PARLIAMENT OF ROMANIA
CHAMBER OF DEPUTIES SENATE

LAW
on pre-insolvency and insolvency proceedings

The **Parliament of Romania** hereby adopts this law.

PRELIMINARY TITLE

Chapter I Scope of application

Art. 1 This law sets out the rules applicable in matters of pre-insolvency and in matters of insolvency.

Art. 2 This law is intended to implement a collective proceeding for the recovery of debtor's liabilities while offering the debtor, whenever possible, a chance for business recovery.

Art. 3

(1) The proceedings included in this law apply to professionals, as the same are defined in article 3, par (2), of the Civil Code, except for those who practice liberal professions, as well as to professionals which are subject to special provisions in terms of their insolvency.
(2) The proceeding included in this law applies also to *regies autonomes*.
(3) The proceeding included in this law does not apply to pre-university and university training units and institutions and to the entities referred to in article 7 of Government Ordinance 57/2002 on scientific research and technological development, approved with amendments and supplements by Law 324/2003, as further amended and supplemented.

Chapter II Fundamental principles of the pre-insolvency and insolvency proceedings. Definitions

Section 1 – Principles

Art. 4 The provisions of this law are based on the following principles:

1. Maximizing creditors' chances for assets leverage and debts recovery;
2. Allowing debtors to achieve an efficient and effective business recovery either through pre-insolvency proceedings or through the judicial reorganization procedure;
3. Assuring an efficient proceeding inclusively by using adequate communication mechanisms, unfolding the proceeding in due and reasonable time, in an objective, unbiased and cost effective manner;
4. Assuring a fair treatment for all creditors of the same rank;
5. Assuring a higher degree of transparency and predictability;
6. Recognizing the creditors' existing rights and observing the rank priority of claims, based on a clearly determined and uniformly applicable set of rules;
7. Limiting the credit risk and systemic risks of transactions with derivatives by recognizing the immediate offset in case of insolvency or pre-insolvency of a counterpart in an attempt to reduce the credit risk down to a net amount due

between the parties or even down to zero when financial securities are transferred in order to cover the net exposure;

8. Assuring the access to sources of funds during the pre-insolvency, observation and reorganization procedure, by implementing a regime fit to protect them;
9. The vote for approval of the reorganization plan must rely on clear criteria, assure a fair treatment of creditors of the same rank, recognize the comparative priorities and accept a decision of the majority, while allowing the other creditors to obtain equal or higher payments than what they would receive in case of bankruptcy;
10. Favoring, in pre-insolvency proceedings, the amicable negotiation/re-negotiation of claims and the conclusion of a preventive concordat;
11. Assets leveraging in due time and as efficiently as possible;
12. In case of groups of companies, coordinating the insolvency for the purposes of an integrated approach thereof;
13. Allowing insolvency practitioners to manage the pre-insolvency and insolvency proceedings and implementation thereof under the control of the courts of law.

Section 2 – Definitions

Art. 5 For the purposes of this law, the terms and expressions used herein shall have the meanings ascribed to them below:

1. *Netting agreement* means:
   a) Any master netting agreement – any agreement or clause of a qualified financial contract between two parties, providing for the netting of some payments or the fulfillment of some obligations or the achievement of some current or future rights resulting from or in connection with one or several qualified financial contracts;
   b) Any master-master netting agreement – any master netting agreement between two parties providing for the netting of two or several master netting agreements;
   c) Any arrangement for subsequent guaranteeing or an arrangement in connection with one or several master netting agreements;
2. *Current activities* mean those production, trade or services and financial operations activities which a debtor intends to conduct during the observation period and during the reorganization period, in its ordinary course of business, such as:
   a) Continue the contracted activities and conclude new contracts, according to its business objective;
   b) Perform collection and payment operations related to such activities;
   c) Assure the working capital needs within the current limits;
3. *Interim administrator* means an individual or a legal entity designated by the National Bank of Romania and, in case of credit cooperatives, the special administratorship (administration) committee designated by the central unit of credit cooperatives as well, entitled to implement preventive measures, in order to avoid reduction of the assets and increase in the liabilities of a credit institution, from the time a motion for the opening of the bankruptcy proceeding is lodged until the time the judicial liquidator is appointed, in the bankruptcy proceeding of credit institutions;
4. *Special administrator (special administrator*) means an individual or a legal entity appointed by the general meeting of shareholders/associates/members

of the debtor, empowered to represent their interests in the proceeding and, whenever the debtor is allowed to manage its own activity, to conduct, for and on behalf of the debtor, the management activities necessary;

5. *Debtor's estate* means the whole set of assets and corporate rights – including those acquired during the insolvency proceeding – which may be subject of forced execution, according to the provisions of the Civil Procedure Code;
6. *Insolvency Proceedings Bulletin*, hereinafter referred to as the IPB, means the bulletin published by the National Office of the Trade Register which registers summons, convening notices, notifications and service of process issued by the courts of law, the judicial administrator/judicial liquidator after the opening of the insolvency proceedings as stated herein, as well as other instruments which need to be published according to the law;
7. *Debtor's center of main interests* means, in case of cross-border insolvency proceeding and until proven otherwise, as applicable:
   a) the main corporate seat of the legal entity;
   b) the professional seat of the individual who carries out an economic activity or an independent profession;
   c) the domicile of the individual who does not carry out an economic activity or an independent profession;
8. *Joint petition for opening of the insolvency proceeding* means the petition filed by either the debtor or the creditor requesting opening of the insolvency proceeding against two or several members of the group of companies simultaneously, under separate insolvency files, but referred for settlement to the same syndic judge;
9. *Control* means the ability to determine or significantly influence, whether directly or indirectly, the financial and business strategy of a company or the corporate bodies' decisions. A person shall be presumed to hold control when:
   a) it directly or indirectly holds a qualified contribution of at least 40% of the voting rights of such other company and no other shareholder or associate holds directly or indirectly a higher percentage of the voting rights;
   b) it directly or indirectly holds the majority of voting rights in the general meeting of shareholders/associates of such other company;
   c) as shareholder or associate of such other company, it holds the power to appoint or revoke the majority of the members of the management, governance or supervisory bodies;
10. *Captive consumer* means a consumer who, for technical, economic or regulatory reasons, is unable to select its supplier;
11. *Qualified financial contract* means
    a) any contract the subject matter of which consists in operations with derivatives;
    b) any repo and reverse repo agreement;
    c) any buy-sellback and sell-buyback contract; as well as
    d) any contract the subject matter of which consists in securities loans performed on regulated markets, assimilated markets or over the counter markets, as the same are regulated;
12. *Netting contract* means any of the following:
    A. Any contract or clause of a contract entered into by the credit institution in debt and any other entity, including individuals, the subject matter of which consists in operations with derivatives performed on the

regulated markets, assimilated markets or over the counter markets, providing for the offset of some payment obligations or of obligations to do, whether present or future, resulting from or in connection with one or several such contracts, including any collateral guarantee or guarantee in connection therewith; and

B. Any contract or clause of the nature of those presented at sub-section A above, providing for the offset of some payment obligations or of obligations to do, whether present or future, resulting from one or several netting agreements, including any collateral guarantee or guarantee in connection therewith, based on which the netting may be achieved through one or several of the following modalities:
   a) discharging and/or accelerating the due date of a payment obligation or of an obligation to do resulting from one or several contracts from the category mentioned above;
   b) calculating or estimating an offset value, a market value, a liquidation value or a replacement value for any obligation that was discharged or the due date of which was accelerated according to a) above;
   c) the conversion into one single currency of any value calculated as stated in b) above;
   d) the offsetting until a net amount is obtained, of any value calculated according to b) above, as the same shall have been converted as stated in c) above;
   e) the liquidation of assets and rights from the estate of the credit institution in debt;

13. *Procedural coordination* means a set of measures intended to correlate the insolvency proceedings opened against the members of a group of companies, in an attempt at assuring celerity and harmonization of proceedings as well as cost efficiency;
14. *Budgetary claims* are claims consisting in taxes, fees, contributions, fines and other budgetary income as well as their accessories; the budgetary claims that are not fully covered by the value of privileges, mortgages or pledges created shall, for that portion which is not covered, be deemed to have the same nature;
15. *Privileged claims* are claims that are accompanied by a privilege and/or a mortgage right and/or rights assimilated to the mortgage, according to article 2347 of the Civil Code, and/or a pledge right in the assets that form the debtor's estate, irrespective whether it is a main debtor or a third party guarantor for the beneficiaries of the causes of privilege; if the debtor is a third party guarantor, the creditor who benefits of such privilege cause will exert the correlative rights only in respect of the respective asset or right; unless indicated otherwise by the special laws, these causes of privilege shall have the meaning ascribed to them in the Civil Code;
16. *Underprivileged claims category* means a category of claims for which the reorganization plan provides at least one of the following modifications in respect of any of the claims included in that category:
   a) A reduction in the claim amount and/or in the amounts of its collaterals, which the creditor is entitled to according to this law;
   b) A reduction of the guarantees or a rescheduling of payments against the creditor, without the creditor's express consent;
17. *Preventive concordat* is a contract between the debtor undergoing financial difficulty, on the one hand, and the creditors that hold at least 75% of

accepted and undisputed value of claims, on the other hand, homologated by the syndic judge, whereby the debtor proposes a workout and recovery plan meant to cover creditor's claims against it and the creditors accept to support debtor's efforts to overcome the financial distress;

18. *Salary claims* are those claims that result from labor relations between the debtor and its employees; they are automatically inserted in the debtor's table of claims by the judicial administrator/judicial liquidator;
19. *Creditor entitled to participate in the proceeding* means the holder of a title of claim against the debtor's estate, who filed a petition for admitting the claim pursuant to the admission of which it acquired the rights and obligations set out by this law for each stage of the proceeding; one shall no longer be a creditor if it was not registered as such or if it was removed from the table of claims successively prepared in the proceeding as well as pursuant to the closing of the proceeding; the debtor's employees are registered as creditors without personally filing their statements of claims;
20. *Creditor entitled to request opening of the insolvency proceeding* is the creditor the claim of which against the debtor's estate is undisputed, liquid and enforceable for more than sixty (60) days; for the purposes of this law, *undisputed claim* means a claim the existence of which results from the very title of the claim or from other instruments, even not authentic, issued by the debtor or recognized by the debtor; creditors may request the opening of the insolvency proceeding only in the event that, after offsetting of mutual debts of any nature, the amount due to them exceeds the amount specified at indent 72 below;
21. *Current claims creditor* or *current creditor* is the creditor that holds undisputed, liquid and enforceable claims arising during the insolvency proceeding and is entitled to satisfaction of its claim with priority, according to the documents it results from;
22. *Unsecured creditors* are the debtor's creditors that are registered in the table of claims and do not benefit of a privilege cause. The creditors that do benefit of causes of privilege but the claims of which are not fully covered by the amount of privileges, mortgages or pledges held, are also unsecured creditors for that portion of their receivable which is not covered; the simple registration of a receivable with the Electronic Archive for Secured Transactions does not result in such claim turning into a debt that benefits of a privilege cause;
23. *Indispensable creditors* are those unsecured creditors that supply services, raw materials, materials or utilities in the absence of which the debtor cannot operate and which cannot be replaced with any other supplier offering services, raw materials, materials or utilities of the same type, under the same financial conditions;
24. *Foreign creditor* is a creditor the domicile or corporate seat of which, as appropriate, is located in a foreign country;
25. *Date of opening of the proceeding* is:
    a) If the application for opening of the proceeding is filed by the debtor, the date when the decision mentioned at indent 71 below is issued;
    b) If the application for opening of the proceeding is filed by the creditor, the date when the syndic judge's decision mentioned at indent 72 below is issued;
    c) In case of cross-border insolvency, the time as of which the decision on the opening of the proceeding becomes effective, even if it is not a final decision.

