

ANTI-MONEY LAUNDERING IN THE ROMANIAN BANKING SYSTEM

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Abstract: *Because today, the laundering of money from illegal activities is performed mainly through the banking system, governments have developed Anti-Money Laundering (AML) compliance programs. Their implementation proves complicated and expensive, which is why many banks are sanctioned by the authorities with historic fines. In Romania, starting from 2019, the supervision process of financial-banking institutions in the area of preventing and combating money laundering and terrorist financing has intensified, with the National Bank of Romania sanctioning a number of banks for their insufficient involvement and compliance in the direction of combating money laundering.*

Key words: *anti-money laundering, Romania, the banking system, penalties*

1. Introduction

It is a reality that, at a global level, the phenomenon of money laundering from illegal businesses is carried out through the banking system. Figures published by Eurostat in 2021 demonstrate that over 75% of suspicious money laundering transactions were reported by credit institutions in over half of the EU member states (European Court of Auditors, 2021).

Banks are on the front line in the fight against money laundering, but unfortunately reality shows that they fail to effectively manage the risks related to their involvement in money laundering. In recent years, major banks have been severely penalized by the authorities for the lack of adequate procedures and effective controls to identify transactions aimed at money laundering.

US authorities have fined HSBC a historic \$1.9 billion fine for ineffective controls in the area of money laundering. Furthermore, in 2009, Switzerland's Credit Suisse Group was fined \$536 million and Britain's Lloyds Banking Group PLC was fined \$350 million for money laundering charges. And the list of banks sanctioned for such charges can go on: the ING Bank group was fined a whopping \$619 million for allowing financial criminals to illegally transfer billions of dollars through the US banking system, and in 2014 Standard

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Bank PLC was fined 7.6 million for its failure in anti-money laundering controls (Chen, et. al., 2018).

Given the link between money and crime, in the current context of the digitization of economies, most governments are initiating measures to reduce the flow of money to organizations coordinated by financial criminals, which take the form of Anti-Money Laundering (AML) programs. Moreover, today there is a growing interest related to the possible harnessing of the potential of artificial intelligence (AI) and machine learning to support AML programs, but the banking sector shows some reservations in the process of implementing these technologies due to the high costs and benefits which, until now, could not be demonstrated in the area of AML programs (Canhoto, 2020).

In Romania, the financial system through credit institutions and fast funds transfer services is the main provider of information in the fight against money laundering and terrorist financing. Certainly, cash is the money laundering tool of choice for financial criminals, and the use of cash in certain circumstances prompts reporting by reporting entities, which are then forwarded for analysis, processing and dissemination to the National Office for the Prevention and Control of Money Laundering (N.O.P.C.M.L.) (Laptes, 2022).

In Romania, in recent years, some progress has been made in the process of monitoring money laundering activities through the banking system, with a number of banks being sanctioned for their insufficient involvement in the fight against money laundering.

Financial intermediaries and banks in particular are today facing real challenges and risks related, on the one hand, to the development of business relationships on behalf of clients who do not present themselves (especially for the use of bank accounts) and on the other, by the widespread use of electronic money and electronic or telephone banking. Electronic money has become a substitute for cash, which criminals, under the protection of anonymity, can easily transfer, establishing their businesses in countries that do not implement proper control. Thanks to new technologies, electronic banking today brings together a wide range of products and services that are offered through telecommunications networks. The protection of anonymity and the absence of borders in electronic banking, together with the extraordinary speed of transactions, generate real difficulties in the process of identifying real customers involved in transactions. Therefore, financial intermediaries are obliged today, more than ever, to assess the risks of new technologies as objectively as possible and to develop effective customer identification procedures. (N.O.P.C.M.L., n.y).

