

LAW

On prevention and combating money laundering and terrorism financing

CHAPTER. I – GENERAL PREVISIONS

SECTION 1 – THE NATIONAL SYSTEM FOR PREVENTING, COMBATING AND SANCTIONING MONEY LAUNDERING AND TERRORISM FINANCING

Art. 1 - (1) This law regulates the national system for preventing, combating and sanctioning money laundering and terrorism financing in order to prevent the introduction in the national financial circuit of money representing proceeds of criminal offenses, as well as far and to detecting and blocking terrorism financing activities.

(2) The social value protected by this law is represented by performance of the legal flows of goods and values through the reporting entities, against the illicit acts of misappropriation and undermining their values following the injection of the proceeds of crime.

(3) The national system mentioned on para.(1) includes, but is not limited to the following categories of authorities and institutions:

a) judicial bodies with specific competences regarding the offense of money laundering and terrorism financing;

b) authorities and public institutions with regulatory, information and control responsibilities, in the field, including the financial intelligence unit of Romania, financial control authorities and tax inspection, customs authorities, the national intelligence services;

c) authorities and institutions with sectorial supervisory and regulatory role on reporting entities, including the National Bank of Romania, the Financial Supervisory Authority, the National Gambling Office;

(4) The financial intelligence unit of Romania is the National Office for Prevention and Combating Money Laundering, hereinafter referred to as the Office.

(5) The institutions that are part of the national system for preventing, combating and sanctioning money laundering and terrorism financing participate on conducting assessments of risks of these criminal phenomena at national level.

(6) The risk-based approach is carried out at national level, including the following components, but not limited to:

a) establishment of categories of entities based on risk analysis of money laundering and terrorist financing to which they are exposed and to establish administrative obligations in order to mitigate these risks,

b) fulfillment of the obligations imposed on lett.a) through the measures adopted and applied by the reporting entities based on individual risk assessment.

(7) The risk assessments mentioned in para. (5) is regularly updated being aware of the evolution of risks and the effectiveness of measures taken in order to mitigate them.

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(8) The institutions members of the national system for prevention, combating and sanctioning money laundering shall keep relevant statistical data for the efficiency of the measures for prevention and combating money laundering and terrorism financing, shall include:

a) data for measuring the size and the importance of different sectors which enters in the appliance field of the present law, including the number of persons and entities as well as the economic importance of each sector;

b) data for measuring different phases of reporting, investigation and judicial of the national regime for combating money laundering and terrorism financing, including the number of the reports for suspicious activity submitted to the Office, the follow-up actions and yearly, the investigative cases, number of the prosecuted persons, number of the convicted persons for money laundering or terrorism financing, type of the predicate offences, if this information are available, as well as the value in euro of the goods which were freeze, blocked or seized;

c) if are available, data which indicates the number and the percentage of the reports which has as finality a supplementary investigation, together with the annual report to the reporting entities in which are detailed utility and the follow up of the presented reports;

d) data on the cross-border request for information which were performed, received, partially rejected or complete finalized by the Office.

(9) The institutions members of the national system for prevention, combating and sanctioning money laundering ensure the publication of the consolidated version of the statistical data.

(10) The institutions members of the national system for prevention, combating and sanctioning money laundering shall submit to the European Commission the statistical data mentioned in para. (9).

SECTON 2 – DEFINITIONS

Art. 2 – For purposes of the present law:

a) **reporting entity** – the natural persons, judicial and judicial constructions stipulated on art. 5 from the present law;

b) **money laundering** means the offense described in art. 9;

c) **terrorism financing** means the offense referred to in art. 36 of the Law no. 535/2004 on preventing and combating terrorism, with subsequent amendments;

d) **funds that are related to terrorism financing** represents:

1. funds which may be in connection with the offense of terrorism financing, terrorist acts, terrorist organizations or individual terrorists or people who finance terrorism or;

2. funds that were used or will be used for terrorism purposes or by terrorist organizations or individual terrorists, or people who finance terrorism.

e) **predicate offense** represents the offense that generate proceeds subject of money laundering.

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f) **goods** means assets of every kind, whether material or immaterial, movable or immovable, tangible or intangible as well as legal documents or instruments in any form including electronic or digital, evidencing a right to or related interests.

g) **correspondent relation** represents:

1. provision of banking services by a credit institution as a correspondent for another credit institution as respondent, including the current and deposit account services and related services, such as cash management, cross-border transfers of funds, compensation of checks, services of correspondent accounts directly accessible to customers and foreign exchange services;
2. the relationship between a credit institution and a financial institution for the provision of services similar to those from item 1 by the correspondent institution for the respondent institution, including relations established for transactions or funds transfers.

h) **transfers to and from bank accounts** means cross-border transfers and the operations of payments and receipts made in Romania in which at least one party is non-resident;

i) **credit institution** means an institution as defined in Article 4 (1) point 1 of Regulation (EU) No. 575/2013 of the European Parliament and of the Council and of the amending Regulation (EU) No. 648/2012, including branches situated in a Member State of such institutions, whether if head office is located in a Member State or in a third country;

î) **financial institution** means:

1. the enterprise other than a credit institution which carries out one or more activities listed in art. 18 para. (1) b, l, n and n¹ of the Emergency Government Ordinance no. 99/2006, approved with amendments by Law no. 227/2007, as amended and supplemented, including postal service providers providing payment services and specialized entities performing foreign exchange;
2. the insurers, composite insurers, captive insurers, mixed insurers, reinsurers and intermediaries of insurance and/or reinsurance when they act in respect of life insurance and other investment related services, except insurance intermediaries as defined in art. 2 pt. 7 of Directive 2002/92/EC, authorized according to the law;
3. the central securities depositories, managers of alternative funds investment, management companies for investment, clearing house/central counterparty, companies of financial investment services, investment advisors, companies for asset management, investment companies, market operators, system operators, the Investor Compensation Fund, as defined according to the law;
4. branches situated in a Member State of the financial institutions referred to in (a) - (e) whether their actual offices are located in a Member State or in a third country;
5. a collective investment undertaking marketing its units or shares;
6. the natural or legal persons located in Romania providing payment services in the name and on behalf of electronic money institutions.

j) **business relationship** means the professional or commercial relationship related to the activities conducted by reporting entities and which they consider, at the moment

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of establishing professional relationships and commercial, to have an element of duration;

k) **occasional transaction** means the transaction carried out outside the business relationship, as defined in lett. h);

l) **shell bank** means a credit institution, or financial institution or an institution that carries out equivalent activities to those carried out of a credit or by financial institution, incorporated in a jurisdiction in which it has no physical presence, where the institution's management and management is actually exercised and which is not affiliated to a regulated financial group at a consolidated level;

m) **service provider for legal person or legal arrangement** means any natural or legal person who provides professionally any of the following services for third parties:

1. companies, according to the provisions of Law no. 31/1990 republished with subsequent modifications and completions, or other legal persons;

2. acting as or arranging for another person to act as a director or manager of a company, acting as associate/shareholder of a company or a similar quality in relation to other legal persons or intermediates another natural or legal person to exercise those functions or qualities;

3. provides a registered office, administrative address or any other related service for a legal person or any other legal arrangement;

4. acts as a fiduciary or similar quality in the conduct of express fiduciary activities or intermediates as another person to exercise that quality;

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 European legislation or subject to equivalent international standards;

n) **group** means a group of companies consisting of a parent company, its subsidiaries and entities in which the parent company or its subsidiaries hold a participation, as well as the companies linked to each other by a relationship within the meaning of article 22 of Directive 2013/34 / EU;

o) **self-regulatory body** means the unions, the professional bodies or other associative forms of the regulated professions which have the competence to regulate the activity of their members by issuing regulations and instructions on the activity and ethical conduct of the members, controlling and supervising the exercise of their legal tasks.

p) **senior management** means the person(s) or employees who have sufficient knowledge regarding the institution's exposure to the risk of money laundering and terrorism financing and who occupy a sufficiently high function to take decisions with effect on that exposure and which is not always necessary to be a member of the board of directors;

q) **gambling services** means any services which implies a gamble of monetary value in gambling, including those with a skill element such as lotteries, casino games, poker games and bets, provided in a physical location or by any means at a distance, electronically or by any other type of technology which facilitates communication, and at the individual request of the recipient of the services.

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r) **service provider** means any natural or legal person who carries out activities to provide services covered by the provisions of the Fiscal Code for legal persons;

s) **client/customers** means any natural or legal person or legal arrangement with which the reporting entities carry out business relationships or for which they make an occasional transaction;

§) **competent authorities** means authorities with responsibilities in the field of prevention and combating money laundering, associated predicate offenses and terrorism financing at national level: Office, criminal prosecution bodies responsible for money laundering/terrorism financing, established according to the legislation in force, autonomous administrative authorities and public or private institutions with regulatory role, sectorial supervision and control of reporting entities, national intelligence services, public institutions and information structures, competent courts to solve cases relating to the commission of the money laundering offense or terrorist financing.

t) **The terms: payment service provider, payment institution, electronic money issuer, electronic money issuer, electronic money, distributor, agent**, have the meaning provided in the Emergency Ordinance no. 113/2009 on payment services, with subsequent amendments and completions, approved by Law no. 197/2010 for the approval of Government Emergency Ordinance no. 113/2009 on payment services and, as the case may be, from Law no. 127/2011 on the issuance of electronic money.

ł) **virtual currency** means the digital representation of a value that is not issued by a central bank or a public authority that is not necessarily attached to a fiat currency but which is accepted by natural or legal persons as a means of payment and which can be transferred, stored or marketed by electronic means.

u) **head office** means the headquarters defined in art.14 par. (1) of the Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy, approved with amendments and completions by Law no. 227/2007, with subsequent amendments and completions.

v) **Member State** means any Member State of the European Union or the European Economic Area.

w) **legal arrangement means any entity without legal personality constituted under special laws.**

Art. 3 - (1) In accordance with the provisions of the present law, **politically exposed persons** are individuals who have or had important public functions.

(2) For the purpose of this law, the prominent public functions are:

a) heads of state, heads of government, ministers and deputy ministers or state secretaries;

b) members of parliament or similar legislative bodies;

c) members of the governing bodies of political parties;

d) members of the Supreme Courts, Constitutional Courts or other high-level courts whose decisions cannot be appealed only through extraordinary appeals;

e) members of the Court of Accounts or assimilated to them or to the boards of central banks;

f) ambassadors, charge d'affairs and senior officers in the armed forces;

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g) members of the boards of directors and of the supervisory boards and the persons holding the leading positions of the autonomous regies, of the companies constituted according to the provisions of Law no. 31/1990 republished with subsequent amendments and completions, with majority state capital and national companies.

h) directors, deputy directors and members of the board of directors or members with equivalent functions within an international organization.

