

## The Parliament of Romania

### **Law No. 656\*) republished of December 7<sup>th</sup>, 2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing**

Includes the amendments provided by  
[Lawno. 187/24.10.2012](#), as it was modified by the rectification published in the Official Gazette of Romania no. 117/01.03.2013  
[Lawno. 255/19.07.2013](#), published in the Official Gazette of Romania  
no.515/14.08.2013

The Parliament of Romania adopts the present law.

\*\*\*\*) Republished under Art. IV from the Governmental Emergency Ordinance no. 53/2008 amending and supplementing the Law no. 656/2002 on preventing and sanctioning money laundering, as well as the setting up of some measures for prevention and combating terrorism financing, published in the Official Gazette of Romania, Part I, no. 333 of 30 April 2008, approved with amendments by Law no. 238/2011, published in the Official Gazette, Part I, no. 861 of 7 December 2011, giving a new numbering.

Law no. 656/2002 was published in the Official Gazette of Romania, Part I, no. 904 of 12 December 2002 and subsequently been amended by:

- Law no. 39/2003 on preventing and combating organized crime, published in the Official Gazette of Romania, Part I, no. 50 of 29 January 2003;
- State Budget Law for 2004 no. 507/2003, published in Official Gazette of Romania, Part I, no. 853 of December 2, 2003, as amended and supplemented;
- State Social Insurance Budget Law for 2004 no. 519/2003, published in Official Gazette of Romania, Part I, no. 864 of 4 December 2003, as amended and supplemented;
- State Budget Law for 2005 no. 511/2004, published in Official Gazette of Romania, Part I, no. 1121 of 29 November 2004, as amended and supplemented;
- State Social Insurance Budget Law of 2005 no. 512/2004, published in Official Gazette of Romania, Part I, no. 1128 of 30 November 2004, as amended and supplemented;
- Law no. 230/2005 amending and supplementing Law no. 656/2002 on preventing and sanctioning money laundering, published in the Official Gazette of Romania, Part I, no. 618 of 15 July 2005;

- Governmental Emergency Ordinance no. 135/2005 amending the Law no. 656/2002 on preventing and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, published in the Official Gazette of Romania, Part I, no. 897 of 7 October 2005 (approved with amendments by Law no. 36/2006, published in Official Gazette of Romania, Part I, no. 200 of 3 March 2006);
- State Budget Law for 2006 no. 379/2005, published in Official Gazette of Romania, Part I, no. 1151 of 19 December 2005, as amended and supplemented;
- State Social Insurance Budget Law for 2006 no. 380/2005, published in Official Gazette of Romania, Part I, no. 1150 of 19 December 2005, as amended and supplemented;
- Law no. 405/2006 amending the Law no. 656/2002 on preventing and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, published in the Official Gazette of Romania, Part I, no. 947 of 23 November 2006;
- Law no. 306/2007 amending the Annex to the Law no. 656/2002 on preventing and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, published in the Official Gazette of Romania, Part I, no. 784 of 19 November 2007;
- Framework Law no. 330/2009 on the unitary remuneration of personnel paid from public funds, published in the Official Gazette of Romania, Part I, no. 762 of 9 November 2009 and corrected in the Official Gazette of Romania, Part I, no. 268 of 26 April 2010;
- Governmental Emergency Ordinance no. 26/2010 amending and supplementing Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy and other legal acts published in the Official Gazette of Romania, Part I, no. 208 of 1 April 2010 (approved with amendments and completions by Law no. 231/2010, published in Official Gazette of Romania, Part I, no. 826 of 10 December 2010).

## Chapter I

### General Provisions

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

**Art. 2** - For purposes of the present law:

- a) **money laundering** means the offence provided for in the Art. 29;
- b) **terrorism financing** means the offence referred to in the Art. 36 of the Law no. 535/2004 on the prevention and combating terrorism;
- c) **property** means the corporal or non-corporal, movable or immovable assets, as well as the juridical acts or documents that certify a title or a right regarding them;
- d) **suspicious transaction** means the operation which apparently has no economical or legal purpose or the one that, by its nature and/or its unusual character in relation with the activities of the client of one of the persons referred to in Article 10, raises suspicions of money laundering or terrorism financing;

