

LAW No. 656/07.12.2002
on the Prevention and Sanctioning of Money Laundering

The Parliament of Romania adopts this law

Chapter I
General Provisions

Art. 1 – This Law establishes measures on the prevention and combating of money laundering.

Art. 2 – For the purpose of this Law:

- a) “money laundering” means the offence provided for in art. 23;
- b) “property” means the assets of every kind, whether corporeal or incorporeal, movable or immovable, as well as legal documents or instruments attesting a title or a right in respect to such assets;
- c) “suspicious transaction” means any transaction, which by its nature and unusual character, compared to the activities of the client, raises suspicions of money laundering.

CHAPTER II
**Customer identification and data processing procedures regarding money
laundering information**

Art. - 3

(1) As soon as an employee of a legal or a natural person of those stipulated in article 8, has suspicions that a transaction, which is on the way to be performed, has the purpose of money laundering, he shall inform the person appointed according to art. 14, para (1), who shall notify immediately the National Office for Prevention and Control of Money Laundering, hereinafter referred to as “the Office”. The Office shall confirm the receipt of the notification.

(2) If the Office considers as necessary, it may decide to suspend the transaction for 48 hours, based on the existing reasons.

(3) Before this deadline, if the Office considers that 48 hours are not enough, it may request to the General Prosecutor’s Office by the Supreme Court of Justice to extend the suspension for maximum 3 working days, based on the existing reasons. The General Prosecutor’s Office by the Supreme Court of Justice may authorise only once the requested extension or may order the cessation of the transaction’s suspension.

(4) Within 24 hours, the Office must notify the persons provided in art. 8, the decision to suspend the transaction or the disposition to extend the period of suspension, authorised by the General Prosecutor’s Office by the Supreme Court of Justice.

(5) If the Office didn’t make the notification, within the period provided in para (4), the persons referred to in art. 8, may carry out the transaction.

(6) The persons provided in article 8 or the persons designated in accordance with art. 14 para (1) shall report to the Office, within 24 hours, about all cash transactions performed, in ROL or in foreign currency, whose minimum limit represents the equivalent of Euro 10,000, irrespective whether the transaction is carried out in a single operation or in several linked operations.

(7) The provisions under paragraph (6) shall also apply to cross-border transfers to/from accounts, for amounts exceeding the equivalent of Euro 10,000.

(8) The following types of operations, carried out by the State Treasury, are exempted from the obligation to be reported to the Office: cash amounts for salary payments, payments made by public institutions, collection of taxes, contributions and any other budgetary obligations from natural and legal persons, including cash amounts deposited by public institutions, as well as the operations provided in para (7).

(9) The Board of the Office shall decide on the reporting form to be used for the operations provided in paragraphs (1), (6) and (7), within 30 days from the entering into force of this Law.

Art. - 4

If the persons provided in article 8 have knowledge that a transaction, for which they have received instructions to perform it, has the purpose of money laundering, they may perform the transaction without a prior notification to the Office, if the transaction must be carried out immediately or, if by not performing it, the efforts to trace the beneficiaries of such money laundering suspect operation could be hampered. These persons have the obligation to notify the Office immediately, but not later than 24 hours, about the performed transaction, specifying the reason for non compliance to the provisions of art. 3.

Art. - 5

(1) The Office may require to the persons referred to in art.8, as well as to the competent institutions, data and information necessary to perform its competences provided by the Law. The information related to the notifications received according to the art. 3 and 4 is subject to confidentiality.

(2) The persons provided in art. 8 shall submit to the Office the required data and information, within 30 days, from the date of receiving the request.

(3) The professional secrecy related to the entities mentioned in article 8 is not opposable to the Office.

(4) The Office may exchange information, based on reciprocity, with foreign institutions having similar functions and which are equally obliged to secrecy, if such information exchange is made with the purpose of preventing and combating money laundering.

Art. - 6

(1) The Office shall analyse and process the information received, and if there are serious grounds of money laundering, the information shall be immediately submitted to the General Prosecutor's Office by the Supreme Court of Justice.

(2) If, after analysing and processing the information received, serious grounds for money laundering are not found, the Office shall keep the information in its own data base.

