

Rule no. 8 / 2006
As of 07 / 11 / 2006

On the standards of knowing the
customers of the non-banking financial
institutions

Published in the Official Gazette, Part I
no. 941 as of 21 / 11 / 2006

Taking into consideration the provisions of art. 34 par. (1) from the Title I of the Government Ordinance [no. 28 / 2006](#) on the regulation of some financial-fiscal measures, as approved with modifications and completions regarding the Law [no. 266 / 2006](#),

on the grounds of art. 48 of the Law [no. 312 / 2004](#), on the Statute of the National Bank of Romania, of art. 72 of the Government Ordinance no. 28 / 2006 on the regulation of some financial-fiscal measures, as approved with modifications and completions regarding the Law [no. 266 / 2006](#), as well as art. 9 par. (6) and (7) from the Law [no. 656/2002](#) for the preventing and sanctioning of the money laundering, and for the instituting of some measures of preventing and sanctioning of the terrorism actions financing, further modified and completed,

the National Bank of Romania issues this Rule.

CHAPTER I

General Provisions

Art. 1. – This rule will be applied to all the non-banking financial institutions – Romanian legal persons and to the subsidiaries in Romania of the foreign non-banking financial institutions, registered in the special Register kept by the National Bank of Romania, hereinafter called non-banking financial institutions, and it represents a general framework for the elaborating by such institutions of the own policies and procedures of customers knowing, with a purpose to fight against money laundry and terrorism financing.

Art. 2. - (1) In the meaning of this rule, the terms and the expressions used have the significance provided in the Law [no. 656 / 2002](#) for the preventing and sanctioning of the money laundering, and for the instituting of some measures of preventing and sanctioning of the terrorism actions financing, further modified and completed.

(2) With the purpose of this rule, the term “customer” will be understood in the widest sense, such as to include, without limitations:

a) any natural person, legal person or entity without legal personality who takes the benefits of a service or a product offered by a non-banking financial institution during the crediting activities provided at art. 7 par. (1) and (2) from the Government Ordinance [no. 28 / 2006](#) on the regulation of some financial-

fiscal measures, as approved with modifications and completions by the Law [no. 266 / 2006](#);

b) any person empowered to act on the behalf of a customer of the non-banking financial institution.

CHAPTER II

Programs of Customers Knowing

SECTION 1

General Elements

Art. 3. – Each non-banking financial institution shall draw up an own program concerning a good knowing of the customers, consisting of policies and procedures of knowing the customer, which should correspond to the nature, size, complexity and coverage of its activity and should be adapted to the risk degree associated to the categories of customers, for which it performs financial services.

Art. 4. - Such programs of customers knowing must include at least the following:

- a)** a policy of accepting customers;
- b)** procedures of customer identification and framing in the suited customer category;
- c)** modalities of drafting and keeping proper records;
- d)** modalities of detecting the doubtful transactions and the procedure of reporting them;
- e)** procedures and systems of verification of the implementation modalities concerning such drafted programs and the assessment of their efficiency;
- f)** programs of personnel preparation in the domain of customers knowing.

Art. 5. – The programs of customers knowing must be drawn up in written form, they shall be approved by the competent bodies, according to the provisions of the constitutive deeds and they should be known by the entire implied staff. Such programs shall be periodically reassessed for their updating.

SECTION 2

The Policy of Customers Accepting

Art. 6. – The non-banking financial institutions shall draft clear policies of accepting the customers, by which at least the categories of customers they propose to attract should be defined, the graduate procedures of accepting the customers, as settled depending on the risk associated to the various categories of customers, which should also include a description of the categories of customers having a potential risk degree higher then the average level accepted by the non-banking financial institution.

SECTION 3

Customer Identification

3.1. General Principles

Art. 7. – The non-banking financial institutions should define a systematised procedure for the verification of the new customers and the persons who act on their behalf, and should not conclude business relations until the identity of the new customer is verified accordingly.

