

NOMENCLATURE

In this nomenclature foreign currency operations are classified according to the economic nature of assets and liabilities they concern denominated either in domestic currency (*leu*) or in foreign currency.

Art. 1. – Foreign currency operations set forth in this nomenclature shall be interpreted in a broad meaning in order to cover, as the case may be, and without being limited to, the following:

- a) conclusion and performance of transactions, and related transfers;
- b) all the financial techniques available on the market approached for the purpose of carrying out the operation in question – spot transactions, transactions in derivatives (forward, options, swap, futures), opening of accounts and placing of funds in accounts;
- c) liquidation or assignment of built-up assets or other operations, repatriation of proceeds of the liquidation thereof or immediate use of such proceeds;
- d) repayment of credits and loans.

Art. 2. – Current foreign currency operations are foreign currency operations performed between residents and non-residents which, without being limited to, arise out of:

- a) international commercial transactions in goods and services and any other transactions of like character which presuppose prompt repayment, including operations intended to cover risks (such as price risk, currency risk) arising out of international commercial transactions;
- b) other operations which are not of the character of capital transactions as they are classified under Art. 3, such as: payment/receipt linked to taxes and duties – except succession duties, commissions, fees, penalties, payments related to legal fees, technical assistance, payment of amounts arising out of social security benefits, including public or private pensions, winnings, operational leasing, expenses for upkeep of property abroad, representation charges, government charges, subscriptions to publications, membership fees to organisations, clubs;
- c) repatriation of net income in the form of dividend, interest, rent, and the like, resulting from capital and current transactions;
- d) remittances of amounts representing current expenses for supporting family members (husband, wife, children, other dependants);
- e) expenses which are not of the character of capital transactions made by residents abroad for purposes such as education, religion, leisure, holidays, sports, business,

visits to relatives or friends, missions, meetings, conferences, healthcare, and the like.

Art. 3. – Capital foreign currency operations are foreign currency operations performed between residents and non-residents, which are related to:

3.1. Direct investments:

- a) by non-residents in Romania;
- b) by residents abroad.

3.2. Investments in real estate – other than those referred to in 3.1. – investments in real estate intended for direct investments:

- a) by non-residents in Romania;
- b) by residents abroad.

3.3. Operations in securities normally dealt in on capital market not included under 3.1. – direct investments, under 3.4. – operations in securities normally dealt in on the money market – or under 3.5. – operations in units of collective investment undertakings:

- a) admission of domestic securities to a foreign capital market through:
 - a1) issue by public offer or sale by the issuer, either directly or through an intermediary;
 - a2) introduction on a stock exchange in compliance with specific procedures;
- b) admission of foreign securities to the domestic capital market through:
 - b1) issue by public offer or sale by the issuer, either directly or through an intermediary;
 - b2) introduction on a stock exchange in compliance with specific procedures;
- c) transactions by non-residents in domestic securities on the capital market:
 - c1) acquisition of domestic securities dealt in on the stock exchange;
 - c2) acquisition of domestic securities not dealt in on the stock exchange;
- d) transactions by residents in foreign securities on the capital market:
 - d1) acquisition* of foreign securities dealt in on the stock exchange;
 - d2) acquisition* of foreign securities not dealt in on the stock exchange.

3.4. Operations in securities normally dealt in on the money market:

- a) admission of domestic securities to the foreign money market through:

*Acquisition by residents of securities or units of domestic collective investment undertakings issued on a foreign market is regarded as acquisition by residents of securities or units of foreign collective investment undertakings.

- a1) issue by public offer or sale by the issuer, either directly or through an intermediary;
- a2) access to the money market in compliance with specific procedures, as appropriate;
- b) admission of foreign securities to the domestic money market through:
 - b1) issue by public offer or sale by the issuer, either directly or through an intermediary;
 - b2) access to the money market in compliance with specific procedures, as appropriate;
- c) transactions (acquisition) by non-residents of domestic securities on the money market;
- d) transactions (acquisition*) by residents of foreign securities on the money market.

