removal of the deficiencies noticed.

Art.12 – **(1)** Infringement of the provisions of the present regulation and non-observance of the measures imposed by National Bank of Romania are sanctioned according to art.57 of Law no.312/2004 on the National Bank of Romania Statute.

(2) The measures established according to art.11 are applied distinctly or together with the sanctions mentioned in para (1) of this article**.**

Chapter VII

Transitory provisions

Art.13 – Without prejudice to the compliance with the obligation established in the Government Emergency Ordinance no. 202/2008, approved with amendments by Law no. 217/2009, the institutions operating at the time of entry into force of the present regulation shall remit to National Bank of Romania – Supervision Department their internal norms for the implementation of the international sanctions regarding the freezing of funds mentioned in art.3, as well as information regarding the persons mentioned at art.6, within 180 days from the date of entry into force of the present regulation.

MUGUR ISARESCU

Chairman of the National Bank of Romania Board

Order no. 13/2009 from 30.07.2009 for the implementation of the Regulations on supervision, in the insurance field, of the implementation of international sanctions

Insurance Supervision Commission
(Published in the Official Gazette, Part I no.555 of 10.08.2009)

Pursuant to art. 4. (26) and (27) of Law no. 32/2000 on insurance activity and insurance supervision, with subsequent modifications,

Having regard to art. 12 para. (2) and art. 17 para. (6) of Government Emergency Ordinance no. 202/2008 on the implementation of international sanctions, approved with modifications by Law no. 217/2009, according to the decision of the Insurance Supervisory Commission Council dated July 21, 2009, by which it adopted Regulations on supervision, in the insurance field, of the implementation of international sanctions,

President of the Insurance Supervisory Commission issued the following order:

Art. 1. - (1) The enforcement of the Regulations on supervision, in the insurance field, of the implementation of international sanctions.

(2) The Regulations mentioned in para. (1) enter into force upon their publication in the Official Gazette of Romania, Part I.

Art. 2. - The departments of the Insurance Supervisory Commission will ensure the enforcement of the provisions of this Order.

Insurance Supervisory Commission
President Angela Toncescu

Bucharest, July 30, 2009.

Nr. 13.

ANNEX

Regulations on supervision, in the insurance field, of the implementation of international sanctions

CHAPTER I
General Provisions

Art. 1. - These Regulations regulate the supervision of the implementation by entities authorized by the Insurance Supervisory Commission of the international sanctions imposed by the acts provided for in art. 1 of Government Emergency Ordinance no. 202/2008 on the implementation of international sanctions, approved with modifications by Law no. 217/2009.

Art. 2. - Depending on the type of international sanction, the Insurance Supervisory Commission is competent in solving notices or requests provided for in art. 12, para. (1). b) of Government Emergency Ordinance no. 202/2008, approved with modifications by Law no. 217/2009.

Art. 3. - Subject to these Regulations are insurers, reinsurers, insurance brokers and / or reinsurance Romanian legal persons, and branches in Romania of insurers, reinsurers and insurance and / or reinsurance intermediaries established in the European Economic Area, hereinafter referred to as entities.

Art. 4. - The terms and expressions used in these Regulations have the meanings provided for in art. 2 of Government Emergency Ordinance no. 202/2008, approved with modifications by Law no. 217/2009, and in art. 2 of Law no. 32/2000 on insurance activity and insurance supervision, with subsequent modifications.

CHAPTER II

Supervision of the implementation of international sanctions

Art. 5. - Insurance Supervisory Commission:

a) ensures the publication of the provisions imposing international sanctions mandatory in Romania, by posting on its website (www.csa-isc.ro);

b) informs the Ministry of Foreign Affairs, every six months or whenever needed, on how international sanctions are applied in their field of competence, about their violations and pending cases, and any other difficulties of the implementation;

c) organizes its own record on implementation of international sanctions in the insurance field and informs, on request, the Ministry of Finance.

Art. 6. - (1) Following the adoption of an act by which international sanctions are imposed, any of the entities referred to in art. 3, with data and information on nominated persons or entities that own or control the goods or that data and information about them, about transactions relating to goods or involving persons or entities nominated are required to notify the Insurance Supervisory Commission where becoming aware of the circumstances requiring the notification.

(2) Insurance Supervisory Commission will consider only those notifications which contain at least minimal contact and personal information to identify its author.

(3) If it finds that the notifications received is not subject to its field of competence, the Insurance Supervisory Commission sends within 24 hours notification to the competent authority. If the competent authority cannot be identified, notification is sent to the Ministry of Foreign Affairs as the coordinator of the Interinstitutional Committee.

Art. 7. - Insurance Supervisory Commission is entitled:

a) to monitor the activities of entities referred to in art. 3;

b) to verify the compliance by entities listed in art. 3 with the measures ordered by the acts that establish international sanctions;

c) to impose measures to ensure implementation of international sanctions;

d) to request additional information and documents or to carry out investigations on its own or with the assistance of other competent authorities or may use information from other sources.

Art. 8. - The entities referred to in art. 3 have the obligation to develop and implement policies, procedures and appropriate internal mechanisms for their customer identification, reporting, record keeping, internal control assessment and risk management in order to prevent and stop their involvement

in suspicious transactions of money laundering and terrorism financing, ensuring proper training for its own staff and persons under the mandate.

Art. 9. - (1) The entities referred to in art. 3 have the obligation to designate one or more persons from their staff with responsibilities in the implementation and compliance with international sanctions.

(2) Name, position and responsibilities established for the persons mentioned in para. (1) shall be communicated to the Insurance Supervisory Commission within 30 days of the entry into force of these Regulations.

(3) The entities referred to in art. 3 are required to notify the Insurance Supervisory Commission of the change or replacement of persons mentioned in para. (1) within 10 days from the date of such changes.

Art. 10. - (1) The entities referred to in art. 3 have the obligation to report to the Insurance Supervisory Commission transactions presumed as suspicious transactions, since they acknowledge about the existence of circumstances requiring notification.

(2) Reports shall include all relevant data related to contracts and accounts involved, and the total value.

Art. 11. - Insurers are liable for insurance agents, legal and natural persons, as well as to inform them of the international sanctions imposed by the acts provided for in Art. 1 of Government Emergency Ordinance no. 202/2008, approved with modifications by Law no. 217/2009.

CHAPTER III
Sanctions

Art.12. - When the Insurance Supervisory Commission observe the breaching of the provisions of these Regulations, of the international sanctions by entities listed in art. 3, it is entitled to apply sanctions in accordance with the provisions of art. 39 of Law no. 32/2000, with subsequent modifications, and art. 26 of Government Emergency Ordinance no. 202/2008, approved with modifications by Law no. 217/2009, or to notify the criminal prosecution bodies, if the case will be.

CHAPTER IV
Final Provisions

Art. 13. - The terms provided in these Regulations, which expire on a public holiday or a weekend day will be extended to the end of the following working day.

Art.14. - These rules are to be completed with the specific legislation in force.

Decision no. 1599/2008 for the approval of the Regulations for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering

GOVERNMENT OF ROMANIA

Published in the Official Gazette of Romania no. 841/15.12.2008, Part I

In accordance with the provisions of art. 108 of the Constitution of Romania, republished, and art. II para (4) of the Government's Emergency Ordinance no. 53/2008 for the modification and completion of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as for setting up certain measures for the prevention and combat of terrorism financing acts,

The Government of Romania adopts the present decision.

Art. 1 – The Regulation for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering, provided for in the Annex, which is part of the present decision, is approved.

Art.2 – On the date of coming into force of the present decision, the Government Decision no. 531/2006 on the approval of the Regulations for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering, published in the Official Gazette of Romania, Part I, no. 392 of May 08, 2006, is repealed.

PRIME MINISTER
CALIN POPESCU TARICEANU

COUNTERSIGNED
Chancellor of the Prime-Minister
Marian Marius Dorin

President of the National Office for the
Prevention and Control of Money Laundering
Adriana Luminita Popa

Minister of Labor, Family and Equality of Chances
Mariana Campeanu

Minister of Economy and Finance
Varujan Vosganian

Bucharest, December 4, 2008
No. 1599

ANNEX

REGULATIONS for the Organization and Functioning of the National Office for Prevention and Control of Money Laundering

CHAPTER I

General provisions

Art. 1 – (1) The National Office for Prevention and Control of Money Laundering, hereinafter called "*the Office",* is organized and functions based on the Law no. 656/2002 for the prevention and sanctioning money laundering, as well as for setting up certain measures for the prevention and combat terrorism financing acts, with subsequent modifications and completions, hereinafter called "the Law", as a specialized body having legal personality, subordinated to the Government, and in coordination of the Prime-Minister, by the Chancellery of the Prime Minister.

(2) The headquarters of the Office is located in Bucharest.

Art. 2 – The Office has, as activity object, the prevention and combating money laundering and terrorism financing acts, in which purpose it receives, analyses and processes information and notifies the authorities having competence granted by the law, or notifies ex officio whenever it finds out, in any way, about a suspicious transaction, in accordance with the law.

Art. 3 – (1) The Office is managed by a President, named by the Government among the members of the Board, which has the capacity of main credit ordinator.

(2) – The Board of the Office is the debating and decisional structure, including one representative from the Ministry of Economy and Finance, Ministry of Justice, Ministry of Interior and Administrative Reform, General Prosecutor's Office by the High Court of Cassation and Justice, National Bank of Romania, Court of Accounts and from the Romanian Banks' Association, named in this position for a 5 year period, by Governmental Decision, subsequent to the proposal of the respective institutions.

(3) The debating and decisional activity provided for by para (2) refers to the specialized cases analyzed by the Office's Board. In respect to the economical-administrative matters, the Office's Board deliberates only by request of the president.

(4) The Members of the Office's Board have public dignity positions, equivalent to the function of State Secretary.

(5) The personnel of the Office comprises specialized personnel represented by the financial analysts, the auxiliary specialized personnel, represented by the assistant analysts, as well as, the contractual personnel, which occupies budgetary sector specific functions, represented by the drivers and unqualified workers.

(6) The maximum number of positions is 120.

(7) Starting with the 01st of January 2009, the maximum number of positions is 130.

(8) The Office constitutes its own structure at central level.

Art. 4 – (1) The organizational chart of the Office is provided for by the Annex, which is integrant part of the present regulations.

(2) Within the directorates, departments, bureaux and compartments may be organized by the order of the President of the Office.

CHAPTER II

The attributions of the Office

Art. 5 – (1) In order to accomplish its activity object, the Office has the following main attributions:

a) receives data and information from natural and legal persons provided for by the art. 5 para (1^1), art. 10 and art. 24 para (1) let a) – c) of the Law, related to the operations and transactions carried out in lei and/or foreign currency;

b) analyses and processes data and information received in accordance with the law, in order to identify the existence of solid grounds of money laundering or terrorist financing acts;

c) requests to any public authority and institution, as well as to any natural and legal person, the data and information they hold and which are necessary for accomplishing its object of activity. These data and information are processed and used in observance of the legal provisions related to the processing of personal data and of those related to the classified information;

d) cooperates with the public authorities and institutions, as well as, with natural and legal persons that can provide useful data, in order to accomplish its object of activity;

e) performs information exchange, based on reciprocity, with foreign institutions that have similar attributions and which have the obligation to keep the confidentiality in similar conditions, if such communications are made with the purpose of preventing and combat money laundering and terrorist financing acts;

f) issues, in accordance with the law, decisions for suspension of the carrying out the transactions on which exists the suspicion that they have as purpose money laundering and/or the financing of terrorism acts;

g) notifies, immediately, the General Prosecutor's Office by the High Court of Cassation and Justice, in the cases stipulated by the law;

h) notifies, immediately, the Romanian Intelligence Service concerning the operations suspected of terrorist financing acts, if subsequent to the analyses and processing of information solid grounds for the financing of such acts are found;

i) notifies, immediately, the competent body in cases in which solid grounds of committing other offences than that of money laundering or terrorist financing acts were found;

j) notifies ex officio, whenever it finds out, in any way, about a suspicious transaction, in accordance with the law;

k) elaborates and updates the lists which include the natural and legal persons suspected of committing or financing terrorism acts, which are submitted to the Ministry of Economy and Finance, in accordance with the legal provisions into force;

l) verifies and controls the enforcement procedure of the provisions of the law, by the natural or legal persons provided for by art. 10 of the law and which do not have, in accordance with the law, a public prudential supervision authority;

m) can make proposals to the Government and central public administration bodies for the adoption of measures, in order to prevent and combat money laundering and terrorist financing acts, endorses the drafts of the normative acts related to its activity object;

n) organises and realizes the specialized training of its own personnel and may participate to the special training programs of other institutions;

o) establishes the format and the content of the reports provided for by the art. 5 para (1), (7) and (8) of the Law, as well as the working methodology regarding the reporting procedures provided for by the art. 3 para (7) and (8) of the law;

p) elaborates, through the means of its specialized directorates, its working procedures, and elaborates the annual activity report, which shall be presented and submitted for approval to the Board of the Office;

q) elaborates, negotiates and concludes conventions, protocols, agreements with the domestic institutions, which have attributions in the field, and with similar foreign institutions, in accordance with

the law; can be member of the international specialized bodies and can participate to the activities of these bodies.

CHAPTER III

The organization and functioning of the Office

Art. 6 – The organization, structure and functioning of the Office shall ensure the accomplishment of the attributions stipulated by the law and by the present regulations;

Art. 7 – (1) In carrying out its attributions, the president of the Office issues orders and instructions.

(2) In respect to the activity of the natural or legal persons, provided for by art. 10 of the law, which do not have, in accordance with the law, a public prudential supervision authority, the President of the Office may issue instructions in respect to the enforcement of the legal provisions in the field.

Art. 8 – The President of the Office has the following main attributions:

a) represents the Office in its relations with the Parliament, judicial and administrative authorities, as well as, with the domestic and foreign natural and legal persons, including the international bodies and organizations;

b) engages, from patrimonial point of view, the Office, by his signature, in relations with third parties;

c) chairs the meetings of the Board and may ask the Board to decide over economical-administrative matters, whenever it considers necessary;

d) can delegate executive and representative powers to other members of the Office's Board, and, in his absence, will designate a member of the Board;

e) applies, in accordance with the law, disciplinary sanctions to the Office's employees when has ascertained the fact that they committed a disciplinary violation;

f) monitors and controls the enforcement of the communitarian normative acts, as well as of the international agreements to which Romania is part of, in the activity field of the Office;

g) initiates, negotiates and concludes, based on the proxy granted by Government, international cooperation documents in the field of prevention and combating money laundering and terrorism financing acts, in accordance with the legal provisions;

h) coordinates and controls, according to its competence, the enforcement of the normative acts, issued according to the law, in the field of money laundering and terrorism financing acts, by respecting the legal provisions;

i) approves the job description for the employees, establishing the attributions, tasks and competency limits for them, the evaluations documents regarding the annual professional activity, as well as the promotion in rank and degree of the personnel;

j) organizes and coordinates the activity of the subordinated advisors, directorates, departments, compartments and bureaux and is responsible for the good functioning of the Office;

k) draws up the annual activity report and the medium and long term strategic objectives of the Office, which are presented and submitted for approval to the Office's Board, in accordance with the law;

l) approves, by order, the internal methodological norms and procedures for accomplishing its object of activity, subsequent to their presentation and approval by the Office's Board, in accordance with the law.

Art. 9 – (1) The Board of the Office has the following main attributions: decides in respect to the:

a) written notes presented by the specialized directorate, in respect to the suspension of carrying out the transactions and the request for the prolongation of suspension, addressed to the General Prosecutor's Office by the High Court of Cassation and Justice, in accordance with the law;

b) written notes presented by the specialized directorate, in respect to the notification of the General Prosecutor's Office by the High Court of Cassation and Justice in cases in which exist solid grounds related to money laundering and terrorism financing acts, in accordance with the law, and in respect to the notification of the Romanian Intelligence Service regarding the suspicious terrorism financing acts operations;

c) written notes presented by the specialized directorate in respect to the notification of the competent bodies, when solid grounds for committing other offences than those of money laundering or terrorist financing acts, are found;

d) written notes presented by the specialized directorate, in respect to the holding into evidence the information received by the Office, in accordance with the law;

e) written notes drawn up by the specialized directorate, subsequent to the request received from the competent authorities, in accordance with the art. 8 para (5) of the Law;

f) written notes drawn up by the specialized directorate subsequent to the request received from the competent authorities, in accordance with the art. 8 para (6) of the Law;

g) economic-administrative matters, in accordance with the provisions of the law and the present regulations.

(2) The decisions of the Office's Board are adopted by the vote of the majority of the members.

(3) The members of the Office's Board ensure and coordinate the cooperation with the institutions they represent.

Art. 10 – Within the Office operate the following structures:

a) the President's counselors;
b) General Operative Directorate, composed of:
    - Analysis and Processing of Information Directorate;
    - Information Technology and Statistics Directorate;
c) Inter-institutional Cooperation and International Relations Directorate;
d) Economic-Financial and Administrative Directorate;
e) Supervision and Control Directorate;
f) Legal and Methodology Directorate;
g) Public Internal Audit Compartment;
h) Human Resources Compartment.

Art. 11 – (1) The General Operative Directorate is managed by a general director.

(2) The General Director may also fulfill other attributions established by the President's order, in accordance with the law, internal order regulations and internal working procedures.

(3) Analysis and Processing of Information Directorate has the following main attributions:

a) receives, analyses and processes the cases suspected of money laundering and terrorist financing acts, in accordance with the internal methodology approved by decision of the Office's Board;

b) requests, according to the provisions of the art. 7 of the law, to any competent institution, as well as, to the persons provided for by the article 10 of the law, data and information necessary in the

verification, analysis and processing the cases suspected of money laundering and/or terrorist financing acts;

c) draws up notes on the result of the processing of information, which are submitted to the Office's Board, for debate;

d) notifies, immediately, based on the Board's decision, in accordance with the provisions of art. 8 para (1) of the law, the General Prosecutor's Office by the High Court of Cassation and Justice and the Romanian Intelligence Service;

e) notifies, immediately, the competent bodies, based on the Board's decision, when after the analysis resulted solid grounds of committing only of other of offences than those of money laundering or terrorist financing acts;

f) provides, on a quarterly basis, to the Office's Board, the situation of non-finalized cases, for analysis and disposal of measures;

g) provides to the persons mentioned by article 10 letter a) and b) of the Law, whenever possible, respecting the confidentiality regime, through a secured way of communication, information regarding the customers, natural and/or legal persons exposed to risk of money laundering or terrorism financing acts, according to the internal procedures, in cooperation with the Supervision and Control Directorate;

h) elaborates and implements the directorate's working procedures and may participate in the elaboration of methodologies and analyses connected to the specific activity of the Office, as well as to the rules and international practice in the field, prepared by other specialized directorates within the Office;

i) participates in the elaboration of the annual report regarding the Office's activity;

j) elaborates, based on the cases analyzed within the Office, studies regarding specific typologies on money laundering and/or terrorist financing acts;

k) proposes to the Office's Board in order to be approved a system for performing of the financial analysis, endorsed by the Office's President, which will be updated on regular basis depending on the identified risk indicators;

l) other attributions established by order of the Office's President, according to the law, Regulation of interior order and internal working procedures.

(4) The Information Technology and Statistics Directorate accomplishes the following main attributions:

a) ensures the management of the IT system, the management and updating of the databases;

b) receives and takes over in the own databases the reports on cash transactions and the reports on cross-border transfers sent by the natural and legal persons provided in the art. 10 of the Law, as well as the information sent by the National Authority of Customs, according to the law;

c) organizes the registry, secretariat and archive activity;

d) ensures the access of the Office's personnel to the information received according to the law, as well as the good functioning of the on-line connection of the Office with the databases of other institutions with which the Office cooperates;

e) elaborates evidences and statistics analysis in the activity field of the Office;

f) creates and updates the database regarding the politically exposed persons, based on the information received by the public authorities and institutions and puts at the disposal of its own personnel and of the persons provided in the art. 10 of the law the information within this database;

g) draws up and implements the working procedures of the directorate and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practice in the field, prepared by other specialized directorates within the Office;

h) participates in the elaboration of the annual report regarding the Office's activity;

i) other attributions established by order of the Office's President, according to the law, Regulation of interior order and internal working procedures.

(5) The Director of the Directorate for Information Technology and Statistics ensures the performing of the security officer of the institution, according to the provisions of the Law no.182/2002, on protection of the classified information, with the subsequent modifications as well as the other legal provisions in the field.

Art. 12 - Inter-institutional Cooperation and International Relations Directorate has the following main attributions:

a) coordinates the activities regarding the participation of the Office within the national system for coordination of the European affaires for the participation of Romania to the decisional process of the European Union's institutions;

b) ensures the coordination of activities of internal and international cooperation of the Office with national institutions and international bodies in the field;

c) ensures the relationship and cooperation with the international bodies and with the foreign institutions having similar attributions as the Office;

d) elaborates proposals for concluding of bilateral memoranda/ agreements/understandings with foreign institutions having similar attributions and accomplishes the negotiation and signing procedures with foreign institutions having similar attribution, according to the legal provisions;

e) receives, submits and manages the incoming and outgoing requests of information from/to the foreign institutions, which have similar attributions and are equally obliged to keep the confidentiality in similar situations, if such disclosures are made with the purposes of prevention and combating money laundering and terrorist financing acts, according to the working procedures of the directorate;

f) coordinates the activities through which the technical aspects of the programs with external financing are implemented;

g) manages, accordingly to the Law, the activity of the spokesman;

h) organizes training seminars in the field of prevention of money laundering and terrorism financing acts;

i) ensures the collaboration with the prudential supervision authorities, law enforcement authorities, financial control bodies and other institutions with attributions in the field, through the conclusion of cooperation protocols which provide the necessary measures for enforcing the legal provisions;

j) coordinates the elaboration of the Annual Activity Report's draft and presents it to the Office's President;

k) presents to the Office's management the draft of the directorate's working procedures, elaborates and implements these procedures and may participate in the elaboration of the methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practice in the field, prepared by other specialized directorates within the Office;

l) other attributions established by order of the Office's President, according to the law, interior order regulations and internal working procedures.

Art. 13 – The Economic-Financial and Administrative Directorate has the following main attributions:

a) elaborates the draft of the income and costs budget of the Office;

b) draws up the annual and quarterly financial reports provided by law;

c) monitors the efficient spending of the funds, in accordance with the legal provisions, and presents to the Office's management the report on the budget execution;

d) elaborates proposals for the rectification, if necessary, of the income and costs budget;

e) organizes and manages the Office's bookkeeping;

f) ensures the acquisition, management and administration of the fixed assets, inventory objects and consumption materials, as well as the maintenance and the exploitation of the auto stock;

g) organizes the inventory process of material and financial means of the Office;

h) organizes the preventive financial control and administration financial control activity, in accordance with the legal provisions;

i) elaborates and verifies the fulfillment of the plan on the prevention and extinguishing fires, assuring the endowment with the necessary equipments, as well as the training of the personnel in the field;

j) elaborates and implements the working procedures of the directorate and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practices in the field, prepared by other specialized directorates within the Office;

k) other attributions established by the order of the Office's President, according to the law, interior order regulations and internal working procedures.

Art. 14 –Supervision and Control Directorate has the following main attributions:

a) elaborates, in accordance with the legal rules into force, norms, methodologies and/or working procedures regarding the risk based supervision and the control of the entities provided for by the art. 10 of the law, which are not under the prudential supervision of any public authority;

b) elaborates written notes on the verification of the risk exposure of the entities provided for by art. 10 of the law, which are not, according to the law, under the prudential supervision of any public authority, based on which control activities may be organized;

c) elaborates the program for the checking and control actions of the entities provided for by the art. 10 of the law, which are not under the prudential supervision of any public authority, and ensures its implementation;

d) may request, according to the law, data and information necessary for performing risk based supervision and control activities, from the competent institutions;

e) performs the operative and unforeseen control of the persons provided for by art. 10 of the law, based on the activity order with permanent character issued by the Office's President, ascertains the contraventions committed and applies the legal sanctions through ascertainment and contravention's sanctioning document (record) according to the legal provisions in the field, attribution realized by the designated persons within the Office, generically called ascertaining agents;

f) elaborates proposals, based on the risk analysis, regarding drawing up the training programs for the persons provided for by the art. 10 of the law and may participate in their performance;

g) elaborates and implements the working procedures of the directorate and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practices in the field, prepared by other specialized directorates within the Office;

h) other attributions established by order of the Office's President, according to the law, interior order regulation and internal working procedures.

Art. 15 – The Legal and Methodology Directorate has the following main attributions:

a) ensures specialized legal assistance in the Office's relations with third parties;

b) represents the Office, through the designated persons, in the Courts of Law;

c) ensures the preparation of all necessary procedural acts for solving the cases from courts and compiles the cases records from courts;

d) takes all the necessary measures for ensuring the enforcement, according to law, of the final and irrevocable court decisions, as well as the decisions executory by law of the prime court, according to law;

e) Accomplishes the procedure for endorsement of the normative acts' drafts initiated by the Office;

f) endorses for legality purposes the administrative acts of the Office's President and any other acts which produce legal effects as well as normative acts connected with the Office's object of activity, elaborated by other relevant authorities;

g) endorses for legality purposes the civil and commercial contracts which involve the patrimonial liability of the Office;

h) ensures the notification of the structures within the Office, as regards the normative acts relevant for its activity;

i) elaborates analysis concerning the opportunity for initiation or amendment of normative acts related to the Office's object of activity;

j) participates in the elaboration of normative acts' drafts in the field of prevention an combating money laundering and terrorism financing acts, rules and internal procedures;

k) provides specialized consultancy to the persons provided for by art. 10 of the law and to other authorities and institutions, as regards the modality of enforcement of the legal provisions in the field of prevention and combating money laundering and terrorism financing acts;

l) elaborates and implements the working procedures of the directorate and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practices in the field, prepared by other specialized directorates within the Office;

m) participates in the elaboration of the strategy and programs for prevention and combating money laundering and terrorism financing acts;

n) other attributions established by order of the Office's President, according to the law, interior order regulations and internal working procedures.

Art. 16 - Human Resources Compartment has the following main attributions:

a) keeps and fills in the job records, registers and other documents concerning the work activity of the personnel, according to the law;

b) draws up the documents and carries out the activities necessary for employments, modifying and for ceasing the work relationships;

c) proposes, coordinates and monitors the fulfillment of the formation training and specializing programs for the Office's personnel;

d) keeps the records regarding the performance of the leaves as well as the study and without wage vacations;

e) fills in the retirement documents for aging limit, retirement caused by infirmity or for pension for descendant;

f) elaborates and implements the working procedures of the compartment and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practices in the field, prepared by other specialized directorates within the Office;

g) ensures the knowledge and the compliance of the Office's personnel with the Regulation for the Organization and Functioning and of the internal order regulations, approved by the Office's President;

h) elaborates the methodology regarding the establishment of the recruitment and hiring conditions, according to the law, which shall be approved by Office's President order;

i) other attributions established by order of the Office's President, according to the law, interior order regulations and internal working procedures.

Art. 17 - Internal Public Audit Compartment has the following main attributions:

a) issues specific methodological audit norms, with the endorsement of the Harmonising Central Unit for Internal Public Audit;

b) issues the draft of the internal public audit annual plan;

c) carries out internal public audit activities in order to evaluate if the financial and control management of the public entity are transparent and in compliance with the legal norms, regularity, economic, efficiency and effectiveness;

d) informs the Harmonising Central Unit for Internal Public Audit about the recommendations non-assimilated by the head of the public entity audited, as well as about their consequences;

e) reports periodically on the findings, conclusions and recommendations resulted from its audit activities;

f) elaborates the annual report of the internal public audit activity;

g) reports immediately to the Office's President the identification of certain violations or possible prejudices;

h) draws up a report in which it is synthetically presented the level of ensuring the management as regards the viability of the accounting system, recommendations made and the stage of their implementation, report that shall be presented to the Office's president in order to be approved;

i) elaborates and implements the working procedures of the compartment and may participate in the elaboration of methodologies, studies and analyses connected to the specific activity of the Office, as well as to the rules and international practices in the field, prepared by other specialized directorates within the Office;

j) other attributions established by order of the Office's President, according to the law, Regulation of interior order and internal working procedures.

Art. 18 – The description in detail of the attributions, tasks and individual responsibilities of the Office's personnel are established by the job description, which is drawn up in accordance with the law and the present regulations, is signed by the employee and the hierarchical superiors and is approved by the President of the Office.

Chapter IV

Recruitment, employment, promotion conditions and disciplinary liability of the personnel

Art.19 - Employment of personnel shall be carried out by contest, according to the law. In the contest may participate persons from inside or outside the institution.

Art.20 - In order to take part in hiring contest within the institution, the candidates shall fulfill the following conditions:

a) to have Romanian citizenship;

b) to have an university degree issued by an economic or legal high educational institute, or school graduate of medium studies, by case, having the minimum length of service according to the Law; in the IT activity can be employed as financial analyst the graduates of high educational institutes with informatics profile and, for the contractual personnel which holds similar positions to those in the budgetary system can be employed graduates of the general and medium education, having the adequate qualification;

c) to have the exercise of the civil and political rights;

d) to have a professional and intact moral reputation;

e) to have no conviction for any offence;

f) to be declared admitted to the medical and psychological test.

Art.21 - (1) The folder for the participation to the contest for employment within the Office shall compulsory include the following documents:

a) candidate's request;

b) university diploma for higher education graduates and for the high schools and professional schools graduates, as appropriate, the high school or professional school graduation certificate, in copy compliance with the original;

c) curriculum vitae;

d) reference – letter of recommendation from the last job, which has to provide contact data of the person who gave the recommendation – phone, position, job;

e) criminal record certificate;

f) medical record;

g) a copy of the job record with the mention "according to the original", signature and/or stamp on all the copy's pages;

h) a copy according to the original of the marriage certificate, if it is the case;

i) a copy according to the original of the birth certificate for each child being in growth of parents, if it is the case;

j) a statement on own responsibility that the candidate has not been judged or convicted in penal cases and he/she is not subject of a current investigation or penal procedure.

(2) For the positions having specific attributions, by order of the Office's President, can be set up other necessary documents.

Art.22 – In 30 days from the date of entering into force of this regulation, it shall be approved, by order of the Office's President, according to the law, the Regulation for organizing and performing the contests for employment within the Office.

Art. 23 - As of the date of employment, the personnel of the Office shall sign an engagement regarding the liability of not disclosing the information received during its activity, but only in case of a judicial procedure including a five years period after ending of the employment period.

Art.24 - The employed personnel of the Office cannot hold any job and cannot fulfill any position within the legal entities provided for in the art. 10 of Law, being simultaneously an employee of the Office.

Art.25 – (1) The upgrading of personnel on degrees and functions is done by order of president, according to the law.

(2) The upgrading shall be done in the superior grade/level to the one held, with framing in the budgetary credits allocated.

(3) The upgrading in grade/level criteria are established by order of the Office's President, in 30 days from entering into force of this regulation.

(4) The infringement of the legal obligations by the members of the Board and by the hired personnel of the Office engages, by case, civil, penal, disciplinary and contravention liability, according to the law.

Art.26 – The Office has an endowment of 8 cars, having a maximum consumption of 300 liters/month/car.

Decision no. 674 on the form and contain of the Suspicious Transaction Report, the Cash Transaction Report and the External Transaction Report

Government of Romania
The National Office for Prevention and Control of Money Laundering

May 29, 2008

Published in the Official Gazette no. 451 from June 17, 2008

In accordance with the provisions of art. 3 para. (9) of the Law no. 656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, with subsequent modifications and completions, and of art. 8 para. (3) letter. a) of the Regulations on the Organisation and Functioning of the National Office for the Prevention and Control of Money Laundering, approved by Government Decision no. 531/2006,

The Board of the National Office for Prevention and Control of Money Laundering decides:

Art. 1 - (1) It is approved:

a) the form and contain of the **Suspicious Transaction Report**, provided in the annex no. 1;

b) the form and contain of the **Cash Transaction Report**, provided in the annex no. 2A, respectively the format of the electronic file equivalent to this report, provided in the annex no. 2B;

c) the form and contain of the **External Transaction Report**, provided in the annex no. 3A, r respectively the format of the electronic file equivalent to this report, provided in the annex no. 3B.

Art. 2 - (1) The annexes no. 1 - 3 are integral part of this decision.

(2) The present decision shall enter into force in 60 days from its publication.

(3) At the date of entering into force of the present decision, the Decision of the Board of the National Office for Prevention and Control of Money Laundering no. 276/2005 on the form and contain of the Suspicious Transaction Report, the Cash Transaction Reports in RON or foreign currency which exceed the threshold of 10.000 euro, indifferently if the transaction are carried out through one or more connected operations, and of the External Transaction Report in and from account, for amounts exceeding the threshold of RON equivalent of 10.000 Euro, published in the Official Gazette of Romania, Part I, no. 558 from June 29, 2005.

Art. 3 – The present decision shall be published in the Official Gazette of Romania, Part I.

On behalf of the President of the National Office for Prevention and Control of Money Laundering,
Cezar Flavian Patriche

Decision no. 962 for amending the annexes no. 2B, 3A and 3B of the National Office for Prevention and Control of Money Laundering Board's Decision no. 674/2008 on the form and content of the Suspicious Transaction Report, Cash Transaction Report and Cross-border Transfers Report

Government of Romania
National Office for Prevention and Control of Money Laundering
Published in the Official Gazette No. 761 from 15 November 2010

In accordance of the art. 3 Para. (9) of the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing**,** with subsequent modifications and completions,

The Board of the National Office for Prevention and Control of Money Laundering decides:

Art. I - Decision of the National Office for Prevention and Control of Money Laundering Board no. 674/2008 on the form and content of the Suspicious Transaction Report, Cash Transaction Report and Cross-border Transaction Report, published in the Official Gazette of Romania, Part I, no. 451 from 17 June 2008, is amending as follows:

1. Annexes no. 2B and 3B shall be amended and replaced by the annexes no. 1 and 2, which are integral part of this decision.

2. In annex no. 3A, the item 4.9 shall be read as follows:

"**4.9. Column 20** «Place of registration »

The Romanian natural and legal persons shall not fill in this section. The foreign legal persons will fill in this section with the place of their registration. If the reporting entity does not have information regarding the name of the registration place, the column 20 shall be filled in with the conventional value FN."

Art. II – This decision shall be published in the Official Gazette of Romania, Part I, and shall enter into force on the date of its publishing.

The President of the National Office for Prevention and Control of Money Laundering,
Adrian Cucu

Annex No. 1
(Annex no. 2B of the Decision no. 674/2008)

STRUCTURE OF THE FILE
Electronic equivalent of the Cash Transaction Report

1. The electronic equivalent of the report described in the annex no. 2A is a file named **ccccccczzllaaaa_n.DBF** - DBF format, where:

a) **cccccc** represents the code of the reporting entity, which is allocated by the National Office for Prevention and Control of Money Laundering when the first reporting is made;

b) **zzllaaaa** represents the date when the reporting is made – day, month, year;

c) **_n** represents the identifier of the report type.

2. The file **ccccccczzllaaaa_n.DBF** is available to the reporting entities on the website www.onpcsb.ro and it has the following structure:

Crt. No.	Name of the column	Type	Size	Remarks/Restrictions
1.	**date_report**	Date	10	settled as zz/ll/aaaa, where zz = day, ll = month, aaaa = year - 4 positions
2.	**code_bank**	Numerical	6	
3.	**code_subsidiary**	Numerical	6	code from the list of subunits- see item 4
4.	**type_c**	Character	1	two possible values "F" or "J"
5.	**pep_c**	Numerical	1	possible values: 1, 2, 3 and null
6.	**surname_c**	Character	40	
7.	**name_c**	Character	30	
8.	**country_c**	Numerical	3	code from the list of countries
9.	**county_c**	Numerical	2	code from the list of counties
10.	**locality_c**	Numerical	6	code from the list of localities
11.	**street_c**	Character	35	
12.	**no_c**	Character	5	
13.	**district_c**	Numerical	1	possible values: 1 la 6 - exception 9
14.	**id_doc_c**	Character	15	
15.	**code_c**	Character	13	
16.	**date_birth**	Date	10	settled as zz/ll/aaaa
17.	**country_birth**	Numerical	3	code from the list of countries
18.	**locality_birth**	Numerical	6	code from the list of localities
19.	**pep_i**	Numerical	1	possible values: 1, 2, 3 and null
20.	**surname_i**	Character	25	
21.	**name_i**	Character	30	
22.	**country_i**	Numerical	3	code from the list of countries
23.	**county_i**	Numerical	2	code from the list of counties
24.	**locality_i**	Numerical	6	code from the list of localities
25.	**street_i**	Character	35	
26.	**no_i**	Character	5	
27.	**district_i**	Numerical	1	possible values: 1 la 6 - exception 9
28.	**id_doc_i**	Character	15	
29.	**code_i**	Character	13	
30.	**account_holder**	Character	30	
31.	**date_op**	Date	10	settled as zz/ll/aaaa
32.	**type_op**	Character	1	two possible values "D" or "R"
33.	**scope_op**	Character	6	code from the list of Operation Types
34.	**code_currency**	Character	3	code from the list of Currencies
35.	**ammount_op**	Numerical	13	>=1
36.	**euro**	Numerical	13	>=1
37.	**Remarks**	Character	200	

3. Correspondence between the structure of the file **ccccccczzllaaaa_n.DBF** and the form of the Cash Transaction report provided for in the annex no. 2A is, as follows:

a) column 1 of the file corresponds to the section "Date of the report" from the report form;

b) column 2 of the file is a code for identification, allocated to each reporting entity and corresponds to the section "Name" from the heading of the report form;

c) columns 3 - 37 of the file correspond with the columns 1 – 35 from the report form.