Art. 8. – The non-banking financial institutions must obtain all the necessary information enabling them to determine the identity of each new customer, the purpose and the contemplated nature of the services to be performed for the respective customer. The volume and the nature of the information solicited will depend on the type of the potential customer – natural person, trading company – and on the contemplated volume of operations to be run with such person.

3.2. General Requirements of Identification

Art. 9. - (1) The non-banking financial institutions will establish the customer's identity based on an official document and shall record the identities of their customers accordingly.

(2) The non-banking financial institutions will give a special attention to the situations when the customers do not appear personally at the bank head offices.

Art. 10. - (1) In order to establish the customer's identity, the non-banking financial institutions may use any documents, data or information proceeding from trustful sources and will make the necessary diligences aimed to the verification of the information supplied by the customer. Such checking may be achieved by directly survey of the location from the address indicated, by correspondence exchange and/or by calling at the telephone number given by the customer, comparing the information supplied by the customer to the ones written on the invoices remitted for payment or by any other method.

(2) The non-banking financial institutions will pursue that the documents on the grounds of which the identity of the customers is checked should be in the category of the most difficultly falsifiable or illicitly obtainable under a false name, such as the original identity documents issued by an official authority, which should include a holder's photograph, possibly a person description and his/her signature, such as: the Identity Cards or the Passports.

Art. 11. - (1) In the case of the customers – natural persons, the non-banking financial institutions must demand and obtain at least the following information:

- a)** family name and given name and, as the case may be, the penname;
- b)** address of the domicile and/or the residence;
- c)** date and place of birth;
- d)** personal number or, as the case may be, another similar unique element of identification;
- e)** name/denomination of the employer or the nature of its activity.

(2) Aiming a proper framing in the established categories of customers and in order to guarantee a dully accomplishment of the reporting obligations incumbent upon them according to the legislation in force, the non-banking financial institutions may demand supplementary information concerning the nationality or the original country of the customer, his/her public or political position and others.

Art. 12. - (1) Identification of the customers – legal persons or entities without legal personality, is made by obtaining from the customer or from a public register or from both sources, of the document grounding the matriculation or registration and an updated excerpt from such register; should a registration requirement be missing, then the identification will be made on the grounds of the constitutive documents, including the operation authorizations and/or the audit reports.

(2) The identification procedure concerning the customer shall consist at least of:

a) checking of the legal existence of the entity, respectively if it is registered with the Trade Register or, as the case may be, with another public register, and obtaining information concerning the denomination, the legal nature, the address of the social head office, the type and nature of the activity developed, the identity of the administrators / managers and the provisions regulating their capacity of committing the entity;

b) checking of any person who sustains that he/she acts on the behalf of the customer, in order to establish if is empowered in this sense, and identifying of the person in cause.

Art. 13. - (1) In order to guarantee the best possibly knowing of the customers, the non-banking financial institutions may solicit supplementary information regarding the financial situation and the structure of the shareholders of that entity.

(2) Aiming the verification of certain information supplied by the customer, the non-banking financial institutions may demand confirmation of such data by third persons.

Art. 14. – The non-banking financial institutions must drawn up and maintain proper records on the customers identity, which should include copies of the identification documents and/or of other documents, that should supply at least the data provided at art. 11 par. (1) or, as the case may be, at art. 12 par. (2), the measures taken for the verifying of the reality of data, analyses, assessments related to the identification of that customer

3.3. Specific Requirements of Identification

Art. 15. - (1) The non-banking financial institutions must take the necessary measures in order to obtain information concerning the identities of the persons who in reality take the benefits of their services.

(2) If there is any suspicion that a customer is not the real beneficiary of the service or if it is doubtless he/she does not act in own name or interest, the non-banking financial institutions shall manifest the necessary diligence in order to establish the identity of the real beneficiary. With this purpose, they will demand to the customer to fill in a declaration on his/her own responsibility (affidavit), in compliance with the form enclosed here, through which he/she should make known the identity of the real beneficiary.