3.5. Operations in units of collective investment undertakings:

- a) admission of units of domestic collective investment undertakings to a foreign capital market through:
 - a1) issue by public offer or sale by the issuer, either directly or through an intermediary;
 - a2) introduction on a stock exchange in compliance with specific procedures;
- b) admission of units of foreign collective investment undertakings to the domestic capital market through:
 - b1) issue by public offer or sale by the issuer, either directly or through an intermediary;
 - b2) introduction on a stock exchange in compliance with specific procedures;
- c) transactions by non-residents in units of domestic collective investment undertakings to the capital market:
 - c1) acquisition of units of domestic collective investment undertakings dealt in on the stock exchange;
 - c2) acquisition of units of domestic collective investment undertakings not dealt in on the stock exchange;
- d) transactions by residents in units of foreign collective investment undertakings to the capital market:
 - d1) acquisition* of units of foreign collective investment undertakings dealt in on the stock exchange;

*Acquisition by residents of securities or units of domestic collective investment undertakings issued on a foreign market is regarded as acquisition by residents of securities or units of foreign collective investment undertakings.□

d2) acquisition* of units of foreign collective investment undertakings not dealt in on the stock exchange.

3.6. Credits related to international commercial transactions in which a resident is participating:

- a) granted by non-residents to residents;
- b) granted by residents to non-residents.

3.7. Financial loans and credits not included under 3.1. – direct investments, under 3.6. – credits related to international commercial transactions in which a resident is participating – and under 3.12. letter a) – loans of a personal character:

- a) granted by non-residents to residents;
- b) granted by residents to non-residents.

3.8. Guarantees:

- a) granted by non-residents to residents;
- b) granted by residents to non-residents.

3.9. Operations in current accounts:

- a) opened by non-residents with credit institutions in Romania:
 - a1) in domestic currency;
 - a2) in foreign currency;
- b) opened by residents with credit institutions and other like institutions abroad:
 - b1) in domestic currency;
 - b2) in foreign currency.

3.10. Operations in deposit accounts:

- a) opened by non-residents with credit institutions in Romania:
 - a1) in domestic currency;
 - a2) in foreign currency;
- b) opened by residents with credit institutions and other like institutions abroad:
 - b1) in domestic currency;
 - b2) in foreign currency.

3.11. Transfers in performance of insurance contracts – capital transfers in the form of premiums, annuities, insured amounts, indemnities, arising out of:

- a) premiums and payments in respect of life assurance:

- a1) contracts concluded between resident life assurance companies and non-residents;
- a2) contracts concluded between non-resident life assurance companies and residents;
- b) premiums and payments in respect of credit insurance:
 - b1) contracts concluded between resident credit insurance companies and non-residents;
 - b2) contracts concluded between non-resident credit insurance companies and residents;
- c) other capital transfers in respect of insurance contracts.

3.12. Personal capital movements:

- a) loans;
- b) gifts and endowments;
- c) dowries;
- d) inheritances and legacies;
- e) settlement of debts by immigrants in their previous country of residence;
- f) transfer of assets constituted by residents, in the event of emigration, prior to their departure, at the time of their installation or during their period of stay abroad;
- g) transfer, during their period of stay in Romania, of immigrants' savings to the previous country of residence.

3.13. Physical import and export of financial assets:

- a) securities and other negotiable securities;
- b) payment instruments.

3.14. Other capital movements:

- a) death duties;
- b) damages (where these can be considered as capital);
- c) refunds in the case of cancellation of contracts or refunds of uncalled-for payments (where these can be considered as capital);
- d) author's royalties: patents, designs, trade marks, inventions (assignments and transfers arising out of such assignments);
- e) transfers of amounts in foreign currency required for the provision of services (not included under 3.9. – operations in current accounts);
- f) other transfers similar in nature to capital transactions which may not be classified in the categories provided for under 3.1.-3.13.

Art. 4. – For the purpose of this nomenclature and of this Regulation, the following terms and expressions have the meanings assigned to them respectively:

4.1. Foreign currency operations – receipts, payments, setoffs, transfers, lending, as well as any foreign-currency-denominated transactions that may be performed through bank transfer, in cash, with payment instruments or by any other means of payment used by credit institutions depending on the nature of that operation.

Foreign currency operations may be:

4.1.1. operations between residents and non-residents:

4.1.1.1. current foreign currency operations;

4.1.1.2. capital foreign currency operations.

4.1.2. operations between residents.

