

# Legal Bulletin

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# Legal Bulletin

## Banking Law

### 1 Regulation of payment services

Name of the enactment

Government Emergency Ordinance No. 113/2009 on payment services (“**GEO No. 113/2009**”)

Publication

Official Gazette of Romania, Part I, No. 685/12.10.2009

Entry into force

1 November 2009

Connections with other enactments

- Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy, as amended and supplemented;
- Law No. 297/2004 on capital market, as amended and supplemented;
- Law No. 93/2009 on non-banking financial institutions, as amended and supplemented;
- Other enactments applicable to financial services.

Main provisions

GEO No. 113/2009 implements the provisions of Directive No. 2007/64/CE on payment services into the national legislation, and concerns such payment services where either both the payer’s and the beneficiary’s service suppliers are headquartered in a Member State, or the sole payment service supplier involved in the payment operation is headquartered in a Member State.

In consideration of the above, GEO No. 113/2009 deals with the following major issues:

- **Prudential authorization and supervision of payment institutions:**
  - The National Bank of Romania (“**NBR**”) shall be the relevant institution entrusted with the authorization and supervision of payment institutions;
  - It provides the main conditions in respect of the authorization by NBR of the institutions providing payment services;
  - GEO No. 113/2009 sets the minimum levels of the initial capital for payment institutions, as per the category of supplied services (*i.e.*, EUR 20,000, EUR 50,000, and EUR 125,000);

- Main rules are provided for the authorization, denial of the authorization application, and withdrawal of the authorization issued by NBR;
- Main operational requirements are provided with respect to own funds (by setting the limits thereof), funds received for the performance of payment operations (by implementing the obligation to separate and secure them), and the obligations to report to NBR;
- The supply of payment services by means of an agent shall be subject to NBR's endorsement and to certain prudential requirements, and the agents shall be registered in a special register;
- Payment service outsourcing is also briefly regulated, in consideration of NBR's notification to this end, and the essential conditions set for important operation outsourcing (significantly affecting the capacity of the payment institution to comply with the applicable provisions or financial performances, institution's stability or continuity of service supply);
- Conditions are provided for the supply of payment services by payment institutions from other Member States in Romania, subject to NBR's notification in this respect, and for the supply of payment services by Romanian payment institutions abroad, subject to NBR's notification;
- The register of payment institutions shall be established, which shall also list the branches and agents of the payment institutions organized as Romanian legal entities.
- **Transparency for conditions and requests for payment service information:**
  - GEO No. 113/2009 sets the main requirements for transparency and provision of information in the case of sole payment operations, or of payment operations performed on the basis of a framework agreement, when the user is a consumer;
  - In the case of sole payment operations, payment institutions shall have to provide the users with different sets of information, as per the type of the user, *i.e.* payer, or beneficiary in an easily accessible fashion and language, in a clear, full and accurate form, in Romanian (or other language, mutually agreed upon by the parties);

- In the case of operations performed on the basis of a framework agreement, payment institutions shall have to provide the users with various pieces of information concerning the supplier, payment services, price, interest rate and exchange rate applicable thereto, means of communication employed, conditions for the termination of the framework agreement and settlement of disputes arising in relation to such agreements;
- Amendment and unilateral termination of the framework agreement shall be subject to certain regulated conditions.
- **Rights and obligations of payment service suppliers and users:**
  - GEO No. 113/2009 provides the rights and obligations of the payment service suppliers and users, applicable when the user is a consumer mainly with respect to the prices of such services, the users' modalities to authorize payment operations, instruments employed, unauthorized or incorrectly performed operations, and the correction thereof, and the repayment of initiated operations by, or through the payment's beneficiary;
  - In addition, main rules are set for the performance of the payment operations, issuance and cancellation of orders, transfer of amounts, performance terms and foreign exchanges related to transfers;
  - As a general rule, the service supplier shall be liable for the correct performance of payment operations, to the extent the transaction's identification code is correct, and liability may be triggered by both the payer, and the beneficiary;
  - Users' personal data processing by the payment institutions and payment systems shall be performed in compliance with the provisions applicable in the field of personal data protection.