(3) If the information provided for in para (2) are not completed within 5 years, they are filed within the Office.

(4) After receiving the information, the General Prosecutor's Office by the Supreme Court of Justice may request additional information to the Office, if it appreciates that the information is not sufficient.

(5) The Office has the obligation to transmit to the General Prosecutor's Office by the Supreme Court of Justice, or as appropriate, to the National Anti-Corruption Prosecutor's Office, on their request, data and information obtained according to the provisions of this Law.

(6) The General Prosecutor's Office by the Supreme Court of Justice informs the Office, quarterly, on its request, about the stage of legal proceedings in the cases received from the Office.

Art. - 7

Information supplied in good faith, in accordance with the provisions of the art. 3-5, by the persons provided in article 8 or by the persons appointed in accordance with art. 14 para (1), may not result in disciplinary, civil or penal liability of these persons.

Art. - 8

The provisions of this Law shall be applied to:

- a) banks, foreign banks branches and credit institutions;
- b) financial institutions, such as: investment funds, investment companies, investment administration companies, depositary companies, custody companies, securities companies, pension funds and other such funds, which perform the following operations: crediting, including inter alia, consumption credit, mortgage credit, factoring, financing of commercial transactions, including forfeiting, financial leasing, payment operations, issuing and administration of payment means, credit cards, travellers cheques and other alike, granting or undertaking of guarantees and underwriting of commitments, transactions on own account or on the clients account using the money market's instruments, cheques, payment orders, deposit certificates, etc., foreign exchange, derivatives, financial instruments related to foreign exchange rates or interest rates, securities, participation to the issuance of shares and services related to the issuance, consultancy on capital structure for enterprises, industrial strategy, consultancy and services in the field of mergers and acquisitions of enterprises, brokerage on inter-banking market, portofolio administration and consultancy on portofolio administration, custody and administration of securities;
- c) insurance and reinsurance companies;
- d) economic agents performing gambling and pawning activities, trading in works of art, precious metals and stones, dealers, tourism operators, services providers and any other similar activities involving movement of values;
- e) natural and legal persons providing legal, notarial, accounting, financial and banking advice, notwithstanding their professional secrecy legal provisions;
- f) persons with attributions in the privatisation process;
- g) post offices and legal persons who provide money transmission/remittance services in ROL or foreign currency;
- h) real estate agents;

- i) state treasury;
- j) foreign exchange offices (« bureaux de change »);
- k) any other natural or legal person, for acts and deeds committed outside the financial and banking system.

Art. - 9

(1) The persons provided in article 8 have the obligation to establish the identity of their customers, when entering into business relations, opening accounts or offering services.

(2) The identification requirement applies also to any transactions, other than those provided in the paragraph 1, whose minimum value is equivalent to EUR 10,000, irrespective whether the transaction is carried out in a single operation or in several linked operations.

(3) As soon as there is any information that the transaction has the purpose of money laundering, the customers identification shall be made, even if the value of the transaction is lower than the minimum limit provided in para (2).

(4) Where the sum is not known at the time when the transaction is accepted, the natural or legal person having the obligation to identify the customers, shall immediately proceed with their identification, as soon as it knows the value of the transaction and when it has been established that the minimum limit provided in para (2) has been reached.

(5) The provisions of para 1-4 shall apply also to all transactions involving persons who are not physically present for identification purposes (non - face - to - face operations).

Art. - 10

(1) Identification data regarding customers shall include:

- a) for natural persons: data mentioned in the identity documents provided by the law;
- b) for legal persons: data mentioned in the incorporation documents provided by the law, as well as the proof that the natural person performing the transaction is the legal representative of the legal person.

(2) for foreign legal persons, when opening bank accounts, there shall be requested those documents indicating the identity of the company, the address, the type of company, the place of incorporation, the special power of attorney for the person representing the company in the transaction, as well as a translation in Romanian of the respective documents, certified by a public notary.

Art. - 11

In cases where there are information referring to the customers provided in art. 9 and 10, that the transaction is not performed in their own name, the legal persons mentioned in art. 8 shall take measures in order to obtain information about the real identity of the person on whose interest or behalf are acting these customers, including information from the Office.

