



ROMANIAN NON-BANKING FINANCIAL INSTITUTIONS MARKET

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Abstract *With the financial crisis, non-bank financial institutions have increased their share of financial intermediation in the euro area. Thus, non-bank financial institutions contributed to mitigating the effects of the crisis. In 2014, in the sector of non-banking financial institutions (IFN), there was a restructuring process, both in numerical terms and in the main aggregated financial indicators.*

Key words:

*Financial institutions,
crisis, bank, credit*

JEL Codes:

M41

1. PARTICULARITIES OF NON BANKING FINANCIAL INSTITUTIONS IN ROMANIA

Non-banking financial institutions are groups other than banks that carry out credit granting activities, excluding the acceptance of deposits or repayable funds from the public, subject to the conditions set out by law. The activity and functioning of non-banking financial institutions are established by the Law no. 93/2009 on non-banking financial institutions.

The activities of the non-banking financial institutions are as follows:

- granting certain types of credit, such as personal loans, credits mortgage, mortgage loans, short-term loans;
- issuance of guarantees, assumption of guarantee commitments, assumption of financing commitments;
- granting credits with assets in pledge;

- other forms of credit financing.

The non-banking financial institutions operating on the market have a much more limited activity than the banks, which can only offer loans and can not offer savings products. This is governed by the IFN Law. However, in some cases, non-bank financial institutions may provide payment services if the National Bank of Romania authorizes this in accordance with Article 22 of Emergency Ordinance no. 113/2009.

"1. Payment institutions may grant credits related to the payment services specified in Article 8 (d), (e) and (g) only if the following conditions are met:

- a) the credit is ancillary and is granted exclusively in connection with the execution of a payment transaction;
- b) the credit granted in connection with a payment service provided under the

conditions set out in Sections 6 and 7 is repaid over a period not exceeding 12 months;

- c) the credit is not granted from funds received or held for the purpose of executing payment transactions;
- d) the level of own funds of the payment institution is adequate at any time from the perspective of the National Bank of Romania in relation to the total amount of credits granted.

(2) Except for payment institutions, legal persons from other Member States, which are granted credits according to paragraph (1), the payment of credit activity on the territory of Romania by payment institutions may be carried out only in compliance with the Law no.93 / 2009 on non-banking financial institutions."¹

Non-banking financial institutions, as well as banks, must comply with the regulations imposed by the National Bank of Romania throughout their lifetime:

- Minimum own funds
- Exposure limitation
- Credit risk commission

At the same time, the Romanian National Bank reviews the regulatory activity and oversees non-banking financial institutions at the individual and group level.

For a non-banking financial institution to operate outside Romania, it must comply with

certain criteria without the need for additional authorization by the host state.

The regulation of insolvency of non-banking financial institutions is one of the loopholes of the IFN law, the lack of specific provisions applicable to the insolvency of these institutions may be justified by the low risk that their insolvency poses to creditors, considering the ban on deposits.

2. LEGAL REGULATIONS OF NON-BANK FINANCIAL INSTITUTIONS

Article No. 14 of the IFN Law stipulates that a non-banking financial institution may carry out the following lending activities classified as follows:

- Granting credits (consumer loans, real estate loans, mortgages and mortgages and short-term loans).
- Financial leasing. In financial leasing, added value is created by the use of the purchased asset. The lender has ownership of the vehicle, which means that if the customer becomes unable to pay, the lender can execute relatively lightly.
- Issuance of guarantees. Letter of guarantee is a document through which the financiers commit themselves to payment if the borrower (the borrower) can no longer pay the contracted loan.

As stated in Law no. 93/2009 on non-banking financial institutions, art. 14, par. (2), (3) and (4), they may also engage in other forms of credit financing.

¹ Emergency Ordinance no. 113/2009 on payment services, Art. 22, para. (1) and (2).

"(2) As part of the lending activity, non-banking financial institutions may provide credit card issuance and management services for clients other than those falling under the provisions of Government Emergency Ordinance no. 113/2009, approved with amendments by Law no. 197/2010, with subsequent amendments and completions, and may carry out activities related to the processing of transactions with them, in compliance with the regulations in the field.

(3) Non-banking financial institutions may carry out related and auxiliary activities related to the performance of the lending activities or the operation of the entity.

(4) Insofar as the activities envisaged relate to the lending activities included in the activity of the non-banking financial institution, it may perform mandate operations and may provide consultancy services."²

3. ESTABLISHMENT OF NON-BANKING FINANCIAL INSTITUTIONS

A non-banking financial institution may be formed as a joint stock company according to Law 31/1990 or in the form of an association, according to O.G.³ no.26 / 2000.

The Law on Non-Banking Financial Institutions states that they have the obligation to operate on the market in the form of joint stock companies. All non-banking financial institutions registered in the general register, which carry out

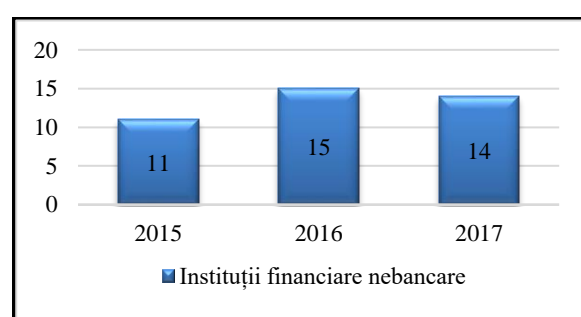
lending activities, will take the form of joint stock companies.