4. Electronically, the list of subunits is a file named **cccccc.DBF** – DBF format, where ***cccccc*** represents the code of the reporting entity – with the following structure:

Crt No.	Name of the column	Type	Size	Remarks/Restrictions
1.	**code_s**	Numerical	6	code of the subsidiary, agency, working place etc.
2.	**name_s**	Character	100	name of the subunit
3.	**type_s**	Character	1	type of the subunit, possible values: "C" – central headquarters, "S" - subsidiary, "A" - agency, "P" – working place
4.	**code_j**	Numerical	2	code of the county where the subunit is located according to the list of counties
5.	**code_l**	Numerical	6	code of the locality where the subunit is located according to the list of localities

Annex No. 2
(Annex no. 3B of the Decision no. 674/2008)

STRUCTURE OF THE FILE

Electronic equivalent of the Cross-border Transfers Report

1. The electronic equivalent of the report described in the annex no. 3A Is a file named **ccccccczzllaaaa_t.DBF** - DBF format, where:

a) **cccccc** represents the code of the reporting entity, which is allocated by the National Office for Prevention and Control of Money Laundering when the first reporting is made;

b) **zzllaaaa** represents the date when the reporting is made – as day, month, year;

c) **_t** represents the identifier of the report type.

2. The file **ccccccczzllaaaa_t.DBF** is made available to the reporting entities on the website www.onpcsb.ro and it has the following structure:

Crt No.	Name of the column	Type	Size	Remarks/Restrictions
1.	**date_report**	Date	10	settled as zz/ll/aaaa, where zz = day, ll = month, aaaa = year - 4 positions
2.	**code_bank**	Numerical	6	
3.	**code_subsidiary**	Numerical	6	code from the list of subunits - see item 4
4.	**type_c**	Character	1	two possible values "F" or "J"
5.	**pep_c**	Numerical	1	possible values: 1, 2, 3 and null
6.	surname_**c**	Character	40	
7.	**name_c**	Character	30	
8.	**code_c**	Character	13	
9.	**type_id_c**	Numerical	2	code from the list ID documents
10.	**series_id_c**	Character	3	
11.	**no_id_c**	Character	14	
12.	**date_id_c**	Date	10	settled as zz/ll/aaaa
13.	**author_id_c**	Character	20	
14.	**country_c**	Numerical	3	code from the list of countries
15.	**county_c**	Numerical	2	code from the list of counties
16.	**locality_c**	Numerical	6	code from the list of localities

17.	**street_c**	Character	35	
18.	**no_c**	Character	5	
19.	**district_c**	Numerical	1	possible values: 1 to 6 - exception 9
20.	**rez_c**	Character	1	2 possible values "R" or "N"
21.	**cet_c**	Numerical	3	code from the list of countries
22.	**locality_reg**	Character	40	
23.	**pep_rep**	Numerical	1	possible values: 1, 2, 3 and null
24.	**surname_rep**	Character	25	
25.	**name_rep**	Character	30	
26.	**code_rep**	Character	13	
27.	**type_ct**	Numerical	1	possible values: 0, 1 and 2
28.	**account_c**	Character	30	
29.	**type_ct**	Numerical	2	code from the list of account types
30.	**country_ext**	Numerical	3	code from the list of countries
31.	**name_ext**	Character	50	
32.	**account_ext**	Character	30	
33.	**type_ext**	Character	1	2 possible values "F" or "J"
34.	**pep_ext**	Numerical	1	possible values: 1, 2, 3 and null
35.	**surname_ext**	Character	40	
36.	**name_ext**	Character	30	
37.	**pep_i**	Numerical	1	possible values: 1, 2, 3 and null
38.	**surname_i**	Character	25	
39.	**name_i**	Character	30	
40.	**code_i**	Character	13	
41.	**type_doc_i**	Character	15	
42.	**no_doc_i**	Character	15	
43.	**type_id_i**	Numerical	2	code from the list of ID documents
44.	**series_id_i**	Character	3	
45.	**no_id_i**	Character	14	
46.	**date_id_i**	Date	10	settled as zz/ll/aaaa
47.	**author_id_i**	Character	20	
48.	**country_i**	Numerical	3	code from the list of countries
49.	**county_i**	Numerical	2	code from the list of counties
50.	**loca_i**	Numerical	6	code from the list of localities
51.	**street_i**	Character	35	
52.	**no_i**	Character	5	
53.	**district_i**	Numerical	1	possible values: 1 to 6 - exception 9
54.	**date_op**	Date	10	settled as zz/ll/aaaa
55.	**ammount_op**	Numerical	13	>=1
56.	**code_currency**	Character	3	code from the list of currencies
57.	**type_op**	Character	1	two possible values "D" or "C"
58.	**Euro**	Numerical	13	>=1
59.	**Details**	Character	6	code from the list of operation types
60.	**Remarks**	Character	200	

ccccccczzllaaaa_n.DBF and the form of the Cash Transaction report provided for in the annex no. 2A is, as follows:

a) column 1 of the file corresponds to the section "Date of the report" from the report form;

b) column 2 of the file is a code for identification, allocated to each reporting entity and corresponds to the section "Name" from the heading of the report form;
c) columns 3 - 37 of the file correspond with the columns 1 – 35 from the report form.

3. Correspondence between the structure of the file **ccccczzllaaaa_t.DBF** and the form of the Cross-Border Transfers Report provided for in the annex no. 3A is, as follows:
a) column 1 of the file corresponds to the section "Date of the report" from the report form;
b) column 2 of the file is a code for identification, allocated to each reporting entity and corresponds to the section "Name" from the heading of the report form;
c) columns 3 - 60 of the file correspond with the columns 1 – 58 from the report form.

4. Electronically, the list of the subunits is a file named **cccccc.DBF** - format DBF, where **cccccc** represents the code of the reporting entity – with the following structure:

Crt. No.	Name of the column	Type	Size	Remarks/Restrictions
1.	**code_s**	Numerical	6	code of the subsidiary, agency, working place etc.
2.	**name_s**	Character	100	name of the subunit
3.	**type_s**	Character	1	type of the subunit, possible values: "C"- central headquarters, "S" - subsidiary, "A" - agency, "P" – working place
4.	**code_j**	Numerical	2	code of the county where the subunit is located, according to the list of counties
5.	**code_l**	Numerical	6	code of the locality where the subunit is located, according to the list of localities

Decision no. 673 on the approval of the work methodology regarding the submission of the cash transaction reports and external transaction reports

May 29, 2008

Government of Romania

National Office for Prevention and Control of Money Laundering

Published in the Official Gazette no. 452 from June 17, 2008

In accordance with the art. 3 para. (9) of the Law no. 656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, with subsequent modifications and completions, and of art. 8 para. (3) letter. a) of the Regulations on the Organisation and Functioning of the National Office for the Prevention and Control of Money Laundering, approved by Government Decision no. 531/2006,

The Board of the National Office for the Prevention and Control of Money Laundering decide:

Art. 1 – It is approved the work methodology regarding the submission of the cash transaction reports and external transaction reports, enclosed in the Annex which is integral part of the present decision.

Art. 2 – The present decision it will be published in the Official Gazette and shall enter into force in 60 days from its publication.

On behalf of the President of the National Office for Prevention and Control of Money Laundering,

Cezar Flavian Patriche

Annex

WORK METHODOLOGY

on the approval of the work methodology regarding the submission of the cash transaction reports and external transaction reports

Art. 1 - (1) In the content of the present work methodology, the cash transaction reports and external transaction reports are generally hereafter referred to as reports.

(2) The sintagme "reporting entity" defines the natural and legal persons provided in the Law no. on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, with subsequent modifications and completions.

Art. 2 - (1) The reports are submitted to the National Office for Prevention and Control of Money Laundering in 10 working days from the performing of the transactions which is subject to the reporting obligation.

(2) The reports can be submitted to the National Office for Prevention and Control of Money Laundering, as follows:

a) daily;

b) cumulative, for a maximum period of 10 working days.

(3) For the situation provided in para. (2) letter. b), the reporting entity shall fulfill an each type of report, which shall contain all the operations performed during the reporting period.

Art. 3 - (1) The reports may be fulfilled into a printing format on paper, or into an electronic device, on magnetic or optic support.

(2) The reports in electronic format shall be named cccccddmmyyyy_N.dbf for cash transactions report, respectively cccccddmmyyyy_T.dbf for the external transaction reports and shall be fulfilled in accordance with the approved format, for each type of file, through the National Office for Prevention and Control of Money Laundering Board's Decision no. 674/2008 on the form and contain of the Suspicious Transaction Report, Cash Transaction Report and External Transaction Report.

Art. 4 - (1) The reports, both in writing and electronic format, shall be submitted to the National Office for Prevention and Control of Money Laundering using the following modalities:

a) handing in to the registration desk of the institution;

b) using the mail and messenger services, with the confirmation of the receiving.

(2) The reports in electronic formats submitted using any modalities describe above shall be accompanied by an address, which template is presented in the annex of the present work methodology. The address, mandatory, shall contain the characteristics of the file: name, date and the hour of creation and the dimension in KB. Also, in the letter can be made other mentions considered to be necessary by the reporting entity.

(3) It is forbidden the submission of the reports using fax or e-mail.

(4) The credit institutions and the branches in Romania of the foreign credit institutions can submit the reports in electronic form using the inter-banking communication network, in accordance with the protocol concluded by the National Office for Prevention and Control of Money Laundering. In this case, the reports are not accompanied by the address.

Art. 5 – The responsibility of ensuring the confidentiality of the data contained in the reports during the transmission shall be only the responsibility of the reporting entity.

Art. 6 - (1) The reporting entities which notice the existence of some errors into a previous report, shall fulfill, immediately, a correction report which will replace the initial report.

(2) Indifferently if the correction report is fulfilled in a printing or electronic format, this shall contain both the correct data from the initial report and the data which was corrected by the reporting entity.

(3) The reports in the printed form shall contain to the "Observation" column, mentions about the corrected operations, and the reports in the electronic format shall contain the date of the bringing up to date of the corrected data.

(4) For the reports mentioned to para. (1), in electronic format, the correction files shall be named cccccddmmyyyyX_N.dbf, respectively cccccddmmyyyyX_T.dbf.

(5) If the reporting entity notice that an already submitted report is incomplete, the omission date shall be communicated, immediately, using a new report, which shall contain to the "Observation" column the motives for which is necessary the fulfillment of the new report.

(6) For the reports mentioned to para. (5), fulfilled in an electronic format, the correction reports shall be named cccccddmmyyyyY_N.dbf, respectively cccccddmmyyyyY_T.dbf.

Annex to the work methodology

ADDRESS
- template-

Reporting entity: Reference no. of the issuer:
Name: Reporting date:
Unique identification code (fiscal code):
Number of registration to the National Trade Registry:
Address and phone/fax number:

To the attention of the National Office for Prevention and Control of Money Laundering

We send you attached, on electronic device (number of floppy disks, number of CD-ROMs) contained:

1. The Cash Transaction Report, named cccddmmyyyy_N.dbf, for the day/period ....., created on ....., at hours....., with the size of..... KB.
2. The External Transaction Report, named cccddmmyyyy_T.dbf, for the day/period ....., created on ....., at hours....., with the size of..... KB.
3. The corrected/in completion Cash Transaction Report, named cccddmmyyyyX_N.dbf/cccddmmyyyyY_N.dbf, for the day/period ....., created on ....., at hours....., with the size of..... KB.
4. The corrected/in completion External Transaction Report, named cccddmmyyyyX_T.dbf/cccddmmyyyyY_T.dbf, for the day/period ....., created on ....., at hours....., with the size of..... KB.

We certify that the data contained in the file are complete, correct and are in accordance with the legal provisions.

Name of the authorized person

.....

(Signature of the authorized person and the seal of the reporting entity)

Decision no. 964 for amending and completion of the Working methodology on submission of the cash transaction reports and of cross border transaction report, approved by the Decision of the Board of the National Office for Prevention and Control of Money Laundering no. 673/2008

From 28 October 2010
Romanian Government National Office for Prevention and Control of Money Laundering

Published in the Official Gazette no. 761 from 15 November 2010

*) Important note:
For entering into force of the present decision, please see the provisions of the art. II

Based on the provision of the art. 3 para (90 from the Law no. 656/2002 for prevention and sanctioning money laundering and for setting up measures for prevention and combating terrorism financing, as amended and completed,

The Board of the National Office for Prevention and Control of Money Laundering, decide:

Art. I – The Working methodology on submission of the cash transaction reports and of cross border reports, approved through the Decision of the Board of the National Office for Prevention and Control of Money Laundering, no. 673/2008, published in Official Gazette of Romania Part I, no. 452 from 17 June 2008, will be amended and completed, as follows:

1. **At art. 4 para (1), after letter b) is introduces a netter c), with the following content:**

"c) through on line reporting system."

2. **At art. 4, para (2) will be amended and will have the following content:**

" (2) The reports in electronic format submitted through means provided at para (1)letter a) and b) will be accompanied by a submission address, of which form is presented in attachment at the current methodology. The submission address is mandatory to have the characteristics of the file: name, date and hour of generating and dimension in KB. Also, into submission address could be made other specifications that are considered necessary by the reporting entities."

3. At art. 6 para (4) and (6) is amended and will have the following content:

"(4) For the reports mentioned at para (1), concluded into electronic form, the amending files are named ***ccccccczzllaaaaX_N.dbf, respectively ccccccczzllaaaaX_T.dbf.***

.....

(6) For reports mentioned at para (5), concluded into electronic from, the amending files are named ***ccccccczzllaaaaY_N.dbf, respectively ccccccczzllaaaaY_T.dbf.***"

4. **The Annex at the methodology is amended and is replaced with annex which is integrant part current decision**

Art. II. Current decision is published into Official Gazette of Romania, Part I and is entering into force at the date of publishing, excepting provisions of the art. I point c, which is entering into force on 01 December 2010.

President of the National Office for Prevention and Control of Money Laundering
ADRIAN CUCU

Annex

SUBMISSION ADRESS

- pattern -

Reporting entity: issuer registration number:
Name: Date of reporting:
Unique registration number (fiscal code):
Registering number at the office commerce registry:
Address and phone/fax number:

To

The National Office for Prevention and Control of Money Laundering

We hereby submit you on electronic device (number of floppy and number of CDs) containing:

1. Cash transaction repot, named ***ccccccczzllaaaa_N.dbf*** for day/period……, created on ……., at hour…….., with dimension of……KB;
2. Cross border transaction report named ***ccccccczzllaaaa_T.dbf,*** for the day/period…….., created on…….at hour……, with dimension of…..KB;
3. Amending/in completion cash transaction report, named ***ccccccczzllaaaaX_N.dbf/ccccccczzllaaaaY_N.dbf,*** for day/period…….., created on……at hour……..with dimension of…..KB;
4. Cross border transaction report amending/in completion, named ***ccccccczzllaaaaX_T.dbf/ccccccczzllaaaaY_T.dbf,*** for day/period……created on…..at hour……., with dimension of …….KB;

We hereby certify that the date within the file are completed, correct and respects the provisions of the current legislation.

Name and surname of the authorized person

.....

(signature of the authorized person and stamp of the reporting entity)

_____

Regulation no. 5/2008 on the prevention and control of money laundering and terrorist financing through the capital market

National Securities Commission

Chapter I - General provisions

Art. 1

This regulation sets out measures on the prevention and control of money laundering and terrorist financing through the capital market.

Art.2

(1) Terms, abbreviations and expressions used in this Regulation have the meaning as provided by Law no. 656/2002, Government Decision nr.594/2008 on the approval of Regulation implementing Law nr.656/2002 on the prevention and sanctioning of money laundering and Law nr.297/2004.

(2) For the purposes of this regulation, the terms and expressions below bear the following meanings:

a.) *N.S.C.* – National Securities Commission;

b.) *Regulated entities* – Entities whose activity is authorized, regulated and supervised by N.S.C. in the fulfilment of its legal duties, in accordance with art. 2 paragraph (1) point 5 of Law no. 297/2004 on the capital market and which perform the activities referred to in art. 8 of Law no. 656/2002

c.) *Law nr.297/2004* - Law on the capital market, with subsequent modifications and amendments;

d.) *Law no. 656/2002* - Law on the prevention and sanctioning money laundering as well as for the establishment of appropriate measures for the prevention of and fight against terrorism financing, with subsequent modifications and amendments;

e.) *Office* - National Office for Prevention and Control of Money Laundering.

Art.3

(1) N.S.C. shall monitor regulated entities to ensure that they comply with the legal provisions in force regarding the identification, verification and record of clients and transactions, reporting suspicious transactions and cash transactions as well as the implementation of a programme to comply with all these requirements and the employees' training in this respect.

(2) N.S.C. shall monitor operations with financial instruments performed by regulated entities to the purpose of identifying suspicious transactions.

(3) N.S.C. has the right to examine the policies and procedures issued by regulated entities regarding the prevention and sanctioning of money laundering and terrorist financing.

(4) N.S.C. is entitled to seek modification of policies and procedures issued by regulated entities when it does not reflect the prudential measures under this Regulation.

(5) N.S.C. shall immediately inform the Office when the data received raises suspicions of money laundering, terrorist financing or breaches of the provisions of Law no. 656/2002 as modified and completed by Law no. 230/2005.

(6) During the monitoring process, the N.S.C. may request regulated entities to provide any relevant information or documents.

Chapter II - Obligations of regulated entities

Section 1- Preventive Measures

Art. 4

(1) Regulated entities are required to prepare, establish and implement adequate policies, procedures and mechanisms in terms of customer's due diligence, reporting, record keeping, internal control, assessing and managing the risks, compliance and communication management, to prevent and hamper the involvement of regulated entities in suspicious activities of money laundering and terrorist financing , to ensure adequate training of the employees.

(2) Regulated entities must draft a written procedure with respect to client approval.

(3) Regulated entities shall identify, verify and record the identity of the clients and beneficial owners before concluding any business relationship or performing transactions on behalf of their client / beneficial owner.

(4) Regulated entities shall ensure that policies and internal procedures are applied by secondary premises, including those located abroad.

(5) Regulated entities are required to inform all their branches and subsidiaries located in third countries on the policies and procedures issued in accordance with Law no.656/2002.

Art. 5

(1) Regulated entities are required to designate by an internal act, one or more persons who have responsibilities in implementing the legal provisions on preventing and sanctioning money laundering and terrorist financing, whose names will be transmitted to the Office and the N.S.C., together with their above mentioned responsibilities limits and extents.. The internal act will be submitted directly to the Office and the N.S.C. or via mail services with confirmation of receipt.

(2) Regulated entities are required to appoint a compliance officer subordinated to the executive management, which coordinates the implementation of policies and internal procedures referred to in Article 4.

(3) If the regulated entity is required to set up an internal control department for monitoring the compliance with the legislation in force the persons designated in accordance with paragraph (1) may be placed in the internal control department.

(4) The names, together with the function and responsibilities set out for the persons referred to in Para. (1) and (2) shall be transmitted to the Office and the N.S.C. within 30 days from the date of the entry into force of this Regulation.

(5) The regulated entity shall notify the Office and the N.S.C. on any replacement of the employees referred to in paragraph (1) and (2), within 15 days from the date of such changes. Persons designated pursuant to paragraph (1) and (2) are responsible for carrying tasks set out in the Law no. 656/2002 and this Regulation. In fulfilling their tasks, these persons have permanent and direct access to all records of the regulated entity drafted in compliance with this Regulation and other legal provisions.

Art.6

(1) Regulated entities have the obligation to implement procedures for verification (screening) to ensure high standards when persons are hired.

(2) Regulated entities must ensure proper training for employees on the prevention and combating money laundering and terrorist financing.

(3) Training programs should ensure that employees:

a) have adequate knowledge on the laws, regulations, rules, policies and procedures on preventing and combating money laundering and terrorist financing;

b) have the necessary competencies to adequately analyze the transactions in order to identify money laundering and financing of terrorism operations;

c) fully meet reporting requirements.

(4) Regulated entities will communicate to all employees the policies and procedures to prevent and combat money laundering and the financing of terrorism.

Section II - Standard customer due diligence measures

Art.7

(1) Regulated entities are required to adopt adequate measures to prevent money laundering and terrorist financing during the performance of their activity, adequate measures to prevent money laundering and terrorism financing acts, and, for this purpose, based on risk, shall apply standard, simplified or enhanced customer due diligence measures which shall allow identification, where applicable, of the beneficial owner.

(2) Regulated entities are required to revise the standard customer due diligence measures when suspicions appear on the customer during the performance of operations.

(3) Regulated entities are required to ensure that all standard customers due diligence measures for identifying the client are applied to their secondary offices, including those located abroad.

Art.8

(1) Regulated entities are required to apply the entire standard customer due diligence measures in the following situations:

a.) when establishing a business relationship;

b.) when carrying out occasional transactions amounting to 15,000 Euro or more or the equivalent, irrespective the transaction is carried out in a single operation or in several operations which appear to be a linked;

c.) when there are suspicions of money laundering or terrorist financing, regardless of the operation value or the incidence of the derogations provisions from the obligation to apply standard customer due diligence measures;

d.) when there are doubts about the veracity or the adequacy of previously obtained customer identification data; when there are doubts with respect to the fact that the customer acts on his/her own, or when the customer is certain to act on behalf of another person, the regulated entity shall apply standard customer due diligence measures to obtain information about the real identity of the person in whose interest or on whose behalf the customer acts.

(2) Regulated entities shall apply the standard customer due diligence measures to all new customers as well as to all existent clients, based on the risk, as soon as possible.

Art.9

When the amount is not known while the transaction is accepted, the regulated entity obliged to establish the customers identity shall proceed to their identification as soon as possible, when it is informed about the transaction value and when it ascertained that the minimum limit provided for in article 8 paragraph (1) b.) has been reached.

Art.10

(1) The regulated entity shall not keep anonymous accounts, respectively accounts for which the identity of the holder or of the beneficial owner is not known and highlighted properly.

(2) The regulated entities shall take adequate measures in case of operations which encourage the anonymity or which allow the interaction with the client in its absence in order to prevent their use in money laundering or terrorist financing operations.

(3) The regulated entity shall not open accounts, initiate operations or perform transactions and shall terminate any operation provided that it is not able to perform client identification in accordance with the provisions of this regulation and of the legal norms in force.

(4) The regulated entity can refuse to open accounts or perform operations provided that:

a.) the customer does not comply with the procedure provided for in art. 4 paragraph (2);

b.) suspicions are raised with respect to the fact that the customer might be involved in money laundering or terrorist financing operations.

(5) The regulated entities are required to continuously monitor the business relationship, including reviewing the transactions concluded during this relationship, in order to ensure that these transactions are consistent with the information held about the customer, the business and risk profile , including, where appropriate, the source of funds and updating the documents, data and information held.

Art.11

(1) The regulated entities shall record the following identification data of any customer natural person, who shall provide them under signature:

a.) the complete surname and name of the customer, as well as any other names used (ex. pseudonym);

b.) the date and place of birth;

c.) the personal numeric code or its equivalent in the case of foreign persons;

d.) the number and series of the identity document;

e.) the date when the identity document has been issued and the issuing entity;

f.) the domicile/residence (complete address – street, number, block, entrance, floor, apartment, city, county/sector, postal code, country);

g.) the citizenship, nationality and country of origin;

h.) the residency/non-residency;

i.) the telephone number/fax;

j.) the scope and the nature of the operations performed through the regulated entity;

k.) the name and the venue where the activity is performed.

l.) the public position if necessary;

m.) the name of the beneficial owner, if applicable.

(2) The regulated entity shall keep a copy of the identity document of the client. The client shall submit the identity documents with a photo, issued under the conditions of the law by the legally competent bodies.

(3) The regulated entity shall verify the information provided by the customer, on the basis of the documents submitted by the latter.

Art. 12

(1) The regulated entities shall record, as appropriate, the following information about the customer, legal person or entity without legal personality that shall provide:

a.) the name;

b.) the legal form and structure;

c.) the number, series and the date of the registration certificate/the document of registration with the National Trade Register Office or with similar or equivalent authorities;

d.) the subscribed and paid up share capital;

e.) the single registration code or its equivalent in the case of foreign persons;

f.) the credit institution and the IBAN code;

g.) the list of the persons authorised to sign account operations, of the directors, managers, or persons to represent the client and their signature specimen;

h.) the complete address of the registered office/head office or, as appropriate, of the branch;

i.) the shareholder/associates structure;

j.) the telephone number fax, and, as appropriate, the e-mail address, the website;

k.) the purpose and the nature of the operations performed through the regulated entity.

l.) the name of the beneficial owner.

(2) The customer, legal person or entity without legal personality shall submit the following documents and the regulated entity shall keep their certified copies, as appropriate:

a.) the document of incorporation, and the statute;

b.) the mandate of the person authorised to represent the customer, when the latter is not legally represented;

c.) the proving certificate issued by the National Trade Register Office (in the case of joint stock companies) or by similar authorities from the home state and the equivalent documents in the case of other types of legal persons or entities without legal personality, which shall certify the information which refer to client identification;

d.) a statement signed by the legal representatives related to the activity conducted by the customer and to its legal functioning.

(3) The regulated entity shall take measures of identification the natural persons who intend to act on behalf of the customer, legal person or entity without legal personality, in accordance with the policy and procedures related to the natural person identification and shall review the documents by which the persons are authorised to act on behalf of the legal person.

(4) The documents submitted by the customer, legal person or entity without legal personality shall include the legalised translation into Romanian language when the original documents have been drafted in another language.

Art.13

(1) During the activity performed, a regulated entity may use the information about the customer, obtained from a third party in order to apply the standard customer due diligence measures.

(2) The third party who intermediates the contact with the customer shall submit all the information obtained within its own identification procedures to the person who applies the standard customer due diligence measures, in order to be met the requirements in Section II of this Regulation.

(3) Copies of the documents based on which the identification and the verification of the identity of the client or of the beneficial owner, as the case, was accomplished, will be immediately submitted by the third party, upon the request of the person to whom the client has been recommended.

(4) The final responsibility for fulfilling all standard customers due diligence measures belongs to persons who use the third party.

Section III – Simplified customer due diligence measures

Art.14

Regulated entities may apply the simplified customer due diligence measures under the circumstances mentioned in art. 12 of Law nr.656/2002 as well as in other cases and conditions, which have low risk as regards money laundering and terrorist financing, provided for in the law or regulations issued in the application of the law.

Section IV - Enhanced customer due diligence measures

Art.15

(1) Regulated entities are required to apply, beyond the standard customer due diligence measures, on a risk base, enhanced customer due diligence measures, in all the situations which by their nature can present a higher risk of money laundering or terrorist financing. The appliance of the enhanced due diligence measures is mandatory at least in the following situations:

a) when the persons who are not physically present to perform operations, in which case one or more of the following measures, without limiting to them, shall apply:

1. the request of documents and additional information in order to establish the identity of the client and of the beneficial owner;

2. the performance of additional measures in order to verify or certify the documents supplied or the request of a certification from a credit or financial institutions which is under the obligation of preventing and combating money laundering and terrorist financing, equivalent to the standards provided for in the Law 656/2002 and in the regulations issued in accordance with the Law nr.656/2002;

3. the request that the first operation to be performed through an account opened on the name of the client to a credit institution which is subject to the obligations related to the prevention and combating money laundering and terrorist financing, equivalent to the standards provided for in the Law no. 656/2002 and regulations issued in the appliance of the Law nr.656/2002.

b) when the occasional transactions or the business relationships with the politically exposed persons who are resident in another Member State of the European Union or of the European Economic Area or in a third state, in which case the regulated entities must:

1. have in place risk based rules and procedures which shall allow the identification of the customers that fall into this category;

2. obtain the written approval from the executive management of the regulated entity before establishing a business relationship with a customer from this category. When a client was accepted and subsequently was identified / became customer in this category, is also required written approval from the executive management of the entity in order to continue business relationship with the respective client.

3. adopt adequate procedures and measures in order to establish the source of incomes and the funds involved in the business relationship or the occasional transaction.

4. carry out an enhanced and permanent monitoring and surveillance of the business relationship with the persons in this category.

(2) The regulated entities are required to also apply enhanced due diligence measures of customers in other cases than those specified in paragraph (1), which, by their nature, pose a high risk of money laundering or terrorist financing.

Art.16

(1) The regulated entities shall monitor all the operations performed by their clients, and by priority the operations performed by the customers from the high risk category.

(2) When deciding on the clients who shall be included in this category, the following information shall be considered:

a.) the type of client – natural/legal person or entity without legal personality;

b.) the home state;

c.) the public or high-profile position held;

d.) the type of activity performed by the client;

e.) the source of client funds;

f.) other risk indicators.

Art.17

(1) The regulated entities shall pay increased attention to business relationships and transactions which persons from jurisdictions which do not benefit from adequate systems for the prevention and control of money laundering and terrorist financing.

(2) The regulated entities will pay special attention to all complex, unusual large transactions or unusual patterns of transactions, including those that do not seem to have an economic, commercial or legal purpose.

(3) The backgrounds and the scope of such transactions should be examined as soon as possible by the regulated entity, including on the basis of customer additional documents requested to justify the transaction.

(4) The findings of the verifications carried out under paragraph (3) must be set forth in writing and shall be available for subsequent verification or for the competent authorities and auditors for a period of at least 5 years.

Section V – Record keeping and reporting obligation

Art.18

(1) The regulated entities are required to keep all information about the customer due diligence measures for at least 5 years, starting with the date when the relationship with the client is concluded.

(2) The regulated entities must keep all the documents and records related to the customer transactions and operations for at least 5 years or even more since the transaction has been concluded, to be available at the request of the Office or other authorities, irrespective whether the account has been closed or the client relationship has been terminated**.** These records shall be sufficient to allow a reconstruction of the individual transaction, including the amount and type of currency, to provide evidence in court, if necessary.

(3) The regulated entities are required to have internal procedures and dispose of systems which enable the prompt submission of the information about the identity and the nature of the relationship for the customers specified in the request with whom they are in business relationship or have had a business relationship for the last 5 years, at the request of the Office, respectively N.S.C. and / or criminal investigation bodies.

Art.19

(1) The regulated entities shall identify the suspicious transactions or types of suspicious transactions performed on behalf of their clients.

(2) When a regulated entity suspects that an operation shall be performed to the purpose of money laundering or terrorist financing, it shall immediately submit a suspicious transaction report to the Office and N.S.C.

(3) The regulated entities, directors, administrators, representatives and their staff have the obligation not to transmit, out of the legal conditions, the information held about the money laundering and terrorist financing and not to warn the involved customers or other third parties about the fact that a reporting about a suspicious transaction or the related information were / will be submitted to the Office and N.S.C.

Art.20

(1) The regulated entities shall report, within maximum 10 working days to the Office and N.S.C., the cash transactions denominated in lei or foreign currency, whose minimum limit is equal to the equivalent of 15.000 euro, irrespective whether the transaction is performed through one or more operations which seem to be linked.

(2) The provisions of the paragraph (1) shall apply also to foreign transactions.

Art.21

The contracts of confidentiality, the legislation or the provisions concerning the professional secrecy shall not be invoked in order to restrict the ability of the regulated entity to report the suspicious transactions.

Art.22

The regulated entities are required to use the reporting forms developed by the Office.

Chapter III - Sanctions

Art.23

(1) The breaching of this regulation provisions represents a contravention.

(2) Finding of the contraventions and the application of sanctions shall be in accordance with the provisions of the Title X of Law no. 297/2004 on the capital market and of the NSC Statute, approved by the Government Emergency Ordinance no. 25/2002, approved and modified by the Law no. 514/2002, with all subsequent modifications and completions.

Art.24

The present regulation shall be right fully completed with all related legal provisions.

Art. 25

(1) This regulation shall come into force on the date of its publishing and the publishing of the Ordinance for approval in the Official Gazette of Romania and shall be published in the N.S.C. Bulletin and on the N.S.C. website (www.cnvmr.ro).

(2) On the date when this regulation comes into force, the N.S.C. Regulation no. 11/2005 on the prevention and control of money laundering and terrorist financing through capital market, approved by N.S.C. Ordinance no. 52/28.09.2005, published in the Official Gazette no. 885/03.10.2005 repeals.

Romanian National Securities Commission (N.S.C./C.N.V.M.)

Order no. 24/2008 to apply the Regulations concerning the prevention and control of money laundering and terrorism financing through the insurance market

of 22/12/2008

Published in the Official Gazette no. 12 - 07/01/2009

This document entered into force as at 07 January 2009

Note:

It contains the changes to the initial document, including the provisions of Insurance Supervisory Commission ' Order no.5/2011 for amending and completion of Order no.24/2008 (published in the "Official Gazette of Romania" no.185 of 16/03/2011)

Having regard to the provisions laid down in art. 4 paragraph (26) and (27) of Law ***no. 32/2000*** *on insurance undertakings and insurance supervision, with subsequent amendments and completions,*

whereas the Decision issued by the Insurance Supervisory Commission Council on 16 December 2008 adopted the Regulations concerning the prevention and control of money laundering and terrorism financing though the insurance market,

the President of the Insurance Supervisory Commission hereby issues the following order:

Art. 1. – The Regulations concerning the prevention and control of money laundering and terrorism financing through the insurance market, included in the annex which shall be an integral part of this order shall be applied.

Art. 2. – As of the date when this order enters into force, the **Regulations** concerning the prevention and control of money laudenring and terrorism financing through the insurance market approved by Order **no. 3.128**/2005 of the President of the Insurance Supervisory Commission, published in the Official Gazette of Romania, Part I, no. 1.165 of 22 December 2005 shall be repealed.

Art. 3. – The specialised departments of the Insurance Supervisory Commission shall ensure application of the provisions of this order.

President of the Insurance Supervisory Commission,
Angela Toncescu

Bucharest, 22 December 2008.

No. 24.

ANNEX

Norm concerning the prevention and control of money laundering and terrorism financing through the insurance market

of 22/12/2008

Published in the Official Gazette of Romania, Part I no. 12 of 07/01/2009

Note:

It contains the changes to the initial document, including the provisions of Insurance Supervisory Commission ' Order no.5/2011 for amending and completion of Order no.24/2008 (published in the "Official Gazette of Romania" no.185 of 16/03/2011)

CHAPTER I
General provisions

Art. 1. – The present Regulations govern the prevention and control of money laundering and terrorism financing through the insurance market.

Art. 2. – Insurance undertakings, reinsurance undertakings, Romanian legal person insurance and/or reinsurance brokers, as well as the branches in Romania of insurance undertakings, reinsurance undertakings and insurance/reinsurance intermediaries based in the European Economic Area, hereinafter referred to as entities shall be subject to the provisions of the present Regulations.

Art. 3. - (1) For the purposes of these Regulations, the terms and expressions below shall have the following meanings:

a) money laundering – notion defined under art. 2 point a) of Law no. 656/2002 for the prevention and control of money laundering and terrorism financing, with amendments and completions;

b) terrorism financing – crime defined under art. 36 of Law no. 535/2004 on the prevention and control of terrorism;

c) suspicious transaction – operation with no apparent economic or legal purpose and which by its nature and/or unusual character by comparison with the usual operations conducted by the client of one of the entities referred to under art. 2 raises suspicions of money laundering or terrorism financing;

d) external transfers in and from accounts – cross-border transfers, as defined in the relevant national regulations, as well as payments and collections performed by residents and non-residents on the territory of Romania;

e) client – natural or legal person policyholder/potential policyholder/party to the contract or insurance/reinsurance contract beneficiary;

f) CSA – Insurance Supervisory Commission;

g) Office – the National Office for the Prevention and Control of Money Laundering;

h) politically exposed persons – natural persons who hold or held high level public positions, members of their families, as well as persons publicly known as persons with close links with the natural persons who hold high level public positions. This definition shall be supplemented with the provisions of art. I point. 3, art. 2^1 of Government Emergency Ordinance no. 53/2008 to amend and supplemented Law no. 656/2002 on the prevention and control of money laundering and terrorism financing;

i) beneficial owner – any natural person who holds or ultimately controls the client and/or the natural person in whose name or in whose behalf a transaction or operation is directly or indirectly performed. This definition shall be supplemented with the provisions of art. I point 3, art. 2^2 of Government Emergency Ordinance no. 53/2008;

j) business relationship – the business or commercial relationship associated with the business conducted by the entities and which are deemed to be relationships of a certain duration at the time of inception.

(2) The terms and expressions above shall be supplemented with the provisions laid down in the relevant legislation concerning the prevention and control of money laundering and terrorism financing.

Art. 4. - (1) CSA shall supervise and control the entities referred to under art. 2 in order to ensure that the said entities shall apply and observe the legal provisions in force concerning the identification, verification and recording of clients and transactions, the reporting of suspicious transactions, cash transactions and external transactions, as well as the preparation and implementation of procedures to observe all the aforementioned requirements as well as the training of the personnel in this respect.

(2) CSA shall be entitled to verify the internal procedures/Regulations concerning the prevention and control of money laundering and terrorism financing issued by the entities.

(3) CSA shall be entitled to request the amendment of the internal procedures/Regulations issued by the entities when these are not in line with the prudential requirements laid down in these Regulations.

(4) CSA shall be entitled to monitor the financial instruments operations conducted by the entities to the purpose of identifying suspicious transactions.

(5) CSA shall immediately inform the Office when the data received raise suspicions of money laundering, terrorism financing or infringements of the provisions laid down in Law no. 656/2002, with subsequent amendments and completions.

(6) In the supervision and control process, CSA may request any relevant information or documents.

Paragraph (1) was amended by section 1 of the Order no.5/2011 starting with 16.03.2011

CHAPTER II
Obligations pertaining to the entities

Art. 5. - (1) Entities shall develop and implement adequate policies, procedures and mechanisms for due diligence purposes, as well as in order to report, keep records, ensure adequate internal control, assess and manage risks, and to prevent their involvement in operations which raise suspicions of money laundering and terrorism financing, at the same time ensuring the adequate training of its own personnel as well as of the personnel which provides services on a contract basis.

(2) Mechanisms as well as implementation measures shall allow the identification of the categories of clients, products and services, of operations and transactions which entail potential higher risks, on the basis of certain risk indicators.

(3) Entities shall prepare their own risk-based review procedures and shall subsequently classify clients into at least 3 classes of risk.

(4) For existing clients, this classification shall be performed within 18 months as of the date when these Regulations become effective.

(5) Entities shall apply the standard due diligence procedure to all new clients.

(6) The risk profile of clients, products and services provided, as well as of operations and transactions shall be established based on the data obtained in the identification process, as well as by ongoing supervision of the business relationships.

(7) Entities shall issue a written procedure concerning the process of accepting new clients.

(8) Entities shall establish, verify and record the identity of clients and beneficial owners before entering into any business relationship or performing any transactions in the name of the client/beneficial owner.

