

## ROMANIAN DEPOSIT GUARANTEE SCHEME AND THE REQUIREMENTS OF THE ACQUIS COMMUNAUTAIRE

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***Abstract:** This paper compares the Romanian and EU deposit insurance legislation in order to identify the changes, which are needed in order to obtain a full compatibility of the national regulations in the field of deposit protection with the corresponding European rules. The first part outlines the main features of the EU Directive 94/19/EEC on deposit guarantee schemes in order to find out to what extent Romania is bound to incorporate the relevant *acquis communautaire* into its national legislation. It results that the directive contains explicit harmonization provisions as regards the minimum level of protection (EUR 20,000), depositor co-insurance, types of depositors, instruments and currencies to be covered, nature of coverage, status of branches from EU and non-EU countries, the compensation period and information to depositors. The directive does not provide for the harmonization of the financial and administrative structure of the deposit guarantee schemes, Romania being free to choose from a wider range of options. The second part examines the legal environment of deposit protection in Romania. The third part identifies the measures to be taken by the Romanian authorities in order to fill in the remaining regulatory gaps in the area of deposit insurance. Finally, the fourth part contains the conclusions.*

### **1. EU directive on deposit guarantee schemes (94/19/EEC) and its regulatory implications for the accession countries**

The deposit guarantee is, together with prudential banking regulations and the interventions of the central bank as lender of last resort, one of the instruments that may be used to reduce or eliminate the negative consequences of a bank failure on the banking system.

The EU Directive on deposit guarantee schemes (Directive 94/19/EEC) entered into force on July 1, 1994. The adoption of this Directive was justified by the fact that the deposit guarantee is a central element in the construction of the Single Market and an indispensable complement of the supervision system of the credit institutions. The Directive establishes a minimum level of the deposit guarantee, regardless of the geographical location of the deposits within the Community. Its main features are presented in the following paragraphs.

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**Mandatory participation principle:** The Directive requires every credit institution authorized by the member states to join a deposit guarantee scheme, even before starting to collect deposits. In this respect, the Article 3 of the Directive stipulates that: “Each member state shall ensure that within its territory one or more deposit-guarantee schemes are introduced and officially recognized”. The article also provides that: “no credit institution authorized in a member state...may take deposits unless it is a member of such a scheme”. It should be mentioned that the directive does not impose directly on the credit institutions the obligation to join a deposit insurance scheme, but is evident that impeding a bank to collect deposits is equivalent with a requirement to participate to such a system.

The directive exempts the credit institutions from the obligation to participate in a deposit guarantee scheme where the respective institutions are already members of a system in operation designed to protect the credit institutions themselves, in particular by ensuring their solvency and liquidity. This exemption may be granted by the competent member state if such a scheme offers protection for depositors at least equivalent with that provided by a deposit-guarantee scheme and the following conditions are fulfilled:

- the system must be in place and have been recognized when the Directive was adopted;
- the system must be designed to prevent

deposits with credit institutions belonging to the system from becoming unavailable and have the resources necessary for that purpose at its disposal;

- the system must not consist of a guarantee granted to a credit institution by a member state itself or by any of its local and regional authorities;
- the system must ensure that the depositors are informed in accordance with the terms and conditions laid down by the Directive.

The credit institutions that can obtain the benefit of the above-mentioned exemption are the cooperative or mutual banks. In the case of these banks, the deposits are generally protected by the existence of cross-guarantees issued by the local banks and their central credit institutions in order to prevent the insolvency of an entity pertaining to the respective cooperative network. Such systems operate mainly in Germany, France, Netherlands and Belgium.

**Modified home-country approach for deposit protection:** The basic principle of this approach requires the home-country deposit guarantee scheme to cover depositors not only in home country institutions but also in their branches in other EU member states. Two additional provisions exist. The first, called the *non-export provision*, provides that the cover offered by the home-country scheme to depositors of branches established in other member states is to be limited up to the maximum level and scope offered by the

corresponding system in the host member state. The second provision, called the top-up provision, provides that the branches of EU banks located in another member state may adhere to the host-country scheme in order to supplement the protection offered by the home-country scheme.