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

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

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

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

2. Financial investments service companies, investment consultancy, investment management companies, investment companies, market operators, system operators as they are defined under the provisions of Law no. 297/2004 on capital market, with subsequent modifications and completions, and of the regulations issued for its application;

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

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

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

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

1. Forming companies or other legal persons;

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

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

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

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

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

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

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

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

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

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

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

e) Managers of the public institutions and authorities;

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

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

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

a) The spouse;

b) The children and their spouses;

c) The parents

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

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

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

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

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

(2) The beneficial owner shall at least include:

a) in the case of corporate entities:

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

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

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

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

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

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

## **Chapter II**

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

**Art. 5 –** (1) As soon as an employee of a legal or natural person of those stipulated in article 10, or one of the natural person referred to in art. 10 has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing, he shall inform the person appointed according to art. 20 para (1), which shall notify immediately the National Office for Preventing and Combating Money Laundering, hereinafter referred to as the *Office*. The appointed person shall analyze the received information and shall notify the Office about the reasonably motivated suspicions. The Office shall confirm the receipt of the notification. For the natural and legal persons referred to in art. 10 letter. k) notification is sent by the person

who has suspicions that the transaction, which is on the way to be performed, has the purpose of money laundering or terrorism financing.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) Following the receipt of notifications, the prosecutor in charge with or overseeing the penal investigation and the Romanian Intelligence Service, may require the Office to complete such notifications.

(6) The Office is obliged to put at the disposal of the prosecutor in charge with or overseeing the penal investigation and the Romanian Intelligence Service, at their request, the data and information that have been obtained according to the provisions of the present law.

(7) The prosecution bodies shall periodically communicate to the Office, the progress in the settlement of the notifications submitted, as well as the amounts on the accounts of the natural or legal persons for which freezing is ordered following the suspension carried out or the provisional measures imposed.

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

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

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



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

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

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

- a) credit institution and branches in Romania of the foreign credit institutions;
- b) financial institutions, as well as branches in Romania of the foreign financial institutions;
- c) private pension funds administrators, in their own behalf and for the private pension funds they manage, marketing agents authorized for the system of private pensions;
- d) casinos;
- e) auditors, natural and legal persons providing tax and accounting consultancy;
- f) public notaries, lawyers and other persons exercising independent legal profession, when they assist in planning or executing transactions for their customers concerning the purchase or sale of immovable assets, shares or interests or good will elements, managing of financial instruments or other assets of customers, opening or management of bank, savings, accounts or of financial instruments, organization of contributions necessary for the creation, operation, or management of a company, creation, operation, or management of companies, undertakings for collective investments in transferable securities, other trust activities or when they act on behalf of and their clients in any financial or real estate transactions;
- g) service providers for companies or other entities, other than those mentioned in para (e) or (f), as are defined in art. 2 letter j);
- h) persons with attributions in the privatization process;
- i) real estate agents;
- j) associations and foundations;
- k) other natural or legal persons that trade goods and/or services, provided that the operations are based on cash transactions, in RON or foreign currency, whose minimum value represents the equivalent in RON of 15000EUR, indifferent if the transaction is performed through one or several linked operations.

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

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

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

a) when establishing a business relationship;  
b) when carrying out occasional transactions amounting to EUR 15 000 or more, whether the transaction is carried out in a single operation or in several operations which appear to be linked;  
c) when there are suspicions that the transaction is intended for money laundering or terrorism financing, regardless of the derogation on the obligation to apply standard customer due diligence measures, provided by the present law, and the amount involved in the transaction;  
d) when there are doubts about the veracity or adequacy of previously obtained customer identification data.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

*\*) Please see Governmental Decision no. 594/2008 approving the Rules on implementation of the provisions of the Law no. 656/2002 on the prevention and sanctioning of money laundering and on setting up of certain measures for the prevention and combating terrorism financing, published in the Official Gazette of Romania, Part 1, no. 444/13.06.2008, with subsequent changes.*

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

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

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

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

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

**Art. 19 -** (1) In every situation in which the identity is required according to the provisions of the present law, the legal or natural person provided for in the Art. 10, who has the obligation to identify the customer, shall keep a copy of the document, as an identity proof, or identity references, for a minimum of five-year period, starting with the date when the relationship with the client comes to an end.

