

## NEW SECTORIAL AML RULES ISSUED BY NATIONAL BANK OF ROMANIA

Following the entry into force of Law no. 129/2019 on the Prevention of and Combat Against Money Laundering and the Financing of Terrorism, as well as for Amending and Supplementing Certain Normative Acts (the “Law”), the National Bank of Romania adopted Regulation no. 2/2019 regarding the prevention and combat of money laundering and terrorist financing (the “NBR Regulation”), published in Romania’s Official Gazette on 9 September 2019. The Regulation brings with it new rules to be observed by Romanian credit institutions, payment institutions, institutions that issue electronic currency (as well as the branches of such foreign institutions), and non-banking financial institutions (the “Target Institutions”).

**The Target Institutions operating on the date of entry into force of the NBR Regulation shall comply with the provisions thereof by 17 January 2020.**

Some of the main novelties introduced by the NBR Regulation are:

### 1. **The obligation of Target Institutions to carry out money laundering and terrorist financing risk assessment**

The Target Institutions will have to perform their own assessment in order to identify and evaluate the risks of money laundering and terrorist financing at the level of (i) customers, (ii) offered services and products, and of their (iii) entire activity.

The risk assessment shall be updated whenever necessary, but at least yearly, by taking into consideration, *inter alia*, the changes in the Target Institution’s development strategy and organizational structure.

### 2. **The obligation of Target Institutions to establish the methodology for performing and updating the risk assessment**

The Target Institutions shall develop the methodology for performing and updating their own risk assessment, methodology that shall regulate at least the following aspects:

**(i)** the categories and the number of the information sources used for carrying out the assessment; **(ii)** the procedure used for identifying the risk factors associated with their activity; **(iii)** the methods for establishing the share of each identified risk factor, in case the Target Institution decides to ponder differently such risk factors; **(iv)** the procedure for taking into account the risk factors identified when establishing the level of risk associated to clients, products and services, distribution channels of products and services, and, if the case, to outsourced activities and to activities performed via branches and subsidiaries located in third countries; **(v)** the procedure for establishing and reassessing, periodically, as well as in cases where elements that could modify the level of risk occur, the classes of risks related to customers, products and services; **(vi)** the procedure for establishing the degree of risk at the level of the entire activity; and **(vii)** the procedure for monitoring the evolutions of the risk factors for money laundering and terrorist financing and for identifying the need for updating the risk assessment.

The methodology for performing and updating the risk assessment shall be updated whenever necessary, but at least yearly, by taking into consideration, *inter alia*, the changes in the Target Institution’s development strategy and organizational structure.

### 3. **Policy for the management and mitigation of money laundering and terrorist financing risks**

The Target Institutions shall adopt and review periodically, at the level of management bodies, based on their own risk assessment, a policy for the management and mitigation of the risks of money laundering and terrorist financing to which the institution is or could be exposed.

## 4. Independent Audit

The Target Institutions must ensure the existence of an independent auditing process that periodically tests the policies, internal rules, mechanisms, information systems and procedures for managing the risks of money laundering and terrorist financing, including the risk assessments and the methodology for performing and updating thereof.

The Target Institutions decide on the frequency of the above tests depending on the risks to which they are exposed.

## 5. Additional KYC rules

The Target Institutions must adopt internal know-your-customer rules, whereby they establish all the applicable know-your-customer measures, and the procedures, processes, limits and verifications to ensure the identification, evaluation, monitoring, mitigation and reporting of the risk associated to the activities that they carry out and, overall, at the level of the institution.

The NBR Regulation stipulates the minimum elements that the know-your-customer rules should contain.

## 6. Information from third parties for KYC procedures

The Target Institutions may use, for the purpose of complying with their obligation to perform standard know-your-customer verifications, information from third party financial or credit institutions (that may be members of the same group as the Target Institution or not), with the exception of third parties which are (a) specialized entities that carry out foreign exchange activities; (b) payment institutions providing only money remittance and/or payment initiation services; (c) vendors specialized in account information services; and (d) providers of postal services that process payments.

## 7. New personnel requirements

The Target Institutions shall impose adequate standards for the employment of personnel with responsibilities for the application of the measures provided for in the know-your-customer rules, including reputation, and shall verify the information made available by the candidates.

The Target Institutions must include in the job descriptions of the employees the specific responsibilities that they will have with regard to the application of the know-your-customer rules.

## 8. Compliance officer

The Target Institutions must appoint a compliance officer from the members of the superior management and must provide to the NBR the standards for appointing the compliance officer, and, upon the NBR's request, the documentation attesting that the appointed person has sufficient experience and holds the appropriate qualifications to efficiently carry out the assigned tasks.

The Target Institutions shall ensure that the know-your-customer measures provided for in the internal KYC rules, updated according to the provisions of the NBR Regulation, are applied to all existing clients, as soon as possible, based on risk, but not later than 18 months after the approval of the norms by the Target Institution's management bodies.