Questionnaire

Part II

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

CHAPTER 6:

COMPANY LAW

May 2022

The chapter includes harmonised rules in the field of company law, including financial reporting requirements, intended to facilitate the exercise of the right of establishment.

In the field of **company law,** codified Directive (EU) 2017/1132 brings together a large part of EU company law rules, covering issues such as formation, capital and disclosure requirements, and operations (such as mergers and divisions) of companies. This directive was amended by Directive 2019/1151 on the use of digital tools and processes in company law and by Directive 2019/2121 on cross-border conversions, divisions and mergers. It was also amended by Directive (EU) 2019/1023 , specifically to allow Member States to allow exceptions from certain articles of Directive (EU) 2017/1132, when this is necessary to establish preventive restructuring frameworks.

Directive 2009/102/EC requires Member States to ensure that their domestic law recognises single member limited liability companies. Directive 2004/25/EC on takeover bids lays down harmonised rules to facilitate cross-border takeovers within the EU, as well as improving transparency and protecting minority shareholders in the context of such takeovers.

The *acquis* also provides for certain European legal forms, in particular the European Economic Interest Group (EEIG - Regulation 2137/85) and the European Company *(Societas Europaea* or SE - Regulation 2157/2001), while leaving several aspects of their internal structure and operation to be regulated through the domestic law of Member States.

The Shareholders' Rights Directive (2007/36/EC) introduces minimum standards for the exercise of certain rights of shareholders in listed companies. Directive (EU) 2017/828 amends Directive 2007/36/EC regarding the encouragement of long-term shareholder engagement. Commission Implementing Regulation (EU) 2018/1212 lays down minimum requirements implementing the provisions of Directive 2007/36/EC as regards shareholder identification, the transmission of information and the facilitation of the exercise of shareholders rights.

Commission recommendations 2004/913/EC, 2005/162/EC and 2009/385/EC, and 2009/384/EC address corporate governance principles regarding remuneration of directors, the independence of non-executive directors and board committees, and remuneration in financial institutions. Commission Recommendation 2014/208/EU on the quality of corporate governance reporting
('comply or explain') provides guidance on how listed companies should explain their departures from the recommendations of the relevant corporate governance codes.

Directive 2004/109/EC [and amending Directive 2013/50/EU] requires harmonisation of **transparency** requirements related to listed companies.

In the field of **company reporting and auditing,** the *acquis* includes recognition, valuation and disclosure rules, and layouts for balance sheets and profit & loss accounts for annual and consolidated statements (Directive 2013/34/EU) of public and private limited liability companies. This directive also sets out which companies have to be audited, as well as publication obligations. In addition, Regulation 2002/1606/EC on the application of international accounting standards requires EU companies with securities listed on a regulated market to draw up their consolidated financial statements in accordance with international accounting standards that have been endorsed by the EU. Under this Regulation, Member States may also decide to apply International Financial Reporting Standards to the individual and/or consolidated financial statements of non-listed companies.

Directive 2006/43/EC on Statutory Audits harmonises rules including inter alia the approval and registration of statutory auditors, external quality assurance, public oversight, auditor independence and the application of International Standards on Auditing (ISAs). Amending Directive 2014/56/EU establishes additional requirements to improve audit quality, with a focus on auditor independence, audit reports and public audit oversight. New Regulation 537/2014/EU introduces specific requirements regarding the statutory audit of public-interest entities (PIEs). PIEs are listed companies, credit institutions, insurance undertakings, and other entities designated as such by Member States. The Regulation also imposes specific requirements on the organisation of the public oversight system of statutory auditors and audit firms that audit PIEs.

I. COMPANY LAW

A. Legal Framework

Directive (EU) 2017/1132 relating to certain aspects of company law

1. To what extent is domestic legislation in Moldova aligned with this directive? Are there plans in this regard?

Currently, the (EU) Directive No. 2017/1132 regarding certain aspects of company law, specifically the part related to the joint stock companies, has been fully transposed into national legislation via: Law No. 18/2020 amending the Law No. 1134/1997 on joint stock companies[1] and Civil Code of Republic of Moldova No. 1107/2002[2].

Thus, the following provisions of the Directive (EU) 2017/1132 were transposed in the legal framework of the Republic of Moldova by the Law on the modernization of the Civil Code and the amendment of some legislative acts No. 133/2018: Art.: 7 para. (2), Art. 8, Art. 9 paras. (2)-(3),Art. 89, Art. 90, Art. 106, Art. 108 para. (1), Art. 136 para. (1)), Art. 137 para. (2), Art. 146 para. (3), Art. 151 para. (3), Art. 152 and Art. 153.

The following clauses of the Directive (EU) 2017/1132 were transposed into the legal framework of the Republic of Moldova by the Law amending Law No. 1134/1997 on joint stock companies No. 18 /2020: Art. 4 letters h), j) and k); Art. 45-47; Art .49 paras. (1) - (3); Art. 52 para. (2); Art. 56; Art. 57; Art. 58 para. (2); Art. 59 para. (2); Art. 60-63; Art. 66; Art. 68; Art. 70; Art. 72 para. (3); Art.73; Art.74; Art.80-83; Art. 87 para. (3); Art. 89 para. (1); Art. 90 para. (1); Art. 91 para. (1) letters (c) to (g); Art. 92; Art. 93 para. (1); Art. 95; Art. 96; Art. 97 paras. (1) to (3); Art. 99 para. (1); Art. 104; Art. 107-112; Art. 135–138; Art. 141 paras. (2) and (3); Art. 142-144; Art. 146 paras. (1) and (3); Art. 147; Art. 150; Art. 153 and Art. 155.

These amendments regulates the major areas covered by the Directive 2017/1143, among which: detalisation of the pre-emption right of the shareholders, issuance of the shares' price; detalisation of the information that shall appear in either the statutes or the instrument of incorporation; providing that the amount of the serious loss of the subscribed capital shall not be set at a figure higher than half the subscribed capital; setting a gradual increase of the minimum subscribed capital of joint stock companies to MDL 600 000 by 2022; setting detailed rules on distribution of intermediary dividends; increasing the quorum requirements for adopting sensible issues as for ex.: reorganisation, subscribed capital increase;

[1]Law No. 1134/1997 on joint stock companies, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130627&lang=ro

[2]Civil Code of the Republic of Moldova No. 1107/2002 available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro

acquisition of the company's shares by itself, and other areas of companies' management.

2. Is there a central business register in Moldova for the registration of companies and disclosure of all information on business entities? If not, are there any plans in this respect? If yes, how does the register hold company information - paper, electronic, both? Is the register accessible to the public online? Are any fees charged for issuing certain documents (certificates, copies, transcripts, attestations, notifications) contained in the register?

The Republic of Moldova holds the State Register of Legal Entities and the State Register of Individual Entrepreneurs which are components of the State Register of Legal Units (RSUD) which contains all information (data) on legal entities (including non-commercial organizations) and registered individual entrepreneurs operating on the territory of the Republic of Moldova.

The State Register holds the information in both electronic and paper format (records). According to the provisions of the legislation, the state registration agency ensures the public viewing of the information from the State Register on its official website. The information contained in the State Register is updated every working day and enables free of charge visualization and access of its data, in accordance with the laws governing data exchange and interoperability.

The information published on the website of the state registration body is official and the state registration agency assumes responsibility for the accuracy of the information published.

The information contained in the State Register is published on the Governmental Data Portal https://date.gov.md/home/publicpages. The following information about the company is open to the public: the name, the type of the organization, the state identification number (IDNO), incorporation date, the name and surname of the administrator, the name and surname or name of the founders (associates) and the size of their shares, the status of the legal entity (passive, inactive, in the process of reorganization or deregistration, suspension of activity). The Data contained in the State Register at https://date.gov.md/home/publicpages may be viewed and accessed free of charge.

According to the Law No. 220/2007 on state registration of legal entities and individual entrepreneurs3, the information contained in the State Register and the instruments of constitution of a legal person or individual entrepreneur is available on request. The fees provided by the legislation cover exclusively the administrative costs. The information contained in the State Register is made

[3]Low No. 220/2007 on state registration of legal entities and individual entrepreneurs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129117&lang=ro

available free of charge to public authorities in electronic format, under the laws governing data exchange and interoperability.

3. How is the disclosure of documents and particulars carried out? Is there an official gazette?

Changes of name, registered office, reorganization, or liquidation of commercial entities are published in the Official Gazette of the Republic of Moldova, according to the provisions of the Civil Code of the Republic of Moldova No. 1107/2002. At the same time, according to the Law No. 220/2007, the Public Services Agency (PSA) is empowered with responsibilities for maintaining the State Register of Legal Entities (RSUD). Official data on entities registered in the RSUD, the registered information on the commercial entities is publically accessible on the PSA website (www.asp.gov.md).

4. Are there any penalties or fines imposed on companies if annual accounts are not deposited at the register? If so, what is the amount of such fines?

Moldovan legislation provides for a series of reporting requirements for legal entities, the breach of which may lead to administrative sanctions.

According to Art. 295 of the Contravention Code of the Republic of Moldova No. 218/2008[4], the submission, to the body empowered to collect financial reports, of financial reports which do not correspond to the form laid down by the legislation or which do not reflect all the data established for this form or the incomplete or erroneous presentation of financial reports, or their failure to submit them within the time limit set by the legislation, shall be punishable by a fine of 15 to 45 conventional units (one conventional unit being equal to MDL 50, about EUR 2.5) applied to the person in charge.

Additionally, according to Art. 301 of the Contravention Code of Republic of Moldova No. 218/2008, the failure to submit the fiscal report before the deadline set out by tax law is sanctioned with a fine from 6 to 12 conventional units (EUR 15-30) applied to the person in charge.

[4]Contravention Code of the Republic of Moldova No. 218/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=131058&lang=ro

5. Please indicate any preventive, administrative or judicial controls at the time of company formation. Do the instrument of constitution and other documents have to be drawn up in a specific form?

According to the provisions of Art. 248 of the Civil Code, a company shall be registered, in the manner and within the deadline established by law, at the Agency for Public Services. If the registration of the company did not take place within 3 months from the date of authentication of the deed instrument of incorporation, its founding shareholders have the right to be relieved of the obligations resulting from their subscriptions, unless provided otherwise by the instrument of incorporation.[5] Thus, in accordance with the above provisions, the state shall carry out an administrative control regarding the legality of setting up a company. State registration is carried out by the Public Services Agency through its territorial structures.

According to the provisions of Art. 36 of the Law No. 220/2007 on State Registration of Legal Entities and Individual Entrepreneurs[6], the registrar is a person empowered for state registration of legal entities and individual entrepreneurs. The registrar operates within the territorial structure of the state registration body. His/her basic duties include the examination of applications on state registration of companies and individual entrepreneurs, as well as the registration of companies, individual entrepreneurs by adopting the respective decision.

According to the provisions of Art. 7 of the Law No. 220/2007, for the state registration of the company the following documents must be submitted:

- The application for registration, signed by the founder appointed by the Decision of incorporation or, where applicable, signed by another person authorized by the Decision of incorporation. The application form for the registration, together with the instructions for completing the application, are approved by the state registration body and published on its official website. If the legal entity intends to carry out activity in a regulated sector, the application for registration shall contain a declaration on its own responsibility regarding the holding of the prior opinion/approval of the competent authority on its incorporation;
- The decision of incorporation and the incorporation instruments of the legal entity, depending on the form of legal organization, approved by all founding shareholders. Art. 247 of the Civil Code sets out the requirements for the contents and the form of the instrument of incorporation. Thus, the instrument of incorporation must contain the

[5]Civil Code of the Republic of Moldova No. 1107/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro

[6]Low No. 220/2007 on state registration of legal entities and individual entrepreneurs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129117&lang=ro

following data: name, place and date of birth, residence, citizenship and data from the identity document of the founder natural person; name, seat, nationality, registration number of the founder legal person; company name; type of activity; shareholders' participations, their method and term of payment; the value of the assets constituted as participation in kind and the method of valuation, if such contributions have been made; the seat the structure, attributions, the way of incorporation and functioning of the company's bodies; the way of representation; company branches; other data, established by law for the respective type of company. The instrument of incorporation of the Company is drawn up in the state language and is signed by all the founding shareholders;

- The opinion of the National Commission of Financial Market – for insurance companies, non-state pension funds and, in the cases provided by law, for non-bank lending organizations;
- The document confirming the payment of the registration fee;
- information about the beneficial owner (s), in accordance with Law No. 308/2017 on preventing and combating money laundering and terrorist financing[7]

The documents for company incorporation are not subject to notarization. However, if the company is set up by non-residents, notarization and legalization requirements are applicable (e.g., apostille or consular legalization, as applicable).

Moldovan legislation imposes a preventive control carried out at the time when a company is set up. In case of formation of a *joint stock company*, as the most complex form of corporation, the preventive control is performed by the National Commission for Financial Markets (NCFM). Namely, at the time of the establishment of the joint stock company, the NCFM is competent, pursuant to Art. 35 and Art. 36 of the Law No. 1134/1997, to control and issue appropriate decisions regarding the issuance of securities at the incorporation of the joint stock company and to verify the legality of the company's constitutive meeting.

Following the meeting of the founders, the management of the joint stock company has the obligation to request, firstly, the state registration of the joint stock company in the Register held by PSA (Companies Register), and secondly, the registration in the Register of securities issuers (RSI) kept by NCFM, no later than 15 days from the date of state registration of the company (if the articles of association do not provide for in-kind capital contributions; for in-kind contributions however the law allows a maximum of 2 months for registration of property and real estate, contributed by the founders).

The documents attached to the application for the securities issuing at the establishment of the company include: the minutes of the company constituency meeting; the list of founders, and proof of payment by them of the total amount of

[7]Law No. 308/2017 on preventing and combating money laundering and terrorist financing, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125309&lang=ro

shares subscribed at the price of the issuance, and in case of in-kind contributions - the act of handing over to the company of in-kind contributions for the subscribed shares; the decision of constitutive meeting on the approval of non-monetary value of contributions, and the copy of the report of the evaluation company that estimates the market value of these contributions; the act of establishment of the company and the statute of the company.

If the company is constituted following the reorganisation by transformation of an existing legal entity, the NCFM will receive the following: the reorganisation decision, the reorganisation balance sheet and the act of receipt-delivery, approved by the competent management body of the company; documents confirming the registration, after the establishment of the company, of property and real estate contributed by the founders as a capital contribution, and which are subject to registration under law.

The data registered in RSI is public, and any decision on amendments in RSI is published in the Official Gazette, according to Art. 22 para. (3) of Law No. 192/1998 on the National Commission for Financial Markets[8] (Law No. 192/1998).

According to the Law No. 220/2007, upon formation of insurance companies and non-bank credit organizations, an opinion (the approval) of the National Commission of Financial Market is to be submitted as well. This is a preventive control measure.

In addition to the above, upon setting up a company, clearance from the Moldovan Competition Council may be required if the setup of the company is qualified as economic concentration subject to prior clearance. Under the Moldovan law, the joint creation of a company that performs all the functions of an autonomous economic entity in a sustainable way may qualify as economic concentration by way of taking over, by one or more persons already controlling at least one undertaking, the direct or indirect control over one or more other undertakings or parts thereof.

6. Can company formation be declared null and void? If so, under which conditions? Please provide reference to relevant legislation governing the matter.

According to the provisions of Art. 249 and Art. 250 of the Civil Code, the company may be declared null and void by a court decision. The Decision on the nullity of the company may be pronounced only when:

- the deed of incorporation is missing or not notarized;

[8]Law No. 192/1998 on the National Commission for Financial Markets, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=84363&lang=ro

- the object of the company is illicit or contrary to public order;
- the incorporation document does not provide for the name of the company, the shareholders' shares, the size of the subscribed share capital or the purpose of the company;
- the legal provisions regarding the minimum share capital have not been complied with;
- all the founders concluded the instrument of incorporation in violation of their legal capacity.

The operative part of the Decision declaring a company null and void shall be published in the company's publications within 15 days from the date when the Decision becomes final. On the date when the court decision declaring the company null and void becomes final, the company is dissolved and enters liquidation proceedings. A liquidator of the company shall be appointed by the same court decision declaring nullity. The nullity of the company shall not affect the juridical acts concluded on its behalf, except that, if it is insolvent, its liquidation is subject to insolvency law. The shareholders to whom the nullity of the company is imputable bear unlimited and joint liability to the other shareholders and to third parties for the damage caused by the nullity of the company.

According to the legislation applied to *joint stock companies* (Law No. 1134/1997) the company can be forcibly dissolved (under a court decision), if the company did not ensure the registration of transferable securities with the NCFM under law and / or the minimum capital was not maintained (Art. 100 of Law No. 1134/1997).

Concerning rules on the formation of public limited liability companies and the maintenance and alteration of their capital:

7. Please indicate if there are minimum capital requirements for companies.

Moldovan legislation imposes a minimum share capital requirement only in respect of a) certain types of legal persons or b) for companies engaged in specific regulated sectors.

Thus, according to the provisions of Art. 21 and Art. 24 of Law No. 135/2007 on limited liability companies[9], the size of the authorized capital of the company shall be established by the founders in the Articles of Associations. A shareholder can own only one share, whose nominal value will not be less than MDL 1 (one), and in any event the nominal value must be divisible to 1 MDL.

[9]Law No. 135/2007 on limited liability companies, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129087&lang=ro

Under the Art. 38 para. (2) of Law No. 1134/1997 on joint-stock companies, the share capital of the Joint-Stock Company shall not be less than MDL 600,000 (about EUR 30,000). Thus, the following thresholds apply:

- as at 01.01.2022 - the share capital of the joint stock company may not be less than 120,000 MDL (about EUR 6,000),
- as at 01.01.2023 - at least 360,000 MDL (about EUR 18,000, at current rate),
- as at 01.01.2024 - at least 600,000 MDL (about EUR 30,000, at current rate).

For certain types of activity, limited liability companies and joint stock companies are required to hold a minimum share capital expressed in MDL, as follows:

- Insurance and/or reinsurance broker: share capital, paid in cash, of not less than 100,000 MDL (about EUR 5,000); (Art. 49 para. (2) letter b) of Law No. 407/2006 on insurance)[10];
- Gambling organizer: the size of the share capital for obtaining the license shall be 5,000,000 MDL (about EUR 250,000) and at least 70% of the capital shall constitute money, rather than in-kind contributions; (Art. 11 of Law No. 291/2016 on the organization and conduct of gambling)[11];
- Commodity Exchange: the share capital of the Commodity Exchange shall be at least 1 million MDL (about EUR 50,000); (Art. 13 para. (4) of the Law No. 1117/1997 on Commodity Exchanges)[12];
- Foreign exchange office: the minimum amount deposited in the share capital for receiving the license shall be 500 000 MDL (about EUR 25,000); (Art. 44 para. (1) of the Law No. 62/2008 on foreign exchange regulation)[13];
- Pawnshop: the share capital shall be 250,000 MDL (about EUR 12,500) for municipalities and 150,000 MDL (about EUR 7,500) for rural localities; (pt. 6 of Regulation on the organization and operation of pawnshops (pawnshop), approved by Government Decision No. 204/1995)[14];

[10]Law No. 407/2006 on insurance, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=129496&lang=ro
[11]Law No. 291/2016 on the organization and conduct of gambling, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=129044&lang=ro
[12]Law No. 1117/1997 on Commodity Exchanges, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=109348&lang=ro
[13]Law No. 62/2008 on foreign exchange regulation, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=121168&lang=ro
[14]Government Decision No. 204/1995) for the approval of the Regulation on the organization and operation of pawnshops (pawnshop), available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=109697&lang=ro

- Non-bank lending organization: the minimum share capital of the non-bank lending organization is 1,000,000 MDL (about EUR 50,000); (Art. 14 para. (1) of Law No. 1/2018 on non-bank lending organizations)[15];
- Payment Service Provider: The Law No. 114/2012 on payment services and electronic money[16] does not require a minimum share capital, however it requires a payment service provider to have an appropriate equity capital at the time of submission of the declaration for obtaining the license, an equity capital in the amount of:
  - at least 350,000 MDL (about EUR 17,500) – if it provides only the payment service referred to in Art. 4 para. (1) pt.6);
  - at least 900,000 MDL (about EUR 45,000) – if it provides only the payment service referred to in Art. 4 para. (1) pt.7);
  - at least 2,200,000 MDL (about EUR 110,000) – if it provides the payment services referred to in Art. 4 para. (1) pt.1) -5) or all services allowed to the payment company according to Art.7 para. (4);
- Company issuing electronic money: the equity capital must amount to at least 6,000,000 MDL (about EUR 300,000); (Art. 12 para. (1) of Law No. 114/2012 on payment services and electronic money);
- Joint Stock Investment Company: the initial capital represented by the equity capital shall constitute at least: the equivalent in MDL of 50,000 EUR, calculated with the application of the official rate established by the National Bank of Moldova, valid at the date of entry into force of Law No. 2/2020; the equivalent in MDL of 100,000 EUR, calculated with the application of the official rate established by the National Bank of Moldova, valid for 3 years from the date of entry into force of Law No. 2/2020; the equivalent in MDL of 150,000 EUR, calculated with the application of the official rate established by the National Bank of Moldova, valid for 5 years from the date of entry into force of Law No. 2/2020; the equivalent in MDL of 200,000 EUR, calculated with the application of the official rate established by the National Bank of Moldova, valid for 7 years from the date of entry into force of Law No. 2/2020; the equivalent in MDL of 300,000 EUR, calculated with the application of the official rate established by the National Bank of Moldova, valid 10 years from the date of entry into force of Law No. 2/2020; (Art. 11 of Law No. 2/2020 on Alternative Undertakings for Collective Investment)[17];

[15]Law No. 1/2018 on non-bank lending organizations, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123217&lang=ro

[16]Law No. 114/2012 on payment services and electronic money, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125243&lang=ro

[17]Law No. 2/2020 on Alternative Undertakings for Collective Investment, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=120967&lang=ro

- Bank: the initial capital of a bank shall not be less than 100 million MDL (about EUR 5,000,000); (Art. 9 para. (1) of Law No. 202/2017 on Banks' activity)[18];
- Insurer (reinsurer): the minimum share capital shall be 15 million MDL (about EUR 750,000); (Art. 22 of Law No. 407/2006 on Insurance)[19].