**The status of the branches from non-member states:** The branches of a credit institution that has its head office outside the EU are also subject to the provisions of the Directive. The member states are obliged to verify if the deposits placed with the branches within the Community of the third countries credit institutions are protected by a deposit insurance guarantee scheme and if the level of guarantee is similar with that prescribed by the Directive. Where these requirements are not complied with, the member states may ask the respective branches to join a deposit guarantee scheme in operation within their territory. The Directive does not regulate the situation of the branches of the EU banks established outside the Community.

**Minimum deposit guarantee:** The Directive provides that member states must have deposit guarantee schemes, which stipulate that the aggregate deposits of each depositor must be covered up to EUR 20,000 in the event of deposits being unavailable. By way of transitional arrangements, up to 31 December 1999, the countries that at the date of entry into force of the Directive had a lower deposit protection limit (Belgium, Spain, Ireland, Luxembourg and

Portugal) have been authorized to retain the maximum amount of deposit cover laid down in their own guarantee schemes provided that this amount is not less than EUR 15,000.

The Directive lists certain depositors or deposits, which are excluded from guarantee or shall be granted a lower level of guarantee. Member states are empowered to offer a higher or more comprehensive cover for deposits. In particular, deposit guarantee schemes may, on social considerations, cover certain kinds of deposits in full.

It is also provided that the amount of the minimum guarantee payment shall be reviewed periodically by the Commission at least once every five years. The first review shall take place in 2004, when the Commission taking into account the evolution of the banking sector and the economic and monetary situation within Community, might forward to the European Parliament and the Council a draft Directive for the adjustment of the minimum guarantee limit.

In order to reduce the moral risk, the Directive introduced the principle of the co-insurance. According to this principle, all the depositors must share a certain proportion of any loss resulting from a bank failure. In this respect, the drafters of the directive took into consideration the concern expressed by many economists who argued that a quota of the risk should be borne by depositors, in order to encourage them to be interested in the financial health of the institution to whom they entrusted their savings. In the application of the

co-insurance principle, the Directive stipulates that member states may limit the guarantee ceiling to a specific percentage of deposits. This percentage guaranteed must be, however, equal or exceed 90 % of the aggregate deposits until the amount to be paid under the guarantee reaches the limit of EUR 20,000. Above this limit, the member states are free to establish lower guarantee percentages or even to refuse any kind of guarantee.

The Directive does not contain provisions regarding the harmonization of the maximum level of deposit protection, as the member states couldn't reach an agreement in this respect. Consequently, the member states may establish deposit guarantee schemes to offer a higher guarantee coverage or a more complete protection.

**Scope of the guarantee:** The purpose of the Directive is to ensure the payment of a compensation for the insured deposits when they become unavailable. To have a clear idea about the scope of the guarantee it is important to know what is meant by the concept of deposit. Art. 1 of the Directive defines the deposit as "any credit balance which results from funds left in an account or from temporary situations deriving from normal banking transactions and which a credit institution may repay under the legal and contractual conditions applicable and any debt evidenced by a certificate issued by a credit institution". For the purpose of calculating a credit balance, member states shall apply the

rules relating to the set-off and counterclaims according to the legal and contractual conditions applicable to a deposit. As one can notice, the Directive defines the deposit from the perspective of the depositor as a credit balance or a "claim". The concept of "credit balance" is related mainly to the notion of current account, but due to the expression "funds left in an account" it also refers to savings accounts or other deposit accounts where funds are placed for longer periods of time than in the case of current accounts.