Art. - 12

(1) Identification requirements shall not apply to insurance and reinsurance companies provided in article 8, concerning life insurance policies, if the insurance premium or the annual rates are lower or equal to the equivalent in ROL of EUR 1,000 or if the single insurance premium paid does not exceed the equivalent in ROL of EUR 2,500. If the

periodical premium rates or the amounts to be paid in any given year are higher or will be increased so as to exceed the EUR 1,000 threshold or respectively EUR 2,500 equivalent in ROL, the identification of the customers shall be required.

(2) Identification requirements shall not be compulsory for the subscription of insurance policies issued by the pension funds, obtained by virtue of a labour contract or due to the profession of the insured person, on condition that such policy may not be redeemed before maturity and may not be used as a guarantee or collateral in order to obtain a loan.

(3) Identification requirements shall not apply when it has been established that the payment shall be made by debiting an account opened on behalf of the client with a bank or a saving institution.

Art. - 13

(1) In each case when the identity is required according to the provisions of this Law, the legal or natural person provided in article 8, which has the obligation to identify the customer, shall keep a copy of the document, as identity proof or identity references, for a period of 5 years, from the date when the relationship with the customer ends.

(2) The persons referred to in art. 8 shall keep the secondary or operative records and the records of all financial transactions subject to this law, for a period of 5 years from the performance of every transaction, in an appropriate form, in order to be used as evidence in Court.

Art. - 14

(1) The legal persons provided in art. 8 shall appoint one or more persons having responsibilities in the enforcement of this law, whose names shall be notified to the Office, together with the nature and limits of the mentioned responsibilities.

(2) The persons appointed according to the paragraph 1 shall be responsible for the performance of the tasks established for the enforcement of this law.

Art. - 15

The persons designated according to the art. 14 paragraph (1) and the persons provided in art. 8 shall draw up a written report for each suspicious transaction, in the form established by the Office, which shall be immediately submitted to the Office.

Art. - 16

(1) The legal persons provided in art. 8 shall establish adequate procedures and methods of internal control, in order to prevent and combat money laundering, and shall ensure the training of their employees on detecting the transactions that could be related to money laundering and on taking the immediate measures in such situations.

(2) The Office shall participate to the special training programmes for the representatives of the persons provided in art.8.

Art. - 17

(1) The authorities with financial control powers, according to the law, and those with prudential supervision tasks on the persons referred to in art.8, shall verify and control the enforcement of the present law, within the performance of their legal duties, and if there

are suspicions of money laundering or infringements to the provisions of the this law, they shall immediately notify the Office.

(2) The Office may perform joint checks and controls on the persons provided in art. 8, together with the authorities mentioned in para (1).

Art. - 18

(1) The personnel of the Office is obliged not to disclose any information received during its activity, except in the cases express provided by the law. This obligation remains valid for a period of 5 years after the end of the labour contract with the Office.

(2) The persons provided in art. 8 and their employees are obliged not to disclose the information they are holding, related to money laundering, except under legal conditions, and are not allowed to warn their customers when information relating to them is being reported to the Office.

(3) The use for personal purposes of the information received by the Office's personnel and by the employees of the persons provided in art. 8, during the activity and after its ceasing, is forbidden.

CHAPTER III

The National Office for the Prevention and Control of Money Laundering

Art. - 19

(1) The National Office for the Prevention and Control of Money Laundering is established as a specialised body and legal entity subordinated to the Government of Romania, having the premises in Bucharest.

(2) The activity object of the Office is the prevention and combating of money laundering, for which purpose it shall collect, analyse, process and submit information to the General Prosecutor's Office by the Supreme Court of Justice, according to the art.6 paragraph (1).

(3) In order to exercise its competences, the Office shall establish its own structure at central level, whose organisation chart is approved through Government's Decision.

(4) The Office is managed by a President, ranking as Secretary of State, appointed by the Government, from among the Members of the Board of the Office, who shall also act as main credit ordinator.

