

## EVOLUTION OF REGULATIONS FROM ROMANIAN BANKING SYSTEM –ROMANIAN COMMERCIAL BANK

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*Alongside with the economical globalization, the difficulties of economic nature became so varied due to the growth of relations. The article proposes to analyse the behavior of the Romanian Central Bank based on annual reports as a result of changes emitted by the National Bank of Romania. First of all, it is highlighted the benefit brought by this guideline for credit institutions as well as for clients, regardless of their field of activity. Therefore, this article tries to offer a valid answer to the question whether the improvement of product and services offered by RCB (Romanian Commercial Bank), in conformity with the cautious changes lead, on one side, to financial stability but on the other side to the attraction of an impressive number of clients.*

**Key words:** changes, innovation, banking system, bank run, factoring.

*Dificultățile de ordin economic, alături de globalizarea economică, au devenit generale din cauza amplificării relațiilor atât de variate. Articolul își propune să investigheze comportamentul Băncii Centrale Române, pe baza rapoartelor anuale, în urma diverselor reglementări emise de Banca Națională a României. În primul rând, studiul analizează contribuția respectivelor norme atât pentru instituțiile de credit, cât și pentru clienți, indiferent de segmentul lor de activitate. În acest sens, articolul încearcă să ofere un răspuns valid la întrebarea dacă îmbunătățirea produselor și serviciilor, oferite de BCR, în conformitate cu reglementările prudențiale, se soldează, pe de o parte, cu stabilitate financiară și, pe de altă parte, cu atragerea unui număr impresionant de clienți.*

**Cuvinte-cheie:** reglementare, inovare, sistem bancar, rulaj bancar, factoring.

*Наряду с экономической глобализацией, экономические трудности приобрели общий характер посредством усиления разнообразных отношений. Статья нацелена на анализ поведения Центрального Банка Румынии, на основании годовых отчётов, в результате различных нормативных и правовых актов, выданных Национальным Банком Румынии. В первую очередь, статья анализирует преимущество, которое дали эти нормативные и правовые акты для кредитных учреждений, а так же для клиентов, независимо от их сферы деятельности. В этом смысле, статья стремится правильно ответить на вопрос, ведет ли улучшение продуктов и услуг, предоставляемых Центральным Банком Румынии, в соответствии с нормативными и правовыми актами, с одной стороны, к финансовой стабильности, и, с другой стороны – к привлечению значительного количества клиентов.*

**Ключевые слова:** правовые нормы, инновация, банковская система, факторинг.

**JEL Classification:** E58; F3; G21; G28; H76; O31.

**Introduction.** The present puts at our disposal a globalised society with a variety of economic possibilities, which offer the proper frame for obtaining a free transaction. In the area of financial system, the banking authorities occupy an important role from the point of view of a good functioning of economic institutions as well as the whole economic system. Therefore, throughout time a constant worry was manifested for the realisation of a functional banking system, adequate for being able to offer a variety of products and services which can answer the high demands of potential clients, from the very beginning of the banking existence and until this moment.

The subject of the article is of actuality, being in a harmony with the decisive realities from the past couple of decades, but also in capacity with the elucidation of importance that the identification factors

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and processes which lead to the innovation activity on the Romanian banking market. On the other hand, I decided to develop this considerable theme and through the view of occurrences that took place in the past years in the banking field, occurrences that primarily brought the concept of “innovation” in a variety of not accessible at all administered combinations.

The competition, at a general level, appears in any community, under the assembly of social links. The concept of “competition” discloses many agreements, however the fundamental plan in which competition occupies an essential position is the economic domain. The progress of economic activities is subordinated by the existence of actual and undisputed competitions between competitors.

**The summary of specialty literature.** The banking change could be ordered after the causes of banking guidelines in economic changes and social changes. The economic changes represented limiting processes of power on the market. Social changes, also named the changes of security, the viability of the banking sector, it is reported at a general level with respect to client sustainability. (Majone, 1996)

A significant contribution for guaranteeing the financial stability also has the macro-prudential supervision. Even though there is no definition for such term admitted at a general level in a piece of work dating from 2009, offered by Borio and Drehmann, edited by the Bank of International Regulations researches the possibility of the definitions of financial stability, distinguishing three identical notions of these definitions:

- To begin with, these definitions treat the financial system per assembly, excluding particular institutions;
- On the side, the financial system is not appreciated properly, but it evaluates the advantages and economic costs (the economic welfare) and certain terms such as “real economy” (economy activity);
- Hence the definitions offer information regarding the financial instability.

