

Law 147/ 2021
for the amendment and completion of the Government Emergency Ordinance no.
93/2012 on the establishment, organization and operation of the Financial Supervisory
Authority

The Parliament of Romania has adopted this law.

Art. I. - Government Emergency Ordinance no.93/2012 on the establishment, organization and operation of the Financial Supervision Authority, published in the Official Gazette of Romania, Part I, no.874 of 21 December 2012, approved with amendments and supplements by Law no. 113/2013, as subsequently amended and supplemented, is amended and supplemented as follows:

1. Article 14, paragraph 5 is amended and shall have the following wording:

“(5) Members of the FSA Board exercise their mandate according to the law. They shall be jointly and severally liable for their activity, unless they have voted against a decision and recorded the separate opinion in the minutes of the meeting. The members of the FSA Board are obliged to sign the acts deriving from the adopted decision, if this task belongs to them according to the law and the internal regulations of the FSA, even if they voted against the adopted decision”.

2. In Article 14, a new paragraph 6 is inserted after paragraph 5, with the following wording:

“(6) The court charges incurred by the judicial proceedings initiated against the members of the FSA Board or against its personnel, charged with exercising supervisory and control duties, shall be borne by the FSA if the judicial authorities find that these persons have fulfilled or omitted, in good faith and without negligence, any act or fact in connection with the exercise, in accordance with the law, of the powers of supervision and control”.

3. In Chapter III, after Article 17² a new Article is inserted, Article 17³, with the following wording:

“Art.17³. - (1) The members of the FSA Board, as well as its personnel, are obliged to maintain the strict confidentiality of any sensitive information, provided in the FSA’s own regulations, obtained during or as a result of exercising the function or prerogatives provided in this emergency ordinance.

(2) The obligation to maintain the confidentiality of the information provided in par. (1) for the members of the FSA Board and its personnel subsist regardless of whether or not the person still holds the status of a member of the FSA Board or that of an employee”.

4. After Article 21¹ the title of a new chapter is inserted, chapter IV¹ - Sanctioning regime, comprising Articles 21², 21^{2a}, 21³, 21⁴ and 21⁵.

5. In Article 21², after paragraph 1 a new paragraph is inserted, paragraph (1¹), with the following wording:

“(1¹) For the purposes of this emergency ordinance, *permanent control* means the continuous supervision activity of the FSA, as defined in the legislation specific to the three sectors of activity”.

6. In Article 21², after paragraph 7 a new paragraph is inserted, paragraph 7¹), with the following wording:

“(7¹) If the act of supervision contains elements which have not been previously considered by the Authority, in connection with a period which has already been subject to inspection by the FSA, the FSA Board may approve a new inspection, once, for the same period, at the same entity”.

7. After Article 21² a new Article is inserted Article 21^{2a}, with the following wording:

“Art. 21^{2a}- (1) The entities provided in art. 21² (1) are obliged:

a) to transmit and/or make available to the FSA the acts, documents and information requested, within the deadlines and in the structure established by the FSA, so as not to jeopardize the development and completion of the supervision and control activity and to ensure the access of the FSA representatives to their premises;

b) to provide complete documents and real information, which do not mislead FSA, so as not to jeopardize the development and completion of the supervisory and control activity;

c) to comply with the measures ordered by FSA through authorization, supervision and control acts.

(2) Non-compliance with the obligations provided in par. (1) shall be sanctioned by the FSA according to the special legislation applicable to the entities provided in art. 21² (1).

(3) The repeated violation of the obligations provided in par. (1) subparagraphs b) and c) by the entities provided in art. 21² (1), after the application by FSA of the civil sanctions provided in the special applicable legislation or of those provided in art. 21⁵ for these deeds, it constitutes an offence and is punishable by imprisonment from 3 months to one year or a fine.

(4) If the deed provided in par. (3) was committed through fault, the penalty is a fine.

(5) The provisions of par. (3) shall not apply in the case of decisions sanctioning the deeds provided in par. (1) issued by FSA, abolished by the competent courts”

8. After Article 21⁴ a new Article is inserted, Article 21⁵, with the following wording:

“Art.21⁵ - (1) For non-compliance with the provisions of this emergency ordinance, as well as the regulations and decisions of the FSA Board, in cases that do not fall under the legislation governing the activity of the entities provided in art. 21² (1), the FSA Board, in accordance with the approved internal regulations, may apply the following sanctions:

a) written warning;

b) fine for natural persons between lei 1,000 and the equivalent in Lei of 25% of the annual net income of the natural person made with the employer or fine for legal entities between Lei 10,000 and the equivalent in Lei of 1% of the annual turnover of the legal person. The fines collected are made revenue to the state budget;

c) the partial or total suspension, for a period of up to 90 days, of the authorization granted by FSA;

d) withdrawal of the authorization granted by FSA

(2) The decisions adopted by FSA regarding the natural and legal persons according to the provisions of par. (1) may be appealed under the conditions provided in art.21³”.

Art. II. - At the date of entry into force of this law, art. IV of the Government Emergency Ordinance no. 94/2013 for the amendment and completion of the Government Emergency Ordinance no. 93/2012 on the establishment, organization and operation of the Financial Supervision Authority, as well as for the amendment and completion of Law no. 136/1995 on insurance and reinsurance in Romania, published in the Official Gazette of Romania, Part I, no. 643 of 18 October 2013, approved with amendments and supplements by Law no. 148/2015, is repealed.

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

PRESIDENT OF THE CHAMBER OF DEPUTIES

LUDOVIC ORBAN

PRESIDENT OF THE SENATE

ANCA DANA DRAGU

Bucharest, 20 May 2021.

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