Once the concept of deposit is defined, it should be noted that not all the deposits are insurable. The directive prescribes mandatory and voluntary exclusions. The deposits excluded from any repayment by guarantee schemes are the following: (1) deposits made by the other credit institutions on their behalf and for their own account; (2) financial instruments that may constitute own funds of the credit institutions; (3) deposits arising out of transactions in connection with which there have been a criminal conviction for money laundering. The exclusion of the inter-bank deposits is explained by the fact that the credit institutions can better identify if a bank has problems than a small depositor does. The subordinated loans are not guaranteed because they enter in the composition of the own funds of banks. The exclusion of the deposits arising out of money laundering operations is explained by the willingness of the European legislators to repress and discourage such activity. As regards the voluntary exclusions, the Directive stipulates that

some deposits may be excluded from guarantee or may be granted a lower level of guarantee. These financial instruments are listed in the Annex I of the Directive and, in general, they are deposits of institutional investors or of people connected with the credit institutions.

It should be noted that, in accordance with the Directive, the deposit guarantee schemes should offer protection not only to the depositors, natural persons, but also to the banks' customers, moral persons. In this regard, the text of Directive is not very clear, always being mentioned the notion of "depositors". This expression leads to the conclusion that a distinction between the moral and natural persons is not admissible. However, the deposits of the very big companies may be excluded from the incidence of the guarantee. According to the Directive, a moral person is considered to be big when, in conformity with the Directive 78/660/EEC, it has not the right to draw up an abridged balance sheet.

**Activation of the deposit guarantee scheme:** According to the Directive, the deposit guarantee shall be triggered when the deposits become unavailable. The definition of the unavailable deposit is found in Article 1 (3) of the Directive. Essentially, an unavailable deposit is a deposit that is due and payable by a credit institution under the legal and contractual conditions applicable thereto, and where the relevant authorities have determined that in their view the credit institution concerned appears to

be unable for the time being, for reasons which are directly related to its financial circumstances, to repay the deposit and to have not current prospect of being able to do so. The competent authorities have to make such a determination no later than 21 days from the date when they become satisfied that a credit institution has failed to repay deposits that are due and payable. The directive takes also into consideration the possibility that, before the determination mentioned above, a judicial authority has made a ruling, for reasons that are directly related to the credit institution's financial circumstances, which has the effect of suspending depositors' ability to make claims against the respective credit institution. If such a condition arises, the deposits which were not paid under the legal and contractual conditions are also qualified as unavailable.

**Payment of compensation:** An efficient deposit guarantee scheme is a scheme that makes the payment of compensation as soon as possible. For these reasons, the Directive stipulates that the deposit guarantee schemes shall be in a position to pay the duly verified claims by depositors in respect of unavailable deposits within three months from the date the deposits become unavailable. In exceptional circumstances and in special cases the deposit guarantee schemes may apply to the competent authorities for an extension of the time limit for a period of no more than three months. The competent authorities at the request of the deposit guarantee scheme may grant other two further

extensions, neither of which shall exceed three months. The time limit of three months is not applicable for a deposit charged with an offence arising from money laundering transactions, the deposit guarantee scheme being empowered to suspend any payment pending the judgement of the court. At the same time, at the proposal of the European Parliament, the Directive establishes that the right of depositors to compensation may be subject to an action in courts by the depositor against the deposit - guarantee scheme.

**Information of deponents:** The Directive requires that member states must ensure that every credit institution makes available to actual and intended depositors the information necessary for the identification of a deposit guarantee-scheme of which the institution is a member within Community or any alternative arrangements, which might be provided. Member states are also required to establish rules limiting the use in advertising of references to the amount and scope of their deposit guarantee schemes, since such advertising could affect the stability of the banking system or depositor confidence.

**Elements not included in the harmonization provisions:** The Directive does not take into consideration the harmonization of two main elements: (1) the legal status of the deposit guarantee schemes; (2) the financing mechanisms.

