



# Questionnaire

## Part II

**Information provided by the Government of the Republic of Moldova  
to the Questionnaire of the European Commission**

### **CHAPTER 4: FREE MOVEMENT OF CAPITAL**

May 2022

Member States must remove, with some exceptions, all restrictions on movement of capital and payments both within the EU and between Member States and third countries. The *acquis* is based on the Treaty on the Functioning of the European Union, in particular Articles 63-66. The definition of the different types of capital movements relies on Annex I of Directive 88/361/EEC. Relevant case-law of the European Court of Justice and Commission Communications 97/C220/06, 2005/C293/02, 2017/C 350/05 and COM (2018) 547 final provide additional interpretation of the above Articles.

The *acquis* also covers a substantial set of rules on payments. The main law - Directive 2007/64/EC on payment services in the Internal Market (PSD) and its successor, Directive (EU) 2015/2366 – PSD2, which will start applying from 13 January 2018, are the legal foundations for the creation of an EU-wide single market for payments. The PSD/PSD2 establishes a modern and comprehensive set of rules applicable to all payment services, national and cross-border, in the European Union. The target is to make cross-border payments as easy, efficient and secure as 'national' payments within a Member State, while at the same time enhancing rights of the payment service users. The PSD/PSD2 also seeks to improve competition by opening up payment markets to new entrants, thus fostering greater efficiency and cost-reduction. At the same time the Directive provides the necessary legal platform for the Single Euro Payments Area (SEPA).

From the technical perspective, specific rules for pan-European credit transfers and direct debits in euro are set in the Regulation (EU) 260/2012 – the SEPA Regulation. In terms of charges for payment services, Regulation (EC) No 924/2009 on cross-border payments in the EU eliminates the differences in charges for cross-border and national payments in euro up to the amount of EUR 50.000. It applies to all electronic payments (credit transfers, direct debits, payments by means of debit and credit cards and cash withdrawals at cash dispensers).

Directive 2009/110/EC<sup>1</sup> on the taking up, pursuit of and prudential supervision of the business of electronic money institutions complements the PSD/PSD2 and enables the use of electronic money within the EU by setting the rules concerning the authorisation and operations of e-money institutions. E-money institutions are the third category of payment service providers, aside the traditional credit institutions (banks) and payment institutions (created by the PSD).

Regulation (EU) 2015/751 regulates interchange fees for card-based payment transactions and imposes several business rules on all card schemes operating in the EU.

Directive (EU) 2018/843<sup>2</sup> (5<sup>th</sup> AML Directive) requires entities subject to the Directive to apply customer due diligence and to report suspicious transactions, as well as to take relevant supporting measures, such as record keeping, training and establishing internal procedures. A key requirement to combat financial crime is the creation of effective administrative and enforcement capacity, including cooperation between supervisory, law enforcement and prosecutorial authorities. The Directive aligns with and goes beyond the relevant 40 Recommendations on money laundering and nine Special Recommendations on terrorist financing of the Financial Action Task Force (FATF).

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<sup>1</sup> Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009, p. 7)

<sup>2</sup> Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, and amending Directives 2009/138/EC and 2013/36/EU

In addition to Directive 2018/843, the *acquis* in this area also comprises Commission Directive 2006/70/EC<sup>3</sup>, and Regulation (EU) 2015/847<sup>4</sup> (Funds Transfer Regulation).

The *acquis* also covers Regulation 2018/1672<sup>5</sup>, as well as two Council of Europe (CoE) Conventions (CETS 141 and 198<sup>6</sup>) and EU legislation on judicial and police cooperation (including the Joint Action 98/699/JHA of 3 December 1998, the Council Framework Decision 2001/500/JHA and the Protocol of 30 November 2000 extending Europol's competence to money laundering). In addition, Council Decision 2000/642/JHA of 17 October 2000 and Directive 2015/849 set out arrangements for cooperation between Financial Intelligence Units (FIUs) of the Member States.

The Association Agreement already lays down specific obligations in the areas covered by this Chapter. When answering the questions below, please make reference to the state of implementation of such obligations.

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<sup>3</sup> Directive 2006/70/EC of 1 August 2006 laying down implementing measures for Directive 2005/60/EC of the European Parliament and of the Council as regards the definition of politically exposed person and the technical criteria for simplified customer due diligence procedures and for exemption on grounds of a financial activity conducted on an occasional or very limited basis.

<sup>4</sup> 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds (repealing Regulation (EC) No 1781/2006)

<sup>5</sup> Regulation (EU) 2018/1672 of the European Parliament and of the Council of 23 October 2018 on controls on cash entering or leaving the Union and repealing Regulation (EC) No 1889/2005

<sup>6</sup> Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime (so-called Strasbourg Convention; CETS 141); Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Warsaw Convention; CETS 198).

## ***I. CAPITAL MOVEMENTS AND PAYMENTS***

### **1. Please indicate key features of the legislation concerning free movement of capital and payments as well as the institutions that are competent on the issue.**

Movement of capital in the Republic of Moldova is regulated by the Law No. 62/2008 on foreign exchange regulation<sup>7</sup> which entered into force on 18 January 2009<sup>8</sup>. According to Art.70 of the Law No. 62/2008 on foreign exchange regulation, this law is compatible with the provisions of Art. 59 of Chapter 4 “Capital and payments”, Title III “Free movement of persons, services and capital”, Part three “Community policies” of the Treaty establishing the European Community (consolidated version), as well as with the provisions of Annex I to the Council Directive of 24 June 1988 for the implementation of Article 67 of the Treaty (88/361/EEC). The Law establishes the general principles of foreign exchange regulation in the Republic of Moldova, the rights and the obligations of residents and non-residents related to the foreign exchange market, including provisions related to the capital foreign exchange operations, as well as the procedures of how to perform these operations.

Thus, the foreign exchange operations related to the inflow of capital into the Republic of Moldova shall be performed without restrictions, unless otherwise provided for by the legislation of the Republic of Moldova that regulates the field relevant to respective capital foreign exchange operations. Currently, the Law No. 81/2004 on investments in entrepreneurial activity<sup>9</sup> (Art. 22) establishes the right of foreign investors to acquire the property right over real estate on the territory of the Republic of Moldova, except for agricultural and forest land, in order to carry out entrepreneurial activity.

Foreign exchange operations related to the outflow of capital from the Republic of Moldova shall be performed without the authorisation of the National Bank of Moldova, unless otherwise provided for by the Law No. 62/2008 on foreign exchange regulation. Thus, pursuant to the named Law (articles 9, 11-13, 15-16, 29-31, 38) the following capital foreign exchange operations shall be performed with the authorisation of the National Bank of Moldova:

- The purchase by residents of foreign financial instruments, except for the cases where:
  - amount of the operation does not exceed EUR 10 000 (or its equivalent); or

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<sup>7</sup> Law No. 62/2008 on foreign exchange regulation, available in English at:

<https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

<sup>8</sup> Law No. 62/2008 on foreign exchange regulation was amended 12 times, latest revisions being as of 27 February 2020.

<sup>9</sup> Law No. 81/2004 on investments in entrepreneurial activity, available in Romanian at:

[https://www.legis.md/cautare/getResults?doc\\_id=122080&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=122080&lang=ro#)

- financial instruments are issued by international organizations; or
- the operations are carried out by the licensed banks, as well as the entities whose activity is regulated and supervised by the National Commission for Financial Market;
- Granting of financial loans/credits by residents to non-residents, except for the following loans/credits:
  - financial leasing;
  - credits granted by the licensed banks;
  - loans/credits (other than those referred to in letters a) and b)) the value of which does not exceed EUR 10 000 (or its equivalent);
- Granting of guarantees in amount exceeding EUR 10 000 (or its equivalent) by residents to non-residents for:
  - granting a guarantee by residents (other than the licensed bank) to non-residents based on the transaction between non-residents;
  - granting a guarantee by residents (other than the licensed bank) to non-residents in the form of a guarantee deposit;
- Opening abroad of current and deposit accounts by residents, except for the following cases:
  - opening by licensed banks of accounts in their name necessary for carrying out financial activities;
  - opening by residents of accounts with the purpose of performing operations abroad related to direct investments and real estate, if opening of such accounts by investors (on their name) is compulsory under the legislation of the foreign state where the operations are carried out;
  - opening of accounts in the name of representative offices of resident legal entities, with the purpose of ensuring the performance of such representative offices' activity;
  - d) opening by the residents of temporary accounts for the period of their stay abroad;
  - e) opening by residents of accounts related to guarantee deposit provided for in Art. 12 para (3) letter b) of the Law No. 62/2008 on foreign exchange regulation where the guarantee amount does not exceed EUR 10 000 (or its equivalent);
  - opening by residents of accounts aimed at performing operations related to receiving loans / credits / guarantees from non-residents, where the amount of the loan / credit / guarantee does not exceed EUR 10 000 (or its equivalent).
- Personal operations in case of granting by resident individuals to non-resident individuals of:
  - a loan in an amount exceeding EUR 10 000 (or its equivalent);

- a donation in an amount exceeding EUR 10 000 (or its equivalent);
- Currency exchange operations performed abroad by residents, except when such operations are performed by:
  - licensed banks;
  - resident individuals who are staying temporarily abroad;
  - resident legal entities (other than those specified in letter a)) and resident individuals (other than those specified in letter b)) that have accounts opened abroad under the provisions of Law No. 62/2008 on foreign exchange regulation and perform currency exchange operations according to the regime of the respective account established under the legislation of the Republic of Moldova;
  - residents, other than those referred to in letters (a) - (c), where the amount of a currency exchange operation does not exceed EUR 10 000 (or its equivalent).
- The import into/export from the Republic of Moldova of cash in national currency by licensed banks and non-resident banks in an amount exceeding MDL 100 000 (EUR 5 200);
- Export by resident individuals and non-resident individuals, when departing from the Republic of Moldova, of cash in national currency, cash, and traveller's cheques in foreign currency in the total amount of over EUR 10 000 (or its equivalent), but not exceeding EUR 50 000 (or its equivalent) per individual/travel. The amounts exceeding EUR 50 000 (or its equivalent) may be transferred via the resident payment service providers from the Republic of Moldova.

National Bank of Moldova shall issue the authorisation to export funds from the Republic of Moldova, following a written request of individuals, in case the export of cash in national and foreign currency and of traveller's cheques in foreign currency is made by:

- resident individuals establishing permanent residence abroad and holding the respective funds under property right.
- non-resident individuals holding the respective funds under property right.
- Other capital operations:
  - operations related to donations made by residents to non-residents (other than international organisations) in an amount exceeding EUR 10 000 (or its equivalent);
  - transfers of funds in amounts exceeding EUR 10 000 (or its equivalent) made by residents to non-residents necessary for the provision of services by non-residents, prior to the conclusion of transactions, for the performance of which such funds are intended.

According to the Law No. 62/2008 on foreign exchange regulation, the National Bank of Moldova shall have the right to authorise or refuse to authorise the foreign

exchange operation, taking into account the fundamental objective of the National Bank of Moldova stipulated by the Law No. 548/1995 on the National Bank of Moldova<sup>10</sup>, the current conditions of the money, credit and foreign exchange markets, the situation of the balance of payments of the Republic of Moldova, the provisions of the legislation of the Republic of Moldova. In addition to certain technical reasons, National Bank of Moldova may refuse to authorize the foreign exchange operation if the National Bank of Moldova applied the remedial measures to certain categories of the applicants or regarding to the applicant the competent authorities submitted the information on the suspicious nature of the transaction subject to authorisation and/or of the applicant`s activity, in the context of the legislation on preventing and combating money laundering and terrorist financing (Art. 55 para. (3), (4) of the Law No. 62/2008 on foreign exchange regulation).

Payments and transfers within capital foreign exchange operations shall be received/made by residents and non-residents without restrictions if the foreign exchange operations are made in compliance with the requirements of the Law No. 62/2008 on foreign exchange regulation (Art. 17 para. (2)).

Pursuant to the Law No. 548/1995 on National Bank of Moldova, the National Bank of Moldova shall perform foreign exchange regulation on the territory of the Republic of Moldova (Art. 5 para. (1) letter l) of the Law No. 548/1995 on National Bank of Moldova). In this context, the National Bank of Moldova shall issue normative acts for the regulation (including authorization and reporting) related to the foreign exchange operations performed by individuals and legal entities, including banks and state bodies (Art. 51 of the Law No. 548/1995 on National Bank of Moldova). All draft normative acts elaborated by the National Bank of Moldova, including those concerning the liberalization of the capital foreign exchange operations, are approved in consultation with the competent authorities (the Ministry of Economy, the Ministry of Finance, etc.).

The legal framework for carrying out the activity of providing payment services is represented by Law No. 114/2012 on payment services and electronic money<sup>11</sup> (transposing Directive No. 2007/64/EC and Directive No. 2009/110/EC into national law). This law regulates the conditions for the establishment, licensing and activity of payment service providers, the rights and obligations regarding the provision and use of payment services, as well as the transparency of the conditions and information requirements regarding payment services, ensuring the protection of payment service consumers offered by both bank and non-bank payment service providers. According to this Law, prudential supervision in the field of payment services is provided by the National Bank of Moldova and the Ministry of Finance. The National Bank of Moldova is invested with the right to supervise and regulate the activity of payment institutions, electronic money issuers, postal service

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<sup>10</sup> Law No. 548/1995 on the National Bank of Moldova, available in English at: <http://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995>

<sup>11</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

providers as payment service providers, banks as payment service providers and electronic money issuers, and the Ministry of Finance is responsible for supervising and regulating the State Treasury as a payment service provider.

**2. Please indicate:**

- **if there are capital transactions that are not yet fully liberalized and their types;**
- **if relevant, which are the conditions attached to their liberalization; and**
- **indicative plans for their complete liberalization.**

According to the Law No. 62/2008 on foreign exchange regulation<sup>12</sup> the following capital foreign exchange operations related to the outflow of capital from the Republic of Moldova in an amount exceeding EUR 10 000 (or its equivalent)/per operation are not yet fully liberalized:

- operations with financial instruments (Art. 9);
- financial loans/credits (Art. 11);
- guarantees (Art. 12);
- operations in current accounts and in deposit accounts with non-resident banks (Art. 13);
- personal operations (Art. 15);
- import and export of foreign exchange values (Art. 29-31);
- currency exchange operations performed abroad by residents (Art. 38);
- other capital operations (Art. 16).

The National Bank of Moldova promotes a prudent policy aimed at gradual liberalization of capital outflows from the Republic of Moldova, in order to avoid the shocks/disruptions associated with full liberalization undertaken in a single step taking into account that the Republic of Moldova is a small open economy exposed to external vulnerabilities posing macroeconomic and financial stability risks This policy is based on the following liberalization principles:

- starting from the long-term operations (i.e. direct investment, which are already complete liberalized) to short-term operations, from lower to higher volatility capital flows, the latter having a significant impact on the economy, monetary policy, etc. Therefore, the short-term operations (i.e. operations with financial instruments, which are partially liberalized) being highly volatile capital flows, will be liberalized in the final step;
- starting from the operations of the economic agents, which are licensed by the state-authorized body in the respective field and which activate under the supervision of this body within the prudential requirements (such as banks) to the operations of the other categories of residents.

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<sup>12</sup> Law No. 62/2008 on foreign exchange regulation, available in English at: <https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

The liberalization policy promoted by the Republic of Moldova is in accordance with the obligations of gradual liberalization of capital flows assumed by the Republic of Moldova within international treaties.

Thus, according to Art. 267 of the Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part<sup>13</sup> (signed in 2014), during the first four years following the date of entry into force of this Agreement, the EU and the Republic of Moldova shall take measures permitting the creation of the necessary conditions for further gradual application of the EU rules on the free movement of capital. By the end of the fifth year following the date of entry into force of this Agreement, the Association Committee in Trade configuration, as set out in Art. 438 (4) of this Agreement, shall review the measures taken and determine the modalities for further liberalization. In this regard, in 2016 the Law No. 62/2008 on foreign exchange regulation was completed by the Law No. 94/2016<sup>14</sup> (effective since 10 June 2016) with amendments related to the gradual liberalization of some capital foreign exchange operations, which were subject to the National Bank of Moldova authorization. Thus, in 2016 the Republic of Moldova completely liberalized the following operations:

- operations with foreign financial instruments carried out by licensed banks and entities whose activity is regulated and supervised by the National Commission for Financial Markets;
- granting of financial loans to non-residents by the licensed banks;
- import into/export from the Republic of Moldova by non-resident banks of cash in foreign currency;
- import into/export from the Republic of Moldova by resident banks and non-resident banks of cash in national currency in the amount not exceeding MDL 100 000;
- a series of capital foreign exchange operations of residents in the amount up to EUR 10 000.

The Republic of Moldova will liberalize the above-mentioned foreign exchange operations in accordance with the policy promoted in this field. At each step of the liberalization of capital foreign exchange operations, decisions will be made taking into account the possible impact of liberalization measures on monetary and foreign exchange policy, the internal foreign exchange market, the country's foreign exchange reserves, the financial system, the types of capital foreign exchange operations that could be further liberalized, and the timing of their liberalization. Also, the next step of liberalization must be the subject of prior decisions coordinated with the competent state bodies.

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<sup>13</sup> Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part, available in English at: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L\\_.2014.260.01.0004.01.ENG](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv%3AOJ.L_.2014.260.01.0004.01.ENG)

<sup>14</sup> Law No. 94/2016 on amending the Law No. 62/2008 on foreign exchange regulation, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=93166&lang=ro](https://www.legis.md/cautare/getResults?doc_id=93166&lang=ro)

In 2019, the National Bank of Moldova initiated the draft amendment to the Law No. 62/2008 on foreign exchange regulation in order to liberalize some capital operations, but taking into account the impact of the pandemic crisis on the economic situation, this initiative was suspended in 2020. The mentioned initiative provided complete liberalization for certain categories of residents and partially liberalization by increase of amount from EUR 10 000 to EUR 100 000, in some cases from EUR 10 000 to EUR 500 000 in function of resident individuals or resident legal entities.

The following capital foreign exchange operations were the subject of the liberalization related to suspended initiative:

- complete liberalization:
  - Granting of financial loans / credits to non-residents by investment companies and insurance and reinsurance companies;
  - Granting of guarantees (other than the guarantees indicated below in the partially liberalization category) in favor of non-residents by all categories of residents;
- partially liberalization:
  - Granting of guarantees in the form of collateral on funds in bank accounts;
  - Purchase of foreign financial instruments;
  - Granting personal loans;
  - Granting loans / credits to non-residents;
  - Granting and reimbursement of loans / credits in / abroad between residents;
  - Opening by the resident legal entities of the accounts related to the granting of guarantees in the form of collateral on funds;
  - Opening accounts abroad related to receiving loans / credits / guarantees from non-residents;
  - Foreign exchange operations (Forex).

The decision related to the complete liberalization of the aforementioned foreign exchange capital operations will be taken after conducting a comprehensive assessment of the economic situation in the Republic of Moldova, taking into account that in case of need the Republic of Moldova may apply safeguard measures (Art. 56 of Law No. 62/2008 on foreign exchange regulation, Association Agreement between the European Union and the European Atomic Energy Community and their Member States, of the one part, and the Republic of Moldova, of the other part).

### **3. Please describe the key features of the legislation on foreign exchange operations.**

According to the Law No. 62/2008 on foreign exchange regulation<sup>15</sup>, the foreign exchange legislation of the Republic of Moldova includes the Law No. 62/2008 on foreign exchange regulation, the Law No. 548/1995 on the National Bank of Moldova<sup>16</sup>, other legislative acts that regulate the relations relevant to the foreign exchange regulation, the normative acts worked out for the enforcement of the above-mentioned legislative acts, including the normative acts of the National Bank of Moldova, as well as the international treaties in which the Republic of Moldova is part of . If an international treaty in which the Republic of Moldova acts as a party establishes provisions other than those stipulated in the foreign exchange legislation of the Republic of Moldova, the provisions of the international treaty shall apply(Art. 2 of the Law No. 62/2008).

The foreign exchange operations include the foreign exchange operations performed between residents and non-residents, between residents, between non-residents, as well as the foreign exchange operations unilaterally performed by residents or by non-residents (Art. 4 para. (1) of the Law No. 62/2008).

The foreign exchange operations between residents and non-residents include the current foreign exchange operations and the capital foreign exchange operations (Art. 4 para. (2) of the Law No. 62/2008).

According to the Law No. 62/2008 on foreign exchange regulation, foreign exchange operations include:

- current foreign exchange operations, which are carried out without restrictions, taking into account the commitments undertaken by the Republic of Moldova according to Article VIII, sections 2, 3 and 4 of the Articles of Agreement of the International Monetary Fund<sup>17</sup> (Art. 5, Art. 17 para. (1));
- capital foreign exchange operations (implying the inflow of capital into/the outflow of capital from the Republic of Moldova), some of which are carried out with the authorization of the National Bank of Moldova (Art. 6 para. (2), (4), (7) of the Law No. 62/2008). The right of a State to impose control measures on capital foreign exchange operations derives from Article VI, Section 3 „Controls of capital transfers” of the Articles of Agreement of the International Monetary Fund, which states that Member States may apply control measures necessary to regulate the international movement of capital.

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<sup>15</sup> Law No. 62/2008 on foreign exchange regulation, available in English at: <https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

<sup>16</sup> Law No. 548/1995 on the National Bank of Moldova, available in English at: <http://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995>

<sup>17</sup> Articles of Agreement of the International Monetary Fund, available in English at: <https://www.imf.org/external/pubs/ft/aa/index.htm>

Payments and transfers within current foreign exchange operations shall be received/made by residents and non-residents without restrictions (Art. 17 para. (1) of the Law No. 62/2008).

Capital foreign exchange operations that imply the inflow of capital into the Republic of Moldova shall be performed without restrictions, unless otherwise provided for by the legislation of the Republic of Moldova that regulates the field relevant to respective capital foreign exchange operations (Art. 6 para. (4) of the Law No. 62/2008).

The capital foreign exchange operations, which imply the inflow of capital into the Republic of Moldova in case of residents receiving from non-residents loans/credits and guarantees referred to in paragraph (6) of Art. 6 of the Law No. 62/2008 on foreign exchange regulation, shall be the subject of the notification regime, which has the purpose of recording by the National Bank of Moldova of the obligations arising from the mentioned operations, as a result of the notification of these operations by residents (Art. 6 para. (5) of the Law No. 62/2008).