(9) Internal policies and procedures shall be applied at the other operating offices of the entities, including those based in the European Economic Area or in non-member states as well as at the headquarters and other operating offices of legal person insurance agents.

(10) Internal procedures shall be submitted to CSA by electronic means, i.e. CD, within 90 days as of the date when these Regulations become effective and subsequently, within 10 days as of the date of relevant amendment.

Art. 6. - (1) Entities shall appoint one or several persons among their own personnel who shall have responsibilities in the application and observance of the legal provisions in force concerning money laundering and terrorism financing.

(2) The persons appointed following the entry into force of these Regulations shall be adequately trained in the field of the prevention and control of money laundering and terrorism financing.

(3) The persons referred to under paragraph (1) shall have direct and permanent access to the management of the relevant entity as well as to all relevant records prepared in line with the provisions laid down in these Regulations and in the relevant legislation.

(4) The names, position and responsibilities of the persons appointed under paragraph (1) shall be communicated to the Office and CSA within 30 days as of the date when these Regulations become effective.

(5) Entities shall notify the Office and CSA with respect to the replacement of the persons referred to in paragraph (1) within 10 days as of the date of the relevant change.

(6) The persons appointed under paragraph (1) shall be liable for the carrying out of the duties set out in these Regulations and in the relevant legislation concerning the prevention and control of money laundering and terrorism financing.

Art. 7. - (1) Entities shall ensure the training of their own personnel as well as of the personnel which provide services on a contract basis with respect to the prevention and control of money laundering and terrorism financing.

(2) Training programmes shall ensure that the relevant persons:

a) are aware of the laws, rules, regulations and procedures concerning the prevention and control of money laundering and terrorism financing;

b) are competent enough to review in an adequate manner all transactions to the purpose of identifying money laundering and terrorism financing operations;

c) are fully aware of reporting requirements.

(3) Entities shall communicate to all the persons referred to in paragraph (1) the procedure concerning the prevention and control of money laundering and terrorism financing.

Art. 8. – Entities shall implement screening procedures to the purpose of ensuring high standards for their own personnel and for the natural/legal persons empowered to act on their behalf, when appropriate.

CHAPTER III
Standard due diligence measures

Art. 9. - (1) In the performance of their duties, entities shall take adequate measures to prevent and control money laundering and terrorism financing and to this purpose to apply risk-based standard, simplified or enhanced due diligence measures which shall allow the identification of clients or, where applicable, of beneficial owners.

(2) When suspicieons arise with respect to clients in the course of conducting business, entities shall reclassify clients to another risk category.

(3) Entities shall ensure that all standard due diligence measures are applied in other operating offices, including those based in the European Economic Area or in non-member states, as well as at headquarters and other operating offices of legal person insurance agents.

Paragraph (1) was amended by section 2 of the Order no.5/2011 starting with 16.03.2011

Art. 10. - (1) Entities shall apply all standard due diligence measures in the following situations:

a) upon inception of a business relationship;

b) upon performance of one-off transactions which amount to at least 15,000 euro or the RON equivalent, irrespective whether the transactions are conducted as single operations or through several operations which seem linked;

c) when suspicions arise with respect to the fact that the relevant operations have as purpose money laundering or terrorism financing, irrespective of the value of the operations or of the exemptions from the application of standard due diligence measures which may apply;

d) when doubts arise with respect to the accuracy or adequacy of the identification data already obtained; when suspicions arise with respect to the fact that the client does not act in his own name or the client is certain to act in the name of another person, entities shall apply standard due diligence measures in order to obtain information concerning the true identity of the person in whose name or in whose behalf the client acts.

(2) Entities shall revise the information concerning the identity of the client whenever suspicions arise in the course of business.

Art. 11. - *Repealed by section 3 of the Order no.5/2011 starting with 16.03.2011*

(2) Entities shall implement mechanisms and measures to monitor business relationships on an ongoing basis, including: the review of transactions concluded in the course of the business relationship to ensure that such transactions are in line with the information provided by the client, the operations and the risk profile, the analysis of the sources of funds and the permanent updating of documents, data and information, when appropriate.

(3) When the identification of clients in accordance with the provisions laid down in these Regulations is not feasible, entities shall not initiate operations, conduct transactions or shall prohibit any operations or shall terminate business relationships and report such termination to the Office and CSA.

(4) An entity may refuse to conduct operations with clients when suspicions arise in respect of money laundering or terrorism financing.

Art. 12. - (1) The identification data with respect to the client shall be verified, updated or completed, as appropriate, in the case of transactions which involve an amount which is the lei equivalent of minimum 15,000 euro, irrespective whether such transactions are conducted in a single operations or through several operations which seem linked.

(2) Under art. 3 paragraph (1) and art. 9 paragraph (3) of Law no. 656/2002, with subsequent amendments and completions, when relevant information points out to money laundering or terrorism financing operations, clients shall be identified and reported, even in cases when the value of the relevant operation is less than 15,000 euro.

(3) Entities shall verify whether the persons who conclude insurance policies and the beneficiaries of such insurance policies are present on the list of suspicious persons defined by Government Decision no. 784/2004 to approve the List of natural and legal persons who are under suspicion of conducting money laundering operations and by Government Decision no. 1.272/2005 to approve the list of natural and legal persons who are under suspicion of conducting financing operations.

Art. 13. - *Repealed by section 4 of the Order no.5/2011 starting with 16.03.2011*

Art. 14. - (1) Entities shall obtain with the following information, which shall be provided by natural person clients under signature:

a) family name and first names as well as any other names used (e.g. pseudonym);

Letter a) was amended by section 5 of the Order no.5/2011 starting with 16.03.2011

b) date and place of birth;

c) personal numeric code or the equivalent in the case of foreign natural persons;

d) number and series of the identity document;

e) the date when the identity document was issued and the issuing authority;

f) domicile/residence (full address – street, number, block, entrance, floor, apartment, city/town, county/sector, postal code, country);

Letter f) was amended by section 5 of the Order no.5/2011 starting with 16.03.2011

g) citizenship and nationality;

Letter g) was amended by section 5 of the Order no.5/2011 starting with 16.03.2011

h) resident/non-resident;

i) telephone/fax number, e-mail address, where applicable ;

Letter i) was amended by section 5 of the Order no.5/2011 starting with 16.03.2011

j) - *Repealed by section 6 of the Order no.5/2011 starting with 16.03.2011*

k) occupation and, where appropriate, the name of the employer or the nature of personal activity;

Letter k) was amended by section 5 of the Order no.5/2011 starting with 16.03.2011

l) public position held, when appropriate;

m) name of the beneficial owner, when appropriate.

(2) The entity shall keep a copy of the identity document of the client. The client shall present an identity document with a picture, issued by the relevant authorities under the law.

(3) The entity shall verify the information provided by the client on the basis of the documents provided by the latter.

Art. 15. - (1) Entities shall record the following information with respect to legal person clients or clients without legal personality, as appropriate:

a) full company name/name recorded with the Register of associations and foundations;

b) the legal form;

Letter b) was amended by section 7 of the Order no.5/2011 starting with 16.03.2011

c) number, series and date of the registration certificate/document of incorporation with the Trade Register Office or similar or equivalent authorities;

d) - *Repealed by section 8 of the Order no.5/2011 starting with 16.03.2011*

e) VAT code or its equivalent in the case of foreign legal persons;

f) - *Repealed by section 8 of the Order no.5/2011 starting with 16.03.2011*

g) the identity of the persons empowered, according to the status and/or decision of statutory board, with the competence to manage and represent the entity and also the extent of their powers in engaging the entity

---

Letter g) was amended by section 7 of the Order no.5/2011 starting with 16.03.2011

h) full address of the registered office/head office or branch, as appropriate;

i) shareholder/associate structure;

j) telephone/fax number, e-mail address, where applicable;

Letter j) was amended by section 7 of the Order no.5/2011 starting with 16.03.2011

k) type and nature of the business conducted ;

Letter k) was amended by section 7 of the Order no.5/2011 starting with 16.03.2011

l) name of the beneficial owner.

(2) The legal person client or the entity without legal personality shall submit the following documents and the entity shall keep true copies of such documents, as appropriate:

a) the memorandum and articles of association;

b) the power of attorney for the person who acts as representative of the client, when the said person is nor the client's legal representative;

c) the certificate issued by the Trade Register Office (in the case of companies) or by similar authorities in the home state and equivalent documents for other types of legal persons or entities without legal personality, which shall support the identification data provided by clients;

d) a statement signed by the legal representatives with respect to the business conducted by the client and the legal status of the latter.

(3) Entities shall take measures to identify the natural persons who seek to act in the name of the legal person client or entity without legal personality in accordance with due diligence policies and procedures and shall review the documents on the basis of which persons are empowered to act in the name of the legal person or entity without legal personality.

(4) The documents submitted by the legal person client or entity without legal personality shall include the legalised translation into Romanian of the original documents prepared in a foreign language.

Art. 16. - (1) To the purpose of applying standard due diligence measures, entities may use information provided by third parties.

(2) When the third party acts as an intermediary, the said third party shall provide the entity which applies standard due diligence measures with all the information which would have been derived in the direct identification process, so that to observe the requirements set out in these Regulations.

(3) The copies of the documents on the basis of which the identity of the client or of the beneficial owner, as appropriate, was established and verified shall be immediately submitted by the third party at the request of the person to whom the client was recommended.

(4) Ultimate responsibility for the application of all standard due diligence measures shall lie with the persons who use the information provided by the third party.

CHAPTER IV
Simplified and enhanced due diligence measures

Art. 17. – Entities may apply simplified due diligence measures in the cases referred to in art. 12 of Law no. 656/2002, with subsequent amendments and completions, as well as the cases referred to in art.7-9 of

Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts, with subsequent amendments and completions, approved by Government Decision no. 594/2008.

Article 17 was amended by section 10 of the Order no.5/2011 starting with 16.03.2011

Art.17[1]. – (1) Entities shall apply simplified due diligence measures in the cases of non-life insurance policies when the insurance premium is lower or equal to the equivalent in lei of the sum of 2,500 EUR .

(2) Entities shall apply simplified due diligence measures in the cases of life insurance policies where the insurance premium or the annual installments are lower or equal to the equivalent in lei of the sum of 1,000 EUR or if the single insurance premium paid is up to 2,500 EUR, the equivalent in lei.

(3) If the periodic premium installments or the annual sums to pay are or are to be increased in such a way as to be over the limit of the sum of 1,000 EUR, respectively of 2,500 EUR, the equivalent in lei, the standard customer due diligence measures customers' identification shall be required;

(4) In the case of life insurance business, the identity of the beneficiary of the life insurance policy shall be verified whenever such beneficiaries change during the term of the insurance contract.

(5) The entities which applies simplified due diligence measures shall obtain adequate information about their clients and shall permanently monitor their activity in order to establish if they are framed within the category for which is apply simplified due diligence measures.

Article 17[1] was inserted by section 11 of the Order no.5/2011 starting with 16.03.2011

Art. 18. - (1) Entities shall apply besides standard risk-based due diligence measures some enhanced due diligence measures in all cases which by their nature entail higher money laundering and terrorism financing risk.

(2) - *Repealed by section 12 of the Order no.5/2011 starting with 16.03.2011*

(3) Enhanced due diligence measures are mandatory at least in the following situations:

a) in case of persons who are not physically present at the performance of the operations, case of entities shall apply one of the following measures, without that enumeration being limitative ones:

1. request documents and additional information in order to establish the identity of the client and beneficial owner;

2. fulfill additional measures for checking and verification of supplied documents or will request a certification from a credit institutions or financial one which is under the obligation of preventing and combating money laundering and terrorism financing equivalent with the standards provided for in the Law 656/2002 and this Regulation;

3. request that the first operation to be performed through an account opened on the name of the client with a credit institution which is subject to the obligations on prevention and combating money laundering and terrorism financing equivalent with the standards provided for in the Law no. 656/2002 and this Regulation;

b) in case of occasional transactions or business relations with politically exposed persons who are resident within another Member State of European Union or of the European Economic Space or within a foreign state, situation in which the entities shall apply the following:

1. to have in place risk based procedures which allowed the identification of the clients within this category;

2. to obtain executive management's approval before starting a business relationship with a client within this category; When clients are accepted and are subsequently classified as politically

exposed persons, the written approval of the management of the entity is also mandatory in order to continue the business relationship with the same clients.

3. to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or the occasional transaction;

4. to carry out an enhanced and permanent monitoring of the business relationship.

Paragraph (3) was inserted by section 13 of the Order no.5/2011 starting with 16.03.2011

Art.18[1]. – (1) The entities which ascertain that a transaction or several transactions carried out on the account of a customer are atypical for the activity of such customer or for the type of the transaction in question, shall immediately notify the Office if there are suspicions that the deviations from normality have as purpose money laundering or terrorist financing.

(2) Entities could use at least one of the following anomaly indicators in the insurance business, including without being limited to:

a) the purchasing of life insurance policies which entail the payment of high premiums and which seem to be in contradiction with the economic profile of the client or with the latter's capacity to derive incomes;

b) the frequent payment of premiums in cash or foreign currency in the form of large amounts of money which seem to be in contradiction with the financial capacity of the client or his business;

c) frequent payments of premiums in cash made in the form of recurrent payments, whose total would exceed the minimum amounts referred to in art. 12 paragraph (1);

d) the establishment of several beneficiaries for the life insurance policies, so that the amounts estimated to be paid to each of them on the basis of the insurance contract would exceed on aggregate the minimum amounts referred to in art. 12 paragraph (1), when the relationship between the policyholder and the beneficiary does not justify such arrangements;

e) the signing of insurance policies which include the payment of premiums by cheques issued by third parties, especially when there is no apparent link between the said third parties and the client;

f) the signing of the same policyholder of several life insurance policies with different beneficiaries;

g) the replacement of the insurance policy beneficiary with a third party who is not a member of the policyholder's family or who has no justified relationship with the same policyholder;

h) the client refuses or is reluctant to provide the information required to conclude the insurance contract or the client provides inaccurate information;

i) the legal person client submits financial statements which are not prepared by an accountant;

j) the client submits title documents for the goods which shall be insured which are not accurate or which seem forged;

k) the client refuses to allow the representative of the entity to verify the existence of the good which shall be insured;

l) the client avoids direct contact with the employees or collaborators of the entity by frequently issuing proxies or powers of attorney in an unjustified manner;

m) the client repeatedly avoids direct contact with the entity and communication is mainly conducted by means of fax or by other means;

n) the opening by the client of a significant number of accounts with several branches of a/various credit institutions and the performance of repeated transfers of significant amounts of money, which shall be used to pay for insurance premiums;

o) the payment of insurance premiums using the accounts of a company which show reduced business volumes and would not justify the conclusion of insurance contracts for significant amounts;

p) the request to conduct the first operation through an account opened in the name of the client with a credit institution which is not subject to similar requirements concerning the prevention and control of money laundering and terrorism financing

---

Article 18[1] was inserted by section 14 of the Order no.5/2011 starting with 16.03.2011

Art.18[2]. – To the purpose of preventing their use in money laundering and terrorism financing operations, entities shall take adequate measures with respect to operations and products which, by their nature, may foster anonymity and client interaction in the absence of the latter.

Article 18[2] was inserted by section 14 of the Order no.5/2011 starting with 16.03.2011

Art.18[3]. – Entities shall apply enhanced due diligence measures, besides those provided to art.18, in cases which by their nature entail higher money laundering and terrorism financing risk.

Article 18[3] was inserted by section 14 of the Order no.5/2011 starting with 16.03.2011

Art.18[4]. – (1) Entities shall supervise all the operations conducted by their clients, having as priority the category of high risk clients.

(2) The following information shall be considered when deciding on classifying clients in the high risk category:

a) the type of client – natural/legal person or entity without legal personality;

b) home country;

c) public position or high level position held;

d) the type of business conducted by the client;

e) the source of the client funds;

f) other risk indicators.

Article 18[4] was inserted by section 14 of the Order no.5/2011 starting with 16.03.2011

Art.18[5]. – (1)Entities shall monitor more closely the business relationships and the transactions with persons based in jurisdictions which do not have in place adequate systems to prevent and control money laundering and terrorism financing.

(2) Entities shall monitor more closely all complex or unusually large transactions, as well as all transactions which do not observe the usual business pattern, including operations which seem to have no economic, commercial or legal meaning.

(3) The circumstances and purpose of such transactions shall be examined as soon as possible by the entity on the basis of additional documents required so that the client may justify the transaction.

(4) The findings of the reviews conducted under paragraph (3) shall be listed in writing and shall be available for subsequent verification by competent authorities and auditors for a period of time of at least 5 years.

Article 18[5] was inserted by section 14 of the Order no.5/2011 starting with 16.03.2011

Chapter IV was amended by section 9 of the Order no.5/2011 starting with 16.03.2011

CHAPTER V
Politically exposed persons

Art. 19. – In the case of one-off transactions or of business relationships with politically exposed persons, entities shall have in place risk-based rules and procedures which shall allow the identification of clients/beneficial owners classified as politically exposed persons.

Art. 20. - (1) The management of the entity shall give its written approval before establishing a business relationship with clients in this category. When clients are accepted and are subsequently classified as politically exposed persons, the written approval of the management of the entity is also mandatory in order to continue the business relationship with the same clients.

(2) Entities shall also have in place adequate measures and procedures in order to establish the source of incomes as well as of other funds used in the business relationship or one-off transaction.

(3) Entities shall supervise and monitor on an ongoing basis the way in which business is conducted with this particular category of clients.

Art. 21. – Entities shall also apply enhanced due diligence measures in cases other than those referred to in art. 18, which by their nature entail higher money laundering or terrorism financing risk.

CHAPTER VI
High risk clients

Repealed by section 15 of the Order no.5/2011 starting with 16.03.2011

CHAPTER VII
Record maintenance and reporting requirements

Art. 24. - (1) Entities shall maintain all the information concerning client identification for a period of time of at least 5 years, as of the date when the relationship with the client was terminated.

(2) Entities shall maintain appropriate secondary or operational records of all the financial operations conducted by the client for a period of time of at least 5 years or even more, at the request of the Office or of other authorities, as of the date when each operation was conducted, irrespective whether the insurance contract expired, or the insured event took place, or the insurance contract was revoked, terminated or cancelled. Evidence shall be sufficient to allow tracing each individual transaction, including the amount and type of currency, in order to be used as evidence in court, when appropriate.

(3) Entities shall have in place internal procedures and systems which shall allow the immediate transmission at the request of the Office or CSA and/or judicial bodies of the information concerning the identity and the nature of the business relationships which are currently conducted or have been conducted in the past 5 years.

Art. 25. - (1) Entities shall have in place procedures to identify the suspicious transactions or the types of suspicious transactions conducted in the name of their clients.

(2) When suspicions arise that an operation is sought for money laundering or terrorism financing purposes, the entity shall provide the Office and CSA with a suspicious transaction report within no more than 24 hours.

(3) The directors/members of the supervisory board, managers, representatives and personnel of the entity shall not provide the information concerning money laundering or terrorism financing operations in

the absence of the conditions set out in the law and shall not warn the clients involved or the third parties with respect to the issuing or foreseen issuing of a suspicious transaction report to the Office and CSA.

Art. 26. - (1) Entities shall report within no more than 10 business days both to the Office and CSA all cash operations denominated either in lei or in foreign currency whose minimum limit is equal to the lei equivalent of 15,000 euro, irrespective whether the transaction is conducted in one or several operations which seem linked.

(2) The provisions laid down in paragraph (1) shall also apply to external transfers.

Art. 27. – Confidentiality agreements as well as legal provisions concerning professional secrecy shall not be used to limit the capacity of entities to report suspicious transactions.

Art. 28. – The entities referred to in art. 2 shall use solely the reporting forms prepared by the Office.

CHAPTER VIII
Sanctions and other provisions

Art. 29. – Entities shall revise their internal procedures and/or Regulations concerning money laundering and terrorism financing within 60 days to the date on which a legal provisions are amended as well as when new risks are identified.

Article 29 was amended by section 16 of the Order no.5/2011 starting with 16.03.2011

Art. 30. – Breaching of the provisions laid down in these Regulations shall be deemed contravention and shall be sanctioned in accordance with the provisions set out in art. 39 of Law no. 32/2000 on insurance undertakings and insurance supervision, with subsequent amendments and completions.

Art. 31. – These Regulations shall be rightfully supplemented with the other provisions laid down in the legislation concerning money laundering and terrorism financing.

Norm no. 9/2009 on customer due diligence on preventing money laundering and terrorism financing acts, in the private pension system

SUPERVISION COMMISSION OF THE PRIVATE PENSION SYSTEM

Norms no. 9/2009 were approved by the CSSPP Council on April 14th, 2009, and was submitted for publication in the Official Gazette

Having regard to the provisions of art. 16, art. 23 lett. f) and art. 24 lett o) of the Government Emergency Ordinance no. 50/2005 on the setting up, organization and functioning of the Supervision Commission of the Private Pension System, approved with modifications and completions by the Law no. 313/2005,

Having regard to the provisions of art. II para (5) of the Government Emergency Ordinance no. 53/2008 on the modification and completion of the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts,

Taking into consideration the provisions of the Law no. 204/2006 on facultative pensions, with subsequent modifications and completions, and of the Law no. 411/2004 on privately administrated pension funds, republished, with subsequent modifications and completions,

The Supervision Commission of the Private Pension System, hereinafter "the Commission", issues the following norms.

CHAPTER I

General provisions

Art. 1. – (1) The present norms apply to private pension funds administrators, on their own behalf and for the private pension funds they administrate, as well as to authorized/licensed marketing agents in the private pension system, hereinafter-named administrators, respectively marketing agents.

(2) Administrators/marketing agents are obliged to adopt adequate measures for the prevention of money laundering and terrorism financing acts, when carrying out their activity, and for this purpose they apply, on a risk base approach, standard, simplified or enhanced customer due diligence measures.

Art. 2. – (1) The terms and expressions used in the present norms have the meaning established by the Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as on setting up certain measures for the prevention and combat of terrorism financing acts, with subsequent modifications and completions, hereinafter-named Law no. 656/2002, by the Government's Decision no. 594/2008 on the approval of the Regulations for the enforcement of the provisions of the Law no. 656/2002, the meaning provided for by art. 2 of the Law no. 204/2006 on facultative pensions, as well as by art. 2 of the Law no. 411/2004 on privately administrated pension funds, republished, with subsequent modifications and completions, hereinafter-named Law no. 411/2004.

(2) Also, for the purpose of the present norms, when the administrators/marketing agents do not act on their own behalf, but on behalf of a pension fund, by client one understands the participant to that pensions fund.

CHAPTER II

Organization of the prevention and combat of money laundering
and terrorism financing activity

Art. 3. – For the purpose of performing their activity in compliance with the provisions of the Law. No. 656/2002, of the Government's Decision no. 594/2008 and of the present norms, legal person administrators/marketing agents hold the obligation to set up, establish and enforce policies, procedures, mechanisms and adequate measures on customer due diligence, and on reporting, record keeping, internal control, evaluation and management of risk, for the purpose of preventing and deterring the legal person administrator/marketing agent's involvement in suspicious operations for money laundering and terrorism financing acts.

Art. 4. – (1) The commission holds the right to verify the policies and procedures issued under article 3.

(2) The Commission is entitled to request the modification of the policies and procedures issued by legal person administrators/marketing agents, when these instruments do not reflect the provisions of the present norms and of the legislation in force.

Art. 5. – (1) Customer due diligence policies and procedures, issued by each legal person administrators/marketing agents, must correspond to the nature, volume, complexity and extent of their activity and must be adapted to the risk level associated with the categories of clients they provide services for.

(2) For the purpose of para (1), customer due diligence policies and procedures must include at least the following elements:

a) Procedures for the identification and permanent monitoring of the clients, in order to include them in the appropriate category of clients, respectively for moving them from one category to another;
b) The content of standard, simplified and enhanced customer due diligence measures for each category of clients and products or transactions, that constitute the subject of such measures;
c) Permanent monitoring procedures for the operations carried out by clients in order to detect unusual and suspicious transactions;
d) The modalities for dealing with transactions and clients in and/or from jurisdictions that do not impose customer due diligence and record keeping procedures, equivalent to those provided for by the Law no. 656/2002, with subsequent modifications and completions, and Government's Decision no. 594/2008, when their enforcement is not supervised for in a similar manner with the one regulated by the specified legislation;
e) Modalities for the preparation and keeping of adequate records, as well as for the access to these records;
f) Procedures for the verification of issued policies and procedures implementation and for evaluating their efficiency;
g) Employment and training programs standards for the personnel, in the field of customer due diligence;
h) Internal report procedures, as well as procedures for reporting to competent authorities.

Art. 6. – Legal person administrators/marketing agents are obliged to designate, by an internal document, one or several persons with responsibilities in enforcing the legal provisions on the prevention and combat of money laundering and terrorism financing acts, and their names will be communicated, in accordance with the form established by Government's Decision no. 594/2008, to the Commission and the National Office for Prevention and Control of Money Laundering, hereinafter "*The Office*", together with the nature and limits of the mentioned responsibilities.

Art. 7. – (1) The internal document provided for by art. 6 shall be submitted in copy, to the Commission and Office's headquarters directly, or by the means of postal services, with acknowledgment receipt, within 5 working days from the issuance date.

(2) The name, position and responsibilities established for the persons provided for by art. 6, will be communicated to the Commission and Office within 30 calendar days, from the date of entering into force of the present norms.

(3) Any modification or replacement of the employees mentioned under Art. 6 shall be notified to the Commission and the Office, within 15 calendar days from the date of the respective modification.

(4) The persons designated in accordance with art. 6 are responsible for completing the tasks established in the application of the Law no. 656/2002 and of the present norms. For the purpose of completing their tasks, these persons will have a direct and permanent access to all the records of the administrators/ marketing agents, in accordance with the provisions of the present norms and of the other incidental legal provisions.

Art. 8. – (1) Legal person administrators/marketing agents must ensure the proper training of the personnel regarding the prevention and combat of money laundering and terrorism financing acts.

(2) Legal person administrators/marketing agents shall communicate to all employees the policies and procedures established for the prevention and combat of money laundering and terrorism financing acts.

CHAPTER III

Standard customer due diligence

Art. 9. – (1) For the purpose of art. 9 para (1) lett. b)-d) of the Law no. 656/2002, administrators/marketing agents are obliged to apply standard customer due diligence measures.

(2) Administrators/marketing agents are obliged to review the standard customer due diligence measures, whenever suspicions emerge on the client, during the performing of operations.

Art. 10 – (1) The standard customer due diligence measures for natural persons are aimed at obtaining at least the following information:

a) name and first name;
b) date and place of birth;
c) personal identification number, the series and number of the identification card, or by case, other similar unique element for identification;
d) domicile address and by case the residency address;
e) the phone number, fax number, and by case the e-mail address;
f) the nationality;
g) the occupation and by case, the name of the employer or the nature of its own activity;
h) prominent public function held, by case;

(2) The verification of the client's identity is carried out based on the documents, which are more difficult to be counterfeited or to be illegal obtained under a fake name, as identification documents, issued by an official authority, which shall include a photo of the holder.

Art. 11 – The administrators/marketing agents shall apply standard customer due diligence measures for all new customers, as well as, as soon as possible, to all existing clients, on a risk base approach.

CHAPTER IV

Simplified customer due diligence measures

Art. 12 – (1) The administrators/marketing agents shall apply simplified customer due diligence measures on the acts of adhesion to pension funds, as well as on other cases or conditions, which present a low risk for money laundering and terrorism financing, stipulated as such by the law or by the regulations issued for the enforcement of the law.

(2) For the clients who have been randomly distributed to a private pension fund, simplified customer due diligence measures shall apply, based on the identity references submitted by the evidence institution.

(3) Simplified customer due diligence measures shall include the obtaining of sufficient information on the clients, or by case, the identity references, which shall ensure the administrators/marketing agents of the legality of the clients' inclusion in the low risk for money laundering and terrorism financing category of clients, according to the legislation, of the monitoring of their operations in order to detect the suspicious transactions and of the establishment of a certain procedure that would allow the updating and the adequacy of the information held on the clients, in such a way that administrators/marketing agents rest assure on the fact that these clients are maintained in the respective client category.

CHAPTER V

Enhanced customer due diligence measures

Art. 13 – (1) Administrators/marketing agents are obliged to apply, besides the standard customer due diligence measures, enhanced customer due diligence measures, on a risk base approach, in all the situations that, by nature, may present a high risk to money laundering or terrorism financing acts.

(2) Administrators/marketing agents apply also enhanced customer due diligence measures in other cases than the one stipulated in art. 12^1 para (1) of the Law no. 656/2002, which by nature present a high risk to money laundering and terrorism financing acts.

Art. 14 – Administrators/marketing agents must hold the following information on the clients that present a high risk:

a) the origin country of the client;
b) the public position or the prominent position held;
c) the activity type performed by the client;
d) the origin of the client's funds;
e) other risk indicators.

Art. 15 – Administrators/marketing agents shall pay a special attention to transactions with persons from jurisdictions which don not have adequate systems for the prevention and combat of money laundering and terrorism financing.

CHAPTER VI

Record keeping and reporting obligations

Art. 16 – (1) For the purpose of art. 13 para (1) of the Law no. 656/2002, legal person administrators/marketing agents are obliged to keep at least copies of the clients' identification documents, or identification references, in the case of randomly distribution procedure of the participants.

(2) Legal person administrators/marketing agents are obliged to have internal procedures and systems that would allow the prompt submission, at the Office, Commission and law enforcement bodies' request, of the information on the identity and relationship nature for the clients who are specified in the request and

with whom they are involved in a business relationship, or with whom they had a business relationship in the last 5 years prior to the request, information which shall be kept, in an adequate form, for a period of 5 years from the performing of each operation.

Art. 17 (1) Administrators/marketing agents shall identify the transactions or types of suspicious transactions performed on behalf of their clients.

(2) If administrators/marketing agents have suspicions that an operation which is about to be carried out has as a purpose money laundering or terrorist financing, they shall immediately submit to the Office and to the Commission the suspicious transaction reports.

(3) Administrators/marketing agents hold the obligation not to disseminate, outside the conditions stipulated by the law, information held on money laundering or terrorism financing and not to tip off the involved clients or other third parties about the fact that a suspicious transaction or information related to that, were/will be forwarded to the Commission and the Office.

Art. 18 – The confidentiality provisions stipulated by contracts, legislation or the professional secrecy provisions, may not be invoked for restricting the administrators/marketing agents' obligation to report the suspicious transactions.

Art. 19 – Administrators/marketing agents are obliged to use the reporting forms issued by the Office.

CHAPTER VII

Transitory provisions

Art. 20 – (1) Legal person administrators/marketing agents in business on the date of the present norm entering into force shall submit to the Commission the customer due diligence policies and procedures, provided for in chapter II, during 90 days from the date of the entering into force of the present norm.

(2) Legal person administrators/marketing agents hold the obligation to notify the Commission about the modifications brought to the procedures and internal policies for customer due diligence measures, during 10 days from the respective modification.

Art. 21 – Administrators/marketing agents shall apply the customer due diligence measures provided by the Law no. 656/2002, by Government Decision no. 594/2002 and by the present norm to all the existing clients, as soon as possible, on a risk based approach, but no later than an year from the approval at the level of the management bodies of the administrators/marketing agents of the politics and procedures for customer due diligence measures, issued in accordance with Chapter II.

CHAPTER VIII

Final provisions

Art. 22 – The terms stipulated by the present norms, which shall expire in a day of legal holiday or in a non-working day, shall be prolonged until the end of the next working day.

Art. 23 – Failure to comply with the provisions stipulated by the present norm shall be sanctioned in accordance with the legal provisions in force, namely art. 81 (1) letter c), art. 140 para (1), art. 141 para (1), letter g) and art. 141 para (2)-(4) and para (6) –(10) of the Law no. 411/2004 and of art. 38 letter c), art. 120 para (1), art. 121 para (1) letter k) and art. 121 para (2)-(4) and art. (6)-(10) of the Law no. 204/2006, if it is the case, as well as in accordance with the provisions of Law. No. 656/2002.

Decision no. 496 of July 11, 2006 for the approval of the Norms for Prevention and Combating Money Laundering and terrorism financing, the standards for know your customer and of internal control for the reporting entities which do not have overseeing prudential supervision of authorities

National Office for Prevention and Control of Money Laundering

Published in the Official Gazette of Romania no. 623 from July 19, 2006
Includes the amendments brought by
NOPCML Decision no. 778/01.09.2009 Published in the Official Gazette no. 686/13.10.2009

Based on the provisions of **art. 9 para. 7** of the Law no. 656/2002 for prevention and sanctioning money laundering, as well as for setting up certain measures for prevention and combating terrorism financing, consequently amended and completed, and of the **art. 8 para** 1 of the Regulations for organizing and functioning of the National Office for Prevention and Control of Money Laundering, approved by Governmental Decision no. 531/2006,

The Board of the National Office for Prevention and Combating Money Laundering decides:

Art. 1 – The Norms for prevention and combating money laundering and terrorism financing, the standards for know your customer and of internal control for the reporting entities, which do not have overseeing prudential supervision of authorities, provided in the Annex, part of this Decision.

Art. 2 – The present decision shall be published in the Official Gazette of Romania, Part I.

Signatories
President of the National Office for Prevention and
Control of Money Laundering
ADRIANA LUMINITA POPA

Appendix

NORMS
on prevention and combating money laundering and terrorism financing, customer due diligence and internal control standards for reporting entities, which do not have overseeing authorities

Chapter I - General provisions

Article 1 – These Norms shall be applied to reporting entities, for which the modalities for implementation of the regulations on prevention and combating money laundering and terrorism financing acts is not verified and controlled by overseeing authorities or by the managing structures of the liberal professions provided by art. 8 under the Law no. 656/2002 for prevention and sanctioning money laundering, as well as for instituting measures for prevention and combating terrorism financing, consequently modified and completed, and it represents the general framework for these entities in the prevention and combating money laundering and terrorism financing field, concerning:

a) elaboration by these entities of their own policies and customer due diligence procedures, as essential part of a prudential risk management and of an efficient internal control system;

b) organizing internal control and audit;

c) management of significant risks;

Article 2 – (1) According to these Norms, the terms and expressions below have the following meaning:

a) *Office* – The National Office for Prevention and Control of Money Laundering;

b) *Law*- Law no. 656/2002 on prevention and sanctioning money laundering, as well as for instituting measures for prevention and combating terrorism financing, as amended and completed;

c) *Cash operations* – operations with cash, in RON or foreign currency, which are not performed through bank accounts;

d) Regulated entities- entities of which activity is supervised, verified and controlled by the National Office for Prevention and Control of Money Laundering, in complying with its legal attributions, according to the provisions of art. 17 Para. 1, letter b) under the Law no. 656/2002. as amended and completed;

e) *Customer* – any natural or legal person or entity without a legal personality, for which the regulated entities initiate business relationships or for which they provide services or with which perform other operations having permanent or occasional character. By these Norms, it is to be understood:

1. the beneficial owner of operation;

2. the correspondent entities from the country or from abroad of the regulated entities;

3. any natural or legal person or entity without legal personality which operates on behalf of in the interest of other person;

4. any natural or legal person or entity without legal personality which uses or receives a service or a product from the regulated entity;

f) *Internal control* – a continuous process which provides a reasonable insurance for achieving the objectives established by these Norms;

g) *Risk of money laundering and terrorism financing* – the risk generated by internal factors, such as inappropriate performance of some internal activities, the existence of inappropriate personnel and systems, or by external factors, such as economic conditions of the regulated entities, as a result of non-implementation or inappropriate implementation of the legal or contractual provisions, or the lack of public trust in the integrity of the entity;

h) *Beneficiary owner* – the natural or legal person or entity without legal personality on whom behalf or interest one or several operations are performed, stipulated by letter e);

Article 3 – In order to ensure the performance of regulated entities, according to the legislation on prevention and sanctioning money laundering and terrorism financing, the regulated entities must adopt efficient internal policies and customer due diligence procedures, further known as due diligence programmes, which shall prevent the misuse of the entities by their customers for performing criminal activities or other activities against the law.

Chapter II - The obligations of regulated entities

Article 4 – 1) The obligations of regulated entities for which are applied these Norms, subsequently to the provision of the law, are:

a) to identify the customer and to draw up customer due diligence procedure;

b) to appoint one or more persons, according to art. 14 of the Law, whose names shall be submitted to the Office, together with the nature and limits of their responsibilities;

c) to elaborate procedures and appropriate methods of internal control, in order to prevent and combat money laundering and terrorism financing and to ensure training of their employees for recognizing the

operations, which may be connected to money laundering or terrorism financing and for taking immediate appropriate measures in this kind of situations;

d) to report to the Office, thorough the appointed person, the operations suspected of money laundering and/or terrorism financing and cash deposits/withdrawals, whose minimum limit is over the threshold of 10.000 euro, through reports with a form and content established through Board Decision no. 276/2005 on the form and content of the Suspicious Transaction report, of the Cash Operations Report, in lei or foreign currency, whose minimum limit represents the equivalent in lei of 10.000 Euro, no matter if the transaction/operation is performed through one or more connected operations, and of the cross-border transfers Report in/from accounts for amounts whose minimum limit is the equivalent in lei of 10.000 Euro, published in the Official Gazette no. 558/29.06.2005;

e) to notify immediately the Office, when the employee of a regulated entity has suspicions that an operation, which will be performed, is aimed to money laundering or terrorism financing;

f) to notify immediately the Office, but not later than 24 hours, in case of a suspicious transaction performed in order not to disturb the effort of tracing the beneficial owners of the transaction, according to art. 4 Para. 1 of the law;

g) to notify immediately the Office, when it is established that one or more operations, performed on the name of a customer, present anomalies in comparison with the activity of the customer or from the type of operation, if there are suspicions that these anomalies are aimed to money laundering or terrorism financing;

h) to report to the Office, in maximum 24 hours, the cash operations, in lei or foreign currency, whose minimum limit represents the equivalent in lei of 10.000 euro, no matter if the transaction/operation is performed through one or more connected operations, in accordance with art. 3 Para. 6 of the law;

i) to not perform such transactions/operations, for the period of suspension communicated by the Office and to block the amounts until the ending of the period for which the suspension was disposed or until other measures are disposed by the General Prosecutor's Office by the High Court of Cassation and Justice;

j) to inform the Office, in maximum 30 days, all the information requested for accomplishing its attributions;

k) to keep secondary or operative evidence and the records of all financial operations performed by the customer, for a period of least 5 years, starting from the date of operations performance, in order to be able to be used as proof into justice;

l) to not disclose, beside the conditions provided by the law, the information connected with money laundering or terrorism financing and to not inform the customers on the notifications submitted to the Office.