*The legal status of the deposit guarantees schemes:* As regards this element, the Directive

permits the co-existence within the territory of every member state of more deposit guarantee schemes, which may be regulated on a statutory basis or set up on a contractual basis. The position adopted by the EU legislators represents the recognition of the diversity of the deposit guarantee systems within the member states; it also recognizes the fact that the majority of the systems under the responsibility of the professional organizations are as strong and efficient as the schemes administered by the state. For this reason, it has been considered unwise to change the existing situation and to oblige the member countries to organize their schemes in accordance with a single legal model.

*Financing mechanisms:* The Directive considers that the harmonization of the methods of financing schemes guaranteeing deposits or credit institutions themselves is not necessary. Thus, the member states are free to choose among funded schemes (ex-ante schemes) or repartition schemes (ex-post schemes). The majority of the member states operates funded schemes, but it should be noted that some EU countries continue to use systems whose funding is ensured by guarantees (commitments) undertaken by member credit institutions, which are honored only in the event that the deposit becomes unavailable. In other countries, there are mixed deposit guarantee schemes; these schemes are funded through periodical contributions to a fund, but there are also commitments or there is possible for the schemes to levy supplementary contributions.

The Directive does not prescribe if the deposit guarantee schemes should assess flat or variable contributions. The criteria regarding the contributions vary from one country to another within the Community, but usually the contributions are calculated as a percentage of an assessment basis, which could be represented by the total deposits, total insured deposits, etc. In recent years, taking into consideration the USA model, some EU countries have adopted risk-based premiums.

## 2. The Romanian Deposit Guarantee Scheme

The Deposit Guarantee Fund of the Banking System (hereinafter the “Fund”) is the entity responsible for the management of the Romanian deposit guarantee scheme. The Fund was established on August 30, 1996 by the Ordinance of the Romanian Government No. 39/1996 with the aim of guaranteeing deposits of individuals with commercial banks. The Ordinance was approved by the Law No. 88/1997 and was subsequently amended by various laws and ordinances.<sup>1</sup> The main technical features of the Fund are presented in the next paragraphs.

**Legal status:** By law, the Fund is established as a moral person of public interest. The organization and the operating procedures of the Fund are established by its own by-laws approved by the National Bank of Romania at the proposal

of the Board of Directors of the Fund. The Fund is managed by a Board of Directors consisting of seven members appointed by the National Bank of Romania (3 members), Romanian Banking Association (3 members), the Ministry of Justice (1 member) and by the Ministry of Finance (1 member). The president of the Board of Directors is ex-officio the prime vice governor or a vice governor of the National Bank of Romania.

**Membership:** The participation in the Fund is mandatory for all the banks, Romanian moral persons, and the branches of foreign banks within Romania, which are authorized to attract funds from natural persons in accordance with the provisions of the Banking Law

**Objectives:** According to Art. 2 of the Ordinance No. 39/1996 (hereinafter “the Ordinance”), the objective of the Fund is to guarantee the pay off of the individuals’ deposits in case a member bank becomes insolvent, subject to eligibility criteria and maximum coverage established by the deposit insurance legislation. Therefore, it should be observed that the Romanian legislator decided not to offer protection to the moral persons and that the Fund is not authorized to provide financial assistance to ailing banks in order to prevent them from going into liquidation. The Emergency Ordinance No. 138/2001 for the amendment and completion of the Law No. 83/1998 regarding the bankruptcy procedure for banks provided for the

<sup>1</sup> These legal texts are the following: the Emergency Ordinance No. 110/1999, the Emergency Ordinance No. 20/2000, the Law No. 301/2001 and the Law No. 303/2001.

appointment, in general, of the Fund as the liquidator of a credit institution under bankruptcy.

**Amount of insurance protection:** The Fund guarantees the payment of the insured deposits of each depositor, placed with the same institution, irrespective of the number of deposits, the currency or size, within a guarantee ceiling which is established as a fixed amount; the actual coverage limit, valid for the second half of year 2002, is ROL 109.7 million (around EUR 3,400).<sup>2</sup> The guarantee ceiling includes not only the principal, but also the accrued interest corresponding to the guaranteed deposits until the date of the declaration of their unavailability and it is applied to the aggregate deposits of a depositor placed with a bank; deposits at different branches of the same member bank are not insured separately. The foreign exchange deposits are guaranteed by the payment of their equivalent in the domestic currency (ROL).