Loans/credits and guarantees shall be subject to notification in case of (Art. 6 para. (6) of the Law No. 62/2008):

- interest-bearing commercial loans/credits, except for the receiving of loans/credits by the adhering entity (resident supplier) from the non-resident factor within the factoring operation, in the event that the non-resident factor assumes the risk of insolvency of the non-resident debtor for the undertaken debt;
- financial loans/credits, except for the following:
  - interbank credits with the initial repayment period not exceeding one year;
  - loans/credits received from non-residents by using credit cards issued by non-residents at the request of residents;
- guarantees issued by the non-resident guarantor based on the underlying transaction between two residents;
- loans/credits within operations related to direct investments.

Provisions of paragraph (6) shall not apply if the amount of the loan/credit or guarantee does not exceed EUR 50 000 (or its equivalent) (Art. 6 para. (6<sup>1</sup>) of the Law No. 62/2008).

Capital foreign exchange operations that imply the outflow of capital from the Republic of Moldova shall be performed without the authorization of the National Bank of Moldova, except for the following cases (Art. 9 para. (6)-(12)):

- The purchase by residents of foreign financial instruments, except for the cases where:
  - amount of the operation does not exceed EUR 10 000 (or its equivalent); or

- financial instruments are issued by international organizations; or
  - the operations are carried out by the licensed banks, as well as the entities whose activity is regulated and supervised by the National Commission for Financial Market.
- Granting of financial loans / credits by residents to non-residents, except for the following loans/credits:
    - financial leasing;
    - credits granted by the licensed banks;
    - loans/credits (other than those referred to in letters a) and b)) value of which does not exceed EUR 10 000 (or its equivalent) (Art. 11 para. (4));
  - Granting of guarantees in amount exceeding EUR 10 000 (or its equivalent) by residents to non-residents for:
    - granting a guarantee by a resident (other than the licensed bank) to a non-resident based on the transaction between non-residents;
    - granting a guarantee by a resident (other than the licensed bank) to a non-resident in the form of a guarantee deposit (Art. 12 para. (3) and (4));
  - Opening abroad of current and deposit accounts by residents, except for the following cases (Art. 13 para. (4), (5)):
    - opening by licensed banks of accounts on their name necessary for carrying out financial activities;
    - opening by residents of accounts with the purpose of performing abroad of operations related to direct investments and operations with real estate if opening of such accounts by investors (on their name) is compulsory under the legislation of the foreign state where the operations are carried out;
    - opening of accounts in the name of representative offices of resident legal entities, with the purpose of ensuring the performance of such representative offices' activity;
    - opening of the accounts by resident individuals for the period of their temporary stay abroad;
    - opening by residents of accounts related to guarantee deposit provided for in Art. 12 paragraph (3) letter b) where the guarantee amount does not exceed EUR 10 000 (or its equivalent);
    - opening by residents of accounts aimed at performing operations related to receiving loans/credits/guarantees from non-residents, where the amount of the loan/credit/guarantee does not exceed EUR 10 000 (or its equivalent);
  - Personal operations in case of granting by resident individual to non-resident individual of (Art. 15 para. (2):

- a loan in an amount exceeding EUR 10 000 (or its equivalent);
- a donation in an amount exceeding EUR 10 000 (or its equivalent);
- Currency exchange operations performed abroad by residents, except when such operations are performed by (Art. 38):
  - licensed banks;
  - resident individuals who are staying temporarily abroad;
  - resident legal entities (other than those specified in letter a)) and resident individuals (other than those specified in letter b)) that have accounts opened abroad under the provisions of Law No. 62/2008 and perform currency exchange operations according to the regime of the respective account established under the legislation of the Republic of Moldova;
  - residents, other than those referred to in letters (a)-(c), where the amount of a currency exchange operation does not exceed EUR 10 000 (or its equivalent);
- The import into/export from the Republic of Moldova of cash in national currency by licensed banks and non-resident banks in an amount exceeding MDL 100 000 (Art. 30 para. (6));
- Export by resident individuals and non-resident individuals, when departing from the Republic of Moldova, of cash in national currency, cash and traveller's cheques in foreign currency in the total amount of over EUR 10 000 (or its equivalent), but not exceeding EUR 50000 (or its equivalent) per individual/travel. The amounts exceeding EUR 50 000 (or its equivalent) may be transferred from the Republic of Moldova (Art.29). National Bank of Moldova shall issue the authorisation to export funds from the Republic of Moldova, following a written request of individuals, in case the export of cash in national and foreign currency and of traveller's cheques in foreign currency is made by (Art. 31 para. (2):
  - resident individual establishing permanent residence abroad and holding the respective funds under property right;
  - non-resident individual holding the respective funds under property right;
- Other capital operations (Art. 16 para. (2)-(5):
  - operations related to making donations by residents to non-residents (other than international organisations) in the case of a donation in an amount exceeding EUR 10 000 (or its equivalent);
  - transfers of funds in amount exceeding EUR 10 000 (or its equivalent) made by residents to non-residents necessary for the provision of services by non-residents, prior to the conclusion of transactions, for the performance of which such funds are intended.

The capital foreign exchange operations that shall be performed without the authorization of the National Bank of Moldova (totally liberalized for all categories of residents) include:

- operations related to direct investments (Art. 7);
- operations with real estate (Art. 8);
- commercial loans/credits (Art. 10);
- operations related to life insurance (Art. 14).

According to the Law No. 62/2008 on foreign exchange regulation, payments and transfers into/from the Republic of Moldova between non-residents, as well as the unilateral transfers of non-residents into/from the Republic of Moldova shall be received/made without restrictions.

Funds received by non-residents within foreign exchange operations, available on their accounts opened with licensed banks, as well as on their payment accounts opened with resident non-bank payment service providers shall be allowed to be transferred abroad without restrictions (Art. 18).

According to the Law No. 62/2008 on foreign exchange regulation, unilateral transfers of residents in foreign currency and of non-residents in foreign currency and national currency on the territory of the Republic of Moldova shall be made without restrictions (Art. 19).

Payments and transfers between residents and non-residents shall be made on the territory of the Republic of Moldova in national currency, as well as in foreign currency, except for the cases provided for in the Law No. 62/2008 on foreign exchange regulation (Art. 20). Payments and transfers between residents shall be made on the territory of the Republic of Moldova in national currency. The cases when payments and transfers between residents on the territory of the Republic of Moldova may also be made in foreign currency are provided for in the Law No. 62/2008 on foreign exchange regulation (Art. 21).

The payments and transfers between non-residents shall be made on the territory of the Republic of Moldova in national currency, as well as in foreign currency without restrictions, except for the cases provided for in the Law No. 62/2008 on foreign exchange regulation (Art. 24).

Resident legal entities shall be allowed to perform payments and transfers from the Republic of Moldova abroad to other residents only for the purposes provided for in Law No. 62/2008 on foreign exchange regulation (Art. 23).

Granting of loans/credits in foreign currency by residents to other residents in the territory of the Republic of Moldova shall be allowed to licensed banks and to resident individuals, according to the provisions of Law No. 62/2008 on foreign exchange regulation, as well as to the Ministry of Finance, according to the

provisions of the Law No. 419/2006 on the public sector debt, state guarantees and state on-lending<sup>18</sup> (Art. 22).

Cases in which residents and non-residents may use cash in national /foreign currency and traveller's cheques in foreign currency within foreign exchange operations are provided for in the Law No. 62/2008 on foreign exchange regulation (Art. 26).

#### **4. Please elaborate on the strategy for liberalisation of short-term capital movements.**

Currently, the legislation of the Republic of Moldova does not establish restrictions on capital inflows into the Republic of Moldova, in particular as regards short-term capital movements. Also, the legislation of the Republic of Moldova does not establish restrictions on the conversion of funds obtained by non-residents within capital foreign exchange operations, including short-term operations as well as on performing transfers outside the Republic of Moldova within mentioned operations (Art. 18 of the Law No. 62/2008 on foreign exchange regulation, Art. 21 of the Law No. 81/2004 on investments in entrepreneurial activity<sup>19</sup>).

Regarding to the liberalization of operations related to the outflow of capital from the Republic of Moldova, in particular related to the short-term operations, Republic of Moldova will promote a prudent policy aimed for a gradual liberalization of the capital outflows from the Republic of Moldova, in order to avoid the shocks that can be linked to the liberalization through a single step, as mentioned in item 2 of this Chapter.

The liberalization of short-term capital operations will be conducted starting from the operations of the economic agents, which are licensed by the state-authorized body in the respective field, and which activate under the supervision of this body within the prudential requirements (such as banks) to the operations of the other categories of residents. Also, the liberalization of short-term capital operations for certain categories of residents will be carried out by gradually increasing the amounts subject to authorization by the NBM.

The liberalization policy promoted by the National Bank of Moldova is correlated with the obligations of gradual liberalization of capital flows assumed by the Republic of Moldova within the international treaties to which it is a party.

The pro-liberalization targets related to the capital foreign exchange operations are the following:

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<sup>18</sup> Law No. 419/2006 on the public sector debt, state guarantees and state on-lending, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=116876&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=116876&lang=ro#)

<sup>19</sup> Law No. 81/2004 on investments in entrepreneurial activity, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=122080&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=122080&lang=ro#)

- Moldova's long-term perspective of integration into the international financial system in the conditions of globalization of the world economy;
- Increasing investment opportunities by residents in countries with a high level of development, risk diversification, use of new technologies, know-how;
- Fulfilling by the Republic of Moldova of the commitments of progressive liberalization of capital flows according to international agreements (Moldova-EU Association Agreement);
- Improving the business environment by partially removing administrative barriers for residents to certain foreign exchange operations;
- Difficulties in controlling capital outflows against the background of the development of advanced payment systems, the use of electronic money, virtual currency, the possession by residents of several domiciles (residences) in several countries;
- Legal classification of de facto foreign exchange transactions by residents, which will help to improve the quality of statistics related to the transactions in question;
- Streamlining the authorization process (cost-benefit ratio).

**5. On current account convertibility, has Moldova accepted IMF Article VIII status? If not, can Moldova provide information on what are the remaining technical issues?**

With regard to current foreign exchange operations (which include in particular payments and transfers within international trade in goods and services), as of 30 June 1995 the Republic of Moldova has accepted the obligations of Article VIII, Sections 2, 3 and 4 of the Articles of Agreement of the International Monetary Fund<sup>20</sup> (IMF), which implies the obligation to refrain from imposing, without the agreement of the IMF, restrictions on making payments and transfers within the current international operations, from participating in discriminatory foreign exchange agreements and from using the practice of multiple exchange rates.

**6. Are there any restrictions applied to foreign direct investment (FDI)?**

Direct investments, performed by non-residents in the Republic of Moldova and by residents abroad, specified by the Law No. 62/2008 on foreign exchange regulation<sup>21</sup>, shall be performed without authorization of the National Bank of Moldova. As an exception, currently, the Law No. 81/2004 on investments in entrepreneurial activity (Art. 22) establishes the right of foreign investors to acquire the property right over real estate on the territory of the Republic of

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<sup>20</sup> Articles of Agreement of the International Monetary Fund, available in English at: <https://www.imf.org/external/pubs/ft/aa/index.htm>

<sup>21</sup> Law No. 62/2008 on foreign exchange regulation, available in English at: <https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

Moldova, except for agricultural and forest land, in order to carry out entrepreneurial activity.

**7. Please elaborate on privatisations of state-owned enterprises (SOEs) in the past and those envisaged in the future.<sup>22</sup> Do public authorities maintain any special rights (e.g. 'special shares', representation on the board of directors, veto rights on important decisions) in privatised companies? How and by whom are public authorities represented in companies where they own shares?**

Privatization of public property is carried out under the conditions of the Law No. 121/2007 on administration and transfer of public property into private property<sup>23</sup>, and the normative acts relating to the execution of the mentioned law.

Objects of privatization can be the following public property assets:

- blocks of shares;
- participation interest;
- State enterprises, as unique patrimonial complexes;
- immovable, movable assets and complexes of immovable assets;

The basis of the process of privatization of state public properties during the years 2016-2022 is built on the objectives of the Government Activity Programs for the years 2016-2018, 2019, 2019-2020 and 2021-2022, the provisions of Law No. 121/2007 on the administration and denationalization of public property, and the regulatory framework related to privatization.

According to the law, the main purposes of property denationalization are to restructure the national economy and increase competitiveness by attracting private investment, ensuring efficient management and general economic and political stability of the country, and mitigate the influence of political and regional crises and other factors.

The law establishes the objects of privatization, the modalities of privatization, and the application of the modalities of privatization, which are regulated by special normative acts, in particular:

- sale on the regulated domestic market (Stock Exchange);
- traditional auction calls;
- sale via commercial competition;

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<sup>22</sup> Please refer to the Organisation for Economic Co-operation and Development (OECD) definition of SOEs, i.e. enterprises where the state has significant control through full, majority, or significant minority ownership. Please include both SOEs, which are owned by the central government, as well as SOEs owned by regional and local governments.

<sup>23</sup> Law No. 121/2007 on the administration and denationalization of public property, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129363&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129363&lang=ro)

- sale by investment competition, including based on individual projects;
- sale at auction with discount;
- auction sale without announcing the initial price;
- sale of shares under the conditions of the public offer;
- transfer of shares free of charge;
- exchange of goods, including shares, subject to privatization.

The List of state-owned public goods subject to privatization was approved by Government Decision No. 945/2007<sup>24</sup> with subsequent amendments and completions.

During the years 2007-2021, privatization rounds were organized and carried out in the following ways:

- auctions on the regulated market (on the Stock Exchange) for the sale of state-owned shares<sup>25</sup>;
- auction calls (traditional)<sup>26</sup>;
- commercial and investment competitions, for the sale of state-owned enterprises, real estate, movable assets, and complex assets that include mixed real estate with movable assets<sup>27</sup>.

From 1 January 2016 until 13 April 2022, 67 state-owned public enterprises subject to privatization (for 1 420 976 620,18 MDL), were privatized including:

- 16 state-owned enterprises (for a total price of MDL 376,6 million or a little over EUR 14,9 million);
- 21 packages of state shares from state-owned companies (for a total price of MDL 550,0 million or EUR 24,1 million);
- 30 state properties (real estate (construction land), property complexes, unfinished objects) for a total price of MDL 494,36 million or EUR 21,36 million.

Revenues from the privatization of public property between 1 January 2016 – 13 April 2022 amounted to MDL 1421 billion (EUR 62,34 million). In addition, the buyer pays the tax of 1% of the purchase value of the goods according to the State

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<sup>24</sup> Government Decision No. 945/2007 with subsequent amendments and completions, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129546&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129546&lang=ro)

<sup>25</sup> Government Decision No. 145/2008, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=103495&lang=ro](https://www.legis.md/cautare/getResults?doc_id=103495&lang=ro)

<sup>26</sup> Government Decision No. 136/2009, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=103411&lang=ro](https://www.legis.md/cautare/getResults?doc_id=103411&lang=ro)

<sup>27</sup> Government Decision No. 919/2008, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=128856&lang=ro](https://www.legis.md/cautare/getResults?doc_id=128856&lang=ro)

Budget Law (called “private tax”). The fees obtained from the administration and denationalization of public property are transferred to the state budget and are used in accordance with the budget law. Pending changes in the state ownership policy, the resources obtained from the privatization process will continue to be a component of the state budget and will be used in accordance with the budget law.

The national state ownership policy and privatization strategy are currently under development and will be completed in September 2022.

Previous and current privatization activities were conducted in a discretionary manner by line ministries and local administrative authorities, often according to individual or political decisions. A defined state ownership policy will provide the rationale for all public property and will drive the triage for all SOEs into the following categories: retain by the state, privatize or liquidate. Going forward, the Public Property Agency will expand fiscal and financial monitoring of SOEs (through monthly and quarterly reporting), develop investment portfolios, and initiate communication campaigns and training of the Public Property Agency staff on this subject.

The Public Property Agency is the central administrative authority of the Government and is responsible for the administration and the denationalization of state public property<sup>28</sup>. The list of state-owned public goods subject to privatization was approved by the Government Decision No. 945/2007 with subsequent amendments and completions.

The Public Property Agency is committed to maximizing the potential revenue that the privatization process could bring to the national budget, including in the context of recent changes in the regional economic outlook, as well as the need to review the approach itself in the public interest. There are several main changes in how the privatization will be conducted in the future. Following the organization of the corporate portfolio along sectorial lines, the Public Property Agency will focus on creating value enhancement in corporate and real-estate portfolios and establishing a distressed-assets unit that will deal with problematic assets. Human capital will be front and center of the future changes, setting up a recruitment unit in the main office to assist SOEs in attracting human capital capable of generating change. It is anticipated that human capital will continue to be sourced from within the Republic of Moldova, its diaspora, and international markets.

Law on the administration and denationalization of public property does not provide any special conditions/rights ("special actions", representation on the board of directors, veto on important decisions) in privatized companies.

In accordance with the legal provisions, the board of directors of SOEs must include representatives of the Ministry of Finance, the Ministry of Economy, the

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<sup>28</sup> Government Decision No. 902/2017, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=102747&lang=ro](https://www.legis.md/cautare/getResults?doc_id=102747&lang=ro)

line ministries and representatives of the founder (PPA). Therefore, the state representatives in the companies in which the state holds shares are civil servants of the central public authorities.

**8. Is the financial system sufficiently developed to cope with the greater freedom of capital movements? What would be the implications for financial supervision?**

Taking into account that the Republic of Moldova promotes a prudent policy aimed for a gradual liberalization of the capital outflows from the Republic of Moldova, in order to avoid the shocks that can be linked to the liberalization through a single stage, as well as increased stability in the banking system due to the implementation of Basel III, in our opinion the financial system of the Republic of Moldova is sufficiently developed for the next stage of liberalization.

According to the technical specifications, the Automated Interbank Payments System (AIPS) is designed to cover a very large volume of transactions, so is sufficiently developed to cope with the greater freedom of capital movements.

The non-banking financial system of Moldova showed a quite stable development during the last decade, despite vulnerabilities that affected the financial system as a whole. This is an indicator of the level of its development and ability to maintain an adequate framework for free movement of capital.

The Moldovan capital market has a limited degree of sophistication, with a limited number of issuers and low liquidity on the equities side, only government issued bonds on the fixed income side. One of the main elements of capital market infrastructure is Moldova Stock Exchange (MSE), which operates a regulated market with shares issued by 13 listed joint-stock companies, a Multilateral Trading Facility (MTF) with 19 listed joint-stock companies, and 3 issuances of bonds made by three local public authorities. The MSE turnover has gradually decreased in the past years due to a slower pace in the privatization process. The general slowdown of investment activity has been influenced by uncertainties brought by COVID-19, economic crisis and regional instability. The MSE turnover in 2021 amounted to MDL 34 million (both regulated market and alternative market), being carried out 170 transactions with securities.

In order to drive the necessary reforms and to ensure that the capital market is a viable and reliable alternative for investors and a source of finance for enterprises, the National Commission for Financial Markets (NCFM) intends in the next few years to put in place the right incentives to encourage investments, making them attractive for both the individual and institutional investors.

In the Republic of Moldova, the financial market supervision is splitted between two regulators: National Bank of Moldova and NCFM. The division of jurisdiction between financial supervisors is clear, precise and grounded in relevant laws. In that respect, the activity of the NCFM, which is the non-banking financial markets

supervisor is governed by the Law No. 192/1998 on the National Commission for Financial Markets<sup>29</sup>.

According to the provisions of the Law, the NCFM authority extends upon the participants of the non-banking financial market, including the issuers of securities, investors, insured, self-regulatory organizations on the capital market, credit rating agencies, National Bureau of Motor Vehicles, members of savings and credit associations, clients of non-bank credit organizations and the professional participants of non-banking financial market. Professional participants of the non-banking financial market are entities licensed or authorized on the capital market, professional participants on insurance market, voluntary pension funds, savings and credit associations, non-bank credit organizations and credit history bureaux.

With the scope of achieving its objectives, NCFM exercises legal duties with regard to regulation and supervision of the non-banking financial market by adoption of decisions and disposing of executory measures for the market participants, as well as ensures upon solicitation or ex-officio the official interpretation of its decisions. It is also invested with the powers to grant, withdraw, suspend, and renew licenses and authorizations held by the professional participants for carrying out the following activities: insurance/reinsurance, non-bank credit and leasing, undertakings for collective investments, voluntary pension funds, credit history bureaux and credit rating agencies.

Pursuant to the provisions of the Law No. 171/2012 on capital market<sup>30</sup>, individuals and legal entities from the Republic of Moldova and foreign persons and legal entities, as well as stateless persons are entitled to carry out activities or provide services on the capital market or may hold financial instruments issued by the issuers of the Republic of Moldova. The Law on Capital Market stipulates that foreign legal persons which hold the authorization to carry out investment services and activities, granted by competent authorities of EU Member States are considered to be accepted persons, after the NCFM approval. The accepted persons do not need the license of investment firm and operate on the capital market, based on the authorization issued by the EU competent authorities and the agreements between such authorities and the NCFM.

The legislation related to the activity of non-bank financial market sectors include specific provisions governing qualified participations in the share capital of investment firms, insurers, non-bank credit organizations and other professional participants on the non-banking financial market. In order to accomplish the requirements on the identification of ultimate beneficial owners (UBOs) of the non-banking financial market participants, NCFM based on the information provided by market participants regarding the significant shareholders /

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<sup>29</sup> Law No.192/1998 on the National Commission for Financial Markets, available in English at: <https://www.cnpf.md/en/general-6417.html>

<sup>30</sup> Law No. 171/2012 on capital market, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=121985&lang=ro](https://www.legis.md/cautare/getResults?doc_id=121985&lang=ro)

beneficiaries, has completed the process of identifying the UBOs of all licensed and authorized entities. The NCFM constantly monitors the change of the shareholding structure in the capital of licensed entities, so as to ensure the identification of the actual beneficiaries for the holders of qualified participations, as well as the requirements for the disclosure of information on their own web pages regarding the UBOs of qualified participations.