CHAPTER III - Identification of the customer and customer due diligence procedures

Section 1

Customer Identification

Article 5 – 1) The regulated entities have the obligation to identify their customers if those are or not present to the performing of operations:

a) at initiation of the business relations or offering the services;

b) in case of performing cash operations whose minimum limit represent the equivalent in lei of 10.000 Euro, no matter is the transaction/operation is performed through one or more connected operations;

c) as soon as there is a suspicion that a transaction/operation is aimed for money laundering or terrorism financing, not depending of the amount which is the object if that transaction;

d) when the amount is not known when accepting the transaction/operation, the entity shall proceed to identification of the customers as soon as it is informed about the amount of the transaction/operation and when it is established that it was reached the minimum limit of 10.000 euro;

e) in case there are information or suspicions that a transaction/ operation is not performed on customer's own name, the necessary measures for obtaining identification data of beneficiary owner of the transaction will be taken;

f) in case of all the operations in which are involved persons which are not present or represented when performing these operations;

g) when there are suspicions that data obtained in the process of identification of the customer or of the beneficial owner are not according to the reality.

2) The regulated entities shall obtain all the necessary information for establishing the identity the beneficial owner, at least the following information:

a) a statement on his/her own responsibility, by which he/she shall declare the identity of the beneficial owner, as well as the source of funds, in accordance with the form provided by the present Norms;

b) purpose and the nature of the operations/transactions performed with the entity;

c) title and the place of performing the activity/job;

d) name/naming of the employer or the nature of his/her own activity.

Article 6 – The regulated entities have the obligation to keep all information on the identity of the customer for a minimum period of 5 years, starting with the date where the relationship with the customer is terminated. This evidence shall be available and sufficient in order to allow a reconstruction of a transaction/operation – including the amount and the type of the currency.

Article 7 – (1) The requirements of customers identification are not mandatory if it was established that the payment shall be done by debiting an account opened on the name of the customer to a credit or financial institution from Romania, from a Member State of the European Union or from secondary premises situated in a Member State of the European Union, belonging to a credit or financial institution of a third state.

2) The requirements of the identification of a customer are not mandatory if the customer it is a credit or financial institution from Romania, from a Member State of the European Union, a branch situated in a Member State of the European Union, belonging to a credit or financial institution of a third state, which impose identification requirements similar to those provided by the Romanian law.

Subsection 1

General provisions of identification

Article 8 – (1) The regulated entities shall establish the identity of the customer based on an official document or an identification document and shall register in their records the identity of their customers.

2) The regulated entities will pay a special attention in case of non-resident customers and of customers who are not present when the transaction/ operation is performed.

Article 9 – The regulated entities shall perform all the necessary diligences for checking the information provided by the customer within the identification procedures. The checking can be performed through on-site visits to the location indicated as address, exchange of correspondence and/or accessing the telephone number provided by the customer.

Article 10 – (1) In case of customers being natural persons, the regulated entities shall request and obtain, under signature, at least the following information:

a) name and surname, and, by case, the pseudonym;

b) domicile, residence or address where the person lives effectively (the complete address – street, number, block, entrance, floor, apartment, city, county/district, postal code, country);

c) date and place of birth;

d) the personal identification number or, if necessary, another similar unique element of identification (the equivalent of this one for foreigners);

e) the number and series of the identification document;

f) the date of issuance of the identification document and the entity which issued it;

g) citizenship;

h) the resident/non-resident status;

i) phone/fax numbers.

(2) The regulated entities shall observe that the documents, based on which the customers identity is verified, to fall into the category of most difficult to be forged or to be obtained by illegal means under a false name, such as the original identity documents, issued by an official authority, that shall include a photo of the holder, and eventually a description of the person and his/her signature, such as identity cards, passports.

(3) The regulated entities shall keep a copy of the identification document of the customer.

(4) The regulated entities have the obligation to verify the information received from the customer, on the basis of the primary documents received from this one.

(5) Having in view to get an adequate placement into the customer categories established by the regulated entities and to ensure an appropriate accomplishment of the reporting obligations, according to the law, additional information which can be requested shall refer to the nationality or to the origin country of the customer, the public or political position and others.

Art. 11 – (1) Regarding the legal persons and the entities without legal personality, the regulated entities shall obtain from these ones, at least the following information:

a) the number, series and date of the incorporation certificate/incorporation document at the National Office of Commerce Register or at similar or equivalent authorities;

b) naming;

c) fiscal code (CUI) or its equivalent for foreign persons;

d) the credit institution and IBAN code;

e) the complete address of the headquarters / central headquarters or, if necessary, of the branch;

f) the telephone, fax numbers and, if necessary, e-mail address, website;

g) the goal and the nature of the operations performed with the regulated entity.

(2) The customer, legal person or entity without legal personality, shall present at least the following documents and the regulated entity shall keep, case by case, copies of these:

a) incorporation certificate / incorporation document at the National Office of Commerce Register or at similar or equivalent authorities;

b) the mandate/power of attorney for the person who represents the customer, if this one is not the legal representative;

(3) The regulated entity shall identify the natural persons who intent to act on behalf of the customer, legal person or entity without legal personality, according to the rules on the identification of the natural persons, and shall analyze the documents, based on which the persons are mandated to act on behalf of the legal person.

(4) The documents presented by the customer, legal person or entity without legal personality, shall include the legalized translation into Romanian language, where the original documents are made in another language.

Subsection 2

Specific requirements on identification

Article 12 – (1) There are suspicions in the following situations, but not limited to these:

a) when the customer mandates a person, with which obviously has no close relationship, to perform operations;

b) when the amounts of funds or of the assets involved in an operation ordered by a customer is disproportionate, compared to its financial situation, known by the regulated entity;

2) The provisions of para. 1 shall be applied also when the regulated entity notice other unusual situations during its relationships with a customer.

Article 13 - The regulated entities shall (must) take all the necessary measures to obtain information on the real identity of beneficial owner.

Article 14 - (1) The statement form provided by art. 5 para 2 letter a) may be filled in by the regulated entities in a form in accordance with its own requirement and may be drafted in one or more international foreign language, but it shall include at least the text of the form provided by these Norms.

Article 15 - If, after the filling in the statement, the suspicion on the information provided in written by the customer persist and it cannot be removed through additional clarifications, the regulated entity can refuse to start a relationship with the respective customer or to perform the operation requested.

Article 16 - (1) In the case of relationships started through correspondence or through modern telecommunication means – phone, e-mail, Internet – the regulated entities have to apply to the customers concerned the procedures of identification and the monitoring standards applicable to the customers available to be physically present.

2) The regulated entities have to refuse to start correspondent relationships or to continue this kind of relationships with other entities that are incorporated in other jurisdictions, where these ones have not a physical presence, respectively the activity's management and the records/books of the institution are not located in that jurisdiction, and to pay a special attention when it continues the correspondent relationships with an entity located in another jurisdiction, in which there are not legal requirements on due diligence or the jurisdiction has been identified as non-cooperative in combating money laundering and terrorist financing.

Section 2

Essential elements of the customer due diligence programs

Article 17 – (1) Each regulated entity shall establish its own program of due diligence, which correspond to the nature, size, complexity and limits of its activity and it shall be adapted to the level of risk associated to the categories of customers for which it is performing operations/transactions.

2) The due diligence program must consider all the transactions/operations of the regulated entities and shall include, without a limitation:

a) a policy of accepting the customer;

b) identification procedures and procedures for placing the customer in the corresponding category of customers;

c) modalities of elaboration and keeping the corresponding records;

d) monitoring the operations performed, in order to detect the suspicious transactions and the reporting procedure;

e) the modalities of analyzing the transactions/ operations in and/or from jurisdictions in which there are not adequate rules on preventing and combating money laundering and terrorism financing;

f) modalities of analyzing the transactions/operations which do not fit in the normal patterns or which involve risk factors;

g) procedures and systems for checking the way of programs implementation and for the evaluation of their efficiency;

h) training programs for the personnel in due diligence area.

Article 18 – The due diligence programs shall be elaborated in a written form and approved by the management of the regulated entity. These must be know by the entire personnel and reviewed periodically for their appropriate adjustment.

Article 19 – (1) The regulated entities shall establish a systematized procedure for checking the identity of the new customers and of the persons who act on behalf of in the interest of other persons and for not entering into business relationships until the identity of the new customer is not verified accordingly.

2) The regulated entities shall obtain all information necessary for establishing the identity of each new customer, the purpose and nature of the services or operations which may be performed. The requested information shall depend of the type of the potential customer, the nature and volume of transactions/operations which may be performed through the regulated entity.

Article 20 – The Office can check the procedures and methods applied by the regulated entities in order to prevent and combat money laundering and terrorism financing.

CHAPTER IV - Risk Management

Section 1 -Monitoring of the customers

Article 21 – The monitoring of customers will be made, at least, through the following activities:

a) creation of a database on the identification of customers, that will be permanently updated;

b) permanent updating of the records on customer's identity;

c) the periodical assessment of the quality of the identification procedures applied by the intermediaries and monitoring of the transactions/ operations, in order to detect and report the suspicious transactions, according to the internal procedures of the regulated entity.

Article 22 – (1) The regulated entities shall update the database, which contains the records prepared at the beginning of the relationship; taking into consideration the evolution of the relationship with each customer, the regulated entities will proceed to re-rank them into the appropriate categories of customers.

(2) The further changes on the information provided shall be checked and recorded accordingly.

(3) If frequently substantial changes appear, concerning the structure of the customers-legal persons or other entities without legal personality or its holders, the regulated entities have to make further verifications.

(4) The review may take place when a significant transaction/ operation is performed, when the requirements on the documentation necessary for each customer is significantly modified or when there is a relevant modification concerning the modus operandi of the customer.

(5) Where there are gaps regarding the information available on an existing customer or when there are grounds or the regulated entity suspects that the information provided are not real, this one has to take all the necessary measures in order that all the relevant information to be obtained as soon as possible.

Article 23 – The regulated entities have to ensure the monitoring of the customer's activity through pursuing the transactions/operations performed by them, related to the level of risk associated to different categories of customers.

Article 24 – (1) The monitoring procedure must focus on a classification of the customers in more categories, having in regard the factors, such as:

a) the type of the transactions/operations performed through the regulated entity;

b) the number and the volume of transactions/operations performed through the regulated entity;

c) the risk of an illegal activity, associated to the different types of transactions/operations performed through the regulated entity.

(2) The suspicious transactions/operations may include, without being restrictive:

a) the transactions/operations that are not regular (usual), including due to the unusual frequency of the operations;

b) the complex transactions/operations, with a significant value, which involve big amounts;

c) the involvement of a customer and the circumstances which are connected to his/her status or to other features of the customer;

d) the transactions/operations which do not seem to have an economical, commercial or legal meaning, including the ones which are not corresponding to the statutory activity of the customer or which are ordered by customers who are not involved in the statutory activity.

Article 25 – Regarding the category of the customers with a higher potential risk, it is necessary to be monitored the majority or, if necessary, all the transactions/operations performed through the regulated entity. When establishing the persons who fall into this category, it will take into consideration:

a) the customer's type – natural/legal person;

b) origin country;

c) the public position or the importance of the position held;

d) the specific of the activity performed by the customer;

e) the source of funds;

f) other risk indicators.

Article 26 – For the customers with a higher potential risk of money laundering and terrorism financing:

a) the regulated entities must have appropriate systems for the management of the information, in order to provide to the management and/or control and internal audit staff information in due time, necessary for the identification, analysis and effective monitoring of these customers; the implemented systems shall point out at least the absence or the insufficiency of the appropriate documentation required at the beginning of the business relationship, the unusual transactions/operations performed by the customer and the aggregate situation of all customer's relationships with the regulated entity;

b) the management staff, in charge with the services offered to the respective customers, shall know their personal circumstances and pay an enhanced attention to the information received from the third parties concerning these persons.

Section 2

Organization of the internal control

Article 27 – (1) Each regulated entity shall elaborate appropriate policies and procedures in order to implement an efficient due diligence program.

(2) The management bodies of the regulated entities or, if necessary, the appointed persons have responsibilities regarding the establishing and the maintaining of an adequate and efficient system of internal control.

(3) The objectives of the internal control, taking into consideration the present norms consist, without being restrictive, in the verification and the provision of plausible, relevant complete and opportune information to the structures involved in making decisions within the regulated entity and the external users of information.

(4) In order to achieve the objectives regarding the internal control, the regulated entities shall organize an internal control system formed by the following elements, without being restrictive:

a) the role and the responsibilities of the persons appointed having in view the relationship with the Office;

b) the identification and the assessment of significant risks;

c) the control activities and the separation of responsibilities;

d) the periodical supervision of information, systems and control's management;

e) the information and communication;

f) a strategy for training the personal in the field of due diligence standards and own programs elaborated on their basis.

(5) The regulated entities shall realize a proper distribution of attributions, at all organizational levels and shall assure that the personnel is not charged with responsibilities which can lead to a conflict of interests.

(6) The possible fields, which could be affected by potential conflict of interests, must be identified and monitored independently, by persons non-involved directly in the respective activities.

Article 28 – The regulated entities shall assess the new products and services based on the risks associated to them, including the risk of being used by customers as a mean for conducting certain activities of crime nature.

Article 29 – The regulated entities shall establish explicitly the responsibilities, through internal norms, so that to assure that the policy and procedures are used efficiently. The reporting procedure of the suspicious transactions must be set up clearly, in written and notified to the entire personnel, in accordance with the provisions of art. 16 para (1) of the Law.

Article 30 – (1) The control and/or internal audit procedures of the regulated entity shall include an independent assessment of its own policy and procedures on due diligence, including compliance with the legal requirements and other applicable norms.

(2) The internal control and/or internal audit shall assess periodically the efficiency of procedures and policy established including the professional level of the personnel, proposals for addressing the deficiencies and monitoring the modality of implementing the conclusions and proposals formulated.

(3) The responsibilities of the personnel having attributions of internal control and/or internal audit, must include the permanent monitoring of the personnel's performances, testing, by polls, the compliance with the internal norms and the reviewing of the reports on uncommon cases, in order to notice the management bodies of the regulated entities, in cases in which it is considered that the procedures established concerning the due diligence are not respected.

(4) The management bodies shall assure that the control and/or internal audit department has the corresponding personnel, having experience in such policy and procedures.

Article 31 – (1) The regulated entities shall develop an ongoing training program of the personnel, so that the personnel involved in relations with customers to be trained adequately. The training program and its content shall be adapted to the requirements and specific of each regulated entity.

(2) The training requirements of the personnel shall be focused differently in case of new employees, of the personnel working within the control and/or internal audit department and of the personnel involved in the relation with new customers. The new-employed personnel shall be trained on the importance of the due diligence programs and on the minimum requirements of the regulated entity in the field.

(3) The personnel shall be trained periodically, at least once a year and when it is considered as necessary, assuring that the personnel knows the responsibilities due and for keeping them up to date with the new progress in the field, so that to assure the implementation consistently of the programs set up.

CHAPTER V - Sanctions

Article 32 – (1) **T**he non-compliance with the provisions of the present norms represents violations of the legal provisions and it is sanctioned in accordance with the provisions of art.22 of the law.

(2) The applying of the sanctions provided in para. 1 by the Office or, by case, by the entities stipulated in the art. 17 of the law do not exclude the penal, civil liability of the regulated entities.

***(3) The** Office shall publish quarterly on its website, enforceable sanctions imposed to the reporting entities under Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts, approved by Government Decision no. 594/2008.*

CHAPTER VI - Final dispositions

Article 33 – (1) Having regard the art.7 of the law, the information supplied in good faith, in accordance with the provisions of art. 3-5 of the law, by the regulated entities or by the designated persons according to art.4 letter b) of the Norms, may not result in the disciplinary, civil or penal responsibility of these persons.

(2) Having regard the art.18 of the law, it is forbidden to the regulated entities, to their representatives and personnel the warning of the customers involved and not to disclose, in any other modality, the fact that they sent or are going to send to the Office the information held, related to money laundering and financing of terrorism.

(3) It is forbidden the use for personal purposes of the information received by the personnel of the regulated entities, during the activity and after its ceasing.

(4) Violation of the provisions of para (2) and (3) is considered an offence and it is sanctioned accordingly to the law.

Article 34 – (1) Within 3 months from the entering into force of the present norms, the regulated entities shall adopt and implement programs on customer due diligence, adapted to specific of each activity.

(2) On this purpose, within the indicated date, the regulated entities shall ensure the identification of the existing customers and shall set up the correspondent records.

Article 35 – (1) The present norms shall enter into force on the date of their publication in the Official Gazette of Romania, Part. I.

DECLARATION

on the identity of the beneficial owner

The under-signed customer…….. declares on its own responsibility, under the law's sanction:

a) that the under-signed is the beneficial owner of operation/transaction;

b) that the beneficial owner/ beneficial owners is/are:

c) the origin of funds;

Surname and First name/Naming

Domicile's address/headquarters and country

……
……

The under-signed customer engages to communicate to the regulated entity any subsequent modifications to the present declarations.

The violation of this disposition is sanctioned in accordance with the provisions of the art.292 of the Criminal Code2.

Place and date Customer's signature

…… ……..

N.B.: The regulated entity has the right to refuse the performing of the transactions ordered by customer/cease the relations with the customer in case of false declarations or if has suspicions concerning the reality of the data declared by the customer.

1 Shall be filled with the surname and first name/name of the customer, domicile's address/headquarters of the company

2 Art.292 of the Criminal Code shall have a new numbering, in accordance with the Law no.301/2004, with the subsequent modifications and completions.

Government Emergency Ordinance no.53/2008 for the modification and completion of the Law no. 656/2002, on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating of terrorism financing

Published in the Official Gazette no. 333 of April 30, 2008

Having regards to the obligations set out for Romania subsequent to the commitments taken within the Adherence to European Union Treaty and also the necessity for implementing in the internal legislation the Directive 2005/60/EC of the European Parliament and of the Council, of 26th October 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, published in the Official Journal of the European Union, series L no. 309 of 25th November 2005, and the Directive 2006/70/EC of the European Parliament and of the Council, of 1st August 2006, laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of financial activity conducted on an occasional or very limited basis, published in the Official Journal of the European Union, series L no. 214 of 04th August 2006,

Whereas the deadline for the implementation by all member states was 15th of December 2007, without derogations for new member states,

Observing also the necessity for adopting new measures for the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006, on information on the payer accompanying transfers of funds, published in the Official Journal of the European Union, series L no. 345 of 08th December 2006,

The urgent modification of the legal framework is necessary, as it is an extraordinary situation whose regulation cannot be postponed.

According with the provision of art. 115 para (4) of the Romania's Constitution, republished

Romanian Government adopts the following emergency ordinance:

Article I – The Law 656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating of terrorism financing, published in the Official Gazette of Romania, Part I, no. 904, of 12 December 2002, with subsequent modifications and completions, is modified and completed as follows:

1. Paragraphs (c) and (d) of Article 2 are modified and shall comprise:

"(c) Suspicious transaction means the operation which apparently has no economical or legal purpose or the one that, by its nature and/or its unusual character in relation with the activities of the client of one of the persons referred to in Article 8, raises suspicions of money laundering or terrorist financing;

(d) External transfers in and from accounts means cross-border transfers, the way they are defined by the national regulations in the field, as well as payment and receipt operations carried out between resident and non-resident persons on the Romanian territory;"

2. Seven new paragraphs, para (e)-(k), are introduced after para (d) of Article 2, with the following content:

"(e) Credit institution means any entity that carries out one of the activities defined by article 7 para (1) point 10 of Government Emergency Ordinance no.99/2006 on credit institutions and capital adequacy, approved with modifications and completions by Law no. 227/2007;

(f) Financial institution means any entity, with or without legal capacity, other than credit institution, which carries out one or more of the activities referred to in Article 18, para (1), points (b)-(l) and (n) of Government Emergency Ordinance no.99/2006 on credit institutions and capital adequacy, approved with modifications and completions by Law no. 227/2007, including postal offices and other specialized entities that provide fund transfer services and those that carry out currency exchange. Within this category there are also:

1. Insurance and reinsurance companies and insurance/reinsurance brokers, authorized according with the provisions of Law no. 32/2000 on the insurance and insurance supervision activity, with subsequent modifications and completions, as well as the branches on the Romanian territory of the insurance and reinsurance companies and insurance and/or reinsurance intermediaries, which were authorized in other member states.

2. Financial investments service companies, investment consultancy, investment management companies, investment companies, market operators, system operators as they are defined under the provisions of Law no. 297/2004 on capital market, with subsequent modifications and completions, and of the regulations issued for its application;

(g) Business relationship means the professional or commercial relationship that is connected with the professional activities of the institutions and persons covered by article 8 and which is expected, at the time when the contact is established, to have an element of duration;

(h) Operations that seem to be linked to each other means the transactions afferent to a single transaction, developed from a single commercial contract or from an agreement of any nature between the same parties, whose value is fragmented in portions smaller than 15.000EURO or equivalent RON, when these operations are carried out during the same banking day for the purpose of avoiding legal requirements;

(i) 'Shell bank' means a credit institution, or an institution engaged in equivalent activities, incorporated in a jurisdiction in which it has no physical presence, respectively the leadership and management activity and institution's records are not in that jurisdiction, and which is unaffiliated with a regulated financial group.

(j) Service providers for legal persons and other entities or legal arrangements means any natural or legal person which by way of business, provides any of the following services for third parties:

1. Forming companies or other legal persons;

2. Acting as or arranging for another person to act as a director or manager of a company, or acting as associate in relation with a company with sleeping partners or a similar quality in relation to other legal persons;

3. Providing a registered office, administrative address or any other related services for a company, a company with sleeping partners or any other legal person or arrangement;

4. Acting as or arranging for another person to act as a trustee of an express trust activity or a similar legal operation;

5. Acting as or arranging for another person to act as a shareholder for another person other than a company listed on a regulated market that is subject to disclosure requirements in conformity with Community legislation or subject to equivalent international standards;

(k) Group means a group of entities, as it is defined by article 2 para (1) point 13 of Governmental Emergency Ordinance no. 98/2006 on enhanced supervision of credit institutions, insurance and/or reinsurance companies, financial investment services companies and of investment management

companies all part of a financial mixture, approved with modifications and completions by Law no. 152/2007."

3. Two new articles, article 2 index 1 and article 2 index 2, are introduced subsequent to article 2, with the following content:

"Article 2 index 1 - (1) For the purposes of the present law, politically exposed persons are natural persons who are or have been entrusted with prominent public functions, immediate family members as well as persons publicly known to be close associates of natural persons that are entrusted with prominent public functions.

(2) Natural persons, which are entrusted, for the purposes of the present law, with prominent public functions are:

a) Heads of state, heads of government, members of parliament, European commissioners, members of government, presidential councilors, state councilors, state secretaries;

b) Members of constitutional courts, members of supreme courts, as well as members of the courts whose decisions are not subject to further appeal, except in exceptional circumstances;

c) Members of account courts or similar bodies, members of the boards of central banks;

d) Ambassadors, charges d'affaires and high-ranking officers in the armed forces;

e) Managers of the public institutions and authorities;

f) Members of the administrative, supervisory and management bodies of State-owned enterprises.

(3) None of the categories set out in points (a) to (f) of para (2) shall include middle ranking or more junior officials. The categories set out in points (a) to (f) of para (2) shall, where applicable, include positions at Community and international level.

(4) Immediate family members of the politically exposed persons are:

a) The spouse;

b) The children and their spouses;

c) The parents

(5) Persons publicly known to be close associates of the natural persons who are entrusted with prominent public functions, are the natural persons well known for:

a) The fact that together with one of the persons mentioned in para (2), hold or have a joint significant influence over a legal person, legal entity, or legal arrangement or are in any close business relations with these persons

b) Hold or have joint significant influence over a legal person, legal entity or legal arrangement set up for the benefit of one of the persons referred to in paragraph (2)

(6) Without prejudice to the application, on a risk-sensitive basis, of enhanced customer due diligence measures, where a person has ceased to be entrusted with a prominent public function within the meaning of paragraph (2) for a period of at least one year, institutions and persons referred to in Article 8 shall not consider such a person as politically exposed.

Article 2 index 2 – (1) For the purposes of the present law, beneficial owner means any natural person who ultimately owns or controls the customer and/or the natural person on whose behalf or interest a transaction or activity is being conducted, directly or indirectly.

(2) The beneficial owner shall at least include:

a) in the case of corporate entities:

1. the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership over a sufficient percentage of the shares or voting rights sufficient to ensure control in that legal entity, including through bearer share holdings, other than a company listed on a regulated market that is subject to disclosure requirements consistent with Community legislation or subject to equivalent international standards. A percentage of 25 % plus one share shall be deemed sufficient to meet this criterion;

2. the natural person(s) who otherwise exercises control over the management of a legal entity;

b) in the case of legal entities, other than those referred to in para (a), and other entities or legal arrangements, which administer and distribute funds:

1. The natural person who is the beneficiary of 25 % or more of the property of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined;

2. Where the natural persons that benefit from the legal person or entity have yet to be determined, the group of persons in whose main interest the legal person, entity or legal arrangement is set up or operates;

3. The natural person(s) who exercises control over 25 % or more of the property of a legal person, entity or legal arrangement."

4. Paragraphs (1), (1 index 1), (2) and (3) of Article 3 are modified and shall comprise:

"Article 3 - As soon as an employee of a legal or natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 14 para (1), which shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as "the Office". The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification.

(1 index 1) The National Bank of Romania, National Securities Commission, Insurance Supervision Commission or the Supervision Commission for the Private Pension System shall immediately inform the Office with respect to the authorization or refusal of the transactions referred to in article 28 of the Law no. 535/2004 on the prevention and combating terrorism, also notifying the reason for which such solution was given.

(2) If the Office considers as necessary, it may dispose, based on a reason, the suspension of performing the transaction, for a period of 48 hours. When the 48-hour period ends in a non-working day, the deadline extends for the first working day. The amount, in respect of which instructions of suspension were given, shall remain blocked on the account of the holder until the expiring of the period for which the suspension was ordered or, as appropriate, until the General Prosecutor's Office by the High Court of Cessation and Justice gives new instructions, accordingly with the law.

(3) If the Office that the period mentioned in para (2) is not enough, it may require to the General Prosecutor's Office by the High Court of Cassation and Justice, based on a reason, before the expiring of this period, the extension of the suspension of the operation for another period up to 72 hours. When the 72-hour period ends in a non-working day, the deadline extends for the first working day. The General Prosecutor's Office by the High Court of Cassation and Justice may authorize only once the required prolongation or, as the case may be, may order the cessation of the suspension of the operation. The decision of the General Prosecutor's Office by the High Court of Cassation and Justice is notified immediately to the Office."

5. Paragraphs (6)-(9) of Article 3 are modified and shall comprise:

"(6) The persons provided in the article 8 or the persons designated accordingly to the article 14 para (1) shall report to the Office, within 10 working days, the carrying out of the operations with sums in cash, in RON or foreign currency, whose minimum threshold represents the equivalent in RON of 15,000EUR, indifferent if the transaction is performed through one or more operations that seem to be linked to each other.

(7) The provisions of the para (6) shall apply also to external transfers in and from accounts for amounts of money whose minimum limit is the equivalent in RON of 15,000EUR.

(8) The persons referred to in article 8 para (1) letters e) and f) have no obligation to report to the Office the information they receive or obtain from one of their customers during the process of determining the customer's legal status or during its defending or representation in certain legal procedures or in connection with therewith, including while providing consultancy with respect to the initiation of certain

legal procedures, according to the law, regardless of whether such information has been received or obtained before, during, or after the closure of the procedures.

(9) The form and contents of the report for the operations provided for in the para (1), (6) and (7) shall be established by decision of the Office's Board, within 30 days from the date of coming into force of the present law. The reports provided for in articles (6) and (7) are forwarded to the Office once every 10 working days, based on a working methodology set up by the Office.

6. Three new paragraphs, (10), (11) and (12), are introduced after the paragraph (9) of article 3, with the following content:

"(10) In the case of persons referred to in article 8 para (e) and (f), the reports are forwarded to person designate by the leading structures of the independent legal profession, which have the obligation to transmit them to the Office within three days from reception, at most. The information is sent to the

Office unmodified.

(11) National Customs Authority communicates to the Office, on a monthly basis, all the information it holds, according with the law, in relation with the declarations of natural persons regarding cash in foreign currency and/or national one, which is equal or above the limit set forth by the Regulation (CE) no. 1889/2005 of European Parliament and Council on the controls of cash entering or leaving the Community, held by these persons while entering or leaving the Community. National Customs Authority shall transmit to the Office immediately, but no later than 24 hours, all the information related to suspicions on money laundering or terrorism financing which is identified during its specific activity.

(12) The following operations, carried out in his own behalf, are excluded from the reporting obligations provided by para (6): between credit institution, between credit institutions and the National Bank of Romania, between credit institutions and the state treasury, between National Bank of Romania and state treasury. Other exclusions, from the reporting obligations provided by para (6), may be established for a determined period, by Governmental Decision, subsequent to the Office's Board proposal."

7. Paragraph (3) of article 5 is modified and shall have the following content:

"(3) The professional and banking secrecy where the persons provided for in article 8 are kept is not opposable to the Office"

8. Paragraphs (4)-(6) of article 6 are modified and shall have the following content:

"(4) Following the receipt of notifications, based on a reason, General Prosecutor's Office by the High

Court of Cassation and Justice or the structures within Public Ministry, competent by law, may require the Office to complete such notifications.

(5) The Office is obliged to put at the disposal of the General Prosecutor's Office by the High Court of Cassation and Justice or the structures within Public Ministry, competent by law, at their request, the data and information obtained according to the provisions of the present law.

(6) The General Prosecutor's Office by the High Court of Cassation and Justice or the structures within Public Ministry, competent by law, that formulated requests in accordance with the provisions of para (4), shall notify to the Office, quarterly, the progress in the settlement of the notifications submitted, as well as the amounts on the accounts of the natural or legal persons for which blocking is ordered following the suspension carried out or the provisional measures imposed.

9. In article (6), a new para (7 index 1) is introduced following to para (7), and shall have the following content:

"(7 index 1) The Office provides the persons referred to in article (8) para (a) and (b), whenever possible, under a confidentiality regime and through a secured way of communication, with information about clients, natural and/or legal persons which are exposed to risk of money laundering and terrorism financing."

10. Article 7 is modified and shall have the following content:

"(7) Article 7 – The application in good faith, by the natural and/or legal persons, of the provisions of articles (3)-(5) may not attract their disciplinary, civil or penal responsibility."

11. Article 8 is modified and shall have the following content:

"Article 8 – The provisions of this law shall be applied to the following natural or legal persons:

a) credit institution and branches in Romania of the foreign credit institutions;

b) financial institutions, as well as branches in Romania of the foreign financial institutions;

c) private pension funds administrators, in their own behalf and for the private pension funds they manage, marketing agents authorized for the system of private pensions;

d) casinos;

e) auditors, natural and legal persons providing tax and accounting consultancy;

f) public notaries, lawyers and other persons exercising independent legal profession, when they assist in planning or executing transactions for their customers concerning the purchase or sale of immovable assets, shares or interests or good will elements, managing of financial instruments or other assets of customers, opening or management of bank, savings, accounts or of financial instruments, organization of contributions necessary for the creation, operation, or management of a company, creation, operation, or management of companies, undertakings for collective investments in transferable securities, other trust activities or when they act on behalf of and their clients in any financial or real estate transactions;

g) persons, other than those mentioned in para (e) or (f), providing services for companies or other entities;

h) persons with attributions in the privatization process;

i) real estate agents;

j) associations and foundations;

k) other natural or legal persons that trade goods and/or services, provided that the operations are based on cash transactions, in RON or foreign currency, whose minimum value represents the equivalent in RON of 15000EUR, indifferent if the transaction is performed through one or several linked operations."

12. Two new articles (8 index 1) and (8 index 2) are introduced after the article 8 and shall have the following content:

"Article 8 index 1 – In performing their activity, the persons referred to in article 8 are obliged to adopt adequate measures on prevention of money laundering and terrorism financing and, for this purpose, on a risk base, apply standard customer due diligence measures, simplified or enhanced, which allow them to identify, where applicable, the beneficial owner.

Article 8 index 2 – Credit institutions shall not enter into or continue a correspondent banking relationship with a shell bank or with a bank that is known to permit its accounts to be used by a shell bank"

13. Article 9 is modified and shall have the following content:

"Article 9 – (1) The persons referred to in the article 8 are obliged to apply standard customer due diligence measures in the following situations:

a) when establishing a business relationship;

b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

c) when there are suspicions that the transaction is intended for money laundering or terrorist financing, regardless of the derogation on the obligation to apply standard customer due diligence measures, provided by the present law, and the amount involved in the transaction;

d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

e) when purchasing or exchanging casino chips with a minimum value, in equivalent RON, of 2000 EUR.

(2) When the sum is not known in the moment of accepting the transaction , the natural or legal person obliged to establish the identity of the customers shall proceed to their rapid identification, when it is informed about the value of the transaction and when it established that the minimum limit provided for in para (1) (b) was reached.

(3) The persons referred to in the article 8 are obliged to ensure the application of the provisions of the present law to external activities or the ones carried about by agents.

(4) Credit institutions and financial institutions must apply customer due diligence and record keeping measures to all their branches from third countries, and these must be equivalent at least with those provided for in the present law."

14. Two new articles (9 index 1) and (9 index 2) are introduced following the article 9, with the following content:

"Article 9 index 1 - The persons referred to in the article 8 shall apply standard customer due diligence measures to all new customers and also, as soon as possible, on a risk base, to the existing clients.

Article 9 index 2 – (1) Credit institutions and financial institutions shall not open and operate anonymous accounts, respectively accounts for which the identity of the holder or owner is not known and documented accordingly.

(2) When applying the provisions of article 9 index 1, the persons referred to in the article 8 shall apply standard customer due diligence measures to all the owners and beneficiaries of existing anonymous accounts as soon as possible and in any event before such accounts or are used in any way."

15. Article 12 is modified and shall have the following content:

"Article 12. - The persons referred to in the article 8 shall apply simplified customer due diligence measures for the following situations:

a) for life insurance policies, if the insurance premium or the annual installments are lower or equal to the equivalent in RON of the sum of 1000EUR or if the single insurance premium paid is up to 2500EUR, the equivalent in RON. If the periodic premium installments or the annual sums to pay are or are to be increased in such a way as to be over the limit of the sum of 1000EUR, respectively of 2500EUR, the equivalent in RON, standard customer due diligence measures shall be applied;

b) for the situation of the subscription to pension funds;

c) for the situation of electronic currency defined accordingly with the Law, for the situations and conditions provided by the regulations on the present law;

d) when a customer is a credit or financial institution, according with article 8, from a Member State of European Union or of European Economic Area or, as appropriate, a credit or financial institution in a third country, which has similar requirements with those laid down by the present law and are supervised for their application;

e) for other situations, regarding clients, transactions or products, that pose a low risk for money laundering and terrorism financing, provided by the regulations on the application of the present law.

16. A new article, Article 12 index 1, is being introduced following article 12, with the following content:

"Article 12 index 1 – (1) In addition to the standard customer due diligence measures, the persons referred to in the article 8 shall apply enhanced due diligence measures for the following situations which, by their nature, may pose a higher risk for money laundering and terrorism financing:

a) for the situation of persons that are not physically present when performing the transactions;

b) for the situation of correspondent relationships with credit institutions from states that are not European Union's Member States or do not belong to the European Economic Area;

c) for the transactions or business relationships with politically exposed persons, which are resident in another European Union Member State or European Economic Area member state, or a third country.

(2) The persons referred to in the article 8 shall apply enhanced due diligence measures for other cases than the ones provided by para (1), which, by their nature, pose a higher risk of money laundering or terrorism financing."

17. Paragraph (1) of the article 14 is modified and shall have the following content:

"(1 index 1) The persons referred to in the article 8 (a)-(d), (g)-(j), as well as the leading structures of the independent legal professions mentioned by article 8 (e) and (f) shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, together with the nature and the limits of the mentioned responsibilities, and shall establish adequate policies and procedures on customer due diligence, reporting, secondary and operative record keeping, internal control, risk assessment and management, compliance and communication management, in order to prevent and stop money laundering and terrorism financing operations, ensuring the proper training of the employees. Credit institutions and financial institutions are obliged to designate a compliance officer, subordinated to the executive body, who coordinates the implementation of the internal policies and procedures, for the application of the present law.

18. Two new paragraphs, (3) and (4), are introduced following the paragraph (2) of article 14, which shall have the following content:

"(3) The provisions of para (1), (1 index 1) and (2) are not applicable for the natural and legal persons provided by article 8 para (k).

(4) Credit and financial institutions must inform all their branches in third states about the policies and procedures established accordingly with para (1 index1)."

19. The paragraph (1) of article 16 is abrogated:

20. The paragraph (2) of article 16 is modified and shall have the following content:

"(2) The Office may organize training seminars in the field of money laundering and terrorism financing. The Office and the supervision authorities may take part in the special training programs of the representatives of the persons referred to in article 8"

21. Article 17 is modified and shall have the following content:

"Article 17 – (1) The implementation modality of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:

a) The prudential supervision authorities, for the persons that are subject to this supervision;

b) Financial Guard, as well as any other authorities with tax and financial control attributions, according with the law;

c) The leading structures of the independent legal professions, for the persons referred to in article 8 (e) and (f);

d) The Office, for all the persons mentioned in article 8, except those for which the implementation modality of the provisions of the present Law is verified and controlled by the authorities and structures provided by para (a).

(2) When the data obtained indicates suspicions of money laundering, terrorism financing or other violations of the provisions of this Law, the authorities and structures provided for in para (1) (a) – (c) shall immediately inform the Office.

(3) The Office may perform joint checks and controls, together with the authorities provided for in the

para (1) (b) and (c)."