8. What safeguards are there to protect the company's capital (e.g. rules on contributions in kind, on distribution to shareholders, on acquisition by a company of its own shares, on providing financial assistance to third parties for the acquisition of a company's shares)?

The authorized share capital determines the minimum amount of assets the company mustown[20].

The share capital of the company must be formed from the contributions of the founders, expressed in Moldovan lei (MDL). The size of the authorized capital of a company is set by the founders in the Articles of incorporation.

The contribution to the company's share capital is in money, unless otherwise provided in the incorporation documents. Labor benefits and services provided at the company's formation and during its existence may not constitute contribution to the formation or increase of the share capital.

The in-kind contribution to the share capital of the company may consist of any transferable property. Consumables may not be used as in-kind capital contributions.

The company acquires ownership to the property contributed to it in-kind unless otherwise provided in the instruments of incorporation. If the property has been transferred for use only, the legal provisions regarding the lease shall apply accordingly between the shareholder and the company, except that the company does not owe rent for such use.

Claims, rights to the object of intellectual property, as well as other patrimonial rights may be transferred as in-kind contribution upon the formation or increase of the share capital of a limited liability company or joint stock company. This rule also applies to the conversion of a pecuniary obligation of the company into shares or, as the case may be, shares for the benefit of the creditor.

Partners in the general partnership and limited partners may be obliged to work benefits and services as corporate contribution, which, however, do not constitute

[18]Law No. 202/2017 on Banks' activity, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128663&lang=ro
[19]Law No. 407/2006 on Insurance, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129496&lang=ro
[20]Law No. 989/2002 regarding the evaluation activity, available in Romanian: https://www.legis.md/cautare/getResults?doc_id=128398&lang=ro

contribution to the formation or increase of the share capital. In exchange for this contribution, the shareholders have the right to participate, according to the articles of incorporation, in the sharing of the benefits and assets of the company, while remaining obliged to bear the losses.

The in-kind contribution must be transferred within the period established by the instruments of incorporation, but not later than 6 months from the date of registration of the company. In the case of an increase of the share capital, the contribution must be transferred within the deadline set by the general meeting, but not later than 60 days after the adoption of the decision to increase the share capital.

In-kind contributions shall be valued in cash by an independent valuator and approved by the general meeting of shareholders. A valuation report is mandatory whenever an in-kind contribution is made.

The shareholder who made the contribution and the valuator are jointly and severally liable to the extent of the overvaluation. Claims regarding the correctness of the valuation are limited by prescription 3 years after the approval of the in-kind contribution by the general meeting of shareholders.

The contribution in receivables is considered paid-in only after the company has collected under the receivable.

The total amount of contributions cannot be less than the amount of the authorized capital.

Interest is not calculated for the contribution to the share capital of the company, save as provided by law.

If a shareholder has not paid the contribution in due time, any shareholder has the right to ask them in writing, setting them an additional period of at least one month and warning them that this is a preclusion period and the breaching shareholder may be excluded from the company.

If the contribution is not paid within the additional period, the shareholder loses the right to the share and to the paid fraction, a fact of which they must be notified.

The shareholder who has not paid the contribution in due time must repair the loss caused to the company. If the company manager does not require the shareholder to pay the contribution without delay and to cover the damage caused by the delay, each shareholder is entitled, subject to the limitation period, to demand, on behalf of the company, by way of an indirect legal action, the payment of the contribution and the compensation of the loss.

Shareholders cannot be released from the obligation to pay the contribution. The company's claim on the transmission of the contribution cannot be extinguished by set-off. The right of retention of title based on a claim which does not relate to that

object cannot be opposed to the object of the in-kind contribution. In case of reduction of the share capital of the company, the shareholders may be released from the obligation to pay contribution in an amount not exceeding the amount by which the share capital was reduced.

During the period of activity of the company, shareholders may not demand the return of their contribution paid into the share capital.

The company may acquire, if fully paid, its own shares only:

- from the shareholder who proposed for sale the share or a fraction of it if the General Meeting of the Shareholders, at the request of the seller, decided that it be acquired by the company;
- from the successors of the deceased shareholder;
- in case of forced execution of the debts of the creditor of the shareholder;
- in case of exclusion of the shareholder from the company;
- if the company's claim cannot be satisfied by sale (according to Art. 38 para. (3) of Law No. 135/2007 on limited liability companies)[21].

The share can be acquired by the company only from the account of assets, exceeding the size of the authorized capital and other funds, which the company is obliged to constitute and from which payments to shareholders are not allowed

The company that has acquired a share in its share capital is not entitled to participate in the voting at the General Meeting of the Shareholders, to receive for this share a share of the net profit distributed and to receive a share of the company's patrimony in the event of its liquidation.

The company shall be obliged to decrease its share capital in proportion to the value of the share acquired by the company if the share was not alienated within 6 months from the moment of acquisition or if, within the same period, the company does not proportionally increase the shares in the net profit account of the company.

The company cannot procure the share from its sole shareholder.

If the company has its own shares, only the votes representing the shares of the shareholders shall be taken into account when counting the votes necessary for the adoption of decisions by the General Meeting of the Shareholders.

The company distributes annually the net profit recorded after paying taxes and other mandatory payments, unless otherwise provided in the instruments of

[21]Law No. 135/2007 on limited liability, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129087&lang=ro

incorporation. The decision on determining the part of the net profit to be distributed shall be adopted by the General Meeting of the Shareholders.

Net profit shall be distributed in proportion to the size of the share. The way of distribution of the company's net profit can be changed by the decision of the General Meeting of the Shareholders, which shall be adopted by unanimous vote of shareholders

The net profit is paid to the shareholders in cash form, within 30 days from the date of adoption of the decision on its distribution, if the shareholders ' assembly has not set another deadline.

The company is not entitled to adopt a decision on the distribution of net profit between shareholders:

- until the full payment of the contributions;
- if, as a result of the distribution of net profit, the value of the company's net assets will become less than the sum of the share capital and reserve capital.

The company shall not be entitled to pay to the shareholders the net profit whose distribution was decided at the General Meeting of the Shareholders. if, at the time of payment, the company is insolvent or can reach this state as a result of its distribution.

In case of termination of the circumstances referred to in Art. 40 para. (1) and (2) of Law No. 135/2007, the company shall be obliged to pay the shareholders the net profit whose distribution was decided at the General Meeting of the Shareholders.

The net profit paid unlawfully must be returned to the company.

The company may not grant loans to shareholders or third parties for the purchase of its own shares.

The company must form a reserve capital of at least 10% of the amount of the authorized capital. The company's reserve capital may only be used to cover losses or to increase its share capital. The reserve capital of the company shall be formed by annual payments from the net profit, in the proportion of at least 5%, until reaching the size established by the instruments of incorporation.

If the value of the company's net assets becomes less than the amount of the share capital and reserve capital, the payments in reserve capital shall resume

With regard to joint stock companies The provisions of the legislation applicable to joint stock companies (Law No. 1134/1997[22]) reflect the full transposition of the norms of the EU Directive No. 2017/1132, in the part related to:

- making the contributions, including the in kind contribution, with the subscription of the share capital of the company, which are regulated by Art. 39 para. (3), para. (8) and para. (9), as well as Art. 33 para. (6) of Law No. 1134/1997, which is in full compliance with Art. 46, Art. 49, Art. 70 of the EU Directive No. 2017/1132 are implemented;
- the methods of acquisition by the issuer of its own shares, the conditions and prohibitions, are regulated by Art. 14 para. (6), Art. 42 para. (5), Art. 77 and Art. 78 of the Law No. 1134/1997, through which the provisions of Art. 59, Art. 60-63 of the EU Directive No. 2017/1132 are transposed;
- Law No. 1134/1997 does not set provisions related to financial assistance for the acquisition of own shares by a third party, as provided in Art. 64 of EU Directive No. 2017/1132, because the national legislation (Art. 4 of Law No. 1134/1997) prohibits the issuer from advancing funds or granting loans or offering guarantees in order to purchase its own shares. Therefore, it was not necessary to include the respective regulations of the Directive in the national legislation, as it complies with Directive No. 2017/1132.

By the same Law No. 1134/1997, the following measures for the protection of the capital of the joint stock company are established:

- a ban on issuing public shares if the value of the assets is less than the share capital;
- establishing the market value of the non-cash contributions to the share capital by an independent evaluator, not affiliated to the company, with the subsequent approval at the shareholders' meeting;
- the obligation to register with the competent state body the property rights or use of the non-monetary contributions in the share capital;
- the right to issue treasury shares, which may be acquired by the company from its own shareholders, including for the purpose of reducing the share capital.

[22]Law No. 1134/1997 on joint stock companies, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130627&lang=ro

9. What kind of protection is provided for the shareholders in the context of capital maintenance and alteration (e.g. decision-making power on fundamental issues such as increase and reduction of capital, pre-emption rights, and equal treatment of shareholders in the same position)?

Limited liability companies. According to Art. 247 para. (1) of the Civil Code[23] and Art. 13 of Law No. 135/2007[24] the instruments of incorporation of the company shall contain: the amount of the share capital; the shareholders' participations, their mode and term of payment; the value of the assets forming in-kind contribution and the way of evaluation, if such contributions were made.

The instruments of incorporation may be amended only by the decision of the General Meeting of Shareholders.

The decisions of the General Meeting of Shareholders are adopted by unanimous vote of all the shareholders of the company for the amendment and completion of the instrument of incorporation, including the modification of the share capital of the company and the obligation of the shareholders to additional contributions.

Increase of share capital. The authorized capital can be changed by increase or reduction. The change in the authorized capital shall be carried out by amending the articles of incorporation and registering the change in the state Register of legal entities.

The increase in the share capital of the company is allowed only after the full payment of the subscribed contributions.

The share capital can be increased by:

- proportional increase of the shares from the net profit account of the company or from the means of reserve capital and / or other sources;
- payment of additional contributions by shareholders and/or third parties who have become shareholders.

The increase of the share capital on account of the payment of new contributions is carried out in compliance with the provisions of Art. 24 para. (6) of Law No. 135/2007. In the case of increasing the share capital, the contribution shall be paid within the deadline set by the General Meeting, but not later than 60 days after the adoption of the decision to increase the share capital.

[23]Civil Code of the Republic of Moldova No. 1107/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129081&lang=ro

[24]Law No. 135/2007 on limited liability, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129087&lang=ro

If the increase in the share capital did not take place, the company, within 3 months from the date of adoption by the General Meeting of the Shareholders of the decision to amend the instrument of incorporation, will return to the shareholders the additional contributions sent to them. If the company has not returned the respective contribution within the established period, it is obliged to pay the interest provided by the legislation.

Reduction of the share capital. The company shall have the right, and in the cases provided by law shall be obliged, to reduce its share capital. The share capital of the company can be reduced by:

- proportional reduction of the nominal value of all shares;
- extinction of shares acquired by society.

According to the provisions of Art. 24 of Law No. 135/2007, the share is a fraction of the authorized capital of the company whose amount is determined according to the amount of the contribution and includes all the rights and obligations of the shareholder. The share is divisible, unless otherwise provided in the instrument of incorporation.

If the instrument of incorporation or the decision of the General Meeting of Shareholders provides that the contribution must be higher than the nominal value of the share, the ratio between the nominal value of the share and the contribution shall be the same for all shareholders.

A shareholder may not be required to contribute additional capital unless they voted for it at the general meeting of shareholders. A risk of dilution of shares exists, since a decision to increase the capital is taken with a vote of 75% of shareholders. Hence, a majority shareholder could dilute a minority shareholder of an LLC.

Joint stock companies.

1. For any change in the share capital:

- the need for a separate vote for each category of shares (Art. 68 para. (3) of Directive No. 2017/1132), as regulated by Art. 40 para. (2) of Law No. 1134/1997[25],
- the disclosure of the information related to the approval of the decision regarding the change of the share capital - regulated by Art. 41 para. (5) of the Law No. 1134/1997, as stipulated by the norms of Art. 68 para. (1) of Directive No. 2017/1132.

2. In addition to point 1, when the share capital is increased, the following provisions of the EU Directive No. 2017/1132 are ensured:

[25]Law No. 1134/1997 on joint stock companies, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130627&lang=ro

- approving the decisions at the General Meeting of Shareholders regarding the increase of the company's share capital, under the conditions of participation in the General Meeting of Shareholders holding more than half of the voting shares of the company (Art. 83 of Directive No. 2017/1132) - as regulated in Art. 57 para. (7) of the Law No. 1134/1997;
- ensuring the right of preemption, as provided in Art. 72 para. (3) of Directive No. 2017/2012 - are transposed by Art. 25 para. (2) of the Law No. 1134/1997.

3. In addition to point 1, the following provisions shall apply when decreasing the share capital of the joint stock company:

- by Art. 43 paras. (2) and (3) of Law No. 1134/1997 transposed the provisions of Art. 73 of Directive No. 2012/1132 - and refers to the minimum threshold at which the share capital can be reduced and regarding the content of the shareholders' notification related to the convening of the General Meeting of Shareholders, at which the decrease of the share capital will be decided.

According to Art. 37 of Law No. 1134/1997 any shareholder, regardless of the number of shares held, is entitled to request the reduction of the share capital if, at the expiration of 3 consecutive financial years, except for the first financial year, the value of net assets of the company will be smaller than the size of the share capital. According to the same law, the following decisions shall be adopted by two-thirds of the votes present at the meeting:

- changing the classes and number of shares, converting, consolidating or splitting the company's shares;
- change of share capital;
- the conclusion of large transactions and transactions with conflict of interest that exceed 10% of the value of the company's assets;
- issuance of convertible bonds;
- the distribution of the annual net profit, including the payment of annual dividends, or to cover the company's losses;
- alienation or transfer of treasury shares to the company's shareholders and / or employees;
- reorganization or dissolution of the company.

In order to defend their rights and legitimate interests, the shareholders are entitled, in the manner established by the legislation, to notify the management bodies of the company and / or the National Commission of the Financial Market, and / or the court. The company is obliged to examine the shareholders' complaints in the manner and within the term provided by the legislation.

10. What rules provide for the protection of creditors in case of reduction in capital?

Limited liability companies. According to Art. 34 of Law No. 135/2007 the company shall have the right, and in the cases provided by law shall be obliged, to reduce its share capital. The share capital of the company can be reduced by:

- proportional reduction of the nominal value of all shares;
- extinction of shares acquired by the company.

If the reduction of the share capital is not motivated by losses, the return to the shareholders of some fractions of the contributions is made by the company only after the state registration of the changes made in the instruments of incorporation, changes determined by the reduction of the share capital, but not later than 2 months from the date of state registration.

The company may not reduce the share capital below the minimum established by this law. According to Art. 35 of Law No. 135/2007, the company shall be obliged to reduce its share capital if:

- upon the expiration of 6 months from the date of state registration, the shareholders have not fully paid the subscribed contributions;
- upon the expiration of the second and each subsequent financial year, the value of the company's net assets is less than the share capital and the shareholders do not cover the losses incurred.

In the mentioned cases, the General Meeting of shareholders shall be obliged to decide on the reduction of the share capital:

- up to the amount of the actual paid-up share capital;
- up to the value of net assets determined in accordance with the legal provisions.

If, as a result of the reduction of the value of the net assets, it will be below the minimum amount of the share capital established by this law, the shareholders are obliged to liquidate the company if they will not cover the losses. If, in the mentioned cases, the company will not reduce its share capital, at the request of creditors or the State Tax Service it can be liquidated by court decision.

According to Art. 36 of Law No. 135/2007[26] within 15 days from the date of adoption by the General Meeting of shareholders of the decision to reduce the share capital, the company is obliged to notify all its creditors in writing about it, as well as to publish in the Official Gazette of the Republic of Moldova and on the website of the state registration body an opinion on the reduction of the share capital. Within 2 months from the date of publication of the notice, the creditors of the company have the right to demand from the company additional guarantees or early execution of the corresponding obligations and compensation for the

[26]Law No. 135/2007 on limited liability, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129087&lang=ro

damage, giving the company the right to choose. Claims shall be submitted in writing.

The reduction of the share capital shall be registered with the state registration body after the expiration of 2 months from the date of publication of the opinion. If creditors have requested guarantees or submitted claims for performance of obligations, the reduction of the share capital shall be recorded after the granting of guarantees or after the satisfaction of the creditors' claims.

In the application for registration of the reduction of the authorized capital, the administrator shall give guarantees that the claims submitted by creditors have been satisfied or guaranteed.

The administrator shall be liable for damages caused to creditors as a result of not informing them about the reduction of the share capital or of the registration of the reduction of the share capital without guaranteeing or without satisfying the claims submitted by creditors

Joint stock companies. In case of decreasing the share capital, according to Art. 43 paras. (5) and (6) of Law No. 1134/1997, the creditors, within one month from the date of publication of the decision on the reduction of the share capital, have the right to request from the company the execution / guarantee or granting of bails related to the company's obligations, being ensured the implementation of Art. 73 of the EU Directive No. 2012/1132.

Concerning domestic mergers and divisions of public limited liability companies:

11. What type of mergers/divisions are allowed in your country (merger/division by acquisition, by formation of new companies)? How does the legislation define "merger by acquisition" and "merger by the formation of a new company"?

According to Art. 204 of the Civil Code, the company is reorganized by merger (merger or acquisition), dismantling (division or separation) or transformation. Merger by acquisition shall have the effect of dividing without going into liquidation of the acquired legal persons and fully transferring their rights and obligations to the acquiring legal person. The merger by merger shall have the effect of dissolving without entering into liquidation the legal entities participating in the merger and the full transfer of their rights and obligations to the legal entity that is formed. Same rules are provided under Art. 92-97 of Law No. 1134/1997 that regulate the reorganization of the joint stock companies.

The reorganization by merger is carried out by consolidating the balance sheets of the companies involved, with the conversion of securities/participations, into

securities of the company that will continue to operate after the reorganization (absorption) or of the newly created company (merger).

The reorganization by dismantling is done by division or separation.

Dismantling by division - the cease of the company's existence, and the transfer of its rights and obligations to two or more newly established and / or existing companies.

Dismantling by separation has the effect of detaching a part of the company's assets, which will continue to operate after the reorganization, and transferring it to one or more beneficiary companies.

The transformation of a company means the transfer of all the rights and obligations of the joint stock company in accordance with the act of transfer and the balance sheet of the company, to the company in another legal form of organization.

12. What are the main steps of the procedure (e.g. drawing up of draft terms of an operation and their disclosure, a report to shareholders, an examination by an independent expert, approval by the general meeting)?

The important moments in the reorganization procedure are the approval of the decision regarding the reorganization in which all the documents related to it are approved and the drafting of the merger contract or the dismantling project, which in turn is still to be approved at the General Meeting.