As transitory provisions, institutions supplying payment services shall be bound to obtain the NBR authorization by 31 December 2010, and the agreements in progress shall have to be rendered compliant with GEO No. 113/2009 within 45 days from the entry into force thereof.

#### Repealed enactments

- Government Ordinance No. 6/2004 on cross-border transfers, as amended and supplemented;
- Art. 13 of Government Ordinance No. 130/2000 on consumer protection

upon the conclusion and performance of distance agreements, as amended and supplemented.

## **2 NBR Regulation concerning payment institutions**

Name of the enactment	NBR Regulation No. 21/2009 on payment institutions (“ <b>Regulation No. 21/2009</b> ”)
Publication	Official Gazette of Romania, Part I, No. 735/29.10.2009
Entry into force	1 November 2009
Connections with other enactments	Government Emergency Ordinance No. 113/2009 on payment services
Main provisions	<p>Regulation No. 21/2009 regulating the framework applicable to payment institutions, as institutions supplying financial services which, until now, have not been under the prudential supervision of NBR.</p> <p>The main regulatory fields of NBR’s supervision over the payment institutions, according to Regulation No. 21/2009, and the essential applicable rules refer to the following:</p> <ul style="list-style-type: none"><li>• <b>NBR’s authorization of payment institutions’ operation:</b><ul style="list-style-type: none"><li>- General requirements taken into consideration upon the authorization of the payment institutions’ operation refer to the initial capital, object of activity, shareholding, managers and directors, and are highlighted in adequate documents;</li><li>- Special requirements are provided for the institutions supplying payment services upon the entry into force of GEO No. 113/2009.</li></ul></li><li>• <b>NBR’s notification regarding the supply of payment services through an agent:</b><ul style="list-style-type: none"><li>- If the payment services are supplied through an agent, the latter has to comply in its turn with a set of conditions provided for its registration with NBR’s register of payment institutions.</li></ul></li><li>• <b>Payment institutions’ own funds:</b><ul style="list-style-type: none"><li>- Own funds alternative calculation methods are provided; among such methods, only one method is selected throughout the process of authorization or amendment notification in the case of the payment institution, and each of such methods is detailed in Regulation No.</li></ul></li></ul>

21/2009;

- Structure of the own funds is provided by categories, as well as the conditions on the items thereof.
- **Protection of funds received for the performance of payment operations:**
  - Funds received for the performance of payment operations, referred to as protected funds, shall be subjected to a set of measures securing the proper performance of the payment operations to the benefit of users;
  - Thus, in addition to the principles provided under GEO No. 113/2009, payment institutions shall have to keep clear records of protected funds and methods implemented for the protection thereof;
  - Furthermore, a set of conditions to be considered upon the conclusion of the insurance policy for the protected funds are provided (with respect to the insurer and the insurance policy).
- **NBR's notification with respect to the amendments occurring in the status of payment institutions:**
  - Amendments in the status of payment institutions may be (i) subject to prior approval (those concerning the essential items of the payment institution considered throughout the authorization process), and amendments subject to notification (general corporate amendments);
  - The prior approval shall be issued by NBR on the basis of a documentation, and, upon the assessment thereof, the conditions set for the authorization of the payment institution's operation shall be taken into account;
  - Prior approval and notification procedures shall also apply to amendments occurring with respect to the agents of payments institutions – procedures shall be fulfilled by the payment institution using the services of such agent.
- **Reporting requirements applicable to payment institutions:**
  - Reporting requirements refer to the (annual) required amount of own funds, indicators used for the (quarterly) calculation thereof, level and structure of own funds (on a monthly and quarterly basis), and items

of the balance sheet and profit and loss account (on an annual basis);

- Reports shall be sent to NBR within maximum 30 days from the expiry of such reporting period.

The Regulation also includes a set of appendices containing:

- Forms required throughout the process of authorizing the operation of a payment institution;
- Indicators required for the calculation of the required amount of own funds and instructions to determine the same;
- Forms related to the reports to be submitted to NBR.

