Cooperation for Tax Compliance

**DECISION**

**approving the Sectoral professional rules on the establishment of the measures of prevention and combating of money laundering and terrorist financing, specific for the tax advisory activity**

Pursuant to the provisions of art. 18 para. (1) letter f) in the Regulations of Organization and Operation of the Chamber of Tax Advisors, as approved through the Decision of the Superior Council of the Chamber of Tax Advisors no. 3/2022, as subsequently amended and supplemented,

considering the provisions of art. 26 para. (1) letter e), para. (2), (6) and (7), those of art. 39 para. (3) letter (i), as well as those of art. 59 para. (1) in Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well as amending and supplementing certain legislative acts, as subsequently amended and supplemented,

considering the provisions of the Cooperation Agreement between the National Office for Prevention and Control of Money Laundering and the Chamber of Tax Advisors no. 3.105/3.017/2022,

**The Superior Council of the Chamber of Tax Advisors**, convened in the session of February 29, 2024, decides:

Art. 1. - To approve the Sectoral professional rules on the establishment of the measures of prevention and combating of money laundering and terrorist financing, specific for the tax advisory activity, as provided in the annex which is an integral part of this decision.

Art. 2. - On the date of entry into force of this decision, the Decision of the Superior Council of the Chamber of Tax Advisors no. 7/2012 approving the Rules on the establishment of the measures of prevention and combating of money laundering and the financing of acts of terrorism through the tax advisory activity, published in the Official Gazette of Romania, Part I, no. 216 of April 2, 2012, shall be repealed.

Art. 3. - This decision shall be published in the Official Gazette of Romania, Part I and shall enter into force on the date of publication.

Chairman of the Chamber of Tax Advisors,
**Dan Manolescu**

Bucharest, March 11, 2024.
No. 4.

*ANNEX*

**SECTORAL PROFESSIONAL NORMS**
**on the establishment of the measures of prevention and combating of money laundering and terrorist financing, specific for the tax advisory activity**

Chapter I
**General Provisions**

Art. 1. - (1) These rules establish the measures and activities of prevention and combating of money laundering and terrorist financing which must be implemented at sector level by tax advisors and tax advisory companies, entities which are supervised and controlled by the Chamber of Tax Advisors, hereinafter referred to as *the Chamber*.

(2) The provisions of these rules shall be applied by the regulated entities, tax advisors and tax advisory companies, as mentioned under art. 5 para. (1) letter e) in Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well as amending and supplementing certain legislative acts, as subsequently amended and supplemented, hereinafter referred to as *Law no. 129/2019.*

(3) Tax advisors and tax advisory companies observe in their professional activity the provisions of Law no. 129/2019; those of the Order of the Chairman of the National Office for Prevention and Control of Money Laundering no. 37/2021 approving the Rules of enforcement of the provisions in Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well as amending and supplementing certain legislative acts, for the reporting entities supervised and controlled by the National Office for Prevention and Control of Money Laundering, hereinafter referred to as *Order no. 37/2021*; those of Government Emergency Ordinance no. 202/2008 on the enforcement of international sanctions, approved as amended through Law no. 217/2009, as subsequently amended and supplemented, hereinafter referred to as *GEO no. 202/2008*, and those of Government Decision no. 603/2011 approving the Norms regarding the supervision by the National Office for Prevention and Control of Money Laundering of the enforcement of international sanctions, as subsequently amended, hereinafter referred to as *GD no. 603/2011*.

Art. 2. - (1) *Money laundering* means the criminal offence provided under art. 49 in Law no. 129/2019.

(2) *Terrorist financing* means the criminal offence provided under art. 36 in Law no. 535/2004 on the prevention and combating of terrorism, as subsequently amended and supplemented.

Art. 3. - The terms and expressions used in these rules have the meaning provided in Law no. 129/2019, in the Order of the Chairman of the National Office for Prevention and Control of Money Laundering no. 37/2021 approving The rules of application of the provisions in Law no. 129/2019 on the prevention and combating of money laundering and terrorist financing, as well as amending and supplementing certain legislative acts, for the reporting entities supervised and controlled by the National Office for Prevention and Control of Money Laundering, those in Government Ordinance no. 71/2001 on the organization and exercise of the tax advisory activity, approved as amended by Law no. 198/2002, as

subsequently amended and supplemented, and those in the Regulation of Organization and Operation of the Chamber of Tax Advisors approved through the Decision of the Superior Council of the Chamber of Tax Advisors no. 3/2022, as subsequently amended and supplemented.

Art. 4. - For the purposes of these rules, the terms below have the following meanings:

a) *self-regulatory body* - the Chamber of Tax Advisors - which has powers of regulation of the activity of its members, through the issuance of regulations, professional rules and instructions regarding the activity and ethical conduct of the members, of control and supervision of the exercise of their legal duties;
b) *regulated entities* are the reporting entities supervised and controlled by the Chamber of Tax Advisors, in accordance with the provisions of art. 5 para. (1) letter e) in Law no. 129/2019, tax advisors and tax advisory companies, private individuals and legal entities registered in the Register of tax advisors and tax advisory companies, irrespective of the form and manner of organization thereof;
c) *The Office* - the National Office for Prevention and Control of Money Laundering;
d) *risk based approach* - an approach through which tax advisors and tax advisory companies identify, assess and understand the money laundering and terrorist financing risks they are exposed to in the performance of activities and the provision of tax advisory services provided for under art. 3 in Government Ordinance no. 71/2001, approved as amended through Law no. 198/2002, as subsequently amended and supplemented, and take measures of prevention and combating thereof, in proportion to those risks;
e) *risk factors* - variables which, either individually, or in combination, may increase or decrease the risk of money laundering and terrorist financing posed by a business relationship or an occasional transaction;
f) *ML/TF risk* - the impact and probability of involvement of the regulated entities in money laundering and terrorist financing operations;
g) *beneficial owner* - has the meaning provided under art. 4 in Law no. 129/2019;
h) *assets* - has the meaning provided under art. 2 letter c) in Law no. 129/2019;
i) *business relationship* - has the meaning provided under art. 2 letter i) in Law no. 129/2019;
j) *occasional transaction* - has the meaning provided under art. 2 letter j) in Law no. 129/2019;
k) *customer/customers* - has the meaning provided under art. 2 letter r) in Law no. 129/2019;
l) *publicly exposed persons* - has the meaning provided under art. 3 para. (1) in Law no. 129/2019;
m) *designated person* - a person within the regulated entity who has responsibilities in the application of Law no. 129/2019 and of the regulations issued in the application thereof;
n) *senior management* - has the meaning provided under art. 2 letter o) in Law no. 129/2019;
o) *Member State* - has the meaning provided under art. 2 letter v) in Law no. 129/2019;
p) *suspicious transaction* - any transaction the value, nature or other characteristics of which exceed the tax advisor's expectations based on the information it knows about the customer, the identified risk profile or based on the business relationship up to the time of the transaction, which follows a pattern or which has unusual characteristics identified by reference to the sectoral risk analysis, as well as any transaction regarding which there are reasonable grounds to suspect is made with

assets derived from the commission of crimes or related to terrorist financing.