**9. Are there any restrictions for residents to invest abroad (including to open a capital account)?**

According to the Law No. 62/2008 on foreign exchange regulation<sup>31</sup> (Art. 9), the purchase by residents of foreign financial instruments shall be made with the authorisation of the National Bank of Moldova, except for the cases where :

- amount of the operation does not exceed EUR 10 000 (or its equivalent); or
- financial instruments are issued by international organizations; or
- the operations are carried out by the licensed banks, as well as the entities whose activity is regulated and supervised by the National Commission for Financial Market. Pursuant to the Law No. 62/2008 on foreign exchange regulation (Art. 11) granting of financial loans/credits by residents to non-residents shall be made with the authorisation of the National Bank of Moldova, except for the following loans/credits:
  - financial leasing;
  - credits granted by licensed banks;
  - loans/credits (other than those referred to in letters a) and b)) value of which does not exceed EUR 10 000 (or its equivalent).

Residents are free to carry out the following capital operations abroad:

- operations related to direct investments;
- operations with real estate;
- commercial loans/credits;
- life insurance operations.

The data that shows the holdings of foreign assets by residents are published in the International Investments Position (IIP) of the Republic of Moldova, available on the National Bank of Moldova's website<sup>32</sup>. IIP is compiled according to the

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<sup>31</sup> Law No. 62/2008 on foreign exchange regulation, available in English at: <https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

<sup>32</sup> International Investments Position of the Republic of Moldova, available in English at: <https://www.bnm.md/bdi/pages/reports/dbp/DBP23.xhtml>.

**10. Please describe the key features of the legislation governing the acquisition of real estate by foreigners (i.e. natural and legal persons from the EU and third countries) in Moldova. If relevant, please indicate any plans for legislative changes in this area and the tentative timeline.**

The Constitution of the Republic of Moldova<sup>33</sup> (Art. 19 para. (1)) guarantees to foreign citizens and to stateless persons the same rights and duties as to the citizens of the Republic of Moldova, with the exceptions established by law. On the territory of the Republic of Moldova, the national regime is applied to foreign citizens, which means that they exercise all the fundamental rights and freedoms enjoyed by the citizens of the republic, with the exceptions expressly provided by the national legislation. Art. 84<sup>6</sup> of Law No. 200/2010 on the regime of foreigners in the Republic of Moldova<sup>34</sup> provides that foreigners have the right to own a house and other property in private property, to inherit or to test property. The law establishes only some restrictions on the sale-purchase of land and prohibitions on acquiring real estate in the public domain.

According to Art. 9 para. (2) of Law No. 1308/1997 on normative price and procedure for sale and purchase of land<sup>35</sup>, natural and legal persons of the Republic of Moldova and foreign investors have the right to buy from the state and to sell land intended for construction in municipalities, cities, and villages (communes).

Regarding the lands with agricultural destination, according to Art. 4 para. (3) of Law No. 1308/1997, publicly owned land may be sold to both natural and legal persons of the Republic of Moldova and to foreign investors, except for the agricultural land and land of the forest fund which are sold only to natural and legal persons of the Republic of Moldova. Art. 6 para. (2) and para. (3) of Law No. 1308/1997 stipulates that the right to sell-buy agricultural land belongs to the state, to natural persons citizens of the Republic of Moldova, as well as to legal entities whose share capital does not contain foreign investments. If foreign nationals or stateless persons become owners of agricultural land or land of the forest fund by legal or testamentary inheritance, they have the right to alienate them by legal acts *inter vivos* only to the citizens of the Republic of Moldova.

The right of foreign investors to acquire ownership of land for agricultural purposes and of land of the forest fund is limited by Law No. 81/2004 on

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<sup>33</sup> Constitution of the Republic of Moldova, adopted on 29 July 1994, available in English at: <https://www.president.md/eng/constitutia-republicii-moldova>.

<sup>34</sup> Law No. 200/2010 on the regime of foreigners in the Republic of Moldova, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=130912&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130912&lang=ro).

<sup>35</sup> Law No. 1308/1997 on normative price and procedure for sale and purchase of land, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129359&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129359&lang=ro).

investments in entrepreneurial activity<sup>36</sup> (Art. 22). At the same time, Law No. 29/2018 on the delimitation of public property<sup>37</sup> (Art. 9 para. (2)) limits the possibility of acquiring the right of ownership by private individuals (regardless of citizenship) on a series of goods that are part of the public domain of the state (forests, forest facilities (undertakings) that are part of the forest fund which is public property, the lands of the forest fund which is state-owned property, including the lands aimed for afforestation, cantons and other state-owned buildings located on land of the state forest fund, railway infrastructure and land occupied by it, buildings and lands publicly owned by the state in which are operating the theatres, national libraries, museums, including their art collections, declared of national public interest, etc.)

Additionally, legislative changes to the relevant legal frameworks, that would eliminate existing restrictions and prohibitions on the sale and purchase of real estate by foreigners (most of them pertaining to land for agricultural purposes, as discussed above) are not envisaged at this stage.

The legislation on housing is based on the provisions of the Constitution of the Republic of Moldova and consists of the *Law No. 75/2015 on housing*<sup>38</sup>, the *Civil Code of the Republic of Moldova*<sup>39</sup>, other normative acts in the field of housing, and international treaties to which the Republic of Moldova is party. Contracts of sale and purchase of immovable property (such as housing/real estate) are concluded in authenticated form, subject to notarial authentication by a licensed notary in the Republic of Moldova. There are no other special provisions or restrictions for foreigners.

Relevant provisions from the Civil Code:

**Article 2587.** The capacity of the natural person to use

(1) The capacity of use of the natural person is regulated by his/her national law.

(2) Foreign citizens and stateless persons have the capacity to use in the Republic of Moldova equal to the citizens of the Republic of Moldova, except in the cases provided by the Constitution, other laws of the Republic of Moldova or international treaties to which the Republic of Moldova belongs.

**Article 2588.** The capacity of the natural person to take action/exercise

(1) The capacity of the natural person to take action is regulated by his/her national law.

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<sup>36</sup> Law No. 81/2004 on investments in entrepreneurial activity, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=122080&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122080&lang=ro)

<sup>37</sup> Law No. 29/2018 on the delimitation of public property, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129376&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129376&lang=ro)

<sup>38</sup> Law No. 75/2015 on housing, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=126035&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=126035&lang=ro#)

<sup>39</sup> Civil Code of the Republic of Moldova, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129081&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro)

(2) The person who does not have the full capacity to act according to his/her national law is not entitled to invoke this circumstance if he/she has the capacity to act according to the law of the Republic of Moldova when this is the law of the place of conclusion of the legal act, unless it is proved that the other party to the legal act knew or should have known about the lack of capacity to act/exercise the concerned legal act.

(3) The capacity to act of foreign citizens and stateless persons in the matter of legal acts concluded on the territory of the Republic of Moldova and in the matter obligations due to prejudice that have appeared on the territory of the Republic is established according to the law of the Republic of Moldova.

**Article 2599.** General provisions on the real rights

(1). The content of possession, property right and other real rights over movable and immovable property, their execution and protection is determined according to the law of the state on whose territory the goods are located unless otherwise provided.

(2) The belonging of the good to the category of movable or immovable goods, as well as any other legal qualification of the goods, is determined according to the law of the state on whose territory the goods are located.

**Article 2600.** Acquisition and termination of the real rights

(1) The acquisition and termination of the property right and other real rights over the property is determined according to the law of the state on whose territory the property is or was located at the time the action took place or another circumstance that served as a basis for the occurrence or termination of the property right or other real rights unless otherwise provided by the legislation of the Republic of Moldova.

(2) The acquisition and termination of the property right and other real rights over the good that represents the object of the legal act is determined according to the law applicable to the legal act unless the agreement of the parties provides otherwise.

(3) The acquisition of the property right and other real rights over the usufruct good is determined according to the law of the state in which this good was at the time of expiry of the usufruct term.

*Law No 75/2015 on housing* does not differentiate between Moldovan and foreign citizens when it stipulates that the right to housing is a fundamental right, which is part of the right to a decent life of a person or family. Thus, according to the Law No 75/2015, the right to housing provides for:

- stability of tenancy relations, provision of adequate related services, provision of necessary infrastructure, accessibility of financial sources;
- non-discrimination in the exercise of the right to housing, including access to the housing market, management and use of housing, and accessing housing ownership;
- transparency in the exercise by the authorities of powers and obligations related to the exercise of the right to housing.

At the same time, Law No. 81/2004 on investments in entrepreneurial activity<sup>40</sup> establishes, among other things, that investments may not be subject to discrimination, regardless of the investor's field of activity or state of origin, while investors are granted equal and fair conditions of activity. According to Art. 22 of Law No. 81/2004, foreign investors may acquire, under the legislation of the Republic of Moldova, the right of ownership of real estate on the territory of the Republic of Moldova, except for land for agricultural purposes and forestry, to carry out an entrepreneurial activity.

*Law No. 1308/1997 on the normative price and the procedure of sale-purchase of land*<sup>41</sup>, which regulates the sale-purchase of land (both publicly and privately owned land) allows foreign natural and legal persons to purchase land in the Republic of Moldova, except for agricultural and forest land. Thus, Law No 1308/1997 stipulates *inter alia*:

- *Sale of publicly owned land* - publicly owned land may be sold both to natural and legal persons of the Republic of Moldova and to foreign investors, except for agricultural land and forest land, which may be sold only to natural and legal persons of the Republic of Moldova.
- *Sale-purchase of privately owned agricultural land* - the right to sell and or/purchase agricultural land belongs to the State, to natural persons who are citizens of the Republic of Moldova, as well as to legal entities whose share capital does not contain foreign investments.

Also, according to the *Land Code of the Republic of Moldova, No. 828/1991*<sup>42</sup>, holders of privately owned land may be citizens of the Republic of Moldova and foreign investors, in accordance with the legislation.

Relevant provisions from the Land Code:

#### **Article 4. Land owners**

By landowners are meant the holders of the right of ownership, possession, and land beneficiary. Privately owned landowners may be citizens of the Republic of Moldova and foreign investors in accordance with the law. Landowners of any title are protected by the state.

The total land fund of the Republic of Moldova, in public and private property, amounts to 3 384.7 thousand hectares, structured according to the data in the table below.

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<sup>40</sup> Law No. 81/2004 on investments in entrepreneurial activity, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=122080&lang=ro](https://www.legis.md/cautare/getResults?doc_id=122080&lang=ro)

<sup>41</sup> Law No. 1308/1997 on normative price and procedure for sale and purchase of land, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129359&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129359&lang=ro)

<sup>42</sup> Land Code of the Republic of Moldova, No. 828/1991, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=130650&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130650&lang=ro)

**Table. Available land in the Republic of Moldova, as of 1 January 2021.**

*Thousand hectares*

	2001	2006	2011	2016	2021
Lands for agricultural purpose	2016.6	1952.6	2008.7	2028.3	2129.5
Lands that belong to localities	299.6	309.1	312.1	314.3	315.1
Surplus fund	620.6	548.4	466.7	446.3	338.5
Lands for industry, transport, communications and other special purposes	58.4	58.5	58.9	58.8	59.9
Lands of the forestry fund and for nature protection purposes	354.6	432.3	450.9	451.7	453.9
Lands of water funds	34.4	83.7	87.3	85.2	87.8
<b>Lands - total</b>	<b>3384.2</b>	<b>3384.6</b>	<b>3384.6</b>	<b>3384.6</b>	<b>3384.7</b>

*Source: National Bureau of Statistics of the Republic of Moldova.*

#### **11. Please describe the key features of land registration.**

A unified system for registration of land and other real estate units, as well as ownership rights has been established in the Republic of Moldova since 1999 and currently operates through the Public Services Agency with 39 territorial cadastral offices across the country (except for regions located on the left bank of the Nistru River). Each territorial cadastre office (TCO) provides registration services within its coverage area, covering on average 300 – 600 sq. km, and keeps the Real Estate Register comprising information about the real estate unit (land parcel, constructions, premises), ownership and other real rights (*rights in rem*), as defined by the Civil Code of the Republic of Moldova<sup>43</sup>.

The real property registration system is based on and supported by appropriate legislation such as Civil Code, Law No. 1543/1998 on real estate cadastre<sup>44</sup>, Law No. 1308/1997 on normative price and procedure for sale and purchase of land<sup>45</sup>. Law No. 354/2004 on real estate formation<sup>46</sup>.

<sup>43</sup> Civil code No. 1107/2002, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129081&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro)

<sup>44</sup> Law No. 1543/1998 on real estate cadastre, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129079&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129079&lang=ro)

<sup>45</sup> Law No. 1308/1997 on normative price and procedure for sale and purchase of land, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=129359&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129359&lang=ro)

<sup>46</sup> Law No. 354/2004 on real estate formation, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=123196&lang=ro](https://www.legis.md/cautare/getResults?doc_id=123196&lang=ro)

The Law No. 354/2004 on real estate cadastre identifies the real estate objects which are registered in the real property registry, which are land, buildings, apartments, and other isolated premises, as well as perennial plantations such as forests, vineyards, and orchard either in private or public ownership. The property rights registration is regulated in terms of public recognition and guarantee protection by the state. A Guarantee Fund is established for damage compensation ordered by a Court to those who suffer loss because of a mistake produced by the registrar.

The following principles are pillars of the system:

- The registration of real estate units and real property rights is compulsory;
- A property right is considered valid upon its registration;
- A property right is lost upon its removal from the Real Estate Register. Once registered, the property right may be cancelled only with the consent of the owner or by an irrevocable court decision;
- Records in the Real Estate Register are considered valid and complete until proven otherwise;
- The Registrar alone may decide on the registration and is an independent person subject to the law.

The property rights are recorded in the Real Estate Register or entered provisionally. Besides the ownership rights, the registry contains also records also on other real rights as usufruct, rights of use, rights of inhabitation, easements, mortgages, and superficies. Leaseholds, rental, investments contracts and other legal actions and relations concerning real properties are, also, entered in the registry. The rights on future assets to be built (buildings and apartments) could be registered in the Real Estate Register as well.

The data from the Real Estate Register, as well as the cadastral information, is open to the public. According to the Law No. 1543/1998 on real estate cadastre, any legitimized person can obtain the information about any real estate and property rights recorded in the Real Property Register. The requested information can be obtained either on paper form or by accessing the cadastral information on the website. The data on the web resources can be used only for informative purpose and have no legal status.

Property owners may without any limitation carry out transactions with real estate. The current legislation does not constrain in any way the opportunities for property transactions except for the possibility of foreign persons (natural or legal) to buy agricultural and forest land (Art. 4 of the Law No. 1308/1997 on normative price and procedure for sale and purchase of land).

As of today (27 April 2022), the Real Estate Register contains records about 4.9 million property units or circa 80% from the total number. The territory of the Republic of Moldova is covered by 2/3 with the cadastral maps, identifying the

location of registered land. The systematic registration of real estate units and property rights transferred into private property was conducted during 1999 – 2008, in all urban areas (cities and towns) and 65% of rural localities.

Since January 2019, in cooperation with the World Bank, the Land Registration and Property Valuation Project is being implemented. The main objective of the Project is to conduct the systematic registration of private real estate units and property rights in the remaining 35% of rural localities, as well as to register public owned land all over the country. The estimated deadline of the Project is June 2024.

### **Relevant legal provisions:**

#### **1. Land Code No. 828/1991<sup>47</sup>**

##### **Article 6<sup>1</sup>.** State registration of land sectors and rights over them

The lands, regardless of the destination and the type of property, as well as the rights over them, are subject to state registration in the real estate register of the territorial cadastral office as established by the Law on the real estate cadastre.

The state registration of land sectors and their rights in the real estate register of the territorial cadastral office includes:

- registration of the right over the land sector that does not have clearly delimited boundaries;
- conditional registration of the property right over the land sector in case the owner does not have the document confirming this right;
- conditional registration of the property right over the land sector in case its owner cannot be identified; full registration of the land sector and the right over it.

The registration of the property right over the land sector that does not have clearly delimited boundaries is also carried out in case the land sector is not delimited by nature, it is not mapped or its boundaries have not been coordinated with the owners of the adjacent lands. In such cases, each owner will be registered the right to the equivalent land share until the delimitation of the boundaries, in accordance with the legislation.

If the owner of the land sector does not have the document that would confirm his ownership of it, until actions are taken to establish the right of ownership, this right is conditionally registered in the name of the owner of the land sector, with the respective mention in the real estate register. During the conditional registration period, the owner of the land sector is not entitled to carry out transactions with this land.

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<sup>47</sup> Land Code of the Republic of Moldova, No. 828/1991, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=130650&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130650&lang=ro)

If neither the ownership rights over the land sector nor its owner can be identified in the registration process, the land sector is conditionally registered as the property of the administrative-territorial unit in whose territory it is located. The local public administration authority is not entitled to conclude transactions with this land sector until, upon request, the court will examine the case and, by a final decision, will recognize the land sector as ownerless property in accordance with the provisions of the Civil Code.

For the state registration of the land sector and of the right over it, at the territorial cadastral office are presented the documents confirming the right over it, provided in Art. 20 of the present code.

Unregistered ownership of the land sector will be considered null and void in relations with third parties, including the state, who are unaware of this right.

For the registration at the territorial cadastral office of the property right over the land sector after the expiration of the term established by law, a double payment will be paid, established by the legislation in force.

According to article 459 paragraph (2) of the Civil Code, the real estate is considered the land registered in the Real Estate Register or distinct cadastral number

## **2. Civil code of the Republic of Moldova<sup>48</sup>**

### **Article 4. Recording subjects and objects**

(3) The following are subject to compulsory registration in the real estate register:

a) Lands;

(4<sup>1</sup>) The property right over the perennial plantation in favor of another person than the owner of the land will be registered after the registration of the surface right or at the same time with it, except for the legal relations published before March 1, 2019.

(5) The right of administration, the right of economic management, the right of use over the lands of the state or of the administrative-territorial units and the concession can also be registered in the real estate register.

(5<sup>1</sup>) In the real estate register, in the cases provided by law, the rights, acts, facts and legal relations related to the real estate registered are noted in this register.

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<sup>48</sup> Civil code No. 1107/2002, available in Romanian at:  
[https://www.legis.md/cautare/getResults?doc\\_id=129081&lang=ro](https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro)

**12. With which countries have investment liberalisation and investment protection agreements been concluded? Please provide relevant information on dates of ratification, basic terms of agreements, automatic renewal procedures, and any sunset clauses that may exist. Do such agreements include a regional economic integration organisation clause? Which sectors are normally excluded (e.g. aviation, maritime transport, fishing, audiovisual, etc.) from such agreements? (c.f. chapter 30 - external relations)**

Republic of Moldova is the contracting party in 42 international agreements regulating protection of foreign investments in the Moldova`s territory which are in force. These agreements fully comply with basic principles of the 1969 Vienna Convention on the Law of Treaties and contain similar formulation.

Therefore, the Republic of Moldova has signed 23 agreements with the European countries, 6 with CIS countries and 13 agreements with other countries of the world (such as the People's Republic of China, Iran, Israel, Kuwait, the United Arab Emirates etc.). In addition, in order to strengthen the investment relations, 17 agreements on investment promotion and protection are being negotiated.

The primary objective of the investment protection agreement is the establishment of basic legal principles aimed to ensure the protection of investments and their promotion by both states, and the improvement and development of bilateral relations in various fields.

In the event of a dispute between the parties to an Agreement concerning its interpretation or application, the parties shall settle the dispute by negotiation through diplomatic channels. If the dispute cannot be settled in six months from the date of initiation, it will be subject to an Arbitration Tribunal established by the Agreement.