4.2. Residents:

a) individuals – Romanian citizens, foreign citizens and stateless persons, having their domicile in Romania, as proved by identification documents issued by law;

b) legal persons and any other entities, having their headquarters in Romania, as well as individuals, Romanian citizens, foreign citizens and stateless persons, having their domicile/place of residence in Romania, registered and/or authorised to conduct economic activities on the territory of Romania, independently, in accordance with the legal provisions in force;

c) branches, agencies, representative offices, offices of legal persons and those of any other foreign entities registered and/or authorised to operate in Romania;

d) embassies, consulates and other representative offices and permanent missions of Romania abroad.

4.3. Non-residents:

a) individuals – foreign citizens, Romanian citizens and stateless persons, having their domicile abroad, as proved by identification documents issued by law;

b) legal persons and any other entities, having their headquarters abroad, and individuals, foreign citizens, Romanian citizens and stateless persons, having their domicile abroad, authorised and/or registered to conduct economic activities abroad, independently, in accordance with conditions prescribed by the legal provisions in force;

c) branches, agencies, representative offices, offices of legal persons and those of any other Romanian entities registered and/or authorised to operate abroad;

d) embassies, consulates and other representative offices and permanent missions of other states in Romania, as well as international organisations or the representative offices of such organisations operating in Romania.

4.4. Foreign currency – the national currency of any state, the currency of a monetary union of states, as well as composite currencies such as Special Drawing Rights.

4.5. Quoted currencies – the foreign currencies shown in the list of exchange rates ruling in the foreign exchange market communicated by the National Bank of Romania.

4.6. Credits related to international commercial transactions – the contractual credits related to international commercial transactions in goods and services, in the form of advances or payments by instalments in respect of work in progress or by order of the supplier of goods/provider of services and extended payment terms, supplier credit, whether or not involving subscription to a commercial bill, rescheduling of such payments and their financing by credits provided by a third party; this category also includes factoring operations.

4.7. Financial loans and credits – financing of every kind granted/received on the basis of a contract, including financing related to commercial transactions in which no resident is participating and any manner in which the creditor pays off or takes over an obligation of the debtor towards a third party; this category also includes mortgage loans, consumer credit and financial leasing.

4.8. Direct investments – investments of all kinds to establish or to maintain lasting economic links, which are achieved in the following manners, in their broadest meaning:

- a) establishment or expansion of a branch or of a new entity wholly owned by the person supplying the endowment/share capital or full acquisition of an already existing company;
- b) participation in a new entity or in an already existing company for the purpose of establishing or maintaining lasting economic links;
- c) granting loans and credits with maturities longer than 5 years for the purpose of establishing or maintaining lasting economic links;
- d) reinvestment of profits for the purpose of maintaining lasting economic links.

4.9. Lasting economic links – relationships established following the acquisition of a participation of at least 10% in the share capital of an entity or which give the right to an effective participation in the management or the control over that entity; this category also includes the relationships arising out of an agreement concluded for the purpose of participating in the profit yielded from carrying on an economic activity;

4.10. Investments in real estate – the acquisition of buildings and land, construction of buildings, as well as investments whereby rights of usufruct, easements and building rights are achieved, for gain or personal use.

4.11. Operations in securities normally dealt in on capital market – operations in shares or other securities of a participating nature, except those laid down under 4.13., bonds or other debt securities and derivatives, with initial maturity usually longer than 1 year.

4.12. Operations in securities normally dealt in on money market – operations in government securities, certificates of deposit, derivatives, debt securities and any other money market instruments similar in nature, with initial maturity usually shorter than 1 year.

4.13. Operations in units of collective investment undertakings – operations in securities of a participating nature in investment funds, mutual funds or any other entities, established for the purpose of achieving collective investment in:

- a) securities normally dealt in on capital market;
- b) securities normally dealt in on money market;

c) other assets.

4.14. Financial assets, as follows:

a) cash;

b) an instrument or a document which gives the contractual right to collect cash or to receive other financial instruments from other entity;

c) an instrument or a document which gives the contractual right to exchange financial instruments with any other entity under potentially favourable conditions;

d) a capital instrument of other entity.

4.15. Foreign exchange market – the market where exchange transactions are conducted, including the following segments:

a) interbank foreign exchange market;

b) foreign exchange market of exchange offices;

c) foreign exchange market of the entities benefiting from express legal provisions.