The stages of reorganization of the legal entity are the following:

- adoption of reorganization decisions by the participants in the reorganization;
- elaboration and approval of the draft merger / dismantling contract / project;
- notify the Public Service Agency in writing about the initiation of the reorganization procedure - within 30 days as of the decision on company reorganization;
- informing creditors and publication in the Official Gazette and on the website of the Public Service Agency of a reorganization notice - within 15 days as of the decision on company reorganization;
- Submission of claims by creditors or requests for collateral (granting the term to guarantee creditors 'rights and satisfying creditors' claims) - within one month as of the publication of the notice on company reorganization on the Official Gazette;

- informing and consulting employees about the reorganization and its impact upon them - at least 30 calendar days before commencing reorganization (based on Article 197[1] of the Labor Code);
- notify the State Tax Service, in writing, regarding the initiation of the reorganization, followed by fiscal control (the Tax code does not provide the terms for notification);
- elaboration of the deed of transfer of assets and balance sheet;
- reorganization registration with the Public Service Agency.

The provisions of Art. 92-97 of the Law No. 1134/1997 and the Regulation on the authorization of the reorganization of the joint stock company (Regulation), approved by NCFM Decision No. 23/1 of 27.04.2021[27], transpose the provisions of Art. 90 para. (1); Art. 91 para. (1) letters (c) to (g); Art. 92; Art. 93 para. (1); Art. 95; Art. 96; Art. 97 paras. (1) to (3); Art. 99 (1); Art. 104; Art.107–112; Art. 135–138; Art. 141 para. (2) and (3); Art. 142–144; Art. 146 para. (1) and (3); Art. 147; Art. 150; Art. 153 and Art. 155 of Directive (EU) 2017/1132, including:

- Art. 93, Art. 139 of the EU Directive No. 2017/1132, regarding the obligation to approve the reorganization decisions (for all types of reorganizations) and the acts related to the reorganization by the General Meeting of Shareholders, is transposed in Art. 48 para. (3) letter n) and letter o) of Law No. 1134/1997.
- Art. 91, Art. 137 of the EU Directive No. 2017/1132 with reference to the content of the merger contract and the division project are exposed by Art. 93 para. (6) and Art. 96 para. (7) of Law No. 1134/1997.
- Art. 92, Art. 143 of the EU Directive No. 2017/1132, regarding the disclosure / publication of the merger contract and the division project, are transposed in Art. 93 paras. (7) and (8), and Art. 96 para. (17) of Law No. 1134/1997.
- Art. 95-96, Art. 107, Art. 141-142 of the EU Directive No. 2017/1132, with reference to the report of the independent experts and the reports of the executive bodies of the companies involved in the merger / dismantlement, are transposed in Art. 92 para. (6), Art. 93 paras. (10) and (11), Art. 96 para. (11) of Law No. 1134/1997.

At the same time, the stages of the reorganization, the samples of the documents related to the reorganization, namely: the draft merger contract /dismantling project, the consolidated balance sheet / distribution balance, the draft act / acts of transmission are set out in the Regulation issued by NCFM.

[27]Decision No. 23/1.2021 on Regulation on the authorization of the reorganization of the joint stock company, available in Romanian at: https://www.legis.md/cautare/getResults?document_status=0&tip%5B%5D=39352&nr_doc=23%2F1&datepicker1=2021&publication_status=+-+TOATE+-+&nr=&publish_date=&search_type=1&search_string=

13. What are the provisions for the protection/safeguards of employees, shareholders, creditors?

The provisions of Art. 205 of the Civil Code lays down the legal succession in the case of reorganization of legal entities, thus general guarantees being established for all interested persons, or some general rules for the passage of rights and obligations from legal entities that decide to reorganize to legal entities that continue their existence after reorganization or that are formed as a result of reorganization. Upon reorganization, universal succession or universal title takes place. To the successors are transferred not only the rights and obligations that are indicated in the act of transmission or in the balance sheet of distribution, but also all the rights and obligations of the reorganized legal entity, including non-patrimonial ones. Both the draft of the merger contract and the draft of the division contract necessarily regulate the rights and advantages, as the case may be, of the members of the company, even offering the possibility, in some cases, to pay them a share which will not exceed 10% of the nominal value or, in the absence of a nominal value of the carrying amount of the participation thus distributed.

According to the provisions of Art. 207 of the Civil Code the creditors of the legal entity are also guaranteed their rights in case of its reorganization. Thus, within 15 days from the adoption of the reorganization decision, the executive body of the legal entity participating in the reorganization is obliged to inform in writing all known creditors and to publish in the "Official Gazette of the Republic of Moldova" and, free of charge, on the official website of the state registration body an opinion on the reorganization. Creditors may, within one month of the publication of the opinion, demand guarantees from the reorganizing legal person to the extent that they cannot demand the satisfaction of the claims. The right to guarantees belongs to creditors only if they prove that the reorganization will jeopardize the satisfaction of their claims. Creditors have the right to inform the state registration body about the claims against the reorganizing debtor. The legal entities participating in the reorganization are jointly and severally liable for the obligations arising until their reorganization if it is not possible to determine the successor from the act of transmission and the balance sheet. If a creditor has not obtained the realization of his claim from the legal person to whom the correlative obligation is assigned by division, all legal persons who have acquired part of the assets of the divided legal person shall be liable for that obligation up to the competition of the value of the net assets assigned to them by division, with the exception of the legal person to whom that obligation has been assigned, who shall be liable unlimited. The members of the executive body of the legal entity participating in the reorganization are jointly and severally liable, during 3 years from the date of the reorganization, for the damage caused by reorganization to the creditors of the reorganized legal entities.

Regarding the consequences of reorganization for employees, according to the Labor Code of the Republic of Moldova No. 154/2003[28], Art. 197[1] social

[28]Labor Code of the Republic of Moldova No. 154/2003, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130513&lang=ro

guarantees are established. Thus, the assignee assumes all the rights and obligations existing at the time of the occurrence of the event arising from individual employment contracts and collective labor contracts in force.

The reorganization of the unit does not in itself constitute grounds for termination of the individual employment contract. At the same time, the dismissal of employees may occur, in such cases, as a result of the reduction of the number or states of personnel in the facility. In case of reorganization of the facility, the employees' right to information and consultation will be respected. At least 30 calendar days before the start of the reorganization procedure of the establishment, the incumbent employer shall inform in writing the representatives of his employees about:

- the date or proposed date of the commencement of the reorganization procedure, the change of the type of ownership or the owner of the facility;
- the reasons for the reorganization, change in the type of ownership or the owner of the facility;
- legal, economic and social consequences of reorganization, change in the type of ownership or owner of the facility for employees;
- the measures envisaged in respect of employees.

The assignee shall be obliged to provide the representatives of his employees with the information related to the reorganization process at least 30 calendar days before the reorganization of the facility actually takes place. If there is no union or elected representatives at the facility, the said information shall be made known to the employees by a public notice placed on an information board with general access to the headquarters of the facility (including each of its branches), as well as, as the case may be, by means of the web page or electronic messages. If the transferor and/or the transferee intends to take certain measures regarding their employees, they shall be consulted with the representatives of the employees in accordance with the provisions of the law. If in the process of reorganization of the facility, of changing the type of property or its owner are expected reductions in the number or states of personnel, the provisions of Art. 88 of the Labor Code will be applied.

Beside the above, under the joint stock companies legislation, the creditors' guarantees are covered, similar to the norms established in Art. 99 and Art. 145 of the EU Directive No. 2017/1132, which, respectively, are found in Art. 92 paras. (7) - (9) of Law No. 1134/1997.

Thus, the company, within 15 days from the date of the reorganization decision, will notify its creditors in writing about this fact and will publish a notice in the Official Gazette of the Republic of Moldova and, free of charge, on the official website of the state registration agency.

The creditor whose receivables are prior the date of publication of the reorganization notice and did not exceed the maturity on the date of publication, has the right to ask the company to take the necessary measures (granting guarantees, guaranteeing the assumed obligations, premature execution or premature termination of the company's obligations and repairing the damages caused by it) within one month from the date of publication of the reorganization notice of the company.

In the absence of creditors' requirements for the company, the reorganization decision shall enter into force one month after the date of publication. In case of creditors' requirements, the reorganization decision enters into force after their satisfaction.

14. How is the legality of a merger/division controlled in your country?

According to the provisions of Art. 20 of Law No. 220/2007 on state registration of legal entities and individual entrepreneurs, the legal entity subject to reorganization is obliged to notify the state registration agency in writing about the reorganization within 30 days from the date of adoption of the respective decision. The notice implies the entry in the State Register of the commencement of the reorganization procedure. In accordance with the provisions of Art. 212 and Art. 218 of the Civil Code takes place the registration in the State Register of legal entities of the reorganization directly and from the date of registration it takes effect.

According to the provisions of Art. 8 letter c) of the Law No. 192/1998 on NCFM and Art. 92 paras. (10) and (11) of Law No. 1134/1997, NCFM, based on the Decision approved by its Board of Directors, grants the authorization to reorganize the joint stock companies, carrying out the necessary verifications regarding the observance by the entities involved in the reorganization, the applicable legal norms and the manner of adoption by the competent bodies of decisions related to reorganization.

Moreover, according to the provisions of Art. 21, para. (1), letter d) of Law No. 220/2007 regarding the state registration of legal entities and individual entrepreneurs (Law No. 220/2007), the authorization of reorganization, issued by NCFM, is listed as a mandatory document to be submitted, in order to register the reorganization of a joint stock company by the Public Services Agency.

In addition, upon reorganization, the company is subject to mandatory tax inspection according to the provisions of the Tax Code.

At the same time, economic concentration operations are subject to evaluation and are to be notified to the Competition Council before implementation, if the total cumulative turnover of the companies involved, recorded in the year before the

operation, exceeds 25 000 000 MDL (EUR ~ 1 250 000) and there are at least two companies involved in the operation, which achieved on the territory of the Republic of Moldova, each one, a total turnover higher than 10 000 000 MDL (EUR ~500 000) in the year before the operation. If following the reorganization, an economic concentration is created and turnover thresholds above are met, clearance from the Moldovan Competition Council is required.

15. How is the merger/division registered?

Law No. 220/2007 on state registration of legal entities and individual entrepreneurs[29] in Chapter IV establishes the procedure for the reorganization of commercial companies. According to Art. 20, the company subject to reorganization obligatorily submits to the state registration body the reorganization decision, adopted by the competent body of the legal entity or by the court, thus recording in the State Register of legal entities the start of the reorganization procedure.

According to the provisions of Art. 21 of Law No. 220/2007, after the expiration of one month from the publication of the opinion on reorganization, the competent body of the legal entity subject to reorganization or created as a result of reorganization submits to the state registration body the following documents:

- application for registration of reorganization, according to the model approved by the state registration body;
- the draft of the merger contract or the draft of the division contract, as the case may be;
- the reorganization decision, adopted by the competent body of each legal entity participating in the reorganization;
- the instruments of incorporation of the legal entity participating in the reorganization;
- the instruments of incorporation of the newly created legal entity;
- the document confirming the acceptance by creditors of the guarantees offered or confirming the payment of debts, as the case may be;
- reorganization authorization, as appropriate;
- the document of transmission or the balance of distribution, as the case may be;
- copy of the opinion of reorganization of the legal entity.

Until the documents for the registration of the reorganization are submitted, the legal entity that, as a result of the reorganization, ceases to exist is obliged, on its

[29]Law No. 220/2007 on state registration of legal entities and individual entrepreneurs, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=94727&lang=ro

own responsibility, under the penalty of payment of damages and interest, to close the bank account (s) and destroy the stamp, if it has one.

The Registrar verifies the applications and documents submitted for registration in order to comply with their requirements established by law, obtains the necessary opinions and information for registration from public authorities through electronic means and, within the period established by the legislation, adopts the registration decision or the reasoned decision to reject the registration. Within the procedure of state registration, the state registration body will carry out the process of registration (taking to record) for tax, statistical, medical and social security purposes of the legal entity by transmitting to the authorities concerned, in electronic format, the data on its registration provided for in Art. 33 para. (1), with the issuance for the legal person of the respective notice. Reorganization of legal entities by merging is considered completed from the moment of state registration of the legal entity created as a result of the merger. The instruments of incorporation of the legal entity created as a result of the merger will contain provisions on taking over all the patrimonial rights and obligations of the legal entities reorganized by the merger. The legal entity created as a result of the merger is assigned a new state identification number. The legal entities participating in the merger cease to exist and are removed from the State Register.

In the case of reorganization of legal entities by acquisition, the acquiring legal entity operates in the instruments of incorporation amendments regarding the taking over of all the patrimonial rights and obligations of the acquired legal entity. The acquiring legal entity shall retain its state identification number. The legal entities being acquired cease to exist and are removed from the State Register.

Reorganization of legal entities by division is considered completed from the moment of state registration of the legal entity created as a result of division. The instruments of incorporation of the legal entities created as a result of the division shall contain provisions regarding the taking over, on the basis of the balance sheet, of the respective part of the patrimonial rights and obligations of the divided legal entity. Legal entities created as a result of the division are assigned new state identification numbers. The legal entities participating in the merger cease to exist and are removed from the State Register.

In the case of reorganization of the legal entity by division, it operates in the instruments of incorporation amendments regarding the transmission, based on the balance sheet of division, of the respective part of its patrimonial rights and obligations to the legal entities existing or created as a result of division. The instruments of incorporation of the legal entities created as a result of the division shall contain provisions regarding the taking over, on the basis of the balance sheet, of the respective part of the patrimonial rights and obligations of the divided legal entity. The legal entity reorganized by division shall retain its state identification number. The legal entity created as a result of the division is assigned a new state identification number.

The reorganization of the legal entity by transformation is considered completed from the moment of state registration of the new legal form of organization of the legal entity created as a result of the transformation. The legal entity reorganized by transformation retains its state identification number.

The state registration body that registers the legal entity created as a result of the reorganization records this fact in the state register, as well as deletes from the state register the reorganized legal entity. The registration of the reorganization of the legal entity is carried out by the territorial structure of the state registration body to which the legal entity subject to reorganization is registered.

If a joint stock company is involved in the merger/division process, it is processed the procedure for obtaining the reorganization authorization at NCFM (according to the Regulation on the authorization of the reorganization of the joint stock company, No. 23/1 of 27.04.2021), after which, at the end of the reorganization, the Public Services Agency registers, where applicable, the new legal entities founded. Also, depending on the type of organization, the write off / increase / reduction of the share capital of the entities involved in the reorganization is also registered. For cases of incorporation / write off of joint stock companies or increase / reduction of their share capital, following the reorganization, it is also required to issue the NCFM corresponding decisions, with the corresponding registrations in the Register of Securities Entities.

16. What are the responsibilities of the members of the management and supervisory boards?

The Civil Code in Art. 221 expressly establishes the responsibility of the management and supervisory boards in the reorganization procedure. The members of the management board and, as the case may be, of the supervisory board shall be jointly and severally liable to the members of the legal person participating in the merger or division for non-performance of their obligations in the preparation and performance of the merger or, as the case may be, of the division. The main duties of the management board include the execution of the decisions of the General Meeting, to represent without a power of attorney the company in the relations with state bodies, with third parties and in the courts of law, ensures the keeping of the company's accounting, as well as of the company's registers provided by the law and the instrument of incorporation, and informs the shareholders about the state of affairs and the management of the company. The supervisory board approves the accounts and reports submitted by the administrator and evaluates its activity, presents the accounts and reports at the General Meeting of Shareholders, decides to prosecute the administrator for the damages caused to the company.

As regards the joint stock companies, the liability of the persons with positions of responsibility of the Company are regulated by the provisions of Art. 73 of Law No. 1134/1997, especially “Persons with positions of responsibility, in accordance

with Law No. 1134/1997, are liable for the damage caused to the company…", the following exhaustive cases being provided:

- they premeditatedly led the company to bankruptcy;
- they have premeditatedly distorted or concealed the information about the economic-financial activity of the company, other information that creditors, shareholders and public authorities must receive in accordance with this law and other legislative acts;
- disseminated untrue or misleading information, used other methods that led to changes in the exchange rate of the company's securities to its detriment;
- did not convene the general meeting of shareholders, violating this law or the company's statute;
- they have paid or not paid dividends or interest, other income related to the bonds, violating the provisions of this law, of the statute of the company or of the decision to issue the shares or bonds;
- they acquired from the company the securities of other issuers at prices obviously higher than their fair price or they alienated the securities of the company at prices obviously lower than their fair price to the detriment of the company;
- have used the company's assets in personal interest or in the interest of third parties in which they are materially directly or indirectly interested.

Additionally, in the context of the merger/division, the responsibilities of the members of the management bodies are established, in Art. 92 para. (6), according to which, the executive body of each of the companies involved in the reorganization is obliged:

- to draw up a detailed written report explaining the proposed dismantling / merger contract and specifying the legal and economic basis of the proposal, in particular the share exchange report;
- to inform the general meeting, as well as the executive bodies of the other companies involved in the reorganization, so that they, in turn, can inform the general meetings about any substantial change in assets and liabilities exceeding 1% of the total value of assets the latest annual financial statements or, as the case may be, according to the interim financial statements, between the date of the drafting of the dismantling project / the merger contract and the date of the general meetings to approve the reorganization decision.

Also, Law No. 1134/1997 provides for the liability of other persons who prepared the reorganization plan, including the assessors who provided an opinion on the proposed reorganization plan. Thus, Art. 93 para. (10) - (13), in conjunction with Art. 94 and Art. 96 of this law, provides that: One or more specialists in the assessment of assets within the assessment companies that merge / dismantle,

acting on behalf of the merging / dismantling companies, but independently of them, analyze the merger / dismantling contract and draw up a written report to the shareholders. In each case, the report shall contain the opinion of the assessors on the correctness and reasonableness of the conversion ratio. The report must indicate the method (s) used to obtain the proposed proportion for the conversion of the shares, state whether the method (s) are appropriate for the case, state the values obtained by using each of these methods and will contain an opinion on the relative importance given to the methods in question in obtaining the value of the decided conversion ratio. The report will also describe any special evaluation difficulties that have arisen.

At the same time, "the assessor is liable, according to the legislation in force, for the damage caused to the shareholders of the absorbed company or the merged companies by falsifying the assessment results, non-compliance with the principles of independence, conscientiousness and confidentiality of the information obtained during the assessment".

17. Under which conditions may the nullity of the decision on merger be declared?

According to the provisions of Art. 220 of the Civil Code, the nullity of a merger can be declared only by court decision. From the date of state registration, the merger can be declared null and void only if the decision passed by one of the General Meeting of Shareholders that voted for the merger or division project is struck by absolute or relative nullity. Thus, absolute nullity occurs if the nullity sanctions the violation of a legal provision by which a general interest is protected, and the relative one if the nullity sanctions the violation of a legal provision by which a particular interest is protected. If a merger is declared null and void, the legal persons participating in that merger are jointly and severally liable for the obligations of the acquiring or newly created legal person.

Thus, the conditions for declaring null and void the merger / dismemberment are established in Art. 220 of the Civil Code (Law No. 1107/2002) which, complemented by Art. 93 para. (16) and Art. 96 para. (19) of Law No.1134/1997 fully transposes the provisions of Art. 108 and Art. 153 of EU Directive No. 2017 / 1132, which prescribe the conditions regarding the nullity of mergers /dismemberments.

The claim for ascertaining or declaring the nullity of the merger or dismemberment may be filed, under the sanction of revocation, within 6 months from the date on which the merger or dismemberment was registered.

18. Please specify the different rules applying, if any, in case of the establishment of a new company?

The particularities of the new companies established as a result of the reorganization can be deduced from the provisions of Art. 22 of Law No. 220/2007 on state registration of legal entities and individual entrepreneurs. Reorganization of legal entities by merging is considered completed from the moment of state registration of the legal entity created as a result of merging. The instruments of incorporation of the legal entity created as a result of the merger will contain provisions on taking over all the patrimonial rights and obligations of the legal entities reorganized by the merger. The legal entity created as a result of the merger is assigned a new state identification number. The legal entities participating in the merger cease to exist and are removed from the State Register. Reorganization of legal entities by division is considered completed from the moment of state registration of the legal entity created as a result of division. The instruments of incorporation of the legal entities created as a result of the division shall contain provisions regarding the taking over, on the basis of the balance sheet, of the respective part of the patrimonial rights and obligations of the divided legal entity. Legal entities created as a result of the division are assigned new state identification numbers.

