



## NEW REGULATION FOR THE AUTHORIZATION OF CREDIT INSTITUTIONS – AMENDMENTS APPROVAL AND NOTIFICATION

### 1. Introduction

In follow-up to our summary regarding the preliminary evaluation for the banks' authorisation, as detailed in Regulation no. 12/2020 on the authorization of credit institutions and amendments pertaining to the same ("**Regulation 12/2020**"), and our summary regarding the information and documentation to be submitted by a bank in order to obtain authorisation from the National Bank of Romania (the "**NBR**"), we will highlight below the main amendments regarding banks that need to be approved by and registered by the NBR once the bank is authorised.

### 2. General overview

It is important for banks authorised with the NBR to be aware of the fact that certain amendments concerning the bank need to be registered with the NBR.

Some of these relevant amendments are subject to the prior approval of the NBR, while other less substantial amendments simply need to be notified to the NBR.

### 3. Amendments subject to the approval by the NBR

A large set of amendments pertaining to a bank authorized with the NBR need to be submitted before the NBR and approved by the same, out of which we highlight the following:

- (i) the supplementation of the bank's business object;
- (ii) changes pertaining to the bank's management body;
- (iii) changes pertaining to the bank's financial auditor;
- (iv) opening of branches in third countries;

- (v) changes brought to the general business conditions and general conditions of savings-lending contracts, as well as the introduction of new types of contracts, in the case of savings and lending banks in the housing field;
- (vi) the acquisition of qualified holdings in third-country entities;
- (vii) changes related to individuals holding key positions in the bank.

Such changes need to be notified before the NBR and approved by the same prior to undertaking any relevant amendments with the Trade Registry.

Various documents will need to be drafted and submitted before the NBR for the purpose of the amendments approval, such as, for example:

- (i) shareholders resolutions approving the relevant amendments;
- (ii) information and documentation pertaining to the relevant amendments;
- (iii) other additional information and documents specific to the relevant amendments (for example, if a bank wants to supplement its business object and the envisioned additional activities imply the use of additional computer software, the bank will need to submit a report drafted by an independent specialized auditor regarding the degree of adequacy of the bank's computer system for the specifics of the new activities to be carried out).

One of the most important amendments that requires the approval of the NBR is related to changes pertaining to the members of the banks management body.

In this scenario, the bank will need to justify the need to replace the previous management body members.

Moreover, new management body members will need to be evaluated by the NBR based on relevant documents to be submitted by the bank regarding the professional competency, good reputation, honesty and integrity of the persons proposed to be appointed as members of the management body.

It is thus important for banks to carefully examine the potential impact of the envisioned changes before implementing the same and whether there is a potential risk for the NBR to refuse to provide the necessary approval.

Once the envisioned change is approved by the NBR, the same will also need to be registered with the Trade Registry and the bank will need afterwards to provide the documents ascertaining this registration to the NBR, within 20 days as of the date of the registration with the Trade Registry.

Another important amendment that might become relevant to banks authorised by the NBR relates to opening of branches in third countries.

In this scenario, the Romanian bank would need to apply for approval for opening the relevant branch before the NBR.

Various documents would need to be submitted for this purpose, including, for example:

- (i) the decision of the competent body reflecting the business object of the branch, the capital of the branch, the persons designated to ensure the management of the branch and the limits of the mandates granted to the same;
- (ii) an activity plan related to the branch, as well as information regarding the activity to be carried out by the branch, for the first three years of operation; such documents and information should reveal the opportunity of the branch opening;
- (iii) a presentation of the legal framework applicable in the relevant third country, including at least information on the competent authority in the banking sector from the third country, information on banking secrecy, money laundering and terrorism financing legislation, know-your-customers standards and any other relevant information, including potential impediments for the NBR to conduct prudential supervision.

Thus, opening a branch in a third country implies a multi-jurisdictional analysis and preferably legal consultation from lawyers specialized in the legislation of the third country.

#### **4. Amendments subject to notification before the NBR**

Some of the most relevant amendments subject to notification before the NBR are as follows:

- (i) amendments to the bank's name;
- (ii) changing the registered office of the bank;
- (iii) limiting the bank's business object;
- (iv) increasing the bank's share capital;
- (v) moving a person from one management position to another management position, if the envisioned change does not imply the entrusted responsibilities taken into account upon the approval of said management body member;
- (vi) changes related to branches and other secondary offices located in America;

- (vii) amendments of the bank's articles of association that are not subject to the NBR's prior approval.

Such amendments generally have to be first registered with the Trade Registry.

Once this is achieved, the notification regarding the relevant changes will need to be submitted before the NBR and be accompanied, as the case may be, by the documents ascertaining the registration of the same with the Trade Registry, within a maximum 20 calendar days from the date of registration.

## 5. Conclusions

Considering the above, although obtaining the necessary authorisation from the NBR is the most complex procedure to be undertaken before the same, all envisioned changes pertaining to the bank (particularly those related to corporate aspects and business conditions) must be carefully analysed prior to implementation and, as the case may be, submitted for approval before the NBR or notified to the same.

To this end, it is important for relevant legal provisions applicable to Romanian banks to be maintained under constant supervision, as updates to the same might bring changes pertaining to the relevant competency of the NBR regarding various amendments envisioned by the bank (either to approve the same or to simply be notified regarding the same).

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This article contains general information and should not be considered as legal advice.



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