22. Three new paragraphs, (4), (5) and (6) are introduced after paragraph (3) of article 18, with the following content:

"(4) The following deeds performed while exercising job attributions shall not be deemed as breaches of the obligation provided for in para (2):

a) providing information to competent authorities referred to in article 17 and providing information in the situations deliberately provided by the law;

b) providing information between credit and financial institutions from European Union's Member States or European Economic Area or from third states, that belong to the same group and apply customer due diligence and record keeping procedures equivalent with those provided for by the present Law and are supervised for their application in a manner similar with the one regulated by the present law;

c) providing information between persons referred to in article 8 (e) and (f), from European Union's Member States or European Economic Area, or from third states which impose equivalent requirements, similar to those provided for by the present Law, persons that carry on their professional activity within the framework of the same legal entity or the same structure in which the shareholders, management or compliance control are in common.

d) providing information between the persons referred to in article 8 (a), (b), (e) and (f), situated in European Union's Member States or European Economic Area, or from third states which impose equivalent requirements, similar to those provided for by the present Law, in the situations related to the same client and same transaction carried out through two or more of the above mentioned persons, provided that these persons are within the same professional category and are subject to equivalent requirements regarding professional secrecy and the protection of personal data;

(5) When the European Commission adopts a decision stating that a third state do not fulfill the requirements provided for by the para (4) (b) (c) and (d), the persons referred to in article 8 and their employees are obliged not to transmit to this state or to institutions or persons from this state, the information held related to money laundering and terrorism financing.

(6) It is not deemed as a breach of the obligations provided for in para 2, the deed of the persons referred to in article 8 (e) and (f) which, according with the provisions of their statute, tries to prevent a client from engaging in criminal activity."

23. A new para, para (2 index 1) is introduced following para (2) of article 19, which shall have the following content:

"(2 index 1) The Office carries out the analysis of suspicious transactions:

a) when notified by any of the persons referred to in article 8;

b) ex officio, when finds out, in any way, of a suspicious transaction."

24. A new para, para (5 index 1) is introduced following para (5) of article 19, which shall have the following content:

"(5 index 1) The deliberative and decisional activity provided for in para (5) refers to the specific cases analyzed by the Office's Board. The Office's Board decides over the economic and administrative matters, only when requested by the President.

25. Paragraph (16) of article 19 is modified and shall have the following content:

"(16) The Office may participate in the activities organized by international organizations in the field and may be member of these organization."

26. Paragraph (1) (b) of article 19 is modified and shall have the following content:

"b) failure to comply with the obligations referred to in article 5 para (2), article 9, 9 index 1, 9 index 2, article 12 index 1 para (1), article 13-15 and article 17."

27. Paragraph (4) of article 22 is modified and shall have the following content:

"(4) The infringements are ascertained and the sanctions, referred to in para (2), are applied by the representatives, authorized by case, by the Office or other authority competent by law to carry out the control. When the supervision authorities carry out the control, the infringements are ascertained and the sanctions are applied by the representatives, authorized and specifically designated by those authorities."

28. A new para, para (4 index 1) is introduced following para (4) of article 22, which shall have the following content:

"(4 index 1) In addition to the infringement sanctions, specific sanctioning measures may be applied by the supervision authorities, according with their competencies, for the deeds provided for by para (1)"

29. Two new paragraphs, (4), (5) are introduced after paragraph (3) of article 23, with the following content:

"(4) If the deed was committed by a legal person, one or more of the complementary penalties referred to in article 53 index 1, para (3) (a) –(c) of the Criminal Code is applied, by case, in addition to the fine penalty.

(5) Knowledge, intent or purpose required as an element of the activities mentioned in paragraphs (1) may be inferred from objective factual circumstances."

30. A new article, (23 index 1), is introduced following article 23, which shall have the following content:

"Article 23 index 1 – The offender for the crime referred to in article 23, that during the criminal procedure denounces and facilitates the identification and prosecution of other participants in the offence, shall benefit of a half reduction of the penalty limits provided for by law."

31. Article 26 is modified and shall have the following content:

"Article 26 – In the case of the offences referred to in articles 23 and 24 and the terrorism financing offences, the banking secrecy and professional secrecy shall not be opposable to the prosecution bodies nor to the courts of law. The data and information are transmitted upon written request to the prosecutor or to the criminal investigation bodies, if their request has previously been authorized by the prosecutor, or to the courts of law."

32. A new point (d) is introduced after the point © para (1) of article 27, which shall have the following content:

"d) Supervised delivery of money amounts"

33. A new para, para (5) is introduced following para (4) of article 27, which shall have the following content:

"(5) The measure referred to in para (1) (d) may be disposed by the prosecutor and authorized by reasoned ordinance which, in addition to the mentions referred to in article 2003 of Criminal Procedure Code, should comprise the following:

a) the solid ground that justify the measure and the motives for which the measure is necessary;

b) details regarding the money that are subject of the supervision;

c) time and place of the delivery or, upon case, the itinerary that shall be followed in order to carry out the delivery, provided these data are known;

d) the identification data of the persons authorized to supervise the delivery."

34. A new article, (27 index 2), is introduced following article 27 index 1, which shall have the following content:

"Article 27 index 2 – (1) The General Prosecutor's Office by the High Court of Cassation and Justice transmits to the Office, on a quarterly bases, copies of the definitive court decisions related to the offence provided for in article 23."

The Office holds the statistical account of the persons convicted for the offence provided for in article 23."

35. Article 29 is modified and shall have the following content:

"The minimum limits of the operations referred to in article 9 para (1) (b) and (e) and the maximum limits of the amounts provided for by article 12 (a) may be modified by Government Decision, subsequent to the Office's proposal."

36. Following the article 31 the next mention is introduced:

"By the present law, the provisions of articles 1 para (5), article 2 para (1), article 3 points 1,2 and 6-10, article 4, 5, 6, 7, article 8 para 2, article 9 para (1), (5) and (6), article 10 para (1), article 11 para (1)-(3) and (5), article 13, 14, 17, 20, 21, 22, 23, 25, 26, 27, article 28 para (2)-(7), article 29, article 31 para (1) and (3), article 32, article 33 para (1) and (2), article 34, article 35 para (1) and (3), article 37 para (1)-(3) and (5) as well as article 39 of the Directive 2005/60/EC of the European Parliament and of the Council, of 26th October 2005, on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing, published in the Official Journal of the European Union, series L no. 309 of 25th November 2005 and article 2 of the Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of "politically exposed person" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of financial activity conducted on an occasional or very limited basis, published in the Official Journal of the European Union, series L no. 214 of 04th August 2006, have been transposed."

Article II – (1) The provisions of points 13-17 of article I enter into force in 45 days from the date of present ordinance's publication in the Official Gazette of Romania, Part I. The legal provisions, in force before this date, shall be applicable until the new ones enter into force.

The Government adopts, by decision, within 15 days from the entering into force of the present ordinance, subsequent to the consultation of prudential supervision authorities, the taxfinancial control authorities, the leading structures of independent legal professions and the National Office for Prevention and Control of Money Laundering, a regulation on the application of Law no.656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating of terrorism financing, with subsequent modifications and completions, which will detail the standard, simplified or enhanced customer due diligence measures, as well as the content and conditions for applying law no. 656/2002, with subsequent modifications and completions.

(3)The National Office for Prevention and Control of Money Laundering adopts the working methodology provided for by the article 3 para (9) of Law no. 656/2002, with subsequent modifications and completions, within 30 days from the moment of present ordinance's entering into force.

(4) Within 45 days from the moment of present ordinance's entering into force, prudential supervision authorities, the tax-financial control authorities of the persons referred to in article 8 of Law no. 656/2002, with subsequent modifications and completions, as well as the leading structures of independent legal professions issue, according with their competency, standards on customer due diligence.

(5) Within 30 days from the moment of present ordinance's entering into force, the leading structures of independent legal professions shall conclude cooperation protocols with the National Office for Prevention and Control of Money Laundering and the existing protocols shall be updated based on the provisions of the present emergency ordinance.

Article III – (1) For the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006, on information on the payer accompanying transfers of funds, published in the Official Journal of the European Union, series L no. 345 of 08th December 2006, the following authorities are designated, as responsible authorities, for the supervision of compliance with the obligations regarding the information on the payer accompanying transfers of funds:

a) National Bank of Romania, for credit institutions;

b) National Office for Prevention and Control of Money Laundering, for any other legal person that provides fund transfer services.

(2) The fund transfers referred to in article 3 para 6 of the regulations are excluded from the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006

(3) The following deeds shall be deemed as infringements:

a) breaching the obligations referred to by article 9 para (2) final thesis of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006

b) breaching the obligations referred to by article 4, article 5 para (1), (2), (4) and (5), article (6) para (2), article (7) para (2), article 8, article 9 para (1) and article (2) first thesis, article 11, article 12, article 13 para (3), (4) and (5) and article 14 first thesis of Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006.

(4)The infringements referred to in para (3) (a) are sanctioned by fine raging from 10000RON to 30000RON and the infringements referred to in para (3) (b), by fine raging from 15000RON to 50000RON.

(5)The infringements are ascertained and the sanctions are applied by authorized representatives specifically designated by National Bank of Romania and National Office for Prevention and Control of Money Laundering, according with their competencies.

(6)The requirements provided by article 22 of Law no. 656/2002, with subsequent modifications and completions, apply accordingly.

Article IV - The Law no. 656/2002, on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating of terrorism financing, published in the Official Gazette of Romania, Part I, no. 904 from 12 of December 2002, with subsequent modifications and completions, as well as with the modifications and completions set up by the present emergency ordinance, shall be republished, in the Official Gazette of Romania, Part I, after its approval by law, and the texts will receive a new numbering.

PRIME MINISTER

CALIN POPESCU TARICEANU

COUNTERSIGNS

Ministry of Justice

Catalin Marian Predoiu

Ministry of Interior and

Administrative Reform

Liviu Radu

Department for European Affaires

Adrian Ciocanea

Ministry of Economy and Finance

Catalin Doica

Governmental Decision no. 594/2008 on the approval of the Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts

In accordance with Article 108 from the Romanian Constitution, republished and Article II Para 2 from the Governmental Emergency Ordinance no. 53/2008 on modification and completion of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts with subsequent modifications and completions,

The Romanian Government adopts this decision.

ART. 1

It is approved the Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts**,** published in the Official Gazette of Romania, Part I, no. 904 from December 12, 2002, with subsequent modifications and completions, provided for in the annex which is integrant part of this decision.

Art. 2

This Decision of the Government is enforceable starting the date provided for in Article II para (1) from the Governmental Emergency Ordinance no. 53/2008 on modification and completion of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts, published in the Official Gazette of Romania, Part I, no. 333 from April 30, 2008.

Through the Regulation provided for in the Article 1 the art. 6, art.7, art.8 para (1) and (2), art.9 para (1), para.(5) the second thesis and para.(6), art.10 para (1), art.11 para (2), (3), (4) and (5), art.12, art.13 para (2), (3) and (4), art.15 para (2) and (3), art. 16 para.(1), art.18, art.19, art.30 letter a) and b), art.31 para (1) and (2) and art.32 from the Directive no. 2005/60/EC of the European Parliament and Council on the prevention of the use of the financial system in the purpose of money laundering and terrorism financing, published in the Official Journal of the European Union, series L, no. 309 from November 25, 2005 and article 3 para (3) of the Directive 2006/70/EC of the European Commission of August 1, 2006 laying down implementing measures for Directive of the European Parliament and of the Council as regards the definition of „politically exposed persons" and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis, published in the Official Journal of the European Union, series L no. 214 from August 4, 2006, are transposed.

Annex

Regulation for application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts

Chapter I
General Provisions

Art. 1

In application of the provisions of the Law no. 656/2002 for the prevention and sanctioning money laundering as well as for instituting of some measures for prevention and combating terrorism financing acts, with subsequent modifications and completions, further called the Law no. 656/2002, this Regulation settles the measures of prevention and combating money laundering and terrorism financing acts.

Art. 2

(1) In the spirit of this Regulation, the terms and expressions below have the following significations:

a) Suspicious Transaction Report – document whose form and content is established by decision of the National Office for Prevention and Control of Money Laundering' Board, further called the Office, through which the persons provided for in the article 8 of the Law no. 656/2002 submit to the Office the information regarding the operations suspected of money laundering and terrorism financing;

b) Cash Transaction Report – document whose form and content is established by decision of the National Office for Prevention and Control of Money Laundering' Board, further called the Office, through which the persons provided for in the article 8 of the Law no. 656/2002 submit to the Office the information regarding the transactions in cash whose minimum limit represents the equivalent in lei of 15.000 de euro;

c) Cross Border Transfers Report – document whose form and content is established by decision of the National Office for Prevention and Control of Money Laundering' Board, further called the Office, through which the persons provided for in the article 8 of the Law no. 656/2002 submit to the Office the information regarding the cross border transfers in or out of the accounts, whose minimum limit represents the equivalent in lei of 15.000 de euro;.

d) Third parties – credit and financial institutions, situated in Member States and the similar ones, situated in third states, who meet the following requirements:

1. they are subject to mandatory professional registration for the performing of the activity, recognized by law;
2. they apply customer due diligence requirements and record keeping requirements as laid down in the Law no. 656/2002 and this Regulation and their compliance with the requirements of these acts is supervised in accordance with the Law no.656/2002.

(2) The specialized entities which perform services regarding money remittance and foreign currency exchange are not considered third parties in accordance with para (1) letter d).

Chapter II
Customer Due Diligence and standards for processing of the information on money laundering and terrorism financing

Art.3

The persons provided for in article 8 of the Law no. 656/2002 shall adopt, during the performance of their activity, adequate measures for prevention money laundering and terrorism

financing acts, and, in this purpose, based on risk, shall apply standard, simplified or enhanced customer due diligence which shall allow identification, by case, of the beneficial owner.

Section 1

Standard customer due diligence

Art. 4

(1) The persons provided for in article 8 of the Law no. 656/2002 shall apply the standard customer due diligence in the following situations:

a) when establishing a business relationship;

b) when carrying out occasional transactions amounting to EUR 15 000 or more or the equivalent, whether the transaction is carried out in a single operation or in several operations which appear to be linked;

c) when there are suspicions of money laundering or terrorist financing, regardless of value operation, or any derogation from the obligation to apply standard customer due diligence provided for in the Law no. 656/2002 and this Regulation;

d) when there are doubts about the veracity or adequacy of previously obtained customer identification data;

e) when purchasing or exchange in casinos gambling chips with a minimum value of the equivalent of EUR 2 000 or more.

(2) When the amount is not known when the transaction is accepted, the natural or legal person obliged to establish the customers identity shall proceed to their identification as soon as possible, when she/he/it is informed about the value transaction and when it was ascertained that the minimum limit provided for in para (1) letter b) has been reached.

(3) The persons provided for in the art. 8 of the law no. 656/2002 shall apply the standard customer due diligence to all new clients as well as, as soon as possible, based on the risk, to all existent clients.

(4) The credit institutions and financial institutions shall not open and perform anonymous accounts, respectively accounts for which the identity of the holder or of the beneficial owner is not known and highlighted properly.

(5) In the spirit of para 3, the persons provided for in the article 8 of the Law no. 656/2002 shall apply standard customer due diligence to all anonymous account or savings checks holders or beneficial owners, as soon as possible.

(6) The use of any type of existing anonymous accounts and savings checks shall not be allowed unless after the application of standard customer due diligence provided in the para (5).

Art. 5

(1) Standard customer due diligence measures are:

a) identifying the customer and verifying the customer's identity on the basis of documents, and, by case of information obtained from a reliable and independent source;

b) identifying, where applicable, the beneficial owner and taking risk-based and adequate measures to verify his identity so that the person covered by the article 8 of the Law no. 656/2002 is satisfied and to understand the ownership and control structure of the customer – legal person;

c) obtaining information on the purpose and intended nature of the business relationship;

d) conducting ongoing monitoring of the business relationship including scrutiny of transactions undertaken throughout the course of that relationship to ensure that the transactions being conducted are consistent with the institution's or person's knowledge of the customer, the business and

risk profile, including, where necessary, the source of funds and ensuring that the documents, data or information held are kept up-to-date.

(2) The identification data of the customers shall include at least:

a) as regards natural persons - the data of civil status mentioned in the documents of identity provided by the law;

b) as regards legal persons - the data mentioned in the documents of registration provided by the law, as well as the proof that the natural person who manages the transaction, legally represents the legal person.

(3) The persons provided for in the article 8 of the Law no. 656/2002 shall apply all the measures provided for in para (1) letter a) – d), having the possibility to take into the account the circumstances based on the risk, depending on the type of the client, business relationship, product or transaction, case in which he has to demonstrate to the authorities or to the structures provided for in the article 17 of the Law no. 656/2002 that the customer due diligence measures are adequate in view of the risks of money laundering and terrorism financing.

(4) When the persons provided for in the article 8 of the Law no. 656/2002 are unable to comply with para 1 letter a)-c), it may not carry out the transaction, start the business relationship, or shall terminate the business relationship, and shall report this issue as soon as possible to the Office.

(5) The provisions of para 4 shall not be applied to the persons provided for în the article 8 of the Law no. 656/2002 as regards the information obtained from or regarding the clients when it is ascertaining the legal position for that client or performing task of defending or representing that client in, or concerning judicial proceedings, including advice on instituting or avoiding proceedings, even this information has been obtained previously, during or after this procedure.

(6) The persons provided for in the article 8 of the Law no. 656/2002 have the obligation to verify the identity of the client and of the beneficial owner before establishing business relationship or carrying out the occasional transaction.

Art. 6

(1) The persons provided for in the article 8 of the Law no. 656/2002 may use in the purpose of applying standard customer due diligence measures provided for in the art. 5 para (1) letter a) - c) of this Regulation, the information regarding the client obtained from third parties, even the respective information is obtaining based on documents whose form is different to that used on internal level**.**

(2) In the situation provided for in the para 1 the liability for the compliance with all standard customers due diligence measures is on to the persons who use the information obtained from the third party.

(3) The third party from Romania which intermediates the contact with the client shall submit to the person who applies standard due diligence measures all the information obtained within own identification procedures, so the requirements provided for in art. 5 para (1) letter a)- c)of this Regulation to be respected.

(4) Copies of the documents based on which the identification and the verification of the client's or by case beneficial owner's identity was accomplished, will be immediately sent by the third party from Romania, by request of the person to whom the client has been recommended.

(5) The persons provided for in the article 8 of the Law no. 656/2002 have the obligation to ensure the application of the provisions of the Law no. 656/2002 and of this Regulation also in the case of the externalized activities or those performed by agents. The agents and the entities through which the externalized activities are performed by the previously mentioned persons, shall not be considered third parties, in the spirit of article 2 para (1) letter d) of this Regulation

(6) The persons provided for in the article 8 of the Law no. 656/2002 shall not use for accomplishing the customer due diligence requirements provided for in the art. 5 para (1) letter a) – c) of this Regulation the customer due diligence measures applied by a third party from a third country, on which the European Commission adopted a decision in this purpose.

Section 2

Simplified customer due diligence measures

Art. 7

(1) By way of derogation from article 4 para (1) letter a), b) and d), the persons provided for în the article 8 of the Law no. 656/2002 shall apply simplified customer due diligence measures where the customer is a credit or financial institution from a member state, or by case a credit or financial institution situated in a third country which imposes requirements equivalent to those laid down in the Law no. 656/2002 and supervised for compliance with those requirements.

(2) By way of derogation from article 4 para (1) letter a), b) and d), the persons provided for in the article 8 of the Law no. 656/2002 may apply simplified customer due diligence measures in the following situations:

a) life insurance policies where the insurance premium or the annual installments are lower or equal to the equivalent in lei of the sum of 1,000 EUR or if the single insurance premium paid is up to 2,500 EUR, the equivalent in lei. If the periodic premium installments or the annual sums to pay are or are to be increased in such a way as to be over the limit of the sum of 1,000 EUR, respectively of 2,500 EUR, the equivalent in lei, the standard customer due diligence measures customers' identification shall be required;

(b) insurance policies for pension schemes;

(c) in electronic money, as defined in Governmental Emergency Ordinance no. 99/2006 on credit institution and capital adequacy, approved with modifications and completions by the Law no. 227/2007 related to the products and transactions which have the following features:

1. the device cannot be recharged, the maximum amount stored in the device is no more than EUR 150

2. the electronic device can be recharged, a limit of the equivalent in lei of EUR 2 500 is imposed on the total amount transacted in a calendar year, except when an amount of the equivalent in lei of EUR 1 000 or more is redeemed in that same calendar year by the bearer.

Art.8

By way of derogation from article 4 para (1) letter a), b) and d), the persons provided for in the article 8 of the Law no. 656/2002 may apply simplified customer due diligence measures for the following clients:

a) companies whose securities are admitted to trading on a regulated market within the meaning of Law no. 297/2004 on capital market, with subsequent modifications and completions in one or more Member States and listed companies from third countries which are subject to disclosure and transparency requirements consistent with Community legislation;

b) beneficial owner of the transactions performed through collective accounts administrated by notaries and other independent legal professions from the Member States or from third countries subject to requirements to combat money laundering or terrorist financing consistent with the standards provided in the Law 656/2002 and this Regulation and are supervised for compliance with those requirements and provided that the information on the identity of the beneficial owner is available, on request, to the institutions that act as depository institutions;

c) domestic public authorities;

d) the clients who have a low risk on money laundering or terrorism financing and who fulfill the following criteria:

1. they are public authorities or bodies charged with the relevant competencies based on the communitarian legislation;

2. their identity is publicly available, transparent and certain;

3. their activities and accountable evidences are transparent;

4. the client is responsible in front of a communitarian institution or in front of an authorities within a Member State or the client's activity is under control by specific checking procedures;

Art.9

(1) By way of exception from the provisions of the art. 4 Para. 1 letter a), b) and d), the persons provided for in the art. 8 of the Law no. 656/2002 can apply the simplified due diligence measures in case of products and operations connected with those which fulfill the following criteria:

a) the product is offered based on a written contract;

b) the operations related to the product is performed through an account of the client opened with a credit institutions from Member States or third countries which impose similar obligations as the ones provided by the Law no. 656/2002 and this Regulation;

c) the product or the operations connected to the product are nominatives and according to their nature allow a proper applying of the provisions of the art. 4 Para. 1 letter c) from this Regulation;

d) the value of the product is not over the limit provided at the art. 12 Para. 1 letter a) of the Law no. 656/2002 in case of insurance policies and of the similar saving products or over the threshold of 15.000 euro or equivalent in case of other products;

e) the beneficiary of products or connected operations cannot be a third person, excepting death, invalidity, predetermined ages or other similar situations;

f) in case that the products or connected operations allow investments in financial assets or debts, including any type of insurances or any contingent debts, if the following criteria are fulfilled:

1. the benefits of the products or of the connected operations are materialized just on a long term;

2. the product or the connected operations cannot be used as guaranty (assurance);

3. during the contractual relation, anticipated payments cannot be made, there are not provided clauses of anticipated cancellation and the contractual obligation cannot be anticipated cancelled.

Art.10

(1) In the situations provided for in the art. 7 and 8, the persons provided for in the art. 8 from the Law 656/2002 shall obtain adequate information about their clients and shall permanently monitor their activity in order to establish if they are framed within the category for which is provided the respective derogation.

(2) The Office inform the authorities with similar attribution from other Member States and the European Commission about the cases in which it is considered that a third country fulfills the obligation provided for in the articles 7 and 8 or in the situation provided for in the art. 9.

Art. 11

The persons provided for in the art. 8 of the Law 656/2002 cannot apply the provision of art. 7 – 9 in case of clients as credit institutions, financial institutions or companies of whose securities are

traded on a regulated market from third countries, regarding of which the European Commission adopted a decision on this regard.

Section third

Enhanced due diligence measures

Art. 12

(1) The persons provided for in the art. 8 from the Law no. 656/2002 shall apply, on a risk-sensitive basis, enhanced customer due diligence measures, in addition to the measures referred to in situations which by their nature can present a higher risk of money laundering or terrorist financing. The applying of the enhanced due diligence measures is mandatory at least in the following situations:

a) in case of persons who are not physically present the performance of the operations;

b) in case of correspondent relations with credit institutions within third states;

c) regarding the occasional transactions or business relations with the politically exposed persons who are resident within another Member State of European Union or of the European Economic Space or within a foreign state;

(2) In case provided at the para. 1 letter a) the persons provided for in the art. 8 of the Law no. 656/2002 shall apply one of the following measures, without that enumeration being limitative ones:

a) requesting documents and additional information in order to establish the identity of the client;

b) fulfilling additional measures for checking and verification of supplied documents or will request a certification from a credit institutions or financial one which is under the obligation of preventing and combating money laundering and terrorism financing equivalent with the standards provided for in the Law 656/2002 and this Regulation;

c) requesting that the first operation to be performed through an account opened on the name of the client with a credit institution which is subject to the obligations on prevention and combating money laundering and terrorism financing equivalent with the standards provided for in the Law no. 656/2002 and this Regulation.

(3) In case provided in the para. 1 letter b), credit institutions shall apply the following measures:

a) gather sufficient information about the credit institution from a third country for fully understanding the nature of its activity and for establishing, based on the publicly available information, its reputation and the quality of supervision;

b) asses the control mechanisms implemented by the credit institution from a third country in order to prevent and combat money laundering and terrorism financing;

c) obtain approval from executive management before establishing a new correspondent relation;

d) establish based on documents the liability of each of the two credit institutions;

e) in case of correspondent account directly accessible for the clients of credit institution from third country, it shall ensure that this institution has applied standard customer due diligence measures for all the clients who has access to these accounts and that it is able to provide, upon request, information on the clients, data obtained following the enforcement of the respective measures.

(4) In respect of occasional transactions or business relations with politically exposed persons, the persons provided for in the art. 8 of the Law no. 656/2002 shall apply the following measures:

a) to have in place risk based procedures which allowed the identification of the clients within this category;

b) to obtain executive management's approval before starting a business relationship with a client within this category;

c) to set up adequate measures in order to establish the source of income and the source of funds involved in the business relationship or the occasional transaction;

d) to carry out an enhanced and permanent monitoring of the business relationship.

(5) the persons referred to in article 8 of Law no. 656/2002 shall pay a special attention to the transactions and procedures which, by their nature, may favor anonymity or which may be linked with money laundering or terrorism financing..

Chapter III

Other procedural dispositions and sanctions

Art. 13

(1) Financial and credit institutions apply, according to the situation, in their branches from other third states, customer due diligence and record keeping measures, equivalent at least with those provided for by the Law no. 656/2002 and the present Regulation..

(2) When the legislation of the third state do not allow for such equivalent measures to be applied, the credit and financial institutions shall inform the competent Romanian authorities, in accordance with the provisions of article 17 of Law no. 656/2002.

(3) When the legislation of the third state do not allow for customer due diligence measures to be applied, the credit and financial institutions shall apply the necessary customer due diligence measures, in order to efficiently cope with the money laundering or terrorism financing risk.

Art. 14

(1) When the application of the customer due diligence measures is mandatory, the persons provided for in article. 8 of Law 656/2002 shall keep a copy of the document used, as proof of identity or identity reference, for a period of at least 5 years, starting with the date the relationship with the customer began.

(2) **The persons provided for in article. 8 of Law 656/2002 shall keep, in an adequate format so it can be used as evidence in court, secondary or operative evidence and recordings of all the financial transactions within the business relationship or occasional transaction, for a period of at least 5 years starting from the beginning of the business relationship or carrying out of the occasional transaction.**

Art. 15

*(*1) The persons referred to in article 8 para (a)-(d), (g)-(j), as well as the leading structures of the liberal professions provided for in article 8 para (e) and (f) of Law no. 656/2002 shall designate, by internal decision act draw up in accordance with the Annex part in the present Regulation, one or more persons with responsibilities in the enforcement of Law no. 656/2002 and the present Regulation, whose name shall be transmitted to the Office, together with the nature and extent of the mentioned responsibilities. The internal decision act shall be transmitted to the Office either directly or by post with receipt confirmation.

(2*)* the persons provided for in para (1) shall establish adequate politics and procedures on customer due diligence, reporting and record keeping of secondary and operative evidence, assessing and managing the risks, conformity management and communication in order to prevent and hamper the money laundering and terrorism financing suspicious transactions, ensuring the proper training of the employees. Credit and financial institutions are obliged to designate a conformity officer, subordinated to

the executive management, which coordinates the implementation of the internal politics and procedures for the application of the Law no. 656/2002 and the present Regulation.

(3) The persons designated in accordance with para (1) and (2) are responsible for the carrying out of the responsibilities established for the application of Law no. 656/2002..

(4) The provisions of para (1), (2) and (3) are not applicable to natural and legal persons provided for in article 8 (k) of Law no. 656/2002.

(5) financial and credit institutions must inform all their branches from third states about the politics and procedures set up in accordance with para (2)..

Art. 16

Credit and financial institutions are obliged to keep in place internal procedures and to have systems which allow the timely transmission, subsequent to Office's or prosecution bodies request, of the information regarding the identity and the nature of the relationship for the clients specified in the request, with which a business relationship is or has been in progress in the last 5 years. .

Art.17

(1) The reports provided for in article 3 para (1) of Law no. 656/2002 are forwarded to the Office immediately, and those provided for in article 3 para (6) and (7) of Law no. 656/2002, in 10 working days at most, based on a working methodology specially set up for this purpose by the Office.

(2) The office establishes, by an internal working procedure, a system for carrying out the financial analyses, which shall be periodically adapted, based on the identified risk indicators.

Art. 18

(1) The Office shall inform the authorities with similar attribution from other member states and the European Commission about the cases of third states which are thought not to fulfill the requirements provided for in article 18 para (4) (b)-(d) of Law no. 656/2002.

(2) The Office shall inform the European Commission about the cases when a third state is in the situation described in article. 13 para (3).

(3) The Office shall inform the authorities with similar attribution from other member states and the European Commission about the case of a third state which is thought to impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in article 656/2002 and the present Regulation, and the enforcement of these is supervised in a manner equivalent with that regulated by the Law no. 656/2002 and the present Regulation..

Art. 19

(1) The breaching of the dispositions of article 6 para (3) and (4), article (10), article 13 para (2) and (3) and article 16, by the persons referred to in article 8 of Law no. 656/2002, constitutes infringement and is sanctioned by fine between 10,000 lei and 30,000 lei.

(2) The dispositions of art.22 para (3)-(5) of Law nr.656/2002 are applicable in accordance.

Regulation Annex

The name of the legal person:.……

Unique Identification Code…….

Registration number with the NRT

Main premises…..……

Telephone/fax…..…….

To:

National Office for Prevention and Control of Money Laundering

Name of legal person…….……. represented by (manager / director / president - name surname, PIN) ……..……., with the main activity object of (name and CAEN)……., in accordance with the provisions of art. 14 of Law nr. 656/2002 for the prevention and sanctioning of money laundering, and for setting up certain measures for the prevention and combat of terrorism financing, with subsequent modifications and completions, empowers (name and surname of one or more persons, holder/holders of ID……, series……., no.…… PIN……in the relationship with National Office for Prevention and Control of Money Laundering, with responsibilities in the application of the Law mentioned above..

In order to fulfill the provisions of Law no. 656/2002, with subsequent modifications and completions, the designated person/persons shall have the following responsibilities:

……..

……..

STAMP

SIGNATURE

*Note:

one sample shall be sent to the ONPCSB

one sample shall be kept at the issuer's premises

Decision no. 1437 for the approval of the List of third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing

from 12 November 2008

Government of Romania

Published in the Official Gazette No. 778/20.11.2008

In accordance with the art. 108 of the Romanian Constitution, republished,

The Government of Romania adopts this decision.

Unique article. – The list including the third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, shall be adopted, being included in the annex, as integral part of the present decision**.**

PRIME-MINISTER
Călin Popescu-Tăriceanu

Countersign:
Head of Prime-Minister Chancellery,
Marian Marius Dorin

President of the National Office for Prevention and Control of Money Laundering,
Adriana Luminita Popa

ANNEX

The list including the third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing

***)** The list shall not apply to the Member States of the European Union/ European Economic Area which benefit de jure from mutual recognition through the implementation of the 2005/60/EC Directive of the European Parliament and of the Council of 26 October 2005 on the prevention of the use of the financial system for the purpose of money laundering and
terrorist financing.

The following third countries are currently considered as having equivalent Anti Money Laundering/Combating Financing of Terrorism systems to the European Union. The list may be reviewed,

in particular in the light of public evaluation reports adopted by the FATF (Financial Action Task Force - FATF)**,** FSRBs, International Monetary Fund (IMF) or the World Bank, according to the revised 2003 FATF Recommendations and Methodology.

South Africa,
Argentina,
Australia,
Brazil,
Canada,
Switzerland,
Russian Federation,
Hong Kong,
Japan,
Mexico,
New Zealand,
Singapore,
United States of America,
France's overseas territories (Mayotte, New Caledonia, French Polynesia,
Saint Pierre and Miquelon, Wallis and Futuna),
Netherlands' overseas territories (Netherlands Antilles, Aruba) and
British Crown Dependencies (Jersey, Guernsey, Isle of Man).

Decision no. 885 on amending the List of third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, approved by the Government Decision no. 1.437/2008

Government of Romania
from 31 August 2011
Published in the Official Gazette No. 645 from 9 September 2011

In accordance with the art. 108 of the Romanian Constitution, republished,

The Government of Romania adopts this decision.

Unique article. – The list including the third countries which enforce requirements equivalent to those provided in the **Law no. 656/2002** on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, **approved by the Government Decision no. 1.437/2008, published in the Official Gazette of Romania, Part I, no. 778 from 20 November 2008, shall be amended and replaced according to the annex which is integral part of this decision.**

PRIME-MINISTER
EMIL BOC

Countersign:
General Secretary of the Government,
Daniela Nicoleta Andreescu

President of the National Office for Prevention and Control of Money Laundering,
Adrian Cucu

Annex
(Annex to the Government Decision no. 1.437/2008)

LIST
including third countries *) which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing

***) The list shall not apply to the Member States of the European Union/ European Economic Area which** benefit de jure from mutual recognition through the implementation of the **2005/60/EC**

Directive **of the European Parliament and of the Council of 26 October 2005** on the prevention of the use of the financial system for the purpose of money laundering and terrorist financing.

The following third countries are currently considered as having equivalent Anti Money Laundering/Combating Financing of Terrorism systems to the European Union. The list may be reviewed, in particular in the light of public evaluation reports adopted by the ***FATF*** **(Financial Action Task Force - FATF)**, FSRBs, International Monetary Fund (IMF) or the World Bank, according to the revised 2003 FATF Recommendations and Methodology.

- **Australia**
- **Brazil**
- **Canada**
- **Hong Kong**
- **India**
- **Japan**
- **Mexico**
- **The Russian Federation**
- **Singapore**
- **Switzerland**
- **South Africa**
- **The United States**
- **Korea**
- **T**he French overseas territories (Mayotte, New Caledonia, French Polynesia, Saint Pierre and Miquelon and Wallis and Futuna)
- Aruba, Curacao, Sint Maarten, Bonaire, Sint Eustatius and Saba
- The UK Crown Dependencies (Jersey, Guernsey, Isle of Man)

Governmental Decision No. 989 on amending the List of third countries which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, approved by the Governmental Decision no. 1.437/2008

from 10 October 2012

Published in the Official Gazette No. 739 from 1 November 2012

In accordance with the art. 108 of the Romanian Constitution, republished,

The Government of Romania adopts this decision.

Unique article. – The list including the third countries which enforce requirements equivalent to those provided in the **Law no. 656/2002** on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, **approved by the Government Decision no. 1.437/2008, published in the Official Gazette of Romania, Part I, no. 778 from 20 November 2008, shall be amended and replaced according to the annex which is integral part of this decision.**

PRIME-MINISTER
VICTOR-VIOREL PONTA

Countersign:
General Secretary of the Government,
Ion Moraru

President of the National Office for Prevention and Control of Money Laundering,
Neculae Plăiaşu

Annex
(Annex to the Government Decision no. 1.437/2008)

LIST
including third countries *) which enforce requirements equivalent to those provided in the Law no. 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing

***) The list shall not apply to the Member States of the European Union/ European Economic Area which** benefit de jure from mutual recognition through the implementation of the **2005/60/EC** Directive **of the European Parliament and of the Council of 26 October 2005** on the prevention of the use of the financial system for the purpose of money laundering and
terrorist financing.

The following third countries are currently considered as having equivalent Anti Money Laundering/Combating Financing of Terrorism systems to the European Union. The list may be reviewed, in particular in the light of public evaluation reports adopted by the ***FATF*** **(Financial Action Task Force - FATF)**, FSRBs, International Monetary Fund (IMF) or the World Bank, according to the revised 2003 FATF Recommendations and Methodology.

- **Australia**
- **Brazil**
- **Canada**
- **Hong Kong**
- **India**
- **Japan**
- **Republic of Korea**
- **Mexico**
- **Singapore**
- **Switzerland**
- **South Africa**
- **The United States**
- **Korea**
- **T**he French overseas territories (Mayotte, New Caledonia, French Polynesia, Saint Pierre and Miquelon and Wallis and Futuna)
- Aruba, Curacao, Sint Maarten, Bonaire, Sint Eustatius and Saba
- The UK Crown Dependencies (Jersey, Guernsey, Isle of Man)

Regulation no.9/2008 on know-your-customer for the purpose of money laundering and terrorism financing prevention

National Bank of Romania

Having regard to the provisions of art.8 let.a) and b), of art.17 para.(1) and art 22 para. (4^1) of Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, as modified, art.1 of Government Decision no.594/2008 regarding the approval of Regulation for the application of the provisions of Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, as modified, as well as Financial Action Task Force on Money Laundering recommendations,

In virtue of the provisions of art.II para(5) of Emergency Government Ordinanceno.53/2008 for modification and completion of Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, as modified, and of art. 48 of Law no.312/2004 on the statute of National Bank of Romania,

The National Bank of Romania issues this Regulation.

Chapter I
General provisions

Art.1 – (1) This Regulation is applicable to the credit institutions, Romanian legal entities, payment institutions, Romanian legal entities, electronic money institutions, Romanian legal entities and to the non-bank financial institutions, Romanian legal entities, registered in the Special Register held by the National Bank of Romania and establishes the minimum standards for drawing up by these entities of their own "know-your-customer" norms, as an essential part of the money laundering and terrorism financing risk management and also aspects regarding their implementation.