26. *Debtor* is an individual or a legal entity that may be subject to a proceeding according to this law;
27. *Debtor undergoing financial difficulty* is the debtor who, although fulfills or is able to fulfill its obligations when due, has a low short term liquidity ratio and/or a high long term indebtedness ratio, which may adversely affect its possibility to fulfill its contractual obligations by means of the resources generated from operations or the resources attracted from the financial activity;
28. *Excerpt of the activity report* is a summary of the actions implemented by the judicial administrator or judicial liquidator; the following elements must necessarily be specified in such excerpt:
    a) The professionals appointed in accordance with the provisions of article 61, as well as their fee:
    b) The acts whereby the debtor's estate is disposed of and the instruments concluded in this respect, inclusively the adjudication minutes or the sale and purchase contract, as appropriate;
    c) The conclusion, amendment or termination of contracts which the debtor is part of;
    d) A synthetic list of payments and collections;
    e) The actions filed according to articles 117-122 or article 169;
    f) The measures aimed at providing proper protection to the creditor who benefits of a privilege cause;
    g) The status of stock taking, if applicable;
29. *Insolvency* means that condition of the debtor's estate which is marked by insufficiency of cash available to pay the undisputed, liquid and enforceable debts, as follows:
    a) The debtor is presumed insolvent when it fails to pay its debt to the creditor after sixty (60) days from the due date; this presumption is relative;
    b) Insolvency is imminent when the debtor is proved to be unable to pay its debts when due, out of the cash available on the due date;
30. *Insolvency of credit institutions* is a condition that appears when the credit institution undergoes one of the following situations:
    a) There is a manifest inability to pay matured debts out of the cash available;
    b) The solvency ratio of the credit institution drops below 2%;
    c) The operation permit of the credit institution is revoked according to the law, pursuant to its impossibility to overcome financial difficulty;
31. *Insolvency of insurance/re-insurance companies* is a condition that appears when the insurance/re-insurance company undergoes one of the following situations:
    a) There is a manifest inability to pay matured debts out of the cash available;
    b) The value of the available solvency margin drops below half of the minimum limit required by the regulations in force in terms of the safety fund;
    c) The insurance/re-insurance company is unable to regain financial stability pursuant to the financial recovery proceeding;
32. *Foreign court* is a court of law or any other authority qualified according to the law of the origin state, entitled to open and control or monitor a foreign proceeding or to adopt decisions during such proceedings;

33. *Financial instruments* include securities, ownership interests of collective investment bodies, monetary market instruments, futures contracts, including contracts that involve payment of differences in cash, forward on interest rate contracts, swaps on interest rate, currency exchange rate and equity, options on any financial instrument included in these categories, including contracts that involve payment of differences in cash, as well as options on currency exchange rate, interest rate and derivatives on commodities and any other instrument admitted for trading on a regulated market in a member state or for which an application for admission to trading on such market was filed;
34. *Securing agreement* is any contract/securing instrument of a netting agreement or of qualified financial contracts, including: pledges, letters of guarantee, security interest in personal property and the like;
35. *Group of companies* means two or more companies which are interrelated by control and/or by holding qualified equity;
36. *Ad-hoc mandate* is a confidential proceeding initiated at the request of the debtor undergoing financial difficulty, whereby an ad-hoc agent appointed by the court of law negotiates with the creditors in order to reach an agreement between one or several creditors and the debtor, for the purpose of overcoming the financial difficulties;
37. *Group member* may be any of the companies in the group, irrespective whether it is the parent company or a controlled member of the group;
38. *Controlled member of the group* is a company controlled by the parent company;
39. *Obligation to cooperate* means the duty of courts of law and insolvency practitioners to assure procedural coordination by the following means:
    a) Exchange of information concerning the proceeding, with reference in particular to the claims, assets and actions taken by the judicial administrator/judicial liquidator;
    b) Simultaneous opening of insolvency proceedings against the group members, at request of debtors or creditors;
    c) Correlated scheduling of procedural hearings as well as of the creditors' meetings;
    d) Where the appointed insolvency practitioner is not the same for each group member, coordination of communication between insolvency practitioners by the practitioner appointed in the file concerning the parent company or, as applicable, the company with the highest turnover as per the last published annual financial statement;
40. *Netting operation* requires, in terms of one or several qualified financial contracts, the performance of one or several of the following operations:
    a) Termination of a qualified financial contract and/or acceleration of any payment or fulfillment of an obligation or achievement of a right under one or several qualified financial contracts, which is/are based on a netting agreement;
    b) Calculating or estimating an offset value, market value, liquidation value or replacement value of any of the obligations or rights referred to in a) above;
    c) Conversion into a single currency of any value calculated as stated in b) above;
    d) Offsetting until a net amount is obtained of any value calculated as stated in b) above and converted as stated in c) above;
41. *Qualified equity* means that fraction of equity, varying between 20% and 50%, which is held by a person in other company;

42. *Observation period* means a period elapsing between the date of opening of the insolvency proceeding and the date of confirmation of the reorganization plan or, as appropriate, the date of going into bankruptcy;
43. *Regulated market* is the trading system referred to in article 125 of Law 297/2004 on capital markets, as further amended and supplemented;
44. *Collective proceeding* means a proceeding in which creditors jointly pursue and seek recovery of their claims, by the means referred to in this law;
45. *Bankruptcy proceeding* is a cumulative, collective and equitable proceeding applicable to the debtor in order to liquidate its estate so as to satisfy its liabilities, followed by de-registration of the debtor from the registry where it was incorporated;
46. *General proceeding* is the proceeding provided for in this law, whereby a debtor who meets the conditions specified in article 38, par (1), but does not meet the conditions specified in article 38, par (2), and after an observation period, goes successively into judicial reorganization proceeding and in bankruptcy proceeding or, separately, only into judicial reorganization proceeding or only in bankruptcy proceeding;
47. *Simplified proceeding* is the insolvency proceeding provided for in this law, whereby a debtor who meets the conditions referred to in article 38, par (2), goes directly into bankruptcy proceeding either at the time the insolvency proceeding is opened or after a maximum 20-day period of observation in which the elements listed in article 38, par (2), c) and d), shall be analyzed;
48. *Romanian insolvency proceeding* is any proceeding governed by this law except for the pre-insolvency proceedings;
49. *Foreign proceeding* is a collective, public, judicial or administrative proceeding to be conducted in accordance with the laws applicable to insolvency in a foreign country, including the temporary procedure, in which the debtor's assets and activity are subject to control or monitoring by a foreign court, in order to obtain reorganization or liquidation of that debtor's activity;
50. *Main foreign proceeding* is a foreign insolvency proceeding conducted in the state where the debtor's main center of interests is located;
51. *Secondary foreign proceeding* is a foreign insolvency proceeding, other than the main proceeding, which is conducted in the state where the debtor has a seat;
52. *Liberal professions* is a profession practiced based on a professional qualification either personally, on someone's own liability and independently, which includes the provisions of intellectual services to the client and public; these professions are governed by some specific features: the existence of a code of ethics, the continuous professional training and the privacy of the client-provider relationship;
53. *Claims payment schedule* means the chart of scheduled payments as referred to in the reorganization plan, which includes:
    a) The quantum of amounts which the debtor undertakes to pay to the creditors, but no more than the amounts due according to the final table of claims; in case of creditors who benefit of a privilege cause, the amounts may also include interests;
    b) The due dates at which the debtor shall pay these amounts;
54. *Judicial reorganization* is a proceeding applicable to an insolvent debtor, legal entity, in order to satisfy its debts, according to the claims payment schedule; the reorganization proceeding entails preparation, approval, confirmation, implementation and observance of a plan, also termed

reorganization plan, which may include but shall not be limited to, the following elements, together or separately:

a) Operational and/or financial restructuring of the debtor;
b) Corporate restructuring by change of share capital structure;
c) Reduction of activity by full or partial liquidation of the assets in the debtor's estate;

55. *Romanian representative* means the insolvency practitioner appointed as judicial administrator or judicial liquidator or concordat administrator under a Romanian insolvency or pre-insolvency proceeding according to the provisions of this law;
56. *Foreign representative* means an individual or a legal entity, including the persons appointed temporarily, which is authorized under a foreign proceeding to coordinate the reorganization or liquidation of goods and activity of the debtor or to act as representative of a foreign proceeding;
57. *Seat* means any operating unit where the debtor conducts, with human and material means and in a permanent manner, an economic activity or an independent profession;
58. *Main seat* means, in terms of the cross-border insolvency proceeding, the place where the main center of governance, supervision and management of the statutory activity of the legal entity is located, in such manner so as to allow verification by third parties, even if the respective corporate bodies' decision are adopted according to the instructions of members, shareholders or associates from other states;
59. *Professional seat* is the place where the economic activity is conducted or an independent profession is practiced by an individual, in such manner so as to allow verification by third parties;
60. *Alternative trading system* means the trading system referred to in article 2, par (1), indent 26, of Law 294/2004, as further amended and supplemented;
61. *Company* means any private law entity incorporated based on Company Law no. 31/1990, republished, as further amended and supplemented;
62. *Parent company* is the company that holds control or significantly influences the other companies of the group;
63. *Insurance/re-insurance company* means an insurer and/or re-insurer, as the same are defined in article 2 of Law no. 32/2000 on the insurance activity and the insurance supervision, as further amended and supplemented;
64. *State where a good is located* means:
    a) For corporate goods – the state on the territory of which the good is located;
    b) For goods and rights which the owner or holder must record in a public registry – the state under the authority of which the register is kept;
    c) For claims – the state on the territory of which the debtor's center of main interests is located, as defined at indent 7;
65. *Operational subset* means a set of assets of the debtor which assures the achievement of a finite self-standing product, or allows an independent business to be conducted;
66. *Supervision exerted by the judicial administrator* – provided that the debtor's right to manage its own business was not removed – consists in permanently analyzing the activity thereof and in previously approving the actions that may result in the company's vicarious liability as well as the actions meant to assure the restructuring/reorganization thereof; approval shall rely on a report to be prepared by the special administrator and shall also confirm that the conditions concerning the accuracy and opportunity of the legal operation

submitted to approval were verified and met; the supervision of management operations in connection with the debtor's estate is based on the prior approval to be obtained at least in respect of the following operations:

a) Payments, through bank account as well as through pay desk; it may be achieved either by approving each payment or by giving general instructions as to the making of payments;
b) Contracts to be concluded by the company during the observation period and during the reorganization period;
c) All legal actions to be taken in the litigations in which the debtor is involved, the proposed actions meant to seek recovery of claims;
d) Operations that result in a reduction of the debtor's estate, such as write-offs, re-valuations etc.;
e) Transactions proposed by the debtor;
f) Financial statements and the related activity report;
g) Restructuring actions or amendments to the collective bargaining agreement;
h) Mandates for creditors' meetings and committees in the companies undergoing insolvency, in which the debtor is a creditor, as well as for the general meetings of shareholders in the companies in which the debtor holds equity;
i) Where a proposal is made to sell non-current assets from the estate of the company in which the debtor holds equity or to encumber them, in addition to obtaining the approval of the judicial administrator it is necessary to go through the procedure referred to in article 87, par (2) and (3);

67. *Final table of claims* is a table which lists all claims against the debtor's estate as of the date of opening of the proceeding, accepted in the preliminary table and for which no opposition was filed, as well as the claims admitted pursuant to the settlement of oppositions or those which were temporarily admitted by the syndic judge; in case of simplified proceeding, the final table of claims includes, in addition to the claims arising before the opening thereof, the claims arising during the observation period, which were admitted as creditor claims; this table reflects the claimed amount, the admitted amount and the claim's category as per articles 159 and 161;
68. *Final consolidated table of claims* includes the whole set of claims appearing as admitted in the final table of claims and the undisputed claims included in the additional table of claims, as well as the claims resulting from settlement of oppositions against the additional table of claims; in the event that the opening of bankruptcy was ordered after confirmation of a reorganization plan, the final consolidated table of claims will include the whole set of claims that appear as admitted in the final table of claims, the undisputed claims in the additional table of claims, the ones resulting from settlement of oppositions against the additional table of claims, minus the amounts paid during implementation of the reorganization plan;
69. *Preliminary table of claims* includes all due and undue claims, whether conditional or contested in court, arising before the opening of the proceeding, accepted by the judicial administrator pursuant to verification; this table shall reflect the amount claimed by the creditor as well as the accepted amount and the priority rank and, where the creditor is undergoing insolvency, it shall also reflect the appointed judicial administrator/judicial liquidator; in case of simplified proceeding, this table shall also reflect the

claims arising after the opening of the proceeding until the time the company goes into bankruptcy;

70. *Additional table of claims* includes all claims arising after the opening of the general proceeding until the commencement of the bankruptcy proceeding, accepted by the judicial liquidator pursuant to verification; this table shall reflect the amount claimed by the creditor as well as the accepted amount and the priority rank;
71. *Private creditor test* is a method to compare the manner in which budgetary claims may be satisfied by reference to a diligent private creditor in a pre-insolvency or reorganization proceeding and the manner in which they may be satisfied in a bankruptcy procedure; this comparison is based on a valuation report prepared by a chartered valuator, member of ANEVAR (Romanian National Association of Chartered Valuators), appointed by the budgetary creditor, and addresses inclusively the duration of a bankruptcy proceeding by comparison to the proposed payment schedule; the event in which the private creditor test confirms that the amounts which the budgetary creditor would receive in a pre-insolvency or reorganization proceeding are higher than the amounts it would receive in a bankruptcy proceeding, shall not be deemed to be an event of state aid;
72. *Threshold value* means the minimum amount which the claim must meet in order to allow a petition for opening of the insolvency proceeding to be filed; the threshold value is 40,000 lei for both the creditors and the debtors, inclusively in case of claims filed by the liquidator appointed in the liquidation proceeding referred to in Company Law no. 31/1990, republished, as further amended and supplemented, for claims other than salaries, and for employees the threshold is 6 times the gross average salary per economy/employee.

TITLE I. PRE-INSOLVENCY PROCEEDINGS

Chapter I General provisions

Art. 6 This title is applicable to debtors in financial difficulty.

Art. 7

(1) The bodies entrusted with application of the proceedings presented herein are: the courts of law, through the chairman of the tribunal or the syndic judge, as appropriate, the ad-hoc agent or the concordat administrator, respectively.
(2) The creditors participate in the proceeding individually, to the extent permitted by the rights attached to their claims, as well as collectively, according to this law, through the creditors' meeting and the creditors' representative.
(3) The debtor participates in the proceeding through its statutory or conventional representatives.

Art. 8

(1) The tribunal having jurisdiction on the main seat or professional seat of the debtor is qualified to rule on petitions and causes addressed by this title.
(2) The petitions and causes concerning preventive concordat fall under the scope of competence of the syndic judge, appointed according to the

provisions of Law 304/2004 on judicial organization, republished, as further amended and supplemented.

(3) The decisions issued by the chairman of the tribunal or by the syndic judge in applying this title are writs of execution.

(4) The decisions issued by the chairman of the tribunal or by the syndic judge may be challenged by the parties only in appeal, within 7 days to be calculated from the date of service of process, for absent parties, and from the date of issuance, for the present parties.

(5) The appeal does not suspend the enforcement.

Art. 9 The court of appeal is the court called to rule on appeals against decisions issued by the chairman of the tribunal or by the syndic judge, as appropriate. The decisions of the court of appeal are final.

Chapter II Ad-hoc mandate

Art. 10

(1) A debtor may revert to the chairman of the tribunal and require him to appoint an ad-hoc agent. In its petition, the debtor proposes an ad-hoc agent from among the insolvency practitioners authorized under the law.