(3) None of the categories provided in paragraph (2) lett. a) - h) does not include persons who hold intermediate or inferior positions.

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

a) husband/wife/person considered to be the equivalent of the husband/wife of a politically exposed person;

b) their children and spouses/the person considered to be the equivalent of their spouse;

c) parents.

(5) Persons publicly known as close associates of the politically exposed person:

a) any natural person known to be the real beneficiary of a legal person or legal entity together with any of the persons referred to in para (2) or as having any other privileged/close business relationship with such a person;

b) any natural person which is the only beneficial owner of a legal person or of a legal arrangement, known as being established de facto for the benefit of one of the persons provided in para. (2).

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, an operation or activity is being conducted, directly or indirectly.

(2) The beneficial owner shall at least include:

a) in the case of companies constituted according to the provisions of Law no. 31/1990:

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. This criterion is considered as fulfilled, for example, in the case of the holding of at least 25% of the shares plus a share, or where, as a associate or shareholder of that company, a person has the power to appoint or to revoke the majority of the members of the administrative, management or supervisory bodies;

As an exception, the real beneficiary identification is not performed for legal entities that own or control a company incorporated under the provisions of Law no. 31/1990, republished with subsequent amendments and completions, if their shares are traded on a regulated market that is subject to disclosure requirements, consistent with those covered by European legislation or with international standards.

2. a natural person who holds a senior management position if, after all possible means have been exhausted and provided that there are no grounds for suspicion, no

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natural person shall be identified in accordance with point 1 or, any doubt that the identified person is the real beneficiary.

b) in the case of trustees

1. The settler;
2. The trustee;
3. Beneficiaries or, if not specified in the trust agreement and subsequently designated, the category of persons whose principal interest was the fiduciary contract;
4. Any other natural person exercising ultimate control of the trust by direct or indirect exercise of the right of ownership or by other means.

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

1. the natural person who is the beneficiary at least of 25 % of the goods, respectively capital shares or shares of a legal person or other entities or legal arrangements, where the future beneficiaries have already been determined;
2. the group of persons whose principal interest is the constitution or operation of a legal person or an entity or legal arrangement where natural persons benefiting from a legal person or a legal entity have not yet been determined;
3. the person or natural persons exercising control over at least 25% of the assets of a legal person or of an entity or legal arrangement, including by exercising the power to appoint or for revoke a majority of the members of the administrative, management or supervisory bodies of that entity or legal arrangement.

CHAPTER.II – REPORTING ENTITIES

Art. 5 - The following reporting entities are subject to this law:

- a) Romanian legal entities credit institutions, and branches of foreign legal entities credit institutions;
- b) Romanian financial institutions and branches of financial institutions from other Member States;
- c) private pension fund managers for their own behalf and for the private pension funds they manage;
- d) providers of gambling services;
- e) auditors, authorized accountants, censors, assessors, tax, financial, business or accounting advisers;
- f) public notaries, lawyers, bailiffs and other persons exercising liberal legal professions when they assist in planning or executing transactions for purchasing or sale of real estate, shares or capital shares or elements of the trading fund, the management of financial instruments, securities or other goods of clients, operations or transactions involving a amount of money or a transfer of the ownership, the establishment or administration of bank accounts, savings or financial instruments, the organization of the process of subscription of the contributions necessary for the establishment, the operation or management of a company constituted according to the provisions of Law no. 31/1990 republished with its subsequent amendments and completions; the

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establishment, management or leadership of such companies, collective investment undertakings in securities or similar structures, and where they participate on their behalf or for their clients in any financial or real estate transaction;

g) service providers, as well as service providers for legal entities or legal arrangements, other than those referred to in e) or f);

h) real estate agents and property developers;

i) foundations and associations, federations, including any other legal persons governed by private law without patrimonial purpose;

j) other natural persons, legal entities and legal arrangements trading goods to the extent that they perform cash transactions whose minimum limit is the equivalent in LEI of 10.000 EUR, regardless of whether the transaction is executed through a single operation or through several operations which seems to be connected between them.

CHAPTER. III - REPORTING OBLIGATIONS

Section 1. Suspicious Activity Report

Art. 6 - (1) Reporting entities are required to submit a suspicious activity report to the Office if they know, suspect or have reasonable grounds to suspect that:

- a. the goods/funds, regardless is the amount, originate from committing offenses or are related to terrorism financing, or
- b. person or the proxy/representative/settler is not who they claim to be, or
- c. the information that the reporting entity owns may be relevant to the investigation of an offense or may be used to enforce the provisions of this law.

(2) The designated person shall submit the suspicious activity report mentioned in para. (1) at once, when:

- a) the reporting entity initiates a business relationship or an occasional transaction with a person, or
- b) the reporting entity proposes to a person to enter into a business relationship or an occasional transaction, or
- c) a person asks the reporting entity to enter into a business relationship or an occasional transaction, or
- d) a person requests information from the reporting entity about the availability to initiate a business relationship or occasional transaction, including any attempts by a person to deal with, or
- e) at any time during an occasional transaction or business relationship with a person;
- f) in the case mentioned in art 11, para. (11) of the present law

(3) Reporting entities shall assess the appropriateness to submit a suspicious activity report to the Office by reporting objective factual circumstances related to a business relationship with a person to the indicators or typologies of suspicious activities publicly disclosed by the Office.

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(4) Reporting entities consider that they suspect any business relationship or occasional transaction with a person whose identification data have been communicated to him by the Office on a punctual basis, or whose objective factual circumstances correspond totally or partially to suspected activity indicators or typologies punctual communications by the Office. In this case, a suspicious activity report will be transmitted by the reporting entity to the Office, the provisions of art. 9 par. (1) are not applicable.

(5) The National Customs Authority shall immediately submit a suspicious activity report to the Office when, in application of Regulation (EC) 1.889/2005 of the European Parliament and of the Council of 26 October 2005 on the control of cash entering or leaving the Union, which they hold at the time of entry into or exit from the Union, knows, suspects or has reasonable grounds to suspect that the goods/funds originates from offenses or related to the terrorism financing or the person has infringed the obligations established by this regulation.

SECTION 2 - REPORTING OF TRANSACTIONS WHICH DO NOT SHOW SUSPICION INDICATORS

Art. 7. - (1) Reporting entities are required to report to the Office, transactions in cash in RON or other currency cash, whose minimum limit represents the equivalent in lei of 10,000 EUR.

(2) In case that transactions referred to in paragraph. (1) are performed with a credit or financial institution, reporting requirements incumbent on it.

(3) Credit institutions and financial institutions defined by the present laws will send online reports on external transfers in and from accounts, in lei or other currencies, whose minimum limit represents the equivalent in lei of 10,000 EUR.

(4) For the purposes of paragraph. (1) and (3) the term of transaction includes operations whose value is divided into parts smaller than the equivalent in RON of 10,000 EUR, arising from the same agreement of any nature between the same parties, that take place within a period of maximum 30 days.

(5) For money remittance activity, reporting entities will send to the Office reports on remittances whose minimum limit represents the equivalent in lei of 500 EUR.

(6) The National Customs Authority will send to the Office reports on information contained in the statements of the natural persons, related to cash in foreign and/or national currency, which equals or exceeds the threshold established by Regulation (EC) No. 1.889 / 2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving the Union, held by them when entering or leaving the Union.

(7) The report for the transactions mentioned in par. 1-5 shall be sent to the Office within maximum 3 working days from the time of the transaction, and the report referred to in para. (6) shall be sent to the Office within maximum 3 working days from the time of declaration under Regulation (EC) No. 1.889 / 2005 of the European Parliament and of the Council of 26 October 2005 on controls of cash entering or leaving

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the Union, held by them entering or leaving the Union, according to a methodology approved by order of the President Office.

SECTION 3 - REPORTING RULES

Art. 8 - (1) The reporting entities shall immediately transmit to the Office the report for suspicious activity referred to in art. 6 para. 1-5, before performing any transaction, regardless of the value of goods involved or of the operations performed.

(2) The Office confirms in writing, including by electronic means, that the suspicious activity report was received.

(3) Since the confirmation that the Office received the suspicious activity report mentioned in Art. 6 para. 1-4, the reporting entity proceeds to freeze any transaction related to the reported suspicion, for 24 hours. At the expiry of the 24-hour, if the Office do not suspend the transaction, the reporting entity can perform the transactions.

(4) In order to analyze the transaction and check the suspicion, the Office may suspend the performance of a transaction for a period of up to 48 hours, as a result of information received under this law, of requests received from the Romanian judicial authorities or foreign institutions which have similar functions and have similar obligation to keep the secrecy or based on other information held. The decision of the Office, for suspension of performance of a transaction, is immediately communicated to the reporting entity and will be immediately implemented.

(5) If the reported suspicion is not confirmed, the Office terminates the suspension of a transaction before the expiration of the deadline provided in par. (4), decision that is immediately communicated to the reporting entity and will be immediately implemented.

(6) Before the expiry of the 48 hours stipulated in par. (4), the Office, if it considers to be necessary, may request once, motivated, to the General Prosecutor's Office by the High Court of Cassation and Justice, the extension of the suspension of the transaction with a maximum 120 hours, that is calculated from the hour when the suspension decision expires.

(7) The Office may require, motivated, to the General Prosecutor's Office by the High Court of Cassation and Justice, to cease the extension of the suspension, at any time within the term referred to in para. (6);

(8) The Decision of the General Prosecutor's Office by the High Court of Cassation and Justice is immediately communicated to the Office, which in turn communicate it, immediately, to the reporting entity.

(9) If by the expiration of deadline set under paragraph. (6) the Office did not communicate the decision to extend the suspension, the reporting entity can perform the transaction.

(10) If the terms set out in hours according to para. (4) and para. (6) are fulfilled in a non-working day for public institutions involved in the suspension procedure, these are extended until the same hour within the next working day.

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(11) The form and content of the reports referred to in art. 6 and 7 for the financial and non-financial reporting entities, as well as the methodology for their submission, will be established by order of the President of the Office.

(12) The reporting entities are required to submit exclusively to the Office the reports established in art. 6 and 7, in electronic format only, through the channels made available by the Office, in the form and content established according to para (11).

(13) The Office will return, to the reporting entity or to the National Customs Authority, the reports that do not respect the established form and content and the reporting obligation will be considered as unfulfilled until the deficiencies are addressed.

(14) The deficiencies indicated by the Office will be addressed and a new report will be sent by the reporting entity or by the National Customs Authority, in maximum two working days. In case of a suspicious activity report, the term stipulated in para. (3) of this article shall start from the date of confirmation by the Office that the properly filled report was received.

(15) The reports referred to in art. 6 and 7, as well as any other documents received by the Office through which suspicions of money laundering or terrorist financing are reported, do not constitute a petition within the meaning of the Government Ordinance no. 27/2002 regarding the regulation of the activity of solving petitions, with subsequent amendments.