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### 3 NBR Regulation concerning non-banking financial institutions

Name of the enactment

Official Gazette of Romania, Part I, No. 707/21.10.2009

Publication

NBR Regulation No. 20/2009 on non-banking financial institutions ("**Regulation No. 20/2009**")

Entry into force

21 October 2009

Connections with other enactments

Law No. 93/2009 on non-banking financial institutions

Main provisions

The adoption of Regulation No. 20/2009 detailing the provisions of Law No. 93/2009 on non-banking financial institutions led to the consolidation of contrasting regulations concerning the performance of crediting activity by non-banking financial institutions ("**NBFI**").

Thus, Regulation No. 20/2009 details the legal framework applicable to Romanian legal entity NBFIs, and to branches of financial institutions – foreign legal entities.

The main regulated issues refer to (i) registration of NBFI with the registries (*i.e.* General Registry, Special Registry and Records Registry kept by NBR), (ii) notification of amendments occurring in the status of NBFIs, and (iii) prudential requirements applicable to the NBFIs registered with the Special Registry. Please be reminded that the **General Registry** – is the registry opened and kept by NBR for the registration of all NBFIs complying with the general operation conditions; the **Special Registry** – is the registry opened and kept by NBR for the registration of the NBFIs already registered with the General Registry, but which are fulfilling certain criteria leading thus to their registration with the Special Registry, and the **Records Registry** – is the registry opened and kept by NBR for the registration of

the entities performing certain crediting activities exclusively from public funds or from funds made available based on intergovernmental agreements, and of NBFIs incorporated as pawn shops or mutual fund organizations.

- **General provisions:**

- Any entity intending to perform crediting activities in Romania may perform such activities only subsequent to its registration with the General Registry, or with the Records Registry, as the case may be;
- Within 5 days from the performance of the first crediting operation, NBFIs registered with the General Registry shall notify this issue in writing to the Supervisory Division of NBR;
- All branches, and any other secondary headquarters opened in Romania by foreign legal entity financial institutions, shall be deemed as a sole branch.

- **Issues concerning registration with the Registries:**

The main issues concerning the registration of a NBFI with the General Registry shall be as follows:

- Romanian legal entity NBFIs must have, on a permanent basis, a share capital of at least EUR 200,000 (in RON equivalent), or EUR 3,000,000 (in RON equivalent) if their object of activity includes the activity of mortgage loans granting. As to the endowment capital of branches of financial institutions foreign legal entity, the value thereof shall comply with the limits set for Romanian legal entity NBFIs;
- If a NBFI's object of activity includes several types of crediting activities, the minimum value of the share capital shall be at least the level provided for the crediting activity with the greatest capital requirement, from among those included in the object of activity;
- A NBFI's object of activity provided in the articles of incorporation shall have to explicitly include all activities performed by the entity, both the primary, and the secondary ones. Furthermore, a crediting activity performed in accordance with the NBFI's object of activity, may not be outsourced;
- If a foreign legal entity institution opens several secondary headquarters at the same time, it shall have to appoint which of such secondary headquarters shall be deemed the primary branch and to



notify the same to NBR.

As to the registration of a NBFi with the Special Registry, this is based on the following coordinates:

- Registration criteria shall be: (i) the cumulated level of equity and funds loaned based on loan/financing agreements shall have to be at least RON 50,000,000, and (ii) the cumulated level of credits/financing granted and of commitments undertaken shall have to be at least RON 25,000,000;
- In addition, to be registered, a NBFi shall have to achieve the above limits, on a cumulative basis, for three successive quarterly reporting periods.
- **Notification of amendments occurring in the status of NBFis:**

Regulation No. 20/2009 provides that NBR – Supervisory Division shall have to be informed on the amendments in the status of a NBFi referring to:

- Name, registered headquarters and telephone/fax number of the NBFi;
- Increase or decrease in the share capital;
- amendments to the main or secondary object of activity, as the case may be;
- Establishment/closure of branches or other secondary headquarters in Romania or abroad;
- Shareholders;
- Managers;
- Directors/members of the supervisory committee;
- Statutory auditor or auditing company.

Such information shall be sent to NBR within 30 days from the occurrence thereof or, as the case may be, from the registration of such changes with either the Trade Registry, or the Registry of Associations and Foundations.