(2) The petition must include a detailed description of the reasons that require the appointing of an ad-hoc agent.

Art. 11 The petition shall be lodged with the office of the chairman of the tribunal and shall be recorded in a special register.

Art. 12

(1) After receipt of the petition, the chairman of the tribunal orders the procedural agent to convene the debtor and the proposed ad-hoc agent within five (5) days.

(2) The proceeding will be conducted in the council's chamber and shall be confidential all throughout its term.

(3) Confidentiality is mandatory for all persons and institutions which are part of or involved in this proceeding.

Art. 13

(1) After hearing the debtor, if its financial difficulties are found to be real, and the proposed ad-hoc agent meets the legal requirements to exert this position, the chairman of the tribunal issues an enforceable resolution whereby it appoints the proposed ad-hoc agent.

(2) The ad-hoc agent's objective shall be to cause the debtor and one or several of its creditors to reach an arrangement within 90 days from being appointed, in order to overcome the financial difficulties which the debtor faces, to save the company, to preserve the jobs and to cover the claims against the debtor.

(3) For the purposes of its mandate, the ad-hoc agent shall be entitled to propose debt reliefs, rescheduling or partial reductions, the continuation or termination of ongoing contracts, personnel redundancy, as well as any other actions it may deem necessary.

Art. 14 The fee of the ad-hoc agent shall be temporarily determined by the chairman of the tribunal upon proposal of the debtor and subject to approval of the ad-hoc agent, under the form of a cap fee or a monthly fee. The fee may be

adjusted later on at the request of the ad-hoc agent, subject to the debtor's consent.

Art. 15

(1) The ad-hoc mandate ceases:
   a) Pursuant to the unilateral termination of the mandate by the debtor or by the ad-hoc agent;
   b) As a result of the arrangement concluded based on article 13, par (2);
   c) If, within the term referred to in article 13, par (2), the agent failed to cause the debtor and its creditors to reach an arrangement.

(2) At request of the debtor or of the ad-hoc agent, the chairman of the tribunal shall issue a final resolution stating the termination of the ad-hoc mandate.

Chapter III Preventive concordat

Section 1 – Beneficiaries of the Proceeding. Bodies authorized to apply the proceedings

Art. 16 Any debtor facing financial difficulty may revert to the preventive concordat proceeding, with the following exceptions:
   a) In the event that, within the three (3) years before the offer for preventive concordat, the debtor benefited of another preventive concordat which was unsuccessful;
   b) In the event that the debtor and/or the shareholders/associates/general partners who control the debtor or its directors/managers were finally sentenced for a crime committed intentionally against the debtor's estate, for corruption, for a job-related crime, for forgery, as well as for the crimes referred to in Law 22/1969 on hiring administrators, guarantee depositing and liability for administration of assets of economic agents, public authorities or institutions, as further amended, in Company Law 31/1990, republished, as further amended and supplemented, in Law 82/1991 on accountancy, republished, as further amended and supplemented, in Law 21/1996 on competition, republished, in Law 78/2000 for prevention, identification and punishment of corruption, as further amended and supplemented, in Law 656/2002 on prevention and sanctioning money laundering, as well as for setting up some measures for prevention and combating terrorism financing, republished, as further amended, in Law 571/2003 on the Tax Code, as further amended and supplemented, in Law 241/2005 for prevention and combating tax evasion, as further amended, and the crimes referred to herein, over the last 5 years before the opening of the proceeding herein; this provision does not apply to holders of bearer shares;
   c) In the event that members of the management and/or supervisory bodies of the debtor were held liable for the debtor's insolvency and ordered to pay part of the debtor's liabilities according to the provisions of article 169 et seq. of this law or of some special laws; the provisions of b) above remain applicable.

Art. 17 The syndic judge has the following powers and duties in connection with the preventive concordat proceeding:
   a) To appoint the temporary concordat administrator;

b) To homologate the preventive concordat at the request of the concordat administrator;
c) To ascertain, at the request of any creditor which is not part to the preventive concordat, whether the conditions were met for such creditor to be enrolled among the creditors who acceded to the preventive concordat;
d) To issue a resolution ordering – subject to article 18 – the temporary suspension of forced executions against the debtor based on the draft of preventive concordat filed by the debtor and forwarded to the creditors;
e) To issue decisions in respect of petitions for nullity and termination of the preventive concordat.

Art. 18

(1) The petitions filed based on this title shall be ruled upon in the council's chamber without any undue delays, and the parties shall be summoned within forty eight (48) hours from receipt of the petition.
(2) The parties headquartered abroad shall be summoned by fast communication means at their known seat or domicile or residence, as applicable; in the absence of such information, the summons shall be posted on the door of the court of law.

Art. 19 The powers and duties of the concordat administrator are the following:

a) To prepare the table of claims which shall also include the contested creditors or the creditors the claims of which are disputed in court, and the list of concordat creditors; a receivable of a creditor with several joint debtors in concordat proceeding shall be registered in all lists of creditors for the nominal value of the receivable held until it shall have been fully covered;
b) To prepare with the debtor the concordat offer, with the corresponding elements that is, the draft of concordat and the recovery plan, respectively;
c) To take actions in order to obtain amicable settlement of any dispute between the debtor and the creditors or between creditors;
d) To require the syndic judge to homologate the preventive concordat;
e) To monitor the fulfillment of obligations undertaken by the debtor under the preventive concordat;
f) To urgently inform the meeting of concordat creditors of the non-fulfillment or inadequate fulfillment by the debtor of its obligations;
g) To prepare and forward to the concordat creditors' meeting monthly or quarterly reports on its activity and on debtor's activity; the concordat administrator's report shall also include its opinion on the existence or absence, as applicable, of the grounds for termination of the preventive concordat;
h) To convene the meeting of concordat creditors;
i) To request the court to close the preventive concordat proceeding;
j) To fulfill any other powers mentioned herein, established by the preventive concordat or by the syndic judge.

Art. 20

(1) A proposal for the fee payable to the concordat administrator shall be included in the draft of concordat and the fee shall be established through the preventive concordat; it shall be paid from the debtor's estate;
(2) The fee of the concordat administrator shall, depending on the nature of its obligations, consist in a cap fee, a monthly fee and/or a success fee; when determining the amount of the fee the nature of business conducted by the debtor as well as the complexity of the recovery plan shall be taken into account.

Art. 21

(1) The concordat creditors' meeting has the following powers and duties:
   a) To approve the reports of the concordat administrator concerning the debtor's activity and the fulfillment of obligations undertaken in the preventive concordat;
   b) To appoint the creditors' representative;
   c) It is the holder of the right to file petition for termination of the preventive concordat.
(2) During the proceeding, the concordat creditors' meeting may be called by the concordat administrator of its own motion or at request of creditors representing at least 10% of the total amount of concordat claims.
(3) The concordat creditors meeting shall adopt decisions by the vote representing the majority – in terms of value – of the concordat claims present in the meeting.

Art. 22

(1) The vote of concordat creditors may also be cast by correspondence.
(2) The meeting of concordat creditors shall be organized and chaired by the concordat administrator.
(3) The debtor shall also be invited to attend the concordat creditors meetings.

Art. 23

(1) Any debtor in financial difficulty, except for those excluded according to the provisions of article 16, may file a petition for the opening of the preventive concordat proceeding with the qualified tribunal. The debtor shall, in its petition, propose a temporary concordat administrator from among the insolvency practitioners authorized under the law.
(2) The syndic judge shall issue an enforceable resolution appointing the temporary concordat administrator.
(3) Within thirty (30) days from it being appointed, the concordat administrator prepares with the debtor a table of claims and the preventive concordat offer.
(4) The preventive concordat offer shall be notified by the temporary concordat administrator to the creditors by fast means of communication that assure the possibility to have confirmation of receipt thereof.
(5) The preventive concordat offer shall be lodged with the file opened according to par (1) and, in order to be opposable to third parties, it shall be filed with the registration office of the tribunal, and recorded in a special register. The filing and notification thereof shall be written down in the register where the debtor is registered.
(6) The preventive concordat offer shall also include the draft of preventive concordat accompanied by the debtor's statement concerning the financial difficulties it is facing, as well as the list of known creditors, including those

the claims of which are fully or partially disputed, indicating the amount and causes of privilege accepted by the debtor.

Art. 24

(1) The draft of preventive concordat must present details of:
   a) The analytical status of the debtor's assets and liabilities, certified by an expert accountant or, as applicable, audited by an auditor authorized under the law;
   b) The causes of financial difficulty and, where applicable, the actions taken by the debtor in order to overcome it before the preventive concordat offer was filed;
   c) The financial and accounting forecasts for the following 24 months.

(2) The draft of preventive concordat must include a recovery plan that shall provide for at least the following actions:
   a) The reorganization of debtor's activity by actions such as: restructuring of debtor's management, modification of the operational structure, reduction of personnel or any other actions deemed necessary;
   b) The actions by which the debtor understands to overcome the financial difficulty, such as: increase in the share capital, debt to equity swap, taking a bank loan, bond or similar borrowing, including shareholder loans, creation or termination of branches or operating units, sale of assets, creating causes of privilege; if new funds are to be granted during the concordat term, the priority of these amounts upon distribution, after payment of the procedural expenses shall be specified;
   c) In case of contracts the due date of which falls after expiry of the twenty four (24) months term allowed for the concordat to take place, or contracts for which payments are proposed to be scheduled over a period which exceeds this term, after the closing of the concordat proceeding, payments will continue to be made, according to the contracts they result from;
   d) The due date for satisfaction of claims determined through the concordat is twenty four (24) months from the concordat being homologated by enforceable decision and it may be extended for twelve more (12) months; a minimum 20% of the total amount of claims determined in the concordat must necessarily be paid within the first year;
   e) The results of the private creditor test must necessarily be presented in the event that the draft of concordat proposes reductions of budgetary claims.

(3) The debtor shall also, in the draft of preventive concordat submitted for approval to creditors, propose the confirmation of the temporary concordat administrator as well as the remuneration thereof for the period after the concordat conclusion.

Art. 25

(1) Subject to the conditions referred to in articles 996 and 999 of the Civil Procedure Code, the debtor may require the syndic judge, based on the offer of preventive concordat, to temporarily suspend the forced executions.

(2) The petition shall be ruled upon in the council's chamber, without any undue delays, without summoning the parties.

(3) The temporary suspension of individual forced executions shall be maintained until a final and enforceable decision is issued which homologates the concordat or until the concordat offer is rejected by vote by the majority of creditors the uncontested claims of which compose the creditors' estate, according to the law.

Section 2 – Conclusion and Homologation of Preventive Concordat

Art. 26

(1) In order to allow creditors to cast their votes on the draft of preventive concordat, the debtor may organize one or several collective or individual sessions of negotiations with the creditors in the presence of the concordat administrator proposed by the debtor.
(2) The negotiations may be commenced at the request of one or several creditors as well as at the request of the controlling shareholders or associates of the debtor.
(3) The period allowed for negotiations on the draft of preventive concordat may not exceed sixty (60) calendar days.

Art. 27

(1) The creditors shall, as regards the preventive concordat offer with amendments, if any, resulting from negotiations, basically cast their votes by correspondence.
(2) The creditors' vote shall be notified by fast communication means to the debtor's address within maximum sixty (60) calendar days calculated from receipt of the preventive concordat offer. The positive unconditional vote on the preventive concordat stands for an acceptance of the concordat. Any conditional vote shall be deemed to be negative vote.
(3) Exceptionally, the concordat administrator may convene a meeting of all creditors.
(4) If, within the term set out in par (2), one or several creditors holding at least 10% of the total amount of claims, request a call for the meeting of all creditors, then the concordat administrator has the obligation to call such meeting within maximum five (5) days from receipt of the request. The convening notice shall be sent to the creditors by fast communication means which allow confirmation of receipt.
(5) The preventive concordat is deemed to be approved by the creditors if it gathers the votes of creditors representing at least 75% of the value of accepted and undisputed claims.
(6) The creditors who, directly or indirectly, control, are controlled or are under joint control with the debtor, may participate in the meeting but they may cast their vote on the concordat only if it offers them less than what they would receive in case of bankruptcy.

Art. 28

(1) Once the concordat is approved by the creditors, the concordat administrator requires the syndic judge to homologate the preventive concordat. For the purposes of homologation, the syndic judge shall check whether the following conditions are simultaneously met:
    a) The amount of claims challenged and/or disputed in court does not exceed 25% of the total amount of claims;

b) The preventive concordat was approved by the creditors who represent at least 75% of the amount of accepted and undisputed claims.

(2) The syndic judge homologates the preventive concordat and shall issue a resolution in this respect in the council's chamber, without any undue delays, after summoning and hearing the concordat administrator; the petition requiring it to homologate the preventive concordat may be dismissed exclusively for cause.

(3) The preventive concordat, as approved by the creditors and homologated by the syndic judge in its resolution, shall be notified to the creditors through the care of the concordat administrator, and shall be recorded in the register where the debtor is registered.

Art. 29

(1) As of the date of service of the decision homologating the preventive concordat the individual pursuits of creditors signing it against the debtor, and the lapse of prescription of the right to claim forced execution of their claims against the debtor, are lawfully suspended.

(2) The lapse of interests, penalties and of any other expenses in connection with the claims is not lawfully suspended as regards the creditors signing it, unless they stated their approval to the contrary in writing, as stated in the preventive concordat.

Art. 30

(1) When ordering homologation, the syndic judge suspends all forced execution procedures.