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

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

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

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

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

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

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

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

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

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

**Art. 23.** — (1) Licensing and / or registration of the entities performing foreign exchange in Romania, other than those subject to the supervision of the National Bank of Romania, in accordance with the provisions of the present law, shall be made by the

Ministry of Public Finance, through the Commission for authorization of foreign exchange activity, hereinafter referred to as the *Commission*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### **Chapter III**

#### **The National Office for Prevention and Control of Money Laundering**

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

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

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

- a) when notified by any of the persons referred to in article 10;
- b) ex officio, when finds out, in any way, of a suspicious transaction.

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

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

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

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

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

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

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

- a) to have a university degree and to have at least 10 years of experience in a legal or economic position;
- b) to have the domicile in Romania;
- c) to have only the Romanian citizenship;
- d) to have the exercise of the civil and political rights;
- e) to have a high professional and an intact moral reputation.

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

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

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

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

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

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

- a) at the expiration of the term for which he was appointed;
- b) by resignation;
- c) by death;
- d) by the impossibility of exercising the mandate for a period longer than six months;
- e) at the appearance of an incompatibility;
- f) by revocation by the authority that appointed him.

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

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

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

## **Chapter IV**

### **Responsibilities and Sanctions**

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

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

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

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

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

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

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

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

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

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

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



- (e) cancellation of the note, license or authorization for carrying out an activity;
- (f) closing the facility.

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

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

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

**Art. 29 -** (1) The following deeds represent the offence of money laundering and it is punished with prison from 3 to 10 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 criminal activities;

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

**Art. 31–** (1) The non-observance of the obligations provided for in the Art. 25 represents an offence and it is punished with prison from 6 months to 3 years or with a fine, if the deed does not represent a more serious offence.

(2) If the deed provided in para (1) is intentionally committed, the punishment is from 3 months to 2 years or a fine.

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

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

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

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

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

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

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

### **Art. 34-36 - Repealed by the Law no. 255/2013**

#### **Art. 37-**

The final court decision concerning the offence provided in art. 29 shall be communicated to the Office.

## **Chapter V**

### **Final Provisions**

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

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

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

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

diligence procedures and for exemption on grounds of financial activity conducted on an occasional or very limited basis, published in the Official Journal of the European Union, series L no. 214 of 04<sup>th</sup> August 2006, have been transposed.

**Note:**

It is reproduced below the Article III from the Governmental Emergency Ordinance no. 53/2008 amending and supplementing the Law no. 656/2002 on preventing and sanctioning money laundering, as well as the setting up of some measures for prevention and combating terrorism financing, approved with amendments by Law no. 238/2011, which is incorporated in the republished form and which further applies by its own provisions:

**Article III**

(1) For the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006, on information on the payer accompanying transfers of funds, published in the Official Journal of the European Union, series L no. 345 of 08<sup>th</sup> December 2006, the following authorities are designated, as responsible authorities, for the supervision of compliance with the obligations regarding the information on the payer accompanying transfers of funds:

- a) National Bank of Romania, for credit and payment institutions;
- b) National Office for Prevention and Control of Money Laundering, for the providers of post services that perform fund transfer services, according to the national legislation in force.

(2) The fund transfers referred to in article 3 para 6 of the regulations are excepted from the application of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006.

(3) The following deeds shall be deemed as infringements:

- a) breaching the obligations referred to by article 9 para (2) final thesis of the Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006;
- b) breaching the obligations referred to by article 4, article 5 para (1), (2), (4) and (5), article (6) para (2), article (7) para (2), article 8, article 9 para (1) and para. (2) first thesis, article 11, article 12, article 13 para (3), (4) and (5) and article 14 first thesis of Regulation (EC) no. 1781/2006 of the European Parliament and of the Council, of 15th November 2006.

(4) The infringements referred to in para (3) (a) are sanctioned by fine ranging from 10000RON to 30000RON and the infringements referred to in para (3) (b), by fine ranging from 15000RON to 50000RON.

(5) The infringements are ascertained and the sanctions are applied by authorized representatives specifically designated by National Bank of Romania and National Office for Prevention and Control of Money Laundering, according with their competencies.

(6) The requirements provided by article 22\*) of Law no. 656/2002, with subsequent modifications and completions, apply accordingly.

*\*) Article 22 became article 28, following republication and renumbering.*