**Types of deposits covered:** The Fund guarantees the nominative deposits held by individuals, residents or non-residents, denominated in national or foreign currency. However, it does not cover the deposits of moral persons, unincorporated business entities, budgetary organizations, local authorities, significant shareholders, auditors and senior officials of a given bank or their relatives. The amounts representing assets of mutual funds are not insurable. The deposits of excessive yield are

also excluded.

**Funding arrangements:** The financial resources of the Fund are obtained from the following sources: initial, regular and extraordinary contributions of the banks, loans, incomes from liquidation of its claims, incomes from its investments and other incomes (donations, budgetary subsidies).

Under the deposit protection legislation, Romanian incorporated banks pay to the Fund, within 10 days from the date of obtaining an operating licence from the central bank, an initial contribution, the amount of which is equivalent to 1 % of the value of their share capital. In the case of branches of foreign banks, the initial contribution shall be equivalent to 1 % of the value of minimum share capital prescribed for a bank, Romanian moral person, to be licensed to perform banking activity. Banks resulting from mergers or any other transformation operations are exempted from the initial contributions.

The regular (annual) contribution of each member bank was established at the level of 0.8 % of the total amount of the year-end insured deposits of natural persons. The Romanian scheme may use risk-based premiums. In this respect, the Romanian legislation allows the Fund to levy extra premiums (from 0.8 % up to 1.6 %) on individual banks if they pose higher insurance risks.

<sup>2</sup> According to the Romanian deposit protection legislation, the guarantee ceiling shall be indexed semiannually in line with the inflation rate.



The deposit protection legislation provides for special contributions. These contributions (the double of the annual contribution) may be levied if the payments from the Fund are likely to exhaust its resources before the end of the year. The effective amount of contribution as well as the payment deadline shall be established by the Fund. The assessment base for the special contributions is represented by the total deposits registered at the end of the month preceding the month when contribution is paid. If the financial resources of the Romanian deposit protection scheme are not sufficient to meet its statutory obligations, the Fund may borrow from the state, the commercial banks and from financial institutions.

**Investment policy:** The financial resources of the Fund shall be invested only in state securities, securities guaranteed by the state and in bonds issued by the central bank.

**Payment of insured deposits:** In accordance with the Ordinance, the depositors shall receive compensation when the insured deposits are unavailable. Deposits are considered unavailable on the date provided for in the definitive and executory decision of commencement of the bankruptcy proceedings of the bank. Within 30 days from the date of its designation by the court, the liquidator shall send to the Fund the list comprising the natural persons who constituted guaranteed and unguaranteed deposits, the total amount of deposits of each depositor and of its obligations towards the Fund.

The Fund shall verify the claims of the depositors in respect of unavailable deposits and shall pay them within two months from the date of receiving the list. In exceptionally situations, on a case-by-case basis, the Fund – with approval of the National Bank of Romania – may grant three further extensions of the time limit. No such extension may exceed three months. Under the deposit insurance legislation, the time limits may not be invoked by the guarantee scheme to deny the benefit of the guarantee to any depositor who was unable to assert his claim to payment under a guarantee in time. Thus, if a depositor was unable to present his claim in time for reasons which in the Fund opinion he couldn't be made responsible, the Fund may pay the compensation also after the expiry of the one year period, but no later than three years from the beginning of the payment of compensation.

The Fund has the right of subrogation to the rights of the depositors in liquidation proceedings for an amount equal to its compensation payments.

**Information to be communicated to the Fund:** The Ordinance authorizes the Fund to obtain from the banking companies all the information that is needed for the realization of its objectives.