(5) The Board of the Office is the debating and decisional structure, including one representative from each of the following institutions: the Ministry of Public Finances, the Ministry of Justice, the Ministry of Interior, the General Prosecutor's Office by the Supreme Court of Justice, the National Bank of Romania, the Court of Accounts and the Romanian Banking Association, appointed for a period of 5 years, through a Governmental Decision.

(6) Within the exercise of its attributions, the Board of the Office adopts decisions with a majority of votes.

(7) At the time of their appointment, the members of the Board shall fulfil the following requirements:

a) to hold an university degree and to have at least 10 years of experience in a legal or economic position;

- b) to be domiciled in Romania;
 - c) to have Romanian citizenship only;
 - d) to be legally able to exercise civil and political rights;
 - e) to have a high professional and an intact moral reputation.
- (8) It is forbidden for the members of the Board to be a member of a political party or to be involved in public activities with political character;
- (9) The position as Member of the Board is incompatible with any other public or private position, except for didactic positions in the high education institutions.
- (10) The Members of the Board have the obligation to immediately notify the President of the Office, in writing, should any situation of incompatibility occur.
- (11) During the term of their mandate, the Members of the Board shall be seconded to the Office and their labour contracts with the institutions of origin shall be suspended. At the end of their mandate, they shall return to their initial position.
- (12) If a position in the Board is vacant, the management of the competent authority shall propose to the Government another person, within 30 days from the date when the position has become vacant.
- (13) The mandate of a Member of the Board shall cease in the following conditions:
- a) at the expiration of the period for which he has been appointed;
 - b) by resignation;
 - c) by death;
 - d) by not being able to exercise the mandate for a period of more than 6 months;
 - e) upon occurrence of any incompatibility;
 - f) by revocation by the authority that appointed him.
- (14) The employees of the Office may not hold any position or fulfil any other function in any of the institutions provided in article 8, while working for the Office.
- (15) For the functioning of the Office, the Government shall transfer in its administration the necessary real estates – land and buildings – belonging to the public or private domain, within 60 days from the registration date of the application.
- (16) The Office may participate to the activities organised by the international organisations in the field and may be member of these organisations. The Board of the Office decides on the opportunity to participate to such activities.

Art. 20

- (1) The members of the Board shall benefit of the rights provided by the law for persons that hold positions of public dignity. The indemnity for the Board's Members shall be established according to the provision of art.19 and para 6 of the annex II/2 of the Law no. 154/1998 on wage system in the budgetary sector and indemnities for persons having a public dignity position, as modified and amended subsequently.
- (2) The wage system for the specialised personnel and auxiliary specialised personnel shall apply in accordance with the Law no. 50/1996 on the wage system and other rights of the personnel of the judicial authority bodies, republished, as modified and amended subsequently.
- (3) The classification of job positions, studies and years of experience requirements needed for the employment, promotion and level of wages of the Office's personnel, as well as the legal rules establishing the wage system are included in the Annex, which is part of this Law.

(4) The promotion of the Office's personnel on professional ranking and levels provided in para (2) shall be made using professional tests, in accordance with the years of experience requirements provided in the Annex to this Law.

(5) The basic indemnity for specialized personnel, as it has been established in Chapter I of the Annex of this Law is the unique form of monthly remuneration for the activity corresponding to the position held, without receiving any of the additional benefits provided by the Law no. 50/1996 on wages and other rights of the personnel from the judicial authority bodies, as modified and amended subsequently, and represents the basis for calculation of the rights and obligations determined in relation with the wage revenues.

(6) The auxiliary specialised personnel shall receive the additional benefits provided by the Law no. 50/1996, republished, as amended and completed by the Governmental Ordinance no. 83/2000, approved with amendments by the Law no. 334/2001, for the assimilated positions, beside the basic salary provided in the Annex to this Law.

(7) The personnel of the Office holding specific positions for the budgetary system will be paid in accordance with the legislation referring to the personnel working in the ministries and other specialized central bodies.

(8) The employed personnel, having wages according to this law, has the right to receive, for the annual holiday period, beside the holiday indemnity, a premium equal to the gross basic indemnity or, as appropriate, the gross basic salary of the previous month before leaving on holiday, which is taxed separately.