(16) The provisions related to the exercising the rights of the envisaged person, stipulated in the 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 modifications and completions are not applied for the period, within such a measure is necessary for avoidance the damaging of the specific activities of the office.

Art. 9 - (1) By way of derogation from the provisions of Article 8, the reporting entities may carry out a transaction without prior reporting, this should be done immediately or if failure to do so would jeopardize the pursuit of the beneficiaries of the suspicious transaction, while maintaining the obligation to report immediately to the Office, but not later than 24 hours, the suspicious transaction, specifying also the reason why the provisions of art. 8 have not been respected.

(2) The persons referred to in art.10 lett. f) are required to report only to the extent that they do not take into account the information they receive from one of their clients or obtain about them in the course of assessing the legal status of that customer in court proceedings or during the fulfillment of the defense or representation obligation of the client in court proceedings or in connection with these proceedings, including legal advice on initiating or avoiding proceedings, regardless of whether this information is received or obtained before, during or after proceedings.

(3) The provision of para. (2) shall not apply in cases where the persons referred to in Article 10 f) know that legal counseling is provided for the purposes of money laundering or terrorism financing or when it is known that a client desires legal advice for money laundering or terrorism financing.

(4) In the case of persons referred to in art. 5 lett. e) and f), reports shall be made to the Office or to the persons designated by the governing bodies of the liberal

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professions, which have the obligation to submit them immediately, unaltered, to the Office.

(5) The following operations carried out on its own name and on its own account are exempted from the reporting obligations provided in Art. 7 par. (1): between credit institutions, between credit institutions and the National Bank of Romania, between credit institutions and the State Treasury, between the National Bank of Romania and the State Treasury, as well as sales of numismatic effects and exchange of damaged banknotes or out of circulation, performed by the National Bank of Romania.

CAP. IV. - CDD MEASURES

Art. 10 - (1) The credit institutions and financial institutions shall not provide anonymous accounts or savings books, for which the identity of the holder or of the beneficial owner is not properly known and documented.

(2) When applying the provisions of art. 14 para. (5), the credit and financial institutions apply as soon as possible standard customer due diligence measures to all the holders and the beneficiaries of the existent anonymous accounts or savings books.

(3) Any use of existing anonymous accounts and savings books is only allowed after application of customer due diligence measures provided in art. 13, art. 16 or, as appropriate, art. 17.

(4) Credit and financial institutions are forbidden to establish or continue correspondent relationships with a fictitious bank.

(5) Credit and financial institutions shall take appropriate action to ensure that they do not enter into correspondent relationships or continue such relationships with a credit institution or financial institution known to allow a fictitious bank to use its accounts.

(6) Credit and financial institutions have to apply procedures related to customer due diligence and keeping of records, at least equivalent to those provided for in this Law, in all their branches and subsidiaries located in third countries.

Art. 11 – (1) The reporting entities apply standard customer due diligence measures, in the situations referred to in Article 13 (1) of this Law.

(2) By way of exception to paragraph (1), the reporting entities may apply simplified customer due diligence measures and enhanced customer due diligence measures, adequate to the associated risk of money laundering and terrorism financing.

(3) Standard customer due diligence measures are:

(a) identifying the customer and verifying his identity based on the documents, data or information obtained from credible and independent sources, including through the means of electronic identification provided for in Regulation (EU) No. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93 / EC;

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(b) identifying the beneficiary owner and adopting reasonable measures to verify his identity, so that the information held is satisfactory to the reporting entity, including for understanding the ownership and control structure of the client in the case of legal persons, trusts, companies, foundations and similar legal constructions;

(c) evaluation and, if necessary, obtaining information about the purpose and nature of the business relationship;

(d) continuous monitoring of the business relationship, including by examining the transactions completed during the entire relationship, so that the reporting entity to ensure that the transactions made are consistent with the information held, related to the client, the profile of the activity and the risk profile, including, where appropriate, to the origin of the funds, and that the documents, data or information held are up to date and relevant.

(4) In applying the measures referred to in para. (2) points (a) and (b), the reporting entities verify, also if a person who claims to act on behalf of the client is authorized in this regard and identifies and checks the identity of that person.

(5) When this law or subsequent acts contain references to the application of a certain category of identification measures, the reporting entity is required to apply at least the respective category, but it can decide, based on its own risk assessment, to apply a category of measures stricter than mandatory ones.

(6) The reporting entities shall consider at least the following variables in assessing the risk of money laundering and terrorist financing:

- a) the purpose of initiating a relationship or performing an occasional transaction;
- b) the level of assets to be traded by a client or the size of the transactions already made;
- c) regularity or duration of the business relationship.

(7) The reporting entities have the responsibility to demonstrate to authorities with control responsibilities or to self-regulatory bodies that the applied customer due diligence measures are appropriate from the point of view of the risks of money laundering and terrorism financing that have been identified.

(8) The reporting entities have the obligation to verify the identity of the client and of the real beneficiary owner before establishing a business relationship or before conducting an occasional transaction mentioned in art.13 para (1) lett.b).

(9) The reporting entities can apply, through entities to which activities have been outsourced, including distributors and agents, customer due diligence measures stemming from outsourced activities, only if according to the contractual arrangements between the reporting entity and the service provider, the latter may be considered an integral part of the reporting entity. In these cases, the reporting entities remain responsible for fulfilling their obligations under this law.

(10) The reporting entities may apply through third parties customer due diligence measures in accordance with the provisions of the Regulation for application of the provisions of the present law.

(11) When the reporting entity is unable to apply customer due diligence measures, it must not open the account, initiate or continue the business relationship or perform

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the occasional transaction and must fill a suspect activity report in relation to that customer whenever there are grounds for suspicion.

Art. 12 - The application of customer due diligence measures is completed accordingly with the provisions of the Regulation for the application of this Law and of the sectorial regulations issued by the competent authorities.

SECTION 1. STANDARD CUSTOMER DUE DILIGENCE MEASURES

Art. 13 - (1) Reporting entities are required to apply standard customer due diligence measures in the following cases:

- a) when establishing a business relationship;
- b) when performing occasional transactions:

1. in value of at least the equivalent in lei of 15,000 EUR

2. which constitutes a funds transfer as defined by art. 3 point 9 of EU Regulation 2015/847 of the European Parliament and of the Council in value of over 1,000 EUR.

- c) when there are suspicions of money laundering or *terrorism financing*, regardless of the incidence of the provisions derogatory from the obligation to apply standard customer due diligence measures set out in this law and of the value of the operation;
- d) if there are doubts about the truthfulness or sufficiency of the identification information already owned about the client or the beneficiary owner;

(2) The reporting entities referred to in art.5 letter j) have the obligation to apply standard customer due diligence measures when performing occasional cash transactions amounting to at least 10.000 EUR or equivalent.

(3) The reporting entities referred to in art.5 letter d) have the obligation to apply standard customer due diligence measures when collecting winnings, when placing a stake, buying or changing chips, or in all cases of performing transactions whose minimum value represents the equivalent in lei of 2.000 EUR, regardless of whether the transaction is made through a single operation or through several operations that seem to have a connection between them. Also, they have the obligation to keep records of transactions, individualized for each client and associated with their identification data so that they can demonstrate to the control authorities or to the self-regulatory bodies the fulfillment of this obligation.

(4) When the amount is not known at the time of accepting the transaction, the reporting entity bound to apply standard customer due diligence measures will immediately identify them, when it is informed about the value of the transaction and when it has been determined that the minimum limit provided in para. (1) lit. b) have been reached.

Art. 14 – The reporting entities shall apply standard customer due diligence measures, not only to all new customers, but also to the existing customers, depending on the risk, at appropriate times, including when relevant customer circumstances change.

Art. 15 - (1) The identification of clients and beneficiary owners includes at least :

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a) for natural persons - all civil status data specified in the identity documents provided by law;

b) for legal persons - registration documents / incorporation certificate; legal representative of the legal person concluding the contract.

(2) In the case of foreign legal persons, at the opening of bank accounts must be required at least those documents that will show their identity, the premises, the type of company, the place of incorporation, the special power of the person representing it in the transaction, and a translation into Romanian language of documents authenticated by a notary public office.

SECTION 2. SIMPLIFIED CDD MEASURES

Art. 16 – (1) Reporting entities may apply simplified customer due diligence measures exclusively for its clients with a low risk, taking into account at least the following characteristic factors:

a) Customer risk factors:

1. public companies quoted on a stock exchange and subject to the disclosure requirements (either by stock exchange regulations, by law or by enforceable means), which impose requirements to ensure the proper transparency of the beneficiary owner;

2. public administrations or public enterprises;

3. Customers who reside in low-risk geographical areas, as set out in point C)

b) Risk factors for products, services, transactions, or distribution channels:

1. life insurance policies whose premium is low;

2. insurance policies for pension systems, if there is no early redemption clause and the policy can not be used as collateral;

3. pension systems, annuities or similar schemes that provide employees with pension benefits, where contributions are made by deduction from salaries, and the rules of the system do not allow the rights of system beneficiaries to be transferred;

4. products or financial services that provide defined and well-defined services to certain types of customers, so as to increase access to financial inclusion;

5. products for which the money laundering and terrorist financing risks are managed by other factors such as financial limits or property transparency (for example, certain types of electronic money).

c). Geographical risk factors:

1. member states;

2. Third countries that have effective anti-money laundering and terrorist financing systems

3. Third countries identified from credible sources as having a low level of corruption or other criminal activity;

4. Third countries, based on credible sources, such as reciprocal evaluations, detailed assessment reports or published monitoring reports provide for anti-money

laundering and terrorist financing requirements in line with the revised FATF recommendations and effectively implement those requirements.

(2) Before applying simplified customer due diligence measures, the reporting entities have the obligation to ensure that the business relationship or occasional transaction has a low degree of risk, determined at least on the basis of the factors in paragraph (1).

(3) In the application of para. (1) the reporting entities apply all standard measures of due diligence that they can properly adjust to the associated risk.

(4) The reporting entities carry out, in all cases, adequate monitoring of transactions and business relationship to allow detection of unusual or suspicious transactions.

SECTION 3. ENHANCED CUSTOMER DUE DILIGENCE MEASURES

Art. 17 - (1) The reporting entities apply, in addition to standard customer due diligence measures, enhanced customer due diligence measures in all situations, in which by their nature, may present an increased risk of money laundering or terrorism financing, including in the following situations:

a) in case of persons who are not physically presented when performing the operation, with the exception of those included in an on-line low risk category;

b) in case of business relationships and of transactions, which involve people from, or in countries that do not comply or insufficiently comply with the international standards in the field of prevention and combating money laundering and terrorism financing, or which are internationally known as non-cooperating countries;

c) in case of correspondent relationships with credit institutions and financial institutions from countries which are not members of the European Union, or do not belong to the European Economic Area;

d) in case of transactions or business relationships with politically exposed persons, including the person who for a period of at least 12 months starting with the date when he leaves an important public position, as well as the case in which the beneficiary owner is a politically exposed person;

e) in case of natural or legal persons established in third countries identified by the Commission as high-risk third countries.

