



Legal update by reference to the months
of September & October 2012

Legal Brief

Eversheds Lina & Guia SCA

Banking

A new regulation regarding the contributions and subscriptions owed by the credit institutions to the Bank Deposit Guarantee Fund has entered into force

The Bank Deposit Guarantee Fund issued Regulation no. 1/2012 regarding the payment of contributions and subscriptions by credit institutions, as well as their verification by the Bank Deposit Guarantee Fund (published in the Official Gazette no. 677 of 28 September 2012).

Banking	1
Real Estate	2
Corporate & Commercial	2
Environment	4
Energy	4
Employment	5

All credit institutions authorized by the NBR to receive deposits from the public and to grant loans are under the obligation to participate in the Bank Deposit Guarantee Fund (the "**Fund**"), and to pay the corresponding contribution/subscriptions (i.e. initial contributions, annual contributions, special contributions, or additional contributions, as the case may be).

Romanian branches of credit institutions authorized in another Member State of the European Union may also request under the Regulation the right to participate to the Fund.

The contributions and subscriptions paid by credit institutions are recognized as expenses deductible for tax purpose and they shall not be refunded under any circumstances, not even in the event of liquidation or dissolution of the credit institution.

The contributions/subscriptions are determined based on the declarations filed by the participants to the Fund. The Fund shall check on annual basis the reality of the data in the declarations, as well as the observance by the credit institutions of the legal obligations related to the information of the bank deposit holders.

The Regulation has entered into force as of its publication in the Official Gazette

and has repealed the following regulations issued by the Bank Deposit Guarantee Fund:

- Regulation no. 1/2004 on the establishment, declaration and payment of the initial contribution by credit institutions to the Bank Deposit Guarantee Fund;
- Regulation no. 2/2004 on the establishment, declaration and payment by the credit institution of the annual contributions, increased annual contributions and special contributions to the Bank Deposit Guarantee Fund;
- Regulation no. 1/2004 on the establishment of the increased annual contribution of credit institutions;
- Regulations no. 4/2009 on the participation to the Bank Deposit Guarantee Fund of the Romanian branches of credit institutions authorized in other member states;
- Regulations no. 3/2011 on the establishment, declaration and payment by credit institutions of



the annual and additional subscriptions to Bank Deposit Guarantee Fund.
the special compensation fund with the

Real Estate New regulations improving the collaboration between the National Agency for Cadastre and Land Registration and notaries public

Addendum no. 2 dated 4 October 2012 to the Collaboration Protocol no. 429.312/1.404/2012 concluded between the National Agency for Cadastre and Land Registration (ANCPI) and the National Union of Notaries Public from Romania (UNNPR) regarding the means to perform real estate publicity operations, for the application of the Law no. 7/1996 regarding the Cadastre and Real Estate Publicity, republished, as amended and supplemented (published in the Official Gazette no. 704 dated 15 October 2012)

The Addendum brings several novelties in respect of the relationship between ANCPI and notaries public, in the sense that the communication and transmission of documents between the respective authorities is facilitated by means of fax, e-mail, online or any other means of communication which attest the return receipt.

Furthermore, an online communicating procedure will be created between nota-

ries public and regional offices of ANCPI, by granting notaries public access to the General Entry Register (*Registrul General de Intrare*) of the IT system. Upon request of UNNPR, ANCPI will ensure access of notaries public to the IT platform. ANCPI is also entitled to limit the access, in case of non-observance by the notaries public of the procedures agreed between the two authorities.

Corporate & Commercial New fees and charges related to the operations performed by the National Trade Register Office and trade register offices attached to tribunals

Government Decision no. 902/2012 on the approval of the fees and charges related to the operations performed by the National Trade Register Office and trade register offices attached to tribunals (published in the Official Gazette no. 667 dated 24 September 2012)

Basically, this normative act (which repeals the Government Decision no. 113/2010) establishes single charges for operations conducted by the National Trade Register Office and trade register offices attached to tribunals. We mention, *inter alia*:

- the applications for registration within the commercial register of legal entities (including authorizing formation, registration, opera-

tion permit by affidavit) will be charged with 250 RON (approx. EUR 55);

- the application for mentions / amendments will be charged according to their complexity (simple applications will be charged with 45 RON–EUR 10 and complex applications will be charged with 220 RON – approx. EUR 48).



- Basic information about a company will be charged with 8 RON – EUR 1,8/company (including Trade Register number, legal form, registered office, directors, shareholders, etc.);
 - Extended information (financial statements) will be charged with a fee of 24 RON – EUR 5.3/ company;
 - Historical report about a company will cost 250 RON (approx. EUR 55).
- The documents issued by the National Trade Register Office and trade register offices attached to tribunals will be provided only in Romanian language and the services related to the delivery of such documents and information via e-mail will be free of charge.
- However, please bear in mind that the provisions of the above mention decision shall enter into force 60 days after publication in the Official Gazette, namely starting with November 23, 2012.