CHAPTER IV

Responsibilities and penalties

Art. - 21

Violation of the provisions of this Law shall be subjected, as appropriate, to civil, disciplinary, contraventional or criminal liability.

Art. - 22

(1) Shall be considered as contravention (minor offence) the following deeds:

(a) Violation of the obligations of art. 3 para (1) and (6), art. 4 and art. 9;

(b) Violation of the obligations provided in art. 5 para (2), art. 11, art. 13-15, art. 16 para (1) and art. 17.

(2) The contraventions provided in para (1) a) shall be sanctioned by a fine ranging from 20,000,000 ROL to 100,000,000 ROL, and the contraventions provided in para (1) b) shall be sanctioned by a fine ranging from 30.000.000 ROL to 200.000.000 ROL.

(3) The sanctions provided in paragraph (2) shall be applicable also to legal entities.

(4) The contraventions shall be ascertained and fines shall be applied by the persons designated by the Office and by the authorities provided in article 17.

(5) The provisions of this Law referring to contraventions, shall be completed adequately with the provisions of the Governmental Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and additional provisions by the Law no. 180/2002, as subsequently modified, except for the art.28 and 29.

Art. - 23

(1) The following shall be considered as offence of money laundering and shall be punished with 3 to 12 years imprisonment:

a) the conversion or transfer of property, knowing that such property is derived from criminal activity, for the purpose of concealing or disguising the illicit origin of property or of assisting any person who is involved in the commission of such activity to evade the prosecution, trial and punishment execution;

b) the concealment or disguise of the true nature, source, location, disposition, movement, rights with respect to, or ownership of property, knowing that such property is derived from criminal activity;

c) the acquisition, possession or use of property, knowing, that such property is derived from criminal activity;

(2) Association to commit or initiation of an association, adhesion, or abetting in any kind of such an association for the purpose of committing the money laundering offence, shall be punished with 5 to 15 years of imprisonment.

(3) The attempt shall be punished.

Art. - 24 Violations of the obligations provided in art.18 shall be considered as offence and shall be punished with 2 to 7 years of imprisonment.

Art. - 25

(1) For the offences provided in art. 23 and 24, shall be also applied the provisions of the art.118 of the Criminal Code on the confiscation of proceeds of crime.

(2) If the proceeds of crimes covered in art.23 are not found, their equivalent in money or the property acquired shall be confiscated instead of these proceeds.

(3) In order to guarantee the enforcement of confiscation of proceeds, the provisional measures provided in the Criminal Procedure Code shall be applied.

Art. - 26

For the offences provided in art.23 and 24, the banking and professional secrecy cannot be opposed to prosecution bodies, after the beginning of the penal procedures (criminal investigation) ordered by the prosecutor, nor to Courts. The data and information required by the prosecutor or by the Court shall be sent by the persons provided in art.8, on the prosecutor's written request, during the prosecution or on Court's request, during the trial.

Art. - 27

(1) If there are serious grounds that a person is going to commit a money laundering offence and for this purpose utilises telecommunication or IT systems, the prosecutor may order, for a certain period of time, the access to these systems.

(2) The prosecutor may also order, when there are serious grounds on committing the money laundering offence, the monitoring of the bank accounts and of the accounts assimilated to these, for a certain period of time.

(3) The provisions of art.91¹-91⁵ of the Criminal Procedure Code shall apply accordingly.

CHAPTER V
Final Provisions

Art. - 28

The identification of customers, in accordance with art.9, shall be made starting with the date of entering into force of this Law.

Art. - 29

The minimum limit for the transactions provided in art. 9 para (2) and the maximum limit for the amounts provided in art. 12 para (1) may be changed by the Government's Decision, at the Office's proposal.

Art. - 30

Within 30 days from the entering into force of this Law, the Office shall submit to the Government for its approval, the new Regulations on Organisation and Functioning of the National Office for Prevention and Control of Money Laundering.

Art. - 31

The Law no. 21/1999 on the prevention and sanctioning of money laundering, published in the Official Gazette of Romania, Part I, no. 18 on 21 January 1999, as amended subsequently, shall be abrogated.