- **Prudential requirements applicable to NBFis registered with the Special Registry:**

Prudential requirements provided under Regulation No. 20/2009 refer to:

- Methodology of calculating own funds and minimum level thereof – in

this respect, NBFIs shall keep the level of own funds at least equal to the level of the minimum applicable share capital, on a permanent basis;

- Maximum limits of NBFIs exposure to counterparties – in this respect, please note that (i) the exposure of a NBFi towards a sole debtor shall be deemed as high when the gross value thereof is equal to or exceeds 10% of the NBFi’s own funds, and (ii) the aggregate exposure of a NBFi may not exceed 1,500% of the value of its own funds;
- The general framework regarding the organization, internal control, internal audit and significant risk management – in this case, the most important issues concern: (i) NBFIs must have a risk management committee, (ii) the control activities shall have to be an integral part of the NBFIs, (iii) NBFi’s procedures regarding the credit risk shall have to refer to the full activity thereof, and shall have to consider the credits both at an individual level, and the full clientele, (iv) NBFi must have procedures to approve new credits, and reschedule those already existing, (v) throughout the internal control activities, NBFi must have systems to identify in due time credits whose quality is deteriorating, and to manage bad credits, (vi) outsourcing the internal auditing activity is prohibited.

- **Transitory provisions:**

Regulation No. 20/2009 provides that the NBFIs registered with the Special Registry and outsourcing the auditing activity upon the coming into force of this enactment shall have to comply with the interdiction to outsource within maximum 12 months from 21 October 2009.

Repealed enactments

Various NBR norms concerning the matters which have been unified in the Regulation No. 20/2009.

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## Commerce

Name of the enactment

Law No. 321/2009 on the trading of food products (“**Law No. 321/2009**”)

Publication

Official Gazette of Romania, Part I, No. 705/20.10.2009

Entry into force

19 November 2009

Connections with other

Government Ordinance No. 99/2000 on the marketing of products and services

enactments

(“GO No. 99/2000”)

Connections with the  
Community legislation

(EC) Regulation No. 178/2002 of the European Parliament and Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety

Main provisions

Law No. 321/2009 regulates the conditions for the performance of the activity of food product trading, and applies to all individuals and legal entities performing trading activities with food products. As the trading relations between suppliers and traders are concerned, such are established further to the conclusion of an agreement negotiated by the parties in advance.

Certain interdictions are provided as measures of protection against anticompetitive arrangements and practices, as follows:

- Direct or indirect purchase or sale of products or services from or to a third party; the parties may not make any commitment in this respect;
- Request and collection by the trader from the supplier of the payment for services which are not directly connected to the sale operation and are not included in the purchase price, or of payments for services related to the extension of the trader’s distribution network, development of trader’s sale premises or to events promoting the trader’s activity and image;
- Offering and selling products at a loss, certain exceptions being provided under GO No. 99/2000;
- Supplier’s request of not selling the same products to other traders for a purchase price lower than or equal to the price paid by the trader.

Law No. 321/2009 also includes provisions referring to delisting of products and conditions in which such may be achieved by the trader.

As the payment obligations for food products between the trader and supplier are concerned, maximum payment terms are regulated, such terms varying from 12 to 35 days depending on the contracted food products.

Law No. 321/2009 expressly provides the possibility of setting certain contractual penalties for the failure to comply with, or for the inadequate compliance with the contractual obligations. In addition, it is provided that the debtor is in default without any prior formality and it is obliged to pay a daily default penalty starting from the due date of the payment obligation, equal to the double of the base

interest rate communicated by the National Bank of Romania, to be applied to the due amount.

Law No. 321/2009 provides for a 60-day term as of its entry into force whereby the agreements in progress whose terms and conditions are contrary to the provisions thereof shall be amended.