(2) The reporting entities have the obligation to assess, the circumstances and the purpose of all complex transactions, and with unusually high values, or of all kind of unusual transactions that do not have an obvious economic, commercial or legal purpose.

(3) The reporting entities have to assess the circumstances and purpose of such transactions as soon as possible, including the additional documents requested to the customer, in order to justify the transaction. Also, the reporting entities increase the level and nature of the monitoring business relationship, in order to establish whether those transactions or activities seem to be suspicious. The findings of the verifications carried out must be recorded in writing and will be available at the request of the competent authorities or of the self-regulatory bodies.

(4) The Office shall inform the competent supervisory and control authorities on the vulnerabilities of the systems of preventing and combating money laundering and terrorism financing in other countries.

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(5) The supervisory and control authorities, as well as the self-regulatory bodies, through specific provisions will develop requirements and mechanisms for the information of the reporting entities, on the vulnerabilities of the systems of preventing and combating money laundering and terrorism financing in other jurisdictions.

(6) Based on these provisions, the reporting entities shall examine the circumstances and the purpose of the transactions involving persons from other countries which present vulnerabilities in their systems of preventing and combating money laundering and terrorism financing and which do not apply or poorly apply the international standards in the AML/CTF field, and shall provide to the authorities with control responsibilities or to the self-regulatory bodies, at their request, their findings in writing.

(7) In case of correspondent relationship with respondent institutions from the Member States or third countries, correspondent credit and financial institutions apply, in addition to the standard measures of due diligence, the following measures:

- a) obtain sufficient information on the respondent institution to fully understand the nature of its business and to determine, based on the public information, its reputation, including whether it was the subject of surveillance or investigations measures of money laundering or terrorism financing;
- b) obtain sufficient information about the quality of the supervision to which the correspondent institution is subject;
- c) assess the mechanisms implemented by the respondent institution for preventing and combating money laundering and terrorism financing, and to ensure that the mechanisms are adequate and effective;
- d) obtain the senior management approval before establishing each new correspondent relationship;
- e) establish, based on documents, the responsibilities of each party;
- f) for the correspondent accounts directly accessible to customers, shall ensure that the correspondent institution applies on an ongoing basis the customer due diligence measures for these customers and is able to provide to the correspondent institution, on request, the information obtained through the application of those measures.

(8) In the implementation of the para. (1), the correspondent credit and financial institutions can consider as fulfilled the obligations specified in para (7), letters b), c) and f) in case of the respondent credit and financial institutions in Member States, which are obliged entities according to art. 2 para. (1) of (EU) Directive 2015/849.

(9) For transactions or business relations with political exposed persons, the reporting entities shall apply, in addition to the standard measures of customer due diligence, the following measures:

(a) shall have appropriate systems for risk management, including risk-based procedures to establish whether a customer or a beneficial owner of a customer is a politically exposed person;

(b) shall obtain the senior management approval for establishing or continuing the business relationship with such persons;

(c) shall adopt appropriate measures to establish the source of wealth and of funds involved in business relationships or in transactions with such persons;

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(d) shall carries out a continuous permanent increased monitoring of such business relationships.

(10) The measures stipulated in para (9), shall apply also to the family's members or to the persons known as closed associates of the politically exposed person.

(11) The reporting entities are obliged to apply reasonable measures to determine whether the beneficiaries of a life insurance policy or of another insurance policy related to investments and/or, where applicable, the beneficial owner of the beneficiary are politically exposed persons.

(12) The measures provided in para. (11) shall apply at the latest at the time of payment or at the time of the total or partial assignment of the insurance policy.

(13) If there were identified increased risks, the reporting entities shall apply, in addition to the standard measures of customer due diligence, the following measures:

(a) inform the senior management before the realization of the payment of the corresponding revenues to the holder of the insurance policy;

(b) performs an enhanced assessment of the entire business relationship with the holder of the insurance policy.

(14) At the risk evaluation of money laundering and terrorism financing shall be taken into consideration at least several of the following potential high risk situations:

1. Risks factors related to the clients:

(a) business relation which is performed in unusual circumstances;

(b) clients with residency in geographical area with high risk, as it is mentioned in item 3;

(c) legal persons or legal arrangements with role in administrative structures of the personal assets;

(d) companies with mandate shareholders or with barrier shares;

(e) cash based activities;

(f) the structure of the shareholders of the company is unusual or excessively complex, taking into account the nature of the its activity.

2. Risks factors on products, services, transactions or distribution channels:

(a) personalized banking services;

(b) products or transactions which can favor the anonymity;

(c) business relations or remote transactions, without protection measures, as electronic signature;

(d) payments received from unknown third parties or unassociated persons;

(e) new products and commercial practices, including new distribution mechanism and use of new technology or in developing phase both for new products as well as for the existing ones.

3. Geographical risks:

(a) Countries, which according the reliable sources, as mutual evaluations, detailed assessments reports or published monitoring reports, which do not have effective systems for combating money laundering/terrorism financing;

(b) Countries which according the reliable sources has high level of corruption or other criminal activities;

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(c) Countries under sanctions regime, embargoes or similar measures instituted by EU or UN;

(d) Countries which ensure financing or support for terrorist activities or on which territory operates designated terrorist organizations.

SECTION 4. INFORMATION ON THE BENEFICIAL OWNER

Art. 18 - (1) The legal persons and legal arrangements registered in Romania are required to obtain and hold adequate, correct and up to date information on their beneficial owner, including details on the interests owned which generate benefits.

(2) The legal persons and legal arrangements registered in Romania are required to provide to the reporting entities, in addition to information of their rightful owner, information on the beneficial owner, when the reporting entities perform customer due diligences measures.

(3) The reporting entities keep records on measures applied in order to identify the beneficial owners in accordance with the law.

(4) The information under para. (1) are registered in a Central Register at the level of the Romanian National Office of the Trade Register for legal persons, at the level of Ministry of Justice for the associations and foundations, at the level of the National Agency for Fiscal Administration for trusts, or at the level of the Central Depository for companies listed on regulated markets

(5) The information contained in the records referred to in para. (4) must be appropriate, accurate and updated. The supervisory authorities which have control prerogatives shall assess these aspects and shall inform the holder of the Registry on any inconsistencies found.

(6) The access to the registries referred to in para (4) is ensured for:

(a) the competent authorities and the Office, in timely manner, without any restriction and without alerting the concerned person;

(b) the reporting entities when they apply customer due diligence measures.

(7) In order to fulfill the obligation to identify the beneficial owner, the reporting entities will not be based solely on the Central Register referred to in para. (4), this requirement is met by the use of a risk-based approach.

Art. 19 – The organization and functioning of the registries referred to in art. 18 para. (4) shall be regulated by norms issued by the authorities who is managing them.

SECTION 5. RECORD KEEPING

Art. 20 - (1) The reporting entities, when they apply the customer due diligence, are obliged to keep the documents both in paper format and in electronic format, under the same conditions as in paper format, in a form which is admissible in court proceedings, all records obtained by applying these measures, such as ID copies, of the monitoring of the relationships and also of the assessment performed, including

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information obtained by electronic identification means, required for compliance with the customer due diligences, for a five-year period, starting with the date when the business relationship comes to an end, respectively from the performance of the occasional transaction.

If after an assessment, it is considered necessary to extend the record keeping period, in order to prevent, detect or investigate the activities of money laundering or terrorism financing, the entity may decide to extent this period, with a further period of maximum five-years.

(2) The reporting entities shall keep the supporting documents and records of the transactions, consisting in account sheets or business correspondence necessary to identify the transactions, including the results of any assessment performed in respect with the customer, for example the requests to determine the history and purpose of complex transactions, which involves an unusually large amount of money. These documents may be originals or copies which can be used as evidence in judicial proceedings and should be kept for a period of 5 years starting with the date when the business relationship comes to an end, or after the date of an occasional transaction.

If after an assessment, it is considered necessary to extend the record keeping period, in order to prevent, detect or investigate the activities of money laundering or terrorism financing, the entity may decide to extent this period, with a further period of maximum five-years.

(3) At the end of the retention period, the reporting entities are required to delete the personal data, unless otherwise provided for by national law, which shall determine under which circumstances obliged entities may or shall further retain data.

Art. 21 - (1) Personal data shall be processed by obliged entities on the basis of this law solely for the purpose of preventing money laundering and terrorism financing, and shall not be further processed in a way that is incompatible with these purposes, such as commercial purposes.

(2) The reporting entities provides to the new clients before establishing the business relation or before carrying out an occasional transaction, at least the following information, unless the person is already informed about this data:

- (a) identity of the operator and, accordingly of the representative;
- (b) the purpose of processing data;
- (c) any other supplementary information as:

1. the recipients or the category of the recipients of the data;

2. if the answers to the questions are mandatory or based on voluntary, as well as any possible consequences of the avoidance of the answer;

3. the existence of the right to access their data and for correction of the personal data, taking into account the specific circumstances in which are collected data, thus supplementary information are necessary for insurance a correct processing of data related to envisaged person.

(3) The information mentioned in para.(2) specially includes a general notification in relation the legal obligations of the reporting entities in the sense of the present law

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when process personal data in the purpose of prevention of money laundering and terrorism financing.

(4) Personal data shall be processed as referred to in para (1) and is considered on the basis of this law, as required in order to fulfill measures of public interest.

CAP. V. DESIGNATED PERSON AND INTERNAL PROCEDURES

Art. 22 - (1) The reporting entities, as well as the self-regulated bodies shall designate one or several persons with responsibilities in applying the present law, whose names shall be communicated to the Office, and to the supervisory and control authorities, exclusively in electronic form, through the channels provided by the Office, stating the nature and the limits of the assigned duties.

(2) Credit institutions and financial institutions are obliged to designate a compliance officer, at the management level, 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 have direct and timely access to the relevant data and information from the reporting entities, for the application of the present law.

(4) The provisions of para. (1) are not applicable for the natural persons which have the quality of reporting entities, as well as for the reporting entities provided by Art. 5 let. j).

(5) Given the nature of the responsibilities entrusted to persons referred to in para. (1) and (2), the Office, the supervisory and control authorities and the reporting entities are required to create mechanisms for their protection, including by granting the right to appeal on their behalf to notify the state authorities the violations of any nature of the present law in the reporting entity, in which case their identities will be protected accordingly.

