

## Legal Newsletter August 2023

### 1. Amendments to BNR regulation on foreign exchange regime, increased liability of resident companies

National Bank of Romania Regulation no. 4/2005 on the foreign exchange regime was amended by Regulation no. 6/2023 on 7 August, with the following effects:

- amendment of Article 7 para. (3) regarding the applicable law in the event of non-compliance
- introduction of a provision (Article 7 index 1) whereby residents, as defined in Article 4 point 4.2 of Appendix 1, become responsible for the application of the Regulation to foreign exchange operations

The new regulation sets out in detail which rule applies when it comes to penalising certain actions:

"Failure to comply with Art. 3, Art. 5<sup>2</sup> and Art. 7<sup>1</sup> para. (2)-(4) of this Regulation shall be punished in accordance with the provisions of Article 57 of Law no. 312/2004 on the Statute of the National Bank of Romania."

On the one hand, Article 7 index 1 stipulates that residents are responsible for the application of the provisions of this Regulation to foreign exchange operations, while, on the other hand, it provides for a number of institutions that are required to verify compliance with the provisions of the Regulation on foreign exchange operations ordered by their customers, including credit institutions, electronic money institutions, payment institutions, non-bank financial institutions, as well as the Romanian-based branches of the foreign institutions mentioned above. In order to ensure the compliance and transparency of operations, the institutions in question may additionally request any information and supporting documents in accordance with their own rules and which are deemed necessary to the carrying out of foreign currency operations.

Foreign exchange operations shall be carried out by the institutions mentioned in paragraph 1 (2) of the newly introduced article in accordance with the rules issued for this purpose and with the other legal provisions in force, failure to comply with which shall entail liability, and the facts shall be ascertained by the staff of the National Bank of Romania, empowered for this purpose, based on the reports received or ex officio.

The newly introduced article thus clarifies the responsibilities of residents and financial institutions, with the main aim being to promote transparency, while also establishing which rule applies in the event of non-compliance with certain provisions of the Regulation.

*Source: Regulation no. 6/2023 amending and supplementing National Bank of Romania Regulation no. 4/2005 on the foreign exchange regime*

### 2. Digitisation of SMEs with the help of the state aid scheme

In light of the continuous evolution of technology and its importance to the business environment, on 18 August 2023, Romania adopted Order no. 3151 approving the state aid scheme "Financing projects for the digitisation of SMEs through European Digital Innovation Hubs (EDIHs)", which represents an important step in supporting the digitisation of small and medium-sized enterprises in Romania and at the same time provides a concise framework for the granting of state aid.

The focus of Order no. 3151/2023 is on facilitating SME access to the resources needed to adopt and implement innovative digital solutions, address digital challenges and improve business processes, production, and products and services using digital technologies. At the same time, those wishing to benefit from state aid must ensure the cumulative fulfilment of certain conditions concerning both the company and its representative.

State aid is awarded in the form of a grant (an amount of money awarded as non-reimbursable funding for a specific purpose) to be used to gain access to innovation advisory services and innovation support services.

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The period during which state aid for the digitisation of SMEs is granted starts with the date of publication of the order in the Official Gazette and runs until 31.12.2026, with the possibility of extension.

As regards the payment of the aid, this will take place up until 31 December 2029, within the limits of the budget allocated to the state aid scheme, i.e. **12,873,886.83 Euros**, with the maximum award of state aid being set at **€220,000** per enterprise, representing the total amount of state aid for the procurement of innovation advisory services and innovation support services over a period of **3** tax years.

Order no. 3151/2023 represents an important step towards the digitisation of SMEs in Romania, for, by providing state aid and creating an efficient framework for the implementation of digital solutions, the business sector will undergo modernisation, something which will be reflected in, among others areas, the national economy.

*Source: Order no. 3151/2023 approving the state aid scheme "Financing projects for the digitisation of SMEs through European Digital Innovation Hubs (EDIHs)".*

This newsletter is a service of TPA.

Kind regards,  
**Your TPA Team**

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