(2) This Regulation is correspondingly applicable, for the purpose mentioned at para (1), also to the branches established in Romania by the credit institutions foreign legal entities, to the branches established in Romania by the payment institutions foreign legal entities, electronic money institutions, Romanian legal entities and to the branches established in Romania by the financial institutions, foreign legal entities, registered in the Special Register held by the National Bank of Romania.

(3) For the purpose of this Regulation the entities mentioned at para (1) and para (2) are further referred to as institutions.

Art.2 - The terms and expressions used in this Regulation have the meaning provided for in Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, as modified and supplemented, and in the Regulation for the application of the provisions of Law 656 of December 7th, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, approved by Government Decision no.594/2008.

Chapter II
Provisions regarding know-your-customer norms

Art.3 – For the purpose of assuring the performance of their activity in accordance with the requirements of Law 656/2002, Government Decision no.594/2008 and the present regulation, the institutions shall issue internal know-your-customer norms conceived to prevent the misuse of the institution in order to carry out activities with the purpose of money laundering or terrorism financing.

Art.4 – Know-your-customer norms issued by each institution shall be drawn up so as to correspond with the nature, volume, complexity, and the area of its activities and shall be adapted to the risk level related to the customer categories for which the institution provides financial or banking services and to the degree of risk related to the products/services offered.

Art.5 – (1) Institutions establish through their know-your-customer norms, procedures and measures that have to be implemented for the compliance with Law 656/2002, Government Decision no.594/2008 and this regulation, so as to be able to satisfy the National Bank of Romania that they efficiently administrate the risk of money laundering or terrorism financing.

(2) For the purpose of para.(1), know-your-customer norms shall include, at least, the following elements:

a) a customer acceptance policy, establishing at least the customer categories that the institution is addressing to, the gradual procedures of acceptance and the level of approval for customer acceptance in accordance with the level of risk related to the client category, types of products and services that can be offered to each customer category.

b) customer identification and ongoing monitoring procedures with a view to classifying customers in the relevant category, respectively for passing through another customer category.

c) the details of standard, simplified and enhanced customer due diligence measures, for each category of customer and products or transactions subject to each of these types of measures.

d) procedures for the ongoing monitoring of operations performed by the customers for the purpose of unusual and suspect transactions detection.

e) procedures of conducting the transactions and relation with customers in and/or from the jurisdictions that not impose the enforcement of customer due diligence and record keeping procedures equivalent with those provided for in Law no. 656/2002 and Government Decision 594/2008, and in which the enforcement of these is not supervised in a manner equivalent with that regulated by the Law no. 656/2002 and Government Decision 594/2008.

f) adequate drawing up and record-keeping procedures and regarding the access to these records;

g) procedures and control systems of the know-your-customer program's implementation and of their efficiency assessment, inclusive through the external audit;

h) standards for the employment and training programs of the staff in the know-your-customer field;

i) reporting procedures, internal and to the competent authorities;

Art.6 – (1) Know-your-customer norms shall be approved by the institution's management and shall be reviewed whenever necessary and at least annually.

(2) Know-your-customer norms shall be known by the entire staff with responsibilities in the field of know-your-customer for the purpose of money laundering or terrorism financing prevention.

Art.7 – Know-your-customer norms shall be submitted to National Bank of Romania – Supervision Department in 5 days after their approval, or their modification by the institution's competent bodies.

Chapter III
Provisions regarding standard due diligence measures

Art.8 – (1) Customer identification for ***individuals*** shall pursue obtaining at least the following information:

a) name and surname and, if the case, pseudonym;

b) date and place of birth;

c) unique individual numerical code or, if the case, another similar unique identification element

d) permanent residential address or, if the case, residence;

e) phone number, fax, e-mail, in accordance with the situation;

f) citizenship;

g) employment status and, if the case, name of employer or nature of self-employment/business;

h) the important public position held by the client residing in other country, if the case is;

i) name of the beneficial owner, if the case is.

(2) The verification of customer identity shall be performed based on documents from the category most difficult to be forged or obtained in an unlawful manner, such as identification documents issued by an official authority, which include photography of the holder.

(3) The verification of the information mentioned at para (1), which can not be proved with the documents mentioned at para (2) shall be performed through any other adequate method, such as, for example, the direct observation of the location at the mentioned address, through an exchange of correspondence and/or dialling the customer telephone number, checking the information supplied by the customer with the ones from various invoices submitted for payment to the client by other entities, fiscal records, account statements or by accessing public available information.

(4) In the case when a customer is represented in the relation with the institution by another person, which act as legal representative, trustee, guardian or any other capacity, the institution shall also obtain and verify the information and the relevant documents regarding the identity of the representative and also, if the case is, regarding the nature and the extent of empowerment.

Art.9 – (1) The legal entities or entities without juridical personality customer identification shall pursue obtaining at least following information:

a) name;

b) incorporation form;

c) registered office and, if it is the case, the office where is located the headquarters;

d) phone number, fax, email, according with the situation;

e) type and nature of the performed activity;

f) the identity of the persons empowered, according to the status and/or decision of statutory board, with the competence to manage and represent the entity and also the extent of their powers in engaging the entity;

g) name of the beneficial owner, if the case is or information about the group of persons in whose main interest the legal arrangement or entity is set up or operates according to art.2^2 para.(2) let.b) point 2 from Law no.656/2002;

h) the identity of the person acting on behalf of the customer and information necessary to establish that the person is authorised to act.

(2) The institutions shall verify the legal existence of the entity, respective if the entity is registered to the Commercial Register or, as the case might be, in another public register, and shall check relevant

information and documents regarding the identity of the person acting on behalf of the customer and regarding the nature and the extent of its mandate.

(3) The information provided by the customer shall be verified by any adequate means so as the institutions are satisfied with the accuracy of the data, such as obtaining from the customer or/and from a public register of the documents upon which the registration of the entity was based, including an up to date extract from that register, an audit report, by conducting an enquiry by a business information service or a firm of lawyers or auditors, by visiting the entity, through an exchange of correspondence and/or contacting the customer by telephone, by using other independent references.

(4) While there are no registration requirements for an entity, the verification of the information referred to in para.(1) shall be done on the basis of the incorporation documents, including the business license and/or the audit reports, or any other means in the category of those referred to in para.(3).

Art.10 – The procedures established in art.8 and art.9 for the customer identification and identity verification shall be accordingly applicable for the purpose of the beneficial owner identification and risk-based identity verification.

Chapter IV
Provisions regarding enhanced due diligence measures

Art.11 – For the implementation of the provisions of art.12^1 para.(2) from Law no.656/2002, the institutions shall establish the classes of customers and transactions representing high risk, using risk parameters such as the size of the assets and income, the types of services to be provided, the activity field of the customer, the economic background, the reputation of the home country, the veracity of the customer's motivation, value limits on each type of transaction.

Art. 12 –The institutions shall apply more extensive customer due diligence in the case of customers and transactions in and/or from jurisdictions which does not impose implementation of requirements regarding know-your-customers and record keeping equivalent to those laid down in Law no.656/2002, Government Decision no.594/2008 and this regulation and in which their are not supervised for compliance with those requirements.

Art.13 – The credit institutions that provide personalized banking services, known as *private banking*, shall develop policies that require more extensive due diligence for these customers.

Art.14 – In the case of non-nominative accounts for which the identity of the holder, known by the credit institutions, is replaced in records by a numerical code or by a code of another nature, in view of ensuring of a higher level of confidentiality, the documentation regarding the customer identification shall be available for the compliance officer, the persons nominated according to art.14 from Law nr.656/2002 and the supervisory authority.

Art. 15 – In the category of relationships with customers that have not been physically present for the operation required shall be included the business relations initiated through correspondence or modern means of telecommunications – telephone, e-mail, internet, or any technical device that allow the accessing of the banking services out of the credit institutions premises.

Art. 16 – For the customers and transactions representing higher risk, established according to art.11-art.14, in addition to the standard customer due diligence measures, institution will set up additional customer due diligence measures, which might include:

a) the approval at a higher hierarchical level for initiating or continuing the business relation with such customers and/or for performing such transactions;

b) the request for the first transaction to be performed through an account opened with a credit institution subject to the obligations on prevention and combating money laundering and terrorism financing equivalent with the standards provided for in the Law no. 656/2002 and Government Decision no.594/2008;

c) ongoing enhanced permanent supervision of the business relation;

d) setting up adequate measures in order to establish/verify the source of funds;

e) implementing of adequate IT systems for the administration of information which should be able to allow the supply in a timely manner of the necessary information for the identification, analysis and effective monitoring of these transactions. The implemented IT systems have to identify at least the lack or the insufficiency of the adequate documentation at the setting up of the business relation, the unusual transactions performed through the customer account and the aggregate situation of all the customer operations with the institution;

f) the necessity that the persons in charge with the coordination of selling and administration activity of services for these customers to be informed about the personal circumstances of those customers and to pay special attention to the information received from third parties about these persons.

g) the approval at a higher hierarchical level for transactions that exceed a certain pre-establish threshold.

Chapter V
Provisions regarding simplified due diligence measures

Art.17 – **(1)** The simplified due diligence measures are established by the institutions on a risk basis, in such a manner to allow them the observation of all the dispositions of Law 656/2002, Government Decision no.594/2008 and of this regulation.

(2) The simplified due diligence measures shall include gathering sufficient information about the customers in order to ensure the institution the rightfulness of framing the customers in the category with low risk of money laundering or terrorism financing, according with the legal framework, monitoring their operations for detecting the suspect transactions and the establishment of a procedure which allow the reviewing the information held about the customers, so as the institution to be able to ensure that these are reasonable maintained in the respective category of customers.

Chapter VI
Procedural dispositions

Art.18 – (1) For all the transactions, irrespective of their framing in a risk category, the institutions shall have set working systems for detection of suspect transactions and of unusual transactions regarding there complexity or regarding the framing in the usual patterns, including regarding their volume or frequency.

(2) The detection systems mentioned at para (1) might be design by establishing certain parameters and typologies for the usual transactions performed, such as: maximum value thresholds for each category of customer, product or transaction, categories of transactions performed in relation with certain categories of customers and, for the case of legal persons and other entities, the field of activity.

Art.19 – Institutions shall assess the new products and services to be offered from the perspective of money laundering and terrorism financing risk associate to them.

Art.20 – In the case of the existing customers that are passing from one category to another, with a higher associated risk it is necessary the application of all the due diligence measures established by the institutions for that category of customers where the customers is to be included.

Art.21 – Institutions provide the National Bank of Romania, at its request, with reports regarding the customers and the operations performed for them, including any analysis performed by the institution for the detection of the suspect transaction or for the evaluation of the risk level associated to a transaction or customer.

Art.22 – (1) For the application of the provisions of art.13 para (1) of Law no. 656/2002, the institutions shall keep at least the copies of the identification documents of the customers natural persons and copies of the incorporation documents for the legal persons or entities without juridical personality, as for example the incorporation act and the proof of incorporation in the public register.

(2) The institutions shall, at the express request from the National Bank of Romania or from other authorities according to the law, keep, in adequate form in order to be used as evidences in court proceedings, the identification data of the customer, the secondary or operational documentation and the records of all the financial operation that occur in a business relationship, for a time longer than five years from the ending of the business relation with the customer. The request of the authority shall clearly indicate the transactions and/or customers and also, the extended amount of time the institution is to keep the relevant information and documents.

Art.23 – The institutions shall ensure the access for the staff with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing, inclusively of the persons appointed according to art.14 para(1) of Law 656/2002, and also for the external auditor, for National Bank of Romania and for other authorities according to the law, at all the records and documents regarding the customers, the operations performed for them, including any analysis made by the institution for the detection of the unusual or suspect transaction or for the evaluation of the risk level associated to a transaction or customer, by providing them in a timely manner the documents/information.

Art.24 – (1) Institutions shall impose high standards for the employment of the staff, inclusively regarding the reputation and honorability and to verify the information supplied by the candidates.

(2) The institutions shall ensure the permanent training of the staff, in such a manner so the persons with responsibilities in the field of know-your-customer for the purpose of preventing and combating money laundering and terrorism financing to be adequately trained. The training program shall include information about the requirements of the legal framework in this field and also practical specific aspects, especially in order to enable the staff to recognize suspect transactions related to the money laundering and terrorism financing operations and also in order to adopt adequate measures.

The staff will be periodically trained and tested in order to ensure the knowledge of its responsibilities and to ensure its up-dating with the latest developments in the field.

Chapter VII

Supervision of compliance and sanctions

Art.25 – For the purpose of eliminating the deficiencies noticed and their causes, National Bank of Romania may impose the following measures:

a) requesting the modification of know-your-customer norms mentioned in Chapter II;

b) imposing the obligation to apply standard due diligence measures for the products, operations and/or customers framed by that institution know-your-customer norms in low risk category and for which it is applicable simplified due diligence measures or/and imposing the obligation to apply enhanced due diligence measures for the products, operations and/or for which it is applicable standard due diligence measures;

c) requesting the replacement of the persons responsible for the occurrence of the deficiencies noticed.

Art.26 – **(1)** Infringement of the provisions of the present regulation and non-observance of the measures imposed by National Bank of Romania represent contraventions and are sanctioned with fines mentioned by art.22 para (2) last thesis of Law 656/2002.

(2) The provisions of art.22 para(3)-(5) of Law 656/2002 are accordingly applicable.

(3) The measures established according to art 25 are applied distinctly or together with the sanctions mentioned in para1) and para (2) of this article**.**

Chapter VII

Transitory provisions

Art.27 – The institutions operating at the time of entry into force of the present regulation shall remit to National Bank of Romania – Supervision Department there know-your-customer norms mentioned in Chapter II within 90 days from the date of entry into force of the present regulation.

Art.28 – The institutions shall apply the due diligence measures imposed by the Law no. 656/2002, Government Decision no.594/2008 and present regulation to all existing clients as soon as possible, on a risk basis, but not later than 18 months after the approval of the know-your-customer norms elaborated according to Chapter II of present regulation.

Chapter VIII

Final provisions

Art.29 – At the time of entry in to force of present regulation it is abolished National Bank of Romania Norm no.3 from 26 February 2002 regarding know-your-customer standards, published in the Romanian Official Gazette, first part, no. 154 of 4th March 2002, as modified and completed by National Bank of Romania Norm no 13 from 15 December 2003 for the modification and completion of National Bank of Romania Norm no 3/2002 regarding know-your-customer standards, published in the Romanian Official Gazette, first part, no. 921 of 22nd December 2003 and also National Bank of Romania Regulation no 8/2006 regarding know-your-customer standards for non bank financial institutions, published in Romanian Official Gazette, first part, no. 154 of 4th March 2002, no. 941 of 21 November 2006.

MUGUR ISARESCU

Chairman of the National Bank of Romania Board

Bucharest, 2008, July 3

Excerpts from the Government Emergency Ordinance no. 25 of 13 March 2002 approving the Statute of the National Securities Commission

ART. 5

Collaboration with the authorities of the state and other public institutions

(1) *C.N.V.M. shall collaborate with the National Bank of Romania, the Insurance Supervising Commission, the Competition Council, the Public Ministry and other public institutions and public authorities for the purpose of fulfilling its basic objectives under art. 2.*

(2) With a view to attaining its fundamental objectives, C.N.V.M. shall be priory consulted with regard to the normative acts of the public authorities that have an impact on the capital market, the regulated commodity and financial derivative instruments markets, as well as on their specific institutions and operations.

(3) C.N.V.M. is invited by operation of law to the meetings of the public authorities in which the normative acts mentioned in paragraph (2) are adopted.

(4) *C.N.V.M. may share both public and confidential information with the National Bank of Romania, the Insurance Supervision Commission, the Competition Council, as well as with other public authorities and institutions. In the application of this ART., these authorities shall supply the information free of charge and shall not invoke the professional secret or any other legal obligation to keep confidential the information they hold.*

(5) C.N.V.M. may enter into information sharing agreements with other public authorities, which set out the specific means of affecting such exchange of information.

(6) *C.N.V.M. shall collaborate with specialized professional bodies to ensure the proper functioning of the regulated markets.*

(7) *In the performance of their duties, neither the members nor the personnel of C.N.V.M. shall request or receive instructions of any kind from any other public institution or authority.*

ART. 6

International Co-operation

(1) *C.N.V.M. may participate in the activity of international organizations in its field and may become a member thereof.*

(2) *C.N.V.M. shall cooperate with the competent authorities in the Member States and, on a reciprocity basis, with the competent authorities in the member states whenever necessary for the fulfillment of the obligations incumbent upon such, using the powers invested in it by the law.*

(3) *During the negotiation or performance of international agreements to which Romania is a party, C.N.V.M. shall provide assistance particularly with regard to exchange of information and cooperation in the investigation activities. This form of assistance includes, without limitation, the following:*

a) help in providing public or non-public information about or in connection with a natural or legal person subject to the regulation, the supervision and the control of C.N.V.M.;

b) provision of copies of the records held by regulated entities;

c) co-operation with the persons who have information about the object of an inquiry;

(3^1) Within the international cooperation relationships, in order to address the requests of other similar competent authorities conducting investigations for breach of their own legislation, C.N.V.M. shall use the powers invested in it by the law.

(4) *C.N.V.M. shall issue regulations regarding the cooperation procedure with similar competent authorities in accordance the Community legislation in force.*

ART. 7*)

Powers and acts of C.N.V.M.

(1) With a view to fulfilling its objectives provided under art. 2, C.N.V.M. shall exercise its legal powers regarding the regulation of regulated markets by means of adopting norms, issuing individual acts and measures after deliberation in the meetings held in accordance with the provisions of art. 3.

(2) With a view to fulfilling its objectives regarding the protection of the operators and the investors against unfair practice, as well as in order to ensure the adequate operation and transparency of the market, the prevention of manipulation and the avoidance of systemic risk generation on the regulated markets, C.N.V.M. shall supervise in due time and on a regular basis, the operators and the operations on the capital market and on the regulated commodity and financial derivative instruments markets.

(2^1) The obligation to keep the business secrecy shall not apply to C.N.V.M. in the exercise of its duties as provided by law.

(2^2) The information of the nature of business secrets received by C.N.V.M. in the exercise of its duties may be used only in the following situations:

a) *to verify the conditions required for granting the authorization to regulated entities, to facilitate the supervision, on consolidated or non-consolidated bases, of the conduct of its activity by the regulated entity, in particular of the capital adequacy requirements, of the accounting and administrative procedures and on the internal control mechanisms;*

b) *to impose sanctions;*

c) *within administrative complaints and actions filed against the individual deeds issued by C.N.V.M.*

(3) C.N.V.M. shall adopt norms by way of regulations and instructions, which are implemented by order of the President.

(3^1) C.N.V.M. has the competence to take measures to impose the observance of the capital market legislation and to apply the legal sanctions in case of breach thereof.

(3^2) C.N.V.M. authorizes, controls and verifies, based on the reports received and by on-site inspections, the registers, cash and financial instruments accounts and any other documents of the regulated, authorized and/or supervised entities, if it deems necessary.

(3^3) C.N.V.M. has the right to request any information and access any document, in any form whatsoever, from and with regard to any person or entity subject to its supervision, in the exercise of its authorization, supervision and control duties, for the achievement of its basic objectives provided under art. 2.

(4) The individual acts issued by C.N.V.M. shall be the decisions, ordinances, certificates and endorsements.

(5) The individual acts of C.N.V.M. shall be official documents to be enforced as authentic deeds and their content can only be opposed under a plea of forgery.

(6) *C.N.V.M. may give, upon request or ex officio, the official interpretation to all the regulations issued by it, which are applicable to regulated and supervised entities.*

(7) *C.N.V.M. shall be the only authority empowered to issue a competent opinion on opportunity matters, evaluations and quality analyses which represent the fundament of issuing its acts provided under paragraph (1) and (2). In case of litigation, the individual acts issued by C.N.V.M. regarding the interpretations provided under paragraph (6), can be challenged by filing a challenge with the Court of Appeal of Bucharest-the Department of Administrative Disputes. Until the court issues the judgment, the enforcement of the acts of C.N.V.M. shall not be suspended.*

(8) C.N.V.M. shall be qualified to sue and may intervene in any trial with respect to adopted norms or individual acts issued thereby, without being obliged to prove an interest therein.

(9) The access to the documents held by C.N.V.M. shall be granted in accordance with the provisions of the law.

(10) C.N.V.M. will publish and issue on a regular basis, a Bulletin that stands for the official gazette of the Commission. The documents published therein shall be opposable to a third party. The bulletin shall contain, but it not shall not be limited to:

a) the regulations adopted by C.N.V.M.;

b) releases and documents regarding regulated markets;

c) official interpretation of their own regulations governing regulated markets and supervised entities.

(11) C.N.V.M. may establish an Arbitration Chamber with a view to working out the litigation arising out of the agreements concluded on the capital markets, the regulated commodity and financial derivative instruments

markets or in connection with the institutions and the operations thereof. In the process of working out the litigation, the Arbitration Chamber shall apply:

a) the legislation of the capital markets, the regulated commodity and financial derivative instruments markets, as well as the regulations issued by C.N.V.M. in the field;

b) the commercial usage in the field;

c) the provisions of the common law

(12) C.N.V.M. shall establish its organizational chart (organizational structure) and the duties of its management and executive bodies by means of regulation.

(13) C.N.V.M. shall establish by means of its own regulation the system and the principles of remuneration for its members and the employed personnel.

(14) C.N.V.M. shall adopt by decision the level of remuneration for its members and the employed personnel, taking into consideration the level of remuneration assigned to positions and titles similar on the financial market.

(15) *The regulations and instructions issued by C.N.V.M. shall be approved by an order of the president of C.N.V.M. The approval order shall be published in the Official Gazette of Romania, Part I. The full text of the approved regulations and instructions shall be published, to acquire binding force, in the C.N.V.M. Bulletin.*

***)** *According to art. 43 and art. 82 of Law No. 76/2012, as subsequently amended, starting from the date of entry into force of Law no. 134/2010 regarding the Civil Procedure Code (1 February 2013), under article 7, paragraph (7) shall be amended and shall read as follows:*

"(7) C.N.V.M. shall be the only authority competent to issue an opinion on the reasons of opportunity, evaluations and qualitative analyses based on which it issues its documents, provided under paragraphs (1) and (2). In case of dispute, the individual acts issued by C.N.V.M. with regard to the interpretations provided under paragraph (6) may be challenged with the administrative and fiscal disputes department of the Bucharest Court of Appeal. The decision issued shall be final. Until the issuance of the court decision, the execution of C.N.V.M.'s acts shall not be suspended."

ART. 17

Protective measures and sanctions

(1) C.N.V.M. may impose to regulated entities, issuers or other entities that carry on activities with regard to regulated markets, under well justified cases and on a limited period of time, protective measures or restrictions of rights. Such measures may refer to the blocking of bank accounts, the

restriction of patrimonial transfers of the issuers, or the blocking of transfer of securities or of other financial instruments, for a period no longer than two weeks.

(2) *C.N.V.M. may apply the following administrative sanctions for the failure to comply with the laws governing the capital markets, the regulated commodity markets and the financial derivative instruments, the undertakings for collective investment, as well as with its regulations, and, as the case may be, C.N.V.M. may also demand that the prosecution bodies be notified in the event that the perpetrated deed is considered to be a criminal offence according to the relevant regulations:*

(a) written warning;

(b) fines;

(c) suspension of the authorization;

(d) withdrawal of the authorization;

(3) The administrative sanctions will be established by the laws governing the capital markets and the regulated commodity and financial derivative instruments markets, with their specific operations and institutions, as well as the undertakings for collective investment. The fines shall constitute revenues to the Commission budget in conformity with the legal provisions and may be updated annually by C.N.V.M. in accordance with the inflation rate.

(4) *The individual deed whereby C.N.V.M. applies the sanction by fine shall be deemed an executory title.*

Excerpts from the Emergency Ordinance no. 77/2009 on the Organisation and Operation of Gambling Games

Article 1. - (1) The organisation and operation of gambling games within the territory of Romania is a state monopoly and is carried out in accordance with the present emergency ordinance.

(2) The state can grant the right to organise and operate gambling games in accordance with the present emergency ordinance, on the basis of a licence to organise gambling games issued for each type of activity, as classified by the present emergency ordinance, and on the basis of an authorisation to operate gambling games; both of these documents are nominative and limited in time, and shall be exploited directly by the licence holder.

(3) The authorisation activity for the organisation and operation of gambling games shall be carried out by the Ministry of Public Finance through the Gambling Authorisation Commission, (hereinafter the "commission") which is organised and operates within this ministry in accordance with the requirements stipulated by the present emergency ordinance; the methodological guidelines for its application and other applicable normative documents.

(4) The requests for granting the licenses for the organization of the gambling games or the authorizations for the exploitation of the gambling games will be sorted out in 30 days from the date of the the complete documentation submission.

(5) As an exception to the provisions of para. (2), according to which gambles are exploited directly by the license holder, gambles may be jointly exploited by 2 or several bookmakers among which there is a joint venture contract signed according to the law, the administrative liability being undertaken by all the partners.

Article 10. - (1) Gambling games are classified as follows:

a) *lotto games*, if using the purely random results of events that consist of number, letter, ticket or symbol draws, regardless of the procedures and characteristics of the means used to carry out the draws (urns, wheels, cups and other similar means) that are not carried out in the presence of the players. This category includes: Lotteries, including instant lotteries, as well as any gambling games that are not carried out in the presence of the players and consist of number, letter, symbol, form or ticket draws, by means of which various winnings can be obtained which are determined by events that are not carried out in the physical presence of the players, except for the gambling games defined hereunder;

b) bets, if using the results of certain events that take place without the organisers being involved. Betting is a gambling game in which the participant must indicate the results of certain events that are going to take place or which are randomly generated by an independent computer system. This category includes:

(i) *mutual bets*, in which the prize is distributed between the participants who are declared to be the winners proportionally to the number of winning combinations each of them holds; the organiser is only involved in the participation fee collection process and the distribution of the prize money in accordance with the provisions stipulated in the rules for the respective games;

(ii) *fixed-odds bets*, in which the organiser, based on their own criteria, establishes the stake multiplication quota should the combinations that they play be declared to be the winning ones, and communicates it to the participants, in accordance with the provisions stipulated in the rules of the respective games. The amount of each prize is determined by the rules (a fixed amount or a multiple of the stake), regardless of the total number of stakes;

c) *casino-type gambling games*, if events take place that use specific means of gambling, in the physical presence of the participants, with or without their direct participation. The specific means of

gambling used can be: cards, dice, roulette balls, roulette and gambling tables, including their auxiliary systems, as well as other means of gambling established by a Government Decision;

d) *slot-machine games*, if the events are organised in the physical presence of the participants via specific machines, equipment and installations, and the winnings depend on luck;

e) *bingo games carried out in gaming halls*, with winnings generated by random elements, which are organised through the use of complex lottery-type draw equipment and are characterised by successive draws and awarding of prizes in the physical presence of the players;

f) *bingo games organised via television network systems*, with winnings generated by random elements, which are organised through the use of complex lottery-type draw equipment and are characterised by successive draws and awarding of prizes without the physical presence of the players.

g) bingo games organized through communication systems such as the internet, fixed or mobile phone systems;

h) on-line bets representing the fixed-odd betting activity, organized through communication systems such as the internet, fixed or mobile phone systems;

i) on-line gambles representing the totality of gambles, other than those defined in letters a), e), f), g) and h), which are carried out other than in the physical presence of players, organized and broadcast through communication systems such as the internet, fixed or mobile phone systems, and for which a bookmaker has obtained an authorization and a license.

(2) For the gambling games stipulated in paragraph (1), as well as for any other types of gambling games that are organised in accordance with the present emergency ordinance, it is compulsory to hold a licence to organise gambling games and an authorisation to operate gambling games, respectively.

(3) The economic activity represented by gambles, as they are defined in para. (1) letters g)-i), will be carried out in the conditions of the elaboration and implementation, through the application norms of this emergency ordinance and of other specific regulations, of a regulation and surveillance frame of the supply and consumption of gambles through communication systems such as the internet, fixed or mobile phone systems, provided that the following principles are observed, related to:

(i) the protection of the under age children and the prevention of their access to these types of gambles;

(ii) the insurance of the integrity and transparency of the operations carried out by and through such bookmakers, as well as of a fair play system, permanently supervised and verified in terms of security and accuracy of the activities that are carried out;

(iii) the prevention and combat of criminal activities that may be carried out through these types of gambles;

(iv) the insurance of a balanced and fair development of the various types of gambles, to avoid the destabilization of the relevant economic sectors;

(v) the implementation of an ongoing updating process of regulations in this field, in order to mitigate and limit any vulnerabilities of this economic sector against any potential criminal activities, as well as to mitigate the exposure to the money laundering risk and to the financing of terrorist acts.

f) as regards the gambles specified in art. 10 para. (1) letters g)-i), for the entire activity of organizing, carrying out and exploitation, and for all the technical equipments contributing to it.

Article 11. - The following types of games are not regarded as gambling games and can be carried out without authorisation:

a) raffles held in schools, kindergartens, or other communities, which are for enjoyment and do not make a profit for the organisers;

b) games for entertainment, which are operated through machines, apparatus or devices of any kind and do not involve any winnings based on random elements, but aim to test the force, intelligence and dexterity of the participant;

c) activities organised by various economic operators in accordance with the law in order to stimulate sales, which do not involve a participation fee or additional expense, respectively, from the participants, or an increase in the price that the product had prior to the advertising campaign.

Article 12. - (1) The licence to operate gambling games shall be issued to any economic operator that meets the requirements for organising the activities that are subject to the present emergency ordinance, and shall be valid for 5 years from its date of issue, provided that an annual authorisation fee is paid in accordance with the provisions of Article 14

(2) *Economic operators who organise gambling games shall inform the commission about any modification of the initial data based on which the* License to organise gambling games *or* the Authorisation to operate gambling games, *as applicable, was issued, within 5 working days from the date of its registration.*

(3) The Authorisation to operate gambling games shall be valid for 1 year from its date of issue, as follows:

a) for lotto games: for the entire activity that involves drawing numbers, letter, tickets or symbols, regardless of the procedures or characteristics of the means used to carry out the draws (urns, wheels, cups and other similar means) which are not carried out in the presence of the players;

b) for bets: for the basic means of gambling used to ensure the unified organisation and operation of each individual activity at the organiser level;

c) for casino-type gambling games: each organiser is granted a single authorisation to operate gambling games for the location where these activities are organised and carried out;

d) for bingo games carried out in gaming halls: for each location where these activities are organised and carried out;

e) for slot-machine games: for each means of gambling.

f) for gambling games provided for in art. Article 10. (1). g)-i) for the entire business of organization, development and exploitation and for all technical equipment which contribute to it.

(4) The date of issue is the 1st of the first month after the month when, after the documentation submitted by the economic operator was assessed and approved, the sums of money due were paid in advance by the economic operator, in accordance with the provisions of Article 14.

(5) If an economic operator no longer holds a valid licence to organise gambling games, regardless of the reason for this situation, any authorisations to operate gambling games that had been issued to them shall lose their validity starting on the same date, whilst the respective economic operator is obliged to pay the corresponding authorisation fees, in accordance with the provisions of Article 14.

Article 15. - (1) To obtain a licence to organise gambling games, it is compulsory that:

a) the economic operators prove that:
   (i) the organisation of gambling games is their main object of activity;
   (ii) the police have issued their approval for the legal representatives of the legal entity, in accordance with the provisions of the Guidelines for the application of the present emergency ordinance;
   (iii) the subscribed and paid-in share capital was constituted with the amount stipulated in the present emergency ordinance;
b) the legal representatives of the legal entity must submit a self-declaration stating that:

(i) the economic operator has not been convicted by means of a final judgement of conviction without rehabilitation;

(ii) they are not in a situation of incompatibility, as regulated by the law;

c) the legal representatives of the legal entity must submit criminal record certificates or other documents issued by the competent authorities with jurisdiction over their last known domicile/registered office, to demonstrate that no final judgement of conviction without rehabilitation was issued against any of the legal representatives of the legal entity, in Romania or in any foreign state, for a crime stipulated by the present law or for any other crime for which a minimum 2-year prison sentence was applied.

d) the economic operator has applied for an authorisation to operate gambling games from the category of those regulated by the present emergency ordinance, and in accordance with its provisions;

(2) To obtain an authorisation to operate gambling games, economic operators must prove that:

a) they hold a licence to organise gambling games valid on the date they apply for the authorisation to operate gambling games, or that they have applied for a licence to organise gambling games;

b) the proposed location is registered with the Trade Register Office by the respective organiser, in accordance with the legal provisions in force for carrying out commercial activities in such locations, and meets the requirements stipulated in the Guidelines for the application of the present emergency ordinance;

c) the proposed location is not inside any educational institution, including any campuses belonging to any such institution, or any cultural, artistic, health, social or religious facilities, etc., or within their perimeter; it is prohibited to carry out gambling games in spaces which, due to their location, would restrict traffic or limit free access to other locations of interest (building entrances, pedestrian walkways, stops and stations for public transport, etc.); in exceptional situations, it is admissible to organise gambling games in cinemas, theatre halls, sports halls, arts halls, etc., provided that all of the following requirements are met: separate access for the players, to make sure that the other activities are not disturbed in any way and that access of under-aged persons is completely restricted;

d) *casino-type activities* are to be organised in locations that are not intended to be used as dwellings, or in locations that are part of hotels with a classification of at least 3 stars, in accordance with the national norms in force;

e) the means of gambling and the proposed locations/spaces meet the requirements stipulated in the present emergency ordinance and the guidelines for its application;

f) slot-machine games are equipped with an integrated electronic system for the monitoring, registration and recording of all operations, which is an integrated part of the construction of the respective game or was added to it on a later date ("black-box" type) and enables the authorities stipulated in Article 28 to inspect the way in which the respective gambling games are organised and operated. The requirements that the respective mechanisms must meet, the approval requirements for the entities that add "black-box" systems, the way in which these must be installed and the way in which the activity must be monitored are stipulated in the Guidelines for the application of the present emergency ordinance;

g) betting halls shall be operated via independent computer programmes that are used exclusively within the organising undertaking, regardless of the number of locations in which the respective activity is carried out, with the obligation to centralise all information for each connected game terminal, the total amount of participation fees collected, and the total amount of prizes awarded in a central electronic system located within the territory of Romania. Through the care and at the expense of the organiser, the central electronic system shall be connected to a computer terminal located inside the Ministry of Public Finance, which is provided free of charge by the organisers, and shall contain or enable access to information about: the total amount of the participation fees collected on any day, the total amount of the prizes awarded on that respective day, as well as a record of all computer terminals that are

interconnected within the system (their number and the address where each of them is used). Each location in which gambling activities are carried out must be identified in the central system at least 30 days before obtaining the authorisation to operate gambling games. Any subsequent modification shall be communicated at least 15 days before it becomes operational;

h) the gambling means used for bingo games organized through TV network systems, regardless of their constructive or operational manner, are approved by the Romanian Bureau of Legal Metrology. The total of the collected participation fees and the total of the awarded prizes are summarized in a central electronic system located on the territory of Romania. The central electronic system, out of the care and on the expense of the bookmaker, will be connected to a terminal existing at the Ministry of Public Finance, put at its service by the bookmakers, free of charge, and will contain or will allow the access to information regarding the total of the collected participation fees on any day, and the total of the awarded prizes;

i) they own all the technical equipments providing support for the organization and broadcasting of these types of gambles obligatorily on the Romanian territory for on-line bets, bingo games organized through communication systems such as the internet, fixed or mobile phone systems, on-line gambles, an exception to this provision being the economic operators authorized in this field in a member state of the European Union, which own the technical equipments necessary to operate in a member state of the European Union, provided that they are connected to the bodies stipulated in art. 19^{1};

j) the additional conditions that must be met by the economic operator to obtain the bookmaking license and the gamble exploitation permit specified in art. 10 para. (1) letters g)-i) will be regulated by the application norms of this emergency ordinance.

(3) The provisions of paragraph (2) letter a) shall not apply if the granting of both a licence to organise gambling games and an authorisation to operate gambling games is requested.

(4) The licence to organise gambling games or the authorisation to operate gambling games, as applicable, shall not be granted if the economic operators who organise the activity:

a) register outstanding payment obligations to the consolidated general budget on the date they submit their application for a licence to organise gambling games or an authorisation to operate gambling games;

b) have not constituted the guarantee for the risk of non-payment of their obligations to the consolidated general budget to the amount, in the format and by the deadline stipulated in the present emergency ordinance.

(5) The following are not considered to be outstanding payment obligations in the sense of paragraph (4)(a):

a) outstanding obligations for which the economic operators obtained payment facilities in force on the date the documentation is submitted;

b) outstanding and unpaid obligations included in enforceable titles for which the court has ruled that the writ of execution is suspended or if the writ of execution was suspended following a judicial reorganisation proceeding being initiated;

c) payment obligations for which the fiscal administrative document has been suspended or which are suspended in accordance with the law, as applicable.

