

Parliament of Romania

Law No. 227/2007
approving Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy

In force as of 21 July 2007

Published in the Official Journal of Romania, Part I No. 480 of 18 July 2007.

There are no amendments as at 23 June 2015.

The Parliament of Romania hereby adopts this law.

Sole Article. - Government Emergency Ordinance No. 99 of 6 December 2006 in credit institutions and capital adequacy, published in the Official Journal of Romania, Part I No. 1,027 of 27 December 2006, is hereby approved with the following amendments and supplementations:

1. Under Article 4, Paragraph (2) is hereby amended and shall read as follows:

“(2) In the exercise of its competences as provided by law, the National Bank of Romania collects and processes any relevant data and information, including those of a personal nature.”

2. Under Article 7, Point 6 of Paragraph (1) is hereby amended and shall read as follows:

“6. Investment firm – any legal person whose current activity consists in providing one or more investment services to third parties and/or carrying out one or more investment activities on a professional basis, including financial investment services companies, defined according to Capital Market Law No. 297/2004 , as subsequently amended and supplemented. Investment services and investment activities on a professional basis means the following:

A. investment services and activities:

- a) reception and transmission of orders in relation to one or more financial instruments;
- b) execution of orders on behalf of clients;
- c) dealing on own account;
- d) portfolio management;
- e) Investment advice;
- f) underwriting of financial instruments and/or placing of financial instruments on a firm commitment basis;

g) placing of financial instruments without a firm commitment basis;

h) alternative trading system management;

B. non-core services:

a) safekeeping and managing financial instruments on the account of clients, including custody and related services, such as managing funds or guarantees;

b) granting credits or loans to investors to allow them to carry out a transaction in one or more financial instruments, if the company granting the credit or loan is involved in the transaction;

c) advice given to entities regarding the capital structure, the industrial strategy and related issues, as well as advice and services regarding the mergers and acquisitions of entities;

d) currency exchange services in connection with the investment services supplied;

e) investment research and financial analysis or other forms of general recommendation relating to transactions in financial instruments;

f) services related to the underwriting on a firm commitment basis;

g) investment services and activities, such as the related services referred to in Points 1 and 2 related to the underlying shares of the derivative instruments referred to in Point 141 Letters e), f),

g) and j), if they are related to the provisions regarding the investment and related services;"

3. Under Article 7, after Point 14 of Paragraph (1) a new point, Point 14¹, is inserted and shall read as follows:

"14¹. financial instruments:

a) securities;

b) money market instruments;

c) units in undertakings for collective investment;

d) options, futures contracts, swaps, interest rate forward contracts and any other derivative contracts in connection with securities, currencies, interest rates or profitability rates or other derivative financial instruments, financial indexes or financial indicators that may be settled physically or in funds;

e) options, futures contracts, swaps, interest rate forward contracts and any other derivative contracts in connection with commodities, that must be settled in funds or that may be settled in funds at the request of one of the parties (for any reason other than failure to pay or other incidents that may lead to termination);

f) options, futures contracts, swaps, interest rate forward contracts and any other derivative contracts in connection with commodities, that may be settled physically, provided that they are traded on a regulated market and/or within an alternative trading system;

g) options, futures contracts, swaps, interest rate forward contracts and any other derivative contracts in connection with commodities, that may be settled physically, not included in the category of those referred to in Letter f) and which do not have commercial purposes, that have the features of other derivative financial instruments, considering, among others, whether they are compensated and settled through recognised clearing houses or are subject to margin calls on a regular basis;

h) derivative instruments for the transfer of credit risk;

i) financial contracts for difference;

j) options, futures contracts, swaps, interest rate forward contracts and any other derivative contracts in connection with climate variables, freight, approvals for emission of substances or inflation rates or other official economic ratios, that must be settled in funds or that may be settled in funds at the request of one of the parties (for any reason other than failure to pay or other incidents that may lead to termination), as well as any other derivative contracts in connection with assets, rights, obligations, indexes or indicators, not included in this definition, having the features of other derivative financial instruments, considering, among others, whether they are traded on a regulated market or in alternative trading systems and whether they are compensated and settled through recognised clearing houses or are subject to margin calls on a regular basis.”