Art. 5. - the Chamber of Tax Advisors, in its capacity as self-regulatory body, performs activities of supervision and control of the tax advisory profession, in accordance with the provisions of Law no. 129/2019, at least by:

a) organizing the performance of specific professional activities, under observance by the regulated entities of the provisions in Law no. 129/2019;

b) developing applicable requirements and mechanisms to inform the regulated entities it represents and coordinates with respect to the vulnerabilities of the systems of prevention and combating of money laundering and terrorist financing in other countries, in accordance with the provisions of art. 17 para. (5) in Law no. 129/2019;

c) cooperating with the Office with respect to the implementation of the obligations thereof pursuant to Law no. 129/2019 and to the secondary legislation in the field, in accordance with the provisions of art. 39 para. (3) letter i) in Law no. 129/2019;

d) issuing sectoral regulations of the specific activity performed by the members of the Chamber of Tax Advisors for the application of the provisions in Law no. 129/2019, in accordance with the provisions of art. 59 para. (1) and (2) in this law;

e) informing the Office in accordance with the provisions of art. 26 para. (2) in Law no. 129/2019, when, in the exercise of its specific duties, it discovers facts which might be connected with money laundering or terrorist financing or with respect to other violations of the provisions in Law no. 129/2019, ascertained in accordance with its specific duties.

Art. 6. - (1) Tax advisors and tax advisory companies, in their capacity as regulated entities, have all the obligations arising from the legislation of prevention and combating of money laundering and terrorist financing.

(2) In application of the provisions under art. 31 para. (3) in Law no. 129/2019, the Chamber of Tax Advisors adopts, through its own regulation of organization and operation, the necessary measures to prevent persons definitively convicted for the criminal offence of money laundering or terrorist financing from holding a management position within the reporting entities provided under art. 5 para. (1) letter e) in Law no. 129/2019 or from being the beneficial owners thereof.

## CHAPTER II
## **Obligations of the regulated entities**

### *SECTION 1*
### ***The designated person, in application of the provisions under art. 23 in Law no. 129/2019***

Art. 7. – (1) In application of art. 23 para. (1) in Law no. 129/2019, the management of tax advisory companies must appoint one or several persons with responsibilities for the application of Law no. 129/2019 and of the regulations issued in application thereof.

(2) In application of art. 23 para. (3) in Law no. 129/2019, tax advisory companies make sure the persons responsible for enforcing Law no. 129/2019 have direct and permanent access to all data and

information held by the regulated entities, which are necessary for the fulfillment of legal obligations and duties.

(3) The persons mentioned under para. (1) shall be designated by the legal representatives of the tax advisory companies, in the following situations:

a) on the date of incorporation of the tax advisory company;

b) whenever objective factual situations require a new designation.

(4) For the designated persons provided under para. (1), tax advisory companies shall mention separately and explicitly in their internal rules and procedures the responsibilities assigned thereto for the application of the provisions in Law no. 129/2019, as well as the concrete manner through which they are given direct and timely access to the relevant data and information held by the regulated entities.

(5) Tax advisory companies establish, through their internal rules and procedures, selection criteria for the designated persons, under observance of at least the following requirements:

a) to have the necessary knowledge in the field of prevention of money laundering and terrorist financing;

b) to have moral integrity and professional reputation; this may include a criminal record and references from previous employers.

(6) The documents elaborated in the procedure of selection, testing and designation of the persons provided under para. (1) are registered and kept in the tax advisory company's own records, in written or electronic form, with handwritten or electronic signatures of the representatives thereof. The documents elaborated in this respect shall be made available upon request to the Chamber of Tax Advisors or to other authorities with control powers.

(7) Tax advisory companies which are legal entities are required to send to the Chamber of Tax Advisors a notification regarding the designated persons who have responsibilities in application of Law no. 129/2019, within 30 days as of designation, but not later than 60 days as of the date of registration in the Register of tax advisors and tax advisory companies, for the newly registered, using the form made available by the Chamber.

(8) For tax advisors who are natural person members of the Chamber and are regulated entities, the provisions of para. (1) – (7) shall not apply, but they must cumulatively fulfill all the other obligations of reporting entities provided under art. 5 para. (1) letter e) in Law no. 129/2019.

## *SECTION 2*
## ***Employee protection mechanisms***

Art. 8. – (1) In application of art. 23 para. (5) and (6) and art. 37 para. (2) and (3) in Law no. 129/2019, tax advisory companies must establish mechanisms of protection of the designated persons, as well as appropriate procedures regarding the reporting to the Office of violations of any kind of legal regulations in the field by employees and persons in a similar position, through a specific, independent, and anonymous channel.

(2) The internal mechanisms provided under para. (1) include at least the following provisions:

a) specific procedures for receipt of the reports related to violations of any kind of Law no. 129/2019 and taking subsequent measures;

b) appropriate legal protection of employees or persons in a similar position within the regulated entities, who report violations of any kind of Law no. 129/2019 and of these rules, committed within them;

c) legal protection of designated persons who have responsibilities in application of Law no. 129/2019;

d) protection of the personal data of the person who reports any kind of violation of Law no. 129/2019 and of these rules, as well as of the natural person suspected of being responsible for the violation, in accordance with the principles established by the Regulation (EU) 2016/679 of the European Parliament and of the Council;

e) clear rules ensuring the fact that confidentiality is guaranteed in all cases regarding the identity of the person reporting any kind of violation of Law no. 129/2019 and of these rules, committed within the regulated entity, except for the case in which the disclosure is imposed by other legal provisions.