(2) At the request of the concordat administrator, provided that the debtor offers securities to the creditors, the syndic judge may impose on the creditors non-signing the preventive concordat a maximum eighteen (18) months postponement of the due date of their claims, during which no interests, penalties and no other expenses in connection with the claims will be calculated. The provisions concerning postponement of the due date of claims are not applicable to qualified financial contracts and to netting operations which are based on a qualified financial contract or a netting agreement.

(3) The concordat shall be opposable to budgetary creditors provided that the legal provisions on state aid, as referred to in the domestic and European legislation are observed, according to article 24, par (5).

Art. 31 During the term of the homologated preventive concordat, the insolvency proceeding may not be commenced against the debtor.

Art. 32

(1) Any creditor that obtains a writ of enforcement against the debtor during the proceeding may apply for adhesion to the concordat or may seek recovery of its claim by any other means permitted by the law.

(2) The application for adhesion shall be lodged with the concordat administrator who shall include it in the list of concordat creditors.

Art. 33

(1) During the proceeding, the debtor shall conduct its activity within the limits of its ordinary course of business, subject to the conditions of the preventive concordat and under supervision of the concordat administrator.
(2) The actions included in the preventive concordat, including the modifications of claims will inure also to the benefit of co-debtors, fidejussors and third party guarantors.

Section 3 – Closing of the Preventive Concordat Proceeding

Art. 34

(1) The creditors who voted against the preventive concordat may request cancelation thereof within fifteen (15) days from its homologation.
(2) When absolute nullity grounds are invoked, the limitation period for the right to request ascertaining of nullity is of six (6) months from the homologation of the concordat.
(3) At request of the plaintiff, the syndic judge may, by interlocutory injunction, order the suspension of the preventive concordat.

Art. 35

(1) Where the debtor is found to have severely breached its obligations under the preventive concordat the concordat creditors meeting may decide to file a petition for termination of the preventive concordat. The meeting may decide on this issue even if it was not included on the agenda of that meeting. In addition, this remedy at law is also permitted, under the same conditions, the creditor who holds more than 50% of the amount of accepted and undisputed claims.
(2) For the purposes of par (1), actions such as: favoring one or several creditors to the prejudice of the others, concealing or selling assets during the preventive concordat term, making payments without consideration or under ruining conditions, represent events of severe breach of the obligations undertaken by the debtor in the preventive concordat.
(3) If the concordat creditors meeting decides to file petition for termination, the preventive concordat proceeding is lawfully suspended.
(4) By its decision allowing the petition for termination, the syndic judge grants liquidated damages to the creditors, under the general jurisdiction law.

Art. 36

(1) Where the preventive concordat proceeding is successfully completed, on or before the term specified in the contract, as applicable, the syndic judge shall issue a resolution stating the achievement of the preventive concordat. In this case, the modifications operated in the claims that form the subject matter of the preventive concordat remain final.
(2) If, during the proceeding, before expiry of the term set out in article 24, par (4), the concordat administrator considers that the achievement of the concordat objectives is impossible for reasons not imputable to the debtor, it may request the syndic judge to state the failure of the preventive concordat and to close the proceeding.

Art. 37

(1) The actions presented herein shall be applied subject to the rules governing the state aid.

(2) The provisions of this title are not applicable to qualified financial contracts and netting operations which are based on a qualified financial contract or a netting agreement.

TITLE II. INSOLVENCY PROCEEDING

Chapter I Common provisions

Section 1 – General aspects

Art. 38

(1) The general proceeding provided for in this chapter is applicable to the debtors referred to in article 3, except for those which are subject to the simplified proceeding.

(2) The simplified proceeding under this law is applicable to debtors undergoing insolvency that fall under one of the following categories:

a) Professionals, individuals who are subject to the obligation to be registered with the trade register, except for those who practice liberal professions;

b) Family enterprises, members of the family enterprises;

c) Debtors that fall under the categories referred to in par (1) and meet one of the following conditions:

1. Do not hold any asset in their estate;
2. Their corporate documents or accounting records cannot be found;
3. Their director cannot be found;
4. Their corporate/professional seat no longer exists or is not the same as the one appearing in the trade register;

d) Legal entities that were voluntarily, judicially or lawfully dissolved before the filing of the petition for opening of the insolvency proceeding, even if the judicial liquidator was not appointed or, although appointed, the amendment concerning its appointing was not registered with the trade register;

e) Debtors that expressed their intention to go into bankruptcy through the petition for opening of the insolvency proceeding;

f) Any person who conducts activities specific to professionals, who did not obtain the authorization under the law to operate an enterprise and is not registered with the special publicity registers. The application of this law to such persons does not preclude the penalties applied for absence of authorization or registration of that person.

Art. 39

(1) All expenses incurred in connection with the proceeding under this law, including expenses for notification, convening and service of process incurred by the judicial administrator and/or judicial liquidator shall be paid out of debtor’s estate.

(2) Payments shall be made from a bank account opened with a bank unit, based on payment instructions issued by the debtor or by the judicial administrator, as the case may be, and during the bankruptcy proceeding by the judicial liquidator.

(3) The available cash may be kept in a special account for bank deposit.

(4) In the absence of cash in the debtor's account, the liquidation fund shall be used, and payments shall be made according to the provisions of Government emergency Ordinance 86/2006 concerning organization and exercise of the profession of insolvency practitioner, republished, as further amended and supplemented, based on a provisioned budget.

(5) The judicial administrator may, in the creditors' meeting, request the creditors to put up the money necessary to continue the proceeding.

(6) For the purposes of and within the limits necessary to cover the procedural expenses, at any time during the proceeding, where there are no liquidities in the debtor's account, the judicial administrator/the judicial liquidator shall identify sellable assets free of encumbrances, which are not of the essence for reorganization and shall take the actions necessary to emergently sell them for at least their liquidation value, as determined by a valuator. Until the creditors' committee is designated, the decision to sell falls on the judicial administrator/the judicial liquidator. The proposal to sell included in the report referred to in article 59, par (1), to be lodged with the file and an excerpt of which shall be published in the IPB, may be challenged by any concerned party within three (3) days from publication of the report's excerpt in the IPB. Once the creditors' committee is designated, the sale shall be subject to the approval thereof, according to article 87, par (2).

(7) The funds referred to in par (4) shall be created by:

a) Calculating 50% of the fees to be paid at the office of the trade register for authorization of the incorporation of persons bound to be registered with the trade register, with modifications of their acts, facts and amendments, and performance of all registrations with the trade register, for authorization, operation and issuance of specific documents, for verification and/or reservation, transmission/obtaining/issuance of documents and/or information required by the law;

b) Taking over 2.0% of the amounts recovered in the insolvency proceeding, including from the proceeds obtained from the sale of debtor's assets, which amount shall be included in the category of procedural expenses as stated in par (1).

(8) The amounts referred to in par (1) shall be given priority at the time any cash is available in the debtor's account. The amounts paid from the liquidation account for proceeding's expenses are considered down payments and shall be remitted to the insolvency practitioner from the debtor's estate at the time they exist.

(9) UNPIR (the National Insolvency Practitioners Association) shall notify the National Office of the Trade Register and the courts of law which the register of agricultural companies and the register of associations and foundations, respectively, are attached to, the account number and the unit where it is opened as well as any changes thereof.

Section 2 – Bodies Authorized to Apply the Proceeding. Participants in the Proceeding

Art. 40

(1) The bodies authorized to apply the proceeding are the courts of law, the syndic judge, the judicial administrator and the judicial liquidator.

(2) The bodies referred to in par (1) above must cause the expedite performance of acts and operations provided for in this law, as well as the legal realization

of the rights and obligations of the other participants in such acts and operations.

§ 1 Courts of law

Art. 41

(1) All proceedings in this law, except for the appeal, fall under the scope of competence of the tribunal or, where applicable, of the specialized tribunal in the jurisdiction of which the debtor had its corporate/professional seat for at least six (6) months before the court was notified. If a special insolvency division exists in the tribunal, it falls on such division to coordinate the proceedings provided for in this law.

(2) The corporate/professional seat of the debtor is the one that appears in the trade register or in the register of agricultural companies or in the register of associations and foundations, respectively. Where the seat was relocated less than six (6) months before the petition for the opening of the insolvency proceeding was lodged, the corporate/professional seat of the debtor is the one that appeared in the trade register or in the register of agricultural companies or in the register of associations and foundations, respectively, before relocation.

(3) The tribunal that was duly vested to rule on a petition for the opening of the insolvency proceeding according to par (1) above remains qualified to settle the matter irrespective of the later changes of seat of the debtor.

(4) All requests, oppositions, actions relying on the provisions of this chapter shall be ruled upon according to the Civil Procedure Code concerning the ruling in first instance, being it specified that the term for lodging the statement of defense is maximum fifteen (15) days from service, there is no obligation to answer to the statement of defense and the syndic judge issues a resolution within maximum five (5) days from the filing thereof, in order to set the first hearing, which cannot be later than thirty (30) days from the resolution date. As regards the petition for opening of the insolvency proceeding or other cases for which the law sets out special terms, such special terms shall be given proper consideration. The provisions of article 200 of the Civil Procedure Code concerning regularization of the request are not applicable to the motion for opening of the insolvency proceeding.

(5) In litigations filed based on the general jurisdiction law after the opening of the insolvency proceeding, the debtor shall be summoned at its seat and at the seat of the judicial administrator/judicial liquidator.

Art. 42

(1) The parties shall be summoned and the service of any process shall be made in the IPB. The service of summons, of convening notices and of notices to the participants in the proceedings, the seat, domicile or residence of which is abroad is subject to the provisions of the Civil Procedure Code in conjunction with the provisions of the EC Regulation no. 1346/2000 of the Council of May 29th, 2000, on insolvency proceedings, as further amended and supplemented, and of the EC Regulation no. 1393/2007 of the European Parliament and of the Council of November 13th, 2007, on the service in the Member States of judicial and extrajudicial documents in civil or commercial matters (“notification or service of process”) and repealing Council Regulation (EC) No 1348/2000 of the Council, as applicable. The IPB shall be kept in electronic format. In order to cover the expenses for publication with the IPB,

a fee will be paid which is worth 10% of the fees paid to the office of the trade register for all incorporation, authorization, registration, modification, reservation operations made in the trade register.

(2) In contentious proceedings governed by this chapter summons shall be served only to those persons whose rights or interests are subject to settlement by the syndic judge, under the adversarial principle. In all other cases the provisions of the Civil Procedure Code concerning non-contentious proceedings shall apply, to the extent that they are not contrary to any express provisions of this law.

(3) By way of exception from the provisions of par (1), the service of process prepared before the opening of the proceeding and the notification on the opening of the proceeding shall be made according to the Civil Procedure Code. The creditors which were not notified according to article 99, par (3) shall be lawfully deemed to be within the term allowed to file a statement of claims by filing their statements of claims, and they shall resume the proceeding as it was at the time they were registered as creditors.

(4) By way of exception from the provisions of par (1), the first summons and the service of process to persons, against whom a motion is filed according to this law after the opening of the proceeding, shall be made according to the Civil Procedure Code also in the IPB. The courts of law shall automatically forward the concerned process for publication in the IPB.

(5) If the debtor is a company listed on a regulated market, the syndic judge shall notify the decision on the opening of the proceeding to the Financial Supervisory Authority.

(6) The format and the standard content of the acts to be published in the IPB and of the proof on the fulfillment of the procedure for summoning, convening, notification and service of process, shall be established by order of the minister of justice and must necessarily be used by all participants in the proceedings.

(7) Notifications, except when the burden to notify falls on other bodies authorized to apply the proceeding, and the convening notices referred to in this law, fall under the scope of competence of the judicial administrator or of the judicial liquidator, as applicable.

(8) Creditors who filed proofs of debt are presumed to be aware of the terms set out in article 100 or in articles 146 or 147, as applicable, and shall no longer be summoned.

(9) In order to publish summons, convening notices and notifications of the process made by the courts of law, after the opening of the proceeding herein, there shall be edited the IPB.

(10) The publication of procedural acts or of court decisions, as applicable, in the IPB supersedes, as of the publication date, the summoning, convening and notification of process made individually to the participants in the proceeding, all of which are presumed fulfilled on the publication date.

Art. 43

(1) The court of appeal shall be the appeal court called to rule on the decisions issued by the syndic judge. The decisions of the court of appeal are final.

(2) The appeal may be filed within seven (7) days from communication of the decision by publication in the IPB, unless otherwise specified by the law. The appeal shall be ruled upon by specialized panels in emergency procedure. The summoning of claimants, of the judicial administrator/judicial liquidator and of the respondents and the service of decisions issued shall be made in

the IPB. The courts of law shall automatically forward the procedural documents for publication in the IPB. The procedure shall be deemed validly fulfilled if the summons is published at least five (5) calendar days before the date set for the hearing. In order to settle the appeal, the court of appeal will be provided by the head court clerk of the tribunal with certified true copies only of those documents which are of interest for the appeal, as selected by the syndic judge if the appeal refers to a decision of the syndic judge for which no associated file was formed. In the event that the court of appeal considers that other documents of the first instance court file are necessary, it shall, by resolution upon receipt of the motion for appeal or by resolution during the settlement of appeal, require the concerned parties to lodge a certified true copy thereof or shall require the syndic judge to submit them.

(3) The appeal shall be ruled upon according to the provisions of the Civil Procedure Code, with the following derogations: the term for lodging the statement of defense is maximum ten (10) days from the service of the petition and grounds for appeal, the answer to the statement of defense is not mandatory, and the judge issues a resolution within maximum three (3) days from the filing of the statement of defense, setting the first hearing which cannot be later than thirty (30) days from the resolution date.

(4) By way of derogation from the Civil Procedure Code, the filing for appeal does not suspend the enforcement of the syndic judge' decisions.