(6) National mechanism mentioned in para (5) include at least:

- (a) The specific procedures for receiving reports for noncompliance and for follow up measures;
- (b) an appropriate protection of the employees of the persons who are in a similar position within the reporting entities, which reports violations committed within them;
- (c) an appropriate protection of the person in question;
- (d) protection of the personal data which reports violation, as well as of the natural person suspected for violation, in accordance with the principles established in EU Directive 95/46/CE;
- (e) clear norms which ensure the fact that is guaranteed the confidentiality in all the cases in which the person who reports the violation within the reporting entity, unless the provisions of the internal rights impose the disclosure in the context of some supplementary investigation or in some subsequent legal procedures.

Art. 23 – (1) The reporting entities shall establish, according to the nature and the volume of work performed, and given the prudential requirements, as appropriate, policies and internal rules, internal control mechanisms and procedures to manage the

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risks of money laundering and terrorism financing, including at least the following elements :

- a) measures for customer due diligence,
- b) measures for reporting, record keeping and all the documents, according to this law and providing timely data for the competent authorities
- c) measures applicable to internal control, risk assessment and management, also on compliance and communication management;
- d) measures concerning the protection of employees involved in application of these policies, against any threats or hostile or discriminatory actions.
- e) the periodic assessment of the employees.

(2) Depending on the size and nature of the business, the reporting entities are required to ensure an independent audit function, in order to test internal policies, controls, mechanisms and procedures referred to in para. (1)

(3) The reporting entities shall adopt policies, internal norms, mechanisms and procedures referred to in para. (1) at the level of management of the reporting entities, including consideration of the prudential requirements, as appropriate, and also must monitor those.

(4) The reporting entities are required to ensure the proper and regular training of the employees on the provisions of the present law, and on relevant data protection requirements and will verify the employees, according to the Regulation on application of the current law. The documents drawn up for this purpose will be made available to the control authorities and also to the self regulatory bodies, at their request.

(5) Depending on the risks exposure, the size and nature of the business, the reporting entities shall include, in the process of the training of the employees, the participation in special ongoing training programs, to help them recognize operations which may be related to money laundering or terrorism financing.

(6) In case of credit institutions and financial institutions it is mandatory the participation in continuous training programs in terms of implementation of the customer due diligence measures and compliance with the obligations stipulated by this law.

(7) The reporting entities that are part of a group are required to implement policies, procedures and trainings sessions at group level, including data protection policies and policies and procedures on the exchange of information within the group, in order to combat money laundering and terrorism financing, which they apply also to the owned branches and subsidiaries in Member States and third countries.

CHAPTER. VI. THE RISK ASSESSMENT OBLIGATION

Art. 24 – (1) The reporting entities are required to identify and assess their activities exposure to money laundering and terrorism financing, taking into account the risk factors, including those related to types of customers, countries or geographic areas, products, services, transactions or delivery channels.

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(2) The assessment drawn up for this purpose are documented, updated and made available to the supervisory and control authorities and self-regulatory bodies, at their request.

(3) The assessments drawn up underlying the management of risk policies and procedures, as well as determining the measures of customer due diligence which applies to each customer.

(4) The reporting entities operating through branches in another Member State are required to ensure that the branches comply with the law from that Member State concerning the prevention to use the financial system for money laundering or terrorism financing.

TITLE III. SUPERVISION AND CONTROL

Art. 25 - (1) The implementation of the provisions of the present law is verified and controlled, within the professional attributions, by the following authorities and structures:

a) The National Bank of Romania and the Financial Supervisory Authority verify and control for the category of entities that are subject to supervision in accordance with the provisions of Art. 26 and Art. 27

b) the National Agency for Fiscal Administration, through the Directorate General for Tax Anti-Fraud controls the reporting entities, except of those supervised by authorities provided for in letter a);

c) The National Gambling Office supervise and controls the reporting entities in accordance with the provisions of Art. 5 letter. d);

d) The Office, supervise and controls the reporting entities 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 letter a).

e) the leading structures of the independent legal professions, for the reporting entities which they represent.

(2) The competent authorities and structures provided in Art. (1) shall immediately inform the Office, by case:

a) when, in the exercise of their specific duties, they discover acts that may be related to money laundering or terrorism financing;

b) with respect to other violations of the provisions of this law, ascertained and sanctioned according to their specific duties.

(3) The Office may perform joint controls and assessments, together with the authorities provided for in para. (1), as well with the competent authorities, in compliance with the legal provisions for their organization and operation.

(4) The Office may carry out controls on legal entities and legal constructions when, from the data held by the Office, there are suspicions of money laundering or terrorism financing, regarding the transactions made by them.

(5) The reporting entities that are subject to the supervision and the control have the obligation to make available to the authorized representatives appointed by the authorities referred to in para. (1) the data and information requested by them to carry

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out their specific duties. The authorized representatives of the authorities referred to in para. (1), in the exercise of their supervisory and control duties, may take photocopies of the verified documents.

(6) The reporting entities have the obligation to carry out the measures disposed by the authorities stipulated in para. (1) within the indicated time, according to the control documents or other documents issued for this purpose.

(7) The authorities referred to in para. (1), depending on the area of competence, shall ensure the supervision of the compliance by the reporting entities supervised and controlled in Romania by other entities from a Member State, with the provisions of this law.

(8) The authorities referred to in para (1) shall cooperate with the competent authorities from another Member State in which the entity which carries out economic activities in Romania has headquarter, in order to ensure an effective supervision of the fulfillment of the requirements of this law.

(9) When it is applied a risk based approach in supervision, the competent authorities mentioned in para.(1) shall ensure that:

- a) they clearly understand the risks of money laundering and terrorism financing;
- b) they have access to all relevant information on internal and international specific risks related to the clients, products and services of the reporting entities;
- c) they establish the frequency and the intensity of the supervision taking into account the risk profile of the reporting entities and of the risks of money laundering and terrorism financing, which are reviewed periodically, as well as when there are events or major changes in the management of the reporting entities.

Art. 26 – (1) The National Bank of Romania supervises the compliance of the provisions of the present law by the following categories of entities that carry out activity and have physical presence on the territory of Romania;

- a) credit institutions, Romanian legal entities and branches of credit institutions, foreign legal entities;
- b) payment institutions, Romanian legal entities and branches of payment institutions from other Member States;
- c) institutions issuing electronic money, legal Romanian entities and branches of institutions issuing electronic money from other Member States;
- d) non-banking financial institutions registered in the Special Register;
- e) agents of payment institutions and electronic money institutions in Romania and other Member States.
- f) electronic money distributors of electronic money institutions from Romania and other Member States.

(2) In case of the authorities referred to in letters a) - c) Romanian legal persons, the National Bank of Romania supervises also the activity performed by them directly in the territory of another Member State.

(3) The entities mentioned in para (1) transmit to the National Bank of Romania any information required by it for the purpose of monitoring compliance with the provisions of this law.

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(4) The supervision is carried out both on the basis of information provided by these entities according to the request of the National Bank of Romania, as well as through inspections carried out at their headquarters and their territorial units, through the personnel empowered in this respect, or by financial auditors or appointed experts by the National Bank of Romania, whenever it deems necessary.

(5) Notwithstanding the sanctions provided by Art. 43, the National Bank of Romania is empowered to dispose to the entities referred to in para. (1) which violates the provisions of the present law, regulations or other acts issued in the application of this law, the measures set by the National Bank of Romania through the regulations issued according to its statutory competencies, in order to reduce the risks and /or to eliminate the deficiencies and their causes.

(6) The measures provided in para. (5) shall be disposed by an Order issued by the Governor, or prime-vice-Governor or the vice-governor of the National Bank of Romania.

(7) The Order of the National Bank of Romania shall include the description of the act and its circumstances, the legal basis, including the measures taken to remedy the deficiency and its cause, as well as the legal basis of the sanction or measures.

(8) The Order provided in para. (6) may be challenged within 15 days from communication, to the Board of Directors of the National Bank of Romania, which shall give its decision within 30 days from the date of the notification. The decision of the Board of Directors of the National Bank of Romania may be appealed to the High court of Cassation and Justice within 15 days from the communication. The National Bank of Romania is the only authority able to decide on the considerations of the opportunity, the qualitative and quantitative assessments and analyzes underlying the issuance of its acts.

Art. 27 – (1) The Financial Supervisory Authority has the exclusive powers of supervision and control regarding the compliance of the provisions of the present law for the entities referred to in art. 2 para. (1) lit. a) – b) of GEO no. 93/2012 approved with amendments and completions by Law no. 113/1313, with the subsequent modifications and completions, having the exclusive powers of supervision and control stipulated by the mentioned legal act.

(2) The entities referred to in para. (1) shall transmit to the Financial Supervisory Authority any information requested by it for the purpose of monitoring compliance with the provisions of this law.

(3) The supervision and control shall be carried out both on the basis of the information provided by the entities mentioned in para. (1), according to the requirements of the Financial Supervisory Authority, as well as by inspections at the headquarters and their territorial units, through the personnel empowered in this respect, or by financial auditors or experts appointed by the Financial Supervisory Authority, whenever it is necessary.

Art. 28 – (1) In application of the Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds and repealing Regulation (EC) No 1781/2006, published in the Official Journal of

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the European Union, no. L141 of 5 June 2015, are designated as authorities responsible for supervision and control of compliance with the provisions on information accompanying the transfers of funds:

a) National Bank of Romania, for the entities that it supervises as referred to in Art. 28.

b) National Office for Prevention and Control of Money Laundering, for the postal service providers which operates payment services under the applicable national legal framework.

(2) They are exempted from the application of the provisions of the Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015, the transfers referred to in art. 2 para. 5 from the Regulation, which meet the cumulative conditions listed in those provisions

(3) For the acts that are subject to the provisions of Art. 17 and Art. 18 of the Regulation (EU) 2015/847, when these have not been committed in such a way as to be criminal offenses, the National Bank of Romania may order the measures provided for in Article 26, para. (5) and/or apply a warning of a fine from 10.000 lei – 90.000 lei according to the provisions of art. 26 para. (6) and (8) and art. 43 para. (3) – (6), para. (8) – (10) and with the application of Articles 44 and 45

Art. 29 - (1) The authorization and / or registration of entities that perform foreign exchange in Romania, other than those subject to supervision of National Bank of Romania according to this law, is done by the Ministry of Finance, through Commission for authorisation of foreign exchange business, hereinafter called the Commission.

(2) Legal provisions on the tacit approval procedure does not apply in the authorization procedure and / or registration of entities provided in para. (1);

(3) Commission structure provided in par. (1) is established by a common order of the Minister of Finance, the Minister of Internal Affairs and the President of the Office, part of its structure being at least one representative of the Ministry of Finance, Ministry of Internal Affairs and the Office;

(4) The procedure for approval and / or registration, operating conditions of the entities mentioned in para. (1), and the penalties imposed for non-compliance shall be established by decision of the Government, prepared by the Ministry of Finance together with the Ministry of Internal Affairs and endorsed by the Office, within 60 days from the entry into force of this law;

(5) The activity of foreign exchange in Romania for individuals by entities other than those subject to supervision of National Bank of Romania, without authorization, is a criminal offense punishable according to the Criminal Code.