(3) The observance of the obligations provided by art. 6, 7, art. 23 para. (5) and para. (6) letter d) in Law no. 129/2019 by tax advisory companies, their directors or employees, does not constitute a violation of a disclosure restriction imposed by contract or by a legal or administrative act and does not attract any kind of liability for the reporting entity or its employees, even in the event that they did not know precisely the type of criminal activity or violation of any kind of the Law and regardless of whether that activity took place or not.

## *SECTION 3*
## ***Internal procedures in application of the provisions under art. 24 para. (1) - (3) in Law no. 129/2019***

Art. 9. - (1) In application of art. 24 para. (1) in Law no. 129/2019, tax advisors and tax advisory companies elaborate documents approved by their senior management, as follows:

a) internal rules that contain, at least, measures applicable to reporting, including reporting in their own name by designated persons, to the state authorities, of violations of any kind of the legal regulations in the field, within the regulated entity and prompt provision of data at the request of the competent authorities, as well as measures for keeping records and all documents, in accordance with the requirements of Law no. 129/2019;

b) internal rules containing measures applicable in the matter of customer due diligence;

c) risk management procedures containing at least: measures of risk identification, assessment, management and mitigation; the criteria and elements on the basis of which the risks were established, including the relevant scenarios and time intervals according to which linked transactions are identified, determined in proportion to the associated risks;

d) procedures establishing the internal control, communication and compliance management mechanisms;

e) procedures establishing mechanisms that include measures of protection of the internal personnel involved in the application of these policies against any threats or hostile or discriminatory actions;

f) procedures applicable by the employees to report internal violations, through a specific, independent and anonymous channel, under observance of the legislation for personal data protection;

g) procedures of periodical training and assessment of the employees.

(2) The policies, rules, and procedures provided under para. (1) shall be elaborated in accordance with the particularities and size of the economic activity carried out by the tax advisors and tax advisory companies, as well as the particularities of business relationships, customers, and services.

(3) Tax advisors and tax advisory companies approve, monitor, and periodically revise, annually or whenever necessary, at senior management level, as applicable, the policies, internal rules, mechanisms and procedures for managing money laundering and terrorist financing risks, as well as the enforcement methodology.

(4) The factors, indicators, and conditions underlying the assessment of the money laundering and terrorist financing risk associated with customers, the beneficial owner, business relationships and occasional transactions are constantly analyzed by the regulated entities in order to update their relevance.

(5) Tax advisors and tax advisory companies assess and integrate the information obtained through the constant monitoring process of a business relationship and analyze the extent to which that information influences the previous risk assessment.

(6) In application of art. 24 para. (7) in Law no. 129/2019, tax advisory companies which are part of a group apply policies, internal procedures and trainings at group level, including data protection policies and policies and procedures on the exchange of information within the group with the purpose of combating money laundering and terrorist financing.

(7) Tax advisors and tax advisory companies are required to register and keep in their own records, in written or electronic format, the documents provided under para. (1), which they make available to the Chamber of Tax Advisors or to the authorities with control powers, at their request.

(8) In application of art. 24 para. (2) in Law no. 129/2019, tax advisory companies ensure an independent audit function for the purpose of testing the efficiency and the concrete ways of applying internal policies and rules, internal control mechanisms and procedures for managing money laundering and terrorist financing risks, when, in the last concluded financial year, they exceed at least two of the following criteria:

a) total assets: Lei 16,000,000;

b) total net turnover: Lei 32,000,000;

c) average number of employees: 50.

*SECTION 4*

***Employee training, in application of the provisions under art. 24 para. (4), (5), and (7) in Law no. 129/2019***

Art. 10. - (1) Tax advisory companies communicate to the employees the policies, rules, procedures, and mechanisms of prevention and combating of money laundering and terrorist financing issued in application of art. 24 para. (1) in Law no. 129/2019 and ensure the effective application thereof in the activity carried out by the regulated entity.

(2) Tax advisory companies ensure, periodically of whenever necessary, but at least once a year, adequate training for the employees with respect to the provisions of Law no. 129/2019 and of the

legislative acts issued in application thereof, as well as with respect to the relevant requirements regarding personal data protection.

(3) The training of employees with responsibilities in the application of the rules for prevention and combating of money laundering and terrorist financing is carried out according to their role and duties within the regulated entity.

(4) The process of adequate verification and training of the employees must ensure:

a) the adequate training of the employees with respect to the provisions of Law no. 129/2019, as well as with respect to the relevant personal data protection requirements;

b) participation to special continuous professional training programs in order for the employees to recognize the operations that might be connected with money laundering or terrorist financing;

c) periodical assessment of the employees' knowledge regarding the legislation in force in the field of preventing money laundering and terrorist financing and the concrete and proper application, internally, of their obligations in accordance with the duties received pursuant to the provisions of Law no. 129/2019.

(5) The documents elaborated in the process of employee training and verification shall be registered and kept, in written or electronic format, and shall be made available to the Chamber of Tax Advisors or the authorities with control powers, at their request.

(6) If a natural person who is a regulated entity listed under art. 5 para. (1) letter e) in Law no. 129/2019 carries out professional activities as employee of a legal entity, the obligations provided by art. 23 and 24 in Law no. 129/2019 apply to that legal entity, not to the natural person.

*SECTION 5*

***Risk assessment, in application of the provisions of art. 11 para. (6) and (7), art. 14, art. 16 para. (2), art. 17 para. (14) and art. 25 in Law no. 129/2019***

Art. 11. - (1) In application of art. 25 para. (1) in Law no. 129/2019, tax advisors and tax advisory companies carry out their own risk assessments through which they identify, assess, and manage the money laundering and terrorist financing risk both at the level of customers, of services provided, and at the level of the entire activity carried out, so as to be able to prove to the Chamber and the authorities with control powers that they understand and adequately manage the money laundering and terrorist financing risk to which they are or may be exposed.

(2) The risk assessments provided under para. (1) shall be updated periodically and whenever there are changes regarding the risk factors provided for by Law no. 129/2019 or changes within the national and sectoral assessments of prevention and combating of money laundering and terrorist financing, or of the requirements in these rules and, as applicable, of the assessments made at the level of the group to which they belong.