2. Research Methodology

This study has as its fundamental objective the analysis of the phenomenon of money laundering through the banking system in Romania. In order to achieve this objective, a fundamental research was carried out, by studying the specialized literature and the reports published by the National Bank of Romania regarding the results of the controls carried out at the level of the banks which operate in Romania, in relation to the implementation of the national legislation regarding combating money laundering and

terrorist financing, respectively law no. 129/2019 to prevent and combat money laundering and terrorism financing. Through this study, answers will be formulated to questions of the form:

- What are the latest measures adopted at the EU level and seen as a necessity in the immediate future to reduce the phenomenon of money laundering?
- When did the fight against money laundering start in Romania?
- Which is the authority in Romania responsible for monitoring the phenomenon of money laundering in the banking system and when did this process really start?
- What are the statistics of banks sanctioned in Romania, in recent years, for non-compliance with national legislation in the field of preventing and combating money laundering, what were the main problems found and what were the sanctions applied?

3. Research Results

Understanding the seriousness and, at the same time, the extent of the money laundering phenomenon, which risks weakening the financial system, the EU has consistently adopted stricter rules in the field of combating money laundering and terrorist financing. Unfortunately, reality shows that this phenomenon is complex and difficult to counteract because it has expanded on a global scale. The specialists of the European Court of Auditors signaled, in 2021, that, in reality, supervision in the field of combating money laundering and terrorist financing is limited and fragmented, only at the national level, without a sufficient control framework at the EU level (European Court of Auditors, 2021).

For the year 2023, at the EU level, new progress has been made in the field of combating money laundering and terrorist financing, by approving stricter rules aimed at adopting (www.europarl.europa.eu):

- the single EU regulation regarding customers, transparency of beneficial owners, use of crypto-assets and crowdfunding platforms;
- the project for the 6th European directive on combating money laundering;
- the regulation establishing the European Anti-Money Laundering Authority, under the name Anti-Money Laundering Authority (AMLA) (www.consilium.europa.eu).

Moreover, according to the documents adopted in 2023 by the European parliamentarians, entities (banks, financial intermediaries, asset and crypto-asset managers, real estate agents, professional football clubs, etc.) will be obliged to carefully verify the identity of clients, the wealth they own and beneficial owners of the companies. These categories of entities will be required to identify detailed types of money laundering risks in their field of activity and submit the relevant information to a central registry. To limit cash and crypto-asset transactions, European officials plan to limit cash payments, with the maximum accepted limit being 7,000 euros for cash payments and 1,000 euros for crypto-asset transfers, in the situation where the customer cannot be identified (www.consilium.europa.eu).

In order to identify money laundering schemes in time, the EU aims to strengthen an effective mechanism, which would ensure access of the competent authorities to

information related to beneficial ownership, bank accounts, land or real estate registers. MEPs want member states to centralize information regarding the ownership of assets (yachts, planes and cars) worth more than 200,000 euros or assets stored in free zones.

Moreover, the EU governments, in a joint effort to counter the phenomenon of money laundering through the banking system, have reached an agreement that implies an increased involvement of the European Banking Authority (EBA), which will be able, in extreme cases, to force banks to adopt certain measures against money laundering when the lack of reaction of the national authorities is found (www.bursa.ro).

All these measures demonstrate the need to strengthen the fight against money laundering and terrorist financing at EU level. But what is the situation in Romania in the field of combating money laundering through the banking system in recent years?

In Romania, the responsibility for the coordination of the national system to combat money laundering and terrorist financing is held by N.O.P.C.M.L., established due to the historical and political context in 1999. Moreover, in Romania, the crime of money laundering has been recognized and criminalized for the first time only since 1999, by Law no. 21/1999 for the prevention and sanctioning of money laundering (N.O.P.C.M.L., 2009).

Therefore, Romania's experience in the fight against money laundering began in 1999, when a series of strategic objectives were established, which aimed primarily at legislative and institutional reform. Since its establishment, in 1999, the first annual report published by N.O.P.C.M.L. refers to the activity carried out in 2006. Moreover, on the website of this institution (www.onpcsb.ro), the annual activity reports for the period 2006-2022 can be consulted. From the annual activity reports prepared by N.O.P.C.M.L., it can be noticed that the main economic activities aimed at money laundering in Romania are related to: real estate business, fuel trade, sale of alcohol, recoverable materials and wood (Lapteş, 2022).