Art. 16. – The declaration form mentioned at art. 15 par. (2) may be drafted by the non-banking financial institutions in a form agreed by them, which should meet the requirements, and may be drawn up in one or more languages of international circulation, but it must include at least the text of the form provided in the Annex to this Rule.

Art. 17. – The non-banking financial institutions shall manifest suspicion on the real beneficiary identity in certain situations as:

a) the person empowered by the customer has obviously no relations with the same;

b) the value of the funds reimbursed in anticipation by a customer is disproportioned reported to his/her financial standing, as it is already known by the non-banking financial institution;

c) the non-banking financial institution notices unusual aspects during its relations with a customer.

Art. 18. – The non-banking financial institution must solicit to the customer to fill in the declaration provided at art. 15 par. (2), concerning the identity of the real beneficiary and as well, in the following cases:

a) operations with cash whose values exceed 10,000 EUR in lei equivalent;

b) cases when the non-banking financial institution enters in relations with the customers by correspondence or other modality not involving the customer's presence.

Art. 19. – If, after the filling in of the declaration provided at art. 15 par. (2), the suspicions concerning the information supplied by the customer do persist and may not be removed by supplementary clarifications, the non-banking financial institutions shall refuse to enter in relations with that customer or to make the operation demanded.

Art. 20. - (1) In the case of accepting a new customer based on the data of identification supplied by credit institutions, by other non-banking financial institutions, or by a third party who intermediates the customer's contact with the non-banking financial institution, the latter must ensure itself of the quality of the identification procedures applied by the intermediary. At the assessing of the quality of the identification procedures, the following requirements will be considered:

a) ensuring that the intermediary's procedures meet the minimal standards of the customers knowing procedures and are at least similarly rigorous as the ones implemented by the non-banking financial institution;

b) concluding of an agreement with the intermediary, through which the non-banking financial institution should be allowed to check the procedures followed by the intermediary in knowing the customers;

c) compulsoriness in transmitting to the non-banking financial institution of all information and identification documents obtained by the intermediary within the own identification procedures.

(2) The ultimate responsibility for the knowing of the customers is the task of the non-banking financial institution.

Art. 21. - (1) The non-banking financial institutions have the obligation to apply, as well, to the customers with whom they have already initiated a correspondence or modern communication media relationship (telephone, e-mail, internet) the identification procedures and the monitoring standards, as provided in this rule.

(2) For this category of customers, the non-banking financial institutions must verify the reality of the address and telephone number through the methods indicated at art. 10 par. (1). At the first visit of the customer in the non-banking financial institution, the latter will demand the proper documents for the identification of the customer.

(3) With a view to achieve the best knowing of this category of customers, the non-banking financial institutions may take certain measures, as for example:

a) certifying of the documentation transmitted to the non-banking financial institution, including the signature specimen, in the cases of non-banking financial institutions-resident customers by a trustful intermediary;

b) requiring some supplementary documents;

c) accepting the customer following his/her introduction by an intermediary who meets the requirements provided at art. 20.

SECTION 4

Customer Monitoring

Art. 22. - Customer Monitoring is achieved by the following activities at least: permanent updating of the records concerning the identity of the customers, periodical re-assessment of the identification procedures quality as applied by the intermediaries and dealings surveying with a view to establish and report the suspicious transactions according to the internal procedures of the non-banking financial institution.

Art. 23. - **(1)** The non-banking financial institutions must provide a periodical revision of the information they keep regarding the customer, and to achieve a permanent updating of the records worked out at the beginning of the relationship with each customer; the non-banking financial institutions shall proceed to a new framing of the same in the proper customer categories.

(2) Subsequent changing within the supplied information will be checked and registered accordingly.

(3) If frequent substantial changes occur in the structure of a customer – legal person or an entity without legal personality, the non-banking financial institution must make supplementary checking.

(4) Such revision may take place when a significant transaction is in course, when the requirements concerning the necessary documentation for each customer is being modified significantly or when an important change to the modality of operation of the customer appears.