(3) Risk assessment shall be carried out for the purpose of allowing tax advisors and tax advisory companies to determine, in a justified manner, the set of mandatory measures of customer due diligence

provided for by Law no. 129/2019, to be applied both during the procedure of identification of a customer or beneficial owner and during the business relationship, both for new and existing customers.

(4) In application of art. 11 para. (6) in Law no. 129/2019, when assessing the risk of money laundering and terrorist financing, tax advisors and tax advisory companies are required to consider at least the following:

a) the purpose of initiating a relationship or making an occasional transaction;

b) the level of assets to be traded by a customer or the size of the transactions already performed;

c) the regularity or duration of the business relationship;

d) the sectoral regulations and instructions issued by the competent authorities in application of the provisions of art. 1 para. (4) in Law no. 129/2019.

(5) When assessing the risks of money laundering and terrorist financing shall be considered the factors characteristic of situations with increased potential risk, provided for under art. 17 para. (14) in Law no. 129/2019, as well as the following factors specific for the tax advisory activity:

a) risk factors related to customers:

- the legal form of the customer;
- the complexity and transparency of the organizational structure;
- the type of activity or occupation, the duration and complexity of the economic activity carried out by the customer/beneficial owner;
- -the reputation of the customer and of the beneficial owner/the nature and behavior of the customer and of the beneficial owner of the customer;
- the customer/beneficial owner operates in economic sectors frequently associated with a higher risk of money laundering and terrorist financing – the real estate sector (including constructions, trading of construction materials, real estate developers and agents), agricultural sector, pharmaceuticals, trading of oil and natural gas products, trading of tobacco products, arms and ammunition, precious metals, gambling;
- the customer and the beneficial owner have criminal records for committing criminal offences sanctioned by the fiscal laws, financial-accounting laws, customs laws, those related to financial discipline, as well as other criminal offences, including money laundering or terrorist financing;
- the customer and beneficial owner are publicly exposed persons or persons known to be close associates of publicly exposed persons;
- the source of the customer's/beneficial owner's fortune/funds.

b) risk factors regarding the services, transactions or distribution channels (intermediaries):

- the level of transparency of the customer's/beneficial owner's identity when initiating the business relationship or the transaction/ the manner of initiation of the business relationship or of a transaction - physical/face to face presence, remotely or electronically, through intermediaries;
- types of services requested by the customer/beneficial owner;
- the purpose and destination of the services requested by the customer/beneficial owner/the purpose of initiation of a relationship or of performance of an occasional transaction;
- the provision of professional services, the proposed business relationship or the requested occasional transaction presents an increased risk of money laundering or terrorist financing;
- the complexity of the professional service provided;

- the value or volume of the funds to be used in business relationships or transactions;

c) geographic risk factors;

- jurisdictions where the customer/beneficial owner has its domicile/residence;
- jurisdictions where the customer has established branches or places of business;
- jurisdictions where the customer and beneficial owner have relevant personal or commercial connections or relevant financial or legal interests;
- jurisdictions from which the funds of the customer/beneficial owner originate;

d) other geographic risk factors;

- the international sanctions imposed in the United Nations and European Union
- the level of corruption;
- fiscal transparency at the level of declaration and access to information related to the beneficial owner;
- FATF and EU evaluations.

(6) Tax advisors and tax advisory companies are required to apply standard customer due diligence measures to all customers, and in proportion to the degree of risk associated with each customer, they may apply simplified customer due diligence measures for customers assessed at a low risk level, according to the provisions of art. 16 in Law no. 129/2019, or they apply additional due diligence measures, in addition to standard measures, for customers assessed at a high risk level, according to the provisions of art. 17 and $17^1$ in Law no. 129/2019.

(7) The responsibility for setting up, documenting and periodically updating the money laundering and terrorist financing risk management procedures falls, as the case may be, to the person from the senior management of the regulated entity, with internal control, communication and compliance management attributions.

(8) The assessment and management of the risk of money laundering and terrorist financing by tax advisors and tax advisory companies comprise at least the following components:

a) the responsibilities of the personnel in the implementation of the risk based assessment process;

b) categories and sources of information used in the assessment;

c) the identification and assessment of relevant risk factors associated with the customers and services offered, as well as with distribution channels, countries and geographical areas, at the level of transactions, as well as at the level of the entire activity performed;

d) the method of determining the weights associated with the identified risk factors according to their importance, if the reporting entity decides to weight the identified risk factors differently;

e) obtaining a general perspective on the risk associated to the customer, to a certain business relationship or occasional transaction by gathering the necessary information in order to identify and assess all relevant risk factors;

f) customer due diligence measures: using the findings resulting from the risk assessment at activity level and substantiating the decision regarding the adequate level and type of due diligence measures;

g) the procedure for establishing and reassessing, periodically, as well as in situations where elements likely to change the degree of risk intervene, the risk classes related to customers, products and services, depending on the degree of associated risk;

h) the monitoring and revision procedure: monitoring the transactions and services offered, correlated with the risk profile and the customer's activity, respectively updating and constantly revising the risk assessment;

i) managing the risks associated with the customers by identifying and applying measures to mitigate or remove them.

*SECTION 6*

***Risk Factors***

Art. 12. - (1) In the risk assessment process, tax advisors and tax advisory companies consider at least the relevant risk factors provided under art. 11 para. (6) in Law no. 129/2019.

(2) The risk indicators associated with the customers, the beneficial owner, the transactions or the customer's activity, which shall be considered by the tax advisors and tax advisory companies when assessing the risks in the performance of the tax advisory activity, can be the following, without limitation:

a) the finding of frequent changes regarding the beneficial owner;
b) the structure of the customer's business is complex and opaque, with no real, economic or legal justification in this respect;
c) the complex structure of the company's shareholding considering the nature of its activity;
d) complex or unusual transactions requested or made by the customer, with no obvious economic purpose or a solid commercial justification;
e) excessive level of confidentiality requested by the customer with respect to the transactions and information made available to the tax advisor for the provision of the requested service;
f) the source of the customer's or beneficial owner's income is not credible or cannot be easily identified or justified;
g) the customer or beneficial owner has connections with sectors frequently associated with a risk of corruption;
h) the customer of beneficial owner has connections with sectors which involve transactions or operations with significant amounts in cash;
i) the customer or beneficial owner has connections with publicly exposed persons, with family members of the publicly exposed person or with persons known to be close associates of the publicly exposed persons;
j) the existence of relevant information about the customer regarding accusations against the customer or the beneficial owner referring to the commission of criminal offences or acts of terrorism;
k) funds or assets of the customer, of the beneficial owner or of persons in its management structure which have been blocked as a result of criminal or administrative sanctions or suspicions of money laundering or terrorist financing;
l) the customer or the beneficial owner comes from a country which, according to the assessment of the relevant international bodies, does not have effective systems to combat money laundering/to combat terrorist financing;

m) situations which present or imply an unstable political regime, high levels of corruption or when the jurisdiction is included in the list of non-cooperative countries and territories.