Thus compared to the ordinary registration procedure of a newly founded company is the supplementation of the necessary documents to be submitted to the registration body, related to the reorganization, namely (according to Art. 21 of Law No. 220/2007):

- the draft merger contract or the dismantling project, as the case may be;
- the reorganization decision, adopted by the competent body of each legal entity participating in the reorganization;
- the articles of incorporation of the legal entity participating in the reorganization;
- the deeds of incorporation of the newly created legal entity;
- the document confirming the acceptance by the creditors of the guarantees offered or confirming the payment of the debts, as the case may be;
- reorganization authorization (in case of SA);
- the act of transmission or the distribution balance, as the case may be;
- copy of the reorganization notices of the legal entity, published in the Official Monitor.

Until the submission of the documents for the registration of the reorganization, the legal person which, as a result of the reorganization, ceases to exist, is obliged, under its own responsibility, under the sanction of payment of damages, to close the bank account (s) and destroy the stamp. which has this.

The other legal requirements imposed on the constitution of a person under a certain organizational-legal form shall be met.

19. Is there any acquis alignment on cross-border mergers of limited-liability companies? If yes, what type of mergers are covered (merger by acquisition, by formation of new companies) and what are the main procedural steps?

The national legislation of the Republic of Moldova does not provide for separate provisions regarding cross-border reorganizations.

It is important to note that EU Directive No. 20/20/2021 has amended the provisions of Directive (EU) No. 2017/1132 in the area of cross-border transformations, mergers and divisions, which are applicable to EU Member States from 12.12.2019. At the same time, Art. 3 of the EU Directive No. 2019/2021 provides for a period of compliance with national legislation until January 31, 2023.

20. Is there any alignment on disclosure requirements in respect of branches opened in a Member State by certain types of company governed by the law of another State?

According to Art. 12 of Law No. 220/2007, the branches of domestic legal entities are registered without assigning the status of legal entity, and the registration of foreign branches is similar to the procedure of registration of domestic legal entities, with the particularities specified in the Civil Code and Law No. 81/2004 regarding investments in entrepreneurial activity[30]. Branches of foreign legal entities are assigned state identification numbers regardless of the identification number of the foreign legal entity that created them.

The data from the State Register of Legal Entities (Art. 33 of Law No. 220/2007) provide information, including on the branches of the legal entity, which can be viewed on its official website of the state registration body. At the same time, the information regarding the branches can be requested by the state registration body upon request, or it is not offered for public viewing (Art. 34^1 of Law No. 220/2007).

At the same time, it is worth mentioning that at the moment the Republic of Moldova does not have information on the branches of the domestic legal entities registered in the EU member states, and the national legislation does not provide for the submission of such information to the state registration body by the domestic legal entities.

[30]Law No. 81/2004 regarding investments in entrepreneurial activity, available in Romanian: https://www.legis.md/cautare/getResults?doc_id=122080&lang=ro

21. If yes, what information do companies and their foreign branches need to disclose and what is required for disclosure to be legally effective, e.g. making it publically available in the register, in the national gazette?

Branches of Moldovan legal entities are registered without assigning the status of a legal entity. The procedure for registering branches of foreign legal entities is similar to the procedure for registering domestic legal entities with the peculiarities specified in the Civil Code and Law No. 81/2004 regarding investments in entrepreneurial activity.

Therefore, all the disclosure rules applicable to the legal entities in Moldova, are applicable to the branches of foreign entities

For registration of branches of foreign legal entities in Moldova, the following documents are to be submitted to the Agency of Public Services:

- Application for registration, according to the model approved by the state registration body, signed by the appointed administrator or, as the case may be, signed by another person empowered by the establishment decision;
- Approval and confirmation of the availability of the name of the branch, issued by the state registration body of the Republic of Moldova.
- The decision of the competent body of the legal entity, which must contain data on the creation of the branch, upon the approval of its regulation and the appointment of the administrator.
- The regulation of the branch, approved by the founder, which shall contain the following data:
    - headquarters (postal address, telephone/fax number, e-mail address), which must be located within the geographical territory of the Republic of Moldova;
    - types of activity carried out by the branch;
    - indication of the law of the state subject to which the foreign legal person is subject;
    - the legal form of organization, headquarters, types of activity and the size of the share capital of the legal entity, if the respective information is not indicated in the instruments of incorporation of the foreign legal entity;
    - name of the foreign legal person, name of the branch, if it is different from that of the foreign legal person;
    - name and surname of the person exercising the functions of managing the branch, name and surname of the administrator of the foreign legal entity;
    - powers of attorney of the person exercising the functions of managing the branch.

- Extract from the Register in which the foreign legal entity is registered, translated and notarized, as well as the registration number of the foreign legal entity;
- Copy of the instrument of incorporation of the foreign legal entity, translated into the state language extra-legalized or apostilled. The extra-legalization or Apostille is not necessary in the cases provided by the international treaties on legal assistance and legal relations in civil, family and criminal matters to which the Republic of Moldova is a party. The list of the respective treaties is published on the official website of the state registration body;
- Financial statement of the foreign legal entity according to the last reporting period;
- Information on the beneficial owner;
- Document confirming payment of registration fee.

22. Are there sanctions for non-disclosure of accounting documents (financial statements and annual report)?

According to Art. 295 of the Contravention Code of the Republic of Moldova No. 218/2008[31], the submission, to the body empowered to collect financial reports, of financial reports which do not correspond to the form laid down by the legislation or which do not reflect all the data established for this form or the incomplete or erroneous presentation of financial reports, or their failure to submit them within the time limit set by the legislation, shall be punishable by a fine of 15 to 45 conventional units imposed on the responsible person.

Premeditated failure, after the expiry of the period laid down by the legislation for the submission of financial reports, of the written provision of the body empowered to collect the financial reports on its submission within the time limit set by it shall be punishable by a fine of 6 to 12 conventional units imposed on the responsible person. The presentation in the financial reports of some erroneous indicators is penalized with a fine of 15 to 30 conventional units applied to the person in charge (one conventional unit being equal to MDL 50, about EUR 2.5).

Additionally, according to Art. 301^1 of the Contravention Code, the non-presentation within the term established by the legislation of the fiscal report is sanctioned with a fine from 6 to 12 conventional units applied to the person in charge.

[31]Contravention Code of the Republic of Moldova No. 218/2008, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=113262&lang=ro

23. Are there specific requirements in place for single member companies? If not, any plans in this respect?

The national legislation allows the incorporation of the company with a single shareholder / founder.

In the cases provided for by the Civil Code the company can be founded by one person (one founder). On the date of state registration of the company, the founder becomes the shareholder. The legal entity established by a single founder (shareholder) as for limited liability companies operates on the basis of the Articles of Associations. The in-kind contribution of the sole shareholder in the authorized capital of the company will be paid no later than 30 days after the state registration of the company. The in-kind contribution of the sole shareholder will be assessed by an independent evaluator.

The sole shareholder of a LLC shall have the rights and obligations, identical to the ones of the General Meeting of Shareholders. The decisions of the sole shareholder shall be drawn up in writing. In the instrument of incorporation, it may be additionally established the manner of adoption of decisions in the case when the sole shareholder is a legal entity.

The specific regulations applicable to the incorporation of a joint stock company with a single member are set out in Art. 29 para. (5) of Law No. 1134/1997 which states that it is possible for a joint stock company to be registered if the founder (shareholder) is not another company owned by a single shareholder.

24. If single member companies are allowed under the domestic legislation: What information is required for registration if the sole member is a natural person and a legal person? How are decisions taken by the sole member in a general meeting? How are legal transactions between the sole member and the company concluded? In case domestic legislation allows an individual entrepreneur to set up an undertaking with the liability limited to a sum dedicated to a stated activity - instead of allowing for formation of single-member companies - are sufficient safeguards laid down in domestic legislation?

Limited Liability company. As per Art. 18 of Law No. 135/2007, a LLC may have as its sole shareholder a natural or legal person. Contracts concluded between the sole shareholder and his/her company, represented by him/her, shall be drawn up in writing. The company cannot procure the share from its sole shareholder. The sole shareholder. Has the rights and obligations incumbent, according to the law, to the General Meeting of Shareholders.

Moreover, Art. 70 para. (2) of Law No. 135/2007 allows to appoint one of the shareholders in the role of the company's administrator (it is common practice to have the sole shareholder also act as administrator of the company). The administrator is entitled to manage the company and take the necessary measures to achieve the purposes provided in the articles of incorporation and in the decisions of the general meeting of shareholders, to represent the company without

power of attorney in the relations with the state bodies, with third parties and in the courts, to issue mandates to other persons on behalf of the company, to exercise other powers assigned by the general meeting of shareholders or by the board of the company according to their competence.

The sole shareholder has the same rights and obligations as the General Meeting of Shareholders. The decisions of the sole shareholder shall be drawn up in writing, as appropriate.The incorporation decision may additionally establish the manner of adoption of decisions in the case when the sole shareholder is a legal entity. At the same time, according to the provisions of Art. 29 para. (5) of Law No. 1134/1997, the Joint Stock Company can be established by a single founder (consisting of a single shareholder) only if the founder (shareholder) is not another single member company. In this case, the decision to establish the company will be taken by this person personally with the preparation of the declaration on establishing the company

The same data (information) is entered in the State Register as for the companies with several founders (shareholders). The decisions of the sole shareholder shall be drawn up in writing, as the case may be.

The legislation of the Republic of Moldova allows the founding of a company with the sole shareholder – individual entrepreneur and the protection measures is the limited liability of the founder.

25. Is there any domestic legislation aligned with Directive (2004/25/EC) on takeover bids, in particular the mandatory bid rule and derogations from this rule? If not, any plans to that extent?

The national legal framework is aligned with the Directive (2004/25/EC), namely the provisions of that Directive are transposed into Law No. 171/2012 on the capital market (art. 20-32) and the NCFM Regulation No. 33/1/2015 on public takeover bids[32], including derogations from the obligation to announce a takeover bid.

If yes:

a) In which cases is the publication of takeover bids obligatory? Are there any exemptions from this obligation?

According to Art. 21 of Law No. 171/2012[33] and chapter V of the NCFM Regulation No. 33/1/2015, the natural or legal person who holds, directly or indirectly, alone or together with the persons acting in concert with it, more than

[32]Regulation of NCFM No. 33/1/2015 on public takeover bid, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=123500&lang=ro

[33]Law No. 171/2012 on the capital market, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121985&lang=ro

50% of the voting securities of a company or of the securities that may be converted or offer the right to purchase voting securities is obliged to make a takeover bid for the purchase at a fair price of securities of the same class held by other persons.

The takeover bid is initiated each time the founders of the shareholders are changed – legal entities which, together with the persons with whom they act in concert, hold the majority of voting rights in this legal entity. The obligation to initiate the mandatory takeover bid occurs regardless of how the securities are acquired – purchase, subscription, merger, donation, inheritance, conversion or other means.

The obligation to make the takeover bid does not occur if the holding of more than 50% of the securities occurred:

- as a result of a voluntary takeover bid for the purchase of all securities of that class;
- as a result of the privatization in which public owned shares were acquired.

The takeover bid is mandatory for securities issued by public interest entities.

The take over bid cannot be made by the issuer in respect of its own securities.

b) What is the mandatory content of a takeover bid?

The mandatory stages of the takeover bid are provided in point 21 of the NCFM Regulation No. 33/1/2015 and include:

- the adoption by the bidder of the decision regarding the taking over of the takeover bid;
- concluding contracts with the intermediaries of the takeover offer;
- registration with NCFM of the prospectus of the takeover offer;
- information and publicity on the takeover offer;
- the receipt by the intermediary of the requests submitted by the holders of the securities accepting the conditions of the takeover offer;
- the adoption by the bidder of the decision regarding the satisfaction of the proposals submitted within the takeover bid;
- registration of sale-purchase transactions of securities negotiated within the takeover offer;
- publishing the results of the takeover bid;
- presentation to NCFM of the opinion regarding the results of the takeover bid.

c) Is the offer price regulated by law?

Yes. The price offered within the takeover bid is regulated in Art. 23 of Law No. 171/2012 and chapter VI of the NCFM Regulation No. 33/1/2015.

The price offered in the tender is considered to be a fair price if it is at least equal to the highest price paid by the tenderer or the persons with whom he acts in concert within 12 months prior to the tender, or if it does not exist, the price weighted trading average on the regulated market for the last 6 months prior to the offer.

Where the fair price cannot be determined, the price offered shall be determined taking into account at least the following criteria:

- the weighted average trading price for the last 12 months prior to the offer
- the value of net assets per share of the company, according to the last audited financial statement
- the value of actions resulting from an expertise, performed by an independent evaluator, in accordance with international evaluation standards.

d) Is the legislation aligned with articles 9 and 11 of the Directive?

The national legal framework is aligned with Art. 9 and Art. 11 of the Directive (2004/25/EC). Thus, the provisions of Art. 9 of the Directive are transposed to Art. 28 of Law No. 171/2012 and chapter IX of the NCFM Regulation No. 33/1/2015, and the provisions of article 11 are transposed to Art. 29 of Law No. 171/2012.

e) Is the reciprocity rule of article 12 section 3 of the Directive applied?

Given that, national legislation (Law No. 171/2012) implements the provisions of Art. 9 and Art. 11 of the Directive (2004/25/EC), the optional arrangements provided for in Art. 12 of the Directive (2004/25 / EC) are not required to be implemented.

f) hat are the thresholds for squeeze-out (article 15) and sell-out (article 16) following a takeover bid?

According to Art. 30 of Law No. 171/2012 and Chapter XVI of the NCFM Regulation No. 33/1/2015 (squeeze-out), if following the development of a mandatory or voluntary takeover bid, addressed to all holders of securities and for all securities held by them, the bidder, together with the persons with whom he acts in concert, hold at least 90% of the securities that were the subject of the takeover bid, then all holders of securities that did not sell in the bid, have the obligation to sell to the bidder, at their request, all securities held at a fair price. At the same time, according to the domestic legislation (Art. 30 para. (6) of Law No. 171/2012 and point 126 of the NCFM Regulation No. 33/1/2015), minority shareholders who do not wish to alienate their shares are entitled to communicate this in writing to the bidder until the expiration of the term established in the

request for compulsory withdrawal, and they remain in possession of the shares held.

According to Art. 31 of Law No. 171/2012 and Chapter XVII of the NCFM Regulation No. 33/1/2015 (sell-out), if, following a mandatory or voluntary takeover bid, addressed to all holders of securities and for all securities held by them, the bidder together with the persons with whom he acts in concert hold at least 90% of the securities that were the subject of the takeover bid, then it is obliged to purchase at a fair price the securities of the same class of the holders who did not sell in the takeover bid, at their request. The provisions of Art. 31 of Law No. 171/2012 does not apply if the bidder has initiated the mandatory withdrawal procedure according to Art. 30 of Law No. 171/2012.

26. To what extent is domestic legislation in Moldova aligned with the Shareholders' Rights Directive (2007/36/EC)? Are there any plans in this regard? If there is alignment, please indicate the relevant legislation.

Law No. 1134/1997 on joint stock companies, amended by Law No. 18/2020 has ensured the full compliance of the national legislation with the Directive 2007/36/EC of the European Parliament and of the Council of 11 July 2007, on the exercise of certain rights of shareholders in listed companies, as it was lastly amended by Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014.

At the same time, the draft Law amending certain normative acts, in this case Law No. 1134/1997 on joint stock companies and the Law No. 171/2012 on the capital market, developed by the National Commission for Financial Markets (NCFM) and sent to the Ministry of Finance for promotion (NCFM Decision of 19.04.2022), transposes the provisions of Art. 3 para. (2), Art. 9a para. (1) - (3), paras. (5) and (7) and Art. 9b paras. (4) and (5) of EU Directive No. 2017/828 of 17 May 2017, amending the Directive 2007/36 / EC with regard to the encouragement of long-term involvement of shareholders (published in the Official Journal of the European Union L 132/1 of 20.05.2017). Respectively, following the approval of this draft law by the Parliament (objective set for implementation by September 2022) and the subsequent amendments operated by NCFM in the Corporate Governance Code (approved by NCFM Decision No. 67/10 10 24.12.2015), in terms of setting the requirements for the policy and the remuneration report of the administrators, the compliance of the national legislation to the EU Directive No. 2017/828 of 17 May 2017 amending the Directive 2007/36/EC will be ensured.

27. Please detail the specific implementation of the following items:

a) Minimum notice period of 21 days for most General Meetings (GMs), which can be reduced to 14 days where shareholders can vote by electronic means and the general meeting agrees to the shortened convocation period;

Notification on holding the general meeting of shareholders:

- In the case of *public-interest entities*: shall be published on the company's website and published in the Official Gazette of the Republic of Moldova, if the decision of the general meeting of shareholders or the Articles of Associations of the company does not provide for another media.
- In the case of *companies that are not public-interest entities*: shall be sent to each shareholder, his legal representative or the custodian of the shares, in the form of a notice, to the postal or electronic address or to the fax number indicated in the accounts and registers of the Central Depositary or the custodian; or shall be published in the media provided for by the Articles of incorporation of the company

Generally, the Articles of company's incorporation shall expressly provide for the application of only one of the modes of informing shareholders about the holding of the general meeting of shareholders, or the simultaneous application of both modes of information.

Information about holding the general meeting of shareholders by correspondence or in mixed form: shall be sent to each shareholder or his legal representative, or to the custodian of the shares in the form of a notice together with the ballot paper; and shall be published in the media outlets indicated in the company's Articles of Associations, and in the case of public interest entities, and on its own official website.

The term for publishing information about the holding of the general meeting of shareholders and, as the case may be, for sending the notices of each shareholder is established in the company's Articles of incorporation, but it cannot be earlier than the date of the decision to convene the general meeting and later than:

- 30 days before the ordinary general meeting;
- 21 days before the Extraordinary General Meeting of the public interest entity;
- 15 days before the Extraordinary General Meeting of the company that is not an entity of public interest.

As an exception, the term of publication of information about the holding of the general meeting of the public interest entity may not be earlier than the date of the decision to convene the general meeting and later than 14 days before the holding of the general meeting in the case of:

- convocation of the general meeting for the execution of the obligations established by Art. 28 para. (1) letter c) of Law No. 171/2012 on the capital market[34];
- holding the general meeting by electronic means in accordance with Art. 54 of Law No. 1134/1997 on Joint Stock Companies[35].

According to the provisions of Art. 53 and Art. 54 of Law No. 135/2007 on limited liability companies[36], the administrator is obliged to send to each shareholder the decision on the convocation of the general meeting of shareholders, the necessary information and documents. The same obligation lies with the shareholders, the Council of the company or the censor if they convene the general meeting of the shareholders.

The decision on the convocation of the general meeting of shareholders shall be notified to each shareholder by registered letter, sent at least 10 days before the date of the meeting.

The instrument of incorporation may also provide for other conditions and deadlines for informing shareholders.

b) Internet publication of the convocation and of the documents to be submitted to the GM at least 21 days before the GM;

The term for publishing information about the holding of the general meeting of shareholders and, as the case may be, for sending the notices of each shareholder is established in the company's Articles of incorporation, but it cannot be earlier than the date of the decision to convene the general meeting and later than:

- 30 days before the ordinary general meeting;
- 21 days before the Extraordinary General Meeting of the public interest entity;
- 15 days before the Extraordinary General Meeting of the company that is not an entity of public interest.

As an exception, the term of publication of information about the holding of the general meeting of the public interest entity may not be earlier than the date of the decision to convene the general meeting and later than 14 days before the holding of the general meeting in the case of:

[34]Law No. 171/2012 on the capital market, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121985&lang=ro
[35]Law No. 1134/1997 on joint stock companies, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130627&lang=ro
[36]Law No. 135/2007 on limited liability, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=129087&lang=ro

- convocation of the general meeting for the execution of the obligations established by Art. 28 para. (1) letter c) of Law No. 171/2012 on the capital market;
- holding the general meeting by electronic means in accordance with Art. 54 of Law No. 1134/1997 on Joint Stock Companies.

According to Art. 53 paras. (7) and (8) of the Law No. 1134/1997, the period to inform the shareholders of the public interest entity:

- regarding the convening of the extraordinary GMS - no later than 21 days before the date of the meeting,
- and in the case of the GMS carried out by electronic means - no later than 14 days before the date of the meeting.

The statute of the company may also provide, in addition, other means of information (e.g. personal notification by postal notice).

