

Legal Bulletin

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Banking Law

1 Methodological norms on the periodical reports forms, applicable to credit institutions for financial stability requirements

Name of the enactment

Order no. 4/2008 of the National Bank of Romania ("NBR") approving the Methodological norms on the periodical reports forms, applicable to credit institutions for financial stability requirements ("**Reporting Norms**")

Publication

Official Gazette of Romania, Part I, No. 611/19.08.2008

Entry into force

19 August 2008

Main provisions

The main purpose of the Reporting Norms is to provide the reporting entities with consistent forms of reports concerning the balance sheet assets and liabilities in RON, EUR and other currencies, categorized after certain specific criteria.

Such reports are to be prepared by the reporting entities in compliance with the NBR accountability regulations consistent with the European directives. In addition, the Reporting Norms include instructions regarding the completion of these forms of reporting, either directly or by reference to other NBR enactments in this area.

All the relevant forms are provided in the 8 appendices to the Reporting Norms.

2 New rules on the limitation of credit risk for credits granted to individuals

Name of the enactment

Regulation no. 11/2008 for amending and completing the Regulation no. 3/2007 of the National Bank of Romania on limiting credit risk for credits granted to individuals ("**NBR Regulation no. 11/2008**")

Publication

Official Gazette of Romania, Part I, No. 617/22.08.2008

Entry into force

22 August 2008

Connections with other enactments

NBR Regulation no. 11/2008 amends and completes the Regulation no. 3/2007 of the NBR on limitation of the credit risk for credits granted to individuals.

Main provisions

The purpose of the NBR Regulation no. 11/2008 is to create a clearer and healthier environment for credits granted to individuals by credit institutions and/or financial non-banking institutions (either Romanian-incorporated entities or

branches of foreign such institutions, subject to the NBR supervision).

Thus, the main provisions of the NBR Regulation no. 11/2008 refer to:

- additional criteria for the assessment of the maximum levels for the total indebtedness degree, by establishing thereof (credit category, considering the drawing and indexation currencies, the interest category, the term and the debt service by the client, the foreign exchange risk, the interest risk and the cost of the credit) and detailed provisions for the computation thereof;
- new provisions for healthy crediting practices, including the separation of the sales and marketing functions from the credit risk analysis and monitoring, the necessary documents required for the assessment of the debtors' eligible incomes and the relationships between the supervised institutions and third parties performing the preliminary analysis of the client's repayment capacity;
- the obligation of the supervised entities, of which the internal crediting rules are not endorsed by the NBR to use the maximum indebtedness limit of 35%;
- the obligations of supervised entities having internal rules endorsed by the NBR to notify to the NBR the amendments to such rules, taking in consideration the NBR Regulation no. 11/2008, within 45 days as of its enforcement;
- the obligations of supervised entities not having internal rules endorsed by the NBR to provide such rules to the NBR, within 30 days as of the enforcement of the NBR Regulation no. 11/2008.

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Community Funds

Name of the enactment

Ordinance no. 20/2008 of 13 August 2008 for the amendment and supplementation of Government Ordinance no. 79/2003 on control and recovery of community funds and related co-financing funds inappropriately used ("GO no. 20/2008").

Publication

Published in the Official Gazette of Romania, Part I, No. 613/20.08.2008

Entry into force

23 August 2008

Connections with other enactments

It amends Government Ordinance no. 79/2003 on control and recovery of community funds and related co-financing funds inappropriately used.

Main provisions

The Ordinance applies to the activities of determining and recovering the amounts which, further to irregularities, were unduly paid from the non-reimbursable financial assistance and the related co-financing funds granted to Romania by EC. It brings about a series of amendments to the provisions enclosed in the Government Ordinance no. 79/2003 ("**GO no. 79/2003**").

Paragraph 6 is added to Article 3 of GO 79/2003, providing that against the receivable title that establishes the payment obligation with respect to the budgetary receivables resulting from irregularities, the debtor may file a challenge under the terms and conditions set forth by GO 92/2003 on the Fiscal Procedure Code.

The authorities with competence in the management of community funds may delegate the activity of determining the budgetary receivables resulting from irregularities to intermediary bodies, but they continue to be liable for determining and recovering the budgetary receivables resulting from irregularities.

The authorities with competence in the management of the community funds have the obligation to initiate the determination procedure of the budgetary receivables resulting from irregularities within 7 days from the receipt of the notifications originating from inside and outside the authority in question (e.g. audit reports, control reports etc.). Also, these authorities have the obligation to register with the Debtor's Register the budgetary receivable resulting from irregularities, within 3 working days from the date of issuance of the receivable title.

The right to establish a payment obligation is time barred within 5 years following the closing date of the program, unless the community norms provide for a longer term.

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Environmental Law

Name of the enactment

Ordinance no. 25/2008 of 27 August 2008 amending and supplementing the Government Emergency Ordinance no. 196/2005 on Environment Fund ("**GO no. 25/2008**").