(3) The risk factors identified by tax advisors and tax advisory companies, according to the activity they effectively carry out, shall be assessed for every customer with the purpose of classifying such customer into a risk category, which could be, for example, "low", "standard", "high" and which shall be registered in the records of acceptance of the customer or in other records established through the internal procedure.

(4) At the request of the Chamber of Tax Advisors or other authorities with control powers, tax advisors and tax advisory companies are required to prove, based on the assessment provided under para. (3), that customer due diligence measures have been applied in proportion to the risk category in which every customer was classified.

(5) The assessments elaborated by tax advisors and tax advisory companies within the risk assessment process must be documented, updated, registered and kept in their own records, in written and/or electronic format, and shall be made available to the Chamber of Tax Advisors or to other authorities with control powers, at their request.

*SECTION 7*

***Customer due diligence measures, in application of the provisions of art. 10 - 20 in Law no. 129/2019***

Art. 13. - (1) Tax advisors and tax advisory companies apply the simplified, standard and additional due diligence measures, as applicable, according to the risk determined on the basis of their own money laundering and terrorist financing risk assessment system, pursuant to their internal customer due diligence rules.

(2) Tax advisors and tax advisory companies verify the identity of the customer and of the beneficial owner before establishing a business relationship or performing the occasional transaction.

Art. 14. - (1) The standard customer due diligence measures are applied by tax advisors and tax advisory companies in accordance with the requirements established by art. 11 para. (1) and (4), art. 13 para. (1) and art. 14 in Law no. 129/2019 and have the purpose of:

a) identifying the customer and verifying the identity thereof based on documents, data or information obtained from secure and independent sources, including, if available, the means of electronic identification and the relevant trust services provided for by Regulation (EU) no. 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions on the internal market and repealing Directive 1.999/93/EC or any other secure, remote or electronic identification process, regulated, recognized, approved or accepted at national level by the Authority for the Digitalization of Romania;

b) identifying the beneficial owner and adopting reasonable measures for verifying his identity, so that the reporting entity can ensure that it has identified the beneficial owner, including with regard to legal entities, trusts, companies, associations, foundations and similar entities without legal personality, as well as in order to understand the ownership and control structure of the customer;

e) assessing the purpose and nature of the business relationship and, if necessary, obtaining additional information about them;

d) carrying out the continuous monitoring of the business relationship, including by examining the transactions concluded throughout the duration of the respective relationship, for the regulated entity to ensure that the transactions carried out are in accordance with the information held regarding the customer, the activity profile and the risk profile, including, as the case may be, the source of the funds, as well as that the documents, data or information held are updated and relevant;

e) identifying the designated persons or entities within the meaning of GEO no. 202/2008 or the operations carried out with them, which imply assets within the meaning of the same legislative act, considering also the provisions of art. 6 in the Rules approved through GD no. 603/2011.

(2) In application of art. 11 para. (1), (3) and (4) and art. 15 para. (1) in Law no. 129/2019, when establishing a business relationship or carrying out an occasional transaction, tax advisors and tax advisory companies are required to obtain and archive in their own records, for the purpose of verifying the identity of the natural person customer and of the beneficial owner and the risk factors specific to them, information regarding:

1. In the case of customers who are natural persons shall be registered the identification details provided in identity cards/bulletins, passports or residence permits, namely:

a) first and last name;

b) date and place of birth;

c) personal numerical code or its equivalent for foreigners;

d) number and series of the identity document;

e) stable domicile/residence (full address) and identification of its legal regime, respectively if it is domicile, residence or other identification attribute of the same type;

f) citizenship, nationality and country of origin;

g) occupation and, as the case may be, the name of the employer or the nature of one's own activity;

h) telephone number, e-mail address, as the case may be;

i) public office held, if applicable;

j) the purpose and nature of the business relationship with the regulated entity;

k) the source of the funds to be used in the development of the business relationship;

l) falling into the category of publicly exposed persons or of members of the family of the publicly exposed person or of persons known to be close associates of a publicly exposed person;

m) information about the beneficial owner, if different from the customer, namely the first and last name, date of birth, personal numerical code or its equivalent for foreigners.

2. In the case of legal entity customers, trusts or entities without legal personality, in application of art. 11 para. (1) and (3) and art. 15 para. (1) letter b) and c) in Law no. 129/2019, shall be registered at least information regarding the identification details included in incorporation documents, registration certificates or their excerpts, as well as documents which allow the identification of the beneficial owner, respectively the natural person who ultimately owns or controls the customer and/or the natural person on whose behalf a transaction, operation or activity is carried out, as follows:

a) the denomination;

b) the legal form;

c) the number, series and date of the certificate of registration with the National Trade Register Office or other similar or equivalent authorities;

d) the share capital subscribed and paid up;

e) the sole registration code (CUI) or its equivalent for foreigners;

f) the credit institution and the IBAN code through which is paid the value of the activities or services provided by the regulated entity;

g) the list of administrators, of persons holding management positions or mandated to represent the customer;

h) the information provided at point 1 for the persons representing the customer in relation to the regulated entity and their powers of binding the entity;

i) the address of the registered office;

j) the shareholding structure;

k) the telephone number, e-mail address and, as applicable, website address;

l) the purpose and nature of the business relationships carried out with the regulated entity;

m) the name of the beneficial owner and the identification details thereof;

n) the type and nature of the activity carried out;

o) the classification of the beneficial owner into the category of publicly exposed persons or members of the family of the publicly exposed person or of persons known to be close associates of a publicly exposed person;

p) if a customer is a party to a fiduciary contract or other similar legal constructions, copies of the fiduciary contract registration declarations submitted to the tax authorities where it is registered shall be withheld from him.