**The list of agreements with related information:**

State/Type of agreement	Information on the agreement				
	Ratification date (dd/mm/yy)	Date of entry into force (dd/mm/yy)	Mode of entering into force	Initial term of agreement (years)	Automatic renewal procedure
1. Investment Protection Agreement between the Republic of Moldova and the Republic of Austria	05.06.2001	01.08.2002	First day of the third month after the exchange of notes	10 years	Indefinite duration after expiration of initial term of agreement
2. Investment Protection Agreement between the Republic of Moldova and the Republic of Albania	11.06.2004	28.02.2004	30 days after the exchange of notes	10 years	Indefinite duration after expiration of initial term of agreement
3. Investment Protection Agreement between the Republic of Moldova and the Republic of Azerbaijan	27.10.1997	28.01.1999	Exchange of notes	10 years	Automatic renewal for the next five years until denunciation
4. Investment Protection Agreement between the Republic of Moldova and	21.05.1996	20.04.2002	One month after the date of exchange of the instruments of	10 years	Automatic renewal for the next ten years until denunciation

State/Type of agreement	Information on the agreement				
	Ratification date (dd/mm/yy)	Date of entry into force (dd/mm/yy)	Mode of entering into force	Initial term of agreement (years)	Automatic renewal procedure
the Belgian-Luxembourg Union			ratification by the Contracting Parties		
5. Investment Protection Agreement between the Government of the Republic of Moldova and Government of the Republic of Belarus	29.05.1999	19.11.1999	30 days after the last notification	10 years	Automatic renewal
6. Investment Protection Agreement between the Republic of Moldova and the Great Britain of the United Kingdom and Northern Ireland	19.03.1996	30.07.1998	Exchange of notes	10 years	Automatic renewal until the expiration of 12 months from the date on which one of the Parties notifies the other of its denunciation
7. Investment Protection Agreement between the Republic of Moldova and the Republic of Bosnia and Herzegovina	09.04.2003	9.06.2008	Exchange of notes	10 years	Automatic renewal
8. Investment Protection Agreement between the Government of the Republic of Moldova and Government of Republic of Bulgaria	17.04.1996	12.06.1997	30 days after the exchange of notes	15 years	Automatic renewal for 5 years
9. Investment Protection Agreement between the Government of the Republic of Moldova and Government of Canada	12.06.2018	23.08.2019.	Exchange of notes	10 years	Automatic renewal
10. Investment Protection Agreement between the Government of the Republic of Moldova and Government of Czech Republic	12.05.1999	21.06.2000	Exchange of notes	10 years	Automatic renewal
11. Investment Protection and Stimulation Agreement between the Government of the Republic of Moldova and the Government of the People's Republic of China	06.11.1992	01.03.1995	Exchange of notes	5 years	Automatic renewal
12. Investment Protection Agreement between the Government of the Republic of Moldova and Government of Republic of Croatia	05.12.2001	20.03.2007	First day after the last note	10 years	Automatic renewal
13. Investment Protection Agreement between the Government of the Republic of Moldova and	13.09.2007	27.03.2008	First day after the last notification	10 years	Automatic renewal

State/Type of agreement	Information on the agreement				
	Ratification date (dd/mm/yy)	Date of entry into force (dd/mm/yy)	Mode of entering into force	Initial term of agreement (years)	Automatic renewal procedure
Government of Republic of Cyprus					
14. Investment Protection Agreement between the Government of the Republic of Moldova and Government of the Hellenic Republic	23.03.1998	27.02.2000	30 days after the last notification	10 years	Automatic renewal
15. Investment Protection Agreement between the Republic of Moldova and Swiss Confederation	30.11.1995	29.11.1996	Exchange of notes	Indefinite duration	-
16. Investment Protection Agreement between the Government of the Republic of Moldova and Government of the Republic of Estonia	18.06.2010	21.04.2011	Exchange of notes	5 years	Automatic renewal for 10 years
17. Investment Protection Agreement between the Government of the Republic of Moldova and Government of the United Arab Emirates	10.07.2017	26.04.2019	30 days after the last notification	10 years	Automatic renewal
18. Investment Protection Agreement between the Government of the Republic of Moldova and Government of French Republic	08.09.1997	03.11.1999	30 days after the last notification	10 years	Automatic renewal
19. Investment Protection Agreement between the Government of the Republic of Moldova and Government of Russian Federation	17.03.1998	18.07.01	30 days after the last notification	15 years	Automatic renewal
20. Investment Protection Agreement between the Government of the Republic of Moldova and Government of the Republic of Finland	25.08.1995	21.06.1997	30 days after the last notification	15 years	Automatic renewal
21. Investment Protection Agreement between the Government of the Republic of Moldova and Government of the Republic of Georgia	28.10.1997	25.02.99	Exchange of notes	10 years	Automatic renewal for 5 years
22. Investment Protection Agreement between the Republic of Moldova and Federal Republic of Germany	28.02.1994	15.06.2006	30 days after the last notification of ratification	10 years	Automatic renewal
23. Investment Protection Agreement between	22.06.1997	16.03.1999	Exchange of notes	15 years	Automatic renewal

State/Type of agreement	Information on the agreement				
	Ratification date (dd/mm/yy)	Date of entry into force (dd/mm/yy)	Mode of entering into force	Initial term of agreement (years)	Automatic renewal procedure
the Government of the Republic of Moldova and Government of Israel					
24. Investment Protection Agreement between the Republic of Moldova and State of Kuwait	29.03.2002	06.04.2004	30 days after ratification	30 years	Automatic renewal
25. Investment Protection Agreement between the Government of the Republic of Moldova and the Government Kyrgyz Republic	07.11.2002	16.01.2004	First day after the last notification	10 years	Automatic renewal
26. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of Republic of Latvia	22.09.1999	14.04.2000	30 days after the last notification	10 years	Automatic renewal
27. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of Republic of Lithuania	20.09.1999	29.05.2003	30 days after the last notification	10 years	Automatic renewal
28. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of Kingdom of Morocco	08.10.1992	08.10.1992	30 days after the last notification	10 years	Automatic renewal
29. Investment Protection Agreement between the Republic of Moldova and the Government of Montenegro	20.06.2014	23.06.2015	First day after the last notification	10 years	Automatic renewal
30. Investment Protection Agreement between the Republic of Moldova and Kingdom of Netherlands	26.09.1995	01.05.1997	First day after the last notification	15 years	Automatic renewal for 10 years
31. Investment Protection Agreement between the Republic of Moldova and the Republic of Poland	15.11.1994	27.07.1995	Exchange of notes	10 years	Automatic renewal
32. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of Romania	14.08.1992	15.06.1997	30 days after the last notification	10 years	Automatic renewal for 10 years
33. Investment Protection Agreement between the Republic of Moldova and the Kingdom of Spain	11.05.2006	17.01.2007	Exchange of notes	10 years	Automatic renewal
34. Investment Protection Agreement between the Government of the	10.04.2003	01.06.2004	First day after the last notification	5 years	Automatic renewal

State/Type of agreement	Information on the agreement				
	Ratification date (dd/mm/yy)	Date of entry into force (dd/mm/yy)	Mode of entering into force	Initial term of agreement (years)	Automatic renewal procedure
Republic of Moldova and the Government of the Republic of Slovenia					
35. Investment Protection Agreement between the Republic of Moldova and the Slovak Republic	07.04.2008	15.11.2009	After 90 days from the last exchanges of notes	10 years	Automatic renewal
36. Investment Protection Agreement between the Republic of Moldova and the United States of America	21.04.1993	26.12.1994	After the exchange of ratification instruments	10 years	Automatic renewal
37. Investment Protection Agreement between the Government of Republic of Moldova and Government of the Republic of Tajikistan	5.11.2002	20.10.2003	Exchange of notes	10 years	Automatic renewal
38. Investment Protection Agreement between the Republic of Moldova and the Republic of Turkey	16.12.2016	16.12.2016	First day after the last notification	10 years	Automatic renewal
39. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of the Ukraine	29.08.1995	20.05.1996	Exchange of notes	10 years	Automatic renewal
40. Investment Protection Agreement between the Republic of Moldova and the Republic of Hungary	19.04.1995	16.08.1996	Exchange of notes	10 years	Automatic renewal
41. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of the Republic of Uzbekistan	21.11.1995	17.01.1997	First day after the last notification	10 years	Automatic renewal
42. Investment Protection Agreement between the Government of the Republic of Moldova and the Government of Qatar	10.12.2012	29.03.2013	First day after the last notification	10 years	Automatic renewal

## II. PAYMENT SYSTEMS

### 13. What are the general rules governing non-cash payments?

The general rules that describe the way electronic payments are established in Law No. 114/2012 on payment services and electronic money<sup>49</sup>, as well as in related normative acts: Regulation on credit transfer (approved by the Decision No. 157/2013 of the Council of Administration of the National Bank of Moldova)<sup>50</sup>, Regulation on payment cards (approved by the Decision No. 157/2013 of the Council of Administration of the National Bank of Moldova)<sup>51</sup>, etc. With regard to policies for the promotion of cashless payments, these are the objectives established by the Government or other institutions with a dedicated role.

The main non-cash payment transactions are transfers of funds on/from a payment account, with the user's payment service provider or with another payment service provider:

- execution of direct debits, including one-off direct debits;
- execution of payment transactions through a payment card or a similar device;
- execution of credit transfers, including standing order,

The Law No. 114/2012 on payment services and electronic money regulates specific aspects of non-cash payments and mainly the interaction between payment service user and payment service providers, these rules are regulating these specific aspects:

#### 1. Transparency of contract conditions and information requirements for payment services (including non-cash payments)

That includes general information a payment service user should obtain from a payment service provider, mandatory pre-contract information, rules on accessibility of information and framework contract conditions, mandatory information to be provided for the payer, for the payee in case of an individual payment transaction or a single payment transaction.

#### 2. Rights and obligations in relation to the provision and use of payment services

That includes consent rules and consent withdrawal rules, limits for the use of a payment instrument, obligations of both payment service user and payment service provider in relation to payment instruments, rules regarding unauthorized payment

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<sup>49</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

<sup>50</sup> Regulation on credit transfer, approved by the Decision No. 157/2013 of the Council of Administration of the National Bank of Moldova, available in English at: <https://www.bnm.md/en/content/regulation-credit-transfer-approved-dca-nbm-no-157-august-1-2013>

<sup>51</sup> Regulation on payment cards, approved by the Decision No. 157/2013 of the Council of Administration of the National Bank of Moldova, available in English at: <https://www.bnm.md/en/content/regulation-payment-cards-approved-dca-nbm-no-157-august-1-2013>

transactions, regarding liability for a unauthorized payment transactions, refund conditions and procedure for the amount of a payment transaction initiated by or through a payee.

These provisions also specify the rules for execution of payment transactions which include: receipt of payment orders, cases when a payment service provider may refuse to execute a payment order, irrevocability rules for payment orders, value date and availability of funds, amounts transferred and amounts received.

There are also rules for liability in case of incorrect unique identifiers, non-execution or defective execution of payment transactions. These also specify cases for additional financial compensation and right of recourse.

### 3. Electronic money issuing, distribution and redemption rules.

The Regulation on credit transfer and Regulation on payment cards establish some additional and mainly technical requirements for initiation and execution of credit transfers by payment service providers from the Republic of Moldova and some requirements for payment service providers that are participating in a payment card scheme and are issuing or accepting payment cards as a service.

## **14. What are the general conditions applicable for cross-border payments between Moldova and other countries, in particular EU Member States? Are they different from those concerning national payments? If yes, describe main differences.**

Considering the existence of restrictions on some capital operations for making payments in connection with these operations, it is necessary to present to the payment service providers justifying documents confirming the purpose of the payment/transfer. It should be noted that the requirement regarding the confirmation of such payments and transfers with justifying documents shall not represent restrictions.

According to Art. 8 para. (1) of the Law No. 114/2012 on payment services and electronic money<sup>52</sup>, on the territory of the Republic of Moldova, payment services are provided in national currency. Therewith, according to Art. 8 para. (2) of Law No. 114/2012, the payment services may be provided in foreign currency by the payment service providers in compliance with the Law on foreign exchange regulation and the Law No. 114/2012. Thus, by Law No. 114/2012 there are established conditions similar to the authorization execution of payment operations for both local and cross-border payments. At the same time, it should be noted that local payments in the national currency, payments are executed through the Automated Interbank Payments System (AIPS), and cross-border payments are made through international payment systems. Regulation on credit transfer, approved by the Decision No. 157/2013 of the Council of Administration of the

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<sup>52</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

National Bank of Moldova<sup>53</sup>, establishes certain particularities of the use of IBAN codes when making international transfers, as well as sets out the mandatory elements of the payment order used to make the credit transfer through AIPS, as well as those related to the payment order used to make the cross-border credit transfer.

**15. Are banks the only authorised institutions to execute payment transactions? If not, what other institutions are authorised to perform them? Explain the process and requirements to be fulfilled to grant an authorisation to a non-bank institution, if applicable.**

According to the Law No. 114/2012 on payment services and electronic money<sup>54</sup>, the following types of institutions have the right to provide payment services: banks and subsidiaries of banks in other states, postal service providers, payment institutions, electronic money institutions, as well as the National Bank of Moldova and the State Treasury within the Ministry of Finance.

For licensing, the documents and information mentioned in Art. 14 of the Law No. 114/2012 (in the case of applicants from the Republic of Moldova), or Art. 17 of the Law No. 114/2012 (in the case of applicants from outside the Republic of Moldova) are required.

At the same time, the requirements for the license declaration are detailed in the Regulation on the activity of non-bank payment service providers, approved by the Decision No. 217/2019 of the Executive Board of the National Bank of Moldova<sup>55</sup>.

In order to become a non-bank payment institution (payment society/institution, electronic money society/institution) there is a specific procedure which consists of the following:

1. The entity that intends to provide payment services or/and to issue electronic money should be a joint stock company or a limited liability company and has to submit an application to the National Bank of Moldova.
2. The application should have the following mandatory documents attached:
  - a certified copy of applicant's establishment act and / or of its statute;
  - an excerpt from the State Register of legal persons issued no later than one month before the date of application;

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<sup>53</sup> Regulation on credit transfer, approved by the Decision No. 157/2013 of the Council of Administration of the National Bank of Moldova, available in English at: <https://www.bnm.md/en/content/regulation-credit-transfer-approved-dca-nbm-no-157-august-1-2013>

<sup>54</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

<sup>55</sup> Regulation on the activity of non-bank payment service providers, approved by the Decision No. 217/2019 of the Executive Board of the National Bank of Moldova, available in English at: <https://www.bnm.md/en/content/regulation-activity-non-bank-payment-service-providers-approved-decision-executive-board-nbm>

- documents attesting that the payment institution holds equity capital provided (from 350 000 MDL up to 2 200 000 MDL for payment society/institution depending on payment services it intends to provide, the lowest amount being only for money remittances and the highest being for all payment services stated in the law and 6 000 000 MDL for electronic money society/institution). For the institution which is in the course of being established, a bank statement certifying the registration of contributions to the capital on the temporary bank accounts shall be attached;
- statement on origin of the means from which the contributions for the subscribed shares, respectively holdings, are made or from which they are acquired;
- a detailed description of applicant's activity and financial reports confirmed by an external auditor for the past three years or during the existence of the institution (if this period is less than three years), except for the payment institution which is in the course of being established;
- a business plan including at least: a detailed description of all types of services to be provided, risks identified to which the payment institution is or might be exposed (including branches, agents, entities to which the operations are outsourced), a forecast budget calculation for the first three financial years based on realistic calculations, availability of resources to operate;
- procedures to carry out the activities as payment institution, covering the activities of the applicant, its branches and agents, including:
  - the structure of executive bodies and the line of responsibility;
  - systems and procedures to identify, manage, monitor and report the risks to which it is or might be exposed,
  - internal control mechanisms, including administrative and accounting procedures;
  - internal control arrangements for measures required to comply with obligations in relation to anti-money laundering and anti-terrorist financing law;
  - business continuity and security measures for payment service delivery, including clear identification of critical operations, continuity plans and a procedure for testing and periodic review of adequacy and effectiveness of the plans concerned;
  - the organization and management of information systems, including the method of protecting information and personal data of payment services users, and a description of the process for recording, monitoring, supervising and restricting access to sensitive data regarding payments;
  - procedures in place to monitor, handle and follow up a security incident and security related customer complaints, including an

incidents reporting mechanism which takes account of the notification obligations of the payment institution laid down in the Law No. 114/2012 on payment services and electronic money;

- a security policy document, including a detailed risk assessment in relation to its payment services and a description of security control and mitigation measures taken to adequately protect payment service users against the risks identified, including fraud and illegal use of sensitive and personal data;
- a description of the institution's organizational structure, including a description of the intended use of agents and branches, outsourcing conditions and arrangements intended, as well as its participation in a national or international payment system;
- a list of shareholders /associates and shares /holdings held in the applicant's capital, data and documents relating to them, which contain data according to identity /registration documents;
- the list of persons holding a qualifying holding, data and documents relating to them;
- the list of entities with whom the applicant has close links, data and documents relating to them;
- the list of applicant's administrators, data and documents relating to them;
- the list of subsidiaries or places where the applicant will provide payment services, including the applicant's branches and agents;
- the list of internal auditors, audit firms or individual auditors.

For the purposes of the item 7) letters a) – c) and item 8), the applicant shall provide a description of its internal audit system and the organizational arrangements it has set up with a view to taking all reasonable measures to protect the interests of its payment service users and to ensure continuity and reliability in the performance of payment services.

There are also certain documents and information needed to be provided for the beneficiaries of the applicant:

- ID copy with the presentation of the original form for verification (which is subsequently returned) or the certified copy of the identity document, including for non-residents;
- certificate on the actual debts for borrowings (credits), issued by the banks where it is served up to 30 days before the application is submitted;
- a statement regarding the origin of the funds used for the contributions made in exchange for holdings, or for their acquisition, including documents (or their certified copies) confirming the obtaining of the income from declared sources as well as other similar sources demonstrating the origin and sufficiency of the money means for the acquisition of holdings;

- information on means and network used for the transfer of funds (availability of resources to be used for acquisition, financial arrangements, etc.);
- statutory declaration regarding the concerted activity with other direct or indirect owners of holdings, or on the lack of such concerted activity. In the case of existence of such an activity, the list of persons acting in concert with the individual by indicating the following data shall be submitted: the criterion that determines the concerted action (set out clearly and in detail), in the case of the legal person - the name, location and name of the managers, and in the case of the individual - name, surname and address;
- the criminal record certificate or other equivalent document issued by the authorities of the country where the home address/residence is established;
- the certificate issued to the individual regarding the lack or existence of arrears to the national public budget, valid at the date of submission of the request – for the residents of the Republic of Moldova, while for non-residents - the documents issued to the individual regarding the lack or existence of arrears to the public budget of the country/countries of which resident belong, issued by the competent authority of the respective countries, drawn up within a maximum of 90 days prior to the date of submission of the application, certified according to the legislation in force;
- the questionnaire (for evaluation of fit and proper requirements);
- statutory declaration, drawn up in written form, regarding the intention of the proposed acquirer to subject the non-bank payment service provider to considerable changes for the next 3 years, such as:
  - sale of assets;
  - fusion with other institution;
  - changes in the membership of administrators;
  - other essential changes in the corporate structure of the non-bank payment service provider and its activity.
- statutory declaration of the beneficial owner, drawn up in written form, regarding the status of the beneficial owner of the proposed acquisition, as well as the information confirming this status.

The license for the activity of the payment institution shall be granted if, after examination of documents and information submitted according to Art. 14 of Law No. 114/2012 on payment services and electronic money,, it is found that the following requirements are cumulatively met:

- the applicant is a commercial company in the forms referred to in Article 9 of the Law No. 114/2012 on payment services and electronic money (JSC or LLC), and has its head office registered in the Republic of Moldova;

- the applicant holds equity capital as provided in Article 12 of Law No. 114/2012 on payment services and electronic money;
- the origin of means from which the contributions for subscribed shares are made, respectively, participations, or from which they are purchased, is transparent and legal;
- the applicant has robust governance arrangements for its activity of payment service provision, which include:
  - a clear organizational structure;
  - well-defined, transparent and consistent distribution of responsibilities,
  - effective procedures to identify, manage, monitor and report the risks to which it is or might be exposed;
  - adequate internal control mechanisms, including sound administrative and accounting procedures, procedures for preventing and combating money laundering and terrorism financing;

The structures, procedures and mechanisms provided for in letters a) to d) shall be comprehensive and proportionate to the nature, scale and complexity of the payment services provided.

- the business plan including a forecast budget calculation for the first three financial years, demonstrates that the applicant is able to employ the appropriate systems, resources and procedures required to operate soundly as a payment institution;
- applicant has adequate and safe measures for protecting the funds of payment service users and of payment instruments used;
- administrators shall have a good reputation and have relevant knowledge and experience to provide payment services as well as relevant to the nature, scale and complexity of the activity.
- the National Bank, taking into account the need to ensure the sound and prudent management of the payment institution, is sure that the persons that hold qualifying holding in the applicant's capital have a good reputation and the required qualities.

Where close links exist between the payment institution and any other entities, the National Bank shall grant the license only if those links do not prevent the effective fulfillment of its supervisory duty.

The National Bank shall grant a license only if the legislative and normative acts or administrative acts of a third country governing the activity of one or more persons with which the payment institution has close links, or difficulties involved in the enforcement of those acts, do not prevent the effective exercise of its supervisory duty.

To make a decision on the application for license issuance, the National Bank has the right to consult the Office for Prevention and Fight against Money Laundering and other relevant public authorities from the country and abroad, period in which the deadline for communication of the decision on the issuance of the license or rejection of the declaration provided in article 18, paragraph (1) of the Law No. 114/2012 on payment services and electronic money, shall be suspended.

In regard to evaluation of the beneficiaries The National Bank shall decide on the application on the basis of the potential influence exerted by the applicant on the payment institution, taking into account the need to ensure the stable and prudent management of the institution and if it ascertained that the applicant's financial situation is safe and appropriate. In assessing the fulfillment of these criteria, there shall be taken into account the reputation of the beneficiaries, the reputation and experience of any person who will manage the activity of the institution as a result of the acquisition of holdings, the financial situation of the applicant taking into account the specific nature of the activity being pursued or envisaged by the company, lack of impediments for effective performance of the National Bank's oversight attribution of the institution's activity, lack of reasonable basis for considering that money laundering and terrorist financing operations are being or will be carried out in connection with the requested acquisition or that the risk of such operations will increase.

**16. Is the information on the conditions governing the use of payment services fully transparent and easily available for payment service users? Are financial institutions required to inform their customers on these conditions? If yes, describe in detail the information that needs to be provided by financial institutions.**

According to the Law No. 114/2012 on payment services and electronic money<sup>56</sup>, before the payment service user becomes a party to a contract or an offer of single payment transaction, the payment service provider shall, in an easily accessible form, make available to the payment service user the information specified in articles 38 and 42 of the Law No. 114/2012:

**Article 38. Prior general information**

(1) Before a payment service user becomes a party to a contract or an offer of single payment transaction, the payment service provider shall provide, in an easily accessible manner, the following information to the payment service user:

- (a) information or unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;
- (b) the maximum execution time for the payment service to be provided;

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<sup>56</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

(c) all charges payable by the payment service user to his payment service provider and, where applicable, the breakdown of the amounts of any charges by type and amount;

(d) where applicable, the actual or reference exchange rate to be applied to the payment transaction.

(2) The information and conditions relating to payment services shall be communicated to the payment service user in a clear and accessible manner, in the state language or in any other language agreed between the parties.

(3) The payment service provider shall provide, at the payment service user's request, the information stipulated in paragraph (1) on paper or on another durable medium or in the manner agreed by the parties (e-mail, SMS, etc.).

(4) If the single payment service contract has been concluded at the request of the payment service user using a means of distance communication that does not permit the payment service provider to comply with paragraphs (1) and (2), the payment service provider shall fulfill his obligations under that paragraphs immediately after the execution of the payment transaction.

(5) The obligations specified in paragraphs (1) and (2) may also be fulfilled by submitting a copy of the draft single payment service contract or the draft payment order including the information and conditions specified in paragraph (1).

(6) Where a payment order for a single payment transaction is transmitted through a payment instrument and/or under a payment service governed by a framework contract, the payment service provider is not required to provide or make available the information that has already been transmitted to the payment service user under a framework contract signed with another payment service provider or which is to be transmitted under that framework contract.

(7) Where appropriate, any other relevant information and conditions provided in Art. 42 paragraphs (1) and (2) shall be made available to the payment service user in an easily accessible manner.