Complementary, Art. 55 paras. (3) and (4) of Law No. 1134/1997 stipulates that the public interest entity is obliged to publish, within the information term set out above, on its own official web page the information:

- information on the holding of the General Meeting of Shareholders
- the total number of shares with voting rights, at the date of the convocation, including the total for each category of separate shares, if the capital of the company is divided into two or more categories of shares;
- the materials for the agenda of the General Meeting of Shareholders,
- the draft decision or in case, no decision is proposed, a comment of the executive body of the company for each item on the agenda of the General Meeting;
- the sample of the voting ballots;
- the drafts/proposals for the decision on the issues included in the agenda, presented by the shareholders in the period from the convocation until the date of the General Meeting of Shareholders.

c) Abolition of share blocking and introduction of a record date in all Member States which may not be more than 30 days before the GM;

According to the provisions of Art. 52 of Law No. 1134/1997 on Joint Stock Companies[48], the list of shareholders entitled to participate in the general meeting of shareholders is drawn up by the Central Depositary on the date fixed by the company's Council.

The date on which the list of shareholders entitled to participate in the general meeting is drawn up may not precede the date of the decision to convoke the

general meeting of shareholders and may not exceed the deadline of 45 days before its holding.

The list of shareholders can be changed only in cases:

- restoration, according to the court's decision, the rights of shareholders who were not included in the given list;
- correction of mistakes made in drawing up the list;
- alienation of shares by persons listed in the list until the general meeting of shareholders is held.

Record keeping of shareholders and the related regulations, allow Moldovan joint stock companies to identify, at the date of the General Meeting, the name and address of their shareholders based on an updated register of shareholders, and all transerable securities issued in the Republic of Moldova are nominative non-materialized.

Thus, the shareholders included in the list of shareholders with the right to participate in the GMS, are entitled to participate in the GMS, which is issued by a person authorized to keep the register of shareholders, and the date of that list may not be earlier than 45 days before the GMS, with the obligation to introduce the corresponding amendments in the list of shareholders 3 days before the GMS (Art. 52 para. (2) of Law No. 1134/1997). Therefore, according to the Directive, it is not necessary to take over the provisions of the reference date from the Directive.

d) Abolition of obstacles on electronic participation to the GM, including electronic voting;

Law No. 1134/1997 provides for the possibility of conducting the GMS by electronic means, in this sense Art. 49 para. (2) and Art. 54 of the mentioned law regulate the procedures applicable to the GMS by electronic means, which are in accordance with the EU standards.

According to the provisions of Art. 54 of Law No. 1134/1997 on Joint Stock Companies, the decision on the holding of the general meeting by electronic means shall be taken by the general meeting of shareholders only in relation to subsequent meetings and for a period including at most the next Ordinary Annual General Meeting. Participation in the general meeting by electronic means will be ensured by the company by applying one or more of the following ways:

- real-time transmission of the general meeting;
- two-way communication in real time, which allows shareholders to address remotely during the general meeting;
- the application of a voting system, other than postal voting, before or during the general meeting, which does not require the appointment by the shareholder of a representative to be physically present at the meeting.

The company which, according to the Articles of Associations, provides for the form of holding the general meeting by electronic means will also provide for the requirements regarding the electronic means used for the participation of shareholders in the general meeting to the extent that they are necessary to ensure the identification of shareholders and representatives of shareholders, as well as for the security of electronic communication.

e) Right to ask questions and obligation on the part of the company to answer questions;

According to the provisions of Art. 54 para. (2) of Law No. 1134/1997 on Joint Stock Companies, the right of shareholders to ask questions and the obligation on the part of the company to answer questions is ensured by real-time transmission of the general meeting and/or two-way communication in real time, which allows shareholders to address remotely during the general meeting.

According to the provisions of Art. 22 and Art. 23 of Law No. 1134/1997 on Joint Stock Companies, shareholders shall have the right:

- to participate in general meetings of shareholders;
- to get acquainted with the materials for the agenda of the general meeting of shareholders;
- to take note and make copies of the company's documents, access to which is provided by the said law, by Articles of Associations or by the regulations of the company;
- shareholders holding at least 5% of the voting shares of the company, in addition to the rights provided for in lit. a) – c), are also entitled, in the manner provided by the said law, by other legislative acts and by the Articles of Associations of the company, to introduce issues in the agenda of the Annual General Meeting of shareholders, as well as to submit draft decisions for the items included or proposed to be included on the agenda of the general meeting of shareholders.

In the part that expressly concerns the right of the shareholders to address the questions related to the agenda of the GMS, Art. 21 para. (1) letter h) of Law No. 1134/1997 stipulates "shareholders have the right to ask written questions on the issues on the agenda of the General Meeting of Shareholders".

Subsequently, Art. 50 para. (14) of Law No. 1134/1997, is established the obligation of the company to provide, within 15 days, the due answers.

f) Abolition of existing constraints on the eligibility of people to act as proxy holder and of excessive formal requirements for the appointment of the proxy holder.

According to the provisions of Art. 21 of Law No. 1134/1997 on Joint Stock Companies, the shareholder is entitled, under the mandate or contract, to delegate the exercise of his rights to the representative or custodian of the shares. The

representative of the shareholder may be any person, if the legislation does not provide otherwise.

According to the provisions of Art. 22 of Law No. 1134/1997 on Joint Stock Companies, a person may represent one or more shareholders, the number of which cannot be limited, being obliged to vote at the general meeting of shareholders in accordance with the instructions given by each shareholder who has appointed him.

The instructions of the shareholders regarding the expression of the vote may be formulated in writing, on the shareholder's own responsibility, and may be included in the power of attorney, mandate, contract or other separate document, presented simultaneously with the representation act. The representation acts and the documents containing the instructions formulated for the representatives are attached to the list of Shareholders participating in the general meeting

Shareholders may be represented at the general meeting of shareholders by the persons indicated below only if they:

- have informed the shareholder they represent of all relevant circumstances that could give rise to a potential conflict of interest, including whether they pursue an interest other than that of the shareholder;
- have written instructions on how to vote at the general meeting of shareholders for each issue on the agenda.

The requirements set out above apply if the shareholder's representative is:

- the shareholder who owns, directly or indirectly, alone or together with the persons with whom he acts in concert, more than 50% of the voting shares of the company. In the case of the legal person shareholder – the persons responsible and their employees, unless these persons own, directly or indirectly, alone or together with the persons with whom they act in concert, 100% of the share capital of the shareholder they represent;
- the person in charge or an employee of the company or of the legal entity in whose share capital the persons indicated in lit. a) hold, directly or indirectly, alone or together with the persons with whom they act in concert, at least 50% of the share capital of the legal person;
- the employee of the audit entity with whom the companies indicated in lit. a– - b) have concluded an audit contract;
- spouse, relative and affine up to the second degree including of natural persons specified in lit. a)–c).

The indicated persons are not entitled to transmit to third persons the representation powers received from the shareholders.

Public interest entities, for the purpose of conducting the general meeting by electronic means, shall allow the appointment of shareholders ' representatives by the use of electronic means, including the use of electronic documents in

accordance with the legislation on electronic signature and electronic document. To this end, the companies concerned will also accept notifications by electronic means regarding the appointment of Representatives, being obliged to make available to shareholders at least one effective method of notification by electronic means.

g) Are there rules on shareholder identification, transmission of information, facilitation of shareholder rights, and transparency and non-discrimination of costs in line with Directive (EU) 2017/828?

According to the provisions of Art. 18 of Law No. 1134/1997 on Joint Stock Companies, the company shall be obliged to submit to the Central Depositary the documents necessary for making entries in its accounts and registers, and the Central Depositary ensures the Keeping of accounts and registers until the deregistration of the company's securities from the Register of securities issuers.

According to the provisions of Art. 52 of Law No. 1134/1997 on Joint Stock Companies, the list of shareholders entitled to participate in the general meeting of shareholders is drawn up by the Central Depositary on the date fixed by the company's Council and shall include:

- the date when the list was drawn up;
- the name and surname (s) of the shareholders, their domicile (headquarters), personal Identification number (state identification number);
- data on custodians of shares;
- classes and number of shares belonging to shareholders or custodians;
- the total number of votes, the number of limited votes and the number of votes with which the shareholder will participate in the adoption of decisions;
- Signature of the person who drew up the list of shareholders of the company.

According to the Law No. 234/2016 on the Single Central Securities Depository (SCD)[37], the keeping of the register of shareholders of an entity whose securities are admitted for trading on the regulated market is ensured by SCD, whose duties refer, also on the right to operate and ensure segregated records for each shareholder.

Therefore, the issuer whose shares are admitted for trading on the regulated market, has immediate access to the list of shareholders, and shareholders are free

[37]Law No. 234/2016 on the Single Central Securities Depository (SCD), available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=121175&lang=ro

to exercise their rights under the shares they hold, subject to the requirements of Chapter Ia of Directive 2007/36/EC.

According to the provisions of Art. 13 of Law No. 135/2007, the instrument of incorporation of the Limited Liability Company shall include the information on the founder(shareholder), namely: name and surname, date and place of birth, domicile, citizenship and other data from the identity document of the founder natural person; name, headquarters, nationality (country of registration), state identification number of the founder legal person.

h) Are there rules concerning transparency of intermediaries and shareholder engagement policy? Does your Company Law provide any legal framework on the engagement of institutional investors and asset managers, and on proxy advisors?

As far as investment companies are concerned, implicitly - asset managers (in this case investment companies that provide portfolio management services (management of client asset, in particular financial instruments on a discretionary and individual basis, in accordance with the mandate given by client), Law No. 171/2012 already transposes the provisions stipulated by the EU sectoral normative acts.

At the same time, the current size of the securities market has not favored the emergence of voting advisers, and the services provided by investment firms, classified as "advisory services", provide services to investors in the sense of "advice or voting recommendations related to the exercise of vote".

i) On remuneration of directors, are there provisions regarding disclosure of the remuneration policy and the remuneration report as well as rules that allow shareholders to have an effective say on both?

Art. 48 para. (4) letter c) of the Law No. 1134/1997 on JSCs states that, unless the company's articles of association provide otherwise, the general meeting of shareholders is competent to, among others, determine the remuneration of the company's administrator. Art. 64 (6) of the same law provides that the company's board presents to the general meeting of shareholders the **annual report** containing, among others, **information on remuneration of individuals holding managerial / senior / leading positions** (in Romanian – "*persoane cu funcție de răspundere*"). Moreover, Art. 60 para. (8) letter a) of the same law provides that individuals holding managerial / senior leading positions, as well as their representatives, who own shares in the company and / or represent other shareholders of the company, are entitled to participate in the general meeting of shareholders where the remuneration and compensation for such positions of responsibility is decided upon.

The regulations contained in Law No. 1134/1997, Corporate Governance Code (approved by NCFM Decision No. 67/10/2015[38], with subsequent amendments and completions) contain some rules related to the remuneration policy and the remuneration report of the company's administrators, at the same time in the local legislation there is no complete analogy with the provisions of Directive 2007/36/EC, amended by EU Directive No. 2017/828.

Respectively, through the draft law amending Law No. 1134/1997, recently sent for promotion to the Ministry of Finance, will be transposed the provisions of Art. 3c para. (2), Art. 9a paras. (1) - (3), para. (5) and para. (7) and Art. 9b (4) and Art. (5) of EU Directive No. 2017/828 of 17 May 2017 amending Directive 2007/36 / EC as regards the encouragement of long-term involvement of shareholders (published in the Official Journal of the European Union L 132/1 of 20.05.2017. So, following the approval of this draft low on the Parliamentary Platform (objective set for implementation by September 2022) and the subsequent operation by the NCFM of the amendments to the Corporate Governance Code (approved by the NCFM Decision No. 67/10/2015), with regard to the establishment of requirements for the policy will also ensure compliance with national legislation and EU Directive No. 2017/828 of 17 May 2017 amending Directive 2007/36/EC.

j) Are there any rules on related party transactions?

Yes, there are. The rules on the related party transactions refer to the conflict of interest.

Under the legislation, a "conflict of interest transaction" means a transaction or several mutually related transactions that meet the following cumulative conditions:

a) is carried out, directly or indirectly, between the company and the interested person and / or its affiliated persons under contractual conditions practiced by the company in the process of its economic activity; and

b) the value of the transaction/transactions related to each other or of the goods that constitute the object of the respective transaction/transactions exceeds 1% of the value of the company's assets according to the latest financial statements.

Conflict of interest transaction is considered to be:

- the purchase, sale or transmission, or receipt in any other way by the company of goods, services, rights, funds, financial instruments and any other assets;

[38]Decision No. 67/10/2015 of NCFM on Corporate Governance Code, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=104772&lang=ro

- granting or receiving by the company of a loan, pledge, guarantee, surety or any other claim;
- granting or receiving goods or rights in use, lease, lease or leasing;
- concluding or assuming commitments with subsequent execution.

The person interested in carrying out the transaction by the company is considered the person who is:

- a shareholder who holds, alone or together with his affiliated persons, over 25% of the voting shares of the company; or
- member of the company's board or of the company's executive body; or
- a member of the company's board, proposed in this position at the request of a shareholder of the company, in case the transaction is concluded between the company and this shareholder and /or its affiliates.

At the request of the company, the person interested in carrying out the transaction by the company is obliged to repair the damage caused to the company and to compensate its failed income if it did not communicate the existence of the conflict of interests and/or voted for concluding a transaction with a conflict of interest in violation of the provisions of this law.

Any transaction with a conflict of interest may be concluded or modified by the company only by decision of the company's board, if the value of the transaction does not exceed 10% of the value of the company's assets according to the latest financial statements, or by the decision of the general meeting of shareholders.

The company is obliged to publish, within 7 working days from the date of adoption, the decision regarding the conclusion of the transaction with conflict of interest in the press body specified in the company's statute, disclosing the information that will include the following elements:

- the description and value of the transaction with conflict of interest, as well as the description of the situation that leads to the creation of the conflict of interest;
- goods, services, rights, financial instruments or any other assets related to the transaction with conflict of interest;
- the person interested in carrying out the transaction by the company, indicating its name or denomination;
- the share of voting shares held by the person interested in carrying out the transaction by the company and/or by its affiliated persons.
- The public interest entity will disclose the information regarding the conclusion by the company of a transaction with conflict of interest and by placing it, within 3 working days, on the company's website.

Until the decision on concluding the transaction with conflict of interest is taken, the observance of the way of concluding the respective transaction will be verified by:

- the audit entity - in the entities of public interest;
- the commission of censors - in companies other than those specified in letter a).

After the verification, a report will be issued which will include the following elements:

- the description and value of the transaction with conflict of interest, as well as the description of the situation that leads to the creation of the conflict of interest;
- the management body of the company that must adopt the decision regarding the conclusion of the transaction with conflict of interests;
- findings regarding the observance of the way of determining the market value of the goods;
- findings regarding the possible losses or damages caused to the company

If more than half of the elected members of the company's board are persons interested in carrying out the given transaction, it will be concluded only by the decision of the general meeting of shareholders .

The decision of the general meeting of shareholders regarding the conclusion of transactions with conflict of interest, in accordance with this law or the company's statute, is adopted by a majority of votes out of the total number of votes of persons not interested in concluding such transactions.

The person interested in carrying out the given transaction will have to leave for a while the meeting of the company's board or the general meeting of shareholders at which, by open vote, it is decided on its conclusion. The presence of this person at the meeting of the board of the company or at the general meeting is taken into account when establishing the quorum, and when ascertaining the result of the vote, it is considered that this person did not participate in the voting

If the board of the company or the general meeting of shareholders was not aware of all the circumstances related to the conclusion of the conflict of interest transaction and / or this transaction was concluded in violation of other provisions of this article, the board of the company or the general meeting is entitled to request company executive:

- to renounce the conclusion of such a transaction or to terminate it; or
- to ensure, under the conditions of the legislation, the reparation by the interested person of the damage caused to the company by carrying out this transaction.

Therefore, the provisions of Art. 9 letter c) of Directive No. 2007/36/EC, in the part related to transactions with conflict of interest, are transposed in Art. 84-85 of Law No. 1134/1997, at the same time, following the alignment of the national legislation with the provisions of Art. 52 of Directive No. 2017/1132, amendments were made to Law No. 1134/1997, applicable from 01.01.2021.

Respectively, Art. 84-85 of Law No. 1134/1997 offers the definition of the transaction with conflict of interest, regulates the way of approving such transactions, the disclosure of the information regarding the transaction with conflict of interest, also regulates the exceptions from the given regulations.

k) Are there effective, proportionate and dissuasive sanctions or penalties applicable to infringements of national provisions adopted on the previous issues and their implementation?

The Contravention Code of the Republic of Moldova No. 218/2008[39] provides for the application of contravention sanctions for violating the legislation in the activity of the issuer, as a participant in the securities market, in particular:

- Violation of the legislation regarding the convening and holding of the general meeting of shareholders Art. 302 para. (3) of Law No. 218/2008, the fine constituting from 48 to 300 conventional units (1 c.u. = MDL 50 or cca. EUR 2.5);
- Violation of the legislation on amending the share capital, the fine being from 60 to 300 conventional units;
- Violation of the legislation by the issuer regarding the obligatory disclosure of information, the fine being from 90 to 150 conventional units;
- Breaking of the law relating the the manner of concluding transactions with company assets, in particular large-scale transactions and transactions with conflicts of interest, the fine being from 60 to 300 conventional units.

The Criminal Code of the Republic of Moldova No. 985/2002[40] criminalizes the abuses in the issuance of financial instruments, Art. 245 stating that inclusion of inauthentic or misleading information in the prospectus or other documents on issuance of financial instruments, knowingly approving the prospectus that contains inauthentic or misleading information, and approval manifestly inauthentic results of the emission, if these actions have caused significant damage, are punishable by a fine of 3 000 to 6 000 conventional units or imprisonment for up to 3 years, in both cases with (or without) deprivation of the right to hold certain positions or to exercise a certain activity for a term of up to 3 years. to 5 years, and

[39]Contravention Code of the Republic of Moldova, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=131058&lang=ro

[40] Criminal Code of the Republic of Moldova No. 985/2002, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130983&lang=ro

the legal person is punished with a fine in the amount of 2 000 to 4 000 conventional units with deprivation of the right to exercise a certain activity.

Council Regulation (EC) 2157/2001 on the Statute for a European company (SE) - and Directive 2001/86/EC supplementing the Statute for a European company with regard to the involvement of employees – and Council Regulation (EEC) 2137/85 on the European Economic Interest Grouping (EEIG).

Commission Recommendations 2004/913/EC, 2005/162/EC and 2009/384/EC, 2009/385/EC regarding remuneration of directors and the independence of directors and the committees of the supervisory board, as well as 2014/208/EU on corporate governance reporting ('comply or explain'):

28. Has a Corporate Governance code been introduced, or is there any plan to introduce it? What is it based on (e.g. OECD standards)? What are its main provisions? How binding is the compliance with the code (e.g. voluntary; comply or explain) and how is the compliance monitored? How is the remuneration of management board members determined? Are details of the remuneration publicly disclosed? Can the supervisory board establish committees? Are there any committees specifically required by law? Is there an obligation for all listed companies to include a corporate governance statement in their management report?

The mandatory approval by the issuer of a Corporate Governance Code (the Code), as established in the NCFM Decision No. 67/10/2015, is applicable to public interest entities, and for other categories of companies, the approval of the Code is recommended.

The code has been developed in line with international corporate governance practice, with the principles of corporate governance developed by the Organization for Economic Co-operation and Development (OECD) being ensured.

The Code is based on the principle of "respect or explain". Annually, mandatory, the corporate governance statement is presented, based on which compliance with the Code is monitored by public interest entities.

The remuneration policy of the members of the bodies with positions of responsibility of the company is approved at the general meeting of shareholders.

The Code and the Law No. 1134/1997 on JSCs also provides for the presentation in the annual management report of the information on the remuneration of the members of the board of directors. Art. 48 para. (3) letter e) of the Law No. 1134/1997 on JSCs provides that the general meeting of shareholders is exclusively competent to determine the amount of remuneration, annual remuneration and compensation of the company's board.

The Code recommends that the remuneration of the members of the company's board, executive body and audit committee reflect their actual contribution to the success of the company's business.

The amount and criteria of remuneration of members of the company's board, executive body and board of auditors should, in accordance with the provisions of the law and corporate governance practices, be based on:

- the responsibilities and contributions of the members of the company's board, executive body and audit committee to the company's performance and results;
- an ability to attract, select and retain qualified and loyal managers;
- will encourage the members of the board, the executive body and the board of auditors to act in the interests of society and not in the personal interest.

The proposed remuneration policy for the next management period and any change in the remuneration policy for the management period shall be approved by the general meeting of shareholders

The remuneration of the members of the executive body is approved by the general meeting of shareholders, unless the company's statute provides otherwise. The remuneration of the members of the board of directors of the company and of the board of auditors is approved by the general meeting of shareholders.