(3) In the case of foreign legal entities shall be also requested a translation into Romanian of the incorporation documents or the registration certificate, as well as the details of the legal representative of the legal entity concluding the contract, legalized under the law.

(4) If the identification is made electronically, under observance of the conditions provided by art. 11 para. (1) letter a) in Law no. 129/2019, shall be kept the information and documents attesting the adequate application of the customer due diligence measures.

(5) Tax advisors and tax advisory companies may use information obtained from third parties, for the purpose of applying the standard customer due diligence measures, in accordance with the provisions of art. 18 in Law no. 129/2019.

(6) Tax advisors and tax advisory companies verify the information related to the beneficial owner provided by natural person customers through adequate measures, using credible and independent sources, taking into account the source and volume of the funds involved in the business relationship or occasional transaction, and in the case of legal entity customers and trusts, by consulting the records provided under art. 19 para. (5) in Law no. 129/2019 or similar records in other jurisdictions, if these sources are available.

(7) After consulting the central records provided under art. 19 para. (5) in Law no. 129/2019, tax advisors and tax advisory companies inform the authorities managing these records with respect to any inconsistency between the information about the beneficial owners which is available in the central records and the information they have about the beneficial owners. In the event that tax advisors and tax advisory companies find that there are suspicions or reasonable grounds to suspect that the object of certain transactions, operations or activities is assets that come from the commission of crimes or they are related to terrorist financing and involve persons in whose respect there is a discrepancy, they shall send a report for suspicious transactions exclusively to the Office, in accordance with the provisions of art. 6 para. (1) letter a) in Law no. 129/2019.

(8) Tax advisors and tax advisory companies are required to apply at least the standard measures of customer due diligence provided by art. 11 para. (1) in Law no. 129/2019, in all cases where there are suspicions of money laundering or terrorist financing.

(9) Tax advisors and tax advisory companies are required to prove, at the request of the Office or of the Chamber, that the customer due diligence measures they have applied are proportional to the identified money laundering or terrorist financing risks.

Art. 15. - (1) The simplified customer due diligence measures are applied by tax advisors and tax advisory companies in accordance with the provisions established by art. 16 in Law no. 129/2019 and represent an adaptation of the standard customer due diligence measures to the low risk associated with the customer, at least by:

a) limiting the type or time allocated to customer due diligence measures;

b) obtaining a lower level of information regarding the identification of the customer and of the beneficial owner;

c) simplifying the verifications made with respect to the identity of the customers and of the beneficial owner;

d) reducing the frequency of customer identification information updates throughout the course of the business relationship;

e) reducing the intensity of expansion and the degree of monitoring and verification of transactions.

(2) Before applying the simplified customer due diligence measures, tax advisors and tax advisory companies make sure that:

a) the business relationship or the occasional transaction presents a low degree of risk, determined at least on the basis of the risk factors provided under art. 16 para. (2) in Law no. 129/2019.

b) they have obtained sufficient information to be able to identify unusual or suspicious transactions.

Art. 16. - (1) The additional customer due diligence measures are applied by tax advisors and tax advisory companies, in accordance with the provisions of art. 17 in Law no. 129/2019, to customers

classified into the category of high risk and represent an adaptation of the standard customer due diligence measures to the high risk associated with the customer, at least by:

a) obtaining additional information with respect to the attorney in fact, the beneficial owner, the seat, occupation, source of income, volume of assets, etc. and other information available from public databases;

b) making additional verifications through the use of other independent and open sources;

c) obtaining additional information and, as applicable, obtaining supporting documents with respect to the nature of the business relationship and the source of the customer's funds/assets;

d) obtaining information regarding the justification of the transactions that can be carried out or those that have been carried out;

e) reducing the ceiling of 25% provided for the definition of the beneficial owner from art. 4 para. (2) letter a) and d) in Law no. 129/2019;

f) performing additional monitoring of the business relationship, by increasing the number and duration of the verifications made and selecting the types of transactions which require additional verifications;

g) raising awareness, in the case of high risk transactions and customers, in all departments which have a business relationship with the customer, including the possibility of additional information of the personnel responsible for that customer.

(2) Applying additional customer due diligence measures is mandatory in situations which present an increased risk of money laundering or terrorist financing, including in the following cases:

a) in the case of business relationships and transactions involving persons from countries that do not apply or insufficiently apply international standards in the field of preventing and combating money laundering and terrorist financing or that are internationally known as non-cooperative countries;

b) in the case of transactions or business relationships with publicly exposed persons or with customers whose beneficial owners are publicly exposed persons, including for a period of at least 12 months as of the date when said person no longer holds an important public position;

c) in the case of natural persons or legal entities established in third countries identified by the European Commission as high risk third countries;

d) in the cases provided in the sectoral regulations and instructions issued by the competent authorities in application of the provisions of art. 1 para. (4) in Law no. 129/2019.

(3) In all situations which might present a high risk of money laundering or terrorist financing, tax advisors and tax advisory companies are required to examine the context and purpose of all transactions which meet at least one of the following conditions:

a) are complex transactions;

b) are transactions with unusually high values;

c) do not fit in the usual pattern;

d) do not have an obvious economic, commercial or legal purpose.

(4) In the case of occasional transactions or business relationships with publicly exposed persons or with customers whose beneficial owners are publicly exposed persons, tax advisors and tax advisory companies must adopt, in addition to the standard customer due diligence measures, among others, the following measures:

a) to obtain the approval of the senior management with respect to the establishment or continuance of the business relationship;

b) to obtain information about the source of funds and fortune of the customer and the customer's beneficial owner and the source of funds to be used in the business relationship or in transactions with such persons;

c) to permanently carry out increased monitoring of the business relationship with these persons.

(5) The measures provided under para. (4) are also applied by tax advisors and tax advisory companies in the case of family members of publicly exposed persons and of persons known to be close associates thereof.

(6) In the case of business relationships or transactions which imply high risk third countries identified in accordance with art. 17 para. (1) letter d) in Law no. 129/2019, tax advisors and tax advisory companies apply additional customer due diligence measures in accordance with the provisions of art. $17^1$ in Law no. 129/2019.