4. Article 13 is hereby amended and shall read as follows:

“Art. 13. - The persons having administration and/or management responsibilities within the credit institution, as directors, managers or members of the supervisory board or of the executive board, shall meet the requirements provided under Chapter I of Title II Part I.”

5. Under Article 18, Paragraph (2) is hereby amended and shall read as follows:

“(2) The scope of the activities referred to in Letters g) through k) of Para (1) covers all financial investment services provided under Point 6 of Art. 7 (1), when they have as their object the financial instruments provided under Point 14¹ of Art. 7 (1).”

6. Under Article 37, Paragraph (3) is hereby amended and shall read as follows:

“(3) The authorities referred to in Paras (1) and (2) shall be consulted in particular when assessing the capacity of the shareholders/members of the Romanian legal person credit institution and of the reputation and experience of the persons involved in the administration and/or management of another entity within the same group who are to be assigned administration and/or management responsibilities within the Romanian entity credit institution. In this respect, they shall exchange information that is relevant for granting the authorisation, as well for the ongoing assessment of the compliance with the conditions for carrying out their activity.”

7. Under Article 38, Letter e) of Paragraph (1) is hereby amended and shall read as follows:

“e) The National Bank of Romania is not satisfied with the suitability of the persons ensuring the administration and/or management of the credit institution, as their reputation or professional expertise is not adequate to the nature, amount and complexity of the credit institution’s activity or is not in line with the need to ensure a prudent and sound management;”.

8. Under Article 48, Letter c) of Paragraph (2) is hereby amended and shall read as follows:

“c) the identity of the persons to be responsible for the management of the branch’s activity;”.

9. Under Article 52, Paragraph (1) is hereby amended and shall read as follows:

“Art. 52. - (1) Branches of credit institutions from other Member States shall publish in the Romanian language the accounting documents of the credit institution they belong to - annual financial statements, consolidated annual financial statements, report prepared by the administration and/or management bodies, and, as the case may be, the consolidated report prepared by the administration and/or management bodies, opinion of the persons in charge of auditing the annual financial statements and consolidated annual financial statements - prepared and audited in accordance with the legislation of the home Member State.”

10. Under Article 60, Paragraph (3) is hereby amended and shall read as follows:

“(3) If, despite the measures taken by the home Member State and communicated to the National Bank of Romania, or because such measures prove inadequate or are not applicable in Romania, the credit institution persists in violating the Romanian legislation in force, after informing the competent authority of the home Member State, the National Bank of Romania is entitled to take appropriate measures to prevent or to sanction the breach of the legal provisions and, if applicable, to prevent the credit institution in default from initiating further transactions within Romania’s territory. Those measures shall be communicated to the credit institution concerned by the National Bank of Romania.”

11. Under Article 63, Paragraph (1) is hereby amended and shall read as follows:

“Art. 63. - (1) Before following the procedure provided for in Art. 60, the National Bank of Romania shall, in emergency cases, take any precautionary measures necessary to protect the interests of depositors, investors and others persons benefitting from the services supplied by the credit institution. The European Commission and the competent authorities of the other Member States concerned shall be informed of such measures at the earliest opportunity.”

12. Article 68 is hereby amended and shall read as follows:

“Art. 68. - A branch established in Romania may use the same name as the credit institution uses in the home third country. If confusion may arise, in order to ensure adequate clarification, the National Bank of Romania shall require that the name be accompanied by explanatory mentions.”

13. Under Article 71, Paragraph (1) is hereby amended and shall read as follows:

“Art. 71. - (1) A credit institution from a third country shall designate at least two persons in charge of the management of the branch in Romania, who shall be authorised to legally engage the credit institution in Romania. These persons shall have sufficiently good repute and expertise to exercise the assigned duties. The provisions of Chapter I of Title II, Part I, referring to the persons ensuring the management of credit institutions shall apply accordingly.”

14. Article 74 is hereby amended and shall read as follows:

“Art. 74. - The authorisation granted to a branch of a credit institution from a third country may be withdrawn by the National Bank of Romania, subject to the conditions provided for in Art. 39.”