(6) The minimum number of means of gambling, locations or technical equipment for which an authorisation can be requested is:

a) for slot-machine games, the minimum number of means of gambling that can be operated by the same economic operator is 50 machines, which can be used within the same location or in different locations. If the number of authorisations to operate gambling games paid by the organiser falls below the number stipulated in the present emergency ordinance, the licence to organise gambling games shall be rightfully revoked, without any prior proceedings being necessary. The number of slot-machines for each location is:

(i) minimum 15 gambling means for the spaces where, apart from the other activities carried out within the relevant location, other than the exploitation of gambles, only this category of gambling means is exploited;

(ii) minimum of 3 means of gambling, but no more than 5, for locations in which there are mainly other economic activities carried out, where the respective means of gambling are placed, organised and operated separately within the location;

(iii) minimum two gambling means, but not more than 5 gambling means, for the locations authorized to carry out betting or lottery activities;

(iv) minimum of 50 means of gambling that are interconnected within the jackpot system, if the means of gambling are operated in at least two locations; minimum of 4 gaming terminals (stations) for slot-machine games which are built as a single unit and are operated from several gaming terminals (stations).

b) the minimum number of gambling tables within a location where casino-type activities are organised is: 12 in Bucharest, of which at least 2 are roulette tables; 10 in locations outside of Bucharest, of which at least 2 are roulette tables; a direct game between the participants can be organised for the total approved number of tables, except for the roulette tables;

c) the locations in which casino-type activities are carried out shall be equipped with a digital video surveillance and recording system, as well as means of gambling and specific basic and additional equipment used at international level, in accordance with the provisions of the Guidelines for the application of the present emergency ordinance;

d) organisers of *casino-type activities* shall keep a record of the identification data of all people who enter the locations where this type of activity is carried out, but only in electronic format. The databases compiled by the organiser shall be archived by the latter and kept for at least 5 years;

e) within each location where *bingo activities carried out in gaming halls* are organised and operated, the minimum technical equipment must include: a machine for the random drawing of numbers, three illuminated display panels, four colour TV monitors, an electronic computer that coordinates the game, as well as devices and accessories specific to bingo games;

f) for the betting activity, the minimum number of locations in which the activity can be carried out by the same economic operator is 15;

g) for the betting activity, the minimum number of specialised terminals that an economic operator may have is 30;

h) for the betting activity, the minimum technical equipment must include:

(i) for the central location: a computerised system for the registration, storage, homologation and account reporting of all bets that are placed, which consists of a server, a secure transmission system, computers for tracking the bets and a data transmission system (Internet, radio, telephone, etc.);

(ii) for a work place (agency): at least one specialised terminal for sending and recording the bets, a printer for issuing betting tickets and a system that transmits data to the central location.

(iii) for the location within the Ministry of Public Finance: a computerised system for the registration, storage, homologation and account reporting of all bets that are placed, which consists of a computer terminal, a secure transmission system and a data transmission system (Internet, radio, telephone, etc.).

i) for bingo games organized through TV network systems, the minimum number of offices distributing tickets by the same economic operator is of 48, one office in every capital city of county, respectively, in every district of Bucharest. The bookmaking license and permit related to bingo games organized through TV network systems allow the economic operator obtaining them to carry out the activity on the entire Romanian territory, without needing to obtain other authorizations, approvals,

additional taxes, endorsements or licenses from any other local authorities. Before beginning the activity on the range of a certain locality, the economic operator authorized in compliance with this emergency ordinance will inform, within 5 days before the beginning of the activity, by address, the authority of the competent local public administration about the beginning of the activity, communicating it the beginning date of the activity and sending it copies of the lice and authorization related to the exploitation of bingo games organized through TV network systems. The distribution-sale of bingo cards is made through all the forms allowed by the law in terms of sale-purchase. Cards may be sold by own employed staff, by proxies, on a commission basis, by fixed or mobile selling points (including on-line systems);

j) for bingo games organised via television network systems, the minimum technical equipment must include:

(i) for the central location: a computerised system for the registration, storage, homologation and account reporting of the participation fees that are collected, which consists of a server, a secure transmission system, computers for tracking the participation fees that are collected and a data transmission system (Internet, radio, telephone, etc.);

(ii) for the location within the Ministry of Public Finance: a computerised system for the registration, storage, homologation and account reporting of the participation fees that are collected, which consists of a computer terminal, a secure transmission system and a data transmission system (Internet, radio, telephone, etc.).

(7) For slot-machine games that are constructed as a single unit and are operated from several gaming terminals (stations), the authorisation to operate gambling games shall be granted for the entire unit, whilst the authorisation fee shall be payable for each individual terminal (station), each being included in the calculation for the minimum number of machines stipulated in paragraph (6).

(8) The format and content of the licence to organise gambling games and the authorisation to operate gambling games, the requirements that the locations in which gambling games are operated must meet the technical requirements that the means of gambling must meet, the requirements regarding the game rules and the internal regulations required for granting the authorisation to operate gambling games, as well as the obligations of the organisers to maintain their validity shall be established by the Guidelines for the application of the present emergency ordinance.

Article 17. (1) The *Commission* may decide to cancel the licence to organise gambling games or the authorisation to operate gambling games, as applicable, if they find that, on the date these documents were granted, the applicants provided incorrect or inaccurate information which, if known, would have lead to the licence to organise gambling games or the authorisation to operate gambling games, as applicable, not being granted. In this situation, a new application for authorisation can be submitted after at least 5 years from the date on which the cancellation decision becomes final in the administrative appeal system or from the date on which the court judgement becomes final and irrevocable. The effects of the cancellation shall not affect the prizes awarded to any gambling game participants who acted in good faith.

(2) The Commission may decide to revoke the licence to organise gambling games in any of the following situations, depending on their consequences:

a) failure to comply with the payment obligations to the general consolidated budget or payment of the respective obligations, in accordance with the legal provisions in force, more than 30 days from the date on which they become due in accordance with the law;

b) the organiser no longer has the organising of gambling games as its main object of activity;

c) after the approval issued by the police authorities for the legal representatives of the legal entity has been withdrawn, the latter shall keep the respective position after a period of 30 days from the date on which the withdrawal of the approval was communicated;

d) a final judgement of conviction without rehabilitation was issued against the legal entity;

e) the legal representatives of the economic operators are in a situation of incompatibility for more than 30 days from the date on which the incompatibility occurred;

f) any of the partners or legal representatives of a legal entity keep their position for more than 30 days, when a final judgement of conviction without rehabilitation was issued against the respective entity, in Romania or in a foreign state, for a crime stipulated by the present emergency ordinance or for any other crime for which a minimum 2-year prison sentence was applied;

g) the organisation of fraudulent gambling games;

h) the guarantee is not constituted to the amount, format and by the deadline stipulated in the present emergency ordinance;

h[1]) the acknowledgement of irregularities as regards the emphasising of the granted payouts, the withholding tax of the related amounts and the failure to pay them or the delay in paying them for more than 30 days, as well as regarding the failure to observe any licensing and authorization conditions set through the application norms of this emergency ordinance or by other specific regulations;

h[2]) the acknowledgement, in the gambling activity, of the non-observance of the provisions of the Law no. 656/2002 for the prevention and punishment of money laundering, as well as for the implementation of measures to prevent and combat the financing of terrorist actions, with the subsequent amendments and additions;

i) failure to comply with any of the provisions of Article 5(5), Article 12(2), Article 14(2) letter b) point (iii) b), Article15(2) and (7), Article16 and Article 21(2) to (4).

(3) The commission may order, for maximum 6 months, the suspension of the bookmaking license for the bookmaker's failure to observe, on repeated occasions, the provisions of art. 13 para. (4), (5), (6) or (7), for the non-observance of game regulations making the object of the approval, causing prejudice to gamblers, or of the gamble exploitation permit, in the situations for which the authorization suspension measure was stipulated in the application norms of this emergency ordinance, as the case may be.

(4) The Commission may decide to suspend or revoke the licence to organise gambling games, as applicable, at the request of the National Office for the Prevention and Control of Money Laundering, due to failure to comply with the provisions of the legislation regarding the prevention and control of money laundering and financing of terrorist activities, determined by administrative documents that have remained final in the administrative appeal system, or by court judgements that are final and irrevocable.

(5) To order the measures stipulated in paragraphs (1) to (3), the commission can self-notify, or act on the basis of a notification received from the control authorities stipulated in Article 28(1).

(6) If it is found that, after the suspension period stipulated in paragraph (3) has expired, the reasons on which the decision for suspension was based are still present, the suspension period shall be extended until all irregularities that called for the suspension measure to be taken are remedied.

(7) After the licence to organise gambling games has been revoked in the situations stipulated in paragraph (2), a new application can be submitted after at least 1 year from the date on which the revocation decisions became irrevocable in the appeal system.

(8) The failure to submit to the specialist directorate within the Ministry of Public Finance the documents that prove that payment was made for the obligations for which the deadline stipulated in Article 14(2) is the 25th (inclusive) of the first month after the month when the documentation was

approved, shall lead to the approval granted by the commission being revoked, without issuing the respective licence to organise gambling games or authorisation to operate gambling games, as applicable.

(9) After the licence to organise gambling games has been revoked, for the period in which the authorisation to operate gambling games is suspended, as well as after the gambling activity, in any form, has ceased, the economic operators who organise gambling games are obliged to pay the remaining amount outstanding from the annual fee for the authorisation(s) to operate gambling games.

Article 22. - (1) Failure to comply with the obligations stipulated in Article 5(5), Article 12(2) and Article 21(2), (3), and (4) shall represent a contravention and be sanctioned with a fine ranging between RON 20 000 and 40 000.

(2) Failure to comply with the obligations stipulated in Article 20 shall represent a contravention and be sanctioned with a fine ranging between RON 50 000 and 100 000, and the respective means of gambling and/or the amounts of money obtained from the related economic operations, as applicable, shall be seized.

(3) An offence, punished with fine between 50.000 lei and 100.000 lei and the possibility to apply an additional sanction, acc. to para. (4), is:

a) the altering of gambling means or their modification of any other nature, as well as of the technical equipments, of the participants' management records, of the awarded payouts and of the amounts related to the executed operations, and of the elements of chance, fate, of the customers' identification systems, or of management of the financial operations made by them, or of any requirements established and imposed through the regulations specific to this field;

b) the permission, during the execution of gambling activities defined in art. 10 para. (1) letters g)-i), of any type of crediting operations of the participants in gambles;

c) the promotion, by the bookmaker of the gambles described in art. 10 para. (1) letters g)-i), through any means, such as a connection, participation, broadcasting interface of gambles or by any other related platforms and means, of the entities or of any crediting means of players in order to participate in the activities organized in this field;

d) the promotion, through the gambling activities defined in art. 10 para. (1) letters g)-i), of any services, means and activities that are forbidden or that are not regulated through the application norms of this emergency ordinance or of other specific regulations.

(4) On the acknowledgement of the commitment of any of teh offences specified in para. (3), the commission may order, depending on the produced consequences, the cancellation of the bookmaker's license.

Article 23. - (1) The deed committed by the administrator, director or any other legal representative of a legal entity, or by a natural person, as applicable, for carrying out any of the activities in the gambling sector without a licence or authorisation shall be punished with a 1 to 3 year prison sentence or a fine.

(2) The following deeds shall constitute crimes and be sanctioned with a 1 to 5 year prison sentence or a fine:

a) Abrogated by point 23. of the Law no. 246/2010 beginnign with 12.24.2010;

b) organising gambling games via radio networks or other integrated means of broadcasting;

c) organising bets based on the results of illicit competitions organised under conditions other than those stipulated by the legal norms in force;

d) organising illicit games whose results can be influenced by the dexterity of the person handling the means of gambling for the purpose of gaining income;

e) organising bingo games in more than one location, on the basis of the same authorisation to operate gambling games;

f) organising competitive games offering any type of winnings via telephone systems or other telecommunications, television or radio systems, in which obtaining certain material advantages depends on providing answers to general knowledge, intelligence or perspicacity questions, and which involve payment of a participation fee.

(3) The meaning of the phrases "illicit competitions" and "illicit games" shall be as stipulated in the Methodological guidelines for the application of the present emergency ordinance.

(4) Abrogated by point 24. of the Law no. 246/2010 beginnign with 12.24.2010;

Article 24. - (1) The organisation and carrying out of games or activities, regardless of their name, by which certain individuals are asked to deposit or collect money or enter their name on a list in hope of obtaining financial gains due to an increase in the number of people recruited or entered on the list, regardless of how the collection is carried out or how the names are entered on the list, for the purpose of obtaining unjust material benefits for their own or someone else's benefit, constitutes a crime and shall be sanctioned with a 2 to 7 year prison sentence.

(2) The deed of repeatedly asking certain individuals to deposit or collect money or enter their name on a list under the conditions stipulated in paragraph (1) shall constitute a crime and be sanctioned with a 1 to 3 year prison sentence or a fine.

Article 25. - Any of the following deeds committed by an individual shall constitute a crime and be sanctioned with 6 months to 2 years in prison or a fine:

a) they alter or replace, by any means, the result of a game after it has been determined;

b) they place or modify a stake after the result of a game has been determined;

c) they use or hold, with the purpose of using it in a gaming hall, any device whose use may alter the odds and the selection methods, which will change the result of the game, as well as the amount or frequency of the payment in a gambling game;

d) they use or hold, with the purpose of using them in a gambling hall, fake chips or any other material media for the participation fee for the respective games, knowing that these are fake;

e) they organise or operate fraudulent games.

f) communicates to the competent authorities false information regarding the gambling activity that it carries out, organizes or exploits, refuses to provide the requested information, or obstructs the inspection carried out by the surveillance and control bodies in this field;

g) communicates to the competent authorities incomplete information in order to hide certain real situations regarding the gambling activity or to avoid entering the incidence of the provisions of art. 17 para. (2);

h) participates, as participant in a gamble defined in art. 10 para. (1) letters g)-i), through technical equipments and means or through any assimilated means, in order to hide its identity or the identity of the real beneficiary of the related financial operations;

i) participates, as participant in a gamble defined in art. 10 para. (1) letters g)-i), although it is part of the staff and management of the legal person that is a contract party, regarding any related activity or connected to the gamble, in relation to the bookmaker authorized on the Romanian territory, or has the capacity of associate or shareholder of said legal person;

j) influences or alters the results of a gamble defined in art. 10 para. (1) letters g)-i), regardless whether it has the capacity of bookmaker, participant or whether it has the direct or indirect control on the relevant gambling activity;

k) participates, on the Romanian territory, in gambling activities that are not authorized in Romania, organized through internet communication systems, through fixed or mobile phone systems or through any related means.

Article 26. - (1) The advertisement, publicity or any activity that has an advertising character, related to the forbidden activities and games, according to this emergency ordinance, is an offence and is punished by fine between 50.000 lei and 100.000 lei.

(2) The execution of the marketing, advertising, publicity activities or any other advertising activities regarding the gambles defined in art. 10 para. (1) letters g)-i) or the related activities and services, which are not authorized on the Romanian territory, constitute an offence and is punished with fine between 50.000 lei and 100.000 lei.

Article. 26[1]. – The failure to observe the provisions of art. 13 para. (4), (5), (6) or (7) constitutes an offence and is punished with fine between 200 lei to 500 lei, for individuals, and with fine between 2.000 lei and 5.000 lei, for legal persons.

Excerpts from the Government Emergency Ordinance 113/2009 on payment services

Art. 2 This ordinance applies to payment services provided by the following categories of payment service providers:

(a) credit institutions within the meaning of Art. 7(1), pt. 10(a) of GEO 99/2006 on credit institutions and capital adequacy as it was amended by Law 227/2007 with all the further amendments;

b) an undertaking, other than that under point a), which issues means of payment in the form of electronic money, hereinafter referred to as electronic money institution;

(c) post office giro institutions which are entitled under national law to provide payment services;

(d) payment institutions within the meaning of this emergency ordinance;

(e) the European Central Bank and national central banks when not acting in their capacity as monetary authority or other public authorities;

(f) Member States or their regional or local authorities when not acting in their capacity as public authorities.

Art. 5 In this law, the words and expressions below shall have the following meaning:

…

16. payment institution – a legal person that has been granted authorisation in accordance with title II in order to provide services in the territory of the European Union and in the EEA;

Art. 8 Pursuant to this ordinance, payment services means any of the following activities:

(a) services enabling cash to be placed on a payment account as well as all the operations required for operating a payment account;

(b) services enabling cash withdrawals from a payment account as well as all the operations required for operating a payment account;

(c) execution of payment transactions where the funds are covered by a credit line for a payment service user: execution of direct debits, including one-off direct debits, execution of payment transactions through a payment card or a similar device, execution of credit transfers, including standing orders;

(d) execution of the following transactions in case that the funds are not covered by a credit line: execution of direct debits, including one-off direct debits, execution of payment transactions through a payment card or a similar device, execution of credit transfers, including standing orders;

(e) issuing and/or acquiring of payment instruments;

(f) money remittance;

(g) execution of payment transactions where the consent of the payer to execute a payment transaction is given by means of any telecommunication, digital or IT device and the payment is made to the telecommunication, IT system or network operator, acting only as an intermediary between the payment service user and the supplier of the goods and services.

TITLE II

AUTHORISATION AND SUPERVISION OF PAYMENT INSTITUTIONS

Section 1 – Minimum requirements for the taking up of the activity

Art.10 – (1) Entities intending to provide payment services in Romania shall possess an authorisation in accordance with this Title before starting the business.

(2) National Bank of Romania shall grant an authorisation only to a legal person set up in accordance with the Law no 31/1990 on companies, republished, as further amended and supplemented.

Art.23 – (1) Apart from the provision of payment services listed in art. 8 payment institutions shall be entitled to engage in the following activities:

(a) the provision of operational and closely related ancillary services such as ensuring the execution of payment transactions, foreign exchange services, safekeeping activities, and the storage and processing of data;

(b) the operation of payment systems;

(c) business activities other than the provision of payment services, having regard to applicable legislation.

(2) Payment institutions may carry on in Romania the activities set out in para. (1) with the observance of the applicable national legislation.

Section 4 – The provision of payment services in Romania through agents by payment institutions romanian legal persons

Art.41 – (1) Payment institutions intending to provide payment services through an agent shall communicate to the National Bank of Romania an application together with the information and documents set out in National Bank of Romania's regulations.

(2) In order to make sure that the information is correct National Bank of Romania may take further action to verify the information communicated by the payment institution which requested the permission to provide payment services through an agent.

Art.42 - (1) Payment institutions may provide payment services through agents only after the agents are registered into the register set out in art. 61.

(2) Where the agent is an entity regulated by a special law whose activity is subject to authorisation, approval or notification, the payment services may be provided only after those procedures.

Art.43 – (1) National Bank of Romania shall assess the application and inform the applicant about the decision on the registration of an agent within 45 days of receipt of the application meeting the requirement set out in art. 41. para (1).

(2) Within 5 working days from the receipt of the application, National Bank of Romania acknowledges the fulfilment of the requirement set up in art. 41. para (1) or, should the requirement not be fulfiled, communicate to the applicant the documents and information required for complying with the requirement, in this case the period specified in para. (1) starting from the receipt of the documents and information requested.

(3) National Bank of Romania may request, within maximum 20 working days from the receipt of the application complying with the requirement set out in art. 41. para (1), other information relevant to the assessment. The applicant shall send the information requested within 30 working days from the date of the communication of the request, the time limit provided in para. (1) for the evaluation being suspended.

(4) The applicant may provide on his own initiative any information and/or documents considered to be relevant, but they have to be provided no later than 20 days before the date of the expiry of the period in which National Bank of Romania must decide on the registration of the agent.

Art.44 – (1) National Bank of Romania shall enter the agent into the register set out in art. 61 only if the requirements set out in this Title and the regulations issued for its application are met. In case of any uncertainity regarding the accuracy of the information received on the agent, National Bank of Romania may verify this information.

(2) National Bank of Romania shall register an agent only if, after the assessment of the documents and information accompanying the application it is convinced that the persons responsible for the management and administration of the payment services activity are of good repute and possess appropriate knowledge and experience adequate to the nature, scale and complexity of the activity envisaged, in accordance with the criteria set out in the regulations issued by National Bank of Romania.

Art.45 – National Bank of Romania shall refuse to register an agent if, the assessment undertaken in accordance with this Title and the regulations issued for its application, reveals one of the following situations:

a) the persons responsible for the management and administration of the payment services activity are not of good repute or do not possess appropriate knowledge and experience adequate to the nature, scale and complexity of the activity envisaged;

b) the information on the agent are not correct;

c) other requirements set out in this Title or the regulations issued for its application are not observed.

Art.46 – National Bank of Romania shall withdraw the registration from the register set out in art. 61 when the requirements of this Title and the regulations issued for its application are no longer fulfilled.

Section 6 – Notification for the provision of the payment services in Romania by the payment institutions from other Member States

Art.49 – A payment institution authorised in a Member State may provide in Romania the payment services specified in the authorisation on the basis of the notification transmitted to National Bank of Romania by the competent authority from the home Member State.

Art.56 - (1) Section 4 shall apply accordingly to payment institutions wishing to provide payment services in another Member State through agents.

(2) Within 10 days from the receipt of the application, National Bank of Romania shall communicate to the competent authorities of the host Member State information on the name and address of the payment institution, the name and address of the agent, the kind of payment services it intends to provide in the host Member State and, if the case may be, the organisational structure, the internal control mechanisms set up in order to comply with obligations in relation to money laundering and terrorist financing and the names of the persons responsible for the management of the agent and and shall request the opinion of those authorities on the intention of the payment institution.

Art.57 – (1) Within two months from the receipt of the application for registering the agent, National Bank of Romania shall decide, taking into consideration the opinion expressed by the competent authority of the host Member State in accordance with art. 56, para. (2).

(2) Payment institutions may provide payment services through an agent only after the agent is registered into the register set out in art. 61

(3) National Bank of Romania may withdraw the registration of the agent from the register set out in art. 61 when the competent authority of the host Member State communicates its negative notice after the expiry of the term set out in para. (1).

Art.58 – (1) Payment institutions may provide the payment services specified in the authorisation in third countries by establishing a branch or through an agent, in accordance with the regulations issued by National Bank of Romania.

(2) The provisions of art. 7 from Section 4 of this Title shall accordingly apply.

Section 8 – The register of payment institutions

Art.61 – (1) National Bank of Romania organises and manages the register of payment institutions in which are evidenced the payment institutions Romanian legal persons, their branches from other member States and from third countries, as well as the agents of the payment institutions Romanian legal persons.

(2) The register set out in para. (1) shall be publicly available for consultation, accessible online, updated on a regular basis and shall provide information regarding the payment services each payment institiution have been authorised for.

Section 9 – Competent authority and supervision

Art.62 – (1) National Bank of Romania is the competent authority responsible for supervision of the compliance with this Title and regulations issued for its application.

(2) National Bank of Romania shall supervise the authorised payment institutions, Romanian legal persons, including the provision of payment services through branches and agents.

(3) The previous paragrapghs shall not imply that National Bank of Romania is required to supervise business activities of the payment institutions other than the provision of payment services listed in art. 8 and the activities listed in art. 23, para. (1), let. (a).

Art.63 – (1) The supervision activity exercised by the National Bank of Romania for checking continued compliance with this Title and the regulations issued for its application shall be proportionate, adequate and tailored to the risks to which payment institutions are exposed.

(2) The inspections at the payment institution shall be undertaken by the National Bank of Romania authorised personnel or by third persons authorised by National Bank of Romania.

(3) In order to check compliance, the competent authorities shall be entitled to take the following steps, in particular:

(a) to require the payment institution to provide any information needed to monitor compliance with this Title and the regulations issued for its application;

(b) to carry out on-site inspections at the payment institution, romanian legal person, at any agent or branch of the payment institution, or at any entity to which activities are outsourced;

(c) to issue recommendations, guidelines and, to impose measures;

(d) to suspend or withdraw authorisation.

(4) Payment institutions shall allow the persons empowered by National Bank of Romania to examine their records, accounts and operations, for that purpose providing all documents and information regarding the their governance, internal control and operations, as requested by National Bank of Romania.

(5) Payment institutions shall communicate to National Bank of Romania any information requested for the purpose of supervision.

SECTION 3

CRIMES

Art. 183 (1) The provision on a professional basis of payment services mentioned under Art. 8 by a person that is not a payment services provider within the meaning of Art. 2 represent a crime and are punished with imprisonment from 1 month to 1 year and with a penalty of RON 1.000 up to RON 15.000.

(2) If the crime mentioned in para. 1 is committed by a natural person, than the penalty is from RON 5.000 up to RON 200.000.

Art. 184 Are considered to be a crime and are punished with the imprisonment from 1 month to 1 year the action of a person that, within the activity developed by the payment institution with bad faith breaches the provisions of Art. 63(4) and (5) or obstructs in any other way the exercise of the supervision competences of the National Bank of Romania.

Excerpts from the Regulation No. 18/2009 on governance arrangements of the credit institutions, internal capital adequacy assessment process and the conditions for outsourcing their activities, subsequently amended by Regulation No. 1/2010

National Bank of Romania

3.4 Internal audit function

Art. 50 – (1) Credit institutions shall have an independent, permanent and effective internal audit function charged with:

a) ensuring that policies and processes of credit institutions are complied with, within all activities and structures;

b) reviewing the existing policies, processes and control mechanisms so these remain sufficient and appropriate for the business.

(2) The bodies having management function of credit institutions are responsible for ensuring an adequate internal audit activity appropriate to the size and nature of their operations.

(3) Without prejudice to art. 62, internal audit function will be organized according to regulations issued by Chamber of Financial Auditors of Romania.

CHAPTER V
Conditions for outsourcing the credit institution's activities

Section 1

General provisions

Art. 205 – The outsourcing of a credit institution's activities shall not impair the performance of the activity of the credit institution by preserving all the applicable legal and regulatory provisions, the ability of the management body to fulfill its tasks and the prudential supervision of the outsourcing credit institution by the National Bank of Romania.

Art. 206 – A credit institution may, on an adequate grounding, outsource services or activities concerning the acceptance of deposits or to lending, requiring a licence from the National Bank of Romania according to the law, only to outsourcing service providers that:

a) have an authorisation that is equivalent to the authorisation of the outsourcing credit institution or

b) are allowed to carry out those activities in accordance with the relevant applicable legal framework**.**

Art. 207– (1) The ultimate responsibility for the proper management of the risks associated with outsourcing and for the outsourced activities lies with the outsourcing credit institution's management body.

(2) The credit institution is responsible for its authorized activities, including those outsourced.

(3) The credit institution shall retain adequate core competences at a senior operational level in house to enable it to have the capability to resume direct control over the outsourced activity, where necessary.

(4) Outsourcing arrangements shall never result in the delegation of responsibilities of the bodies having management function.

Art. 208 - It is not considered outsourcing the purchasing of goods and services by a credit institution, without transferring to supplier confidential information about customers or other information regarding the performed activities.

Section 2

Outsourcing contract

Art. 209 – (1) Every outsourcing arrangement shall be subject to a written contract, taking account at least of the following**:**

a) the clearly definition of the outsourcing activity;

b) setting the specific quantitative and qualitative performance targets concerning the performing of the outsourcing activity, to enable the credit institution to assess whether the service provision is adequate;

c) the precisely specification of the rights and obligations of the outsourcing credit institution and the outsourcing service provider, ensuring also the compliance with laws and prudential regulations for the duration of the outsourcing arrangement;

d) inclusion of a contract termination clause, if deemed necessary and proportionate to the outsourcing activity, which allows the transfer of the activity to another outsourcing service provider agreed by the credit institution or its reincorporation within the credit institution;

e) inclusion of provisions covering the protection of confidential information, processing these information and keeping banking secrecy in charge of the service provider at least at the same level of confidentiality as in charge of the credit institution;

f) inclusion of provisions concerning the continuously monitoring and assessment of the outsourcing service provider's performance by the credit institution, so that it may take promptly any necessary corrective measures;

g) setting the obligation on the outsourcing service provider to allow the outsourcing credit institution's compliance and internal audit functions complete access to its data, respectively to allow the credit institution’s financial auditor unrestricted rights of inspection and auditing of that data;

h) setting the obligation on the outsourcing service provider to permit the direct access of the National Bank of Romania to its data as well as the right of the National Bank of Romania to conduct on site inspections;

i) the stipulation of the obligation on the outsourcing service provider to ask for the prior consent of the credit institution in order to sub-contract with other service providers the components of the services provided to the credit institution;

j) inclusion of a contractual notice of dismissal or extraordinary notice of cancellation allowing the outsourcing credit institution to cancel the contract, including if so required by the National Bank of Romania.

(2) When drafting the contract, the outsourcing credit institution shall bear in mind that the level of monitoring, assessment, inspection and auditing required by the contract shall be proportionate to the risks involved and the size and complexity of the outsourced activity.

Art. 210 – In the meaning of the provisions of art. 209 para. (1) let. b), when evaluating the adequacy of the performance of services provided by the outsourcing service provider, the credit institution will be able to use the information from the service delivery reports, those provided by the internal/financial auditor of the credit institution or by the internal/financial auditor of the outsourcing service provider.

Section 3

Notification of outsourcing

Art. 211 – (1) The outsourcing of a credit institution’s material activities shall be previously notified to the National Bank of Romania – Supervision Department.

(2) The notification shall be made 2 months before the date at which the concluding of the outsourcing contract is supposed to be so that the National Bank of Romania could evaluate on what extent the prudential requirements are fulfilled and, by case, could take the necessary measures.

(3) The notification shall be accompanied by the following documents and information:

a) the decision of the competent body concerning the outsourcing of those activities, presenting also the reasons for which these activities have been qualified as material;

b) a description of the outsourced activities;

c) the grounding of the opportunity of outsourcing those activities, including from the perspective of risks generated by outsourcing;

d) a description of the service provider, including at least information concerning: the name and scope of activity, the operating market and the market position of this, the applicable jurisdiction, its ownership structure and, by case, the extent to which the service provider is included in the credit institution's group and in the consolidated supervision of that group;

e) the draft of the outsourcing contract.

Art. 212 – When outsourcing a material activity, the National Bank of Romania may impose specific conditions considering factors such as: the size of the credit institution, the nature of the outsourcing activity, the characteristics and market position of the service provider, the duration of the contract and the potential of the outsourcing to generate conflicts of interest, or may oppose, based on reasonable grounds, to the outsourcing.

Art. 213 – (1) Further to the outsourcing of a material activity, credit institutions shall notify the National Bank of Romania – the Supervision Department about:

a) the intention of changing the outsourcing service provider, motivating this change, in which case the provisions of art. 211 para. (3) let. d) and e) are accordingly applied;

b) the possible reintegration in the credit institution of the activities subject to outsourcing;

c) any material developments that may affect the service provider's activity and/or its ability to fulfill its obligations to customers, possible measures taken by the credit institution in such cases, including the change of the service provider.

(2) The notification shall be made 1 month before the possible date of concluding the new outsourcing contract, so that the National Bank of Romania could be able to evaluate the new circumstances and, by case, could take the necessary measures.

Section 4

The management of risks associated with outsourcing

Art. 214 – (1) Credit institutions shall have a written policy on their approach to outsourcing, including at least:

a) a description of the activities intended to be outsourced. The general policy shall cover all aspects of outsourcing, including nonmaterial activities outsourcing, whether the outsourcing takes place within the group the credit institution belongs to or not.;

b) the grounding of the opportunity of outsourcing activities, including from the perspective of risks generated by outsourcing;

c) setting of terms and conditions to perform the outsourced activity, including the requirements regarding the outsourcing service provider and the quality of services provided by this and the criteria of election of the outsourcing service provider;

d) the analysis of the risks related to outsourcing and setting the methods to be used in the management of those risks. The policy shall recognize that no form of outsourcing is risk free. The management of nonmaterial activities and intragroup outsourcing shall be proportionate to the risks presented by these arrangements;

e) explicit consideration, in the risk analysis prior to outsourcing, of the potential effects of outsourcing on certain significant functions in the credit institution;

f) appropriate monitoring and assessment by the credit institution's bodies having management function of the financial performance and essential changes in the service provider's organization structure and ownership structure, so that to be promptly taken any necessary measures;

g) mention concerning the internal structures or individuals that are responsible for monitoring and managing each outsourcing arrangement;

h) contingency plans and clearly defined exit strategies.

(2) The outsourcing policy of a credit institution shall consider the main phases that make up the life cycle of a credit institution's outsourcing arrangements:

a) the decision making phase, respectively the decision to outsource or change an existing outsourcing arrangement;

b) the precontractual phase, respectively the verification and assessment of the service provider, especially from its ability to provide services by preserving the quantitative and qualitative requirements established by the credit institution, the drafting of the outsourcing contract and the specifications concerning the provided services;

c) the contractual phase, respectively the implementation, monitoring, and management of an outsourcing arrangement, which may also include the following-up of changes affecting the outsourcing service provider such as: major change in ownership structure, strategies and profitability of operations of the service provider;

d) the postcontractual phase, dealing with the expected or unexpected termination of a contract and other service interruptions by the service provider. Credit institutions shall plan and implement arrangements to maintain the continuity of their business in the event that the provision of services by the outsourcing service provider fails or deteriorates to an unacceptable degree, or the service provider experiences other changes.

Art. 215 – (1) Credit institutions shall effectively control the outsourced activities.

(2) Credit institutions shall manage the risks, especially the operational and the concentration risk associated with all the outsourced activities, respectively identify, measure, monitor and control these risks.

(3) Credit institutions shall notify the National Bank of Romania – Supervision Department any material development related to the risks associated with the outsourced activities.

Art. 216 – Credit institutions shall submit to the National Bank of Romania – Supervision Department the documents formalizing their outsourcing policy and the procedures of the management of the outsourcing risks as well as any material change of these policies and procedures.

Section 5

Chain outsourcing

Art. 217 – (1) Credit institutions shall take account of the risks associated with chain outsourcing.

(2) Credit institutions may agree to chain outsourcing only if the subcontractor will also fully comply with the obligations existing between the outsourcing credit institution and the principal outsourcing service provider, including obligations incurred in relation to the National Bank of Romania.

(3) The subcontracting is allowed only with the previous agreement of the credit institution and under the same terms like the outsourcing to the principal service provider.

(4) Credit institutions shall take appropriate measures to address the risk of any weakness or failure in the provision of the subcontracted activities having a significant effect on the principal service provider's ability to meet its responsibilities under the outsourcing agreement**.**

Excerpts from the Government Emergency Ordinance no.99/6.12.2006 on Credit Institutions and Capital Adequacy

Section 2

Definitions

Art. 7 – **(1)** For the purposes of this emergency ordinance, the following definitions shall apply:

….

10. *credit institution* – means an undertaking the business of which is to receive deposits or other repayable funds from the public and to grant credits for its own account;

1.2. Activities permitted to credit institutions

Art. 18 – **(1)** Credit institutions may perform, to the limits of their authorisation, the following activities:

a) acceptance of deposits and other repayable funds;

b) lending including, *inter alia*: consumer credit, mortgage credit, factoring with or without recourse, financing of commercial transactions, including forfeiting;

c) financial leasing;

d) payment services, as defined in Art.8 of the Government Emergency Ordinance no.113/2009 on payment services;

e) issuing and administering other means of payment such as travellers' cheques and bankers' drafts insofar as this activity is not covered by lett.d);

f) issuing guarantees and commitments;

g) trading for own account or for account of customers, according to the law, in:

1. money market instruments, such as: cheques, bills, promissory notes, certificates of deposit;
2. foreign currency;
3. financial futures and options;
4. instruments on foreign exchange and interest-rate;
5. transferable securities and other financial instruments;

h) participation in securities issues and other financial instruments by underwriting and selling them or by selling them and providing ancillary services;

i) advice on capital structure, business strategy and other related issues, advice and other services relating to mergers and purchase of undertakings as well as other advice services;

j) portfolio management and advice;

k) safekeeping and administration of financial instruments;

l) intermediation on the inter-bank market;

m) credit reference services related to provision of data and other credit references;

n) safe custody services;

n^1) issuing of electronic money;

o) operations with precious metals, gems and objects thereof;

p) acquiring of participations in the capital of other entities;

r) any other activities or services in the financial field, abiding by the special laws regulating those activities, where appropriate.

(2) The activities provided for in para. (1), letters g)–k) shall include all the financial investment services laid down under Art. 7, para. (1), point 6, when referring to the financial instruments laid down under Art. 7, para. (1), point 14^{1}.

(3) The provisions of para. (1) shall be interpreted and applied, so that the activities provided for in that paragraph include any operations, transactions, products and services which fall within the scope of these activities or may be considered similar to them, including ancillary services.

(4) Activities which are subject to authorisation, specific consent or approval, according to certain special laws, may be performed by the credit institution only after obtaining such authorisation, specific consent or approval.

STRATEGIC DOCUMENTS, GUIDELINES AND OTHERS

National Strategy for Preventing and Combating Money Laundering and Terrorism Financing

Chapter I

Introduction

The National Strategy for Preventing and Combating Money Laundering and Terrorism Financing is a programmatic document, designed to use the valuable cumulated experience and optimize the activities in this area, at national level.

In order to have a coherent and unitary base for sector actions, as well as for the specific actions of institutions and authorities with attributions in the area, the strategy is a synthesis of the objectives and defines and correlates the directions of action for all the institutional components, in fully accordance with the provisions of the Romanian Strategy on National Security and with international standards in the concerned area.

The conceptual architecture of the strategy is based on defining elements of current social and economic environment and also on relations which govern their specific, having regard in the same time the short and medium term predictable perspectives of the internal and international life.

The novelty of the Strategy consists in a comprehensive approach of this topic, taking into consideration the increasing complexity and diversity of the aspects which are specific to phenomena of money laundering and terrorism financing.

The complexity of aspects which influence this topics and the potential or obvious vulnerabilities generated by the economic and social developments impose that within the national mechanism for cooperation to be included non-governmental civil and commercial structures, which can contribute to ensuring the equilibrium of the internal environment – economic, social, civil, military – necessary for an efficient prevention and fight against the attempts of money laundering and terrorism financing.

The national mechanism of cooperation in the area of preventing and combating money laundering and terrorism financing has in view all the means, regulations, and national public authorities and institutions with attributions in the area.

Chapter II

National organizational and institutional framework

1.1 National mechanism of cooperation in the field

National mechanism of cooperation in the area of preventing and combating money laundering and terrorism financing, includes:

A) The Financial Intelligence Unit (FIU) meaning National Office for Prevention and Control of Money Laundering (further known as N.O.P.C.M.L) – specialty body, of administrative type, which has as activity object preventing and combating money laundering and terrorism financing, for which purpose receives, analyses and processes information and further notifies the General Prosecutor's Office by the High Court of Cassation and Justice, in case of solid grounds of money laundering and terrorism financing and also notifies the Romanian Intelligence Service in case of solid grounds of terrorism financing.

N.O.P.C.M.L, according to legal provisions in the area of preventing and sanctioning money laundering and terrorism financing, receives, processes, stores and analyses the information submitted by:

a) Reporting entities provided within art. 8 from the Law no. 656/2002 for prevention and sanctioning money laundering and on setting up of certain measures for preventing and combating terrorism financing, as amended and completed;

b) Prudential supervision authorities, meaning National Bank of Romania, National Commission of Securities, Insurance Supervision Commission and Commission for Supervision of Private Pension System from Romania;

c) Public institutions and structures with attributions of information and/or control on this area: National Agency for Fiscal Administration, including through Financial Guard and National Authority of Customs, General Inspectorate of Romanian Police, General Inspectorate of Border Police, leading structures of independent legal professions,

d) National bodies and other departmental intelligence structures;

e) Partner Financial Intelligence Units.