#### **Article 42. Pre-contract information**

(1) Before a payment service user is bound by any framework contract, the payment service provider shall provide the payment service user, with sufficient time in advance, the following information on paper or on another durable medium, in easily understandable words and in a clear form, in a state language or in other language agreed between the parties:

1) On the payment service provider:

a) the name of the payment service provider, the address of the head office and, where applicable, the address of the agent or branch, and any other address, including electronic mail address, relevant for communication with the payment service provider;

b) the payment provider's supervisory authorities, the public register where the payment service provider is listed and the registration number or other equivalent means of identification in that register;

2) On use of the payment service:

a) a description of the main characteristics of the payment service to be provided;

b) a specification of the information or a unique identifier that has to be provided by the payment service user in order for a payment order to be properly executed;

c) the form of and procedure for giving consent to execute a payment transaction and withdrawal of such consent in accordance with articles 52 and 62;

d) a reference to the point in time of receipt of a payment order as defined in Art. 60 and the cut-off time, if any, established by the payment service provider;

e) the maximum execution time for the payment service to be provided;

f) whether there is a possibility to agree on spending limits for the use of the payment instrument in accordance with Art. 53 para. (1);

3) On charges, interest and exchange rates:

a) all charges payable by the payment service user to the payment service provider and the breakdown of their amounts by type and amount;

b) where applicable, the interest and exchange rates to be applied or, if reference interest and exchange rates are to be used, the method of calculating the actual interest, and the relevant date and index or base for determining such relevant reference interest or exchange rate;

c) if parties agree, the immediate application of changes in reference interest or exchange rate and information requirements related to the changes in accordance with Art. 44 paragraphs (4) to (6);

4) On communication:

a) where applicable, the means of communication, including the technical requirements for the payment service user's equipment, agreed between the parties for the transmission of information under this Law;

b) the manner in and frequency with which information under this Law is to be provided or made available;

c) the language or languages in which the framework contract will be concluded and communication during this contractual relationship undertaken;

d) the payment service user's right to receive, on request, during the contractual terms of the framework contract and information and conditions in accordance with this paragraph on paper or on another durable medium;

5) On safeguards, safety and corrective measures:

a) where a payment instrument is applicable, a description of steps to be undertaken by the payment service user to safeguard a payment instrument and the ways of notifying the payment service provider in case of loss, theft or misappropriation of his payment instrument or any other unauthorized use of it under Art. 54 para. (1) letter b);

b) if agreed, the conditions under which the payment service provider reserves the right to block a payment instrument in accordance with Art. 53;

c) the liability of the payer for unauthorized payment in accordance with Article 58, including information on the relevant amount;

d) how and within what period of time the payment service user is to notify the payment service provider of any unauthorized or defectively (incorrectly) executed payment transaction as well as the payment service provider's liability for unauthorized payment transactions in accordance with Art. 56;

e) the liability of the payment service provider for the non-execution or defective execution of payment transactions in accordance with Art. 70;

f) the conditions for refund in accordance with Art. 59;

6) On changes and termination of framework contract:

a) if the parties agree, information that the payment service user will be deemed to have accepted changes in the contractual conditions in accordance with Art. 44, unless he notifies the payment service provider that he does not accept them before the date of their proposed date of entry into force;

b) the duration of the contract;

c) the right of the payment service user to terminate the framework contract;

7) On the disputes redress:

a) any contractual clause on the law applicable to the framework contract and/or the competent courts;

b) the redress procedures of complaints and disputes available to the payment service user under Chapter IX.

(2) The obligations under paragraph (1) may be also fulfilled by submitting a copy of the draft framework contract including the information and conditions specified in paragraph (1).

(3) If the framework contract has been concluded at the request of the payment service user using a means of distance communication that does not enable the payment service provider to comply with paragraph (1), the payment service provider shall fulfil his obligations under that paragraph immediately after the conclusion of the framework contract.

**17. Are financial institutions required to supply their customers with information (a) prior, (b) subsequent to a payment transaction (either single transaction or a transaction covered by a framework contract)? If yes, describe the information that needs to be provided.**

According to Law No. 114/2012 on payment services and electronic money<sup>57</sup>, before a payment service user becomes a party to a contract or an offer of single payment transaction, the payment service provider shall, in an easily accessible form, make available to the payment service user the information specified in Art. 38 and 42 of the Law No. 114/2012, in particular:

- the information or unique identification code that must be provided by the payment service user in order to execute a payment order correctly;
- the maximum execution time within which the payment service must be provided;
- all fees the payment service user must pay to its payment service provider, specifying, where applicable, the breakdown of the amounts of all fees by type and value;
- where applicable, the current or reference exchange rate to be applied to the payment transaction;
- the manner and time limit within which the payment service user must inform the payment service provider of any unauthorized or improperly (incorrectly) executed payment transaction as well as the payment service provider's liability for unauthorized payment transactions in accordance with Art. 56 of the Law No. 114/2012;
- the liability of the payment service provider for the non-execution or improper execution of payment transactions in accordance with Ar. 70 of the Law No. 114/2012;
- the conditions of reimbursement in accordance with Art. 59 of the Law No. 114/2012 etc.

From the view of foreign exchange regulation, prior to make a payment/transfer within foreign exchange operations, the resident payment services providers shall

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<sup>57</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

require the submission by the individual/legal entity of justifying documents (with some exceptions), of the appropriate notification/authorization, if, in accordance with the Law No. 62/2008 on foreign exchange regulation<sup>58</sup>, the foreign exchange operation in which the payment/transfer is performed is subject to notification/authorization, require to present an identity document in case of individual (with exceptions when it is not required to provide the identity card).

**18. Are there any specific rules concerning charges for payment services? Are they regulated in any way? If yes, please describe.**

According to Art. 50 of Law No. 114/2012 on payment services and electronic money<sup>59</sup>, the payment service provider shall not charge the payment service user for the fulfilment of its information obligations or for corrective and preventive measures in accordance with the Chapter V of the Law No. 114/2012, unless otherwise specified in the latter. The fees that may be charged in accordance with Art. 61 para (4), Art. 62 para (6) and Art. 69 para (3) of the Law No. 114/2012 shall be agreed between the payment service user and the payment service provider and should be limited to covering the payment service provider's actual costs. If a payment transaction does not involve any currency conversion, the payee shall pay the fees charged by his payment service provider, and the payer shall pay the fees charged by his payment service provider. The payment service provider does not prevent the payee from offering a discount for the use of a payment instrument or payment service. The payee has no right to charge the payer for the use of a payment instrument or payment service.

The payment service provider does not charge commissions from the payment service user who is a consumer in case the contract concluded with the provider (supplier) of public utilities (housing, communal, non-communal services and other public utilities provided by the Government's normative acts) provides for the payment to the payment service provider of services for the receipt of funds from the consumer and for the execution of payment transactions in favour of the provider concerned.

According to Art. 50 para. (6) and (7) of Law No. 114/2012, the conditions for determining the value of interbank fees and of additional fees applied according to the brand and category of the respective payment cards for payment transactions made with a payment card or a similar device by payment services providers are established by the National Bank's normative acts. Fees charged by the payment service providers for payment transactions involving the use of the automated interbank payment system shall not exceed the level of fees set out in the normative acts of National Bank of Moldova. Thus, by the Decision No. 180/2019 of the

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<sup>58</sup> Law No. 62/2008 on foreign exchange regulation, available in English at: <https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

<sup>59</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

Executive Board of National Bank of Moldova<sup>60</sup>, the National Bank of Moldova regulated the fees applied for payment transactions made with a payment card or a similar device, of the fees applied by payment service providers for payment transactions involving the use of Automated Interbank Payment System (AIPS) and of the fees charged by the National Bank of Moldova for payments processed in the AIPS.

**19. What are the rules concerning the authorisation of the payment transaction? Are there specific rules concerning liability for an unauthorised payment transaction? Are there rules concerning the revocability of a payment order? Please describe them.**

The rules regarding the authorization of payment operations, the liability for the unauthorized operation and the rules regarding the revocability of a payment order are established in Chapter V Section 2 of the Law No. 114/2012 on payment services and electronic money<sup>61</sup>.

A payment transaction is considered to be authorized only if the payer has given consent prior to or after the execution of the payment transaction. Consent to execute a payment transaction or a series of payment transactions shall be given in the form agreed between the payer and his payment service provider. In the absence of such consent, a payment transaction shall be considered to be unauthorized. Consent may be withdrawn by the payer at any time, but no later than the point in time of irrevocability as stated under Art. 62 of the Law No. 114/2012 on payment services and electronic money.

Article 62 states that a payment order directly transmitted to the payee may not be revoked once it has been received by the payer's payment service provider, if this Article does not provide for otherwise. Where the payment transaction is initiated by or through the payee, the payer may not revoke the payment order after transmitting the payment order or giving his consent to execute the payment transaction to the payee. In the case of a direct debit and without prejudice to refund rights, the payer may revoke the payment order at the latest by the end of the business day preceding the day agreed for debiting the funds. After the time limits specified above, the payment order may be revoked only if agreed between the payment service user and his payment service provider. In the cases referring to payment transactions initiated by or through the payee (direct debit), the payee's agreement shall also be required.

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<sup>60</sup> The Decision No. 180/2019 of the Executive Board of National Bank of Moldova on the fees applied to payment transactions made with a payment card or by a similar device, on fees charged by the payment service providers for payment transactions involving utilization of the automated interbank payment system and fees collected by the National Bank of Moldova for payments processed in the automated interbank payment system, available in English at: <https://www.bnm.md/en/content/executive-board-national-bank-moldova-decision-no-180-27-june-2019-fees-applied-payment>

<sup>61</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

If the payment service user initiating a payment order and his payment service provider agrees that execution of the payment order shall start on a specific day or at the end of a certain period or on the day on which the payer has set funds at his payment service provider's disposal, the point in time of receipt for the purposes of Art. 64 of the Law No. 114/2012 on payment services and electronic money is deemed to be the agreed day. If the agreed day is not a business day for the payment service provider, the payment order received shall be deemed to have been received on the following business day. In this case, the payment service user may revoke a payment order at the latest by the end of the business day preceding the agreed day.

In case of an unauthorized payment transaction, the payer's payment service provider without undue delay refunds to the payer the amount of that unauthorized payment transaction and, where applicable, restore the debited payment account to the state in which it would have been, if the unauthorized payment transaction had not taken place. The refund shall be made in the currency of payment account from which the transaction amount was debited, and where the payment account was not used to make the payment transaction - in the currency in which the payment service provider received the funds from the payer. If the payment service provider fails to execute his payment user's indications or deviate from them, where it cannot be considered that the user being aware of the actual situation, would have approved the deviation, the payment service provider is required to pay indemnity under the law applicable to the contract between the payer and his payment service provider.

If the payer failed to ensure the safety of the personalized security features of the used payment instrument, he shall bear the losses relating to any unauthorized payment transaction, resulting from the occurrence of an emergency situation (lost, stolen or misappropriated payment instrument), up to a maximum amount agreed between the payment service provider and the user, but no more than MDL 2500. The payer shall bear all the losses relating to any unauthorized payment transaction, if he incurred them by acting fraudulently or by failing to fulfill one or more of his obligations (stated in Art. 54 of the Law No. 114/2012 on payment services and electronic money) with intent or gross negligence. In such cases, the maximum amount referred above shall not apply. The payer shall not bear any financial consequences resulting from the occurrence of an emergency situation, after notification without undue delay on becoming aware of loss, theft or misappropriation of the payment instrument or any other unauthorized use of it, excepting cases where he has acted fraudulently. If the payment service provider does not provide appropriate means for the notification at all times of a lost, stolen or misappropriated payment instrument, the payer shall not be liable for the financial consequences resulting from use of that payment instrument, except where he has acted fraudulently.

**20. What are the rules in the case of non-execution of a payment or an execution differing from the instructions given by the customer? Are there different rules for national and cross-border payments? Is there any compensation foreseen for the customer?**

According to Art. 56 of Law No. 114/2012 on payment services and electronic money<sup>62</sup> (which applies regardless of the type of payment: local or cross-border) the payment service user may obtain the correction of a payment transaction from the payment service provider only if he/she informs his/her payment service provider as soon as possible, but no later than 13 months from the date of debiting his/her account, about the fact that he/she found an unauthorized or improperly executed payment transaction, which generates a complaint, including in accordance with Art. 70 of the Law No. 114/2012, unless, where applicable, the payment service provider has failed to provide or make available the information on that related to this payment transaction, in accordance with Chapter IV of the Law No. 114/2012.

In case of an unauthorized payment transaction, the payer's payment service provider shall immediately reimburse the payer for the amount of the unauthorized payment transaction and, if applicable, return the debited payment account in the event that it would have been found out if the unauthorized payment transaction had not taken place. Reimbursement is made in the currency of payment account from which the transaction amount was debited, and in case the payment account was not used to make the payment transaction - in the currency in which the payment service provider received the funds from the payer.

If the payment service provider does not comply with or deviates from the payment service user's instructions, if the payment service provider cannot be considered to have approved the deviation, the payment service provider is obliged to pay a compensation in accordance with the law applicable to the contract concluded between the payer and his payment service provider.

**21. Are there time limits and value dates for executing payment transactions? If yes, please describe them (for national and cross-border transactions). Is there compensation to the payment service user if the deadline limit, value date or the deadline agreed is not complied with?**

According to Art. 64 of the Law No. 114/2012 on payment services and electronic money<sup>63</sup>, the payer's payment service provider ensures that, after receiving the payment order in accordance with Art. 60 of the Law No. 114/2012, the amount of payment transaction is credited to the payee's payment service provider's account at the latest by the end of the next business day. After receiving the funds, the

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<sup>62</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

<sup>63</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

payment service provider of the payment beneficiary assigns the date of the currency and makes available the amount of the payment transaction to the payee's payment account, in accordance with Art. 67 of the Law No. 114/2012.

The payee's payment service provider shall transmit a payment order to the payee's payment service provider initiated by or through the payee, within the time limits agreed between the payee and his payment service provider, enabling settlement, in case of direct debit, at the agreed due date.

The provisions related to the compensations granted to the payment service users are established at articles 69-71 of the Law No. 114/2012.

**22. Is there a complaint system in place for the settlement of disputes between the customers and the payment service providers? If yes, explain the system. Are the competent authorities appointed to ensure the compliance with the payments law and to deal with complaints? If yes, explain their competences.**

According to Law No. 114/2012 on payment services and electronic money<sup>64</sup>, the payment services provider/the electronic money issuer shall ensure internal procedures on the mechanism of lodging complaints of its users and on the settlements of complaints of alleged infringements of the Law No.114/2012 (see Art. 104). The same Article obliges the payment services provider/the electronic money issuer to notify its decision on the complaint not later than 15 days from the receipt of the complaint.

If the complaint was not examined in 15 days or if the user is not satisfied with the decision of the payment services provider/electronic money issuer, the user and, as well, customers' associations, can choose between lodging a complaint to the National Bank of Moldova or the Ministry of Finance (which both act as supervisors) or bring proceedings before the competent court (Art. 105 of the Law No. 114/2012 on payment services and electronic money).

As well, according to paragraph 46 of the Regulation on the requirements for publication of information by banks (approved by the Decision of the National Bank of Moldova's Executive Board No. 158/2020)<sup>65</sup>, banks shall publish the information on the ways in which their clients shall draw up complaints, the representatives of the bank authorized to receive and solve complaints, the formalities for filing complaints with the bank.

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<sup>64</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <http://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

<sup>65</sup> Regulation on the requirements for publication of information by banks, approved by the Decision of the National Bank of Moldova's Executive Board No. 158/2020, available in English at: <http://www.bnm.md/en/content/regulation-requirements-publication-information-banks-approved-decision-executive-board>

The National Bank of Moldova and the Ministry of Finance ensure compliance with the Law No. 114/2012 on payment services and electronic money and with the by-laws adopted for the purpose of its implementation (see articles 93-100 of the cited law).

According to Art. 104 of the Law No. 114/2012, in its internal procedures, the payment service provider / electronic money issuer establishes the procedure regarding the submission by the payment service user / electronic money holders of the complaints and the settlement of disputes regarding the rights and obligations deriving from the Law No. 114/2012. The payment service provider / electronic money issuer examines the payment service user / electronic money holder's claim and communicates its decision no later than 15 days after receipt of the complaint.

According to Art. 105 of the Law No. 114/2012, if the payment service provider / electronic money issuer has not examined the complaint within the term stipulated in Art. 104 para (2) of the Law No. 114/2012, or if the payment service user / electronic money holder does not agree with the communicated decision, he/she, as well as the consumer's associations, have the right either to notify the supervisory authority according to the competence stipulated in articles 93 and 94 of the Law No. 114/2012: the National Bank of Moldova and the Ministry of Finance, or to bring an action in the competent court against the payment service provider / electronic money issuer.

According to Art. 94 of the Law No. 114/2012, in order to fulfill the attribution of supervision and regulation of the activity of the payment service providers, electronic money issuers, the supervisory authority is empowered to:

- to request the payment service provider, the electronic money issuer, any administrator, their employee to provide the necessary information according to the legislation;
- to perform through its officials and other specialists appointed in accordance with the law, inspections at the premises of the payment service providers, electronic money issuers, their branches, agents and outsourced operations providers, to examine their accounts, registers and documents;
- to adopt normative acts regarding the manner and conditions of providing payment services and issuing electronic money, licensing and activity of payment institutions, electronic money issuing institutions, postal service providers as payment service providers, to the activity of banks as providers of payment services and electronic money issuers, to protect the rights of payment service users and electronic money holders, as well as to adopt normative acts for the supervision under this Law and to take appropriate steps to exercise its powers under this Law;
- to take remedial action and impose sanctions on the payment service provider and the electronic money issuer, if they or their shareholders/associates, administrators or employees, branches, agencies

or providers of their outsourced operational functions have committed infringements.

**23. Is there an out-of-court redress procedure available? If yes, explain it. Please also refer to legislation governing out-of-court redress in payment system-related settlement of disputes.**

There is no dedicated out-of-court procedure for resolving payment system disputes.

Please see the answer to previous Question No. 22.

Also, court proceedings against the acts issued by the National Bank of Moldova can be brought only after a mandatory preliminary appeal against those acts before the Executive Board of the National Bank of Moldova (please see Art. 11 para. (51) of the Law No. 548/1995 on the National Bank of Moldova<sup>66</sup>).

The Law No. 137/2015 on mediation<sup>67</sup> provides for the option of out-of-court mediation for some cases (e.g. civil law disputes which refer to aspects disposable by private parties by way of transactions; consumer law disputes which refer to allegations of damages, abusive clauses, non-performance of contract obligations).

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<sup>66</sup> Law No. 548/1995 on the National Bank of Moldova, available in English at: <http://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995>

<sup>67</sup> Law No. 137/2015 on mediation, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=110536&lang=ro](https://www.legis.md/cautare/getResults?doc_id=110536&lang=ro)

### **III. FIGHT AGAINST MONEY LAUNDERING AND TERRORIST FINANCING**

**24. Regarding alignment with Directive (EU) 2015/849 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, as amended by Directive (EU) 2018/843 of the European Parliament and of the Council of 30 May 2018, please respond to the following questions:**

**a) How has money laundering/financing of terrorism been criminalised, which criminal activities are covered by the law and how is money laundering/financing of terrorism defined? What are the penalties? Is self-laundering criminalised?**

The AML/CFT legal and organisational framework is mainly governed by the AML/CFT Law No. 308/2017<sup>68</sup> that transposed the EU Directive 2015/849. The Law sets out the measures, competent authorities and procedures for detecting and preventing money laundering or terrorist financing (ML) and terrorist financing (FT), and governs the inspection of the implementation of its provisions. It is complemented by regulations, recommendations, government decisions and orders.

By the AML/CFT Law, Money laundering is defined as actions established in Art. 243 of the Criminal Code<sup>69</sup> and in the international treaties to which the Republic of Moldova is a party. Thus, according to the Art. 243 of the Criminal Code:

#### **Article 243. Money Laundering**

(1) Money laundering committed by:

a) the conversion or transfer of property to a person who knows or should have known that it constitutes illicit income, in order to conceal or disguise the illicit origin of property or to assist any person involved in the principal offense to evade the legal consequences of these actions;

b) concealment or disguise of the nature, origin, location, disposition, transfer, transfer of real property of the goods or related rights to a person who knows or must know that they constitute illicit income;

c) the acquisition, possession or use of goods to a person who knows or should have known that they constitute illicit income;

d) participation in any association, understanding, complicity by providing assistance, assistance or advice in order to commit the actions provided for in letters a)-c) is punishable by a fine ranging from 1350 to 2350 conventional units or imprisonment for up to 6 years, in both cases with (or without) private term of

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<sup>68</sup> The AML/CFT Law No. 308/2017, available in English at:

<http://spscb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

<sup>69</sup> Criminal Code, available in Romanian: [https://www.legis.md/cautare/getResults?doc\\_id=130983&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130983&lang=ro)

the right to hold certain positions or to exercise a certain activity on a certain activity for a period from 2 to 5 years, with a fine, applied to legal entities, from 8000 to 11000 conventional units with deprivation of the right to exercise a certain activity or with the liquidation of legal entities.

(2) The same actions taken:

b) by two or more persons;

c) by use of an official position,

shall be punished by a fine in the amount of 2350 to 5350 conventional units or by imprisonment from 4 to 7 years, with a fine, imposed by legal persons, in the size of 10000 to 13000 conventional units with deprivation of the right to exercise certain activities or with the liquidation of the legal person.

(3) The actions according to paragraph (1) or (2), committed:

a) by an organized criminal group or criminal organization;

b) in an especially large scale, shall be punished with imprisonment from 5 to 10 years, with a fine, applied by legal persons, in the amount of 13,000 to 16,000 conventional units or with the liquidation of legal persons. (4) Illicit actions also constitute acts committed outside the territory of the country if they contain constitutive elements of a crime in the state in which they were committed and may constitute constitutive elements of a crime committed on the territory of the Republic of Moldova.

According to the AML/CFT Law, terrorism financing is defined as actions established in Art. 279 of the Criminal Code and in the international treaties to which the Republic of Moldova is a party.

Thus, according to the Art. 279 of the Criminal Code:

### **Article 279. Terrorism Financing**

(1) The financing of terrorism, that is, the making available or intended collection by any person, by any method, directly or indirectly, of goods of any kind acquired by any means, or the provision of financial services for the use of those goods or services or knowing that they will be used, in whole or in part:

a) in the organization, preparation or commission of a terrorist offense;

b) for any purpose, by an organized criminal group, a criminal organization or a special person who commits or undertakes attempts to commit a terrorist offense or who organizes, directs, associates, understands in advance, instigates or participates as an accomplice in the commission of this crime,

shall be punished by imprisonment from 5 to 10 years with deprivation of the right to hold certain positions or to exercise a certain activity for a term of 2 to 5 years, with a fine, applied to the legal person, in the amount of 8000 to 11000 conventional units with the liquidation of the legal entity. (2) The crime of terrorist financing is considered consumed regardless of whether the crime of a terrorist nature was committed, whether the goods were used to commit this crime by the group, organization or person mentioned in para. (1) lit. b) or if the crime was committed on the territory or outside the territory of the Republic of Moldova.