15. Under Article 76, Paragraph (1) is hereby amended and shall read as follows:

“Art. 76. - (1) Branches of credit institutions from third countries shall publish in the Romanian language the accounting documents of the credit institution they belong to - annual financial statements, consolidated financial statements, report prepared by the administration and/or management bodies, and, as the case may be, consolidated report prepared by the administration and/or management bodies, opinion of the persons in charge of auditing the annual and consolidated financial statements - prepared and audited in accordance with the legislation of the third country.”

16. Under Article 81, Letter d) of Paragraph (1) is hereby amended and shall read as follows:

“d) the identity of the persons designated to ensure the management of the branch and information regarding their reputation and professional expertise.”

17. Under Article 94, Letter d) is hereby amended and shall read as follows:

“d) the suitability of the persons ensuring the administration and/or management of the resulting credit institution/institutions.”

18. Article 106 is hereby amended and shall read as follows:

“Art. 106. - The board of directors and the managers, or, as the case may be, the supervisory and executive boards of the credit institution shall have the competencies and duties provided by the legislation applicable to trading companies, being also responsible for the fulfilment of all the requirements provided by this Emergency Ordinance and the regulations issued for its application.”

19. Article 107 is hereby amended and shall read as follows:

“Art. 107. - (1) If the credit institution opts for the monistic administration system, in accordance with the legislation applicable to trading companies, the management of the credit institution is delegated by the board of directors to at least 2 managers.

(2) If the credit institution opts for the dualist administration system, the executive board shall consist of at least 3 members, in accordance with the legislation applicable to trading companies.

(3) The managers of the credit institution, or, as the case may be, the members of the executive board, shall exercise only the position in which they were assigned, except for the managers of the credit institutions that opted for a monistic administration system, who can also occupy the position as directors.

(4) The persons referred to in Para (3) may also be employees of the credit institution.”

20. Under Article 108, Paragraphs (1), (2) and (4) are hereby amended and shall read as follows:

“Art. 108. - (1) The members of the board of directors and the managers or, as the case may be, the members of the supervisory and executive boards of a credit institution should have adequate reputation and sufficient experience to match the nature, size and complexity of the activity of the credit institution and of the entrusted responsibilities.

(2) The management and/or administration duties may be exercised by natural persons only.

.....

(4) The members of the board of directors or, as the case may be, of the supervisory board, shall collectively have adequate qualification and expertise in order to take decisions in full awareness of all matters related to the activity of the credit institution, according to their assigned responsibilities.”

21. Article 110 is hereby amended and shall read as follows:

“Art. 110. - (1) In addition to the conditions stipulated by the legislation in force regarding directors, or, as the case may be, the members of the supervisory board, a person may not be elected in the board of directors or, as the case may be, in the supervisory board of a credit institution and if elected, he/she loses his/her mandate, where:

- a) he/she holds another position within the credit institution, except where, in the case of the monistic system, he/she is also the manager of that credit institution;
- b) in the past 5 years, the supervisory authority withdrew his/her approval to exercise administration and/or management positions in a credit institution, a financial institution or an insurance/reinsurance undertaking or another entity carrying out activities in the financial sector or he/she was replaced from the position held in such entities for reasons attributable to him/her;
- c) he is prohibited, based on a legal provision, a court ruling or a decision of another authority, from exercising administration and/or management duties in a credit institution, an entity such as those referred to in Letter b) or from carrying out activities in any of the fields specific to the above-mentioned institutions.

(2) The provisions laid down in Para (1), shall also apply to the managers who are not members of the board of directors and, as the case may be, members of the executive board.”

22. Under Article 112, Paragraph (1) is hereby amended and shall read as follows:

“Art. 112. - (1) Any person exercising administration and/or management duties or participating in the activities of a credit institution must keep the confidentiality of any fact, data or information referred to in Art. 111, which they acknowledged while exercising their duties related to the credit institution.”

23. Under Article 113, after Letter e) of Paragraph (2) a new letter, Letter f), is hereby inserted, and shall read as follows;

“f) at the request of the bank executor, in order to carry out the forced execution, for the existence of the accounts of the executed debtors.”

24. Under Article 129, Paragraph (1) is hereby amended and shall read as follows:

“Art. 129. - (1) In the case of the standardised approach, credit quality – including securitised exposures – may be determined by reference to the credit assessments of external credit assessment institutions or of export credit agencies, deemed eligible by the National Bank of Romania, based on specific criteria laid down in the regulations issued for the application of this Emergency Ordinance.”