(7) The internal rules adopted by tax advisors and tax advisory companies in application of art. 24 para. (1) in Law no. 129/2019, on the applicable measures in the matter of customer due diligence, including beneficial owner due diligence, contain at least the following elements:

a) identification of customer acceptance criteria and of the hierarchical level of approval thereof;

b) the types of products and services which can be provided to every customer category;

c) the classification of the customers into the adequate risk category and the means of moving them from one category into another;

d) the frequency of the risk based update of the information and documents about the customers;

e) the content of the customer due diligence measures for every risk category identified, with explicit indication of the documents and information used;

f) continuous monitoring of the operations carried out by the customers, irrespective of the risk category they are classified into, for the purpose of detecting unusual and/or suspicious transactions;

g) managing the situations of termination of business relationships and those in which difficulties arise in the customer due diligence process;

h) identifying transactions or business relationships with publicly exposed persons or with customers whose beneficial owners are publicly exposed persons or are family members of the publicly exposed person or are persons known to be close associates of a publicly exposed person, including for a period of at least 12 months starting as of the date from which that person no longer holds an important public position;

i) the means of application of international sanctions, according to the legislation in force, including through checks carried out on the website of the Office, www.onpcsb.ro, in the "international sanctions" section, as well as the way in which the concrete fulfillment of the obligation will be demonstrated at the request of the competent authorities/institutions.

## *SECTION 8*

## ***Types of reports, in application of the provisions under art. 6 and 7 in Law no. 129/2019***

### *SUBSECTION 1*

***Suspicious Transactions Report***

Art. 17. - (1) In application of the provisions of art. 6 in Law no. 129/2019, tax advisors and tax advisory companies are required to send at once to the Office a suspicious transactions report when, after applying the customer due diligence and risk assessment measures, they have identified suspicions of money laundering or terrorist financing.

(2) Tax advisors and tax advisory companies send a suspicious transactions report to the Office if, during the professional activities they carry out, as provided under art. 3 in GO no. 71/2001, approved as amended through Law no. 198/2002, as subsequently amended and supplemented, they have obtained information on the basis of which they have formed a reasonable suspicion regarding possible activities or attempts at money laundering or terrorist financing.

(3) Tax advisors and tax advisory companies shall take all legal measures of identification of suspicious transactions in the professional activity they carry out, irrespective of the risk corresponding to the customers, the ceiling of the transactions or the manner of performance thereof.

(4) The identification of suspicious transactions includes the establishment of some parameters and some patterns that delineate common transactions, such as:

a) categories of transactions carried out in relation to the different types of customers and/or fields of activity;

b) value limits by types of customer, product, or transaction.

(5) In the application of the measures of identification of the customers' beneficial owners, after consulting the central records of beneficial owners, tax advisors and tax advisory companies inform the authorities managing these records with respect to any inconsistency between the information about the beneficial owners which is available in the central records and the information they have about the beneficial owners.

(6) In the event that tax advisors and tax advisory companies suspect or have reasonable grounds to suspect that the object of certain transactions, operations or activities might be assets that come from the commission of crimes or are related to terrorist financing and involve persons in whose respect there is an inconsistency accordance with para. (5), they send a report for suspicious transactions exclusively to the Office, in accordance with the provisions of art. 6 para. (1) letter a) in Law no. 129/2019.

(7) When tax advisors and tax advisory companies are unable to apply the customer due diligence measures, they must not initiate or continue the business relationship or perform the occasional transaction and they must elaborate a suspicious transaction report for that customer, whenever there are reasons for suspicion; the report shall be sent to the Office.

(8) Confidentiality agreements, the legislation or the provisions regarding professional secrecy may not be invoked to limit the reporting capacity of tax advisors and tax advisory companies.

(9) The reports shall be sent to the Office and shall be followed by the notification of the management structure of the Chamber of Tax Advisors with respect to the transmission of the suspicious transaction reports.

(10) The form and content of the reports provided under art. 6 and 7 in Law no. 129/2019, as well as the methodology of transmission thereof are those established through order of the chairman of the National Office for Prevention and Control of Money Laundering.

*SUBSECTION 2*

***Reporting transactions which do not present suspicion indicators***

Art. 18. - (1) Tax advisors and tax advisory companies report electronically to the Office, through the channels made available to them, the transactions which fall under the provisions of art. 7 para. (1) in Law no. 129/2019, within at most 3 business days as of the time of performance of the transaction.

(2) Tax advisors and tax advisory companies observe the conditions and means of reporting established under art. 6 - 9 in Law no. 129/2019 and in the reporting methodologies or instructions issued for the enforcement thereof.

*SECTION 9*

***Preservation of documents, in application of the provisions of art. 21 in Law no. 129/2019***

Art. 19. - (1) Tax advisors and tax advisory companies establish, through internal rules, measures for keeping records and all documents, as well as the method of access to them.

(2) Tax advisors and tax advisory companies keep the documents and information obtained from customers in written or electronic format, in order to prevent, identify and investigate the cases of money laundering or terrorist financing throughout the entire period of development of the business relationship and for a subsequent period of 5 years from the termination of that relationship or from the date of the occasional transaction, under observance of the conditions provided under art. 21 in Law no. 129/2019.

(3) At the written request of the competent authorities in the field of prevention, identification and investigations in cases of money laundering and terrorist financing, tax advisors and tax advisory companies are required to extend the period of preservation of the documents, but this extension may not exceed 5 years.

(4) The documents which are kept by tax advisors and tax advisory companies refer to:

a) all records obtained through the application of customer due diligence measures, such as copies of identification documents (identity cards, passports, residence permits), of the monitoring and verifications carried out and of the results of the analyzes carried out in relation to the customer (including internal and external reports, screening results, decisions/resolutions adopted by the senior management in relation to the customer, etc.), of customer files and correspondence, including information obtained through the means of electronic identification necessary to comply with customer due diligence requirements;

d) supporting documents and records of transactions or commercial correspondence available for the provision of the tax advisory service, including the results of any analysis performed in connection with the customer, for example requests to establish the history and purpose of complex transactions if they were necessary for the provision of the service;

c) all suspicious transaction reports elaborated.