(5) The following decisions made by the syndic judge may be suspended by the court of appeal:

a) the sentence ordering the opening of the insolvency proceeding against the debtor;
b) the sentence ordering the opening of the simplified proceeding;
c) the sentence ordering the opening of bankruptcy;
d) the sentence settling the opposition against the intended distribution of funds obtained from liquidation and from collection of debts;
e) the sentence settling the oppositions against the actions ordered by the judicial administrator/judicial liquidator;
f) the resolution confirming the insolvency practitioner;
g) the resolution replacing the insolvency practitioner;
h) the resolution settling the motions for cancelation referred to in articles 117-122.

(6) One single file shall be formed for all petitions for appeal lodged against the decisions issued by the syndic judge in the proceeding. The appeal panel randomly entrusted with the first appeal shall be the one that shall settle all subsequent appeals concerning the same proceeding, lodged against the same decision or against successive decisions of the syndic judge in the same insolvency file.

(7) When admitting the appeal, the court of appeal called to settle the appeal against the syndic judge's decision rejecting the petition for opening of the insolvency proceeding, shall cancel the decision and shall forward the matter to the syndic judge for opening of the insolvency proceeding.

Art. 44 The cases the subject matter of which is the proceeding herein shall be entrusted to the judges appointed to act as syndic judges, randomly, by the IT system, according to article 53 of Law 304/2004, republished, as further amended and supplemented.

§ 2 Syndic judge

Art. 45

(1) The main duties of the syndic judge under this chapter are:

a) to issue a properly grounded decision on the opening of the insolvency proceeding and on the opening of bankruptcy, as appropriate, in general proceeding as well as in simplified proceeding;

b) to rule on the debtor's opposition against the creditors petitions for opening of the insolvency proceeding;

c) to rule on the creditors' opposition against the opening of the proceeding;

d) in the sentence ordering the opening of the proceeding, to appoint based on proper grounds and after checking the existence incompatibilities, if any, the temporary judicial administrator/the temporary requested by the creditor who filed for the opening of the insolvency proceeding or by the debtor if it is the debtor who filed for the opening of the insolvency proceeding. In the absence of such proposal made by the debtor or by any of the creditors, the judicial administrator/the judicial liquidator shall be appointed from among the insolvency practitioners listed with the List of the National Union of Insolvency Practitioners of Romania who presented an offer of services. If no offer was submitted it shall randomly appoint any of the insolvency practitioners listed in the List of the National Union of Insolvency Practitioners of Romania. Where both the debtor and a creditor requested each a specific judicial administrator/judicial liquidator to be appointed, the creditor's request will be given priority. Where the creditors request that different judicial administrators/judicial liquidators are appointed the syndic judge shall, based on a properly grounded resolution, appoint one of them. Appointment shall be valid for the administration of the proceeding until the judicial administrator/judicial liquidator is conformed according to the law. The syndic judge shall further set the fee according to the criteria set out in Government emergency Ordinance 86/2006, republished, as further amended and supplemented, as well as the powers and duties thereof for the period.

e) to issue a resolution confirming the judicial administrator or the judicial liquidator appointed by the creditors meeting or by the creditor that holds more than 50% of the claims amount. If there is no opposition against the validity of the decision made by the creditors meeting or of the decision made by the creditor that holds more than 50% of the claims amount, then confirmation shall be made in the council's chamber, without summoning the parties, within five (5) days from notification of the syndic judge;

f) to issue a properly grounded resolution replacing the judicial administrator or the judicial liquidator, according to article 57, par (4);

g) to rule on the petitions for removal of debtor's right to manage its own business;

h) to rule on the petitions for liability of the members of corporate governance bodies who facilitated the debtor's insolvency, according to article 169, or to notify the criminal pursuit bodies when indications exist that a crime was committed;

i) to rule on the petitions filed by the judicial administrator or the judicial liquidator for cancelation of fraudulent acts or operations, according to

the provisions of articles 117-122, and petitions for cancelation of unlawfully payments or operations made by the debtor after the opening of the proceeding;

j) to rule on the oppositions filed by the debtor, by the creditors or by any other concerned persons against the measures ordered by the judicial administrator or the judicial liquidator;

k) to confirm the reorganization plan after it was voted by the creditors;

l) to settle the petition filed by the judicial administrator or the creditors committed to interrupt the judicial reorganization procedure and go into bankruptcy;

m) to settle the oppositions filed against the reports prepared by the judicial administrator or the judicial liquidator;

n) to rule on the petition for cancelation of the decision of the creditors meeting;

o) to rule on the petitions filed by the judicial administrator/judicial liquidator where no decision can be reached in the meetings of the creditors committee or in the creditors meetings due to the absence of quorum because duly convened creditors failed to be present in at least two meetings having the same agenda;

p) to order the convening of creditors meeting with a particular agenda;

q) to issue the decision on the closing of the proceeding;

r) to have any other duties as provided by the law.

(2) The duties of the syndic judge are limited to judicial control of the activity of the judicial administrator and/or of the judicial liquidator and to trials and judicial petitions associated with the insolvency proceeding. The management duties fall on the judicial administrator or the judicial liquidator or, exceptionally, on the debtor provided that its right to administer its estate was not removed. The management decisions of the judicial administrator, of the judicial liquidator or of the debtor who was permitted to administer its estate may be controlled in terms of adequacy by the creditors, through their own bodies.

Art. 46

(1) The decisions of the syndic judge are enforceable and may be challenged separately only by appeal.

(2) The provisions of article 42, par (1), of the Civil Procedure Code concerning incompatibility are not applicable to the syndic judge who issues successively decisions in the same file, except for re-judgment after cancelation of the decision in appeal.

(3) The syndic judge must issue the grounds of its decision within twenty (20) days from the issuance of the decision.

§ 3 Creditors' Meeting. Creditors' Committee

Art. 47

(1) The creditors meeting shall be called and chaired by the judicial administrator/judicial liquidator, unless otherwise required by the law or by the syndic judge; it falls on the judicial administrator/judicial liquidator to assure the secretarial duties of the creditors meetings.

(2) The known creditors shall be convened by the judicial administrator or the judicial liquidator in the cases expressly stated by the law and whenever necessary.

(3) The creditors meeting may also be called by the creditors committee or by the creditors that hold claims worth at least 30% of the total amount of claims with voting right. In this case, where the judicial administrator or the judicial liquidator refuses to chair the creditors meeting or fails to be present on the date and at the place of the meeting, then the meeting shall be chaired by the chairman of the creditors committee or, in the absence thereof, by the creditor who convened it, all as represented or assisted by a lawyer or a legal advisor. In this case, the convening letter and any other associated documents and information shall be expeditiously communicated to the judicial administrator/judicial liquidator. The protocol to be prepared shall be forwarded for publication in the IPB within three (3) days by the person who chaired the meeting.

Art. 48

(1) The creditors shall be called by publication of the convening letter in the IPB at least five (5) days before the intended date of the meeting and the convening letter must include the agenda. The convening letter shall be submitted to the IPB three (3) days before the date when publication must be effected.

(2) Any deliberation on a matter not included in the convening letter is void unless the meeting is attended by the holders of all claims and they agree with such issue being included on the agenda of that meeting.

(3) The creditors may be represented in the meeting by proxies based on special authentic proxy or, in case of budgetary creditors and other legal entities, based on delegation signed by the chief officer of that unit.

(4) Unless expressly forbidden by the law, the creditors may also vote by correspondence. The letter whereby a creditor casts its vote, signed by it, or the written document in electronic format which the extended electronic signature was incorporated, attached or associated to, based on a valid certificate, may be served to the judicial administrator or the judicial liquidator by any means, until the date intended for the vote.

(5) The debtor's employees may be represented in creditors meetings by a delegate selected from among them, who shall vote for the entire amount of claims consisting in salaries and other pecuniary rights due to them.

(6) The deliberations and decisions made by the creditors meetings shall be recorded in a protocol to be signed by the chairman, the members of the creditors committee as well as by the judicial administrator or the judicial liquidator, as applicable. The protocol shall, by the care of the judicial administrator/judicial liquidator, be lodged with the court and forwarded for publication with the IPB, within two (2) business days from the date of the meeting.

(7) A decision of the creditors meeting may be cancelled by the syndic judge for invalidity at the request of the creditors who voted against it and caused their negative vote to be registered in the protocol of that meeting, as well as at the request of creditors who were absent for good reason from the creditors meeting or the votes of which were not recorded in the relevant protocol. The decision, except when it addresses the appointing of the judicial administrator/judicial liquidator may also be challenged for invalidity by the judicial administrator/judicial liquidator.

(8) The request referred to in par (7) shall be lodged with the court inclusively in electronic format within five (5) days from publication with the IPB of the protocol of creditors meeting and shall be decided upon in the council's

chamber, summoning the contender, the judicial administrator/judicial liquidator, as applicable, and the creditors. The parties shall be summoned and the documents shall be served to them through publication of the summons and documents in the IPB.

Art. 49

(1) Except when a special majority is required by the law, the creditors meetings shall be held in the presence of claims holders that hold at least 30% of the total amount of claims with voting right, and decisions of the creditors meeting shall be made by the positive vote expressly cast by the holders of the majority – in terms of amount – of claims with voting right, present in the meeting. Any conditional vote shall be deemed to be a negative vote. The creditors who validly voted by correspondence are deemed to be present in the meeting.

(2) The total amount of claims referred to in par (1) shall be calculated by reference to the following criteria:

a) After publication in the IPB of the preliminary table of claims and until publication in the IPB of the final table of claims, the value of claims verified and accepted by the judicial administrator, as results from the preliminary table of claims;

b) After publication in the IPB of the final table of claims and until confirmation of a reorganization plan or, where there is no confirmation of the reorganization plan, until publication of the final consolidated table of claims, the amount as results from the final table of claims;

c) After confirmation of the reorganization plan and until opening of the bankruptcy proceeding, according to the amount included in the payments schedule, as adjusted after payment of claims during the plan implementation;

d) After opening of the bankruptcy procedure and until publication of the final consolidated table of claims, the amount as results from the final table of claims as amended pursuant to payment of claims;

e) After publication in the IPB of the final consolidated table of claims, the amount as results from it.

(3) In the event that, further to the adoption of a creditors meeting's decision, the vote is found by a final court order to have been defective because a claim for which the holder had requested registration in the table of claims was either included in or removed from and the vote so flawed could have resulted in the adoption of a different decision, then and in such event the creditors meeting shall be convened again with the same agenda. If the new decision of the creditors meeting is different than the initial one, the syndic judge may decide the total or partial cancelation of the acts or operations performed based on the initial decision.

(4) Where some creditors' claims were fully or partially satisfied, a modification of the table of claims shall be operated accordingly, as the case may be. The table of claims, updated so as to reflect the amounts satisfied during the proceeding, shall be published simultaneously with the convening letter for the creditors meeting. Simultaneously with the opposition against the protocol of the creditors meeting the creditors may also oppose the table of claims published as stated, within the same terms and under the same conditions.

Art. 50

(1) The syndic judge may, depending on the number of creditors, appoint a committee comprised of 3 or 5 creditors, from among those with voting right, holding the privileged claims, the budgetary and unsecured claims that are largest in terms of amount. If, due to the small number of creditors, the syndic judge does not consider it necessary to form a creditors committee, then the duties thereof shall be performed by the creditors meeting.

(2) The creditors committee shall be appointed by resolution, after preparation of the preliminary table of claims.

(3) For the purposes of the proceeding, the syndic judge shall, based on the proposal of the creditors, appoint a chairman of the creditors committee. The creditors committee shall be summoned through the appointed chairman and in the absence thereof, through any of the members of the creditors committee.

(4) During the first creditors meeting the creditors may elect a creditors committee comprised of 3 or 5 creditors, from among the first 20 creditors with voting right, from among those holding the privileged claims, the budgetary and unsecured claims that are largest in descending order of value and who volunteer in this respect, and selection shall be made by cumulating these criteria based on the highest voting percentage from the value of claims present in the meeting. The committee appointed as stated shall replace the committee appointed previously by the syndic judge.

(5) Where required majority cannot be obtained, the committee appointed previously by the syndic judge shall be maintained. At the proposal of the judicial administrator/judicial liquidator or of the other members of the creditors committee, the syndic judge shall, by resolution, record the change in the composition thereof, so that the criteria referred to in par (4) are observed in all stages of the proceeding.

(6) During the proceeding, the syndic judge may request the creditors committee or a delegate thereof to assist it.

Art. 51

(1) The creditors committee has the following duties:

a) to analyze the debtor' standing and to make recommendations to the creditors meetings as regards the continuation of debtor's activity and the proposed reorganization plans;

b) to negotiate with the judicial administrator or the judicial liquidator who wishes to be appointed by the creditors the terms and conditions of its appointing;

c) to take note of the reports prepared by the judicial administrator or by the judicial liquidator, to analyze them and, if applicable, to file oppositions;

d) to prepare reports to be further presented to the creditors meeting in respect of actions implemented by the judicial administrator or the judicial liquidator and their consequences, and to propose other properly grounded actions;

e) to request removal of the debtors' right to manage its own business;

f) to file actions for cancelation of some fraudulent acts or operations made by the debtor to the prejudice of its creditors, according to article 117, par (1), whenever such actions were not initiated by the judicial administrator or the judicial liquidator.