25. Under Article 134, Letter b) is hereby amended and shall read as follows:

“b) securitised exposures and securitisation positions;”.

26. Under Article 152, Paragraph (3) is hereby repealed.

27. Under Article 166, Paragraph (3) is hereby amended and shall read as follows:

“(3) The National Bank of Romania shall establish the frequency and amount of detail of the reviews and assessments, considering the principle of proportionality, i.e. taking into account the size, systemic importance, nature, scale and complexity of the activities performed by each Romanian legal person credit institution.

Reviews and assessments shall be performed at least once per year.”

28. Under Article 188, Letter a) of Paragraph (1) is hereby amended and shall read as follows:

“a) changes in the shareholding, organisational, administration and management structure of credit institutions in a group, which require the approval or authorisation of the National Bank of Romania;”.

29. Under Article 191, Letter a) of Paragraph (1) is hereby amended and shall read as follows:

“a) changes in the shareholding, organisational, administration and management structure of credit institutions and investment firms in a group, which require the approval or authorisation of the National Bank of Romania and the National Securities Commission;”.

30. Under Article 196, Paragraph (1) is hereby amended and shall read as follows:

“Art. 196. - (1) The administration and/or management of a Romanian legal person financial holding company shall be ensured by at least two persons.”

31. Under Article 196, after Paragraph (1) a new paragraph, Paragraph (1¹), is hereby inserted, and shall read as follows:

“(1¹) The persons having administration and/or management responsibilities, as directors, managers, members of the supervisory or executive boards, as the case may be, shall have adequate reputation and sufficient experience to carry out the responsibilities entrusted to them.”

32. Under Article 204, Paragraph (1), the introductory part and Letters a), e), f) and h) are hereby amended and shall read as follows:

“Art. 204. - (1) Where a financial holding company, a mixed-activity holding company or the persons exercising administration and/or management duties therein do not comply with the provisions of Art. 166 and Arts. 176 to 203, and of the regulations issued or the measures taken for the application of this Emergency Ordinance, the National Bank of Romania, in its capacity as authority responsible for supervision on a consolidated basis, may take, as concerns the respective undertaking, the following measures referred to in Letters a) through c), or impose the sanctions referred to in Letters d) through h):

a) conclude an agreement with the directors or, as the case may be, the members of the executive board of the company, which shall include a plan of remedial measures;

.....

e) suspend one or more persons exercising administration and/or management duties within the company;

f) order the financial holding company or the mixed-activity holding company, as appropriate, to replace the person/persons exercising administration and/or management duties within the company;

.....

h) impose fines on the persons exercising administration and/or management duties within the company, ranging from 1 to 6 net salaries, according to the payroll registers in the month before the fact was found.”

33. Under Article 204, Paragraph (3) is hereby amended and shall read as follows:

“(3) During the suspension from office, as ordered by the National Bank of Romania according to Para (1) Letter e), the financial holding company or the mixed- activity holding company shall nominate a person to exercise administration and/or management duties within the company, in compliance with the provisions of Art. 196.”

34. Article 205 is hereby amended and shall read as follows:

“Art. 205. - The National Bank of Romania shall co-operate with the other competent authorities involved in order to ensure that the measures or sanctions imposed, in compliance with the

provisions of this Emergency Ordinance, on financial holding companies, mixed-activity holding companies or the persons exercising administration and/or management duties within the company, produce the desired results, especially when a financial holding company or a mixed-activity holding company, with its registered office in the Romanian territory, has the central administration or the main office in the territory of another Member State.”

35. Under Article 226, Paragraph 4 is hereby amended and shall read as follows:

“(4) In case of imposition of special administration, the National Bank of Romania shall also decide on the withdrawal of the approval granted to the persons exercising administration and/or management duties within the company and the financial auditor of the Romanian legal person credit institution and on the suspension of the voting rights of shareholders/members, as the case may be.”