Non-banking financial institutions which carry out lending activities financed from funds coming from national authorities, pawnbrokers, mutual aids for pensioners and employees, by exception, are not obliged to act as joint stock companies.

According to the Government Ordinance, companies that carry out lending activities only from public funds can be established as commercial companies or as associations.

All non-banking financial institutions are supervised and / or regulated by the National Bank of Romania.

Figure 1. Non-banking financial institutions newly registered in the NBR General Register⁴



(Non-banking financial institutions)

By comparison, according to the banking ordinance, credit institutions are usually constituted in the form of a joint stock company, according to art. 287 for banks, art. 291 in the case of saving and lending banks in the housing sector, and art.319 in the case of mortgage credit banks.

² Law no. 93/2009 on non-banking financial institutions, Art.14, Alin. (2), (3), (4).

³ Government Ordinance

⁴ The National Bank of Romania

In the EU⁵, the consolidated banking directive does not require a legal form by which a credit institution or a financial institution must operate, although the banking directive does not provide for a certain form, national law provides for credit institutions to operate in the form of actions.

EU Member States, exceptionally, have allowed some of the lower-risk financial institutions to operate under more simple corporate forms.

In Italy, financial intermediaries that are very much like regulators with non-banking financial institutions governed by Romanian law are allowed to act as limited partnerships, limited liability companies, joint stock companies or cooperative societies.

Article 7 of the Non-Banking Financial Institutions Act provides that the name of a non-banking financial institution should be the expression "Non-banking financial institution" or abbreviation "IFN". This is mandatory for all non-banking financial institutions that are listed in the general ledger and is optional for non-banking financial institutions that are entered in the register of accounts.

The law on non-banking financial institutions also provides that entities that are not non-banking financial institutions are prohibited from using the abbreviation mentioned above. Also, if this law is violated, it is sanctioned by a fine of 1000 lei to 5000 lei, and a legal person doing this is sanctioned with a fine from 5000 lei to 10000 lei.

4. CREDIT-SPECIFIC INDICATORS

The minimum amount of the share capital of non-bank financial institutions is regulated only in the case of joint stock companies registered in the general register.

For entities such as pawnbrokers, mutual aid houses and other financial institutions that are formed in the form of associations registered in the register of evidence, the Law on Non-Banking Financial Institutions and the Regulation of Non-Banking Financial Institutions do not establish a minimum amount of the share capital.

The minimum amount of the share capital of non-banking financial institutions performing lending activities may not be less than EUR 200,000 and, in the case of non-banking financial institutions granting mortgages, may not be less than EUR 3,000,000.

According to art. 18 paragraph (2) of the IFN Law, depending on the specific activity object of the non-banking financial institution, the National Bank of Romania may establish, by subsequent regulations, levels of the minimum share capital higher than those mentioned above. In addition, Art. 18 paragraph (2) of the Regulation IFN stipulates that the minimum amount of the share capital of non-banking financial institutions that carry out several types of lending activities must be at least at the level provided for the lending activity with the highest capital requirement between those listed in the object of activity.

⁵ European Union

According to the IFN Law, at the time of subscription, the share capital of non-banking financial institutions must be paid in full.

Depending on the activity of the non-banking financial institution, the National Bank of Romania may set different levels of minimum social capital.

Social capital is constituted by cash contributions, contributions in kind are not allowed. In the period 2014-2016, the number of non-banking financial institutions is as follows:

Table 1. Distribution of non-bank financial institutions by types of activities during 2014-2016

Type of activity	2014	2015	2016
Multiple lending activities	128	133	142
Financial leasing	29	26	22
Issuance of guarantees and commitment	5	5	5
Consumer credits	4	4	4
Microcredit	2	2	2
Financing of commercial transactions	1	1	1
Factoring	1	1	1
Mortgages and / or real estate	0	0	0
Discounting	0	0	0
Flat	0	0	0
Other forms of financing	0	0	0
Total	170	172	177

(Source: The National Bank of Romania)

From the point of view of the lending activities carried out, according to the sections of the General Register, there is an increase over the 3 years, in 2014 being 128, in 2015 it reached 133, the end of 2016 having a value of 142 by non-bank financial institutions that were listed in the "Multi-credit lending" section.

At the same time, as compared to the end of the previous year, by 31 December 2015, the number of non-banking financial institutions registered in the Special Register remained at 44, and in 2016 it decreased by about 5 units.

According to the three years compared, there is a significant and steady increase in this period.

5. CONCLUSIONS

Under the current conditions of the Romanian society, the banking and non-banking financial systems have witnessed an upward trend in the consolidation of the bank-client relationship on the credit line. There is also a rapid evolution in the case of the emergence of financial institutions, the banking and financial-non-banking market beginning to exert a slight over-saturation trend.

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