**Information for the deponents:** In order to prevent the systemic risk and to ensure the protection of the consumers, the Ordinance obliges the Fund's member banks to make

available to depositors all the relevant information related to the Fund. The depositors shall be informed of the provisions of the deposit guarantee scheme, including the types of the insured deposits, the amount of the coverage and the conditions and formalities, which must be completed to obtain the compensation. The information described above shall be available at all the branches of the member banks and shall be presented in an easy understandable manner; in accordance with the specific regulations of the Fund.

**Sanctions:** If a bank does not comply with its obligations under the deposit insurance legislation, the National Bank of Romania, at the request of the Fund, may modify the operating licence of the respective bank by withdrawing the right of this institution to collect deposits from natural persons. The deposits placed before the date of the modification of the provisions of the operating licence shall be guaranteed until their maturity. The bank whose licence was modified by the National Bank of Romania shall continue to pay the annual contribution for the financial year in the course of which the licence was modified.

### **3. Implications of the EU directive on the Romanian deposit protection legislation**

The analysis carried out in this paper showed that the harmonization within the EU is limited only to the main elements of the deposit guarantee systems and to the payment of a minimum amount of compensation. The Directive contains explicit harmonization provisions as regards the minimum level of protection, depositor co-insurance, types of depositors, instruments and currencies to be covered, nature of coverage, status of branches from EU and non-EU countries, the compensation period and information of depositors. Conversely, the Directive does not provide for the harmonization of the financial and administrative structures of the deposit guarantee schemes, the member countries being free to choose from a wider range of options. Consequently, in order to adhere to EU, the Romanian legislator is bound to introduce in the domestic legislation only the minimum provisions of the Directive.

Romania has achieved a moderate level of alignment with the *acquis* in the field of deposit insurance.<sup>3</sup> The following paragraphs identify the modifications that shall be made to the actual Romanian deposit guarantee legislation in order to obtain the compatibility with the European regulations.

<sup>3</sup> A detailed presentation of the inconsistencies between the actual Romanian deposit protection legislation and the EU *acquis* can be found in the study **"The free movement of persons and services in light of Romania's accession to EU: 1A Free movement of financial services"**, European Institute of Romania, Bucharest, 2002.

**A. The mandatory participation of all credit institutions to a deposit guarantee scheme:**

The Ordinance 39/1996 with its subsequent amendments and additions imposes only to banks the obligation to participate to a deposit guarantee scheme (i.e. the Fund). In order to comply with the explicit requirements of the EU Directive, the Romanian legislator shall institute the same obligation for other credit institutions.

In this regard, a recently adopted law (*Law No. 200 /2002 for the approval of the Emergency Ordinance No. 97/2000 regarding the cooperative credit organizations*) provides that the Fund shall guarantee the deposits of the credit cooperatives and their central organizations in accordance with the conditions and limits established by the Ordinance No. 39/1996 with its subsequent amendments and additions. The repayment of the covered deposits shall be done only in case of bankruptcy of the central house of a given credit cooperative network. The same law requires, within one year from the moment of its entry into force (June 2002), the amendment of the Ordinance No. 39/1996 in order to implement the above-mentioned provisions. However, these legislative changes have not yet occurred, with the consequence that, for the time being, only the commercial banks are members of the Fund.

At present, deposits of individuals with the State Savings Bank (*Casa de Economii și Consemnațiuni - CEC*) are 100 % guaranteed by

the state. As a blanket guarantee is not recognized under the EU rules to be equivalent with a deposit protection scheme, the full government guarantee offered to CEC shall be removed in the next future.

The Romanian authorities shall also clarify their position regarding the status of credit unions (CARs). If these entities are recognized as credit institutions and are brought under the scope of the EU banking legislation, they will join a deposit guarantee scheme.