36. Article 228 is hereby amended and shall read as follows:

“Art. 228. - The National Bank of Romania may apply penalties under this Emergency Ordinance in the cases referred to in Art. 226(1) or if it finds that a Romanian legal person credit institution and/or any of the persons exercising administration and/or management duties within the credit institution, or the persons appointed to head the departments or branches of the credit institution are found guilty of:

- a) breach of any provision of this Emergency Ordinance, of the regulations issued for its implementation or of the credit institution’s own regulations, or the direct application regulations adopted by the European Union in the fields regulated by this Emergency Ordinance;
- b) infringement of the measures taken by the National Bank of Romania;
- c) infringement of any of the conditions or restrictions stipulated in the authorisation;
- d) performance of fictitious operations, without a real coverage, with a view to reporting an inaccurate financial standing or exposure of the credit institution;
- e) failure to report, delayed reporting or reporting inaccurate data to the National Bank of Romania.”

37. Under Article 229, the introductory part of Paragraph (1), Letters c) and d) of Paragraph (1) and Paragraph (2) are hereby amended and shall read as follows:

“Art. 229. - (1) In the cases listed in Art. 228, the National Bank of Romania may apply the following sanctions:

.....

- c) fine applicable to the persons exercising administration and/or management duties within the credit institution and the persons appointed to head the departments or branches of the institution,

ranging from 1 to 6 net average salaries in the credit institution, in accordance with the salaries registered in the month before the fact was found;

d) withdrawal of the approval granted to the persons exercising administration and/or management duties within the credit institution;

.....

(2) The penalties referred to in Para (1) may be applied simultaneously with the measures laid down in Art. 226 (2) and Art. 230 or independently thereof.”

38. Under Article 229, Paragraph (4) is hereby amended and shall read as follows:

“(4) The sanctions referred to in Para (1) Letters c) and d) shall apply to persons who are found guilty of the breach, because such breach would not have occurred had the respective persons properly exercised their responsibilities arising from their job duties, established in accordance with the legislation applicable to trading companies, with this Emergency Ordinance and the regulations issued for the implementation hereof and the internal administration framework.”

39. Under Article 230, Paragraph (1) is hereby amended and shall read as follows:

“Art. 230. - (1) Where persons possessing qualifying holdings in the Romanian legal person credit institution no longer fulfil the requirements provided for in this Emergency Ordinance and the regulations issued for its application regarding the quality of the credit institution’s shareholders, or if they pursue a policy that jeopardises the credit institution’s prudent management, the National Bank of Romania shall take appropriate measures to put an end to that situation. For this purpose, regardless of any other measures or sanctions against the credit institution or the persons exercising administration and/or management duties within the credit institution, the National Bank of Romania may decide on the suspension of the exercise of the voting rights attached to the shares held by the shareholders or members in question.”

40. Under Article 232, Paragraph (2) is hereby amended and shall read as follows:

“(2) The board of directors and the executive board of the credit institution are responsible for the implementation of measures necessary for the cancellation of shares in accordance with the provisions of Para (2) and for the sale of the newly issued shares.”

41. Under Article 234, Paragraph (1) is hereby amended and shall read as follows:

“Art. 234. - (1) The limitation period for the imposition of sanctions shall expire one year from the date the deed was found, but not later than 3 years from the date when the deed was perpetrated.”

42. Under Article 238, Letters a) and f) of Paragraph (1) are hereby amended and shall read as follows:

“a) supervision of the manner in which the board of directors and the managers or, as the case may be, the supervisory and executive boards of the credit institution act to establish and implement the

necessary measures to remedy the deficiencies or, as the case may be, the recommendations formulated or measures taken by the National Bank of Romania, according to this Emergency Ordinance;

.....

f) formulation of recommendations to the National Bank of Romania for the imposition of the sanctions or remedial measures provided by law, when the board of directors or the managers or, as the case may be, the supervisory and executive boards of the credit institution do not comply with the measures set by the commission.”

43. Under Article 238, Paragraphs (2) and (3) are hereby amended and shall read as follows:

“(2) The special supervisory commission shall not substitute the credit institution’s managers or, as the case may be, executive board, in relation to the management of its activity and the competence to engage the credit institution. The responsibility for the legality, authenticity, accuracy and advisability of the operations performed and of the documents prepared by the credit institution shall be exclusively incumbent on the credit institution’s managers or, as the case may be, executive board and/or on the persons who draw up and signed the documents concerned in accordance with their competences and duties.

