- Unofficial translation -

Law No.270/2009
approving the Government Emergency Ordinance no. 25/2009
amending and supplementing Government Emergency Ordinance no. 99/2006
on credit institutions and capital adequacy

Article I – Government Emergency Ordinance no. 25/2009 amending and supplementing the Government Emergency Ordinance no. 99/2006 on credit institutions and capital adequacy published in the Romanian Official Journal, Part 1, no. 179/23 March 2009 is hereby approved, with the following supplements:

1. After point 18 under Article I, point 18^1 shall be inserted, as follows:

"18^1. The introductory part of paragraph (1), under Article 72, shall be amended, as follows:

Art.72 - (1) In assessing the quality of the credit institution from a third country, the criteria provided for in Article 26 para. (1), which shall be applicable accordingly, as well as at least the following shall be taken into account:"

2. After point 34 under Article I, a new point, namely point 34^1, shall be inserted, as follows:

"34^1. Paragraph (2) under Article 230 shall be amended, as follows:

(2) The shareholders against whom the measure laid down in para. (1) has been taken shall no longer be allowed to acquire new shares of the credit institution, Romanian legal person."

3. After point 34^1 under Article I, a new point, namely point 34^2, shall be inserted, as follows:

"34^2. After paragraph (2) under Article 230, a new paragraph (3) shall be inserted as follows:

(3) Shareholders whose voting rights were not suspended shall be allowed to gather in the General Meeting of Shareholders and make any decision in accordance with its powers, the majority of the voting rights provided by law or, as the case may be, by the incorporation document being calculated in relation to the capital held by such shareholders."

4. After point 34^2 under Article I, a new point, namely point 34^3, shall be inserted, as follows:

"34^3. After Article 230, a new Article 230^1, shall be inserted, as follows:

Art. 230^1 - (1) In order to redress a situation when a significant deterioration of the prudential and financial performance indicators of a credit institution, Romanian legal person, has been occurred, or to prevent the occurrence of such a prospect significant deterioration, which is likely to jeopardise the capacity of the credit institution to meet the prudential requirements in the short term, the National Bank of Romania is empowered to take the following measures:

a) to demand the shareholders with qualifying holdings to financially sustain the credit institution by increasing the share capital;

b) to demand the shareholders with qualifying holdings to financially sustain the credit institution by providing loans eligible according to the National Bank of Romania's regulations for being included in the credit institution's own funds and/or by converting such loans into shares;

c) to prohibit or limit profit distribution for purposes other then those mandatory by law, until the National Bank of Romania ascertains that the financial condition of the credit institution is restored.

(2) If the shareholders with qualifying holdings do not comply, in the time limit set by the National Bank of Romania, with the measure taken according to para.(1) letter a) or b), the provisions of Article 230 para.(1) and (3) will become applicable. In this case, the National Bank of Romania will revoke the measure of suspension of the exercise of the voting rights only when the circumstances based on which the measure has been taken will cease to exist."

5. After point 34^3 under Article I, a new point, namely point 34^4, shall be inserted, as follows:

"34^4. Article 231 shall be amended as follows:

Art. 231 - (1) The exercise of the voting rights of the persons who failed to make a notification, pursuant to Article 25 para. (1), or of the persons who acquired a qualifying holding despite the opposition of the National Bank of Romania, pursuant to Article 26 para. (2) shall be suspended by law.

(2) For the General Meeting of Shareholders to gather the provision of Article 230 para.(3) apply accordingly."

6. After point 34^4 under Article I, a new point, namely point 34^5, shall be inserted, as follows:

"34^5. Article 232 shall be amended as follows:

Art. 232 – (1) The persons who acquired a qualifying holding despite the opposition of the National Bank of Romania must sell, within 3 months of the date when the opposition was communicate, their shares representing qualifying holdings acquired in such a way. After the expiry of this time limit, unless the shares are sold, the National Bank of Romania shall require credit institution, Romanian legal person, to cancel the shares involved, to issue and sell new shares bearing the same number, and the amount of money collected from the sale shall be made available to the initial acquirer, after the cost related to the sale was deducted.

(2) The Board of administration of the credit institution, or the Directorate, as the case may be, is responsible for the implementation of measures necessary for the cancellation of shares in accordance with the provisions of para. (1), and for the sale of the newly issued shares.

(3) If, for want of buyers, the sale did not take place or was only partially accomplished in terms of the newly issued shares, the credit institution shall proceed to the reduction of its share capital by subtracting the amount representing the difference between the registered share capital and the share capital held by shareholders with voting rights.

(4) The provisions of para. (1) – (3) are also applicable in case of persons who failed to notify the National Bank of Romania of the acquisition of a qualifying holding, pursuant to Article 25 para. (1), and do not comply, in the time limit set by the National Bank of Romania, with the requirement to provide the necessary information and documentation for the assessment provided by Article 26 para.(1). In this situation the National Bank of Romania could oppose to the acquisition according to the provisions of Article 26 para.(2).”

Article II – Credit institutions which have concluded labour agreements with persons nominated to exercise a director/ Directorate member mandate shall have 6 months since the entering into force of this law in order to complete the necessary formalities for terminating these agreements. If not, by way of derogation from the provisions in Article 56 of Law no. 53/2003 - Labour Code, the mentioned labour agreements shall be legally terminated at the end of the 6 months period.