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## Electoral Procedures

Name of the enactment

Government Emergency Ordinance No. 103/2009 amending and supplementing Law No. 3/2000 on the organization and performance of the referendum ("**GEO No. 103/2009**")

Publication

Official Gazette of Romania, Part I, No. 656/02.10.2009

Entry into force

2 October 2009

Connections with other enactments

- Law No. 3/2000 on the organization and performance of the referendum ("**Law No. 3/2000**");
- Law No. 35/2008 on the elections for the offices of Chamber of Deputies and Senate, amending and supplementing Law No. 67/2004 on the elections for the offices of the local public administration ("**Law No. 35/2008**");
- Law No. 370/2004 on the elections for the office of President of Romania, as amended and supplemented ("**Law No. 370/2004**");
- Law No. 33/2007 on the organization and performance of the elections for the offices of the European Parliament, as amended and supplemented ("**Law No. 33/2007**")

Main provisions

GEO No. 103/2009 was adopted in order to amend the referendum's organization procedures. The recitals of this enactment invoke the initiative of the current President of Romania dated 24 September 2009 regarding the organization of a referendum for the establishment of a unicameral parliament and the need to hold such referendum during the current president's term of office. Also, it is maintained that the measures provided by this enactment would secure a decrease in the electoral expenses by approximately EUR 15 million as a result of holding the referendum at the same time with the elections for the office of President of Romania.

The main amendments made by GEO No. 103/2009 refer to:

- **Amendments regarding the Procedure to Initiate the Referendum:**

In accordance with Decision No. 392/2007 issued by the Constitutional Court, this enactment makes an important amendment regarding the endorsement by the Parliament of Romania in case the referendum is held further to the initiative of the President of Romania in relation to issues concerning the national interest. In this respect, the endorsement of the Parliament of Romania shall be expressed by means of a decision to be made in joint session by the vote of the majority of attending members of the Parliament. Should such endorsement not be expressed within 20 days from the request of the President of Romania, the latter may pass the decree for the organization of the referendum, as the Parliament consultation procedure would be deemed fulfilled. This is how the issue was settled when, due to a decision-making blockage in the Parliament, the referendum for issues of a national interest could not take place.

- **Amendments regarding Quorum:**

GEO No. 103/2009 makes amendments regarding the quorum required for the performance of the referendum, in the sense that the referendum shall be deemed valid, only if half plus one of the persons registered on the permanent electoral lists participate.

- **Issues regarding the Referendum's Performance Procedure:**

One of the new legislative matters is the possibility to hold the referendum at the same time with another electoral procedure. Consequently, if the referendum is scheduled at the same time with the elections for the offices of deputies and senators, with the elections for the office of President of Romania, with the elections for the offices of the European Parliament or with local elections, the referendum shall be held, as the case may be, in accordance with such electoral procedures. Both the referendum and the elections shall be held within the same voting section of the same polling station.

The referendum shall take place in counties and at voting sections organized in accordance with Law No. 35/2008, except for the case when the referendum is held at the same time with other electoral processes, in which case the referendum shall be held in the counties and at the voting sections established for such ballot.

- **Enactment's Enforcement in Time:**

GEO No. 103/2009 stipulates that its provisions shall also apply to the

referendum procedures in progress, and the 20-day term to consult the Parliament shall start running upon the coming into force of this enactment, basically creating the possibility that the referendum proposed by the current President of Romania with respect to the establishment of a unicameral parliament to be held at the same time with the elections for the office of President of Romania scheduled for 22 November 2009.

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## Taxation

Name of the enactment

Government Emergency Ordinance No. 109/2009 amending and supplementing Law No. 571/2003 on the Fiscal Code ("GEO No. 109/2009")

Publication

Official Gazette of Romania, Part I, No. 689/13.10.2009

Entry into force

13 October 2009

Main provisions

GEO No. 109/2009 was passed as a need to support the fiscal reform in Romania, considering the existence of the obligation (to avoid the infringement procedure), incumbent upon Romania, to reflect and apply in its national legislation, starting from 1 January 2010, the provisions of the European directives in the following fields: excise duties, place of supply of services, VAT and joint fiscal arrangements applicable to mergers, spin-off, transfers of assets and exchanges of shares between companies from different Member States. At the same time, by the adoption of GEO No. 109/2009, the Fiscal Code is amended several times in terms of technical issues, so that certain provisions be updated and clarified.