The definition of money laundering includes self-laundering. Thus, according to the Moneyval Evaluation Report with reference to self-laundering, was established that the application of the definition is not further limited by domestic law or reservations to international instruments, thus the ML offence applies for persons committing the predicate crime.

Self-laundering is not expressly criminalised in Art. 243 „*Money laundering*” from the Criminal Code No. 985/2002<sup>70</sup>.

In the Fifth Round Mutual Evaluation Report of the Republic of Moldova (*technical compliance annex*)<sup>71</sup>, MONEYVAL experts, with regard to ***Recommendation 3 - Money laundering offence, Criterion 3.7***, have mentioned that *there is no positive legislation regarding the criminalisation of self-laundering and no principal or fundamental legal objections to that. The previous round evaluators were convinced that the ML offence is understood and actually interpreted by practitioners so as to cover the laundering by the author of the predicate offence. The application of the definition is not further limited by domestic law or reservations to international instruments, thus the ML offence applies for persons committing the predicate crime.*

According to Art. 6 para. 2(e) from the United Nations Convention against Transnational Organized Crime - UNTOC<sup>72</sup> (*ratified by the Republic of Moldova by Law No.15/2005*<sup>73</sup>):... *If required by fundamental principles of the domestic law of a State Party, it may be provided that the offences set forth in paragraph 1 of this article do not apply to the persons who committed the predicate offence...* The Republic of Moldova opted not to take the opportunity provided in Art. 6(2)e and hence self-laundering is necessarily, even if implicitly, covered by Moldovan law. Such laundering activities have actually been subject to prosecution in a number of criminal cases.

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<sup>70</sup> [https://www.legis.md/cautare/getResults?doc\\_id=130983&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130983&lang=ro)

<sup>71</sup> <https://rm.coe.int/moneyval-2019-6-5th-round-mer-repmoldova/168097a396>

<sup>72</sup> <https://www.unodc.org/documents/treaties/UNTOC/Publications/TOC%20Convention/TOCebook-e.pdf>

<sup>73</sup> [https://www.legis.md/cautare/getResults?doc\\_id=26556&lang=ro](https://www.legis.md/cautare/getResults?doc_id=26556&lang=ro)

**b) Which institutions and professions are covered by the legislation and with regard to which activities?**

According to the Art. 4 para (1) of the AML/CFT Law No. 308/2017<sup>74</sup>, the following natural and legal persons, hereinafter referred to as reporting entities, fall within the provisions of the present law:

- a) banks specified in the Law No. 202/2017 on the activity of banks<sup>75</sup>;
- b) foreign exchange units (other than banks);
- c) registry societies, investment companies, sole central depository, market operators, system operators, insurers (reinsurers), intermediaries in insurance and/or reinsurance of legal entities, National Bureau of Vehicles Insurers, non-state pension funds, non-banking credit organizations, savings and loan associations, central associations of savings and loan associations;
- d) organizers of gambling;
- e) real estate agents;
- f) natural and legal persons practicing activities with precious metals and precious stones;
- g) lawyers, notaries, and other designated non-financial businesses and professions, during the period of participation on behalf of the client, in any financial and real estate transaction, or during the period of the provision of assistance for planning or execution of transactions for client, which in both cases involve the sale and purchase of real estate, donation of goods, management of financial assets, securities and other goods of client, opening and managing bank accounts and/or payment accounts, creation and management of legal persons and goods under fiduciary administration, as well as their purchase and sale;
- h) lessors who are legal persons that practice entrepreneur activity, exception persons provided by letter c), and which transfer under the terms of leasing contract, to lessees, at their request, for a certain period, the right of possession and/or use of property the owners of which they are, with or without the transmission of the right of ownership of the good upon the expiration of the contract;

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<sup>74</sup> The AML/CFT Law No.308/2017, available in English at: <http://spscb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

<sup>75</sup> Law on the activity of banks No. 202/2017, available in English at: <http://www.bnm.md/en/content/law-banks-activity-no-202-06-october-2017>

- i) payment service providers, issuers of electronic money and postal services providers operating in accordance with Law No. 114/2012 on payment services and electronic money<sup>76</sup>;
- j) providers of postal services acting in accordance with the Law No. 36/2016 on postal communications<sup>77</sup>;
- k) audit entities, legal entities and individual enterprises providing accounting services;
- k<sup>1</sup>) public authorities and state enterprises;
- l) other natural and legal persons who sell goods in the amount of at least 200.000 lei or its equivalent, only if the payments are made in cash, regardless of whether the transaction is carried out through an operation or through several operations that appear to have connection between them.

**c) How and by which competent authority are these institutions and professions mentioned under b) supervised from an AML/CFT perspective?**

According to the Art. 15 para. (1) of the AML/CFT Law No. 308/2017, regulation and control of the enforcement manner of the AML/CFT legislation are ensured by the following authorities with supervision functions of the reporting entities:

- a) National Bank of Moldova – for banks, foreign exchange units (other than banks), payment service providers, issuers of electronic money and postal services providers operating in accordance with Law No. 114/2012 on payment services and electronic money<sup>78</sup>;
- b) National Commission for Financial Market – for registry societies, investment companies, sole central depository, market operators, system operators, insurers (reinsurers), intermediaries in insurance and/or reinsurance of legal entities, National Bureau of Vehicles Insurers, non-state pension funds, non-banking credit organizations, savings and loan associations, central associations of savings and loan associations;
- c) Notary Chamber – for notaries;
- d) Union of Lawyers of the Republic of Moldova – for lawyers;

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<sup>76</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <http://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

<sup>77</sup> Law No. 36/2016 on postal communications, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=121211&lang=ro](https://www.legis.md/cautare/getResults?doc_id=121211&lang=ro)

<sup>78</sup> Law No. 114/2012 on payment services and electronic money, available in English at: <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

- e) Ministry of Finance - organizers of gambling, audit entities, legal entities and individual enterprises providing accounting services;
- f) State Chamber for Marking Supervision (State Assay Office) - natural and legal persons practicing activities with precious metals and precious stones;
- g) National Regulatory Agency for Electronic Communications and Information Technology - providers of postal services acting in accordance with the Law No. 36/2016 on postal communications;
- h) Office for Prevention and Fight against Money Laundering - real estate agents, other natural and legal persons who sell goods in the amount of at least 200.000 lei or its equivalent, only if the payments are made in cash, regardless of whether the transaction is carried out through an operation or through several operations that appear to have connection between them.

**The authorities with supervision functions of the reporting entities have the following competencies:**

Authorities with supervision functions of the reporting entities shall, within 24 hours, inform the Office for Prevention and Fight against Money Laundering (hereinafter – the Office) if, during the inspections carried out at the reporting entities or in any other manner, discovers the facts that may be related to the breach of provisions of the Law on Prevention and Combating Money Laundering and Terrorism Financing.

The Office may recommend to the authorities with supervision functions of the reporting entities to carry out controls in the field of prevention and combating money laundering and terrorism financing at the supervised entities, in accordance with the procedures provided by the legislation governing their activity, and inform the Office of the outcomes of the control, or, where appropriate, it may request the delegation of a specialist to carry out joint control with the representatives of the Office in the field of prevention and combating money laundering and terrorism financing.

The Office and the National Bank of Moldova may delegate specialists to provide mutual consultations, within the limits of their competencies, in carrying out controls in the field of prevention and combating money laundering and terrorism financing.

The National Bank of Moldova shall verify the compliance of the reporting entities provided for in Art.4 para (1) ltr.a), b) and i) of Law No.308/2017, state the infringements and issue the appropriate decisions in accordance with Law No.548/1995 on the National Bank of Moldova, Law No.202/2017 on Banks Activity, Law No.62/2008 on Foreign Exchange Regulation and Law No.114/2012 on Payment Services and Electronic Money. The entry into force, execution and

contestation of the decisions of the National Bank of Moldova on the application of sanctions shall be carried out in accordance with the laws referred to in this paragraph. The time limit for liability, the way of individualization, the type and amount of sanctions are established in accordance with the provisions of this law. The provisions of para (2) of this article, Art. 6 para (1), (2) and (4), Art. 7 para (4), (5) and (6), Art. 10 para (2) of this law shall not apply to controls carried out by the National Bank of Moldova.

The National Commission for Financial Market shall verify the compliance of the reporting entities referred to in Art. 4 para (1) ltr. c) of Law No. 308/2017 according to Law No.192/1998 on the National Commission for Financial Market. The way of individualization, type and amount of sanctions shall be established in accordance with the provisions of this law.

The Office verifies the compliance of reporting entities, individualization and application of sanctions for reporting entities, according to the procedure provided by this law.

**d) When/in which situations do customers and beneficial owners have to be identified and verified and which means of identification are accepted? Is there a beneficial ownership register in place? Specify any special measures for non face-to-face account opening or transactions.**

According to the Art. 5 para. (1) of the AML/CFT Law No. 308/2017<sup>79</sup>, the reporting entities shall apply customer due diligence measures:

- a) when establishing of business relations;
- b) when carrying out all types of occasional transactions:
  - in the amount of over 20.000 lei - if the transaction is carried out in a single transaction, through the payment services providers, including the use of electronic means;
  - in the amount of over 300.000 lei - if the transaction is carried out through one or several operations that have connection between them, taking into account the requirements at national level;
- c) in case of the organizers of gambling, in the moment of receiving of winnings, in the moment of placing a bet or in both cases when transactions in the amount of at least 40.000 lei are carried out, regardless of whether the transaction is carried out through a single operation or through several operations that seem to have a connection between them;

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<sup>79</sup> The AML/CFT Law No. 308/2017, available in English at:  
<http://spsb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

- d) when there is a suspicion of money laundering or terrorism financing, regardless of established derogations, exemptions or limits;
- e) when there are suspicions regarding the authenticity, sufficiency and accuracy of previously obtained identification data;
- f) in case of persons that sell goods, when carry out occasional cash transactions in the amount of at least 200.000 lei, regardless of whether the transaction is carried out through a single operation or through several operations that seem to have a connection between them.

The same article provides that the customer due diligence measures include:

- a) identification and verification of the identity of customers on the basis of identity documents, as well as documents, data or information obtained from a credible and independent source;
- b) identification of beneficial owner and application of appropriate and risk-based measures for verification of his/her identity so that the reporting entity to have the certainty that it knows who is the beneficial owner, including the application of reasonable measures, in order to understand the structure of the property and the control structure of the customer;
- c) understanding the purpose and intended nature of business relationship and, if necessary, obtaining and assessing the information regarding them;
- d) on-going monitoring of business relationship, including the examination of transactions concluded during the entire duration of the concerned relationship, in order to ensure that the performed transactions are consistent with the information held by the reporting entities regarding the customer, the activity profile and the risk profile, including the source of goods, and that the held documents, data or information are updated.

According to the Art. 14 of the AML/CFT Law No. 308/2017<sup>80</sup>, the state registration authority, according to the established procedures, verifies, registries, records and updates the data regarding the beneficial owners (BO) of legal entities and individual entrepreneurs at their registration, at registration of modifications in incorporation documents of legal persons, at state registration of persons subject to reorganization and their removal from State register. Law No. 220/2007<sup>81</sup> on state registration of legal entities sets out the registration requirements and procedures for legal entities and designates the Public Service Agency (PSA) as the registration authority. The PSA verifies the accuracy of BO information submitted by legal persons in accordance with the AML/CFT Law (Art. 14 para. (1)). Legal persons must submit any subsequent changes to the Beneficial Owner

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<sup>80</sup> The AML/CFT Law No. 308/2017, available in English at:  
<http://spscb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

<sup>81</sup> Law No. 220/2007 on state registration of legal entities, available in Romanian at:  
[https://www.legis.md/cautare/getResults?doc\\_id=131041&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=131041&lang=ro#)

information to the PSA immediately upon their occurrence (Art. 14 para. (2)). The failure to provide accurate, complete or updated BO information to the PSA will result in the refusal of registration under the AML/CFT Law (Art. 14 para. (3)). The PSA cannot apply sanctions against those legal entities that have already been registered, but fail to update or provide inaccurate BO data. Instead, the AML/CFT Law stipulates that the PSA will refer such cases to the Office for Prevention and Fight against Money Laundering for further analysis.

Thus, Public Services Agency created and maintains the national Beneficial Owner register.

With reference to the non face-to-face account opening or transactions, the legislation does not provide this possibility.

**e) Specify if bearer passbooks or other bearer instruments are allowed.**

The national legislation does not provide the possibility to issue bearer instruments.

According to the AML/CFT Law No. 308/2017<sup>82</sup>, the Customs Service, at the latest on the date of 15<sup>th</sup> of the month following the reporting month, notifies the Office for Prevention and Fight against Money Laundering about all of the information regarding the foreign currency values declared by natural and legal persons in accordance with the provisions of Art. 33 and 34 of Law No. 62/2008<sup>83</sup> regarding the foreign exchange regulation, except for the foreign exchange values declared by the National Bank of Moldova and licensed banks. As well, the Customs Service shall notify immediately, but no later than 24 hours, the Office for Prevention and Fight against Money Laundering about the information regarding the identified cases of suspicious importing and/or exporting of currency values to/from the country.

The term of foreign currency values is defined as cash in foreign currency and national currency, materialized securities and payment instruments denominated in foreign currency and national currency.

According to the Law on Foreign Exchange Regulation No. 62/2008, is provided that the resident and non-resident individuals shall be obliged to declare in written form the foreign exchange values to customs authorities of the Republic of Moldova in the following cases:

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<sup>82</sup> The AML/CFT Law No. 308/2017, available in English at: <http://spsb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

<sup>83</sup> Law No. 62/2008 regarding the foreign exchange regulation, available in English at: <https://www.bnm.md/en/content/law-foreign-exchange-regulation-no-62-xvi-21-march-2008>

a) when importing into /exporting from the Republic of Moldova cash in national currency, cash and traveller's cheques in foreign currency, where their total amount exceeds EUR 10000 (or its equivalent) per individual/travel;

b) when importing into /exporting from the Republic of Moldova securities and payment instruments (other than traveller's cheques in foreign currency), where their total amount exceeds EUR 10000 (or its equivalent) per individual/travel.

Resident and non-resident individuals shall have the right to declare in written form the foreign exchange values to customs authorities of the Republic of Moldova in the following cases:

a) when importing into /exporting from the Republic of Moldova cash in national currency, cash and traveller's cheques in foreign currency, where their total amount does not exceed EUR 10000 (or its equivalent) per individual/travel;

b) when importing into /exporting from the Republic of Moldova securities and payment instruments (other than traveller's cheques in foreign currency), where their total amount does not exceed EUR 10000 (or its equivalent) per individual/travel.

**f) Are the institutions and professions mentioned under b) required to keep records? Specify the contents of that requirement (which documents, retention period etc.).**

According to the Art. 9 of the AML/CFT Law No. 308/2017<sup>84</sup>, the reporting entities shall keep, for a period of 5 years after the termination of business relationship, all data related to national and international activities and transactions to the extent that they can respond promptly to requests of Office for Prevention and Fight against Money Laundering, of authorities with supervision functions of the reporting entities and law enforcement agencies. The kept data must be sufficient to allow the reconstitution of each activity or transaction in the manner in which it is necessary to serve as evidence in criminal proceedings, contraventions and any other legal proceedings.

The reporting entities shall keep all documents and information about the customers and beneficial owners, obtained during customers due diligence measures, including copies of identification documents, archives of accounts and primary documents, business correspondence, results of analyses and researches conducted on identification of complex and unusual transactions, during the active period of business relationship and for a period of 5 years after its termination or after the date of the execution of occasional transactions. The reporting entities shall keep records of all documents and information about transactions within the time frame provided in this paragraph and, at the request of Office for Prevention and Fight Against Money Laundering or of the authorities with supervision

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<sup>84</sup> The AML/CFT Law No. 308/2017, available in English at:  
<http://spsb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

functions of the reporting entities, for certain types of documents and information, the period of keeping of evidence may be extended for the requested period, but not more than 5 years.

**g) Are the institutions and professions mentioned under b) required to apply internal procedures and training of employees with regard to money laundering/financing of terrorism? Specify these measures including non-regulatory ones (such as guidance) to raise the awareness of these stakeholders on ML/TF risks and their duties to prevent them on a risk-based approach.**

According to the Art. 13 of the AML/CFT Law No. 308/2017<sup>85</sup>, the reporting entities establish policies, carry out internal controls and procedures in order to mitigate and manage effectively the money laundering and terrorism financing risks identified at national level, as well as, directly within the reporting entities. The policies, internal controls and related procedures are proportionate to the risk of money laundering and terrorism financing and to the nature and dimension of the reporting entities.

The reporting entities shall approve their own programs for prevention and combating of money laundering and terrorism financing including in correspondence with recommendations and normative acts approved by the authorities with supervision functions that shall contain at least:

- policies, methods, practices, written procedures, internal control measures and strict rules for prevention of money laundering and terrorism financing, including customers due diligence measures, complex and unusual transactions identification, of reporting, procedures of assessment and management of risks and other relevant measures in the field;
- names of persons, including of those with senior degree management positions, responsible for ensuring of the compliance of policies and procedures with legal requirements on prevention and combating of money laundering and terrorism financing;
- measures of the development of ethical and professional norms in the supervised sector and of the prevention of intentionally or non-intentionally use reporting entity, by organized criminal groups or by their associates;
- an on-going program for training of employees, rigorous selection of personnel on the basis of the criterion of high professionalism in their employment;
- performing of independent audit regarding the testing of compliance of the reporting entity with policies, internal controls and related procedures.

To be mentioned that the secondary legislation approved by the authorities with supervisory functions of the reporting entities includes provisions to raise the

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<sup>85</sup> The AML/CFT Law No. 308/2017, available in English at:  
<http://spscb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

awareness of these stakeholders on ML/TF risks and their duties to prevent them on a risk-based approach

**h) Specify if the institutions and professions mentioned under b) are supervised with regard to the requirements mentioned under c) to h) and to what extent?**

The authorities with supervisory functions are responsible, according to the competence, for the authorisation, regulation and supervision of the reporting entities. The supervisory authorities perform the following main tasks: approves normative acts and recommendations for supervised institutions, performs on-site inspections and off-site analysis in order to oversee the compliance with the AML/CFT provisions, licenses and approves the management body of the supervised institutions (for some reporting entities), cooperates with relevant authorities in order to properly carry out its duties and functions, applies sanctions for non-compliance with AML/CFT requirements and performs additional tasks in order to oversee good functioning of the sectors.

During the carried-out inspections is checked the compliance with the reporting and communication requirements and acquire data and information on specific transactions or financial activities that are deemed to be significant in terms of size and risk. Inspection planning takes account of the degree of exposure to the risks of money laundering and terrorist financing of the different categories of obliged entity and of the control measures taken by the other authorities responsible for checking compliance with the AML/CFT provisions.

**i) In what way do the financial intelligence unit and other competent authorities have to give a feedback to the institutions and professions mentioned under b) on the result of the suspicious transactions they report to them (specific/case-by-case feedback, general feedback, other)?**

Based on the provisions of the Art. 11 para. (10) of the the Law No.308/2017 on prevention and combat of money laundering and terrorism financing<sup>86</sup>, the Office for Prevention and Fight against Money Laundering and authorities with supervision functions of the reporting entities shall periodically provide the reporting entities with information on the results of the examination of the information received under present law.

Additionally, National Bank of Moldova, as a supervisor authority for commercial banks, nonbank payment service providers and foreign exchange entities, based on the provisions of the Law No.308/2017, is obliged to inform supervised reporting entities on a constant basis, mainly by: informing about ML/FT risks; factors that generate them, and precautions measures necessary to apply in situations when

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<sup>86</sup> <http://spscb.cna.md/en/page/legislatia-nationala>

high ML/FT risks occur (Art.6 para.(8) letter c) and para.(10) of the Law No.308/2017):

- approving regulations and recommendations regarding the AML/CFT requirements (Art.15 para.(2) letter a) and b) of the Law No.308/2017);
- informing on money laundering and terrorism financing transactions, including identified new trends and methods (Art.15 para.(6) letter c) of the Law No.308/2017);
- informing about AML/CFT noncompliance results during onsite inspections and offsite analysis (Art.15 para.(2) letter c) of the Law No.308/2017; Art.75<sup>1</sup> para.(8) and (10) of the Law No.548/1995 on NBM);
- providing information on how to efficient apply the CDD and EDD requirements, as well as other AML/CFT requirements (Art.15 para.(2) letter b) of the Law No.308/2017).

**j) What penalties exist with regard to infringements of the anti-money laundering/financing of terrorism legislation? Apart from administrative sanctions for breaches of anti-money laundering and counter terrorism financing (AML/CTF) law, are there other sanctions in place for AML/CTF breaches, such as criminal prosecution, removal of licence etc.?**

According to Art. 35 para. (2) of the AML/CFT Law No. 308/2017<sup>87</sup>, in case of non-compliance with the provisions of the AML/CFT requirements, the following types of sanctions are applied:

- a) public statement in mass media referring to natural or legal person and nature of breaching;
- b) prescription through which the natural or legal person is required to terminate the respective behaviour and to refrain from repeating it;
- c) withdrawal or suspension of authorization, license of activity, in case in which the activity of the reporting entity constitutes the object of authorization or licensing;
- d) temporary ban to hold management positions in the reporting entities by any person with senior degree management positions in the reporting entity or by any other natural person declared liable for the breach;
- e) pecuniary sanctions in the form of fine:
  - in twice amount of the value of benefit derived from the breach of the obligations provided by the present law, in case in which the respective benefit can be determined, or in the amount of equivalent in lei of the sum

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<sup>87</sup> The AML/CFT Law No. 308/2017, available in English at:  
<http://spsb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

of up to 1000000 euro, calculated according to the official exchange rate of Moldovan leu at the date of the commitment of breach;

- in the amount up to the equivalent in lei of the sum of up to 5000000 euro, calculated at the official exchange rate of Moldovan leu at the date of the commitment of breach, or 10% of the turnover for the previous year - for the reporting entities under Art. 4 par. (1) let. a), c), h) and i).