Both in the case of banks as well as monetary organizations it is a necessary change because those are linked in the short, medium and long run to the monetary flows. If a single influential institution would cease its existence, it will rapidly affect the other entities on the market. This case was observed in 2008, when once with the bankruptcy of Lehman Brothers the crisis began<sup>1</sup>. Another argument that enforces the change in this area that is beneficial is the fact that: loans are done by the common consumers, through deposits, economic accounts or pension funds.

A severe repercussion both for retail clients as well as administration in the case of a bank collapse taking place it would be due to the fact that their rights to information is limited. Therefore, it is tried to block the possible “bank runs” (**substantial withdrawals of deposits**), moments in which scared by certain arrangements that could have taken place the depositors choose to quickly empty their deposits offering a not so happy ending to that certain bank<sup>2</sup>. For backing up its clients, but also for preventing certain “bank runs” and systematic crises the government should always be prepared to take action in such situations. In the case of certain gain of another official “bail-out” (**it represents the action of sending the capital, cash, in an economical institution which is in difficulty with the purpose of enclosing the possibility of bankruptcy or insolvency**), the administrators of banks could be encouraged to expose themselves long enough trying to accumulate winning as important as possible giving the impossible insolvency.

Regarding the nominee for the Nobel prize for economy, Jean Tirole, one of the subjects approached periodically in his work is that, in a utopian situation the changes have to give special attention to the viability of the system, therefore managing to enclose the moral hazard which can indicate the probability of the arrival of a new crisis<sup>3</sup>.

Certain authors, such as Rochet and Tirole (1996), consider that banks will be supervising one another to overcome a possible systematic crisis on a decentralized interbankery market.

This desideratum is limited or repealed by government initiatives, which claim that they will offer help to any bank on the verge of insolvency. This study indicates that certain systems of regulations can solve such situations.

<sup>1</sup> Noam, Eli, “Fundamental instability: why telecom is becoming a cyclical and oligopolistic industry”, *Columbia University, Information Economics and Policy* 18, 2006, pag. 272-284

<sup>2</sup> Tirole, Jean, “Market power and regulation”, pag. 37

<sup>3</sup> Tirole, Jean, “Market power and regulation”, pag. 39

Even though no real verification over the bank exists due to the fact that the depositors are little and dispersed the main function of regulation is the one that portrays the interest of clients investigating banks.

After many other specialists of the banking system, Berger and Hannan 1998, for a peaceful existence in this area, the management of the bank should embrace projects that imply a minimal risk or to activate the cotes of efficiency for risk reduction. According to other researches done by DeYoung and others in 1998 and by others in 1999, indicate the fact that competition is attracted by deregulation offered the banks a stimulant regarding the more efficient functioning.

Other research done by Keeley in 1990 and Kwan Eisenbeis in 1996 prove that the growth of competition can augment the banks' incentives by gradually rising up the risk factor, which represents a potential threat regarding the security of banks and payment system.

Another two researchers Tirole and Farhi (2012) highlight the tendency of the financial unities to absorb significant credits on short term and to place them in the same way. Due to the fact that all the representatives on the market depend on the governmental bail outs the systematic risk is increasing.

These take into account certain political regulations that have as a base: interest (for example: the decrease in interest rate during the period of crisis for backing up the refinancing) and transfer politics (for example: during period of crisis unlimited exchanges between financial institutions). There are also certain optimal politics that serve as composing the cash reserve, but valid politics of interest rates as well. Those two give a particular attention to the equitable introduction of macro-prudential regulation.

The institution which possesses the most realistic and precise information regarding its own actives is the bank and with the possibility of reselling those actives would be appreciated as unprofitable. In this case the market price diminishes greatly and the banks with valuable actives choose to keep them, therefore becoming incapable of subsidizing the investments.

The European Central Bank, one of the regulation institutions, that participates directly on the market of financial actives, to overcome such a situation it is decided that they purchase them. From this governmental proposal the banks with unstable actives will be able to profit, a difficult situation for the contributor. An essential choice in Tirole's point of view to improve the politics in this domain is to ransom the weakest actives and to assure the banks' subsidizing with a medium quality of the actives by keeping them in a balance sheet. Hence the prosperity of the markets will be maintained on the market but only the actives with the high grade of quality<sup>1</sup>.

**The evolution of the Romanian banking system in the context of banks' behavioral changes – the case of the Romanian National Bank.** According to the definition given to the National Bank of Romania under the Law number 58 from 1998 the term on regulation is defined as a "normative act emitted by the National Bank of Romania in enforcing the current law which is imperative for all the banks"<sup>2</sup>. In the complex process of transformation an essential role is played by the relation regulation – innovation. In this case I will analyse those that are to follow starting from the banking Law number 58 from March 1998 what modifications were made in the behavior of the Romanian Commercial Bank. Through the activities permitted to banks in this law there are also financial leasing activities, hence RCB establishes a specialized leasing subsidiary, which was up and running in the month of April 2011, although as observed from the bank's reports, RCB places external factoring services beginning with the year of 1998.