The main amendments made to the Fiscal Code by GEO No. 109/2009 in the field of direct taxes are the following:

- Inclusion of companies resident in Member States into the category of taxpayers which have to pay profit tax;
- Establishment of applicable fiscal rules if the registered headquarters of an "European company", or of an "European cooperative society" is relocated from Romania to other European Union Member States;
- Establishment of the fiscal arrangements applicable to the permanent establishment belonging to assignor companies from Romania;
- Possibility of deduction, upon the calculation of the taxable profit, of interest, penalties and increases for late payment owed by Romanian

legal entities, on the basis of economic agreements concluded with nonresident persons;

- Clarification of the provisions referring to loans, taken into consideration upon the calculation of the indebtedness degree;
- Competence decentralization, from the level of the Ministry of Public Finance throughout territorial divisions, with a view to establishing the activities included in the list classifying independent activities;
- Simplification of the current declarative system;
- Reclassification of the frequency for the updating of expert appraisals concerning the circulation value of real estate, to be performed by the Chamber of Notaries Public to achieve a correlation with the development of the real estate market;
- Amendment of the term of payment of the tax on distributed dividends which is not paid by the end of the year in which the annual financial statements are approved; such term shall be 25 January of the next year;
- Provision of details with respect to conditions for enjoying exoneration from the payment of tax on the dividends paid by a Romanian legal entity to a legal entity resident in an European Union Member State or in an European Free Trade Association Member State;
- Elimination of the prior decision for the exoneration from the payment of withholding tax in the case of nonresidents' income, securing a treatment currently applicable under the internal legislation.

The main amendments made to the Fiscal Code by GEO No. 109/2009 in the VAT field are the following:

- Establishment of the general rule that the services supplied by a taxable person to another taxable person shall occur at the place, and shall be taxed at the place, respectively, where the beneficiary is located, inside or outside the Community;
- Establishment of the general rule that the services supplied by a taxable person to a nontaxable person shall take place, and shall be taxed, respectively, where the supplier is located;

- Establishment of an exception from the rules above in order to secure taxation of services at the place of performance, for instance: services related to real estates shall be taxed where the real estate is located; restaurant and catering services shall be taxed at the actual place of supply; passenger transportation services shall be taxed at the place where the transport is performed, etc.;
- Establishment of the rule to monthly submit recapitulative statements for both Intra-Community delivery/acquisition of assets, and for Intra-Community services. As compared to the prior 3-month term, this is considered to be the most important measure to combat tax evasion, for it allows a more efficient control in real time of Intra-Community operations.

The main amendments made to the Fiscal Code by GEO No. 109/2009 in the field of excise duties include:

- Amendment and supplementation of certain definitions of economic operators performing operations with excisable products (such as: registered addressee, registered sender);
- Establishment of the legal framework required to implement the IT system facilitating and monitoring the Intra-Community circulation of excisable products, subject to suspensive excise duty arrangements;
- Implementation of the possibility of sharing the liability for securing the risk of nonpayment of excise duties, which may become due;
- Elimination of products for which excise duties are set in percentage shares from the scope of application.

All amendments and supplements made to the Fiscal Code by GEO No. 109/2009 shall be applicable starting from 1 January 2010.

Repealed enactments

Law No. 260/2007 on the registration of commercial operations by means of electronic devices, published in the Official Gazette of Romania, Part I, No. 506 of 27 July 2007.

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## Healthcare

Name of the enactment

Government Emergency Ordinance No. 104/2009 amending and supplementing Law No. 95/2006 on the reform in the health care field (“**GEO No. 104/2009**”)