Art. 30 – (1) It is forbidden the performance of the following activities without authorization or registration of the following entities: service providers of foreign exchange between virtual currencies and fiat money, the providers of electronic wallet, the currency exchange and cashing checks offices, services providers for legal persons and legal arrangements, real estate agencies gambling service providers and postal offices.

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(2) The unique contact point is mandated by the obliged entity from other member states to ensure the compliance with all the persons from Romania which perform services on their behalf in relation to combating money laundering and terrorism financing and which facilitate the performance by the National Bank of Romania of the supervisory function, including providing, at request, the documents and information.

(3) In appliance of the provisions of para. (2), the unique contact point fulfills the functions provided in the technical standards for regulations issued by the European Banking Authority.

Art. 31 - (1) In cases under regulatory standards issued by the European Banking Authority, electronic money issuers and providers of payment services authorized in other Member States operating in Romania under the right of establishment in another form than through a branch, according to the applicable law, establish a single point of contact in Romania..

(2) The single point of contact is mandated by the obliged entity from other Member States to ensure compliance of all persons in Romania providing services on its behalf with the requirements for combating money laundering and terrorist financing and to facilitate the exercise by the National Bank of Romania of its oversight function, including the provision, on request, of documents and information.

(3) In the implementation of para. (2), the single contact point performs its functions under the regulatory technical standards developed by European Banking Authority.

TITLE IV. Information processing, information sharing and interdiction of disclosure

Art. 32 - (1) The Office may require reporting entities, public authorities or institutions or private, data and information necessary to perform duties prescribed by law. Information related to reports according to Art. 6 and 7 are submitted to the Office exclusively in electronic format and are processed and used in the Office under confidentially, in compliance with the security measures of the processing of personal data.

(2) The persons under par. (1) are required to communicate directly to the Office data and information, no later than 15 days from receipt of the request and the requests as a matter of urgency, marked as such, within the period specified by the Office, even if they have not submitted a report of suspicious activity in accordance with art. 6 para. (1).

(3) In the case of the requests for information made by the Office or other competent institutions, verifying if the reporting entities have or had, over a period preceding ten years, a business relationship with certain persons and what is the nature of that relationship, the reporting entities are required to set up systems to enable them to respond fully and rapidly through secure channels which guarantee full confidentiality of the inquiries or directly to persons empowered by the Office or other competent authority under law.

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(4) Professional and banking secrecy of the reporting entities, including those provided by special laws are not applicable to the Office or public or private authorities and institutions mentioned in Article 1. (3) of this law.

Art. 33 - (1) The Office analyzes the information and when it finds that there are grounds of money laundering or terrorist financing, informs the Prosecutor's Office by the High Court of Cassation and Justice. Whenever grounds of terrorism financing, the Office informs also the Romanian Intelligence Service too.

(2) The Office informs the Romanian Intelligence Service on suspicions of terrorist financing.

(3) The Office shall inform the competent authorities in the fiscal and customs field or the prosecution bodies, on suspicion of committing other crimes than those of money laundering or terrorism financing.

(4) The Office shall forward the information to the competent authorities and / or public institutions on issues relevant to their field of activity.

(5) If the Office finds no signs of grounds of money laundering, suspicion of financing terrorism or suspects the committing of offenses other than those of money laundering or terrorism financing, the information is kept on file for five years from registration to the Office. If the confidential information kept on file are not used and filled for five years, they are destroyed and wiped legally from databases.

(6) The identity of the natural person who informed the designated person in accordance with art. 22 para. (1), and also the identity of the designated person, in accordance with art. 22 para. (1) who notified the Office, can not be disclosed by the Office in the content of the notification.

(7) The prosecution bodies will communicate annually to the Office the stage of solving the notification sent and the amounts that are in the accounts of individuals or legal entities for which it was ordered the blocking, due to suspensions made or of disposed provisional measures.

(8) The Office provides feedback to reporting entities and to the authorities responsible for financial control and prudential supervision, through a procedure deemed appropriate, on the effectiveness of and actions taken by the Office, following the reports received from reporting entities .

(9) If the data received and / or reviewed by the Office indicate noncompliance situations of reporting entities with this Law, it informs the relevant supervisory and regulatory authorities.

(10) The documents sent by the Office cannot be used as evidence in legal proceedings, civil or administrative, except when applying the provisions of Article 43.

Art. 34 - (1) At the request of the competent national authorities referred to in art. 33 para. (1) - (3) based on on suspicions of money laundering, associated predicate offenses or terrorism financing, the Office will disseminate the information to them.

(2) The decision to forward the information specified in para. (1) belongs to the Office and where failure to submit, it motivates refusal to requesting competent authorities

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(3) The request for information includes, necessarily, at least the following elements: relevant facts, context, reasons for the request and how they will use the information.

(4) The competent authorities are required to notify the Office how they used the information submitted to it under par. (1).

(5) The Office may refuse to exchange information as provided in par. (1) where there are factual reasons to assume that the provision of such information would have a negative impact on the analysis in progress, or, in exceptional circumstances where disclosure would be clearly disproportionate to the legitimate interests of a natural or legal person or irrelevant in relation to the purposes for which it was requested.

Art. 35 - (1) The Office may exchange information, on its own initiative or upon request, based on reciprocity, through protected channels with foreign institutions having similar functions or other competent authorities from abroad that are bound to similar secrecy if such communications are made to prevent and combat money laundering and terrorist financing, including in terms of recovery of the proceeds of crimes.

(2) The exchange of information under paragraph. (1) is done spontaneously or on request, regardless of the type of associated predicate offenses and even if their type was not identified at the time of the exchange.

(3) The information held by the Office from a financial intelligence unit mentioned in para. (1) can be transmitted only to the authorities mentioned in art. 33 para. (1) and (3) and only with prior authorization from the Financial Intelligence Unit which provided the information.

(4) When the Office receives a report of suspicious activity that refers to another Member State, it is forwarded promptly to the financial intelligence unit of the Member State concerned.

(5) To respond to inquiries in a timely manner, the Office exercises all the powers established by law on the reception and analysis of information.

(6) When the Office receives a request from a financial intelligence unit of another Member State, having the purpose as obtaining information from an obliged entity established in Romania and operates within the territory of the requesting State, the request and the answer are transferred promptly.

(7) If the Office is seeking additional information from an entity operating in Romania and it is established in another Member State, makes a request to that effect to the financial intelligence unit of the Member State concerned .

(8) The Office may refuse to provide the consent for dissemination of information submitted in accordance with para. (1) whether it will be outside the scope of this law or may impede a criminal investigation, could prejudice the legitimate interests of a natural or legal person or would contravene national legal system or the sovereignty, security, national interests or international agreements.

Art. 36 - (1) The implementation of provisions of Articles. 6 and 7 by the reporting entities, executives or their employees are not in breach of a restriction of disclosure imposed by contract or by a provision laid down by law or administrative act and does

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not attract any liability for the obliged entity, or its employees, even in circumstances where they did not know precisely the type of criminal activity and whether such activity took place or not.

(2) The provisions of para. (1) shall apply accordingly and employees governing bodies of professions referred to in art. 5 letter e) and f).

(3) The reporting entities are required to protect employees and their representatives who report, either internally, or to the Office, suspicions of money laundering or terrorist financing, against the exposure to threats, hostile actions or discriminatory site work

Art. 37 - (1) It is forbidden the use for personal purposes by employees of reporting entities confidential information received, both during work and after its termination;

(2) The reporting entities, executives and employees shall not transmit outside the conditions provided by law, the information held in relation to money laundering and terrorist financing and shall not disclose to the customer concerned nor to other third persons that information is being submitted, have been or will be submitted in accordance with art. 6, or is being or could be an analysis of money laundering or terrorism financing.

(3) Committing the following acts in the line of duty does not infringe the prohibition in para. (2):

a) the submission of information between credit institutions and financial institutions in Member States, provided that they belong to the same group or between those institutions and their branches and subsidiaries owned in majority, established in third countries, provided that such branches and subsidiaries comply fully to policies and procedures at group level, including procedures for information exchange within the group and these policies and procedures at group level comply with the requirements of this law;

b) the submission of information between persons under art. 5 letter e) and f) of the Member States of the European Union or between them and similar entities from third countries which impose requirements equivalent to those laid down in this law and their professional activity within the same legal entity or the same structure in which the ownership, management or control line is common;

c) the submission of information between persons under art. 5 letter a), b), e) and f), located in Member States of the European Union or third countries which impose requirements equivalent to those of this law in cases related to the same customer and the same transaction carried out by two or more persons mentioned above, provided that they come from the same professional category and should be applied equivalent requirements on professional secrecy and protection of personal data.

d) submission in a group of the information reported to the Office on suspicion that the goods / funds derived from criminal activity or related to the terrorism financing, unless the Office forbid it.

(4) It is not considered a breach of the obligations under paragraph. (2) the act of persons referred to in art. 5 letter e) and f) in accordance with the statutory provisions, seek to dissuade a client to carry out illicit activities.

CHAPTER. VII - THE FIU OF ROMANIA

Art. 38 - (1) The National Office for Prevention and Control of Money Laundering is the Financial Intelligence Unit of Romania, based in Bucharest, operates as unique, independent and autonomous structure, subordinated to the Government and its activity object is preventing, detecting and combating money laundering and terrorism financing.