*SECTION 10*
***Personal Data***

Art. 20. – (1) Personal data obtained and used for the application of Law no. 129/2019 are processed by the regulated entities in accordance with the provisions of Law no. 129/2019 and of the Regulation (EU) 2016/679, only for the purpose of preventing money laundering and terrorist financing, and they shall not be subsequently processed in a manner which is incompatible with this purpose.

(2) Before establishing a business relationship or performing an occasional transaction, regulated entities provide to new customers at least the information provided below, except if the person is already informed with respect to these data:

a) the identity of the operator and, if applicable, of the representative;

b) the purpose of the processing for which the data is intended;

c) any other additional information, like the addressees or categories of addresses of the data, etc.

(3) The information provided under para. (2) includes general information regarding the legal obligations of tax advisors and tax advisory companies pursuant to Law no. 129/2019, when processing personal data for the purpose of preventing money laundering and terrorist financing.

(4) When the term of preservation expires, tax advisors and tax advisory companies are required to delete personal data, with the exception of situations in which other legal provisions impose the continued preservation of that data.

*SECTION 11*
***Information requests, interdiction of disclosure and other obligations, in application of the provisions of art. 26 para. (4) and (5), art. 33 and art. 38 para. (1) and (2) in Law no. 129/2019***

Art. 21. - (1) Tax advisors and tax advisory companies communicate directly to the Office the data and information requested in the format and within the term indicated by it, without exceeding a maximum term of 15 days as of the date of receipt of the request or the term indicated by the Office in the case of requests marked as urgent.

(2) Tax advisors and tax advisory companies are required to make available to the personnel with control powers of the Office and/or the Chamber of Tax Advisors, for the purpose of performing the specific duties, the data, information and documents requested by them, in adequate written or electronic format, including photocopies.

(3) Tax advisors and tax advisory companies, acting through their management body, as applicable, are required to make sure the results of the controls performed by the Office and/or by the Chamber of Tax Advisors, respectively the deficiencies found and the recommendations for remediation thereof, are adequately implemented within the terms indicated in the control document. After applying the deficiency remediation measures, tax advisors and tax advisory companies shall notify at once the Office and/or, as applicable, the Chamber, mentioning the number and date of the control document through which they were recorded.

## CHAPTER III
## **Supervision and Control**

Art. 22. - (1) The manner of application of the provisions in Law no. 129/2019 by the regulated entities provided under art. 5 para. (1) letter e) in Law no. 129/2019 shall be supervised and controlled, as part of job duties, by the National Office for Prevention and Control of Money Laundering and by the Chamber of Tax Advisors, in its capacity of self-regulatory body.

(2) The Chamber of Tax Advisors shall perform, periodically or whenever necessary, activities of supervision and control of the regulated entities, with or without prior notice, in accordance with the provisions of art. 26 para. (1) letter e) in Law no. 129/2019.

(3) The activity of supervision of tax advisors and tax advisory companies shall be carried out at the seat of the Chamber of Tax Advisors, through analysis and processing of the information and documents from the databases the Chamber manages or has access to, for the purpose of identifying the degree of risk to which every supervised entity is exposed of being used and/or involved in illegal money laundering or terrorist financing activities.

(4) The activities of supervision and control carried out by the Chamber of Tax Advisors for prevention and combating of money laundering and terrorist financing are established by also considering the synthesis of the national risk assessment published on the web page of the Office.

(5) The Chamber of Tax Advisors carries out actions of supervision and control with respect to the observance of the provisions of the legislation in the field of ML/TF by tax advisors and tax advisory companies, on the basis of annual programmes, which include:

a) supervision carried out on the basis of reports provided by the regulated entities;

b) supervision carried out through control actions performed at the seat of the regulated entities.

(6) In application of the provisions of art. 26 para. (4) in Law no. 129/2019, tax advisors and tax advisory companies which are subject to supervision or control are required to make available to the authorized or designated representatives of the Office and/or Chamber the data, information and documents requested by them for performance of their specific duties. In exercising their supervisory and control duties, the authorized representatives of the Office and/or the Chamber may retain copies of the verified documents.

(7) Tax advisors and tax advisory companies are required to implement the measures ordered by the Office and/or the Chamber of Tax Advisors within the indicated term, in accordance with the control document or other documents issued in this respect.

(8) In accordance with the provisions of art. 26 para. (7), the Chamber, which is a self-regulatory body that has powers of regulation of the activity of its members, shall cooperate with the competent authorities from another Member State in order to ensure efficient supervision of the fulfillment of the requirements in Law no. 129/2019. The Chamber of Tax Advisors shall cooperate with the competent authorities from another Member State on the territory of which the entity with registered office in Romania carries out economic activities, in order to ensure the efficient supervision of the fulfillment of the requirements imposed through legislative acts which transpose the Directive (EU) 2015/849, as subsequently amended and supplemented. The cooperation may include the provision of information from the supervision activity and, as applicable, common inspections.

(9) The actions of tax advisors and/or tax advisory companies which, in accordance with statutory provisions, try to discourage a customer from carrying out illegal activities are not considered violations of the interdiction of transmitting, apart from the situations provided by law, the information held with respect to money laundering and terrorist financing.

(10) At the request of the Office, in accordance with the provisions of art. 44 para. (2) and (3) in Law no. 129/2019, the Chamber of Tax Advisors may apply complementary sanctions in accordance with its competences and/or remedy measures in cases in which it finds that the regulated entities or the members of the management structure or the designated persons or other natural persons who are employees with duties related to the prevention and combating of money laundering and terrorist financing do not observe the provisions of Law no. 129/2019.

Art. 23. - The Chamber of Tax Advisors shall notify the Office with respect to:

a) the facts identified in the exercise of the powers of authorization, supervision, control and monitoring of regulated entities that could be related to money laundering and terrorist financing;

b) other violations of the provisions in Law no. 129/2019 found at the level of the regulated entities;

c) measures ordered following the exercise of supervision and control powers.

## CHAPTER IV
## **Transitory Provisions**

Art. 24 – (1) Tax advisory companies which are registered on the date of entry into force of these rules in the Register of tax advisors and tax advisory companies are required to notify the Chamber within 60 days with respect to the person designated with responsibilities of application of Law no. 129/2019, as provided by art. 7 para. (7).

(2) These rules shall be supplemented by operation of law by all the other applicable legal provisions.