As per the code, the shareholders shall have access to the policy adopted by the company regarding the determination of the remuneration and bonuses of members of the company's board, executive body, board of auditors, as well as information on the annual remuneration and variable incentives received by these members.

The competence, amount of fixed salary, structure and amount of variable remuneration components, including rewards in the form of shares (in the case of optional programs for company managers), of board members and the executive body must be reflected in the company's annual report.

The annual report of the company's board will reflect how the remuneration policy was implemented in the previous financial year and will contain a summary of the remuneration policy planned for the next management period, including: description of the performance criteria and the ways to determine their fulfillment; changes in remuneration policy.

As regards the establishment of committees within the board, they are mandatory for banks - the audit committee, the risk management committee, and for other public interest entities - the audit committee.

The public interest entity and any other joint stock company that approves this Code is required to prepare a Corporate Governance Statement and include it in the annual management report. The statement will be published on the company's website, if such a website exists.

B. Administrative Capacity

29. Which authorities are responsible for company law? What is the size of the department(s) dealing with this issue?

The implementation and ensuring the compliance of the activity of the joint stock companies with the provisions of Law No. 1134/1997 is the attribution of National Commission for Financial Market (NCFM), the autonomous public authority, which is invested with powers to oversee compliance with the rights and obligations of non-banking financial market participants, including issuers of securities and investors.

From this perspective, within the activity of supervising issuers, NCFM pursues with priority the way in which the joint stock companies comply with the legal requirements regarding:

- corporate governance;
- the establishment of companies and the operation of amendments to the articles of association, with priority given to those aimed at changing the share capital and their identification data;
- the realization of the shareholders' rights to the acquisition by the company of its own shares;
- the manner in which the company concludes large-scale transactions with a conflict of interest;
- dividend distribution and compliance with share capital and net asset size requirements;
- execution of transparency obligations (current and periodic reporting requirements);
- the procedure for reorganization of the joint stock companies.

30. Please identify the administrative or judicial authority responsible for the incorporation of companies.

State registration of legal entities and individuals – individual entrepreneurs is carried out by the Public Services Agency through its territorial structures. The Agency is a public institution, founded by the government, whose activity aims to facilitate and streamline the process of providing public services. The status of the public institution "Public Services Agency" is approved by Government Decision No. 314/2017[41] and regulates the mission, functions and rights of PSA as well as the organization of its activity. The state registration agency has 10 territorial

[41]Government Decision No. 314/2017 on the establishment of the Public Services Agency, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128920&lang=ro

structures through which it carries out state registration of legal entities and individual entrepreneurs.

31. Is there a mechanism in place that allows coordination and cooperation with registers from Member States (e.g. in the context of a cross-border merger of companies)? Please explain.

Currently, there is no specific mechanism in place allowing the coordination and cooperation of the informational systems between Moldova and other countries.

II. TRANSPARENCY

Directive 2004/109/EC and 2013/50/EU regarding harmonization of transparency requirements related to listed companies (and amending Directives 2008/22/EC, 2010/73/EU, 2010/78/EU).

32. To what extent is domestic legislation in Moldova aligned with the abovementioned Directive? Are there plans in this regard?

Moldova's legal framework is aligned to the majority of provisions in the Directive 2004/109/EC on the transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market. Namely, the provisions regarding the disclosure of information are included in the following normative acts:

- Law No. 171/2012 on the capital market (Chapter VI Disclosure of information);
- Regulation No. 7/1/2019[42] on disclosure of information by issuers of securities;
- Regulation No. 13/10/2018[43] on securities registration.

According to the mentioned framework, issuers whose securities are admitted to trading on a regulated market are required to publish:

- annual report of the issuer;
- half-yearly report of the issuer;
- interim statements of the issuer;
- events affecting the issuer financial and economic activity;
- articles of incorporation of the issuer;
- information on important shareholdings.

Regarding Directive 2013/50/EU (Art. 1 para. (2) letter (b)), it should be noted that the Directive provides for the right, not the obligation, of a Member State to provide in the national legal framework for more frequent publication requirements for an issuer. As a result, it is clear that the harmonization clause of the mentioned provisions is not mandatory for transposition into national law.

At the same time, Directive 2008/22/EC that refers to the competences of the Commission (EU Commission invested with implementing powers of the

[42]Decision of NCFM No. 7/1/2019 on the approval of the Regulation on the disclosure of information by securities issuers, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=113193&lang=ro

[43]Decision of NCFM No. 13/10/2018 regarding approval Instruction on stages, deadlines and how to register a securities, available in Romanian at:
https://www.legis.md/cautare/getResults?doc_id=127711&lang=ro

Decisions of the European Parliament and the Council) are not relevant at this moment for the Moldova and Directive 2010/78/ES is repeated.

33. Have proper responsibilities of the issuer - or its administrative, management or supervisory bodies - been ensured?

According to point 62 of the Regulation on the disclosure of information by issuers of securities (CNPF Decision No. 7/1/2019), the responsibility to disclose information lies with the executive body of the issuer.

The responsibilities of the management bodies of the issuer are clearly stated in Law No. 1134/1997, in particular:

- Art. 48 paras. (3) - (4) of Law No. 1134/1997 establishes the exclusive attributions, and respectively the ordinary attributions, of the general meeting of shareholders;
- Art. 64 of Law No. 1134/1997 elaborates on the attributions of the company's board of directors;
- Art. 68 and Art. 69 of Law No. 1134/1997 lists the powers and responsibilities of the executive officer (administrator) of the company;
- Art. 70 and Art. 71 of Law No. 1134/1997 establish the competencies of the audit committee.

At the same time, the applicable/relevant legislation (Art. 73 of Law No. 1134/1997, and as the case may be, the sectorial normative acts) provides for the liability of the members of the company's management bodies in cases of violation of the legislation.

34. How is the disclosure of regulated information ensured, in a manner ensuring fast access to such information on a non-discriminatory basis?

Disclosure of regulated information is ensured, in accordance with the provisions of the Regulation No. 7/1/2019 on disclosure of information by issuers of securities, in the following mandatory ways:

- in electronic format, to the official information storage mechanism
- in electronic format, on the company's own official website.

The statute of the company, in addition, may also provide for the disclosure of information in one or more newspapers with national circulation.

35. Are listed companies required to disclose voting rights concentration? What are the thresholds?

Pursuant to the Law No. 171/2012 on the capital market (Art. 125), listed companies are required to release voting rights concentration in the following manner:

- The shareholder who acquired and alienated shares with voting rights of the issuer who meets the criteria on public interest entity, is obliged to inform the issuer and National Commission for Financial Market about this no later than 4 working days from the date of acquirement or alienation, if after transactions they reach, exceed or fall below 5%, 10%, 15%, 20%, 25%, 33%, 50%, 66%, 75% and 90%.
- The shareholder with voting rights is obliged to inform the issuer and National Commission for Financial Market if its share reaches the limit set in (1) paragraph as a result of conversion, split or consolidation operations.
- The requirements set in paras. (1)-(2) are applied if a person acquires securities, which are convertible into shares with voting rights or into financial instruments, in which basis may acquire shares with voting rights. In addition, they can be applied to the natural or legal persons to the extent that such persons have the right to acquire, dispose of or exercise voting rights in one of the following situations or in a combination of these:
  - the voting rights are held by a third party with which the person concerned has concluded an agreement in order to adopt, by concerted exercise of the voting rights that they hold, a lasting common policy regarding the concerned management company;
  - the voting rights are held by a third party under an agreement with the person who provides temporary transfer for consideration of the voting rights in question;
  - the voting rights attached to the shares which are pledged as collateral in addition to the person, provided that the person in question controls the voting rights and declares its intention of exercising them;
  - the voting rights are attached to shares for which the person in question holds an usufruct;
  - the voting rights are held or may be exercised in accordance with paragraphs a)-d) by an entity controlled by the person in question;
  - the voting rights are attached to shares deposited besides the person in question who can exercise them at its discretion if it does not receive specific instructions from the shareholder;
  - the voting rights are held by a third party on its own name or on behalf of such a person;

- this person may exercise voting rights as proxy and at its own discretion when it did not receive specific instructions from the shareholders.

- Within 3 days of receiving the information under paras. (1) - (3), the issuer is required to publish this information.
- The requirements set out in paras. (1) - (3) do not apply to market maker when limits are reached as per para. (1) if it does not intervene in the management of the issuer concerned nor does it exert influence to cause the issuer to acquire such shares or support the share price.
- The issuer who has acquired or alienated shares with voting rights is required to publish information as soon as possible, but not later than 5 working days from the date of the transaction, if, after transaction, the issuer reaches, exceeds or falls below 5% or 10%.

36. Is there a central storage mechanism for disclosure of annual and half yearly accounts of listed companies? How can these documents be accessed? Please indicate the eventual fees imposed for access to these accounts.

The official information storage mechanism (MSI) has been established in Moldova since 2016, based on the Regulation on the official information storage mechanism, approved by NCFM Decision No. 22/8 of 29.04.2015 and Decision No. 65/4 of 18.12.2015 regarding the designation of the Capital MARKET Newspaper as the operator of the MSI.

The mandatory information to be placed on the MSI includes the annual, half-yearly report (for listed companies and other public interested entities) and ongoing reporting.

MSI data can be accessed free of charge on the website https://emitent-msi.market.md/ro/, the access being intended for the general public. The homepage of website provides the following search categories:

- name of the reporting entity that has published the regulated information;
- date and time when information was forwarded;
- title of the document;
- type of information.

The aim of MSI is to ensure transparency of information on the activity of reporting entities in order to protect the investors' interests (shareholders) and to ensure the proper functioning of the market.

III. COMPANY REPORTING AND STATUTORY AUDIT

A. Company Reporting

The accounting Directive 2013/34/EU provides for the legal framework on the annual financial statements, consolidated financial statements, and related reports for certain undertakings (amending Directive 2006/43/EC and repealing Council Directives 78/660/EEC and 83/349/EEC). Directive 2013/34/EU was amended by Directive 2014/95/EU on the disclosure of non-financial and diversity information by certain large undertakings and groups and Directive (EU) 2021/2101 on the disclosure of income tax information by certain undertakings and branches. Also, Regulation (EC) No 1606/2002 on the application of international accounting standards (the IAS Regulation) is relevant when used for company law purposes (statutory accounts).

37. What are the legal requirements on the preparation of annual accounts by limited liability companies? Can companies use IFRS or shall they use official accounting standards issued by a standard-setting body ("nGAAP")?

According to Art. 2 of the Law No. 287/2017 on Accounting and Financial Reporting[44], its provisions are applied to the legal persons that conduct entrepreneurial activity, regardless of the property type and the legal organization form.

Micro-entities keep double-entry accounting and draw up abridged financial statements according to National Accounting Standards (NAS), except investment societies, financial holding societies, joint financial holding societies, non-banking financial societies and holding societies with mixed activity.

Small entities keep double-entry accounting and draw up simplified financial statements according to NAS.

Medium-sized and large entities keep double-entry accounting and draw up full financial statements according to NAS.

Public interest entities keep double-entry accounting and draw up financial statements according to IFRS.

Micro, small, medium-sized entities may keep accounting and draw up financial statements based on IFRS (Art. 5 paras. (1)-(4), (11) Law No. 287/2017).

[44]Law No. 287/2017 on Accounting and Financial Reporting, available in English at: https://mf.gov.md/sites/default/files/legislatie/Law%20no%20287%20on%20accounting%20and%20financial%20reporting%20-EN.pdf , and in Romanian at: https://www.legis.md/cautare/getResults?doc_id=125231&lang=ro

38. In case limited liability companies can use IFRS, is there 1) a mechanism for endorsing IFRS standards, 2) a requirement for specific disclosures of the Accounting Directive that go beyond IFRS disclosures?

1. According to Art. 8 para. (1) of the Law No. 287/2017 on Accounting and Financial Reporting, the Ministry of Finance is in charge of accepting the IFRS, publishing them in the Official Gazette of the Republic of Moldova and posting them on the official website of the Ministry of Finance.

The IFRS are published in the Official Gazette of the Republic of Moldova periodically, depending on the volume of conducted updates. The IFRS and the related updates are posted on the official website of the Ministry of Finance within one month from the date of receiving them from the International Accounting Standards Board.

2. According to the Law mentioned above, explanatory note of all entities is a part of sets of reports that must include information concerning:

- adopted accounting policies;
- in case of subsequent evaluation of fixed assets according to the reevaluation model:
  - reevaluated value by category of fixed assets from the beginning until the end of the management period;
  - modification of reevaluation-related discrepancies during the management period, accompanied by an explanation on their tax approach; and
  - accounting value, in the event that the fixed assets were not reevaluated;
- in case of subsequent reevaluation at the fair value of financial instruments and other categories of assets:
  - methods used to determine the fair value and the information that lays at the basis of their application;
  - fair value by each category from the beginning until the end of the management period and modifications of value differences originating from the adjustment of the fair value settled with the expenses and revenues of the management period;
  - type and nature of derivative financial instruments, including significant terms and conditions that affect the value, calendar and certainty of future cash flows;
  - movement of fair value reserves during the management period;
- total value of financial commitments, guarantees or contingents assets and liabilities that are not included in the balance sheet, indicating the nature and form of each granted guarantee; the commitments related to pensions and affiliated or associated entities are presented separately;

- amounts of advance payments and loans granted to members of the board, the executive body and the supervision body, indicating the interest rates, basic terms of granting them, reimbursed amounts and commitments made on their behalf under any kind of guarantees;
- quantity and nature of individual revenue and expense items that have an unordinary size or incidence;
- amounts of liabilities with a due date of more than 5 years and total value of liabilities covered by guarantees, indicating the nature and form of guarantees;
- surrender of shares and own shares, where the entity does not draw up a management report;
- individual asset and liabilities items that are more related to an element in the structure of the balance sheet, if they are not presented separately in the balance sheet;
- average number of employees in the management period.

The explanatory note of medium-sized, large and public interest entities, in addition to the information mentioned above, includes mandatorily information concerning:

- tangible and intangible assets:
  - entry cost or, if subsequent evaluation at fair value or reevaluated value, the fair value or the reevaluated value at the beginning and at the end of the management period;
  - increases, reductions or transfers during the management period;
  - accumulated depreciation, accumulated impairment losses and reevaluation adjustments at the beginning and at the end of the management period, as well as their modifications during the management period;
  - capitalized borrowing costs during the management period;
  - subsequent capitalized costs during the management period.
- financial instruments, if they are evaluated as charges:
  - fair value, if such value can be determined, for each class of derivative financial instruments and their nature;
  - accounting value and fair value of financial instruments from the assets class registered at a value higher than their fair value and the reasons for not reducing the accounting value;
- amounts of remunerations granted during the management period to the members of the board, the executive body and the supervision body and other commitments occurred or assumed in relation to the pensions of current or former members of the respective bodies, by category;

- average number of employees during the management period, distributed by category and staff expenses related to the management period, unless these were presented separately in the profit and loss account;
- balance and modification of assets and liabilities concerning deferred income tax, in case of application of the deferred tax method;
- names and address of assets where an interest of shares is held, indicating the share in the share capital, the size of the share capital and of the reserves, as well as the profit (loss) of the respective entity for the last management period for which the financial statements were approved;
- number and nominal value of subscribed shares during the management period;
- where there are various category of shares, number and nominal value of shares by each category;
- types of owned financial instruments, indicating their number and the rights they entitle to;
- names and addresses of all entities, registered according to civil legislation, associated with the entity, which are liable for its obligations with all of their assets, except goods that cannot be pursued according to the law;
- name and address of the entity that draws up the consolidated financial statements for the largest group, where the entity is part of as a subsidiary, as appropriate;
- name and address of the entity that draws up the consolidated financial statements for the smallest group, where the entity is part of as subsidiary and is included in the group provided in letter k), as appropriate;
- proposal on profit distribution (loss coverage), as appropriate;
- nature and commercial purpose of the entity's commitments that are not included in the balance sheet, as well as the financial impact of such commitments on the entity, provided that the resulting risks or benefits are significant;
- nature and financial effects of significant events that occurred after the reporting date and are not reflected in the balance sheet and in the profit and loss account;
- transactions with affiliated entities, including amount, nature of relation and other relevant information.

The explanatory note of a large entity and of a public interest entity, in addition to the information mentioned above, includes mandatorily information concerning:

- sales revenues, presented by activity segments and geographical areas, set according to the applicable accounting standards;
- total fees paid to audit entities for the audit of financial statements and total fees charged by the respective entities for services other than audit, including by type of services (Art. 22 paras. (3)-(5), Law No. 287/2017).

Medium-sized, large and public interest entities draw up and submit on a yearly basis a management report along with the financial statements.

The management report contains a fair view of the position of the entity, development and performance of their activities and presents an analysis correlated to the size and complexity of conducted activities.

The management report includes at least information concerning:

- financial performance indicators;
- non-financial performance indicators that are relevant for the activity of the entity;
- development perspectives of the entity;
- research and development activities;
- acquisition of own shares and joint-stock shares;
- branches of the entity;
- main risks and uncertainties faced by the entity;
- environment protection and professional opportunities of employees;
- where the use of financial instruments is significant for the evaluation of financial position and performance:
    - financial risk management objectives and policies for each major kind of forecasted transactions that use risk coverage methods;
    - exposure degree of the entity to price risk, credit risk, liquidity risk and cash flow risk.

The public interest entity that meets the criteria set for large entities and whose average number of employees in the management period is higher than 500 is obliged to include a nonfinancial statement in the management report.

The non-financial statement includes information concerning environment, social issues, human resources, respect of human rights and fighting of corruption and in light thereof, covers:

- a brief description of the business model of the entity;
- a description of adopted policies and applied procedures, as well as the results obtained by the entity;
- main risks and manner of managing them.

If the entity does not apply policies concerning environment, social issues, human resources, respect of human rights and fighting of corruption, the non-financial statements offer a clear and motivated explanation in this regard.

The management report of the public interest entity whose securities are admitted for trading on a regulated market includes a chapter on corporate governance, which must contain information concerning:

- the corporate governance code applied by the entity, with reference to the publication source;
- degree of compliance by the entity with the provisions of the corporate governance code, and in cases of deviations, explanation concerning the parts of the code that do not apply and reasons for non-application;
- internal control and risk management systems of the entity, concerning the financial reporting process;
- direct or indirect significant shares in the share capital;
- actual beneficiaries and holders of any securities that grant special control rights and description of the respective rights;
- any restrictions concerning the right to vote, such as restriction of the right to vote for holders of a certain share in the share capital or of a certain number of votes; imposed terms for the exercise of the right to vote and systems where, in cooperation with the entity, the financial rights attached to securities are separated from their holding;
- legislative provisions concerning the appointment and replacement of members of the board and the executive body, as well as concerning the amendment of the entity's bylaws;
- competences of the board and the executive body concerning the issue and surrender of securities;
- powers and rights of management bodies, shareholders and other holders of securities of the entity and manner of exercising them;
- structure, manner of operation and composition of management bodies and committees of the entity.

Large and public interest entities, which are entities from the extractive industry or in the area of forestry, include in the management report a separate chapter on payments made to the state, which includes the paid amount, in cash or in kind, as taxes for the natural resources, income tax, royalties, dividends, and license fee, if at least one of the respective payments exceeds the amount of MDL 1 700 000 during the management period. The information concerning payments made to the state includes:

- total amount of payments, including by types, made to the state;
- payments in kind made to the state, presented as quantity and value, accompanied by the justification of the manner of determining the respective value (Art. 23, Law No. 287/2017).

39. Have you applied the company size and group size requirements in accordance with the Accounting Directive?

According to Art. 4 paras. (1)-(7) of the Law No. 287/2017 on Accounting and Financial Reporting, categories of entities and groups legal entities are classified as:

A micro-entity is an entity that on the reporting date does not exceed the limits of two of the following criteria:

- total assets – MDL 5 600 000 (cca. EUR 280 000);
- sale revenues – MDL 11 200 000 (cca. EUR 560 000);
- average number of employees in the management period – 10.

A small entity is an entity that, not being a micro-entity, on the reporting date does not exceed the limits of two of the following criteria:

- total assets – MDL 63 600 000 (cca. EUR 3 180 000);
- sale revenues – MDL 127 200 000 (cca. EUR 6 360 000);
- average number of employees in the management period – 50.

A medium-sized entity is an entity that, not being a micro- or small entity, on the reporting date does not exceed the limits of two of the following criteria:

- total assets – MDL 318 000 000 (cca. EUR 15 900 000);
- sale revenues – MDL 636 000 000 (cca. EUR 31 800 000);
- average number of employees in the management period – 250.