(2) In order to accomplish the object of the activity, the Office has the following main attributions:

- a). Receives reports and other information from the reporting entities and the authorities / public institutions;
- b). Collects information received through the creation of databases, in compliance with the legislation on the processing of personal data;
- c). Calls on reporting entities, public authorities or institutions or private for data and information necessary to perform the duties established by law, including classified information;
- d). Evaluates, processes and analyzes information received. Analysis function shall cover at least operational analysis and strategic analysis of data and information collected;
- e). Informs other public authorities about developments, threats, vulnerabilities, risks of money laundering, predicate offenses and / or terrorist financing, and related to specific cases of reasonable suspicion of committing such crimes, according to Art . 6;
- f). Issues instructions and recommendations for reporting entities in order to ensure effective implementation of their obligations under this law, including in terms of indications that an activity is suspect and / or when to suspend the performance of a transaction on the basis of identification data of the person or indicators or specific typologies;
- g). Adopts by order of the President, at least the following regulations / guidelines on preventing and combating money laundering, predicate offenses and terrorism financing: regulations on transmitting information to the Office, providing feedback regulation on reporting entities in connection with the information submitted to the Office, guidance on suspicion indicators and typologies, the regulation on registration of the reporting entity in the records of the Office, guidance on the criteria and rules for recognizing situations of high or low risk of money laundering and / or terrorist financing;
- h). Supervises and controls reporting entities on how they implement their obligations under this law and secondary legislation in the field;
- i). Supervises and controls reporting entities on the implementation of international sanctions under the legislation;
- j). Cooperates with self-regulatory bodies on how to implement their obligations under this law and secondary legislation in the field;
- k). Establishes contraventions and apply sanctions, through its own agents, by the minutes of finding and sanctioning contraventions, in accordance with the relevant legal provisions;

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- l). Suspends the execution of suspicious transactions and revoke the measure of suspension under this law;
- m). Provides regularly feedback to reporting entities about the information submitted to the Office;
- n). Organizes training in preventing and combating money laundering, predicate offenses and financing of terrorism;
- o). Publishes annual activity reports;
- p). Concludes cooperation agreements with national competent authorities, as well as foreign institutions having similar functions and similar obligation to secrecy;
- q). Exchanges information nationally with competent authorities under this law;
- r). Exchanges information on its own initiative or upon request, based on reciprocity, with institutions having similar functions or other competent authorities from abroad and who are bound to secrecy similar under this law;
- s). Receives notifications, receives and processes applications for authorization to carry out financial transactions if there are certain restrictions on transfers of funds and financial services aimed at preventing nuclear proliferation.

(3) In order to achieve the object or activity, the Office has access, directly, on timely basis, to the financial, administrative and law enforcement information, for performing its duties in a proper way.

(4) The Office may participate in the activities of international specialized organizations and can be a member thereof.

Art. 39 - (1) In the exercise of his attributions, the Office has established its own structure at central level, whose chart is determined by the Rules of Organization and Functioning of the Office approved by Government Decision and has adequate financial, human and technical resources.

(2) The Office is headed by a president appointed by the Government from among the members of the Board, who is a principal credit orderer. The President of the Office is an official with the rank of secretary of state.

(3) The Board of the Office is the deliberative and decision structure, is being made of one representative of the Ministry of Public Finance, Ministry of Justice, Ministry of Internal Affairs, General Prosecutor's Office by the High Court of Cassation and Justice, National Bank of Romania, the Court of accounts and Financial Supervisory Authority, appointed for a period of five years, at the proposal of the authority represented by Government decision.

(4) The deliberative and decision activity referred to in paragraph. (3) the Board of the Office refers to the elements for strategy on money laundering and terrorist financing and expert guidance on how to apply them.

(5) The President of the Office provides the necessary conditions for safekeeping and to ensure the security of the information received, analyzed and disseminated under this law

(6) In the exercise of its duties, the Board of the Office shall take decisions by a majority vote of its members.

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(7) The Regulations for the organization and functioning of the Office's Board are approved by Government Decision.

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

- a) be licensed and have at least 10 years of seniority in an economic or legal position;
- b) to have a domicile in Romania;
- c) have only Romanian citizenship;
- d) have the exercise of civil and political rights;
- e) enjoy high professional and moral competence.

(9) It is forbidden for members of the Office's Board to be part of political parties or to carry out public activities of a political nature.

(10) The position of a member of the Office's Board is incompatible with any other public or private positions, except for teaching functions in higher education.

(11) Members of the Office's Board shall immediately notify the President of the Office in writing of any incompatibility.

(12) In case of vacancy of a position within the Board of the Office, the head of the competent authority shall propose to the Government a new person, within 30 days from the date of vacancy.

(13) The mandate of a member of the Office's Board shall cease in the following circumstances:

- a) upon expiration of the term for which he was appointed;
- b) resignation;
- c) by death;
- d) impossibility to exercise the mandate for more than 6 months;
- e) in the event of incompatibility;
- f) by revocation by the authority that appointed him.

(14) In order to accomplish the task stipulated by the Law, it will be established within the Office, the Legal and Judiciary Advisory Council formed by experts designated as follows:

- a) 3 experts from the General Prosecutor's Office by the High Court of Cassation and Justice, respectively 1 representative of the National Anticorruption Directorate, 1 representative from Directorate for Investigating Organized Crime and Terrorism and 1 representative from the Criminal Investigation and Forensics Section;
- b) 2 representatives from the Ministry of Internal Affairs, respectively 1 representative of the Directorate for Combating Organized Crimes and one representative of the Directorate for Investigation of Economic Crimes;
- c) one representative of the Romanian Intelligence Service.

(15) The Legal and Judiciary Advisory Council provide legal and judicial expertise for issuance of an independent advice on acts descriptions which can be framed as money laundering or terrorism financing.

(16) The members of the Legal and Judiciary Advisory Council will be detached to the Office, at the request of the President of the Office, being appointed by the authorities nominated in para (7) for a period of 3 years, with the possibility to renew the period with another 3 years.

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(17) The members of the Legal and Judiciary Advisory Council shall cumulative fulfill, at the moment of the detachment, the following conditions:

- a) be licensed and have at least 10 years of seniority in a legal position;
- b) to have a domicile in Romania;
- c) to have only Romanian citizenship;
- d) to have the exercise of civil and political rights;
- e) enjoy high professional and moral competence.

(18) It is forbidden to the members of the Legal and Judiciary Advisory Council to be part of political parties or to carry out public activities of a political nature.

(19) The position of a member of the Legal and Judiciary Advisory Council is incompatible with any other public or private positions, except for teaching functions in higher education.

(20) During the occupation of the office, the members of the Legal and Judiciary Advisory Council shall be deferred, respectively their work report shall be suspended, and upon their termination of office they shall return to the previously held position.

(21) In case of vacancy of a position within the Legal and Judiciary Advisory Council, the head of the competent authority mentioned in para (7) shall propose to the President of the Office a new person, in 15 days from the vacancy of the position.

(22) The mandate of a member of the Legal and Judiciary Advisory Council shall cease in the following circumstances:

- a) upon expiration of the term for which he was appointed;
- b) resignation;
- c) by death;
- d) impossibility to exercise the mandate for more than 60 consecutive days;
- e) in the event of incompatibility mentioned in art. 14, 15 and 16;
- f) by end of the detachment for breach of this law, for criminal conviction, by a final and irrevocable court decision, for the commission of an offense law.

(23) In appliance of the present law, the Legal and Judiciary Advisory Council review in plenary meetings the cases of the specialized directorate which analyze the information received by the Office and provide an motivated advisory for appliance of art. 33, which shall be presented to the President of the Office.

(24) The Legal and Judiciary Advisory Council performs its activity, review and deliberate on the advisory, in plenary, with the majority of the votes of its members, the rights to vote belongs to the representatives of the General Prosecutor's Office by the High Court of Cassation and Justice.

(25) The advice of the Legal and Judiciary Advisory Council shall be done written and presented to the President of the Office. This can be as follows: favorable, favorable with mentions or proposals, as well as negative. The favorable with mentions or proposals, or negative advice shall be motivated by supporting documents or information.

(26) The advice of the Legal and Judiciary Advisory Council is a specialized advice and has an advisory character.

(27) The advice of the Legal and Judiciary Advisory Council adopted in plenary meetings, in accordance with the provisions of 23 shall be signed by all the members and it will be integrant part of reviewed case.

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(28) The attributions of the Legal and Judiciary Advisory Council are laid down in the Regulations for Organization and Functioning of the Office, approved by Governmental Decision.

Art. 40 - (1) The staff of the Office shall be hired on the basis of a competition or examination, organized according to the legal regulations in force. The specific conditions necessary to occupy position within the Office are laid down in the Regulations for Organization and Functioning.

(2) The staff of the Office, including the detached personnel, may not occupy any post or perform any function within any of the reporting entities at the same time as the Office's employment, with the exception of the teaching and training functions in the field.

(3) The staff employed by the Office, including the detached personnel, shall not transmit the confidential information received during the activity except under the law. The obligation shall be maintained after termination of office, indefinitely.

(4) It is forbidden for the employees of the Office, including the detached personnel, to use for personal purposes the confidential information received and processed within the Office, both during the activity and after its termination.

(5) In order to verify the fulfillment of the professional competence and performance criteria, the staff employed by the Office, including the detached personnel, is subject to an evaluation each year according to the law.

(6). The Office's staff, including detached personnel, shall be liable to disciplinary action in respect of deviations from service duties.

(8) The employed personnel of the Office must be graduates of higher education institution, with economic or juridical specialization, or graduates with secondary education, as the case, with the seniority stipulated by law. For IT activity can be employed, as financial analysts, graduates of an IT institution of higher education and for the international relations activity can be employed, as financial analysts, graduates of higher education institutions, with specialization in foreign language or communication and public relations.

(9) 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.

Art. 41 The provisions of this article may be complemented by Regulation for Organization and Functioning of the Office.

Cap. VIII Responsibilities and Sanctions

Art. 42 – (1) The violation of the provisions of the present law brings about, as appropriate, civil, disciplinary, contravention, administrative or penal responsibility.

(2) By derogation from the provisions of art. 13 from Government Ordinance 2/2001, the application of the sanction of administrative fine shall be prescribed within 5 years from the date of committing the act.

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(3) The competence of verification and control, exercised by the authorized representatives of the competent authorities, imply the exercise of state authority.

Art. 43 - (1) The following acts constitute contraventions, if not committed under such circumstances as to constitute offenses:

a) failure to comply with the obligations referred to in the art. 6, art. 8 para. (1), (3), (4) and (14), art.9 para. (1) and (4), art. 10, art. 11, art 13-17, art. 18 para. (3), (7), art.20 para. (1), (2), art. 22 para. (1), (2) and (5), art. 23, art. 25 para. (5),

b) failure to comply with the obligations referred to in the art. 24,

c) failure to comply with the obligations referred to in the art. 7, art. 8 para. (12), art.25 para. (6) and art. 32 para. (2) and para. (3).

d) Failure to comply to the reporting obligation mentioned in art. 6, when an executive of an employee of the reporting entity reveal at internal level the existence of some grounds or uncertainties about an act or about a transaction related to money laundering or terrorism financing;

e) Obstruction of the control activity;

f) Failure to comply with the obligation mentioned in art. 36 para.(3);

g) Initiation of continuing the business relation or carrying out a forbidden transaction.

(2) For the natural persons, the contraventions provided in para (1) lett. a), d) and f) shall be sanctioned by warning or fine ranging from 25.000 lei to 150.000 lei, the contraventions provided in para (1) lett. b) shall be sanctioned by warning or fine ranging from 20.000 lei to 120.000 lei, and the contraventions provided in para (1) lett. c) shall be sanctioned by warning or fine ranging from 10.000 lei to 90.000 lei. -

3) For legal persons, the contraventions provided in para (1) shall be sanctioned by warning or the fine set out in para. (2), whose upper limit is increased to 10% of total revenue reported in the last 12 months. The sanctions and measures can be applied also to the members of the management body and to other persons who are responsible for failure to comply with the provisions of the present law.