**B. The introduction of the modified home-country principle in the field of deposit protection on the eve of accession.**

The implementation of this principle will lead to the abandonment of the actual obligation of the branches of EU banks to participate in the Romanian deposit guarantee scheme. A new provision will be adopted which will allow for the voluntary participation of the branches of the European banks to the Romanian scheme only to the extent of deposit protection deficit. At the same time, to obtain harmonization with the relevant Directive, the Romanian deposit insurance legislation will stipulate that branches of a credit institution which has its head office outwith the Community are not bound to join the Romanian scheme if they have cover equivalent to that prescribed by the EU requirements. Finally, the Fund shall extend its protection – in the application of the home-country principle – also on the deposits placed with the branches of the Romanian banks that operate within the EU.

**C. The enlargement of the scope of deposit protection:** According to the Directive, the protection offered by a deposit guarantee scheme will cover not only natural persons but also moral persons (some exclusions regarding the deposits of the moral persons are permitted). In this context, the Romanian legislator will decide and transpose in the Romanian legislation, on the basis of the Appendix I of the Directive, the categories of moral persons who are entitled to obtain protection from the deposit guarantee scheme/schemes.

**D. The establishment of a minimum deposit guarantee ceiling in national currency equivalent with the amount of EUR 20,000:** The harmonization of the national legislation regarding deposit protection with the European rules requires the adoption of a minimum guarantee limit in an amount equivalent with EUR 20,000 per deponent and per bank. Romania's Position Paper regarding Chapter 3 of negotiations - Free movement of services, envisages the gradual increase of the guarantee ceiling per deponent as follows:

- 4,000 EUR (starting with January 1, 2002) for natural persons;
- 5,000 EUR (starting with January 1, 2003) for natural persons;
- 6,000 EUR (starting with January 1, 2004) for natural persons;
- 10,000 EUR (starting with January 1, 2005) for natural or moral persons;
- 15,000 EUR (starting with January 1, 2006) for natural or moral persons;
- 20,000 EUR (starting with January 1,

2007) for natural and moral persons.

The coverage limits mentioned above are still to be implemented in the relevant Romanian legislation.

**E. The exclusion from the guarantee of the deposits related to money laundering transactions:** The adoption of anti money laundering legislation in Romania makes possible the introduction of new provisions in the Romanian deposit insurance legislation which, in accordance with the EU rules, will provide for the exclusion from the guarantee of the deposits arising out of or in relation with money laundering. The new regulatory requirements shall also specify that where a depositor or any person entitled or interested in sums held in account has been charged with an offence arising out or in relation to money laundering, the guarantee scheme may suspend any payment pending the judgement of the court.

**F. Introduction of a more exact definition of "unavailable deposit" in accordance with the Directive.**

**G. Introduction of provisions allowing the Fund to limit the use in advertising of information for the depositors.** These provisions are intended to prevent such use from affecting the stability of the banking system or depositor confidence. In our opinion, the Romanian legislation shall restrict such advertising to a factual reference to the scheme to which a credit institution belongs.

#### **4. Conclusions**

As a country associated to the EU, Romania will implement into its national legislation the provisions of the EU Directive on the deposit guarantee schemes. This process will lead to modifications of the Romanian legislation in the field of deposit insurance, including the increase of the coverage limit, the modification of the insurance regime applicable to the deposits placed with branches within the Community of the Romanian banks or placed with the branches of EU banks within Romania, the enlargement of the scope of deposit protection, the introduction of the mandatory affiliation of credit institutions to an officially recognized deposit insurance scheme. While the European rules will have a powerful impact on the future Romanian regulations regarding depositor protection, it should be noted that the Directive does not offer a complete prescription on how to structure a national deposit guarantee scheme, as the harmonization is confined only to the main elements of a deposit insurance system. In this context, further legislative changes may be introduced to build a more efficient and stable deposit guarantee system in Romania that takes into account the structural developments in the domestic banking sector. Furthermore, the deposit guarantee system should be accompanied by good accounting rules and enhanced banking supervision.