(3) During the special supervision, the general meeting of shareholders, the board of directors and the managers of the credit institution or the supervisory and executive board, as appropriate, shall not take measures contrary to those adopted by the special supervisory commission.”

44. Under Article 240, Letter d) of Paragraph (1) is hereby amended and shall read as follows:

“d) the exercise of the administration and/or management duties of the credit institution is no longer ensured.”

45. Article 244 is hereby amended and shall read as follows:

“Art. 244. - During the special administration, the mandate of the board of directors and of the managers or, as the case may be, of the supervisory and executive board shall terminate, and the special administrator shall take over all of the administration/management duties of the credit institution.”

46. Under Article 246, Letter e) of Paragraph (2) is hereby amended and shall read as follows:

“e) any other measures that the credit institution’s board of directors and managers, or the supervisory and executive boards, may adopt in compliance with the law, during a regular administration.”

47. Article 247 is hereby amended and shall read as follows:

“Art. 247. - By exception from the provisions of Art. 246, where special administration was implemented in accordance with the provisions of Letter d) of Art. 240 (1), the main responsibility of

the special administrator is to take the necessary measures to appoint the members of the board of directors and the managers of the credit institution or, as the case may be, the members of the supervisory and executive boards. During this administration, the special administrator may adopt any measures that the credit institution's board of directors and managers, or the supervisory and executive boards, may adopt in compliance with the law, during a regular administration."

48. Under Article 249, Paragraph (1) is hereby amended and shall read as follows:

"Art. 249. - (1) In order to adopt decisions concerning the credit institution's standing in areas falling under the competence of the general meeting of shareholders/members, including the taking over of the credit institution concerned, by merger/division, the special administrator may convene the general meeting of shareholders/members of the credit institution. The special administrator shall establish the meeting's agenda, with the prior approval of the National Bank of Romania, and the convened persons shall not alter it."

49. Under Article 252, the introductory part of Paragraph (2) is hereby amended and shall read as follows:

"(2) Where the special administrator's report shows that there are no favourable conditions for the credit institution's financial standing to be improved to the extent that the credit institution would fulfil the prudential requirements established by law or by the regulations issued for its application or, as the case may be, the new persons to exercise administration and/or management duties within the credit institution were not appointed and approved, the National Bank of Romania may, depending on the actual situation, decide on the following:".

50. Under Article 253, Paragraphs (1), (3) and (4) are hereby amended and shall read as follows:

"Art. 253. - (1) If, based on the special administrator's reports, the National Bank of Romania finds that the financial standing of the credit institution subject to special administration improved to the extent that the prudential requirements, established by this Emergency Ordinance and the regulations issued for its application, are met or, as the case may be, the new persons to exercise administration and/or management duties within the credit institution were appointed and approved, the National Bank of Romania may decide to end the special administration and that the credit institution's activity be resumed under its statutory bodies' control.

.....

(3) The special administrator shall take the necessary measures in order to appoint the new persons to exercise administration and/or management duties within the credit institution.

(4) Prior to the appointment and approval of the persons referred to in Para (3), the special administrator shall ensure the administration and management of the credit institution."

51. Under Article 275, Paragraph (1) is hereby amended and shall read as follows:

“Art. 275. - (1) The acts adopted by the National Bank of Romania according to the provisions referred to in this Emergency Ordinance, regarding a credit institution, including with regard to those exercising administration and/or management duties within the credit institution, or the persons appointed to head the departments or branches of the credit institution, and the acts adopted in connection with its shareholders, may be disputed within 15 days from their notification before the board of directors of the National Bank of Romania, which shall issue a well-grounded decision within 30 days from the date the notification was made.”

52. Article 315 is hereby amended and shall read as follows:

“Art. 315. - (1) In order to benefit, on a regular basis, from the government-granted premium, the saving-lending contracts must be concluded for at least 5 years, without requiring the justification of the use of the saved amount for housing activities and total or partial reimbursements out of the saved amounts should not have been made before the expiry of the deadline for saving.