From the activity report developed by N.O.P.C.M.L. for the year 2022, it can be noticed that, this year, 16,065 reports of suspicious transactions and notifications were received ex officio, an increase of 4.53% compared to the year 2021, the vast majority of these reports, 11,907 (74.12%), respectively, being received from banks. The next position, but at a great distance, is held by fast money transfer companies, which sent to N.O.P.C.M.L., in 2022, 3,385 reports of suspicious transactions, respectively 21.07%. This statistic demonstrates that, in 2022, too, the financial system is the main provider of information regarding the national system of combating money laundering and terrorist financing in Romania, as well as internationally (N.O.P.C.M.L., 2022).

In Romania, the National Bank of Romania (NBR) oversees the application of the legislative framework aimed at preventing money laundering and the implementation of international sanctions in the financial-banking system.

From the annual activity report, prepared by the NBR for the year 2022, it can be seen that the supervision process of credit institutions and financial institutions was strengthened from the perspective of money laundering and terrorist financing risks to which these institutions are exposed. In 2022, NBR carried out 40 inspection and monitoring actions, of which 27 at the level of credit institutions and 13 at the level of non-banking financial institutions, payment institutions and institutions issuing

electronic money. Moreover, in the activity report prepared by the NBR for the year 2022, it is shown that, following the checks carried out, 27 orders of measures were ordered to remedy the identified deficiencies, of which the majority, namely 20, concerned credit institutions. The NBR inspections ended with administrative sanctions, both warnings and fines for non-compliance with the legislation on the prevention of money laundering (National Bank of Romania, 2022).

In 2022, OTP Bank România S.A. received the largest fine for non-compliance with the legislation in the area of preventing and combating money laundering, its value being 500,000 lei. The main problems found mainly concern (www.bnr.ro):

- Non-identification and non-reporting ante factum of some transactions that presented suspicions of money laundering;
- Failure to comply with law no. 129/2019 by not identifying the real beneficiary of the funds, in the case of some clients;
- Carrying out transactions on the account of a client, under the conditions of non-identification of the real beneficiary of the funds;
- Failure to properly identify the representative designated by the power of attorney by the client;
- Failure to properly identify a client by the fact that no information was requested regarding the type and nature of the activity carried out;
- Lack of transaction monitoring and document updating in the case of several clients;
- Failure to implement additional measures in the case of transactions in relation to high-risk jurisdictions.

In 2023, by the time this study was prepared, NBR has applied five more fines for non-compliance with the legislation related to the prevention of money laundering, totaling 370,000 lei, and five warnings (www.bnr.ro).

In the coming period, banks, including those in Romania, will be required to develop effective AML compliance programs that comply with regulatory requirements and effectively manage money laundering risks. Otherwise, the banks will be sanctioned by the regulatory authorities. An effective AML compliance program brings together the following procedures (Wheeler, 2023):

- Appointment by the banks of a compliance officer, responsible for overseeing the compliance program and liaison with the authorities;
- Continuous training of financial industry employees in the direction of combating money laundering;
- Keeping records for the assessment of financial risks based on customer records;
- Risk-based approach by implementing appropriate procedures for knowing each customer (KYC) and customer due diligence (CDD);
- Appropriate customer identity verification;
- The obligation of banks to ensure that they do not develop business with clients, who are found in the international sanctions lists;
- Banks must determine whether a customer is a Politically Exposed Person (PEP).

It remains to be seen, in the next period, to what extent the financial-banking system will comply with the new requirements and perform in the difficult fight to counter the phenomenon of money laundering and terrorist financing.

4. Conclusions

Because the financial system is the main destination for financial criminals trying to launder money from illegal activities, governments are increasingly proposing measures to counter the phenomenon of money laundering, which has escalated in recent years, including the sanctioning with historic fines of big banks. In Romania, the adoption of law no. 129/2019 marked the start of the closer supervision of the financial system regarding the degree of compliance in the matter of combating money laundering, with a delay compared to the international context. Today, there are major challenges for the financial system, at national and international levels, aimed at the fight against money laundering, challenges that have led to new legislative requirements, the implementation of which brings significant additional costs to the financial industry.

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