A large entity is an etity that on the reporting date exceeds the limits of two of the following criteria:

- total assets – MDL 318 000 000 (cca. EUR 15 900 000);
- sale revenues – MDL 636 000 000 (cca. EUR 31 800 000);
- average number of employees in the management period – 250.

A small group is a group composed of a parent entity and subsidiaries that should be included in the consolidation and that on the reporting date of the parent entity, as a whole, do not exceed the limits of two of the following criteria:

- total assets – MDL 80 300 000 (cca. EUR 4 015 000);
- sale revenues – MDL 160 600 000 (cca. EUR 8 030 000);
- average number of employees in the management period – 50.

A medium-sized group is a group that, not being a small group, is composed of a parent entity and subsidiaries that should be included in the consolidation and that on the reporting date of the parent entity, as a whole, do not exceed the limits of two of the following criteria:

- total assets – MDL 401 500 000 (cca. EUR 20 075 000);
- sale revenues – MDL 803 100 000 (cca. EUR 40 150 000);
- average number of employees in the management period – 250.

A large group is a group composed of a parent entity and subsidiaries that should be included in the consolidation and that on the reporting date of the parent entity, as a whole, exceed the limits of two of the following criteria:

- total assets – MDL 401 500 000 (cca. EUR 20 075 000);
- sale revenues – MDL 803 100 000 (cca. EUR 40 150 000);
- average number of employees in the management period – 250.

These requirements are compliant with the Directive 2013/34/EU.

40. Do your legal accounting requirements have:

a) a regime for small companies that is compliant with the Accounting Directive?

According to Art. 5 paras. (1)-(2) of the Law No. 287/2017 on Accounting and Financial Reporting, micro-entities and natural persons that conduct entrepreneurial activity, once registered as value-added tax payers, keep double-entry accounting and draw up abridged financial statements according to NAS, except investment societies, financial holding societies, joint financial holding societies, non-banking financial societies and holding societies with mixed activity.

Small entities keep double-entry accounting and draw up simplified financial statements according to NAS.

A micro-entity is an entity that on the reporting date does not exceed the limits of two of the following criteria:

- total assets – MDL 5 600 000 (cca. EUR 280 000);
- sale revenues – MDL 11 200 000 (cca. EUR 560 000);
- average number of employees in the management period – 10.

A small entity is an entity that, not being a micro-entity, on the reporting date does not exceed the limits of two of the following criteria:

- total assets – MDL 63 600 000 (cca. EUR 3 180 000);

- sale revenues – MDL 127 200 000 (cca. EUR 6 360 000);
- average number of employees in the management period – 50 (Art. 4 para. (1)-(2), Law No. 287/2017).

Micro and small entities that apply NAS draw up and submit yearly the simplified financial statements that include:

- balance sheet;
- profit and loss account;
- explanatory note (Art. 21 para. (3), Law No. 287/2017).

b) a definition of Public Interest Entities (PIEs) (banks, insurance companies, companies with securities listed)?

According to Art. 3 para. (1) of the Law No. 287/2017 on Accounting and Financial Reporting, public interest entity represents entity whose securities are admitted for trading on a regulated market; bank; insurer (re-insurer)/insurance company; undertaking for collective investment in securities with legal personality; large entity which is a state-owned enterprise or a joint stock company where the share of the state is higher than 50% of the share capital.

41. Is there a requirement to prepare a management report including a non-financial (information) statement, country-by-country reporting (CBCR) by extractive industry and loggers of primary forest companies on payments to governments, and taxes paid?

According to Art. 3 of the Law No. 287/2017 on Accounting and Financial Reporting, entity in the area of forestry represents entity that conducts forestry activities.

Entity in the extractive industry represents entity that conducts exploration, prospection, discovery, exploitation and/or extraction activities of coal, crude oil, natural gas, metal-bearing ore, stone, sand, clay, peat and/or salt.

Entity in the area of forestry and entity in the extractive industry draw up reports mentioned below, if correspond the classification criteria for certain types of entities.

According to Art. 23 of the Law No. 287/2017 on Accounting and Financial Reporting, medium-sized, large and public interest entities draw up and submit on a yearly basis a management report along with the financial statements.

The management report contains a fair view of the position of the entity, development and performance of their activities and presents an analysis correlated to the size and complexity of conducted activities.

The management report includes at least information concerning:

- financial performance indicators;
- non-financial performance indicators that are relevant for the activity of the entity;
- development perspectives of the entity;
- research and development activities;
- acquisition of own shares and joint-stock shares;
- branches of the entity;
- main risks and uncertainties faced by the entity;
- environment protection and professional opportunities of employees;
- where the use of financial instruments is significant for the evaluation of financial position and performance:
    - financial risk management objectives and policies for each major kind of forecasted transactions that use risk coverage methods;
    - exposure degree of the entity to price risk, credit risk, liquidity risk and cash flow risk.

The public interest entity that meets the criteria set for large entities and whose average number of employees in the management period is higher than 500 is obliged to include a nonfinancial statement in the management report.

The non-financial statement includes information concerning environment, social issues, human resources, respect of human rights and fighting of corruption and in light thereof, covers:

- a brief description of the business model of the entity;
- a description of adopted policies and applied procedures, as well as the results obtained by the entity;
- main risks and manner of managing them.

If the entity does not apply policies concerning environment, social issues, human resources, respect of human rights and fighting of corruption, the non-financial statements offer a clear and motivated explanation in this regard.

Large and public interest entities, which are entities from the extractive industry or in the area of forestry, include in the management report a separate chapter on payments made to the state, which includes the paid amount, in cash or in kind, as taxes for the natural resources, income tax, royalties, dividends, and license fee, if at least one of the respective payments exceeds the amount of MDL 1 700 000 during the management period. The information concerning payments made to the state includes:

- total amount of payments, including by types, made to the state;
- payments in kind made to the state, presented as quantity and value, accompanied by the justification of the manner of determining the respective value.

42. Is the management report subject to an audit requirement?

According to Art. 28 para. (3) of the Law No. 271/2017 on Audits of Financial Statements[45], in case of audits at all public interest, large and medium-sized entities, regardless of the type of activity, established according to the Law on Accounting and Financial Reporting No. 287/2017, the auditor report includes additionally:

- the auditor's notice on coherence between the management report and the financial statements for the same management period and its compliance with legislative provisions;
- a statement concerning the fact that during the auditing significant wrongful information presented in the management report were identified, indicating their nature.

43. Are individual and consolidated financial statements published in the business register?

According to Art. 8 para. (4) of the Law No. 287/2017 on Accounting and Financial Reporting, the National Bureau of Statistics by means of the Public depository of financial statements, publishes the financial statements, the management report and the audit report.

Also in order to implement the provisions of Art. 8 para. (4) of the Law No. 287/2017, according to whom "The National Bureau of Statistics manages the Public depository of financial statements", and as well as according to the Art. 18 of the Law No. 467/2003 on computerization and state information resources[46], is elaborated the draft government decision on approving the concept of the information system "the Public depository of financial statements".

44. What sanctions exist for not complying with financial reporting requirements?

According to Art. 295 of the Contravention Code of the Republic of Moldova No. 218/2008, the submission, to the body empowered to collect financial reports, of financial reports which do not correspond to the form laid down by the legislation or which do not reflect all the data established for this form or the incomplete or erroneous presentation of financial reports, or their failure to submit them within

[45]Law No. 271/2017 on Audits of Financial Statements, available in English at: https://mf.gov.md/sites/default/files/legislatie/Law%20no%20271%20on%20audits%20of%20financial%20statements%20EN.pdf , and in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110387&lang=ro

[46]Law No. 467/2003 on computerization and state information resources, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=122810&lang=ro#

the time limit set by the legislation, shall be punishable by a fine of 15 to 45 conventional units imposed on the responsible person.

B. Statutory auditors

Directive 2006/43/EC amended by Directive 2014/56/EU on statutory audits of annual and consolidated accounts is relevant, as well as Regulation 537/2014/EU concerning specific requirements for the statutory audit of public-interest entities.

45. What legal instruments are foreseen in the auditing field? Are annual and consolidated financial statements required to be audited? If yes, which entities are required to have their financial statements audited?

In the Republic of Moldova, the legislative framework in the field of audit is composed of:

- 1) Law No. 271/2017 on Audits of Financial Statements, which transposes in part the Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on statutory audits of annual accounts and consolidated accounts, amending Council Directives 78/660/EEC and 83/349/EEC and repealing Council Directive 84/253/EEC (Text with EEA relevance), published in the Official Journal of the European Union L 157/87 of June 9, 2006;
- 2) Law No. 287/2017 on Accounting and Financial Reporting, which transposes in part the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, published in the Official Journal of the European Union L 182/19 of 29 June 2013;
- 3) Government Decision No. 807/2018 for the approval of the Regulation of activity of the Council for Public Oversight of Audits[47];
- 4) Order of the Minister of Finance of the Republic of Moldova No. 149/2010 on the approval of the Methodological Guidelines on how to insure the audit risk[48].
- At the same time, the legislative framework in the field of audit also includes the normative acts issued by the Public Institution Council for Public Oversight of Audits as follows:

[47]Government Decision No. 807/2018 for the approval of the Regulation of activity of the Council for Public Oversight of Audits, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=108974&lang=ro

[48]Order of the Minister of Finance of the Republic of Moldova No. 149/2010 on the approval of the Methodological Guidelines on how to insure the audit risk, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=118568&lang=ro

- Decision No. 14/2019 on the approval of the Rules on deadlines to pay payments and dues[49];
- Decision No. 15/2019 on the approval of the Preparation Rules professional training of audit trainees[50];
- Decision No. 16/2019 on the approval of the Regulation on the certification of auditors[51];
- Decision No. 17/2019 on the approval of the Regulation on external audit quality control[52];
- Decision No. 34/2019 on the approval of the Transparency Report[53];
- Decision No. 05/2022 on the approval of the Rules on the application by audit entities of measures to prevent and combat money laundering and terrorist financing[54].

In addition, the above acts of the Council for Public Oversight of Audits are publicly available on the Council's website (link web: http://cspa.md/node/2).

According to Art. 32 para. (1) of the Law No. 287/2017 on Accounting and Financial Reporting, a mandatory auditing undergo:

- the individual financial statements of medium-sized, large, public interest and other entities, according to the legislation in force;
- the consolidated financial statements of groups.

46. What requirements must be fulfilled to be approved as a statutory auditor and as an audit firm?

According to Art. 2 of the Law No. 271/2017 on Audits of Financial Statements, the auditor is the natural person who holds the auditor's qualification certificate and who is registered in the Public Register of Auditors.

Until the admission to the exam for obtaining the professional qualification of auditor, the natural person must do an internship in audit which is performed in

[49]Decision No.14/2019 on the approval of the Rules on deadlines to pay payments and dues, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115314&lang=ro
[50]Decision No.15/2019 on the approval of the Preparation Rules professional training of audit trainees, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=115796&lang=ro
[51]Decision No. 16/2019 on the approval of the Regulation on the certification of auditors, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=128502&lang=ro
[52]Decision No. 17/2019 on the approval of the Regulation on external audit quality control, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=117021&lang=ro
[53]Decision No. 34/2019 on the approval of the Transparency Report, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=119951&lang=ro
[54]Decision No. 05/2022 on the approval of the Rules on the application by audit entities of measures to prevent and combat money laundering and terrorist financing, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=130821&lang=ro

order to gain practical experience and ensure the ability to apply theoretical knowledge.

According Art. 3 of the Law No. 271/2017 on Audits of Financial Statements, the internship lasts at least 2 years and is carried out under the guidance of an auditor.

To be registered as an audit trainee, the natural person must meet cumulatively the following conditions:

- she/he holds a diploma of higher education in the economic or legal area;
- she/he is employed by an audit entity in accordance with the provisions of the Labor Code.

During the traineeship, the trainee is obliged to comply with the requirements of the Code of Ethics, to take part in auditing engagements, to pay the annual membership fee.

The manner of organizing and conducting the traineeship to be admitted to the examination for obtaining the professional auditor qualification is set in the Rules for the professional training of trainees in audit, approved by the Council for Public Oversight of Audits.

According to Art. 4 paras. (1) and (2) of the Law No. 271/2017 on Audits of Financial Statements, the exam for obtaining the professional qualification of auditor are admitted the natural persons who, at the date of submitting the application for admission, meet the following requirements:

- have a higher education degree in the economic or legal area;
- have a working experience of at least 3 years in the economic or legal area, out of which 2 years as an audit trainee;
- have no criminal records;
- are proficient in Romanian.

By way of derogation from the above requirements, natural persons with at least 15 years of experience in the economic or legal field shall be admitted to the examination.

In order to confer the professional qualification of auditor, the Auditors Certification Commission is established at the Council for Public Oversight of Audits. The regulations on the certification of auditors and the nominal composition of the Audit Certification Commission shall be approved by the Council (Art. 5 paras. (1) – (3), Law No. 271/2017).

The Council shall organize the examination and the examination shall be carried out by the Audit Certification Commission.

The examination includes written tests on the following subjects:

- audit;
- financial accounting;
- management accounting;
- financial management;
- law;
- management of information technologies and computer systems.

The Auditor Certification Commission will regard as passed the examinations in the subjects provided to confer the professional qualification of auditor, if the persons holds an international qualification certificate in the area of accounting or audit in the manner set by the Council (Art. 5 paras. (7) – (8), Law No. 271/2017).

The manner of organizing and conducting the examination for obtaining the professional auditor qualification and the manner of recognizing the international qualification certificates in the area of accounting or audit are set in the Regulation on Certification of Auditors, approved by the Council. The person who passed the examination for obtaining the professional auditor qualification receives the auditor qualification certificate. The validity period of the certificate is unlimited (Art. 11 para. (1), Law No. 271/2017).

The audit entity may be established as a limited liability company or a joint-stock company. Over 50% of the equity of the audit entity belongs to resident or non-resident auditors and/or audit entities. The administrator of the audit entity is an auditor. Most members of the executive body of the audit entity must be represented by auditors (Art. 8, Law No. 271/2017).

47. Are statutory auditors and audit firms entered in a public register? If yes, who keeps this register?

Both statutory auditors and audit firms are subject to mandatory registration in the Public Register of Auditors and in the Public Register of Audit Entities respectively.

Auditor registration (Art. 7 of the Law No. 271/2017 on Audits of Financial Statements)

The Public Register of Auditors is kept by the Council, in Romanian, electronically and is being updated depending on the occurred modifications.

The Public Register of Auditors includes:

- the current number of the entry;
- the date of registration;
- the individual number of the auditor;
- the first and last names of the auditor;

- the serial number, number and date of issue of the qualification certificate of the auditor;
- the data on vocational training of the auditor;
- the data on cease of the auditor's activity;
- the data on suspension of the auditor qualification certificate;
- the data on withdrawal of the auditor qualification certificate;
- the data from the identification document or residence permit (serial number, number, date and issuing office) of the auditor;
- as appropriate, the name, legal address, official website, individual number and phone number of the audit entity where the auditor conducts her/his activity;
- the data on registration as an auditor in other countries, including the name of the registration authority and the individual number.

The extract from the Public Register of Auditors, containing the information provided in letters c), d), e), g), h), i) and k), is placed monthly on the official website of the Council.

In the event of cease of activity, the auditor is removed from the Public Register of Auditors.

Registration of audit entities (Art. 10 of the Law on Audits of Financial Statements).

The Public Register of Audit Entities is kept by the Council for Public Oversight of Audits, in Romanian, electronically and is being updated depending on occurred changes.

The Public Register of Audit Entities includes:

- the current number of entry;
- the date of registration;
- the individual number of the audit entity;
- the name of the audit entity;
- the legal address, phone number, official website of the audit entity and legal addresses of branches, as appropriate;
- the first and last names of shareholders, the name and legal address of the resident/nonresident audit entity, as well as the share held by them in the equity;
- the data on registration of the audit entity, according to the excerpt from the State Register of Legal Persons;
- the data on the cease of activity of the audit entity; i) the data on suspension and resumption of the audit activity;

- the first and last names and individual number of auditors employed in the audit entity;
- the first and last names of the members of the executive body;
- the information concerning membership of the audit entity in a network and mentioning of its official website, as appropriate.

An extract from the Public Register of Audit Entities, containing the information provided in letters c) –f), h) –j), is placed monthly on the official website of the Council.

In the event of cease of activity, the audit entity is erased from the Public Register of Audit Entities.

48. What are the rules for the approval of third-country auditors?

At present, the provision for the approval of third country auditors is not transposed into national law.

49. Are there any specific requirements for statutory audits of public-interest entities?

According to Art. 2, Art. 32 of the Law No. 287/2017 on Accounting and Financial Reporting, the financial statements of public interest entities are subject to mandatory audit. Public interest entity is an entity whose securities are admitted to trading on a regulated market; bank; insurer (re-insurer)/insurance company; undertaking for collective investment in securities with legal personality; large entity which is a state-owned enterprise or a joint stock company where the share of the state is higher than 50% of the share capital.

At the same time, according to the Art. 27 paras. (5) and (6) of the Law No. 271/2017 on Audits of Financial Statements, on the audit of financial statements, for the audit of public interest entities and large entities, established according to the Law No. 287/2017 on Accounting and Financial Reporting, or other state-owned enterprises and joint stock companies in which the state share exceeds 50% of the share capital, the audit entity must have no less than two auditors as employees.

In case of audits at public interest, large and medium-sized entities, the auditor report includes additionally:

- the auditor’s notice on coherence between the management report and the financial statements for the same management period and its compliance with legislative provisions;

- a statement concerning the fact that during the auditing significant wrongful information presented in the management report were identified, indicating their nature.

The audit entities that conduct audits at public interest entities submit to the Council for Public Oversight of Audits and publish on their own official websites, within 4 months from the end of each management period, a transparency report, which remains available for at least 5 years from the publication date. The contents of the transparency report are set by the Council (Art. 29, Law No. 271/2017).

50. Is there an independent public oversight (PO) for auditors already established? If yes, identify the competent authority and inform whether it is adequately resourced and funded?

According to Art. 36, Art. 37 of the Law No. 271/2017 on Audits of Financial Statements, the public audit body is the public audit oversight body is the Council for Public Oversight of Audits, which performs its activity according to the provisions of this law and the Regulation on Activity of the Council, approved by the Government.

All auditors and audit entities are subject to public oversight.

The Council is an autonomous public institution, with legal person status, in charge of public oversight of audits and has an autonomous budget and bank accounts in the single treasury account of the Ministry of Finance and performs its activity based on the self-management principle.

The Council exercises the following functions:

- registration of trainees and monitoring of the traineeship;
- certification and registration of auditors;
- registration of audit entities;
- monitoring of life-long vocational training;
- assurance of audit quality;
- investigation and application of disciplinary actions to auditors and audit entities;
- development and approval of normative acts in view of exercising the public oversight function.

The Council has the following tasks:

- it develops recommendations to improve the system of life-long vocational training of auditors;
- it organizes the auditor certification process;

- it sets minimum requirements for the execution of the training program for audit trainees;
- it examines the request related to public audit oversight, including concerning the quality of the conduct of audit;
- it adopts decisions concerning the application of disciplinary actions to auditors and audit entities;
- it supervises and controls the activity of audit trainees, auditors and audit entities;
- it develops normative acts in view of exercising the public oversight function;
- it employs specialists in the composition of the Council;
- it keeps the Public Register of Auditors and the Public Register of Audit Entities;
- it keeps in duly manner and posts on the official webpage of the Council the list of organizations and institutions offering life-long vocational training to auditors;
- it performs the external audit quality control;
- it collaborates with the Ministry of Finance, other public authorities and professional associations;
- it collaborates with international authorities for public oversight of audits.

51. Does an external quality assurance (QA) system for statutory auditors and audit firms exist? If yes, is this external quality assurance system independent from the audit profession?

According to Art. 41 of the Law No. 271/2017 on Audits of Financial Statements, the external quality control is performed by the Public Institution Council for Public Oversight of Audits in order to manage the audit quality assurance systems, as well as to establish the existence and the manner of application of:

- audit quality control policies and procedures on the level of the audit entity;
- audit quality control policies and procedures on the level of the auditing engagement.

Each audit entity is subject to external quality control at least once in 6 years, while the entities that conduct audits at public interest entities at least once in 3 years.

The manner of performing the external quality control and of applying disciplinary actions is set in the Regulation on External Audit Quality Control, approved by the Council.