(2) The provisions of Para (1) shall not apply to the following cases:

- a) the saved amount and/or the amount stipulated by the contract is made available after the distribution and the saver uses the amount for housing activities;
- b) the saving-lending contract is assigned, and after distribution, the amount saved or the amount stipulated by the contract is used for housing activities by the assignee;
- c) the person who saved money for housing activities, or of his/her spouse, dies or becomes permanently incapacitated to perform work after the conclusion of the saving-lending contract;
- d) the person who saved money for housing activities has become unemployed and the unemployment period lasts for at least 9 successive months and the person is still unemployed on the date the withdrawal of the amount is requested.”

53. Under Article 338, Paragraph (1) is hereby amended and shall read as follows:

“Art. 338. - (1) The authorisation of credit co-operatives shall be performed under the conditions applicable to credit institutions provided for in Chapter II of Title I, Part I, except for Art. 11 and Art. 17, whose provisions shall not be applicable to the credit co-operatives within the network.”

54. Article 355 is hereby amended and shall read as follows:

“Art. 355. - (1) The general meeting of shareholders of a credit co-operative organisation shall be convened whenever necessary, under the conditions and on the dates provided for by law, in order to decide on all the matters falling under the competence of the ordinary and extraordinary general meetings of a joint-stock company, and in the case of credit co-operatives, also to appoint from among the members of the board of directors or of the executive board, as the case may be, the representatives of the credit co-operative in the general meeting of the central body.

(2) The general meeting of shareholders of the credit co-operative organisation may delegate to the board of directors or of the executive board, as the case may be, under the conditions laid down in the instruments of incorporation, the power to amend the main object of activity, to relocate the registered office, to set up or close down branches, and, as the case may be, to appoint representatives in the general meeting of the central body.”

55. Article 356 is hereby amended and shall read as follows:

“Art. 356. - The credit co-operative organisations within a network of credit co-operative organizations shall opt for a single administration system.”

56. Article 357 is hereby amended and shall read as follows:

“Art. 357. - The board of directors or, as the case may be, the executive board of a credit co-operative organisation may decide on the conclusion of legal documents granting the right to acquire, alienate, rent, exchange or pledge as collateral some of the assets of the credit co-operative organisation, whose value exceeds one fifth of the book value of its assets on the execution date of the legal document, only with the approval of the general meeting and, in the case of credit co-operatives, also with the approval of the central body to which the credit co-operative organisation is affiliated.”

57. Article 358 is hereby amended and shall read as follows:

“Art. 358. - The monthly remuneration of the members of the board of directors or, as the case may be, of the supervisory board, of a credit co-operative organisation, for their activity, as laid down in the instruments of incorporation or established by the resolution of the general meeting, shall not exceed 20% of the gross salary of the general manager/manager or, as the case may be, of the president of the executive board.”

58. Article 367 is hereby amended and shall read as follows:

“Art. 367. - (1) The persons appointed as members of the board of directors or, as the case may be, of the supervisory board of the credit co-operative must receive the approval of the central body before starting to exercise their duties, except for the first members of such bodies, in the case of credit co-operatives established simultaneously with the central body.

(2) The National Bank of Romania may require the central body to withdraw the approval of the persons referred to in Para (1) where they were appointed by infringement of applicable legal provisions, or where the activity carried out by them led to the worsening of the credit co-operative’s financial standing and/or to the violation of prudential requirements by the credit co-operative.”

59. Under Article 373, Paragraph (1) and the introductory part of Paragraph (2) are hereby amended and shall read as follows:

“Art. 373. - (1) The board of directors or, as the case may be, the supervisory board of the central body consists of the members elected by the general meeting from among the persons proposed in this respect by the representatives of the affiliated credit co-operatives. Apart from the incompatibilities and prohibitions laid down by the law, no person may exercise simultaneously administration and/or management duties within a central body and a credit co-operative.

(2) In addition to the duties laid down in the laws applicable to trading companies, the board of directors or, as the case may be, the executive board of the central body shall also have the following duties concerning the network of affiliated credit co-operatives:”.

60. Under Article 373, after Paragraph (2) a new paragraph, Paragraph (3), is hereby inserted and shall read as follows:

“(3) The duties referred to in Para (2) may not be delegated by the board of directors to the managers.”