Regarding the previously mentioned banking Law this establishes the way of functioning of the banking activities from Romania both at the level of banks as well as the National Bank of Romania. Hence the banks can undertake activities such as:

- Acceptance of deposits;
- Lending credits, factoring operations and discounting the effects of commerce, including forfeiting;
- Emission and managing payment and credit instruments;
- Payments and discounts;
- Funds transfers;
- Warranty emission and commitment assumptions;

<sup>1</sup> Tirole, Jean, "Market power and regulation", pag. 40

<sup>2</sup> Law 58 form 5 March 1998 – Banking law

- Transactions in own account or in clients' account **with:**
  - Monetary negotiable instruments (checks, bill of exchange, deposits certificates);
  - Currency;
  - Derived financial instruments;
  - Precious metals, objects made up of these, precious stone;
  - Transferable securities;
  - Intermediation in placement of transferable securities and the offering of services linked to these;
  - Clients' portfolios administration, in their and on their own risk;
  - Custody and administration of transferable securities;
  - Depositary for collective placement entities of transferable securities;
  - Renting safety boxes;
  - Financial-banking consultancy;
  - Warrant operations<sup>1</sup>.

Another important element done by RCB in 2001 was represented by perfecting the organizational structure this beginning to be led by clients but, also the appearance of a new department preoccupied with managing external projects.

An important activity done by the Romanian Commercial Bank was the disconnecting of transactions with compensated transferable securities, attribution being given to the Romanian National Bank. Therefore, it controlled important transactions which by the end of the year brought a stable market cote at the level on volume of discounting transactions to be 13.6%. Even the technological sector is aligned with the international regulation guidelines, trough the intermediary Banktrade product which guarantees the external payments (letter of credits, collections, warranties, payment orders).

A final purpose of RCB was represented by the estimating, controlling and decreasing the risk of credit. Hence for the credit estimation risk, the bank hands out an intern rating credit model, namely two dimensional, but also a computerized eco-financial analog procedure with those used from international banks. A scoring analysis model was used by the bank for measuring the risk of credit with respect to the natural persons. The bank also gives its clients' obligations higher than 200 million lei to the Central Banking of Risks (CBR). Hence regarding the supervision of credit risk with respect to its fundamental clients which were highlighted significant exposures, the bank fixed certain maximum risk exposure cotes (higher level possible at which the bank could lay out its respective client) and supervised the permanent adaptation of duties to those with risk cotes set.

Another indicator which was well watched by the RCB was the risk of cashing. In this case as a result of the introduction of Guideline number 1/2001 regarding the cashing of banks by the Romanian Commercial Bank, it was needed to adjust fundamental objectives with respect to cashing risk depending on the new implemented regulations. Hence the bank emitted laws and action initiatives regarding the information lines of placements, maximum estimation points of cashing risk for a single person, and for the type of indicators whom help such risk is supervised.

Permanent restructure of bank activity and ways through which this can go on with activity imposed firmly as exigency the careful supervision of operational risks. Hence having the goal of reduction the operational risk, but also the credit risk the Romanian National Bank – Central Payment Incidents (CPI) data base is examined in the moment of opening of new accounts for clients or when demands are investigated for varying loans. The Romanian Commercial Bank supervises continuously that the ability indicators remain in minimal points stipulated by the careful guidelines of "the Romanian National Bank respectively 8% for the fitness rate of the capital calculated as a report between own capitals and net exposure from the actives of accounts of settlements and extra settlements and 12% for the solvency indicator calculated as a report between own funds of the bank and net exposure from the active accounts of settlements and extra settlements"<sup>2</sup>.

Regarding the currency risk, in conformity with the Romanian National Bank guidelines, the bank estimates daily the value in lei of actives and passives. More administrative councils were created thanks to the banking law which examines the essential risks, controlled by the leading members of the bank.

<sup>1</sup> Law 58 form 5 March 1998 – Banking law

<sup>2</sup> [www.bcr.ro](http://www.bcr.ro) – annual report 2001, page 44

From these we remember:

- The credit committee – it examines and authorizes the loan demands, it sends warranty letters such as the evaluation of procedures for retrieving claims;
- The risk committee – the consultancy authority that examines the causes appearances of banking risk and recommends certain protection policies;
- The planning committee of actives and passives that serve as sustainment of shareholders and depositors.