(5) In the situations of missing information as to an existing customer or when there are signs or the non-banking financial institution suspects that the information supplied do not correspond to the reality, the same must take the necessary steps in order to obtain the relevant information as soon as possible.

(6) In the situation when the required information might not be obtained or if subsequently it may be established that the information supplied do not correspond to the reality then the non-banking financial institution must submit the necessary diligence aiming to conclude the relationship with that customer and, as the case may be, will report on it to the competent authorities.

Art. 24. - (1) The non-banking financial institutions must ensure the customer activity monitoring by scrutinizing the transactions made by the same, with any of the territorial units of the non-banking financial institutions where the operations are run.

(2) The program of customers knowing shall provide a level of surveying the transactions run, in correlation with the risk degree as associated to the various customer categories.

Art. 25. – With a view to guarantee an efficient surveying of the transactions, the non-banking financial institutions must be able to identify the unusual transactions of the operations run with each customer.

Art. 26. - (1) The program of customers knowing must provide a system for the determining of the suspect transactions and a reporting procedure towards the persons designated according to art. 14 of the Law [no. 656 / 2002](#), further modified and completed, and towards the competent authorities. The non-banking financial institution must focus on the types of transactions which are out of the usual pattern and should isolate the transactions that present risk factors necessitating a further evaluation.

(2) The circumstances and the purpose of certain transactions of the type provided at par. (1) must be examined without delay, inclusively based on supplementary documents asked from the customer for the transaction justifying, while such establishment will be recorded in written form and made available for further assessment.

Art. 27. – In what regards the category of customers with a higher potential risk, the major part, or as the case may be, all the transactions run by the same, is necessary to be surveyed. When establishing the persons who may be framed in this category, the following will be taken into consideration:

- a)** customer type – natural person, legal person;
- b)** country of origin;
- c)** public position or important position occupied;
- d)** specific of the activity carried out by the customer;
- e)** other risk indicators.

Art. 28. – For the customers with a higher potential risk, the non-banking financial institutions must:

- a)** have adequate systems of information administration which should supply to the managing and internal audit staff information in due time, as necessary for the identification, analyse and efficient survey of such transactions; the implemented systems must outline at least the lack or the insufficiency of the proper documentation, the usual transactions of the customer and the aggregate situation of all the customer's relations with the non-banking financial institution;
- b)** grant an increased attention to the information proceeded from third parties concerning these persons;
- c)** approve at the competent bodies level, according to the provisions of the constitutive deeds, the high value transactions of these customers.

Art. 29. – The non-banking financial institution may refuse to make the operations considered suspect or insufficiently and improperly justified.

Art. 30. – Besides the obligation of reporting to the competent authorities regarding the operations within which, they suspect that the funds proceed from, are related to or are to be used with the purpose to commit infringements, the non-banking financial institutions shall report the suspect

operations to the National Bank of Romania – Monitoring Department as well, if such operations may touch significantly the reputation of the non-banking financial institution. Such reporting to the National Bank of Romania will include the customer identification elements, the amounts implied in the operation, the justifying of the operation as offered by the customer, the reasons why the operation solicited is considered as suspect and any other information which the non-banking financial institution considers relevant.

SECTION 5

Risk Management

Art. 31. – Each non-banking financial institution must settle its own suited policies and procedures for guaranteeing the implementation of an efficient customer knowing program. Under this aspect, by the internal regulations at least the following must be guaranteed:

- a) separation of the responsibilities;
- b) periodical monitoring of the information administration, of the systems and regarding their control;
- c) a strategy for staff training in the field of standards aimed to customer knowing and the own programs as drawn up on such grounds.

Art. 32. – The non-banking financial institutions must explicitly determine the responsibility by internal regulations, so that the policies and procedures should be guaranteed as to their efficient applying. The reporting procedure of the suspect transactions must be clearly settled in written form and further acknowledged to the entire personnel.