Suspension of the application of the provisions related to the registration of commercial transactions by way of electronic means

Government Ordinance no. 21/2012 on the suspension of the application of Law no. 148/2012 regarding the registration of commercial transactions by way of electronic means (published in the Official Gazette no. 623 dated 30 August 2012)

Considering the necessity of a transitory period in order for the concerned natural or legal entities to implement and adapt their technical infrastructure to the new legal requirements, the Government Ordinance no. 21/2012 suspended the application of the legal provisions related to the registration of commercial transactions by way of electronic means until January 1st, 2013.

We briefly resume several provisions of Law no. 148/2012 regarding the registration of commercial transactions by way of electronic means:

- the law establishes the legal regime of documents issued in electronic form containing data regarding the economic operations of exchange or sale of goods or services between entities who issue and receive invoices, receipts tax or receipts in electronic form;
- in accordance with the provisions of the above mentioned law, the entities who are able to issue invoices on paper may choose to issue them in electronic form, provided that they ensure authenticity, origin and integrity of the content by attaching extended electronic signature and timestamp;
- invoices, receipts tax and receipts issued in electronic form constitute supporting documents within the meaning of Accounting Law no. 82/1991;
- the electronic signature certificate will contain information on tax ID number and the notification number issued by the Ministry of Finance;
- the law expressly provides several conditions in order for a natural or legal entity to issue such electronic documents (namely, to have appropriate technical and personnel means to perform such activity, to be able to manage and archive such information, to use certain electronic archiving systems);
- the law also contains several provisions on outsourcing the services



related to issuance, transmission and archiving of electronic invoices;

- The law establishes that the receipts issued by cash registers and ATM ter-

minals, stored by the issuer, have the same legal regime as the documents issued on paper.

Environment Reorganisation of the National Environmental Protection Agency

Government Decision no. 1000 dated 17 October 2012 regarding the reorganization and functioning of the National Environmental Protection Agency (ANPM) and of the public authorities under its subordination (published in the Official Gazette no. 729 dated 29 October 2012)

The said Decision provides the general and functioning of the entities under its functions and competences and the or- subordination, which carry out its objec- ganisational structure and management tives and competences. of the Agency as well as the organisation

Energy

The Senate issued Decision no. 41 regarding the proposal of a Decision rendered by the European Parliament and the Counsel for the modification of the European Directive 2003/78/CE from 13 October 2003 (published in the Official Gazette no. 733 from 30 October 2012)

The decision rendered by the Romanian house effect inside the European Commu- Senate establishes a control system for nity the emission quota of gases with green-

Law no. 160 from 02 October 2012 regarding the approval of the Emergency Ordinance of the Government no. 33/2007 regarding the modification of the Electrical Energy Law no. 13/2007 and the Gas Law no. 351/2004 (published in the Official Gazette no. 685 from 3 October 2012)

The Emergency Ordinance of the Gov- Romanian Energy Regulatory Author- ernment no. 33/2007 establishes the ity (ANRE). organization and functioning of the

Romanian Energy Regulatory Authority ("ANRE") issued Order no. 32 from 30 August 2012 regarding the approval of the procedure for the projection, checking and commissioning of equipment for the use of natural gases (published in the Official Gazette no. 635 from 6 September 2012).

The decision was taken according to 351/2004 on the base of the indica- the provisions of art. 8 paragraph 1 tions introduced by the Government letter *d* from the Gas Law no. Decision no. 1428/2009 regarding the



The decision was taken according to Decision no. 1428/2009 regarding the the provisions of art. 8 paragraph 1 organization and the functioning of letter *d* from the Gas Law no. the National Authority of Settlement 351/2004 on the base of the indica- in the Energy Field. tions introduced by the Government

Romanian Energy Regulatory Authority ("ANRE") issued Order no. 33 from 30 August 2012 regarding the establishment of balancing market rules applicable to electricity production systems benefiting from promotion (published in the Official Gazette no.633 from 04 September 2012)

The order was issued taking into ac- the Order of the president of the Na- count the provisions of art. 11 para- tional Authority of Regulation in the graph 1 and 2 letters a and h of the Energy Field no. 25/2004 regarding Electrical Energy Law 13/2007 and the approval of the Commercial Cod art. 70 of the Law for electrical energy of the agro field for electrical energy. and natural gases no. 123/2012 and

Employment Amendment of the number of work permits issued to foreign workers in 2012

Government Decision no. 925/2012 for the amendment of Art. 1, par. (2), letter a) and b) of Government Decision no. 1.261/2011 on the establishment of the number of work permits which may be issued to foreign workers in 2012 (published in the Official Gazette of Romania no. 662, Part I, of 20 September, 2012)

The Romanian Government decided to reduce the number of work permits which may be granted this year to permanent workers from 3000 to 2300, and increased the number of work permits which may be issued to seconded workers, from 700 to 1400. This measure was based on the dynamic of the work permits issued within the first semester of 2012. However, even if the total number of 5500 work permits that can be issued in 2012 remains unchanged, we may conclude that this year, the foreign workers preferred the secondment regime.



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