Nonetheless the activity of the Romanian Commercial Bank is promulgated by the banking Law number 58/1998, this was changed and united under Law 485/2003, which introduced certain governmental corporative guidelines, representing the indispensable legal climate to distinguish the supervising function from the leading one.

As a consequence, regarding the exigencies imposed by RNB, on one side the area that prevents money stealing (under Law 656/2002 for preventing and sanctioning money laundering, as well as establishing certain prevention and combating measures of financing terrorist acts, and on the other side regarding the customer knowledge guidelines (through guideline 13/2003), the Romanian Commercial Bank emitted a few proper rules from which the following can be mentioned:

- Determining the identity of clients;
- Denouncing doubtful operations, of cash transactions and international displacement higher or equal to 10,000 euro;
- Retention and storage of data and acts;
- Educating the personnel in the area of prevention of money laundering and subvention for acts of terrorism;

Compared to the monetary risk in 2003, RCB initiated necessary procedures for establishing the permanence of some low currency cotes according to the established RNB guidelines: maximum 10% of bank's own reserves for any level of specified adjusted currency and maximum 20% of bank's own reserves with respect to the total currency position.

In the year 2004 RCB started a new tactic regarding cash management, having guaranteeing the necessary cash for paying bank's debts with any occasion as a goal. The main criteria which the tactic was based upon were: the daily management of bank's cash and the minimal imperative reserve of RNB; prevision of minimum 6 months for the minimum reserve necessary and the current account of RNB; supervision continuing registration and refunding done by the branches through the current RNB account.

Next year RNB started a program which envisioned establishing the quantitative effect that Basel II will be able to retain with respect to the necessary parameters of credit institution capital. In the year 2005, the Romanian Commercial Bank, as a prime credit institution on the line of progress applying the Basel II procedure it had to expose the achievements for the introduction of the Basel exigencies. Hence RCB tried to introduce a capital placement model on business axis, which includes the most developed procedures of Value at Risk for the market Risk and the procedure standardized for the operational risk. At the same time, it evaluates the performance alongside with the risk through an intermediary essential indicator RAROC (Risk Adjusted Return on Capital), but also the price adjusted on the capital, appreciated as "economic added value".

Given the essential qualities of the RCB, with respect to accomplishing the international guidelines, of laws and ordinances emitted by the RNB, this was introduced, in the year 2006, a new action referring to preventing money laundering and financing terrorism. The initiative represented an addition to law 656/2002 for preventing and sanctioning money laundering, as well as for implementing some measures for combating and preventing the financing of terrorism acts by implementing some procedures which served as campaigning terrorism subvention.

Therefore, the management of communications proves about clients linked to money laundering and financial terrorism eradication was undergone in discrete conditions; the bank held the responsibility identification of the client in multiple situations: at the beginning of a new business, when data was coming up regarding a possible plan of money laundering or terrorism subvention, even when slight presumptions of such possible acts occurred; the bank's obligation of obtaining certain data to determine the true identity of a person which benefited from the activation of representatives.

In 2007 RCB continued to improve its top bank positions. Therefore, it changed its allowance credit limits. This position served as preventing and limiting the possible risk from the loan operation of corporate clients, but also latent operational risk to the additional risk credit which also had an impact on

the fitness bank capital, alongside with the careful regulations of the Romanian National Bank and the exigencies of the Basel Agreement II.

The bank estimates the market risk through the prototype evaluation Value at Risk, in conformity with the Basel II exigencies. Therefore, the KVar function was introduced and the VaR measured for essential departments with the goal of recommending fitting limits to supervising market risk.

**Conclusions.** Even though the banking globalization had positive effects, one of the negative effects was the universalizing of criminality. There were periods in which the banking sector accomplished functions on a fund of instability and incertitude, which often led to varying risks and to certain severe malfunctions to which banking activities were exposed. The prestige and stability of credit institutions is thanks to their skills to cope with perturbation and controversies, regardless of their criminal origin or that it reports to the effect of globalization or economic crisis. And that is why banking regulation appeared.

This piece of work analyzed the evolution of the Romanian banking system starting from the banking Law 58/1998 regarding the behavior of credit institution. The banking system was and will be maintained in a dispersed friendly risk and innovation area. However, only certain banks which will manage to adapt to the new guidelines and regulations of the Romanian National Bank will be able to survive and exist on the market, hence risking to be absorbed or enter insolvency.

I will round up with a quote from Aristotel: "The justice's virtue is made up of moderation, then the regulation is made up of wisdom", which tells us the main idea of this study that everything must be done in the banking system based on strict regulations serving as both financial stability as well as consumers' protection.

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