Publication	Published in the Official Gazette of Romania, Part I, No. 628/29.08.2008
Entry into force	1 September 2008
Connections with other enactments	It amends the Government Emergency Ordinance no. 196/2005 on Environment Fund.
Main provisions	<p>In addition to the previous regulation, the income to the environment fund is also established from 3% of the income obtained by the sale of goods to be dismembered in ferrous and non-ferrous wastes, obtained by the holder of the goods, <i>i.e.</i> a natural person or legal entity. Also, the contribution due by the undertakings liable for the difference between the annual objectives of capitalization or incineration of the package waste in energy recovery incineration plants, as provided by the laws in force, and the quantities effectively capitalized or incinerated with energy recovery increases from RON 1/kg up to RON 2/kg. By the amendments brought to GEO no. 196/2005 on the Environment fund (“GEO no. 196/2005”), additional contributions to the establishment of the Environment fund are implemented, as follows:</p> <ul style="list-style-type: none">• a contribution of RON 100/tonne is instituted, due by the administrative-territorial units as from 1 July 2010, if the annual objective to reduce by 15% the quantities of municipal and assimilable wastes collected and entrusted for final elimination is not fulfilled, the payment being made for the difference between the annual objective of decrease and the actually achieved objective;• a tax (referred to as eco tax) is instituted, amounting to RON 0.2/pc for the sack - banana like bags with applied handle or plastic bags made from materials that are not biodegradable, starting 1 January 2009, collected from the undertakings which introduce such packages on the national market. The eco tax is distinctly marked on the sale documents, and the value thereof is displayed in a visible place for the final consumer information. <p>For the harmonization of the provisions of GEO no. 196/2005 with the provisions of Government Emergency Ordinance no. 50/2008 on instituting the environmental levy for cars, the text of art. 9, paragraph (1) let. r) expressly provides that the environmental levy for cars is deemed as income to the Environment Fund.</p>

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Real Estate

1 The agricultural register

Name of the enactment	Ordinance no. 28/2008 on agricultural register ("GO no. 28/2008")
Publication	The Official Gazette of Romania, Part I, No. 628/29.08.2008
Entry into force	29 August 2008
Main provisions	GO no. 28/2008 regulates the system of drafting and keeping up to date an agricultural register in hardcopy and electronic format by the authorities of the local public administration of communes, towns and municipalities.

The legal enactment reveals the essential role of the agricultural register. Thus, such register is issued for a 5 year period and it is deemed as the official document of unitary primary records, in which data regarding households and agricultural companies/associations, as well as any other natural persons and/or legal entities owning/using land and/or livestock are recorded. Based on these data, centralized records are organized for each commune, town, municipality and sector of the Bucharest Municipality.

Also, GO no. 28/2008 regulates the procedure for recording in the agricultural register the periods at which the natural persons and legal entities have the obligation to declare these data for registration purposes. Therefore, the data registration in the agricultural register is done on the basis of the statements made by the leader of the household, and in absence thereof, by another major member of the household who has full exercise capacity. As regards legal entities, the registration is made based on the statements given by their legal representative, accompanied by documents.

Also, it is mentioned that the registration of the population households is made by taking into account the entire land owned and used under lease, in part, in association or in other forms, as the case may be, the buildings used as dwelling and the annexes, as well as the live stock held within the area of a locality, irrespective of where the owner's domicile is located. The sanctions provided for breaching the provisions of GO no. 28/2008 in the cases deemed as misdemeanors is fine ranging between RON 100 and RON 1,500.

2 Amendments to the legislation on land planning and urbanism

Name of the enactment	Ordinance no. 27/2008 on the amendment and supplementation of Law no. 350/2001 on land planning and urbanism ("GO no. 27/2008")
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Publication	Official Gazette of Romania, Part I, No. 628/29.08.2008
Entry into force	29 August 2008
Connections with other enactments	It amends Law no. 350/2001 on land planning and urbanism (" Law no. 350/2001 ")
Main provisions	<p>GO no. 27/2008 implements the concept of "Strategy for the territorial development of Romania" which is the long-term pragmatic document setting the guidelines for Romania's regional development and the directions to be implemented for a period of over 20 years, at a regional, interregional, national scale, integrating the relevant cross-border and transnational aspects.</p> <p>A significant amendment brought by GO no. 27/2008 is the obligation to have an urbanism certificate for the drafting of cadastre documentations for the dismemberment of immovable assets into at least 3 plots.</p> <p>In addition, new provisions are implemented on the right to build, the change of the legal, economic or technical regime of the land and on the issuance of the building permit by the competent public authority which must take into account certain particular assets:</p> <ul style="list-style-type: none">• existence of a risk for human security, health or failure to comply with minimum sanitation conditions;• presence of archeological vestiges;• existence of the risk to infringe environment protection norms;• existence of the risk to negatively affect the established patrimony, the natural patrimony or valuable landscapes, acknowledged and protected in accordance with the law;• existence of natural risks of floods or landslides;• stipulation of natural and/or manmade risks which initially have not been taken into account. <p>Another significant amendment is the regulation of the case when, by the application for the issuance of the urbanism certificate, an amendment is requested to the provisions of the urbanism documentations approved for the respective area or if the specific conditions of the location or the nature of the investment targets require it. In such case, the local public authority is entitled, as the case may be, by the urbanism certificate:</p> <ul style="list-style-type: none">• to reject the application and provide grounds for such rejection;

- to request the issuance of a local urbanism plan, on the basis of a prior opportunity permit.

In addition, by GO no. 27/2008, the National Territorial Development Commission is established, as a scientific, consultative and endorsement body without legal personality.

As regards the urbanism documentations, the regulation is supplemented with new provisions. Thus, it is stipulated that the general urbanism plan identifies areas for which regulations may be instituted. Such regulations cannot be amended by local urbanism plans or detailed urbanism plans and no derogations may be allowed there from.

A significant provision concerns the interdiction to amend the local urbanism plans for protected areas by other local urbanism plans referring to parts thereof. Moreover, it is prohibited to promote local urbanism plans with the declared purpose of promoting a certain investment project.

As concerns the public participation in the land planning and urbanism activities, GO no. 27/2008 enlarges and also details the concepts of “public information” and “public consulting”.

A last amendment brought by the new regulation concerns the establishment of a more severe system of sanctions for the misdemeanors provided by the law.

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