

# Financial Services Alert

12 January 2017

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### **New rules governing the registration with the NACP of the debt collection entities and the reporting obligations thereof**

By way of background, on 30 September 2016, the Emergency Government Ordinance no. 52 as of 14 September 2016 (the "**EGO 52/2016**") on credit agreements for consumers relating to immovable property and on the amendment of the Emergency Government Ordinance no. 50/2010 on credit agreements for consumers (the "**EGO 50/2010**") entered into force, and concerning, among other aspects, the activity and the registration with the National Authority for Consumer Protection (the "**NACP**") of the debt collection entities (the "**Debt Collection Entities**").

On 11 January 2017, the President of the NACP published in the Official Gazette no. 33 the Order no. 1 regarding the documents and the necessary information for the registration and the modality and terms for the reporting obligations of the Debt Collection Entities (the "**Order**").

We have summarized for you some of the key implications of the Order, also by reference to the EGO 52/2016.



# New rules governing the registration with the NACP of the debt collection entities and the reporting obligations thereof

## Introduction

In accordance with the EGO 52/2016, the Debt Collection Entities shall register with the NACP starting with 1 January 2017 (and under the conditions for the registration provided in the EGO 52/2016 and in the EGO no. 50/2010).

The Order (in force since 11 January 2017) provides for details concerning:

- (a) the documents necessary for the registration with the NACP of the Debt Collection Entities; and
- (b) the reporting obligations of the Debt Collection Entities.

## Documents required for the registration with the NACP of the Debt Collection Entities

The following documents are required by the NACP in view of the registration of the Debt Collection Entities:

- certified copies of:
  - the certificate of registration;
  - the ascertaining certificate issued by the Trade Registry;
  - the articles of association;
  - the internal document establishing the criteria for the remuneration and the motivation of the personnel, signed by the director(s) of the company and the persons in the management of the company who are responsible for human resources;
- evidence that the company is authorized as an operator for personal data processing, in accordance with Law no. 677/2001;
- criminal record(s) for the persons in charge with the administration and the management of the company;
- affidavit, a document under private signature of the company's administrator(s), ascertaining that the personnel's remuneration and motivation do not depend exclusively on objectives regarding the debt collection nor on the collected amounts;
- brief description of the activity (e.g., debt collection activity and/or acquisition of rights over overdue amounts).

## Reporting requirements

There are two types of reporting obligations for the Debt Collection Entities:

- an (one - off) reporting at the time of the registration (applicable to the companies that carried out debt collection activity at the time when the EGO 52/2016 was enacted (i.e. 30 September 2016)) and including the following information:
  - the number of ongoing cases as a result of the debt collection activity and/or the acquisition of overdue receivables;
  - the total amount to be recovered as a result of the acquisition of overdue receivables – ongoing cases;
  - the number of ongoing cases as a result of the debt collection activity regarding receivables resulting from credit agreements concluded with consumers, as well as the name of the creditors on behalf of which the debt collection entity pursues such activities; and
  - the number of ongoing cases and the amount that should be recovered as a result of the acquisition of rights over overdue amounts resulting from credit agreements concluded with consumers, as well as the name(s) of the creditors from which they acquired such rights.
- an annual reporting (reporting period 1 January – 1 March), in respect of the previous year, regarding the following information:

- the total number of cases for the previous year as a result of the debt collection activity and/or of the acquisition of rights over overdue amounts;
- the total amount recovered as a result of the debt collection activity as a result of the acquisition of rights over overdue amounts;
- the number of cases for the previous year as a result of the debt collection activity in relation with receivables resulting from credit agreements concluded with consumers as well as the name of the creditor(s) for which they pursue such activities; and
- the number of cases for the previous year and the amount recovered as a result of the acquisition of rights over overdue amounts resulting from the credit agreements concluded with consumers, as well as the name(s) of the creditors from which they acquired the overdue rights.

For the purpose of this Order, a “case” means “*the receivables resulted from one credit agreement concluded with the consumer*”.

For further questions regarding the aspects mentioned in this alert, please contact us.

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