Art. 33. - **(1)** The internal audit procedures of the non-banking financial institutions must include an independent assessment of the policies and procedures on the customer knowing, including the point of view of the conformity with the law requirements and other applicable regulations.

(2) Through the instrumentality of the internal audit, the policies and procedures efficiency, as settled, and the staff training level must be periodically assessed and proposals for the elimination of the deficiencies established should be made and followed as to their implementation.

(3) The responsibilities of the staff in charge with the internal audit exercising shall include the permanent monitoring of the staff; testing by pooling the observance of the conformity with the internal norms and the revision of the reports on the exceptional cases, with a view to make aware the managing team of the non-banking financial institution if certain procedures of customer knowing are deemed not to be observed.

(4) The managing team of the non-banking financial institution must ensure that the internal audit department has adequate personnel.

Art. 34. - **(1)** The non-banking financial institutions must have a continuous program of staff training, so that the personnel involved in the relationship with the customers should be prepared properly. Such training program and its contents, by different sectors, shall be adapted to the necessities of each non-banking financial institutions.

(2) The staff training requirements must be differently focused in the cases of new employers, office operators, staff from the internal audit, and the

personnel implied in the relationship with the new customers. The newly-ired personnel shall be instructed concerning the importance of the customers knowing programs and about the minimal requirements of the non-banking financial institution in this field. The office personnel who are in direct contact with the public shall be instructed to verify the identity of the new customers, to permanently manifest vigilance for the administration of the existing customers' transactions and to track the types of suspect operations.

(3) The staff shall be periodically instructed, at least once a year and any time necessary, in order to guarantee that they are aware of the responsibilities incumbent upon them and to update it about the new progresses in the field, so that the consistent implementation of the programs settled should be guaranteed.

CHAPTER III

Surveying the Observance Concerning the Requirements of Customers Knowing

Art. 35. – Managers and administrators of the non-banking financial institution are liable for:

- a)** elaborating and implementing an efficient program of customer knowing;
- b)** guaranteeing the proper training of the personnel implied;
- c)** achieving the control and the efficiency of the policies, procedures and systems implemented;
- d)** making transactions or committing the non-banking financial institution in transactions when they knew or should have known that the transactions presented a significant risk, jeopardising thus the credibility and the viability of the non-banking financial institution by an improper administration of its funds;
- e)** failure to observe other provisions of this rule.

Art. 36. - **(1)** The non-banking financial institutions are compelled to maintain all the records as to the customers' identity and their relationship with them, for at least 5 years after the termination of the relationship with that customer. These records must be sufficient to enable a reconstitution of the transactions – including the amount and the type of the currency – and to supply potential proof of incrimination of the actions of penal nature, if necessary.

(2) The non-banking financial institutions must guarantee, under the limits of the law, the competent authorities' access in the domain of investigation and incrimination of the actions of penal nature, as well as to the monitoring authority concerning the whole documentation as to the customers and the relations with them, including any analysis made by the non-banking financial institution for the tracking of the unusual or suspect transactions or in order to establish the risk degree associated to a transaction within which it is involved.

Art. 37. - **(1)** For the failed observance of the provisions of this Rule, the National Bank of Romania shall apply the penalties provided at art. 52 par. (2) of the Title I of the Government Ordinance [no. 28 / 2006](#), as approved with modifications and completions by the Law [no. 266 / 2006](#), and /or shall order,

as the case may be, cure measures according to art. 53 of the same normative deed.

(2) The National Bank of Romania, by applying the penalties, does not eliminate the penal responsibility, the civil responsibility or other nature or responsibility, as the case may be, of the penalised persons.

CHAPTER IV

Transitory and Final Provisions

Art. 38. - (1) Within 3 months since the date of coming into force of this rule, the non-banking financial institutions shall adopt and implement programs of customer knowing, adapted to the specific of its own activity.

(2) Within the term provided at par. (1) the non-banking financial institutions shall guarantee the existing customers' identification and the drawing up of the proper records, in compliance with this Rule.