(2) The creditors committee shall be held whenever necessary at the request of the judicial administrator or the judicial liquidator, as applicable, or at the request of any member of the creditors committee. The communication and vote shall be made by any means that assures conveyance of the text and confirmation of receipt thereof.
(3) The debates in the creditors committee shall take place in the presence of the judicial administrator/judicial liquidator and shall be recorded in a protocol summarizing the debates as well as the decisions made.
(4) The decisions in the creditors committee shall be made by the simple majority out of the total number of members thereof.
(5) Where a member of the creditors committee is, for personal reasons, in a conflict of interests with the collective interests of the creditors participating in the proceeding, it will refrain from voting, otherwise the decision of the creditors committee shall be canceled if, without its vote, the required majority had not been met. In this case, the cancelation of the decision does not preclude the liability of the creditor found to have been in a conflict of interests, for the prejudices caused to the debtor's estate by such fact.
(6) The actions, measures and decisions made by the syndic judge may be opposed to by any creditor before the syndic judge within five (5) days from publication of the protocol of the creditors committee in the IPB.
(7) Where a member of the creditors committee votes repeatedly being in a conflict of interests or repeatedly fails to be present without proper justification from the meetings of the creditors committee, at the request of any creditor, the syndic judge shall replace that member of the creditors committee, temporarily, until the creditors meeting confirms the temporary member or elects another member according to the criteria provided for in article 50, par (4).

§ 4 Special administrator

Art. 52 After the opening of the proceeding, the general meeting of shareholders/associates/members of the debtor shall, at the expenses of the debtor, appoint a special administrator.

Art. 53
(1) The general meeting of shareholders, associates or members of the legal entity shall be called by the judicial administrator or by the judicial liquidator in order to appoint the special administrator, within maximum 10 (ten) days from the notification on the opening of the insolvency proceeding by the temporary judicial administrator/judicial liquidator.
(2) The general meeting shall be chaired by the judicial administrator or judicial liquidator, as applicable. If the general meeting of shareholders/associates/members, called according to par (1) fails to appoint a special administrator, the debtor's right to manage its own business shall be removed, unless it had been already removed, and the debtor and its shareholders/associates/members, respectively, shall lose the rights recognized by the proceeding, which shall exerted through the special administrator.
(3) Where no special administrator was appointed, for the purposes of the petitions referred to in articles 117-122 or the ones resulting from the breach of article 84, the debtor shall be represented by a special trustee appointed from among the statutory management bodies holding office at the time of

opening of the proceeding. The special trustee shall be appointed by the syndic judge in the council's chamber without summoning the parties. In the event that later on the general meeting of shareholders/associates/members elects a special administrator, then the latter shall take over the proceeding as is on the date of its appointing.

Art. 54 The mandate of statutory directors terminates on the date the debtor's right to manage its own business is removed, or on the date the special administrator is appointed. The termination of mandate results in the obligation to hand over the management duties.

Art. 55 After the proceeding is opened and the special administrator is appointed, the general meeting of shareholders/associates/members suspends its activity and may be called at the request of the judicial administrator in the express and limited events referred to in this law.

Art. 56

(1) The special administrator has the following duties:
   a) To participate as representative of the debtor in the ruling of petitions referred to in articles 117-122 or the ones resulting from the breach of article 84;
   b) To file oppositions in the proceeding referred to in this law;
   c) To propose a reorganization plan;
   d) To coordinate the debtors' activity under supervision of the judicial administrator, after confirmation of the plan but only if the debtor's right to manage its own business was not removed;
   e) After the opening of bankruptcy, to participate in the stock taking, to sign the inventory list, to receive the final report and the financial statement for closing and to participate in the meeting called to settle the objections and to approve the report;
   f) To receive the notification on the closing of the proceeding.

(2) After the administration right is removed, the debtor is represented by the judicial administrator/judicial liquidator who will further manage its business activity and the mandate of the special administrator shall be limited to representing the interests of the shareholders/associates/members.

§ 5 Judicial administrator

Art. 57

(1) The interested insolvency practitioners shall submit an offer for the position of judicial administrator in the relevant file, enclosing the proof of their capacity to act as insolvency practitioner and a copy of the professional insurance policy. In its offer, the interested insolvency practitioner may also indicate its availability in terms of time and human resources, as well as its general or specific expertise required to take over the file and properly administer the matter. Where the debtor and the creditors, respectively, had no proposals and there is no such offer, the syndic judge shall, by randomly selecting an insolvency practitioner from the List of the National Union of Insolvency Practitioners of Romania, appoint a temporary insolvency practitioner to act until the first creditors meeting.

(2) In the first creditors meeting, the creditors that hold more than 50% of the total amount of claims with voting right may decide to appoint a judicial

administrator and to set its fee as well. Where the fee is going to be paid out of the funds established according to article 39, par (4), and the fee shall be determined based on the criteria provided for in Government emergency Ordinance 86/2006, republished, as further amended and supplemented. The creditors may decide to confirm the temporary judicial administrator or the temporary judicial liquidator and to set its fee. In this last case, the confirmation by the syndic judge shall no longer be necessary. The agenda of the first creditors meeting must necessarily include the confirmation/appointing of the judicial administrator/judicial liquidator as well as the setting of its fee.

(3) The creditor that holds more than 50% of the total value of claims may, without consulting the creditors meeting, decide to appoint a judicial administrator or a judicial liquidator in lieu of the temporary judicial administrator or temporary judicial liquidator or to confirm the temporary judicial administrator/the temporary judicial liquidator, as appropriate, and to set its fee.

(4) At any stage of the proceeding, the syndic judge may, of its own motion or based on a decision of the creditors meeting in this respect, adopted by the vote of more than 50 % of the total value of claims with voting right, replace the judicial administrator/the judicial liquidator, for justified reasons. The replacement shall be ruled upon in the council's chamber, expeditiously, summoning the judicial administrator and the creditors committee. The decision on replacement may be appealed within five (5) days from the service thereof.

(5) At any time during the proceeding, at the request of the judicial administrator/judicial liquidator, for properly grounded reasons, the syndic judge may allow the replacement thereof, after having analyzed the request. In this case, the syndic judge shall appoint another temporary judicial administrator/judicial liquidator according to article 45, par (1) letter d).

(6) The creditors may file opposition for invalidity with the syndic judge against the decision issued according to par (2) and (3), within five (5) days from the publication thereof in the IPB. The judge shall, expeditiously and at once, settle all oppositions by issuing a resolution appointing the designated judicial administrator/judicial liquidator or shall require the creditors meeting/the creditor to appoint another judicial administrator/judicial liquidator, as applicable.

(7) If the decision of the creditors meeting or of the creditor holding more than 50% of the value of claims is not opposed to within the term referred to in par (6), then the syndic judge shall issue a resolution appointing the judicial administrator proposed by the creditors or by the creditor holding more than 50% of the value of claims, provided that it meets the requirements of the law, and shall further order termination of the duties of the temporary judicial administrator appointed in the resolution or the sentence, as applicable, ordering the opening of the proceeding.

(8) The judicial administrator, whether it is an individual or a legal entity, including its representative, must be an insolvency practitioner according to the law.

(9) Before being appointed, the judicial administrator must produce the proof that it holds an adequate professional liability insurance by taking a valid insurance in this respect which shall cover the prejudices, if any, caused in fulfilling its duties. The insured risk must cover the consequences of the judicial administrator's activity during the exercise of its capacity.

(10) The judicial administrator is, under penalty of preclusion from holding that position and with the obligation to repair the prejudices, if any, forbidden to directly or indirectly reduce the value of the insured amount under the insurance contract.
(11) The insolvency practitioner, as body entrusted with application of the proceeding, may not be punished or bound to pay any court expenses, fines, damages or any other amounts ordered by the court of law or other authority, for acts or omissions attributable to the debtor.
(12) If the creditors meeting invalidated the judicial administrator/judicial liquidator before having set its fee, then, in respect of the activity conducted by it until replacement, the fee shall be determined by the syndic judge according to the criteria established in Government emergency Ordinance 86/2006, republished, as further amended and supplemented. If already collected, the fee approved temporarily by the court order appointing the practitioner shall be deducted from the approved amount.
(13) Where the decision ordering the opening of the proceeding is cancelled for whatever reason, the court that will cancel it shall decide on the practitioner's fee by applying the provisions of par (2) accordingly, and payment of the fee and of the proceeding expenses shall be borne by the defendant or the plaintiff, according to the Civil Procedure Code provisions concerning court expenses.
(14) In the event that the creditors meeting validates the judicial administrator/the judicial liquidator but does not approve the fee offer thereof, then the judicial administrator/the judicial liquidator may accept the fee voted by the creditors or shall re-call the meeting within maximum thirty (30) days in order to negotiate with the creditors and discuss the fee. Where the offer of the judicial administrator/judicial liquidator is again denied by the creditors in such second meeting, then the judicial administrator/judicial liquidator may declare its withdrawal. In case of withdrawal, the judicial administrator/judicial liquidator shall call a new meeting within maximum thirty (30) days in order to appoint the new judicial administrator/judicial liquidator. If in such newly called meeting, no other judicial administrator/judicial liquidator is appointed, the chairperson of the creditors' committee or, if a committee has not been set up, a creditor designated by the creditors' meeting, shall request the syndic judge to appoint a temporary judicial administrator/judicial liquidator within maximum five (5) days from the date of the meeting. The syndic judge shall appoint a temporary judicial administrator/judicial liquidator within five (5) days from the notice, in the council's chamber. The provisions of par (1) shall apply accordingly.

Art. 58

(1) The main duties of the judicial administrator under this chapter are:
   a) To examine the economic standing of the debtor and the documents filed according to articles 67 or 74, as applicable, and to prepare a report recommending either the opening of the simplified proceeding or the continuation of the observation period within the general proceeding and to submit the report for approval to the syndic judge within the timeframe set by the latter, but which cannot exceed twenty (20) days from the appointing of the judicial administrator.
   b) To examine the debtor's activity and prepare a detailed report on the causes and circumstances that resulted in insolvency, adding the preliminary indications or elements, if any, concerning the persons to

whom insolvency might be attributable to and the existence of premises for them to be held liable according to articles 169-173, as well as on the actual possibility for reorganization of the debtor's activity or on the grounds that do not allow reorganization, and to file the report with the syndic judge within a term set by the latter but which cannot exceed forty (40) days from appointing of the judicial administrator;

c) To prepare the documents listed in article 67, par (1), in the event that the debtor failed to fulfill its obligation within the statutory terms, and to verify, rectify and supplement the information contained in those documents, whenever they had been presented by the debtor;

d) To elaborate the reorganization plan for the debtor's activity depending on the content of the report mentioned at letter a);

e) To monitor the management activities in connection with the debtor's estate;

f) To fully or partially coordinate the debtor's activity and in this last case to observe the express instructions of the syndic judge concerning its duties and the conditions for payments to be made out of the debtor's estate;

g) To call, chair and assure the secretarial works of the creditors meetings or of the general meeting of shareholders, associates or members of the debtor legal entity;

h) To file petitions for cancelation of fraudulent acts or operations made by the debtor to the prejudice of the creditors rights, as well as for cancelation of some patrimonial transfers, trading operations concluded by the debtor and of securities established by the latter, which are likely to prejudice the creditors rights;

i) To expeditiously notify the syndic judge in the event that it finds there are no assets in the debtor's estate or that they are insufficient to cover the proceeding expenses;

j) To terminate some contracts concluded by the debtor;

k) To verify the claims and, where applicable, to file objections against them, to notify creditors in the event that the claims are not registered or are partially registered, as well as to prepare the table of claims;

l) To collect claims; to monitor the collection of claims concerning the assets in the debtor's estate or the amounts transferred by the debtor before the opening of the proceeding; to file and produce evidence for the petitions for claims intended to collect the debtor's claims, being entitled to retain attorneys at law in this respect;

m) To enter into agreements, to discharge debts, to discharge the fidejussors, to waive securities in real property, subject to confirmation of these operations by the syndic judge;

n) To notify the syndic judge about any issue that may require a decision thereof;

o) To perform the stock taking of the debtor's assets;

p) To order the valuation of debtor's assets so as to allow it to be ready until the date scheduled for filing of the final table of claims;

q) To forward for publication in the IPB the announcement concerning the filing of the valuation report, within two (2) days from the filing.

(2) The syndic judge may, by resolution, add any duties for the judicial administrator, other than the ones referred to in par (1), except for those which according to the law fall exclusively on the syndic judge' scope of competence.

Art. 59

(1) The judicial administrator shall file a monthly report describing the manner in which it fulfilled its duties, the evidence of expenses incurred in connection with the proceeding or other payments made from the funds existing in the debtor's estate, as well as, if applicable, the status of the stock taking. The report shall also indicate the fee collected by the judicial administrator, specifying the calculation formula thereof.

(2) The report shall be filed with the court and an excerpt thereof shall be published in the IPB.

(3) The syndic judge shall, every 120 days, review and issue its opinion as to the status of continuation of the proceeding, in a resolution by which it may entrust the judicial administrator with certain tasks and in which he shall appoint a date for administrative control or trial hearing, as appropriate.

(4) In the event that there are contentious or non-contentious petitions, as well as where the syndic judge considers it necessary, it shall order the expedite summoning of the persons concerned and of the judicial administrator in order to settle such petitions or to order the requisite actions.

(5) The debtor who is an individual, the special administrator of the debtor who is a corporate entity, any of the creditors, as well as any other concerned person may file opposition against the actions ordered by the judicial administrator.

(6) The opposition must be filed within seven (7) days from publication in the IPB of the excerpt referred to in par (2).

(7) The syndic judge shall rule on the opposition within fifteen (15) days from its filing, in the council's chamber, summoning the contender, the judicial administrator and the creditors committee and it may, at the request of the contender, suspend the enforcement of the contended action. The suspension shall be ruled upon in the council's chamber, immediately, without summoning the parties.

(8) The fee of the judicial administrator shall be paid based on the protocol of the creditors meeting deciding on the amount thereof, based on the decision published in the IPB or based on the court order in the events that a temporary fee was ordered by the syndic judge.