Publication	Official Gazette of Romania, Part I, No. 669/07.10.2009
Entry into force	7 October 2009
Connections with other enactments	Law No. 95/2006 on the reform in the health care field
Main provisions	<p>Basically, the most important amendment made by GEO No. 104/2009 aims at providing an obligation for the holders of marketing authorizations (“<b>MAs</b>”) with respect to (i) medicines included in national health care programs, (ii) medicines offered to insured outpatients, with or without personal contribution to the social health security system, based on a medical prescription, and (iii) medicines offered to insured inpatients, collecting proceeds from the sale of such medicines in Romania, to pay a contribution subsequent to the deduction of the value added tax. The contribution shall be collected on a quarterly basis, and shall be calculated by reference to the amount of the proceeds, as follows:</p> <ul style="list-style-type: none"><li>• 11% for a quarterly income greater than RON 75 million;</li><li>• 10% for a quarterly income between RON 50,001,000 and 75 million;</li><li>• 9% for a quarterly income between RON 25,001,000 and 50 million;</li><li>• 8% for a quarterly income between RON 12,501,000 and 25 million;</li><li>• 7% for a quarterly income between RON 6,251,000 and 12.5 million;</li><li>• 6% for a quarterly income between RON 1,250,000 and 6.25 million;</li><li>• 5% for a quarterly income lower than RON 1,250,000.</li></ul> <p>If the holders of MAs are not making sales of such medicines in Romania, the obligation to pay the contribution shall be incumbent upon the legal entities collecting proceeds from the sale of medicines in Romania, as a result of obtaining the right to sale directly from the holder of the MA, and from the person being offered by the latter, directly or indirectly, the possibility to transfer to third parties the right to sale medicines in Romania, respectively.</p> <p>The above contribution shall be paid on a quarterly basis, by the 25<sup>th</sup> of the month following the quarter in which the delivery of medicines took place. The sanction for the failure to comply with the payment obligation shall consist in the loss of the right to offset the equivalent value of the medicines concerning such obligation from the Sole National Health Security Fund. Interest shall be calculated and shall be payable for the failure to pay the contribution when due, subject to the conditions of the Fiscal Procedure Code.</p>

The reason for which such obligation was provided is the need to urgently supplement the financing sources for the public health care system, as a result of the constant increase in the number of patients benefiting from the services supplied by the public health care system, which led to a significant increase in the expenses borne from public sources.

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## Real Estate

Name of the enactment

Order No. 415/2009 supplementing the Regulation on the contents and method to prepare cadastral documentations required for the registration with the land book, approved by Order of the General Director of National Agency for Cadastre and Land Registration No. 634/2006 (the “**Order**”)

Publication

Official Gazette of Romania, Part I, No. 675/08.10.2009

Entry into force

23 October 2009

Connections with other enactments

- Cadastre and Land Registration Law No. 7/1996 (“**Law No. 7/1996**”);
- Regulation on the contents and method to prepare cadastral documentations required for the registration with the land book, approved by Order of the General Director of National Agency for Cadastre and Land Registration No. 634/2006 (the “**Regulation**”);
- Land Fund Law No. 18/1991 (the “**Land Fund Law**”);
- Law No. 1/2000 on the reinstatement of the ownership right over agricultural and forestlands, claimed in accordance with the provisions of Land Fund Law No. 18/1991 and Law No. 169/1997 (“**Law No. 1/2000**”);
- Law No. 247/2005 on the reform in the field of ownership and justice, and certain related measures (“**Law No. 247/2005**”).

Main provisions

A first supplementation made by the Order to the Regulation is the provision of a definition for the terms of plot (*tarla* in Romanian), and parcel map (*plan parcelar* in Romanian).

A new important matter inserted by the Order is the regulation of the procedure regarding the assignment of cadastral numbers from the parcel map to real estates for registration with the land book (the “**Procedure**”). Such procedure applies to the real estates located in the extra muros area, restituted in accordance with the provisions of Law No. 18/1991, Law No. 1/2000, and Law No.

247/2005.

Upon the request of local and central public authorities, or of other interested persons, the Procedure shall be initiated by authorized persons, through the preparation of a technical file for each plot. Based on the technical file, and upon the request of the owners, the real estates shall be registered with the land book.

The Order provides that the cadastral numbers shall also be assigned to real estates for which only minutes granting possession were issued in accordance with ownership laws.

Ownership titles to be issued in accordance with the provisions of such laws, on the basis of the parcel map received including the assigned cadastral numbers, which plan becomes the cadastral plan, shall be *ex officio* registered with the land book, prior to their submission to the owner.

Furthermore, the Order inserted an exception from the Procedure, as regulated under the Regulation. Consequently, the Order provides that, upon the receipt of the cadastral documentation for real estates located in the extra muros area for which no parcel plan is registered in the records of the territorial office or of the town hall, this shall be replaced by a "parcel classification plan" indicating the limits of the parcel, limits of real estates with previously assigned cadastral numbers, limits of the real estate in question, and any other fixed details in the field.

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