(4) The provisions of the art.8 para. (2) lit.a) from Government Ordinance no. 2/2001 are not applicable to the sanctions set out in para.(2), (3) and (5).

(5) When violations of the obligations referred to in paragraph (1) is committed by a credit or financial institution constitute offence if it is committed seriously or repeatedly or systematically or a combination thereof, and it was not committed under such circumstances to constitute offenses. The upper limits of the fines set out in the para. (2) and (3), which are applicable to credit or financial institution, increase as follows:

a) with 4.000.000 lei, for legal persons,

b) with 500.000 lei, for natural persons.

Art. 44 - (1) For violations of the provisions of the present law, besides the sanction of contravention fine, the supervisory and control authorities and self-regulatory bodies, according to competences provided in its own legislation for organization and functioning, may apply to the offender one or more of the following additional sanctions:

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

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- 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 to 6 month or definitively ;
- c) withdrawal of the license or the authorization for some operations or for international commerce activities, for a period of one month 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;
- g) a public statement which identifies the natural or legal person and the nature of the breach;
- h) an order requiring the natural or legal person to cease the conduct and to refrain from repeating it;
- i) a temporary prohibition to exercise management functions within obliged entities, against any person with managerial responsibilities within an obliged entity or against any other person declared responsible for violation

(2) The Office may require, motivated, to the supervisory authorities, self-regulatory bodies, and to institutions having authorizing competences in special regulated areas, to apply additional sanctions.

(3) For the acts set out in para. (1) - (4), the supervisory authorities may apply, supplementary, specific sanctioning measures, according to their competences.

(4) 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 modifications and completions by the Law No. 180/2002, with the subsequent changes, except the Articles. 13, 28 and 29.

(5) By derogation from the provisions of art. 15 – 42 from Ordinance no. 2/2001 regarding the legal regime of contraventions, with subsequent changes and completions, in case of the entities set out in the art.26 para. 1 from the present law, the ascertainment of the contraventions by the National Bank of Romania, the appliance of the sanctions and of the additional contravention sanctions described in the present chapter, as well as their challenge take place within the conditions set out in art.26 from the present law. The provisions referring to the minutes from the art.10 para.(1) and (3) and art.14 from the Ordinance no.2/2001 regarding the legal regime of contraventions, with subsequent changes and completions, are applicable to the orders issued in accordance with art.26 from the present law.

(6) The collected fines shall become income to the state budget and the execution is subject to the conditions laid down in legal provisions related to enforced execution of tax receivables.

(7) The contraventions provided in art. 43 have continuous character, are ascertained and sanctioned by the authorized representatives of the authorities set out in art. 25 para. (1) or by the authorities set out in art. 25 para.(1) according to regulations.

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Art. 45 – When determining the type and level of applied contravention sanctions or measures, the authorities competent according to art. 25 take into account relevant circumstances, such as:

- a) frequency and duration of the breach;
- b) the degree of responsibility of the natural or legal person declared responsible;
- c) financial capacity of the natural or legal person held liable, indicated, by example, by the annual income of the natural or legal person declared responsible
- d) the extent to which the natural or legal person held liable cooperates with the competent authority ;
- e) previous violations committed by natural or legal person held liable;
- f) the compliance degree to the recommendations of the designated representatives of the authorities mentioned in art. 25 para (1).

Art. 46 – (1) The competent authorities referred to in art. 24 are required to publish, on their official website, information on the number and type of measures or administrative sanctions imposed for violation of this law, which became final.

(2) The information provided in par. (1) include the type and nature of the breach, as well as the identity of the responsible persons and are kept on the site for a period of five years.

(3) The competent authority may consider publishing the identity of the persons responsible as disproportionate, following an case by case assessment on the proportionality of the publication of such data or where publication jeopardizes the stability of financial markets or an investigation in progress, in which case the competent authority:

(a) delay the publication of the decision to impose an administrative sanction or measure until the moment at which the reasons for not publishing cease to exist;

(b) publish the decision to impose an administrative sanction or measure on an anonymous basis, if such anonymous publication ensures an effective protection of the personal data concerned; in the case of a decision to publish an administrative sanction or measure on an anonymous basis, the publication of the relevant data may be postponed for a reasonable period of time if it is foreseen that within that period the reasons for anonymous publication shall cease to exist;

(c) not publish the decision to impose an administrative sanction or measure at all, in the event that the options set out in points (a) and (b) are considered insufficient to ensure:

1. that the stability of financial markets would not be put in jeopardy; or

2. the proportionality of the publication of the decision with regard to measures which are deemed to be of a minor nature .

Art. 46 - (1) The non-compliance with the obligations provided for in the Art. 37 para. (1) and (2) and art. 40 para. (3) and (4) represents an contravention if the deed does not represent a more serious offence.

(2) For the natural persons, the contraventions stipulated in para. (1) shall be sanctioned with fine from 5.000 RON to 10.000 RON, and for legal persons shall be

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sanctioned with fine from 15.000 RON to 20.000 RON to which the upper threshold shall be increased with 10% from the declared incomes in the past 12 months.

Art. 48 – (1) The authorities mentioned in art. 25 para (1) letter a) shall inform, accordingly the European Supervisory Authority, respectively the European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority, in accordance with the provisions of EU Regulation no. 1.093/2010, EU Regulation no. 1.094/2010 and, respectively, EU Regulation no. 1.095/2010, in the following cases:

a) when appreciate that a third party fulfill the provisions mentioned in art. 25 para. (4) lett. b) and d) for the persons under their supervision;

b) when appreciate that the legislation of a third country does not allow the appliance of the customer due diligence measures;

c) when appreciate that a third country impose the appliance of the procedures for customer due diligence and for keeping the records related to this, equivalent with the ones mentioned in the present law, and their appliance is supervised in an equivalent manner to the ones regulated by this law;

d) in the situations related to the third countries, which are subject to the notification of the Commission by the Office, in accordance with the regulations issued in accordance with the provisions of the present law.

2) The authorities mentioned in art. 25 para. (1) lett. a) shall submit, accordingly, to the European Supervisory Authorities, respectively the European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority, information in the field of prevention and combating money laundering and terrorism financing, in accordance with the provisions of EU Regulation no. 1.093/2010, EU Regulation no. 1.094/2010 and, respectively, EU Regulation no. 1.095/2010.

3) The authorities mentioned in art. 25 para. (1) lett. a) shall cooperate, accordingly, with the European supervisory authorities, respectively with the European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority, in accordance with the provisions of EU Regulation no. 1.093/2010, EU Regulation no. 1.094/2010 and, respectively, EU Regulation no. 1.095/2010 and shall submit to those authorities the necessary information for fulfilling the obligations stipulated in the Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC.

4) In order to submit the information mentioned in para (1), the Office shall provide to the authorities mentioned in art. 25 para. (1) lett. a) the information which will be subject to the European supervisory authorities, respectively with the European Banking Authority, European Insurance and Occupational Pensions Authority and European Securities and Markets Authority, in accordance with the provisions of the law.

Art. 49

(1) The following deeds represent the 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 that property or for the purpose of assisting the person who committed the offence generating the property to evade the prosecution, trial and punishment execution;

b) the concealment or disguise of the true nature of the origin, location, disposition, movement or ownership on property, or rights with respect to such 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 a 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 136, para (3) let. (a) –(c) of the Criminal Code.

(4) Knowledge on the origin of property or the intended purpose may be inferred/deducted from objective factual circumstances.

(5) The provisions of para (1)-(4) are applied without any difference if the criminal activity generating the property was committed on Romanian territory or abroad.

Art. 50 - The provisional measures shall be mandatory where a money laundering or terrorism financing offence has been committed.

Art. 51- (1) In the case of the money laundering and terrorism financing offences, the provisions referring to confiscation of property from the Criminal Code shall be applied.

(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.

Art. 52 - The final court decision concerning the offence of money laundering or terrorism financing shall be communicated to the Office.

CAP. V FINAL PROVISIONS

Art. 51 – (1) Within 60 days after the date of coming into force of the present law, the Office shall present to the Government, for approval, the Regulation for application of the provisions of the Law and the Regulation for organization and functioning of the Office.

(2) By the moment of adopting the Regulation of organization and functioning referred to in par. (1), the Office shall operate according to the Regulation of organization and functioning of the National Office for Prevention and Control of Money Laundering existent on the date of entry into force of this law, insofar as it does not contravene to it.

Art. 52 – (1) Within 90 days from the date of entry into force of this law, supervisory authorities and self-regulatory bodies are required to issue sectorial regulations to implement the provisions of this Law and of Regulation for application of the provisions of the Law.

(2) In application of the present law, the National Bank of Romania issues sectorial regulation setting out requirements on:

- know your customers measures;
- internal control framework, including policies, procedures and systems of the obliged entities;
- training and professional verification of employees;
- measures to reduce risk and to address deficiencies

Art. 53 – (1) The order of the President referred to in art.8 para.(11) shall be published in the Official Gazette of Romania Part I, within 90 days from the entry into force of the present law.

(2) By the entering into force of the order referred to in para.(1), the reporting entities shall submit the reports set out in art. 6 and art. 7, according to the Decision of the Board of the Office no. 2472/2013 on the form and the content of the suspicious transaction reports, of the cash transactions reports and of the external transfers reports and to the Decision of the Board of the Office no. 673/2008 for approval of the working methodology regarding the submitting of the cash transactions reports and of the external transfers reports.

(3) The reporting entities comply with their obligations under this law within 60 from the date of entry into force.

Art. 54 (1) The persons who, at the entry into force of this law, serves as counselor to the President, are considered reinstated as specialized counselor, without fulfilling the economic or legal seniority condition and maintaining tasks from job descriptions occupied by contest.

(2) Positions referred to in para. (1) are unique positions directly subordinate to the President, having the same salary level as intended for the general manager.

Annex 1 - DRAFT of Law for transposing the provisions of 4th AMLD and for remedy some MER deficiencies

Art. 55 - Law no. 656/2002 on preventing and sanctioning money laundering, published in the Official Gazette of Romania, Part I, no. 904 of December 12, 2002, republished, as amended, in the Official Gazette of Romania, Part I, no. 702 of October 12, 2012, is repealed.

Art. 56 – This law transposes the Directive (EU) 2015/849 of the European Parliament and of the Council on prevention of the use of the financial system for money laundering or terrorist financing, amending Regulation (EU) No. 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60 / EC of the European Parliament and of the Council and Directive 2006/70 / EC, published in the Official Journal of the European Union on June 5, 2015.