Regulation on external audit quality control approved by Decision No. 17/2019, transposes Art. 29 and Art. 32 of Directive 2006/43/EC of the European Parliament and of the Council of 17 May 2006 on the statutory audit of annual accounts and consolidated accounts, amending Directives 78/660/EEC and 83/349/Council Regulation and repealing Council Directive 84/253/EEC, published in the Official Journal of the European Union L 157/87 of 9 June 2006, as last amended by Directive 2014/56/EU of the European Parliament and Decision of 16 April 2014 amending Directive 2006/43/EC on statutory audit of annual financial statements and consolidated financial statements.

The activity of external quality control specialists is based on the following principles:

- confidentiality;
- independence and objectivity;
- legality and integrity;
- competence and responsibility;
- non-affiliation of the external quality control specialists to the audited audit entity (spouse, relatives up to and including the second degree, first degree relatives are not auditors, shareholders / associates, members of the executive body of the audit entities verified), fact confirmed by the declaration on one's own responsibility.

52. Is the professional body involved in the public oversight and to what extent?

According to Art. 37 para. (5) of the Law No. 271/2017 on Audits of Financial Statements, the Council for Public Oversight of Audits is entitled to delegate to professional organizations in the area of audit the function of external audit quality control of its members, i.e. audit entities, which conduct the audit at entities other than public interest entities, in the manner set in the Regulation on the Activity of the Council.

At the same time, in accordance with the Rules of Procedure of the Council for Public Oversight of Audits (points 41-42, 44-45 of Government Decision No. 807/2018[55]), the Council delegates to professional organizations in the field of auditing, on the basis of an agreement, the function of external quality control of the audit of their members - audit entities. public interest, for a period of 3 years from the date of selection of professional organizations in the field of audit.

[55]Government Decision No. 807/2018 for the approval of the Regulation of activity of the Public Audit Supervisory Board, available in Romanian, at: https://www.legis.md/cautare/getResults?doc_id=108974&lang=ro

The conditions for selecting the professional organizations in the field of audit for performing the external quality control of the audit of its members are the following:

- the number of audit entities members of the professional organization in the field of audit - not less than 30 entities;
- the existence of the external quality control audit subdivision within the professional organization in the field of audit;
- the possession by the specialists regarding the external control of the audit quality of the auditor's qualification certificate and the experience in the field of auditing the financial statements of at least 5 years.

The selected professional organizations in the field of audit perform external control of the audit quality of its members at the audit entities that, cumulatively, meet the conditions:

- have not performed the audit at the public interest entities in the last 6 years;
- have 2 or more hired auditors;
- have performed at least 5 annual audit missions in the last 3 years.

The manner of supervision and monitoring by the Council of professional organizations in the field of audit to which the external audit quality control function of their members has been delegated, the external audit quality control, the external audit quality control function, the manner in which the results of the audit shall be reported by the professional organizations shall be laid down in the Regulation on external audit quality control approved by the Council.

The Council for Public Oversight of Audits is currently in the process of negotiating with a professional organization in the field of audit with a view to concluding an agreement on delegating the external audit quality control function for their members.

53. Who is responsible for inspections/ investigations, preparation of inspection reports and publication of inspection findings, enforcement of penalties? Is there any external expertise used during inspections? Is there any track record of inspections and investigations already performed? Are any of the results published?

The Law No. 271/2017 on Audits of Financial Statements (Art. 41 paras. (1) and (2)), establishes that the function of quality assurance of audit is performed by the Public Institution Council for Public Oversight of Audits .

The external quality control is performed by the Council in order to manage the audit quality assurance systems, as well as to establish the existence and the manner of application of:

- audit quality control policies and procedures on the level of the audit entity;
- audit quality control policies and procedures on the level of the auditing engagement.

The annual activity report of the Council includes general information on the findings and disciplinary actions applied to auditors and audit entities.

At the same time, according to points 27, 39-41 of the Regulation on external audit quality control (Decision No. 17/2019), external audit of the audit entity is performed based on the methodology of external quality control and includes verification of compliance with the requirements of the Law on auditing financial statements, auditing standards, quality control standards, including at the level of the audit entity, audit engagement and verification of the implementation of the recommendations in the latest External Audit Quality Control Report, as appropriate.

Following the finding of non-compliance as a result of the external audit, the Audit Oversight Committee applies to the auditors and audit entities the disciplinary measures provided for in the Law on Audits of Financial Statements.

The Committee shall apply disciplinary measures taking into account the seriousness and duration of the breach, the circumstances in which the breach was committed and the degree of liability of the person, the activity and previous conduct of the auditor / partner or audit entity, including previous breaches.

The decision of the Committee on the application of disciplinary measures may be challenged in the administrative court, in accordance with the law. The decisions of the Committee on the application of disciplinary measures shall be notified to the auditors, audit entities concerned and shall be enforceable from the date of issue, but shall be posted on the Council's official website only after the expiry of the time limit for appeal.

Where it is necessary to obtain the opinion of an expert, the Committee may attract highly qualified specialists in the field of economics or law in order to resolve the problems examined by the Committee.

The Council for Public Oversight of Audits publishes on its website the list of audit entities that have been subject to external quality control. Thus, during the years 2019-2022, 37 audit entities were subject to external audit quality control, of which 4 entities were subject to the required audit in accordance with the Regulation on external audit quality control.

The decisions of the Council are published on its website: http://cspa.md/node/6.

The Council shall draw up the annual activity report, which shall be approved by the Committee (Art.40 para. (1) Law No.271/2017 on Audits of Financial Statements).

54. Any specific requirements for the QA and investigations undertaken with regard to the statutory audit of public-interest entities?

According to Art. 41 para. (3) of the Law No. 271/2017 on Audits of Financial Statements[56], each audit entity is subject to external quality control at least once in 6 years, while the entities that conduct audits at public interest entities at least once in 3 years.

55. What kinds of sanctions can be applied to auditor's misconduct?

According to Art. 42 of the Law No. 271/2017 on Audits of Financial Statements, Council for Public Oversight of Audits makes use of efficient investigation and disciplinary actions systems to detect, correct and prevent the inadequate conduct of the audit and applies disciplinary actions to auditors and audit entities.

The following disciplinary actions are applied to auditors and audit entities:

- written warning;
- written reprimand;
- declaring the auditor report as not corresponding to the requirements of this law and auditing standards;
- suspension of activity of the audit entity or the auditor to conduct audit for a period ranging from 1 to 3 years;
- withdrawal of the auditor qualification certificate;
- erasure of the audit entity from the Public Register of the Audit Entity.

Disciplinary actions are applied to audit entities and auditors following:

- the conduct of the audit simultaneously with the services mentioned in Art. 21 para. (7) of the Law on Audits of Financial Statements;
- the committing of violations in the process of conducting the audit, including the lack of audit evidence for the conclusions underlying the auditor’s opinion;
- the non-compliance with the provisions of the audit entity;
- the failure to pay the payments and membership fees;

[56]Law No. 271/2017 on Audits of Financial Statements, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=110387&lang=ro , and in English at: https://mf.gov.md/sites/default/files/legislatie/Law%20no%20271%20on%20audits%20of%20financial%20statements%20EN.pdf

- the finding of unconformities following the performance of the external quality control;
- the violation of requirements related to life-long vocational training
- the failure to submit the transparency report and the report on compliance with audit quality control procedures;
- the failure to post on its official webpage the transparency report;
- the failure to submit information in the event of a change in the data contained in the public register of auditors and the public register of audit entities.

When applying disciplinary actions, it should be taken into account the severity and the duration of the violation, the circumstances in which it was committed, the degree of responsibility of the person, the activity and the previous behavior of the auditor or of the audit entity, including the existence of previous violations.

56. How is such a system of PO/QA financed?

In the Republic of Moldova, the Council for Public Oversight of Audits funded from the payments and membership fees made by auditors and audit entities, the state budget subsidies received through the Ministry of Finance and other sources (Art. 39 paras. (1)-(3) of the Law No. 271/2017 on Audits of Financial Statements).

The funding sources and the manner of using them are set in the revenue and expenditure budget, approved for the following year by the Government until the date of November 1.

The funding of the Council is provided from:

- annual payment in the amount of one average monthly salary in the economy forecasted and approved yearly by the Government, for each auditor report issued for the auditing of individual financial statements at public interest and large entities;
- annual payment in the amount of 0.2 average monthly salary in the economy forecasted and approved yearly by the Government, for each auditor report issued for the auditing of individual financial statements at entities other than public interest and large entities subject to mandatory and requested auditing;
- annual payment in the amount of 0.5 average monthly salary in the economy forecasted and approved yearly by the Government, for each auditor report issued for the auditing of consolidated financial statements;
- payment in the amount of 0.2 average monthly salary in the economy forecasted and approved yearly by the Government, for admission to written tests of the examination for obtaining the professional auditor qualification;

- annual membership fees of auditors in amount of 0.1 average monthly salary in the economy forecasted and approved yearly by the Government;
- annual membership fees of trainees in amount of 0.05 average monthly salary in the economy forecasted and approved yearly by the Government;
- payment for recognition of the international certificate in the area of accounting and auditing in amount of 0.1 average monthly salary in the economy forecasted and approved yearly by the Government;
- single payment in amount of 0.1 average monthly salary in the economy forecasted and approved yearly by the Government, for registration of auditors in the Public Register of Auditors;
- single payment in amount of 0.2 average monthly salary in the economy forecasted and approved yearly by the Government, for registration of audit entities in the Public Register of Audit Entities;
- state budget subsidies;
- fees set for provided services in accordance with the legislation;
- collections made from the sale of own publications;
- other sources not prohibited by the legislation.

57. Are auditors required to use the International Standards on auditing (ISAs)?

The Law No. 271/2017 on Audits of Financial Statements (Art. 2 para. (1)), defines auditing standards as international auditing standards issued by the International Auditing and Assurance Standards Board, which apply to the conduct of audits and which are accepted for application on the territory of the Republic of Moldova; Quality control standards are international quality control standards issued by the International Auditing and Assurance Standards Board, which apply to the internal quality control and which are accepted for application on the territory of the Republic of Moldova; and Related standards are international standards for revision and insurance engagements and for related services, issued by the International Auditing and Assurance Standards Board and accepted for publication on the territory of the Republic of Moldova.

According to Art. 31 para. (1) letter a) and para. (2) letter a) of the Law No. 271/2017, the auditor and the audit entity are obliged to perform the audit of the financial statements in accordance with the provisions of the audit standards and the legislation.

58. Is there a Code of Ethics for auditors?

According to Art. 2 para. (1) and Art. 20 paras. (1), (3) of the Law No. 271/2017 on Audits of Financial Statements, a/the Code of Ethics for Professional Accountants is an ethical requirement issued for professional accountants by the

International Ethics Standards Board for Accountants, accepted to be applied on the territory of the Republic of Moldova.

The principles of professional ethics are the following:

- integrity;
- objectivity;
- professional competence and due care;
- confidentiality;
- professional conduct.

The auditor makes use of professional skepticism in the process of conducting the audit, including at the evaluation of the fair value estimation, the verification of depreciation of assets, provisions and future cash flows relevant for the going concern of the audited entity.

59. What are the requirements concerning auditor independence and the rules on the conflict of interests?

In the Republic of Moldova, the principles of professional ethics are applied according to the Code of Ethics for Professional Accountants.

According to Art. 21 paras. (1) - (5) and para. (7) of the Law No. 271/2017 on Audits of Financial Statements, to meet the independence requirement in exercising her/his profession, the auditor is guided by this law, the auditing standards and the Code of Ethics.

The members of the executive body and the founders/shareholders of the audit entity or of the affiliated entity do not interfere with the conduct of the audit in any way that would limit the independence and objectivity of the auditor.

The independence requirement of the auditor is infringed upon in the following cases:

- her/his direct or indirect involvement in the activity of the audited entity as a founder, person with a responsible position and/or in case of her/his participation in the economic-financial affairs of the audited entity;
- exercising by her/him of managerial functions or other functions in the audited entity during the audited period or in the recent 3 years prior to the conduct of the audit;
- accepting by her/him of goods or services as gifts, as well as an exaggerated cordiality and hospitality from the audited entity;
- the conduct of the audit by the same auditor for more than 7 consecutive years at the same auditor entity. The auditor who conducted the audit at an entity during 7 consecutive years may conduct the audit at the same entity only upon expiration of 2 years from the last audit;

- presence of kinship up to the 3 rd. degree, including a relationship of affinity between the auditor and the founders/shareholders and the members of the management body of the audited entity;
- other situations provided by the Code of Ethics.

The interference in the exercise of the auditor profession, the influencing of the audit, report and working documents of the auditor are prohibited. The auditor may be heard with regards to the essence of her/his relationships with the audited entity in the framework of criminal, civil and administrative proceedings.

The audit entity that conducts the audit at the audited entity is not entitled to provide simultaneously in the same management period the following services:

- tax services, including:
  - drawing up of tax statements;
  - calculation of taxes and fees;
  - tax consultancy;
  - assistance in the framework of verifications conducted by tax authorities;
- consultancy services that envisage participation in the management of the audited entity or in its decision-making process, including:
  - assistance in the area of management;
  - assistance in administration, reorganization and liquidation;
- services related to organization, recovery, keeping of accounting and drawing up of financial statements;
- services related to development and implementation of internal control and risk management procedures concerning drawing up and/or verification of financial information and related information systems;
- services of performing the internal audit function or the function of the censors/committee of censors.

60. Are there any requirements as regards the internal organization of statutory auditors and audit firms?

According to Art. 31 of the Law No. 271/2017 on Audits of Financial Statements, the auditor has the duty:

- to conduct the audit according to the provisions of auditing standards and legislation;
- to comply with the terms of the audit contract;
- to notify the owner of the audited entity, the requester of the audit and/or the head of the audited entity about detected significant distortions and recommended actions following the conduct of the audit;

- to resign from conducting the audit, if the principle of auditor's independence is violated;
- to improve her/his level of qualification, starting with the year following the year of registration in the Public Register of Auditors, following a training course with a duration of 40 academic hours during a period of 12 consecutive months, except the period of suspension of activity;
- not to be a member of the board, the executive body, the supervisory body or the audit committee of the audited entity before the expiration of a 2 year period after the conduct of the audit;
- to pay:
  - the single fee for registration in the Public Register of Auditors;
  - the annual membership fee, except the period of suspended activity.

The audit entity has the duty:

- to conduct the audit according to the provisions of auditing standards and legislation;
- to comply with the terms of the audit contract;
- to comply with the audit quality control requirements;
- to present to the general assembly of shareholders and the founder of the entity the auditor report, as well as the information on detected distortions, disclosed in a letter addressed to the management, according to the auditing standards;
- to present yearly to the audited entity or the audit committee the statement on compliance with the independence requirement;
- to discuss with the audited entity and, as appropriate, the audit committee the threats concerning the non-compliance with the independence requirement and measures taken to reduce them;
- to inform the audited entity about irregularities, including frauds that occurred or may occur, so that the audited entity takes the measures required to address and prevent them;
- to inform the competent bodies, according to legislative provisions, about suspect activities or transactions, including frauds and violations detected at the audited entity;
- to pay:
  - the single fee for registration in the Public Register of Audit Entities;
  - the annual fee for the issue of the auditor report;
- if it is replaced by another audit entity, to submit at the request of the new audit entity the relevant documents for the conduct of the audit;
- to inform the Council about the termination of the audit contract according to Art. 27 para. (7) of the Law No.271/2017.

Also, according to Art. 23 – 26 of the Law No. 271/2017, the audit entity develops policies and procedures that provide that the shareholders, as well as the members of the board, the executive body or the supervisory body of the audit entity do not influence the conduct of the audit and do not threaten the independence and objectivity of the auditor that conducts the audit on behalf of the audit entity.

The audit entity is obliged to conduct the audit according to auditing standards and the provisions of this law.

The audit entity applies:

- reliable administrative and accounting procedures;
- internal quality control procedures;
- efficient risk assessment procedures;
- measures to protect and control the information processing systems;
- policies concerning the remuneration and incentivizing of auditors;
- other procedures concerning the organization of the activity, as provided in auditing standards and quality control standards.

The audit entity appoints an auditor/partner in charge of the auditing engagement, the issue of the auditor report, the drawing up of the audit file and provides her/him with the required resources and competent staff to fulfill the obligation. The auditor/partner in charge of the engagement is obliged to take part in the conduct of the audit.

The audit entity organizes the recordkeeping of audited entities, including information concerning:

- name and address of the entity;
- name of the auditor in charge of the auditing engagement;
- fees charged for the audit and fees charged for other services, as appropriate, for each management period.

To ensure the quality of the audit, the audit entity develops, approves and complies with audit quality control policies and procedures in accordance with this law, the auditing standards, the quality control standards and the Code of Ethics.

The audit quality control policies and procedures are approved by an act (order, resolution) issued by the executive body of the audit entity and are communicated to the staff of the entity.

The audit entity appoints an auditor in charge of internal audit quality control.

The audit entity draws up and submits to the Council within 4 months from the end of each management period a report on compliance with audit quality control procedures. The form and contents of the report are set by the Council.

The quality control of the auditing engagement is performed at the audit entities that conduct the audit at public interest and large entities, established according to the Law No. 287/2017 on Accounting and Financial Reporting, before the issue of the auditor report or of the additional report addressed to the auditing committee, as appropriate.

The quality control of the auditing engagement is performed by an auditor/partner who did not take part in the conduct of the concerned audit or another audit entity on contractual basis, maintaining confidentiality and professional secrecy.

The audit entity evaluates yearly the efficiency of audit quality control policies and procedures, keeps records of evaluations and measures proposed to streamline the internal audit quality control.

The audit entity draws up an audit file for each auditing engagement. The audit file is drawn up within 60 days from the date of signing the auditor report and is kept at the audit entity for at least 5 years.

The audit entity is obliged to insure the audit risk for the damage caused to the audited entity/the requester of the audit in the result of expressing an inadequate audit opinion, in the event that the financial statements contain significant distortions.

To insure the audit risk, the audit entity takes the following measures, as appropriate:

- concludes with the insurer a civil liability insurance contract for potential professional activity risks, the subject of the insurance being the audit contract or the audit;
- sets up provisions in the amount of at least 15% of the sales revenues in the management period related to the entity.

Where the audit is conducted at entities other than public interest entities, the audit entity insures the audit risk by concluding with the insurer a civil liability insurance contract for possible risks of professional activity, the object of insurance being the audit contract or audit.

The manner of insuring the audit risk is set by the Ministry of Finance (Order of the Minister of Finance of the Republic of Moldova No. 149/2010 on the approval of the Methodological Guidelines on how to insure the audit risk[57]).

[57]Order of the Minister of Finance of the Republic of Moldova No. 149/2010 on the approval of the Methodological Guidelines on how to insure the audit risk, available in Romanian at: https://www.legis.md/cautare/getResults?doc_id=118568&lang=ro

61. Are there any specific confidentiality and professional secrecy rules in place for auditors?

The Law No. 271/2017 on Audits of Financial Statements states that one of the principles of ethics is confidentiality and professional secrecy.

According to Art. 22 of the Law No. 271/2017, the auditor and the audit entity complies with the confidentiality and professional secrecy concerning information related to the activity of the audited entity obtained during the conduct of the audit. The duty to comply with confidentiality and professional secrecy remains in force even after the termination of the audit contract.

The auditor and the audit entity ensures the compliance with confidentiality and professional secrecy also on the part of the staff that conducts the activity under their control, as well as on the part of the staff that provides consultancy and assistance.

It is not considered violation of the confidentiality and professional secrecy principles the presentation of information upon request of the court of justice or of the criminal prosecution body; in case of performance of an external quality control by the Council; if the presentation of information is authorized by the audited entity; in other cases, provided by legislation.

62. Does Moldova cooperate with the competent authorities from third countries in the area of auditing? Are there any Memoranda of Understandings or other cooperation agreements signed to that end?

The Republic of Moldova cooperates with the Strengthening Auditing and Reporting in Countries of the Eastern Partnership (STAREP) Program. STAREP is a regional program with the higher-level objective of improving corporate financial reporting practices of the European Union Eastern Partnership countries: Armenia, Azerbaijan, Belarus, Georgia, Moldova, and Ukraine. The program builds capacity among and assists the accounting and auditing profession, regulators, and other stakeholders to develop and practice an institutional framework for corporate financial reporting in the Eastern Partnership countries in accordance with international accounting, auditing, and accounting education standards and good practices.

The STAREP program is managed by the Centre for Financial Reporting Reform (CFRR), part of the World Bank's Governance Global Practice in Europe and Central Asia.