Art. 60

(1) In the event that a judicial administrator appointed by resolution issued in the council's chamber without summoning the parties refuses the appointing, it has the obligation to notify the court of law within five (5) days from the service thereof. The syndic judge shall apply a judicial fine of 500 lei up to 1,000 lei for the failure to communicate the refusal in due time, without proper grounds. The syndic judge shall take note of the refusal of the insolvency practitioner and shall appoint another insolvency practitioner to act as temporary judicial administrator. Where the debtor and the creditors, respectively, had no proposals and there is no such offer, the syndic judge shall, by randomly selecting an insolvency practitioner from the List of the National Union of Insolvency Practitioners of Romania, appoint a temporary insolvency practitioner to act until the first creditors meeting.

(2) The syndic judge shall apply a judicial fine of 1,000 lei up to 5,000 lei to the judicial administrator who, by fault or in bad faith, fails to fulfill or delays fulfillment of its duties under this law or entrusted by the syndic judge.

(3) If, by the actions referred to in par (2), the judicial administrator caused a prejudice, the syndic judge may, at the request of any concerned party, compel the judicial administrator to repair the prejudiced caused.
(4) In case of fines and damages referred to in par (1) and (2), and of the damages referred to in par (3), respectively, the provisions of articles 190 and 191 of the Civil Procedure Code shall apply accordingly.

Art. 61 In order to fulfill its duties, the judicial administrator may retain professionals, such as attorneys, expert accountants, valuators or other specialists. The appointing and fee amount for these persons shall be subject to approval of the creditors committee in the event that they are going to be paid out of the debtor's estate or to the rate standards determined by the National Union of Insolvency Practitioners of Romania according to the provisions of Government emergency Ordinance 86/2006, republished, as further amended and supplemented, in the event that they are going to be paid from the liquidation fund established according to article 39, par (4).

Art. 62
(1) The judicial administrator as well as any of the creditors may file objections against the valuation reports prepared in the matter.
(2) The objections shall be filed within maximum five (5) days from publication in the IPB of an announcement concerning the filing of the valuation report to the court.
(3) The syndic judge shall rule on such objections within maximum fifteen (15) days from their filing, summoning the contender, the judicial administrator and the members of the creditors' committee.
(4) While admitting the request, the syndic judge shall compel the valuator, under penalty of a fine, to answer to the permitted objections within maximum five (5) days from receipt of a letter in this respect from the court of law.
(5) For proper grounds, as well as in the event that the answer to objections is not satisfactory, the syndic judge may order, of its own motion or at request, that a new valuation is conducted. The syndic judge shall homologate one of the valuation reports.
(6) In the event that the operations for which it is necessary to retain specialists are mandatory operations required by the law, such as, but not limited to, document archiving, mandatory environmental and audit reports and the like, if the judicial administrator/judicial liquidator's proposals are rejected by the creditors committee, then and in such event the committee shall be called again within maximum seven (7) days, in order for the members thereof to propose and appoint a specialist and approve its fee as well. In the event that the two committees fail to appoint a specialist the insolvency practitioner shall be entitled to appoint the specialist that submitted the best technical and financial offer from among those presented in the two committees.

§ 6 Judicial liquidator

Art. 63
(1) If the syndic judge orders the opening of bankruptcy it shall appoint a judicial liquidator and the provisions of articles 57, 59-62 and 140, par (6), shall apply accordingly.
(2) The duties of the judicial administrator terminate at the time the duties of the judicial liquidator are established by the syndic judge.

(3) The judicial administrator appointed previously may be appointed judicial liquidator.

Art. 64 The main duties of the judicial liquidator under this chapter are:

a) To examine the activity of the debtor against which the simplified proceeding is commenced, by reference to the state of facts, and prepare a detailed report on the causes and circumstances leading to insolvency, indicating the persons to whom insolvency might be attributable to and the existence of premises for them to be held liable, subject to articles 169-173, within a term set by the syndic judge but which cannot exceed forty (40) days from appointing of the judicial liquidator, unless a report on this matter had been previously prepared by the judicial administrator;
b) To run the debtor's activity;
c) To file petitions for cancelation of fraudulent acts and operations concluded by the debtor to the prejudice of its creditors' interests, as well as of some patrimonial transfers, trading operations concluded by the debtor and of the causes of privilege created by the latter, which are likely to prejudice the creditors rights;
d) To apply seals, to perform the stock taking and to take the necessary actions for the conservation of debtor's assets;
e) To terminate contracts concluded by the debtor;
f) To verify the claims and, where applicable, to file objections to them, to notify creditors in the event that the claims are not registered or are partially registered, as well as to prepare the table of claims;
g) To monitor the collection of claims in debtor's assets resulting from transfers of assets or of money performed by the debtor before the opening of the proceeding; to collect claims; to file and produce evidence for the petitions for claims in order to collect the debtor's claims, being entitled to retain attorneys at law in this respect;
h) To collect payments on behalf of the debtor and to deposit them on account of the debtor's estate;
i) To sell assets from the debtor's estate according to the provisions of this law;
j) Subject to confirmation by the syndic judge, to enter into agreements, to discharge debts, to discharge the fidejussors, to waive securities in real property;
k) To notify the syndic judge about any issue that may require a decision thereof;
l) To perform any other duties entrusted to it by resolution of the syndic judge.

Section 3 – Opening of the Proceedings and Effects

§ 1 Petitions for Opening of the Insolvency Proceeding

Art. 65

(1) The proceeding shall commence based on a petition filed with the tribunal by the debtor or by one or several of its creditors, as well as by any other persons or institutions expressly mentioned by the law.
(2) The Financial Supervisory Authority files a petition for opening of the insolvency proceeding against the entities governed and monitored by it,

which, according to the available data, meet the criteria provided for in special regulations for the proceeding referred to herein to be commenced.

Art. 66

(1) The debtor undergoing insolvency has the obligation to file a petition with the tribunal in order to be subject to the provisions herein, within maximum thirty (30) days from occurrence of insolvency. The petition lodged with the court shall be accompanied by the proof of notification to the qualified tax bodies about the intended opening of the insolvency proceeding.

(2) If, on the date of expiry of the term set out in par (1), the debtor is involved in out of the court good faith negotiations aimed at restructuring its debts, it has the obligation to file with the court a petition in order to be subject to the provisions of this law, within five (5) days from failure of negotiations.

(3) If, during the negotiations conducted during an ad-hoc mandate or preventive concordat proceeding the debtor comes to be insolvent, but there are serious indications that the results of negotiations may be leveraged on a short term basis by conclusion of an out of the court settlement agreement, then, the debtor must in good faith file a petition for the opening of the insolvency proceeding subject to the terms and in the period referred to in par (2). Otherwise, the debtor must file the petition for opening of the insolvency proceeding within thirty (30) days from the occurrence of insolvency.

(4) The debtor for which insolvency is imminent is entitled to file with the tribunal a petition for opening of the insolvency proceeding according to this title.

(5) The petitions filed by legal entities must be signed by the persons who, according to the corporate documents, are entitled to represent them with no decision of the shareholders/associates being necessary in this respect. Where the debtor applies for the simplified proceeding, it shall also submit the decision of the general meeting of shareholders/associates in this respect.

(6) Upon registering a petition, the registry office shall check of its own motion whether other petitions are pending for the opening of proceedings, previously filed by the creditors. If petitions were indeed registered by creditors, the debtor's petition shall be tried in non-contentious proceeding, and in the same resolution the judge shall order the joinder of the creditors' petitions, which in the event that proceeding is opened, shall become statements of claims, and if the debtor's petition is dismissed shall be dealt with according to article 72 et seq.

(7) If, after the debtor's petition is registered, but before it is dealt with, petitions for the opening of proceeding are submitted by creditors, they shall be registered directly under the case file formed for the petition made by the debtor. To this end, the registry office shall, of its own motion, conduct verifications at the date of registration of those petitions, and shall register them in the case file opened for the debtor's petition. In this case, the debtor's petition shall be dealt with in non-contentious proceeding. If it is approved, the creditors' petitions shall be deemed as statements of claims, and if it is dismissed, the creditors' petitions shall be dealt with according to article 72 et seq.

(8) If the insolvency proceeding is opened, the claims under the motions for opening of the insolvency proceeding which become statements of claims may be updated with collaterals calculated until the opening date, within the statutory term set for filing of such statements, according to the provisions of article 102.

(9) The premature, bad faith filing by a debtor of a petition for opening of the insolvency proceeding results in the vicarious liability of the debtor – individual or legal entity – for the \hcprejudices caused.

(10) The debtor's petition shall be ruled upon expeditiously, within ten (10) days, in the council's chamber, without summoning the parties. By way of exception from the provisions of article 200 of the Civil Procedure Code, the syndic judge shall set the hearing in the council' chamber, within ten (10) days from filing, even if the petition does not meet all legal requirements and not all documents were submitted. Where, at the date when the debtor filed its petition, there are previous petitions filed by creditors, the provisions of par (6), second sentence, shall be applied accordingly.

(11) After filing the petition for opening of the insolvency proceeding, in case of emergency when the debtor's assets are threatened, the syndic judge may expeditiously order, in the council's chamber and without summoning the parties, the temporary suspension of any forced execution procedures against the debtor's assets until a decision is issued on connection with that petition.

Art. 67

(1) The debtor's petition must be accompanied by the following documents:

a) The last annual financial statement certified by the director and by the auditor, the trial balance for the month preceding the date of filing of the petition for opening of the insolvency proceeding;

b) The full list of all debtor's assets, including all accounts and banks through which debtor runs its funds; as far as the encumbered assets are concerned, the data from the publicity registers shall be indicated;

c) A list of names and addresses of creditors, irrespective whether their claims are undisputed or conditional, liquid or non-liquid, due and payable or not, contested or not, with an indication as to the amount, cause and preferential rights;

d) A list of payments and patrimonial transfers made by the debtor over the last six (6) months before the filing of the petition;

e) The profit and loss account for the year before the filing of the petition;

f) A list of the members of the economic interest group or, as applicable, of unlimited liability shareholders, for general partnerships and limited partnerships;

g) A statement of the debtor expressing its intention to open the simplified proceeding or the reorganization, according to a plan, by activity restructuring or by liquidation in full or in part of its estate in order to satisfy its liabilities;

h) A brief description of the actions it intends to take in order to restructure its activity;

i) An affidavit to be authenticated by the notary public or certified by a lawyer or a certificate issued by the register of agricultural companies or the office of the trade register or other registers in the jurisdiction of which the professional domicile/corporate seat of the debtor is located, as applicable, stating whether the debtor has been subject to the judicial reorganization proceeding referred to herein over the last five (5) years before filing the petition;

j) An affidavit to be authenticated by the notary public or certified by a lawyer confirming that the debtor or its directors, officers and/or shareholders/associates/general partners who control the debtor were

not finally sentenced for a crime committed intentionally against the debtor's estate, for corruption, for a job-related crime, for forgery, as well as for the crimes referred to in Law 22/1969, as further amended, in Law 31/1990, republished, as further amended and supplemented, in Law 82/1991, republished, as further amended and supplemented, in Law 21/1996, republished, as further amended and supplemented, in Law 78/2000, as further amended and supplemented, in Law 656/2002, republished, as further amended, in Law 571/2003, as further amended and supplemented, in Law 241/2005, as further amended, and the crimes referred to herein, over the last five (5) years before the opening of the proceeding herein;

k) A certificate of acceptance for listing on a regulated market, in respect of the securities or other financial instruments issued by the debtor;

l) A statement of the debtor as to whether it is a member of a group of companies, indicating the companies;

m) The proof on the Unique Registration Code;

n) The proof of the notification to the qualified tax body.

(2) The documents referred to in par (1) shall be filed simultaneously with the petition for opening of the proceeding or the latest on the date of the hearing as decided by the syndic judge. The failure to lodge the documents referred to in par (1) letters a)-g), k), l), m), results in the rejection of the petition for opening of the proceeding except for the events referred to in article 38, par (2), letter c) and d), as well as except for the event in which the petition for opening of the proceeding is filed by the liquidator appointed in the liquidation proceeding referred to in Law 31/1990, republished, as further amended and supplemented. The failure to lodge the documents referred to in letters h), i) and j) results in the preclusion to submit a reorganization plan.

Art. 68

(1) Where a petition is filed by a general partnership or a limited partnership, that petition shall not be deemed to have been filed by the unlimited liability partners as well or, according to article 70, against them as well.

(2) A petition filed by an unlimited liability partner or against it for its debts shall be ineffective as regards the general partnership or the limited partnership which it is part of.

(3) The provisions of par (1) and (2) apply accordingly to petitions filed by the economic interest groups or by the members thereof.

Art. 69 The debtors – legal entities – which, over the last five (5) years before the opening of the insolvency proceeding have already been subject to a judicial reorganization proceeding, are not entitled to file for a petition for judicial reorganization.

Art. 70

(1) Any creditor entitled to request opening of the insolvency proceeding referred to herein may file a petition for the opening of proceedings against a debtor presumed to be insolvent, indicating:

a) The amount and grounds of the claim;

b) The existence of a preferential right created by the debtor or according to the law;

c) The existence of preventive measures in the debtor's assets;

d) A declaration as to its intention, if any, to participate in the reorganization of the debtor, in which case it shall have to specify, at least basically, the manner in which it understands to participate in the reorganization.

(2) The creditor shall enclose the documentary evidence of its claim and of the deeds whereby causes of privileges were established. The creditor shall also produce the proof of the debtor's Unique Code of Registration.