In order to establish the procedure of stating the infringements in the field of anti-money laundering and counter-terrorism financing committed by reporting entities, by persons in charge, persons holding senior management positions and employees of reporting entities, as well as the means of sanctions' application, the Moldovan Parliament approved the Law No. 75/2020<sup>88</sup> on AML/TF infringements detection procedure and means of sanctions' application (Sanctions Law). At the moment of entry into force of this law, the articles from the Administrative code were repealed.

Thus, according to the Art. 34 of the Sanctions Law, the types of sanctions for breaches by the subjects, by action or inaction, of the anti-money laundering and counter-terrorism financing legislation are as follows:

- a) public statement in the media, identifying the natural or legal person and the nature of the breach;
- b) prescript by which natural person or legal person shall stop such behaviour and abstain from repeating it;
- c) suspension of the activity, suspension or withdrawal of authorization, license of activity, where the activity of the reporting entity is the object of authorization or licensing. Suspension of the activity, license or authorization shall apply for a period from 3 months to one year.
- d) temporary interdiction to hold management positions in reporting entities, from 3 months to up to one year, by any person with senior management position in a reporting entity or by any other natural person, declared responsible for the breach;
- e) fine in amount of up to the equivalent in lei of the amount of 5 000 000 Euro.

**k) Are there publicly available registers for companies, trusts and other legal arrangements?**

According to the Law No. 220/2007<sup>89</sup> on state registration of legal entities, the state registration body ensures the public viewing of the information from the State

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<sup>88</sup> Law No. 75/2020 on AML/TF infringements detection procedure and means of sanctions' application (Sanctions Law), available in English at: [http://spscb.gov.md/storage/legislation/National/EN/EN\\_75.pdf](http://spscb.gov.md/storage/legislation/National/EN/EN_75.pdf)

<sup>89</sup> Law No. 220/2007 on state registration of legal entities, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=131041&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=131041&lang=ro#)

Register on its official website. The public information contains data on the name of the legal person, the legal form of organization, the state identification number (IDNO), the date of registration, the seat, the name and surname of the administrator, the name and surname or name of the founders (associates) and the size of their shares in the share capital, the status of the legal entity (passive, inactive, in the process of reorganization or deregistration, suspension of activity), as well as the name, surname, date of registration, state identification number (IDNO) of the individual entrepreneur and data on its deregistration, it also contains data on the name, surname, country of residence of the beneficial owner (s) of the legal entity and the sole proprietor.

The information is updated every working day.

The data are available for establishment and visualization at any calendar date from the moment of registration and until the deregistration of the legal person or the individual entrepreneur.

Viewing and accessing the data from the State Register, shall be carried out free of charge, in accordance with the legislation in force on data exchange and interoperability.

The information placed on the web page of the state registration body shall be considered official information. The state registration body assumes responsibility for the accuracy of the information placed.

**l) What are the rules on anonymity on virtual currencies, wallet providers and pre-paid cards; is the FATF travel rule (requiring to collect and hold information on originator and beneficiaries of transfer of virtual assets) implemented in your jurisdiction?**

The National legislation of the Republic of Moldova does not include provisions related to the regulation and supervision of the virtual currencies.

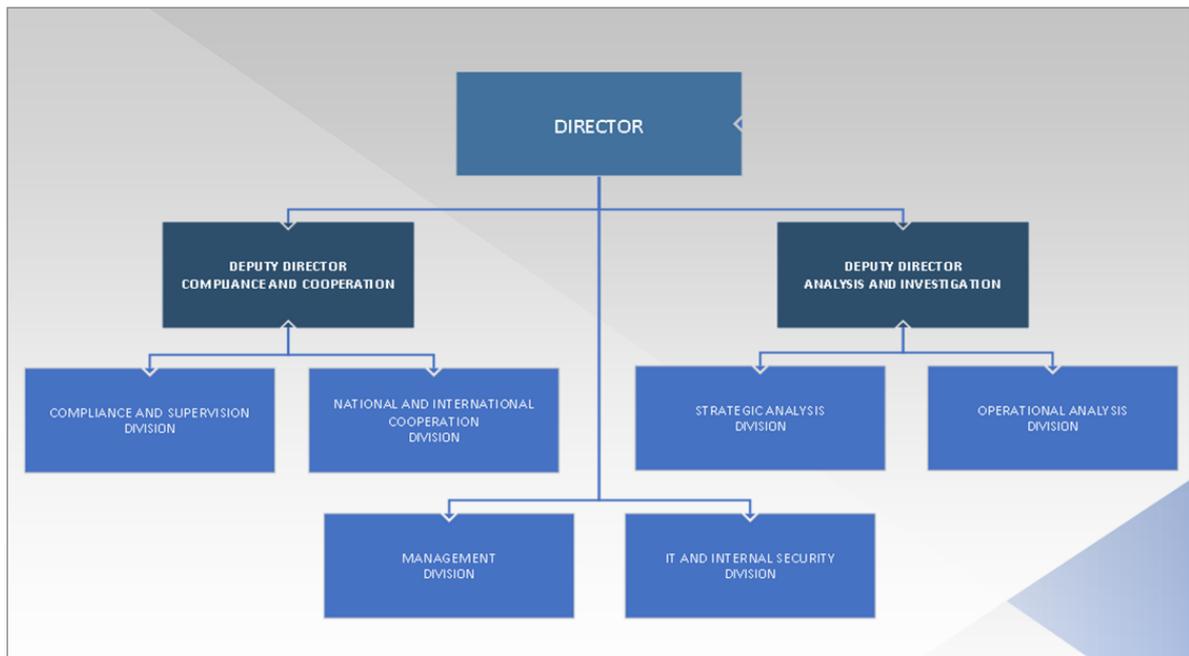
**m) Is there a central bank account registry?**

According to the Art. 14 para. (20) of the AML/CFT Law No. 308/2017, the State Tax Service creates, manages and updates the Register of payment and banking accounts of natural and legal persons.

**25. Please elaborate on the functioning of the FIU, the supervisory authorities and the law enforcement authorities with regard to, *inter alia*: available resources (staff and budget), operational powers, independence, (inter-)national co-operation between competent authorities and the results achieved in terms of suspicious transactions reports received, supervisory investigations (including detected infringements, sanctions imposed), freezing/ seizing orders, financial investigations, confiscations and prosecutions/ indictments/convictions.**

The Office for Prevention and Fight against Money Laundering is an independent public authority in relation to other legal and natural persons, indifferently of the type of ownership and legal form of organization, functioning as an autonomous and independent central specialized authority.

Based on the provisions of AML/CFT Law No. 308/2017<sup>90</sup>, the internal structure of the FIU has been optimized from an institutional point of view by strictly delimiting the functional duties according to the existing needs and the international standards in the field. The Office is financed from the state budget. In this respect, was established the separation of internal duties by creating specialized subdivisions according to the competences held.



The staff units of the Office for Prevention and Fight against Money Laundering consists of 30 employees. Personnel of the Office is composed of public servants with special status, public servants and contracted staff, employed on competitive basis in accordance with the legislation. The employees have a degree in law, finance and/or economy university studies, experience in financial-banking and non-banking field, including holding of a Master's Degree.

<sup>90</sup> The AML/CFT Law No. 308/2017, available in English at: <http://spscb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

Office for Prevention and Fight against Money Laundering receives different type of financial information from REs and Custom Service. These include information on:

- suspicious goods, activities or transactions suspicious related to ML, associated offences, and terrorism financing,
- activities or transactions carried out in cash, through a single transaction with value of at least 200,000 MDL (approximately EUR 10,000) or through several cash transactions that seem to be connected,
- customer's wire transactions performed through a single operation with the value of at least 500,000 MDL (approximately EUR 26,000).

Statistics on reported transactions:

### Banking sector

Types of transaction	2020	2021
Cash transactions	1 231 701	1 497 836
Wire transactions	393 062	588 206
Suspicious transactions	420	533
<b>Total</b>	<b>1 625 183</b>	<b>2 086 575</b>

### Non-banking sector

Types of transaction	2020	2021
Cash transactions	31 641	44 471
Wire transactions	13 284	21 047
Suspicious transactions	629	436
<b>Total</b>	<b>45 518</b>	<b>65 920</b>

According to the Moneyval Evaluation Report<sup>91</sup>, the experts established a good cooperation between the national authorities. The Office for Prevention and Fight against Money Laundering and competent authorities demonstrated good level of cooperation on ML/FT issues. There are no impediments, statutory or otherwise, which hinder the exchange of information, which is regulated by MOUs signed between OPFML and different competent authorities and by longstanding good practices. The assessment team was satisfied that all competent authorities are willing to share information with the FIU and do so when requested.

Statistics on disseminations of the financial analysis results for 2021 – 223:

- State Tax Service – 64;
- Ministry of Internal Affairs – 49;

<sup>91</sup> Moneyval Evaluation Report, available in English at: <https://rm.coe.int/moneyval-2019-6-5th-round-mer-repmoldova/168097a396>

- Prosecutor's Offices – 49;
- Security and Intelligence Service – 20;
- National Anticorruption Center – 17;
- Similar services (FIUs) – 17;
- National Integrity Authority - 4;
- National Bank of Moldova - 2
- Customs Service - 1.

Statistics on applied provisional measures – 37 decisions in relation to:

- 11 individuals;
- 24 legal persons.

Statistics regarding the financial means/goods subject to the applied provisional measures

- 19 171 848 MDL;
- 1 996 221 EUR;
- 665 588 USD;
- 847 600 MDL (value of the shares);
- 30 817 223 MDL (real estate).

As related to the supervisory functions of the Office for prevention and Fight against Money Laundering, during 2021, based on the provisions of the Law No. 75/2020<sup>92</sup> on AML/TF infringements detection procedure and means of sanctions' application, were initiated and performed 11 analyses being applied sanctions in the form of prescription - 4 and fines in a total amount of 680 900 MDL.

**Table 1. Parallel financial investigations initiated and conducted during 12 months 2019**

<b>No. of criminal cases in which parallel financial investigations were initiated</b>	<b>202</b>
Including: – through the Criminal Assets Recovery Agency (CARA)	<b>163</b>
In cases of: – money laundering	<b>7</b>
– financing of terrorism	
– corruption	<b>47</b>
– Tax evasion	<b>11</b>
– Smuggling	<b>7</b>
– Traffic of human beings	<b>34</b>
– Drug traffic	<b>5</b>
– Others	<b>91</b>
<b>No. of criminal cases in which parallel financial investigations were carried out</b>	<b>184</b>
Including: a) resulting in the identification of goods or financial means	<b>7.097.816</b>

<sup>92</sup> Law No. 75/2020 on AML/TF infringements detection procedure and means of sanctions' application (Sanctions Law), available in English at: [http://spscb.gov.md/storage/legislation/National/EN/EN\\_75.pdf](http://spscb.gov.md/storage/legislation/National/EN/EN_75.pdf)

used to commit crimes (value in lei)		
Of them: - Identified by CARA (value in lei)		<b>3.498.512</b>
<b>SEIZED</b> (value in lei)	Material goods for communication (telephones, computers, etc.)	
	Material goods for transportation (cars, boats, etc.)	<b>1.656.593</b>
	Material goods for shelter (houses, apartments, etc.)	<b>2.587.391</b>
	Material goods for exploitation (means of production, Medical equipment, IT equipment, etc.)	<b>763.910</b>
	Money	<b>2.039.239</b>
b) resulting in the identification of goods or financial means resulting from crimes (value in lei)		<b>1.515.772.401</b>
Of them: - Identified by CARA (value in lei)		<b>1.509.604.966</b>
<b>SEIZED</b> (value in lei)	Material goods for communication (telephones, computers, etc.)	<b>999</b>
	Material goods for transportation (cars, boats, etc.)	<b>52.230.980</b>
	Material goods for shelter (houses, apartments, etc.)	<b>344.634.010</b>
	Material goods for exploitation (means of production, Medical equipment, IT equipment, etc.)	<b>7.146.089</b>
	income obtained from the capitalization of goods	<b>1.111.550.791</b>
<b>No. of criminal cases sent to court, in which parallel financial investigations were carried out</b>		<b>35</b>
Including: - with financial investigations carried out through CARA		<b>18</b>
The value of the seized goods, identified in the parallel financial investigations		<b>23.346.649</b>
In cases of: – money laundering		
– financing of terrorism		
– corruption		
– Tax evasion		<b>2</b>
– Smuggling		<b>1</b>
– Traffic of human beings		<b>13</b>
– Drug traffic		
– Others		<b>19</b>
<b>No. of criminal cases in which parallel financial investigations are ongoing on 31.12.2019</b>		<b>88</b>
Of them: – identified by CARA		<b>77</b>
In cases of: – money laundering		<b>7</b>
– financing of terrorism		
– corruption		<b>25</b>
– Tax evasion		<b>2</b>
– Smuggling		<b>2</b>
– Traffic of human beings		<b>15</b>
– Drug traffic		<b>3</b>
– Others		<b>34</b>

**Table 2. Money laundering (art.243 CC) - criminal investigation and trial cases during 2019**

<b>PROSECUTION</b>	<b>APO</b>	<b>PCOCSC</b>	<b>Territorial Prosecutor Offices</b>	<b>TOTAL</b>
<b>No. of initiated criminal proceedings</b>	33	4		<b>37</b>
<b>No. of investigated criminal cases in total</b>	118	17	8	<b>143</b>
Including:				
- rest from other years	76	8	5	<b>89</b>
- sent to other competent units	24		4	<b>28</b>
<b>No. of joint criminal cases</b>	35	1		<b>36</b>
<b>No. of disjointed criminal cases</b>	5			<b>5</b>
<b>No. of terminated criminal cases / in which was ordered the criminal rehabilitation</b>	10		2	<b>12</b>
Including:	5			<b>5</b>
a) No. of persons ordered to be rehabilitated				
b) on the fact of absence of the elements of crime	10		2	<b>12</b>
c) the amount of the incriminated means as being laundered	2.253.358			<b>2.253.358</b>
<b>No. of criminal cases in which was ordered the cessation of the criminal investigation</b>				
Including:				
a) amnesty				
b) prescription				
c) death				
d) other non-rehabilitation motives				
e) the amount of the incriminated means as being laundered				
<b>No. of criminal cases in which the prosecution was suspended</b>	3			<b>3</b>
Including:	2			<b>2</b>
a) on the grounds of not identifying the perpetrator				
b) in connection with evasion of pursuit	1			<b>1</b>
c) the amount of the incriminated means as being laundered				
<b>No. of criminal cases sent to court</b>	<b>6</b>	<b>1</b>		<b>7</b>

<b>PROSECUTION</b>	<b>APO</b>	<b>PCOCSC</b>	<b>Territorial Prosecutor Offices</b>	<b>TOTAL</b>
Including:	6	2		<b>8</b>
a) natural persons accused of these cases				
b) legal persons accused of these cases				
c) crimes indicted against them	7	1		<b>8</b>
d) the amount of the incriminated means as being laundered	1.986.809.910	482.395		<b>1.987.292.305</b>
e) under Art.243 p.(3) a) CC				
f) under Art.243 p.(3) b) CC	6	1		<b>7</b>
g) with predicate offence	6	1		<b>7</b>
Of them (predicate): - corruption				
- tax evasion	1			<b>1</b>
- smuggling				
- trafficking in human beings				
- drug trafficking				
<b>No. of criminal cases remaining in management on 31.12.2019</b>	96	11	4	<b>111</b>
Including:				
a) individuals suspected/ accused in these causes	43	5	5	<b>53</b>
b) legal persons suspected/ accused of these cases	4	1		<b>5</b>
c) crimes indicted to them				
d) the amount of the incriminated means as being laundered	398.789.844.620	42.000.000	1.474.963	<b>398.833.319.583</b>
<b>COURT CASES</b>	<b>APO</b>	<b>PCOCSC</b>	<b>Territorial Prosecutor Offices</b>	<b>TOTAL</b>
<b>No. of cases with convictions</b>	<b>1</b>	<b>2</b>		<b>3</b>
Including: - a) the amount of the incriminated means as being laundered	197.156	6.397.301		<b>6.594.457</b>
<b>No. of convicted individuals</b>	<b>1</b>	<b>1</b>		<b>3</b>
Including:				
a) fine				
b) imprisonment	1	1		<b>2</b>
c) imprisonment with suspension of the execution of the sentence (under Art.90 CC)				

<b>PROSECUTION</b>	<b>APO</b>	<b>PCOCSC</b>	<b>Territorial Prosecutor Offices</b>	<b>TOTAL</b>
d) imprisonment with partial suspension of the execution of the sentence (under Art.90 <sup>1</sup> CC)				
e) the amount of the incriminated means as being laundered	197.156	6.197.301		<b>6.394.457</b>
f) under Art.243 p.(3) a) CC		1		<b>1</b>
g) under Art.243 p.(3) b) CC				
h) with predicate offence		1		<b>1</b>
Of them (predicate): - corruption				
- tax evasion				
- smuggling				
- trafficking in human beings				
- drug trafficking		1		<b>1</b>
<b>No. of convicted legal entities</b>		1		<b>1</b>
Including:		1		<b>1</b>
a) fine				
b) imprisonment		1		<b>1</b>
c) imprisonment with suspension of the execution of the sentence (under Art.90 CC)				
d) imprisonment with partial suspension of the execution of the sentence (under Art.90 <sup>1</sup> CC)		200.000		<b>200.000</b>
e) the amount of the incriminated means as being laundered				
f) under Art.243 p.(3) a) CC				
g) under Art.243 p.(3) b) CC				
h) with predicate offence				
Of them (predicate): - corruption				
- tax evasion				
- smuggling				
- trafficking in human beings				
- drug trafficking				
<b>No. of cases with cessation sentences</b>				
Including:				
a) amnesty				
b) prescription				
c) death				

<b>PROSECUTION</b>	<b>APO</b>	<b>PCOCSC</b>	<b>Territorial Prosecutor Offices</b>	<b>TOTAL</b>
d) other non-rehabilitation motives				
e) the amount of the incriminated means as being laundered				
<b>Nr. of acquittals</b>				
Including:				
a) final				
b) the amount of the incriminated means as being laundered				
<b>No. of criminal cases remaining pending on 31.12.2019</b>	12	15		<b>27</b>
Including:	21.449.529.599	118.747.694		<b>21.568.277.293</b>
a) the amount of the incriminated means as being laundered				
b) with regard to individuals	8	46		<b>54</b>
c) with regard to legal entities	4	21		<b>25</b>
d) indicted offences	17	82		<b>99</b>
e) under Art.243 p.(3) a) CC	2	17		<b>19</b>
f) under Art.243 p.(3) b) CC	10	50		<b>60</b>
g) with predicate offence	7	15		<b>22</b>
Of them (predicate): - corruption	1			<b>1</b>
- tax evasion	1	8		<b>9</b>
- smuggling		2		<b>2</b>
- trafficking in human beings		1		<b>1</b>
- drug trafficking		2		<b>2</b>

**The General Prosecutor's Office** is a public institution within the judicial authority, contributing to the observance of the rule of law, act of justice, protection of rights and legitimate interests of individuals and society. It includes i) the General Prosecutor's Office, ii) specialised prosecutor's offices and iii) territorial prosecutor's offices. The General Prosecutor's Office (GPO), upon the decision of the Prosecutor General, conducts (leads) and carries out (performs) the criminal investigation, and represents the accusation in courts, in cases of great importance. The territorial prosecutor's offices lead the criminal investigation in cases relating to offences where the criminal investigation is performed by the territorial criminal investigating bodies of the Ministry of Interior.

**The Prosecutor's Office for Combating Organised Crime and Special Causes** as a specialised prosecution office, i) performs the criminal investigation in cases relating to torture, terrorism offences and offences committed by a criminal

organisation, as well as in other cases given in its competence by the law; ii) leads the criminal investigation in cases relating to offences where the criminal investigation is performed by the criminal investigating units of the central specialised bodies of the Ministry of Interior (MoI) and CS; iii) performs or leads the criminal investigation in cases submitted to it for further handling by the Prosecutor General; and iv) represents, in all abovementioned cases, the accusation in the court of first instance, courts of appeal, courts of cassation.

**The Anticorruption Prosecutor's Office** is another specialised prosecution office, which i) performs the criminal investigation in cases given in its competence by the law; ii) leads the criminal investigation in cases where the criminal investigation is performed by the National Anticorruption Centre; and iii) represents, in the above-named cases, the accusation in the courts of first instance, courts of appeal, and courts of cassation.

The National Anticorruption Centre is the authority specialised in the prevention of and fight against corruption, corruption-related acts and corruptible deeds, including ML and FT. Within the NAC, the CARA is responsible for the recovery of assets obtained including through corruption and ML.

**National Anti-corruption Centre (NAC)**<sup>93</sup> is the national authority specialized in the prevention and fight against corruption, corruption related acts and acts of corruptive behaviour. NAC has organizational, functional and operational independence in accordance with the terms established by the law.

NAC has the following **tasks**:

- preventing, detecting, investigating and curbing corruption contraventions and offenses and those related to corruption offenses, as well as acts of corrupt behaviour;
- performing anti-corruption expertise of draft normative acts of the Government, as well as other legislative initiatives submitted to Parliament, to ensure their compliance with state policy to prevent and combat corruption;
- performing the institutional integrity assessment, according to Law No. 325/2013 on institutional integrity assessment, monitoring the implementation of integrity plans and assessment of the progress that is achieved;
- carry out operational and strategic analysis of corruption and related acts, as well as acts of corrupt behaviour, of information on analytical studies on the corruption phenomenon;
- recovery of criminal assets.

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<sup>93</sup> [https://www.legis.md/cautare/getResults?doc\\_id=127720&lang=ro](https://www.legis.md/cautare/getResults?doc_id=127720&lang=ro)

NAC is an unitary body, centralized and hierarchically structured, composed of a central office and territorial subdivisions (North, Centre and South).

NAC is funded entirely from the State Budget, operating a treasury account and endowed with other necessary attributes.

NAC is independent in its activity and is subject only to the law, having organizational, functional and operational independence.

According to the Parliament Decision No. 34/2016<sup>94</sup> – the staff limit of NAC is **359 units Vacancies** (18.04.2022) - **53** (19 temporary vacancies and 34 vacancies).

