

Amendments to the Banking Ordinance

14 January 2014

In brief

GEO no. 113/2013 on budgetary measures, amending and supplementing GEO no. 99/2006 on credit institutions and capital adequacy, was published in the Official Gazette no. 830 dated 23 December 2013. This GEO brings a considerable number of changes to GEO no. 99/2006 on credit institutions and capital adequacy (“**Banking Ordinance**”). These changes are mainly aimed at strengthening the supervision capacity of the National Bank of Romania (“**NBR**”).

In detail

- Credit institutions are required to draft recovery plans to restore their financial situation following a significant deterioration thereof;
- The activity of issuing electronic money is included in the category of activities that can be provided in Romania under the “European passport” – by credit institutions from Member States, as well as by Romanian credit institutions Romania, outside the country;
- In cases of emergency, the National Bank of Romania (“**NBR**”) is entitled to take the necessary preventive measures with regard to credit institutions from other Member States that perform activities in Romania, with a view to ensuring protection against financial instability;
- The obligation of credit institution managers to exercise exclusively the function for which they were appointed has been removed. **Directors and managers have the right to carry out more mandates simultaneously**, according to specific individual circumstances and with the approval of the NBR;
- In the event that violations of the law are found, financial auditors are required to pass the information not only to the NBR, but also to the directors and managers of the credit institution concerned;
- The NBR has new responsibilities, such as:
 - Conducting crisis tests regarding supervised credit institutions, at least annually;
 - Verification of compliance by credit institutions with the internal approaches requirements, at least every three years;
 - Establishing a schedule of prudential supervision of credit institutions, at least annually;
- The text provides the conditions under which the NBR can provide information regarding the prudential supervision of credit institutions to the investigation committees of Parliament, the Court of Auditors and other Romanian entities with powers of investigation;
- The text provides the specific circumstances depending on which the individualisation of sanctions and sanctioning measures taken by the NBR against credit institutions are to be made;
- A public warning sanction is introduced which indicates the person responsible and the act which was committed;
- **The limits of certain sanctions have been increased considerably**: the fine imposed on legal persons, of up to 10% of the total net turnover of the previous financial year; the fine imposed on individuals of up to EUR 5 million. The possibility of applying fines that amount

to up to twice the value of the benefit obtained by committing the act, if such facts can be determined, has also been introduced;

- The NBR is to establish mechanisms to protect financial institution employees who report violations by credit institutions and guarantee their privacy and confidentiality.

The provisions amending the Banking Ordinance entered into force as of 1 January 2014, except for certain provisions regarding liquidity requirements.

The takeaway

- Directors and managers have the right to carry out more mandates simultaneously, according to specific individual circumstances and with the approval of the NBR.
- The limits of certain sanctions have been increased considerably: up to 10% of the total net turnover (for legal persons) and up to EUR 5 million (for individuals).

Let's talk

For a deeper discussion of how this new legislation might affect your business, please contact:



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