B) National authority in the area of prevention and combating terrorism: Romanian Intelligence Service (R.I.S) is the state body specialized in the area of information related to the national security of Romania, component of the national system for defence, its activity being organized and coordinated by the Supreme Council of Country Defence.

Based on the provision of the Law no. 535/2004 for preventing and combating terrorism, the Romanian Intelligence Service has the role of **technique coordinator of the National System of Prevention and Combating Terrorism (N.S.P.C.T),** this attribution being performed through the Center of Operative Antiterrorist Coordination (C.O.A.C.).

The Romanian Intelligence Service is notified by N.O.P.C.M.L related to situations in which there are suspicions of developing activities with the purpose of terrorism financing, according to legal provisions, in order to perform specific investigations, according to its competences.

The Romanian Intelligence Service sends to N.O.P.C.M.L, on request, information related to elements that are relevant for antiterrorist profile or suspicions of logistic and financial support for terrorist entities.

In case of solid grounds on constitutive elements of financing terrorism offence, the Romanian Intelligence Service will submit data and information to General Prosecutor's Office by the High Court of Cassation and Justice.

C) The General Prosecutor's Office by the High Court of Cassation and Justice – and, by case, the **Romanian Intelligence Service** – are the main beneficiaries of the information submitted by N.O.P.C.M.L, in case it ascertains solid grounds of money laundering and/or terrorism financing, as it is provided within the art. 6 para (1) of the special law.

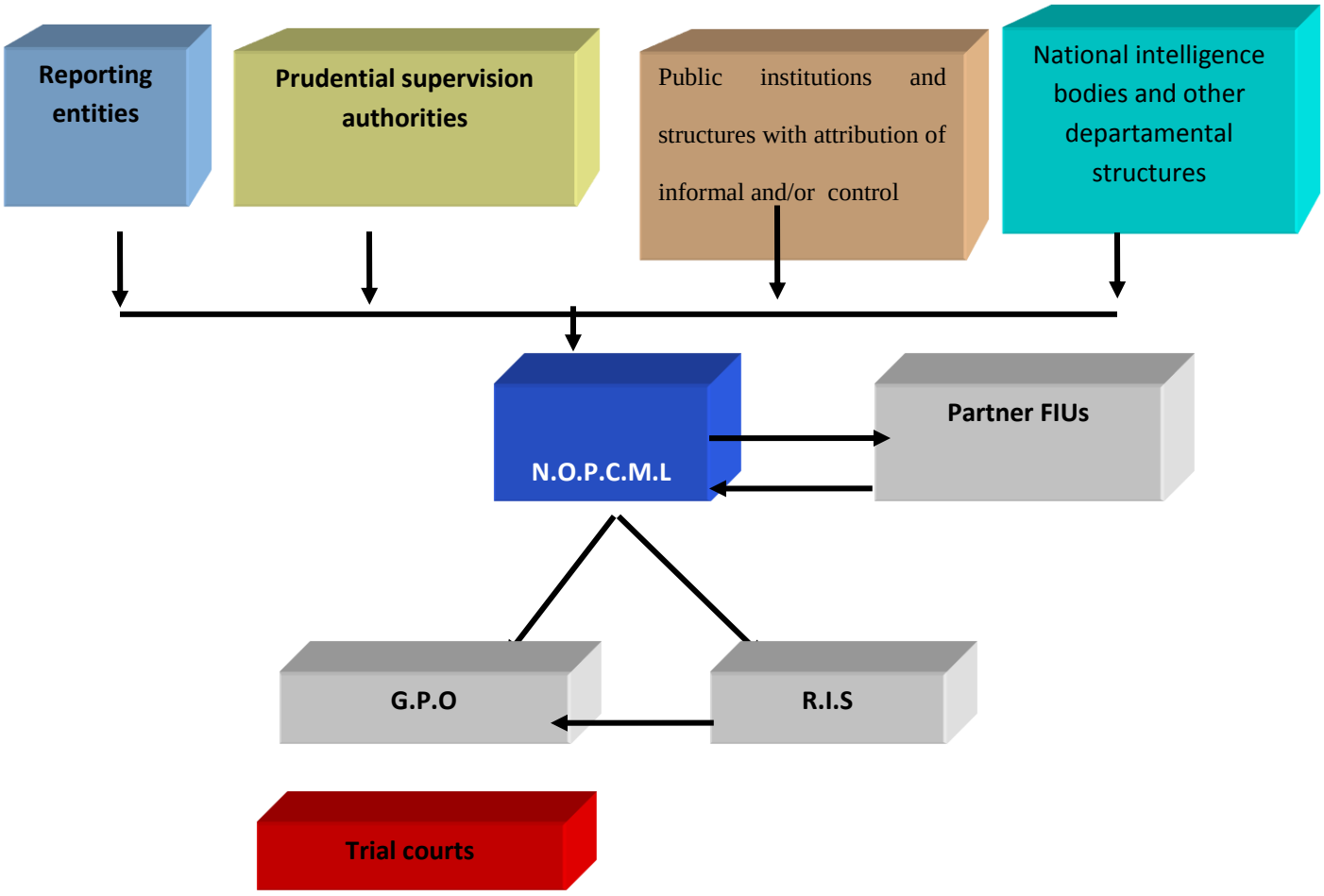
In case of additional checkings of data and information that are necessary for the criminal procedure, G.P.O. can request to N.O.P.C.M.L additional data.

In the same time, the trial courts solve penal causes on the existence of money laundering and/or terrorism financing offences.

1.2 Information flow, according to provisions of Law no. 656/2002, as amended and completed

Having regard the provisions of the Law no. 656/2002 and also the attributions established by normative acts for each of the institutions, authorities and entities that are component bodies of the national mechanism of cooperation described at point 1.1 within the current chapter, it can be identified a flow of financial information, as presented below.

Information flow according to provisions
of the Law no. 656/2002,as amended and completed



Chapter III

Objectives and directions of action for developing the capacity of preventing and combating money laundering and terrorism financing

Objective I. Enhancement of the national capacity of prevention and combating of money laundering and terrorism financing

Directions of actions:

1. Analysis of the legal framework in the field of preventing and combating money laundering and terrorism financing and, by case, identification of measures for its improvement;

2. Analysis of the functioning of the cooperation mechanism and the efficiency of the prevention and fight against money laundering and terrorism financing activities;

3. Ensuring a unitary concept, through cooperation between competent authorities, as regards the process of implementation of the policies in the field of preventing and combating money laundering;

4. Establishment – within the framework of the National System of Prevention and Combating of Terrorism – of a national working group in the field of preventing and combating terrorism financing, as a

tool for an efficient information exchange between N.O.P.C.M.L., intelligence services and law enforcement authorities;

5. Strengthening the cooperation with the private sector, by enhancing the level of training and awareness of reporting entities, components of the national cooperation mechanism;

6. Strengthening the supervision and control capacity of the competent authorities in the field, including N.O.P.C.M.L., having regard its position of supervision authority for the reporting entities which are not under the supervision of other authorities;

7. Enhancing the level of public information and awareness on the risks related to money laundering and terrorism financing;

8. Intensifying the assessment activities and operative updating of the risk profiles and specific risk indicators, depending on the trends registered in real ground, by a concerted effort of the relevant institutions/authorities in the field.

Objective II. Optimization of the available tools and enhancement of the specialization level of the personnel from relevant institutions in the field

Directions of action:

1. Enhancement of the action capacity of the components of the national cooperation mechanism in the field of money laundering and terrorism financing, by putting in value the acquired expertise, exchange of best practices with international partners and implementation of new available tools at international level;

2. Implementation of training programs for the specialists in the field of preventing and combating money laundering;

3. Strengthening the analysis and investigation capacity in the field of preventing and combating money laundering;

4. Strengthening the analysis and investigation capacity in the field of terrorism financing, focusing on financing sources (legal, illegal and ensuring logistical support), in the format of N.S.P.C.T / C.O.A.C.;

5. Enhancement of possibilities for dissemination of information, in order to strengthen the proactive investigations, based on financial information.

Objective III. Consolidating Romania's role in international mechanisms and bodies in the field of preventing and combating money laundering and terrorism financing

Directions of action:

1. Active participation in the development of the international mechanisms in the field of prevention and combating money laundering and terrorism financing;

2. Enhancement of the national contribution to the initiatives of international bodies regarding the identification, prevention and countering of the activities of entities involved in money laundering and terrorism financing operations.

*

* *

In order to implement the provisions of this strategy, a Plan of Action with concrete terms and responsibilities for each component of the national mechanism, shall be elaborated and approved, within 90 days from its approval by the Supreme Council of Country Defense.

The Financial Intelligence Unit of Romania shall ensure the technical secretariat for these activities.

National Anticorruption Directorate AML/CTF Training Sessions

2012

- 4 May 2012, Conference on money laundering, Bucharest, Participant: 1 police officer NAD. Organizer: World Check.

- 27-29 June 2012, training within the Project ISEC "Increasing efficiency in the field of money laundering and asset recovery", Germany. Participants: 2 prosecutors NAD. Organizer: Ministry of Justice in cooperation with the IRZ Foundation and the National School of Magistracy, France.

- 16-18 January 2012, training within the Project ISEC "Increasing efficiency in the field of money laundering and asset recovery", Cluj. Participant: 1 prosecutor NAD. Organizer: Ministry of Justice in cooperation with the IRZ Foundation and the National School of Magistracy, France.

2011

- 5 - 7 December 2011, Conference on money laundering, Great Britain. Participant: 1 prosecutor NAD. Organizer: CEPOL ROMANIA, through Ministry of Justice.

2010

- 5 - 17 September 2010, Study visit organized within the twinning project RO 07 IB JH 05, Combating money laundering and terrorist financing, Lisbon. Participant: 1 prosecutor NAD. Implemented by ONPCSB.

- 27 - 28 April 2010, Seminar "Methods of identification and probation schemes of money laundering through offshore and fiscal heavens" within the twinning project RO 07/IB/JH/03 "Strengthening the investigative capacity of the National Anticorruption Directorate", Sinaia, participants 9 persons NAD.

- 14 - 16 April 2010, Workshop organized in Bucharest within the Project Facility Transition 2007/19343.07.01/IB/JH/14/TL "Improving the Romanian system of combating money laundering", implemented by the Ministry of Justice. Participant: 1 prosecutor NAD.

Code of Conduct of National Office for Prevention and Control of Money Laundering Employees

CHAPTER I – GENERAL PROVISIONS

The Code of conduct of NOPCML employees establishes the ethical and professional conduct norms and provides the basic principles to be observed in order to raise the trust, authority and prestige of NOPCML.

In the preparation of this Code of Conduct of NOPCML employee, the provisions of the following legal acts have been taken into account:

- Law no. 656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing;
- Government Decision no. 1599/2008 for the approval of Rules of organization and functioning of NOPCML;
- Law no. 477/2004 on Code of conduct of employees under contract with public authorities and institutions;
- Minister of public finances' Order no. 946/2005 approving the Internal Control Code, including standards of internal management/control, with subsequent changes and completions;
- Law no. 53/2003 republished – Work Code, with subsequent changes and completions;
- Government Decision no. 585/2002 approving the National Standards on protection of classified information, with subsequent changes and completions;
- Annex n0. I –Occupational family of budgetary positions „Administration", chapter III – Public authorities, letter D – „Wages of Board members and the employees of NOPCML, to the Framework Law no. 284/2010 on unitary retribution of the employees paid out of public funds;
- Annex n0. I –Occupational family of budgetary positions „Administration", chapter II – Other common positions in the budgetary sector, to the Framework Law no. 284/2010 on unitary retribution of the employees paid out of public funds;
- Minutes no. 611/i/11.10.2012 on the working session of the commission for analysis of provisions in the draft „Internal rules of NOPCML employees" and the draft „Code of conduct of NOPCML employees".

Art. 1 – Scope

(1) The Norms on ethical and professional conduct of NOPCML employees, established by this Code of conduct, are mandatory for the NOPCML employees, in their socio-professional activity.

Art. 2 - Objectives

Compliance to Code of conduct provisions has as purpose the achievement of the following objectives:

a) Increasing NOPCML credibility;
b) Increasing the quality of NOPCML specific activities;
c) Reaching a high professional level of NOPCML employees.

Art. 3 – General principles

The principles governing the professional conduct of NOPCML employees are:

a) Supremacy of the Constitution and Law, according to which, NOPCML employees have the duty to respect the country's Constitution and laws;

b) Priority of public interest, principle according to which NOPCML employees must consider that public interest prevails to personal interest, in the exercise of work duties;

c) Equal treatment for citizens, principle according to which NOPCML employees have the duty to apply the same legal regime in identical or similar situations;

d) Professionalism, principle according to which NOPCML employees have the obligation to perform with responsibility, competence, efficiency, properly and consciously, their official attributions;

e) Impartiality and non-discrimination, principle according to which NOPCML employees are obliged to have an objective and neutral attitude against any political, economic, religious or of other nature interest, in the exercise of their official attributions;

f) Moral integrity, principle according to which NOPCML employees are forbidden to ask for or accept, directly or indirectly, for them or for others, any moral or material advantage or benefit, in the exercise of their official attributions, or to misuse in any way their official quality;

g) Freedom of thinking and expression, principle according to which NOPCML employees have the right to express and base their opinions, observing the rule of law and good mores/manners;

h) Honesty and fairness, principle according to which NOPCML employees, in the exercise of their attributions, must show good faith and act to achieve their attributions;

i) Openness and transparency - principle according to which the activities performed by NOPCML employees, in the exercise of their attributions, are public and can be subject to citizens monitoring, according to provisions of the special law;

j) Confidentiality, principle according to which NOPCML employees are obliged to protect the classified data and information obtained in the exercise of their attributions;

k) The incompatibility regime established by interdictions for NOPCML employees, based on the Law 656/2002;

l) Loyalty, showed by the attachment to the institution and to the values promoted by this, the considerence for the hierarchy, honesty in inter-personal relations, considerence for true and justice, consciousness in performing official attributions, respect for commitments, keeping the confidentiality of data and information obtained in the exercise of official attributions.

Art. 4 - Terms

For the purpose of this Code of conduct, the following terms have the definitions:

a) NOPCML employees – specialty personnel formed by financial analysts, auxiliary specialty personnel formed by analysts' assistants, personnel with positions of president's counselors, persons with positions of directors and head of departments, and contractual personnel with positions specific for the budgetary sector, formed by drivers and unqualified workers;

b) Attributions – all the obligations and responsibilities established in the position fiche, by the president of NOPCML, for the employees, based on legal provisions, for the purpose of fulfilling NOPCML competences;

c) Public interest – the interest involving the obligation of public institutions and authorities to guarantee and respect the rights, liberties and legitimate interests of citizens, recognized by the Constitution, domestic legislation and international treaties in which Romania is part, as well as fulfillment of official attributions respecting the principles of efficiency, effectiveness and economy in spending the resources;

d) Personnel interest – any material or of other nature advantage, looked for or obtained, directly or indirectly, for their own or for others, by the employees of NOPCML, by using the reputation, influence, facilities, relations, data and information obtained, as a result of the exercise of official attributions;

e) Conflict of interests – that situation or circumstance in which the personnel interest, directly or indirectly, of NOPCML employees, is against the institution's interest, so that it affects or it could affect their independence or impartiality in making decisions or in performing timely and objectively their duties;

f) handling of classified information – any activity of elaboration, recording, accessing, processing, copying, transport, sending, keeping, storing or detriment of classified information, according to Government Decision no. 585/2002;

g) public interest information – any information regarding the activities or resulting from NOPCML activities which can be made available for the public, according to Law no. 544/2001;

h) Information on personnel data – any information concerning an identified or identifiable person.

CHAPTER. II – SPECIFIC NORMS OF PROFESSIONAL CONDUCT OF NOPCML PERSONNEL

Art. 5 – Proper exercise of official attributions

(1)NOPCML personnel has the following obligations:

a) To perform official attributions with competence, fairness and professionalism;

b) To perform official attributions provided in the position fiche, the attributions established by president's order, as well as any other attribution with administrative character, established by legal acts;

c) To make the necessary diligences in order to perform the work allocated, respecting the legal dead-lines, internal norms and methodologies and internal operational procedures;

d) To have a dignified and civilized attitude in relation to natural persons and legal representatives of legal persons or authorities and institutions they get in contact with;

e) To handle the classified data and information, respecting rigorously the confidentiality principle, as well as any other norm established by laws or NOPCML president's order;

f) To have a professional behavior and to ensure the administrative transparency, in order to gain and maintain the public's trust in the integrity, impartiality and efficiency of public authorities and institutions, respecting the provisions of the special law;

(2) NOPCML personnel benefits of:

a) Legal protection;

b) Legal rights;

c) Support for the improvement and raise of their professional knowledge and activity;

d) Professional training, initial and continues, during the entire activity;

e) Work conditions able to protect their health and fiscal integrity;

f) The necessary material endowment, allowing the fulfillment of attributions in optimal conditions and in an operative manner.

Art. 6 – Respect of Constitution and laws

(1) NOPCML personnel is obliged that, by their acts and deeds, to respect the country's Constitution and laws and to act for the implementation of legal provisions, according to the official attributions, and with professional ethic.

(2) NOPCML personnel must comply with legal restrictions, due to the status of NOPCML employee, as provided by Law 656/2002.

Art. 7 – Loyalty to NOPCML

NOPCML personnel is obliged to defend with loyalty the institution's prestige, as well as to restrain from any act or deed which may damage its image or legal interest.

Art. 8 – Liberty of opinions

(1) In the exercise of official attributions, NOPCML personnel is obliged to respect the dignity of their position in the institution, correlating the liberty of dialog with promoting NOPCML interest.

(2) In the exercise of official attributions, NOPCML personnel is obliged to respect the freedom of opinion and not be influenced by personal considerations.

(3) In expressing their opinions, the NOPCML personnel should exercise conciliatory attitude to avoid conflicts due to the exchange of views.

Art. 9 – The public activity performed in the exercise of official attributions

(1) The relations with mass-media shall be ensured by the members of the NOPCML personnel designated by the President of the Office, in accordance with the provisions of the law.

(2) The designated NOPCML's personnel in order to participate to activities or public debate, in its quality of officials of NOPCML must respect the mandate of the President of the Office.

Art. 10 – If the personnel of the Office participate to public activities without designation and without a mandate from the part of the NOPCML, this person shall express the eventual opinions in its own name, mentioning this aspect and also mentioning that he/she shall not commit any obligations on behalf of the Office.

Art. 11 – The political activity

The personnel of the NOPCML are banned:

a) to carry out public activities with politic character;

b) to participate to any fund's collection for the activities of political parties;

c) to provide any logistical support to the candidates to public dignity positions;

d) to cooperate, both within the service relationships and out of these, with natural and legal persons who donate or make sponsorships to political parties, in order to obtain favors, benefits, advantages for himself or for others.

e) To post, within the NOPCML insignia or engraved objects with the logo or the name of the political parties or of their candidates.

Art. 12 – The use of their own image

In considering the position they hold, the NOPCML personnel is prohibited to permit the use of their name or image in advertising activities to promote commercial activities and for electoral purposes.

Art. 13 – The relations in the line of duty

(1) In relations with other members of the NOPCML personnel, as well as with the natural or legal persons, the NOPCML's personnel has the obligation to have a respectful, good faith, honesty and kindness behavior.

(2) the NOPCML staff shall not prejudice to honor, reputation and dignity of the the institution and of the people they meet persons in their exercise of duties, by:

a) Expressing opinions on their professional and moral integrity;

b) the use of an offensive language;

c) revealing some aspects of their private life;

d) formulate slanderous notification or complaints.

(3) the NOPCML personnel must adopt a fair and justified attitude for clear and effective solving the problems of the citizens who enter into direct relationship with the Office. The NOPCML personnel shall respect the principle of equality of citizens before the law and public authorities, by:

a) promoting coherent solutions, similar or identical, according to the undifferentiated treatment principle, relative to the same category of factual situations;

b) elimination of all forms of discrimination based on nationality, religious and political beliefs , wealth, health, age, gender or other aspects.

(4) In case of the media articles / programs that are defamatory statements about the professional activities of employees, NOPCML's right of reply shall be filed by the Press Office of the NOPCML considering the views of the concerned individual.

Art. 14 - The conduct within the international relations

(1) In all the cases the personnel of the NOPCML shall represent the institution in accordance with the limits of the mandate.

(2) The personnel of the NOPCML who represents the institution within some international bodies, educational institutions, conferences, seminars and other activities with international component, shall have the obligation to promote with dignity a favorable image of the country and of the NOPCML.

(3) In relations with the representatives of other states the NOPCML personnel shall not express personal views on issues of national or international disputes.

(4) On trips abroad, the NOPCML personnel must have an appropriate conduct and to have a conduct in accordance with the protocol rules and is prohibited from violating the laws and customs of the host country.

Art. 15 - Prohibition of gifts, services and benefits

The NOPCML personnel shall not solicit or accept gifts, services, favors, invitations or any other advantage, for themselves, for their family, parents, friends, or people with whom they had any type of relationship, including business or political, that could influence their impartiality in the performance of duties established or may be a reward related to his position in the NOPCML.

Art. 16 - Participation in the process of decision making

(1) In making decisions, the NOPCML personnel must act according to law and to exercise their judgment impartial and motivated.

(2) the NOPCML personnel are required not to promise, outside service's duties, a decision made by himself or by other member of the personnel of the NOPCML and privileged fulfillment of their tasks.

(3) the NOPCML personnel will not put pressure on other members of the personnel of the NOPCML, in order to influence the solutions that must be adopted by the letters.

Art. 17 - Objectivity in evaluation process

(1) the NOPCML personnel holding senior positions within the institution is required to ensure equality of opportunity and treatment on his subordinated staff career development.

(2) the NOPCML personnel holding senior positions within the institution is required to examine and apply objective criteria for assessing the professional competence of subordinate personnel.

(3) It is prohibited to the NOPCML personnel holding senior positions within the institution to favor or disfavor the access or promotion to certain positions, based on discriminatory criteria family relationship, or other criteria inconsistent with the principles set out in art. 3 of the Code.

Art. 18 - Misuse of powers and prerogatives of their position under the law (1) the NOPCML personnel shall not use their position duties for purposes other than those provided by law.

(2) By its activity of decision making, advisory, evaluation or participation in investigations or control actions, the personnel cannot look for personal favors or advantages or producing damage or injury to others.

(3) the NOPCML personnel shall not interfere or influence any investigation of any kind within or outside the institution, considering their position.

(4) the NOPCML personnel shall not impose other colleagues to join in the associations or organizations, regardless of their nature and shall not suggest or promise them material benefits or professional awards.

(5) in the personal activities held outside the institution, the NOPCML's personnel is prohibited to use their status of employee of the NOPCML or involve in any way the employee – quality or position held within the NOPCML.

Art. 19 – Use of public resources

(1) the NOPCML's personnel must ensure the protection of public and private property of the state and municipalities, to avoid causing any harm, acting at all times as a good owner.

(2) the NOPCML's personnel must use his work, as well as the property belonging to public authority or institution only for activities related to their position.

(3) the NOPCML's personnel must propose and ensure, in his duties, useful and efficient use of public funds in accordance with the legal provisions.

(4) the NOPCML's personnel performing editorial or teaching activities is prohibited to use the work time or the logistics of the NOPCML to achieve them.

Art. 20 - Limiting participation in procurement, lease or rental

(1) Any staff member can purchase a good of the NOPCML owned in the private property of the institution, subject to sale under the law, with the following exceptions:

a) when he became aware, during or as a result of carrying out his duties, about the value or quality of goods to be sold;

b) when he participated in the exercise of duties, to the organization of the sale of the respective good;

c) when he can influence the sale or has obtained information that interested people in buying the property did not have access.

(2) The provisions of paragraphs. (1) shall apply accordingly if the concession or lease of public or private property owned by the institution.

(3) the NOPCML's personnel is prohibited from providing information on public or private property of the state or the institution, subject to sale, lease or rent, in circumstances other than those provided by law.

(4) The provisions of paragraphs. (1) - (3) shall apply accordingly if the transaction is made through praxis or if it is a case of conflict of interest situation.

Art. 21 - Attitude towards corruption

(1) The NOPCML personnel is prohibited tolerate corruption and misuse public authority conferred on it the status of employee of the NOPCML.

(2) The NOPCML personnel is prohibited to claim or accept money, goods or assets in order to perform or not perform their job's duties.

(3) The NOPCML personnel should take action against corruption manifested in the institution, the obligation to inform the president of the NOPCML and other competent bodies on corruption which they has knowledge.

(4) The NOPCML personnel is prohibited to use their status or their function for solving personal interests.

(5) The NOPCML personnel with management and control attributions, as well as those who are required to declare their assets, according to law, are required to declare and submit to the head of the institution within 30 days of receipt, a statement on the goods they received as part of protocol activities during the mandate or function.

(6) Are exempt from the provisions of paragraph (5):

a) medals, decorations, badges, orders, scarves, necklaces and the like, received in the exercise of the dignity or function;

b) office supplies items with a value up to 50 euro.

CHAPTER III – Incompatibilities and interdictions

Art. 22 - The employees of the NOPCML except under legal conditions cannot hold any position and cannot perform any other function in any of the reporting entities under Law no.656/2002, as amended and supplemented, together with its employee work within the NOPCML.

Art. 23 - the NOPCML personnel shall not disclose the information received during the activity. The obligation remains even after leaving the Office, for a period of five years.

Art. 24 - It is prohibited for their personal use, by the employees of NOPCML, of the information received, both during work and after its termination.

Article 25 - (1) It is forbidden for the NOPCML`s personnel:

a) to express untrue public appreciations about the work of the institution, its policies and strategies or the draft of normative or individual acts;

b) to make unauthorized remarks in connection with pending litigations in which the institution is a party, unless authorized to do so;

c) to disclose confidential information and non-public information, in circumstances other than those provided by law;

d) to disclose information they have access to in the line of duty, if such disclosure is likely to attract undue advantage or to damage the image or rights of the institution or of some NOPCML`s staff members or of natural or legal persons;

e) to provide assistance and consultancy to natural or legal persons in order to promote legal or other actions against the state or NOPCML.

(2) The provisions of this Code of Conduct should not be construed as derogating from the legal obligation of employed staff to provide public information to those interested, according to the law.

(3) Disclosure of non-public information or remittance of documents containing such data and information, at the request of representatives of judicial and state institutions expressly provided by the Law no.656/2002, as amended and supplemented, is permitted under the *law.*

CHAPTER IV – THE CONDUCT OF THE NOPCML`s PERSONNEL HAVING CONTROL RESPONSABILITIES

Article 26 - Within the verified and controlled entities, the NOPCML`s personnel having control responsibilities must have the following conduct:

a. to show courtesy, respect and understanding with regard to the issues with which the entity is confronting and consider the entity as an equal partner;

b to grant importance and necessary time to discuss with the persons designated by the entity, in order to substantiate its findings on all the arguments and evidences presented by them;

c to request to the audited entity to clarify the issues with regard to which it considers that additional information is necessary;

d to formulate and issue an independent opinion to the identified aspects and to rule, honestly and concise, stating the reasons for not accepting the point of view of the entity;

e. to ensure the equal treatment in the work that it carries at the audited entity and not discriminate on grounds of nationality, gender, origin, race, ethnicity, disability, age, religion or political beliefs;

f. to prove reliability, professionalism and respect for the persons with whom enters in service relationship;

g. to prove efficiency in the performance of their duties, observing deadlines and thereby avoiding subjective and unnecessary extension of the period for conducting the verification and control;

h. to respect the privacy of persons with whom enters in service relationship.

CHAPTER V - COORDINATION AND ENFORCEMENT OF RULES OF PROFESSIONAL CONDUCT

Art. 27 - Coordination and enforcement of the present rules

(1) The NOPCML`s President orders the necessary measures to comply with this Code of Conduct, to implement measures in order to make the NOPCML`s personnel more responsible, proposing corrective measures of notified disruptions.

Art. 28 - Notification

(1) The NOPCML`s President may be notified by any person relating to:

a) violation of the present Code of Conduct by the NOPCML`s personnel;

b) coercion or threat exerted on NOPCML`s staff to determine it to violate legal provisions or to apply them inappropriately.

(2) The NOPCML`s staff can not be sanctioned or prejudiced in any way for reporting in good faith to the NOPCML`s President, under the law.

(3) The NOPCML`s President will verify the documents and facts of referral, while respecting the confidentiality of the identity of the person who made the referral.

(4) Referrals submitted to the President ONPCSB will be centralized in a database necessary for:

a) identifying the causes that led to the breach of professional conduct;

b) identifying ways to prevent breaches of professional conduct;

c) adoption of those measures leading to reducing and eliminating non-compliance with legal requirements.

Article 29 - Settlement of referral

(1) The response to any complaint submitted to the NOPCML`s President, regarding the violation of the present Code of Conduct by the NOPCML`s personnel, will be communicated within 30 working days.

CHAPTER VI - FINAL

Article 30 - Liability

(1) The NOPCML`s President shall order the necessary steps to ensure that the NOPCML`s personnel knows and complies with the Code of conduct while performing of duties.

(2) The infringement of this Code of Conduct will result in disciplinary liability for the NOPCML`s personnel, under the law.

(3) The NOPCML`s President has the power to investigate the violation of this Code of Conduct and to order disciplinary sanctions under the Law no. 53/2003 - the Labor Code, republished, as amended and the Internal Regulation of NOPCML.

(4) In cases where the acts committed meet the constitutive elements of an offence, the competent law enforcement authorities will be notified, according to the law.

(5) The personnel of the NOPCML has the patrimonial liability according to the law, in cases where by acts committed in violation of the rules of professional conduct make prejudices to the NOPCML.

Art. 31 – The ensuring of publicity

(1) This Code of Conduct is approved by the employees' representatives and by the Legal Department within the NOPCML.

(2) This code is subject to the decision of the Board of the NOPCML and approved by Order of the President of the NOPCML.

(3) After approval, the present Code of Conduct is disseminated to the personnel of NOPCML by the Human Resources Department.

(4) The Code of Conduct takes effect to the NOPCML personnel from the moment of signing for the acknowledgment.

(5) Structures leaders shall take measures for its implementation and enforcement by structures which are coordinated by them.

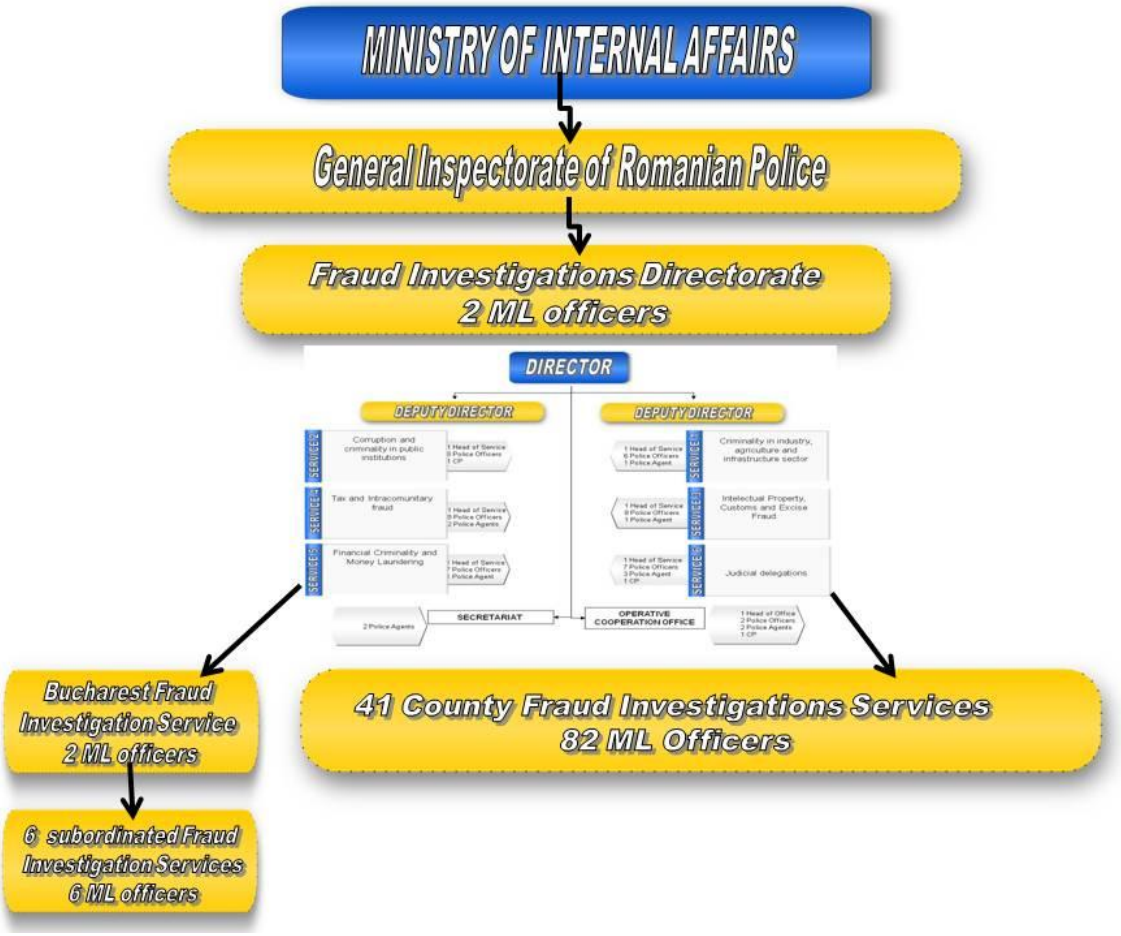
(6) Persons appointed or newly employed cannot start work until they have signed for acknowledgment of the content of this Code, through the care of Human Resources Department.

(7) This Code of Conduct is published on the website of the NOPCML www.onpcsb.ro.

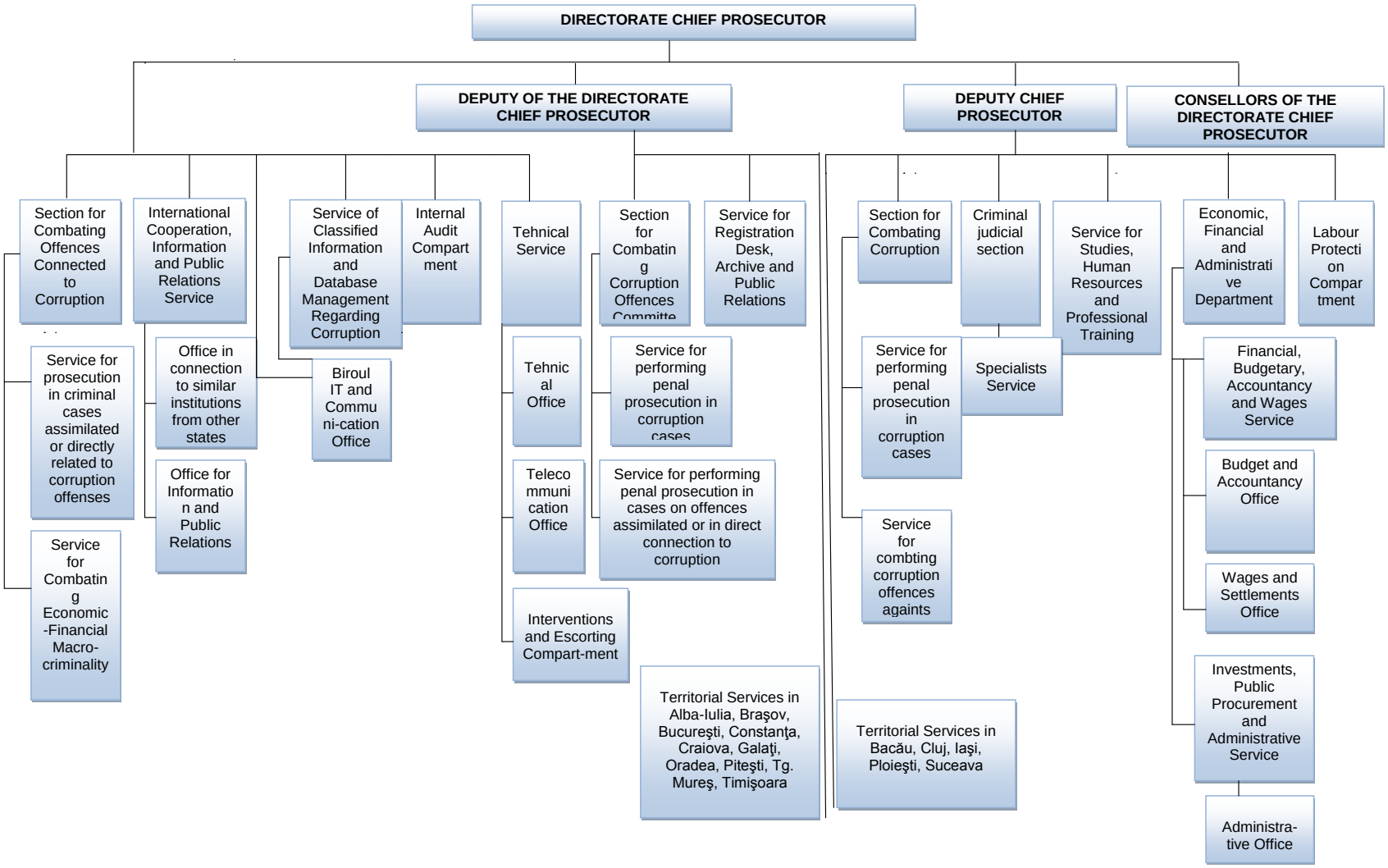
Art. 32 - Upon entry into force of this Code of Conduct, any contrary provisions are repealed.

Art. 33 - For the specific activities of the internal public audit activities within NOPCML the present Code shall be supplemented by the provisions of *Order no. 252/2004 of the Ministry of Finance for the approval of the Code of Ethics of the internal auditor.*

Organisational chart of the Fraud Investigation Directorate



Organisational chart of the National Anticorruption Directorate



Organisational chart of the Directorate for Investigating Organised Crime and Terrorism