61. Article 383 is hereby amended and shall read as follows:

“Art. 383. - By exception from the provisions of Company Law No. 31/1990, republished, as subsequently amended and supplemented, credit co-operatives having more than 5,000 members may appoint a single director who shall delegate the management duties to at least one manager or, as the case may be, may appoint a sole general manager, permanently controlled by a person fulfilling the duties of the supervisory board.”

62. Under Article 392, Paragraph (4) is hereby amended and shall read as follows:

“(4) The persons exercising administration and/or management duties within the central body, its employees and any person acting on behalf of the central body in the exercise of its duties according to Para (3) shall keep the professional secrecy in accordance with Art. 214.”

63. Under Article 393, Paragraph (5) is hereby amended and shall read as follows:

“(5) The documents for the application of the measures in accordance with Para (1) shall be issued by the managers or, as the case may be, the members of the executive board of the central body, in accordance with the general regulations issued for this purpose.”

64. Article 412 is hereby amended and shall read as follows:

“Art. 412. - The following deeds shall be deemed as crimes and shall be punished by imprisonment from one year to 3 years:

a) the deed of a member of the board of directors or manager or, as the case may be, of a member of the supervisory or executive boards, or of any employee of a credit institution who, in bad faith, infringes the provisions of Art. 171 or, in any way, obstructs the performance of the supervision by the National Bank of Romania;

b) the deed of any person exercising administration and/or management duties in a financial holding company or in a mixed-activity holding company who infringes the provisions of Art. 166 and Arts. 176 through 203 with a view to obstructing the National Bank of Romania from exercising its duties concerning the supervision of credit institutions.”

65. Under Article 415, Paragraph (1) is hereby amended and shall read as follows:

“Art. 415. - (1) Romanian legal person credit institutions, the branches of credit institutions in third countries and the payment system managers, which at the date of entry into force of this Emergency Ordinance are authorised by the National Bank of Romania and operate in Romania, are considered to hold an authorisation in accordance with the provisions of this Emergency Ordinance.”

66. After Article 416 a new article, Article 416¹, is hereby inserted and shall read as follows:

“Art. 416¹. - Any reference in the existing legislation to the entry into force of this Emergency Ordinance, to Law No. 541/2002 on collective saving and crediting for housing purposes, as subsequently amended and supplemented, shall be deemed a reference to Part II of Title II ‘Saving and Crediting Banks for Housing Purposes’ of this Emergency Ordinance and/or the appropriate chapters of this Emergency Ordinance, as the case may be.”

67. Under Article 418, after Paragraph (3) a new paragraph, Paragraph (4), is hereby inserted and shall read as follows:

“(4) In the cases provided by law, as well as when the bank executor deems it necessary, the police, gendarmerie bodies or any other public order agents, as the case may be, have the obligation to assist it for the effective fulfilment of the forced execution. At the request of the execution court or of the bank executor, the persons owing money to the forcibly executed debtor or holding goods belonging to it, that are subject to forced execution according to law have the responsibility to provide the necessary information for the implementation of the forced execution. Also, at the request of the execution court or of the bank executor, the institutions, credit institutions or any other persons have the obligation to immediately communicate the information necessary for the forced execution, even if special laws provide otherwise.”

68. After Article 421, a new article, Article 421¹, is hereby inserted and shall read as follows:

“Art. 421¹. - The definitions provided in Points 6 and 14¹ of Art. 7 (1) shall be used for the implementation of the provisions of Capital Market Law No. 297/2004, as subsequently amended and supplemented.”

69. At the mention regarding the transposition of the European rules in the field of the credit institutions and investment firms, after Point 5 a new point, Point 6, is hereby inserted and shall read as follows:

"6. from Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments, published in the *Official Journal of the European Union* No. L145 of 30 April 2004: the first sentence of Point 1) of Art. 4 (1) and Annexe 1."

This law was adopted by the Parliament of Romania, in compliance with the provisions of Art. 75 and Art. 76 (1) of the Constitution of Romania, republished.

PRESIDENT OF THE CHAMBER OF DEPUTIES

BOGDAN OLTEANU

PRESIDENT OF THE SENATE

NICOLAE VĂCĂROIU

Bucharest, 4 July 2007.

No. 227.