Article 269 from the Criminal Procedure Code No.122/2003<sup>95</sup> establishes the competence of the criminal investigation body of NAC, in the investigation of certain categories of crimes. Thus, the criminal investigation body of NAC carries out the criminal investigation regarding the money laundering offence (Art. 243 from the Criminal Code No.985/2002) and financing of terrorism (Art. 279 from the Criminal Code No.985/2002):

#### **Article 243. Money Laundering**

(1) Money laundering committed by:

a) the conversion or transfer of goods by a person who knew or should have known that such goods were illegal earnings in order to conceal or to disguise the illegal origin of goods or to help any person involved in the commission of the main crime to avoid the legal consequences of these actions;

b) the concealment or disguise of the nature, origin, location, disposal, transmission, or movement of the real property of the goods or related rights by a person who knew or should have known that such were illegal income;

c) the purchase, possession or use of goods by a person who knew or should have known that such goods were illegal earnings;

d) the participation in any association, agreement, complicity through assistance, help or advice in order to commit the actions set forth in letters a)-c);

shall be punished by a fine in the amount of 1350 to 2350 conventional units or by imprisonment for up to 6 years, in both cases with (or without) the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 8000 to 11,000 conventional units with the deprivation of the right to practice certain activities or by the liquidation of the legal entity.

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<sup>94</sup> [https://www.legis.md/cautare/getResults?doc\\_id=119758&lang=ro](https://www.legis.md/cautare/getResults?doc_id=119758&lang=ro)

<sup>95</sup> [https://www.legis.md/cautare/getResults?doc\\_id=130985&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130985&lang=ro)

(...)

(4) Illegal actions shall also be acts committed outside the territory of the country provided that such acts include the constitutive elements of a crime in the state where they were committed and may be the constitutive elements of a crime committed in the territory of the Republic of Moldova.

#### **Article 279. Terrorism financing**

(1) Terrorism financing meaning deliberately offering or collecting by any person and through any means, directly or indirectly goods of whatsoever nature obtained through any means or providing certain financial services aimed at the use of such goods or services or knowing that they will be used, in whole or in part:

a) to organize, prepare, or commit an offence of terrorist nature;

b) for any purpose, by an organized criminal group, a criminal organization, or a person who commits or attempts to commit an offence of terrorist nature or organizes, manages, associates, agrees in advance, incites, or participates as a accomplice in the commission of this offence;

shall be punished by imprisonment for 5 to 10 years with the deprivation of the right to hold certain positions or to practice certain activities for 2 to 5 years, whereas a legal entity shall be punished by a fine in the amount of 8000 to 11,000 conventional units and by the liquidation of the legal entity.

(2) The terrorism financing offence shall be considered consummated regardless of whether the offence of terrorist nature was committed or whether the goods were used for the commission of this offence by the group, organization, or person mentioned in para (1), ltr b) or whether the offence was committed on or beyond the territory of the Republic of Moldova.

Pursuant to Art. 106 para. (2) g) from the Criminal Code No.985/2002, goods which are the object of the money laundering and financing of terrorism crimes shall be subject to special confiscation.

Article 106/1 from the Criminal Code (extended confiscation) provides that are subject to confiscation and other goods than those mentioned in Art. 106, if the person is convicted for a number of offenses, including Art. **243 (Money laundering)** and if the offense was omitted for financial interest.

Extended confiscation is ordered if the following conditions are met:  
a) the value of goods acquired by convicted person for 5 years before and after the commission of the offense, until the adoption of the sentence, substantially exceeds the legally acquired income;

b) the court finds, based on the evidence presented in the case, that those assets derived from criminal activity as the ones provided in par. (1) – including money laundering.

**The criminal investigating bodies of the Ministry of Interior** conduct criminal investigations of offences that are not assigned by law to the area of jurisdiction of other investigating agencies.

**The Customs Service's criminal investigating body** conducts criminal investigations of offences related to smuggling and evasion of customs payments as defined in the Moldovan Criminal Code.

**The Anti-Terrorism Centre of the Intelligence and Security Service** is the national agency directly responsible for the technical co-ordination of measures to prevent and combat terrorism, including FT, carried out by the competent public authorities. Its basic tasks are to evaluate terrorist threats, to gather and analyse information on the status and trends of the phenomenon, and to provide a relevant exchange of information at national and international level. The SIS oversees the implementation of UNSCRs at the national level, and may order the removal of restrictive measures in the light of TFS.

#### **National Bank of Moldova**

According to Art.15 para.(1) letter a) of the AML/CFT Law No. 308/2017<sup>96</sup>, the National Bank of Moldova is the supervisory authority to commercial banks, nonbank payment service providers and foreign exchange entities. The main competencies are (art. 15 para.(2) of the Law No.308/2017):

a) issue orders, decisions, instructions and other normative acts in the field of prevention and combating of money laundering and terrorism financing , in the cases provided by the law;

b) approve and publishes guidelines and recommendations necessary for the supervised reporting entities for implementation of the provisions of the present law;

c) monitors and verifies the application of the provisions of the present law, of the subordinated normative acts, of the own programs of the reporting entities and of the instructions regarding the application of customers due diligence measures, identification of customer and beneficial owner, reporting, keeping of data on activities and transactions, as well as on the execution of measures and procedures related to internal control.

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<sup>96</sup> The AML/CFT Law No. 308/2017, available in English at:  
<http://spsb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

At the same time, if the reporting entities do not respect the AML/CFT obligations provided by the law and other normative acts, the NBM may apply measures and sanctions provided by legislation (art. 15 para.(5) of the Law No.308/2017).

Moreover, NBM based on Art. 15 para.(8) of the Law No.308/2017, within the limits of the competences established by legislation, shall take sufficient measures in order to prevent the establishment of the control or obtainment of majority of shares and/or of controlling quota or holding of management functions of beneficial owner of the reporting entity by the criminals and organized criminal groups, their accomplices and/or shareholders that act in concert.

Also, NBM is obliged (art. 15 para.(10) of the Law No.308/2017) to inform immediately, but not later than 24 hours, Office for Prevention and Fight against Money Laundering in case if during the inspections carried out at the reporting entities or in any other manner, discovers the facts that may be related to money laundering or terrorism financing.

Based on the Art. 17 of the Law No.308/2017, NBM cooperates at the national and international level with its stakeholders in the AML/CFT filed. Also, it should be mentioned that NBM concluded on March 14, 2019, an agreement with the Office for Prevention and Fight against Money Laundering for the purpose of information sharing.

The sectorial/specific laws that governs the activity of the National bank of Moldova establishes the competencies for its efficient licensing, regulation and supervision of the commercial banks, nonbank payments service providers and foreign exchange entities (art. 5 para.(1) letter d) and m) and Art.44 of the Law No.548/1995 on the National bank of Moldova<sup>97</sup>; Art.11 and 93 of the Law No.114/2012 on payment services and electronic money<sup>98</sup> and Art.41 Law No.62/2008 on foreign exchange regulation<sup>99</sup>).

On 01.02.2017, within the NBM was created a separate unit – Division for combating money laundering and terrorism financing, which is assigned to the first vice governor. The Division has, at the moment, 15-employment position allocated in order to proper conduct its responsibilities (2 management position, 1 legal expert, 2 consultant experts, 5 principal economists and 5 coordinator economists). The budget allocated for the division is part of the general budget approved for the NBM activity.

Below are provided some statistical data related to supervisory actions NBM has taken to reporting entities in the period 2020 - March 2022:

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<sup>97</sup> <https://www.bnm.md/en/content/law-national-bank-moldova-no548-xiii-july-21-1995>

<sup>98</sup> <https://www.bnm.md/en/content/law-payment-services-and-electronic-money-no-114-18052012>

<sup>99</sup> <https://www.bnm.md/en/content/law-banks-activity-no-202-06-october-2017>

	2020			2021			March 2022		
	Banks	Non bank PSP	FEE	Banks	Non bank PSP	FEE	Banks	Non bank PSP	FEE
Total number of entities	11	7	385	11	7	392	11	7	398
Total number of onsite inspections (including thematic)*	2 (4)	1	24	3 (-)	2	17	- (-)	-	4
Total number of off site analysis	20	2	-	38	-	-	17	-	-
Number of sanctions, of which:									
Warnings	-	-	5	5	1	10	-	-	1
Fine to entity	1 (3,7 mil.lei)	-	-	-	-	5 (total amount 0,091 mil. lei)	1 (0,8 mil.lei)	1 (0,4 mil.lei)	-
Fine to administrators	-	-	-	-	-	-	-	-	-
Suspension of entity's activity	-	-	-	-	-	1	-	-	-
Suspension of management position	-	-	-	-	-	-	-	-	-
License withdrawal	-	-	-	-	-	-	-	-	-

\*The limited number is due to Covid restrictions period.

The main type of violations that are identified during the supervision of the reporting entities are: non identification of customers and/or beneficial owners; non proper monitoring of customer's transactions and lack of information regarding source of funds used in transactions; lack of identification and assessment of specific ML/FT risks; non proper identification of high risk customer, including PEP and consequently non application of all enhanced due diligence measures; non-reporting some of suspicious transactions to the Office for Prevention and Combat of Money Laundering and the necessity to improve the internal control system.

At the same time, during the period 2020 - March 2022, NBM informed the Office for Prevention and Combat of Money Laundering regarding identified suspicions as follows: in 2020 – 20 letters; in 2021 – 21 letters and in 2022 – 5 letters.

**The National Commission for Financial Markets** is an autonomous public authority, which regulates and supervises the entities carrying out activities on the capital (securities), insurance and microfinance markets, such as investment firms, register societies, insurance companies, insurance intermediaries, savings and credit associations and microfinance organisations.

**The Ministry of Finance** regulates accounting and audit in the corporate sector, as well as partly on organisers of gambling (including casinos). It performs on-site

and off-site supervision and maintains and updates the ‘State Register of auditors’ and the ‘State Registry of Auditors of Individual Entrepreneurial Auditors’.

**The Ministry of Justice** issue the licenses to notaries and lawyers and take part in international cooperation, including the extradition.

**The State Tax Service** is responsible for the tax administration process. It also creates, manages and updates the Register of payment and banking accounts of natural and legal persons within the AML/CFT framework.

**The Public Services Agency** co-ordinates and organises the activities aimed at ensuring the implementation of public policies in the areas of, inter alia, real estate cadastre, regulation through licensing of entrepreneurial activity, and state registration of legal entities, their branches and representations and self-employed individuals. It also grants licenses to casinos (including internet casinos).

**The State Chamber for Marking Supervision** is responsible for licensing, registration and supervision of natural and legal persons practicing activities with precious metals and precious stones.

**The Notary Chamber and the Union of Lawyers** supervise notaries and lawyers respectively. They are self-regulatory bodies, promoting and protecting their benefits and guaranteeing independence and the quality of notary/lawyer assistance.

**26. Does Moldova demonstrate a high-level political commitment to implement Financial Action Task Force (FATF) Recommendations? Has an Action Plan been produced in that regard and if yes:**

- a) Which measures are planned, and over what time-line?**
- b) How has the FATF Action Plan been implemented?**
- c) Are there bodies in charge to supervise implementation?**

In the period of 1-12 October 2018, the Republic of Moldova, in its status of member state of Moneyval Committee, was subject to the 5th round of evaluation on the implementation of the 40 FATF Recommendations. The evaluation report and the evaluators' recommendations were approved in the MONEYVAL Plenary Session, which took place in July 2019.

In order to implement the recommendations formulated as a result of the 5th round of evaluation of the MONEYVAL Committee, as well as to address the shortcomings identified in the field, in particular as regards the proper implementation of the normative framework, it was necessary to develop and approve the Parliament Decision No. 239/2020<sup>100</sup> on approving the National strategy for preventing and combating money laundering and terrorist financing

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<sup>100</sup> Parliament Decision No. 239/2020 on AML/CFT Strategy, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=125264&lang=ro](https://www.legis.md/cautare/getResults?doc_id=125264&lang=ro)

for 2020-2025 and the Action Plan for implementing the National strategy for preventing and combating money laundering and terrorist financing for 2020-2025.

- The Action Plan of the mentioned Strategy is planned for the period of 2020 – 2025;
- The Action Plan is at the first year of implementation. The achieved results were reported to the Government and Parliament.

Based on the progresses provided by the national authorities on the implementation of the mentioned Action Plan for the period of 2020 - 2021, it should be noticed that some important legislative and institutional advances have been made so far in preventing and combating money laundering and terrorist financing.

Thus, the most important achievement should be considered the approval of the National Risk Assessment (NRA) of in the area of ML/TF risks. Identifying, assessing, and understanding ML/TF risks represents an essential part of the implementation and development of a national AML/CFT regime, which includes laws, regulations, enforcement and other measures to mitigate ML/TF risks. The NRA supports the national authorities in the prioritisation and efficient allocation of resources. Results of the national risk assessment provide necessary information to financial institutions and designated non-financial businesses and professions (DNFBPs) to support the conduct of their own risk assessments. Based on Moneyval recommendations, the updated version of NRA includes new sections related to the terrorist financing risk assessment for the NPO sector, analysis on the misuse of legal entities for money laundering/terrorist financing, assessment of virtual assets sector and other issues related to ML/TF risks.

In order to enhance the ability to implement the international sanctions related to terrorist activities and proliferation of weapons of mass destruction, was developed and approved the Government Decision No. 792/2020<sup>101</sup> on Regulation regarding the procedure of application of financial sanctions related with terrorist activities and of proliferation of weapons of mass destruction. The mentioned document regulates the manner of application of financial sanctions in relation with persons, groups or entities involved in terrorist activities and proliferation of weapons of mass destruction, determines the competencies and attributions of competent authorities in the area and establishes the general framework for implementation of financial sanctions. The implementation of the Regulation has the purpose to ensure the legality, transparency and opportunity in the process of application of financial sanctions related with terrorist activities and proliferation of weapons of mass destruction, so as to ensure the respect for fundamental human rights and the fulfilment of international commitments in the area.

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<sup>101</sup> Government Decision No. 792/2020, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=123864&lang=ro](https://www.legis.md/cautare/getResults?doc_id=123864&lang=ro)

As well, by the Law No. 150/2021 were introduced important amendments to the Law No. 220/2007<sup>102</sup> regarding the state registration of legal persons and individual entrepreneurs related to the provisions on beneficial owner (obligation of the state registration authority to verify, registry, record and update the data regarding the beneficial owners of legal entities and individual entrepreneurs, data necessary to be collected and verified by the state registration authority, public registry on beneficial owner etc).

In order to develop and improve the AML/CFT regulatory framework and supervisory mechanism used to oversee commercial banks, including by implementing 5th round MONEYVAL's recommendations, the National Bank of Moldova approved the amendments to the Regulations on the AML/CFT requirements for the supervised entities: commercial banks, non-bank payment service providers and foreign exchange offices and hotels.

As result of the undertaken measures by the national authorities, the Republic of Moldova prepared and submitted the progress report to the Moneyval Committee, that will be reviewed during the Plenary Session in May 2022.

- Office for Prevention and Fight against Money Laundering as an independent structure within the Government is responsible for monitoring the implementation of the Action Plan.

**27. Is there a regulation preventing the use of the financial system for the purpose of money laundering/financing of terrorism? Describe the main elements of it.**

The Law 308/2017 on Prevention and Combating Money Laundering and Terrorism Financing<sup>103</sup> (the AML/CFT Law), in Art. 1 and 2 lays down the aim and domain of the law, namely:

**Article 1. Aim of law**

The present law establishes the measures of prevention and combating money laundering and terrorism financing, contributing to ensure the state security, aiming to protect the national financial-banking, financial-non-banking and the designated non-financial businesses and professions system, protection of rights and legitimate interests of natural and legal persons, as well as of the state.

**Article 2. Domain of the law**

(1) Under the incidence of the present law are falling actions of money laundering, associated offenses, actions of terrorism financing and proliferation of weapons of mass destruction, committed directly or indirectly, by citizens of the Republic of Moldova, foreign citizens, stateless persons, resident or non-resident legal entities

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<sup>102</sup> Law No. 220/2007 on state registration of legal entities, available in Romanian at: [https://www.legis.md/cautare/getResults?doc\\_id=131041&lang=ro#](https://www.legis.md/cautare/getResults?doc_id=131041&lang=ro#)

<sup>103</sup> The AML/CFT Law No. 308/2017, available in English at: <http://spsb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

on the territory of the Republic of Moldova, as well as, in accordance with the international treaties to which the Republic of Moldova is a party, the actions committed by them outside the territory of the Republic of Moldova

(2) If the transaction/operation is carried out in foreign currency, for determination of its equivalent in MDL, for the purpose of implementation of provisions of the present law, it is applied the official exchange rate of MDL against foreign currency, established by the National Bank of Moldova, valid for the day of transaction/operation execution

According to the Art. 15 para. (2) of the AML/CFT Law No. 308/2017<sup>104</sup>, for the purpose of the enforcing of provisions of the men law, of other normative acts, as well as of the requirements of international standards in the this area, the authorities with supervision functions of the reporting entities, within the limits of the competences: issue orders, decisions, instructions and other normative acts in the field of prevention and combating of money laundering and terrorism financing, in the cases provided by the law and to approve and publishes guidelines and recommendations necessary for the supervised reporting entities for implementation of the provisions of the present law. For this purpose, each of the supervisory authorities approved sectorial regulations, as follows:

- **National Bank of Moldova:**
  - Regulation on requirements for prevention and combating money laundering and terrorist financing in the activity of banks No. 200/2018<sup>105</sup>;
  - Regulation on requirements for prevention and combating money laundering and terrorism financing in the activity of Foreign Exchange Entities and Hotels No. 201/2018<sup>106</sup>;
  - Regulation on requirements related to prevention and combating money laundering and terrorism financing in the activity of non-bank payment services provider No. 202/2018<sup>107</sup>;
- **National Commission for Financial Market:**

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<sup>104</sup> The AML/CFT Law No. 308/2017, available in English at:

<http://spscb.gov.md/storage/legislation/National/EN/AML%20Law%20308.2017%2010.12.2021.pdf>

<sup>105</sup> Regulation on requirements for prevention and combating money laundering and terrorist financing in the activity of banks No. 200/2018, available in English at: <https://www.bnm.md/en/content/regulation-requirements-related-prevention-and-combating-money-laundering-and-terrorist>

<sup>106</sup> Regulation on requirements for prevention and combating money laundering and terrorism financing in the activity of Foreign Exchange Entities and Hotels No. 201/2018, available in English at:

<https://www.bnm.md/en/content/regulation-requirements-related-prevention-and-combating-money-laundering-and-terrorism>

<sup>107</sup> Regulation on requirements related to prevention and combating money laundering and terrorism financing in the activity of non-bank payment services provider No. 202/2018, available in English at:

<https://www.bnm.md/en/content/regulation-requirements-related-prevention-and-combating-money-laundering-and-terrorism-0>

- Decision No. 38/1/2018<sup>108</sup> on approval of the regulation on measures to prevent and combat money laundering and financing of terrorism on the non-banking financial market
- **Notary Chamber**
  - Regulation regarding the AML/CFT measures for notaries<sup>109</sup>
- **Union of Lawyers of the Republic of Moldova**
  - Regulation regarding the AML/CFT measures for lawyers
- **Ministry of Finance**
  - Order No. 5/2022<sup>110</sup> on approval of the Instruction on the prevention and fight against money laundering and terrorism financing for auditors
- **State Chamber for Marking Supervision**
  - Order No.9-A/2018 on approval of the Instruction on the prevention and fight against money laundering and terrorism financing in the field of precious metals and stones<sup>111</sup>
- **National Regulatory Agency for Electronic Communications and Information Technology**
  - Decision No. 26/2018 on the approval of the Recommendations in the AML/CFT in the activity of the providers of postal services<sup>112</sup>
- **Office for Prevention and Fight against Money Laundering**
  - Order No. 41/2018<sup>113</sup> regarding the approval of the instruction on the application of Art. 4 let. 1) of the AML/CFT Law (for the other natural and legal persons who sell goods in the amount of at least 200.000 lei or its equivalent, only if the payments are made in cash, regardless of whether the transaction is carried out through an operation or through several operations that appear to have connection between them);
  - Order No. 38/2020<sup>114</sup> regarding the approval of the Regulation on prevention and control measures against money laundering and

<sup>108</sup> Decision No. 38/1/2018 on approval of the regulation on measures to prevent and combat money laundering and financing of terrorism on the non-banking financial market, available in Romanian at:

[https://www.legis.md/cautare/getResults?doc\\_id=111257&lang=ro](https://www.legis.md/cautare/getResults?doc_id=111257&lang=ro)

<sup>109</sup> Regulation regarding the AML/CFT measures for notaries, available in Romanian at:

<https://cnm.md/2021/09/03/regulamentul-control-aml-aprobat-pdf/>

<sup>110</sup> Order No. 5/2022, available in Romanian at:

[https://www.legis.md/cautare/getResults?doc\\_id=130821&lang=ro](https://www.legis.md/cautare/getResults?doc_id=130821&lang=ro)

<sup>111</sup> Order No.9-A/2018 on approval of the Instruction on the prevention and fight against money laundering and terrorism financing in the field of precious metals and stones, available in Romanian at:

[https://cssm.md/sites/default/files/document/attachments/ordinul\\_9-a\\_cssm\\_6.pdf](https://cssm.md/sites/default/files/document/attachments/ordinul_9-a_cssm_6.pdf)

<sup>112</sup> Decision No. 26/2018 on the approval of the Recommendations in the AML/CFT in the activity of the providers of postal services, available in Romanian at:

<https://www.anrceti.md/files/filefield/DCA%20nr.26%20din%2024.09.2018%20Recomand%20spalarea%20bani%20lor.pdf>

<sup>113</sup> Order No. 41/2018, available in Romanian at:

[http://spscb.gov.md/storage/legislation/National/RO\\_Ordin\\_41.pdf](http://spscb.gov.md/storage/legislation/National/RO_Ordin_41.pdf)

<sup>114</sup> Order No. 38/2020, available in Romanian at:

[http://spscb.gov.md/storage/legislation/National/RO\\_Ordin\\_38.pdf](http://spscb.gov.md/storage/legislation/National/RO_Ordin_38.pdf)

terrorist financing for reporting entities foreseen by Art. No. 4 para. (1) letter e) of the AML/CFT Law (real estate).