(3) If, between the times a petition is filed by a creditor and the time the petition is ruled upon, other creditors file petitions against the same debtor, the tribunal shall, through its registration office and automatically on the date of filing, verify whether a file is formed in this respect and shall record the petition in the existing file. The syndic judge shall determine whether the conditions are met in respect of the minimum amount of claims by reference to the total amount of the claims of all creditors that have lodged petitions and subject to the threshold value mentioned herein, and shall communicate the petitions to the debtor.

(4) The creditors shall lodge their petition for the opening of insolvency proceedings directly with the file having as object the debtor's request or, if there is no such request, to the file having as object the petition of another creditor, for which a shorter term was provided.

(5) The creditor that lodged a petition for opening of the insolvency proceeding may, in case of emergency and until the petition is ruled upon, require the syndic judge to issue an interlocutory injunction ordering temporary measures for the purpose of suspending the sale of estate assets or rights which are of the essence for the debtor's estate, under the penalty of nullity, as well as measures for the conservation of such assets.

(6) The petition referred to in par (5) shall be expeditiously ruled upon in the council's chamber, without summoning the creditor that lodged the petition and without summoning the debtor. The measure shall be temporarily permitted, until a decision is issued in respect of the petition for the opening of the proceeding. The creditor may be compelled to pay a bond of up to 10% of the amount of its claim, which may be used by the debtor to cover the prejudices caused in the event that the petition for opening of the proceeding is rejected.

§ 2 Opening of the Proceeding and its Effects

Art. 71

(1) Where the petition of the debtor meets the requirements referred to in article 66, the syndic judge shall issue a resolution ordering the opening of the general proceeding and, where by the statement made according to article 67, par (1), letter g), the debtor expresses its intention to open the simplified proceeding, or falls under one of the categories referred to in article 38, par (2), then the syndic judge shall issue a resolution ordering the opening of the simplified proceeding. The minutes of the resolution ordering the opening of the insolvency proceeding shall be promptly communicated to the temporary judicial administrator/temporary judicial liquidator appointed by the syndic judge.

(2) In its resolution ordering the opening of the proceeding the syndic judge shall order the judicial administrator/the judicial liquidator to make the notifications referred to in article 100. In the event that, within ten (10) days from receipt of the notice, the creditors object to the opening of the proceeding, the syndic

judge shall, within five (5) days, organize a meeting summoning the judicial administrator/judicial liquidator, the debtor and the creditors that object to the opening, in which a single resolution shall be issued to settle all oppositions at once. In admitting the opposition, the syndic judge revokes the resolution ordering the opening of the proceeding.

Art. 72

(1) Where a petition for opening of the insolvency proceeding was filed by the creditor, the syndic judge may, by resolution, at the request of the debtor filed within the term set out in par (3), compel the creditor to deposit in a bank a bond of up to 10% of the value of its clam, but no more than 40,000 Lei. The bond shall be deposited within five (5) days from the communication of this measure, under the penalty of rejection of the petition for the opening of proceedings.

(2) Within forty eight (48) hours from registration of the creditor' petition, the court shall communicate it to the debtor and to the qualified tax bodies.

(3) Within ten (10) days from receipt of the petition, the debtor must either oppose to or admit the existence of insolvency. For the purposes of the opposition, the parties shall only be allowed to use the proof consisting in written instruments.

(4) Where the syndic judge determines that the debtor is not insolvent, it will reject the creditor's petition which shall be considered ineffective ever since its registration. In this case, the bond shall be used to cover the damages incurred by the debtor for the creditor having filed such a petition in bad faith, according to the instructions of the syndic judge.

(5) Where the claim of the creditor applying for the opening of the proceeding is satisfied before the debates are closed, the syndic judge shall state the absence of object of the petition and the bond shall be remitted accordingly.

(6) Where the debtor fails to satisfy the creditor's claim until the debates are closed, and the syndic judge determines that the debtor is insolvent, it shall admit the petition for opening of the proceeding lodged by the creditor and shall open either the general insolvency proceeding or the simplified proceeding, as the case may be. In this case the bond shall be remitted to the creditor.

Art. 73 In its sentence ordering the opening of the general proceeding, the syndic judge shall appoint a temporary judicial administrator and in its sentence ordering the opening of the simplified proceeding, it shall appoint a temporary judicial liquidator, and shall order them to make the notifications referred to in article 100. Appointing shall be made in accordance with article 45, par (1) letter c), corroborated with article 57, par (1). The provisions of article 60 remain applicable.

Art. 74 Within ten (10) days from opening of the proceeding, the debtor has the obligation to lodge with the court the papers and information referred to in article 67, par (1).

Art. 75

(1) As of the opening of the proceeding, all court actions, out of the court actions, or forced execution procedures for the recovery of claims against the debtor's estate shall be suspended. The creditors' rights may be recovered only through the insolvency proceeding, by lodging proofs of debt. Their claims

may be re-docketed only if the decision ordering the opening of the proceeding is cancelled, the resolution ordering the opening of the proceeding is revoked or the proceeding is closed according to article 178. Where the decision to open the proceeding is canceled or revoked, as appropriate, the court actions or out of court actions for recovery of claims against the debtor's estate may be re-docketed and the forced execution measures may be resumed. On the date the decision to open the proceeding remains final the court action or out of court action as well as the forced executions are suspended.

(2) The following are not subject to the lawful suspension referred to in par (1):
   a) The remedies at law used by the debtor against the actions of a creditor/or creditors commenced before the opening of the proceeding, as well as the civil actions in criminal law suits against the debtor;
   b) The court actions filed against co-debtors and/or third party guarantors.

(3) The court actions intended to determine the existence and/or amount of some claims against the debtor arising after the opening of the proceeding are not subject to the suspension referred to in par (1). As far as these actions are concerned, a motion for payment may be filed during the observation and reorganization period that shall be looked into by the judicial administrator, subject to the provisions of article 106, par (1) which shall apply accordingly, and these claims shall not be recorded in the table of claims. An opposition may be filed against the measure ordered by the judicial administrator, in accordance with article 59 pars (5), (6) and (7).

(4) The holder of a current, undisputed, liquid and payable claim that was recognized by the judicial administrator or by the syndic judge according to par (3) of this article and the amount of which exceeds the threshold value may, during the observation period, request the opening of the bankruptcy proceeding of the debtor if these claims are not paid within sixty (60) days from the date then the judicial administrator ordered the measure or from the decision of the court of law. The provisions of article 143 par (2) and par (3) shall apply accordingly.

(5) Where some of debtor's assets were already adjudicated and amounts were already blocked pursuant to forced execution procedures conducted before the opening of the proceeding, the execution bodies shall transfer the corresponding amounts in the account referred to in article 39, par (2), minus their fee and the other execution expenses incurred; the debtor shall preserve all rights under that procedure;

(6) The proceeds resulting from forced executions shall be distributed by the judicial administrator/judicial liquidator to the creditors holding a privilege cause in the adjudicated assets within thirty (30) days, even during the observation period. These amounts shall not be allotted to payment of the fee and expenses related to the insolvency proceeding.

(7) The amounts existing in the debtor's account on the date of opening of the proceeding and in which a lien has been established, as well as the cash collaterals, shall be distributed at the simple request of the creditor by the judicial administrator/judicial liquidator to the creditor holding the lien, in order to satisfy the latter's due and outstanding claims, within five (5) days from request of the creditor. Where amounts are associated to an escrow account, in case of opposition, the amounts shall be transferred in the account referred to in article 39 after the syndic judge verifies that the substantive conditions of the contract were fulfilled.

(8) The amounts existing in the debtor's account on the date of opening of the proceeding and in which a lien has been established, as well as the cash collaterals, shall be distributed at the simple request of the creditor by the judicial administrator/judicial liquidator to the creditor holding the lien, in order to satisfy the latter's due and outstanding claims, within five (5) days from request of the creditor. Where amounts are associated to an escrow account, in case of opposition, the amounts shall be transferred in the account referred to in article 39, par (2), after the syndic judge verifies that the substantive conditions of the contract were fulfilled [se repeta].

(9) In order to assure the funds necessary to allow the debtor to continue its current activity during the observation period, the amount that form the subject of causes of privilege referred to in this article may be used by the judicial administrator with the approval of the creditor holder of the lien. Where such approval is denied, the syndic judge may authorize the use of these amounts by granting the proper protection to the creditor holding the lien, according to the provisions of article 87, par (3).

Art. 76 In order to apply the provisions of article 75, the syndic judge shall, in its decision to open the proceeding, order the communication thereof to the courts of law with jurisdiction on the debtor's seat declared with the relevant trade register and to all banks where the debtor has accounts opened.

Art. 77

(1) No supplier of services – electricity, gas, water, telephone, or the like – is entitled, for the entire observation period and during the reorganization period, to change, refuse or temporarily suspend the supply of such services to the debtor or to its estate, if the debtor is a captive consumer according to the law.

(2) For services supplied according to par (1), the debtor has the obligation to pay the price thereof and it shall benefit of a ninety (90) day term for this. Where the contracts that the debtor had concluded with the services suppliers referred to in par (1) provide for a shorter than ninety (90) day term, such term shall be adjusted accordingly from the date of opening of the insolvency proceeding.

(3) The failure to observe the obligations to supply utilities, in the event that the contract is maintained in full force and effect under this law, results in liability for the prejudices caused to the debtor's estate and the application of a judicial fine of 10,000 – 30,000 Lei per breach of obligations, provided that the utilities supplier shall have been previously notified about the opening of the proceeding according to article 42 par (3). The failure to remedy such breach or to comply with the obligation to resume supply of utilities within maximum ten (10) calendar days from the notice received in this respect from the judicial administrator or judicial liquidator is deemed to represent a new breach and shall be punished with a new fine.

(4) Notwithstanding the provisions of par (2) above, if the debtor fails to pay the claims arising after the opening of the insolvency proceeding in connection with services rendered within the term set out in par (2), the utilities supplier is entitled to suspend the supply of services.

(5) The supply of the services shall be resumed after payment of the claims arising after the opening of the insolvency proceeding.

(6) The debtor undergoing insolvency proceeding may not be precluded from participating in public tenders on the ground that the insolvency proceeding was opened against it.

Art. 78

(1) The creditor – holder of a claim which benefits of a cause of privilege may request the syndic judge, summoning the creditors committee, the special administrator and the judicial administrator, to remove the suspension referred to in article 75, par (1), in respect of its claim and to immediately sell the asset affected by a cause of privilege within the proceeding, by applying accordingly the provisions of articles 154-158 and subject to payment of the expenses referred to in article 159, par (1), indent 1, out of the price obtained, in one of the following events:

A. When the value of the encumbered asset, as determined by a valuator according to the international valuation standards, is fully covered by the total value of claims and parts of claims secured with that asset, if:
   a) The encumbered asset is not of the essence for the success of the proposed reorganization plan;
   b) The encumbered asset is part of a functional ensemble and by removing it and selling it separately the value of the remaining goods is not reduced;

B. When there is no proper protection of the secured claim by reference to the encumbered asset, because:
   a) Of the reduction in the value of the encumbered asset or the existence of a real risk that such value is significantly diminished;
   b) Of the reduction in the value of the secured part of a lower ranking claim, pursuant to accrual of interests, increases and penalties of any kind applicable to a higher ranking claim;
   c) Of the absence of insurance of the encumbered asset for loss or destruction.

(2) In the events referred to in par (1) letter (B), the syndic judge may deny the petition for removal of suspension filed by the creditor, if the judicial administrator/the debtor offers in exchange the adoption of one or several measures meant to offer proper protection to the secured claim of the creditor such as:

a) Making payments from time to time in favor of the creditor in order to cover the reduction in the value of the encumbered asset or in the value of the secured part of a lower ranking claim;
b) Making payments from time to time in favor of the creditor in order to cover the interests, increases and penalties of whatever nature, and for reduction of the claim's capital below the reduction quota in the value of the encumbered asset or in the value of the secured part of a lower ranking claim, respectively;
c) Novating the securing obligation by creating an additional security interest in real or personal property, or by substituting the encumbered asset with another asset.

(3) In attempting at removing the suspension, the creditor must produce proof supporting the fact referred to in par (1) letter (A) point b), while the burden of proof to the contrary and to the other elements, respectively, falls on the debtor/the judicial administrator or other concerned person.

(4) The value of the asset affected by a cause of privilege shall be determined by valuation to be performed by a valuator appointed according to article 61.

Art. 79 The opening of the proceeding suspends any periods of limitations applicable to the actions referred to in article 75, par (1).

Art. 80

(1) No interest, increase or penalty of whatever nature or expense, generically termed *accessory expenses*, may be added to the claims arising before the date of opening of the proceeding, except for the situations referred to in article 103.

(2) Where a reorganization plan is confirmed, the interests, increases or penalties of whatever nature or accessory expenses for the obligations arising after the date of opening of the general proceeding shall be paid according to the documents they result from and to the payments schedule. Where the plan is unsuccessful, they shall continue to be due until the opening of bankruptcy.

Art. 81

(1) Pursuant to the opening of the proceeding and until the confirmation of the reorganization plan, the shares of the issuing companies, according to Law 297/2004, as further amended and supplemented, are suspended from trading starting on the date of receipt of the communication by the Financial Supervisory Authority.

(2) On the date of receipt by the Financial Supervisory Authority of the notification concerning the opening of the bankruptcy, the securities shall be withdrawn from the regulated market where they are listed.

Art. 82

(1) The debtor has the obligation to make available to the judicial administrator/judicial liquidator and the creditor holding at least 20% of the total amount of claims recorded in the final table of claims, all information and documents considered necessary in respect of its activity and estate, as well as the list of payments made over the last six (6) months before the opening of the proceeding and the patrimonial transfers made over the last two (2) years before the opening of the proceeding, under the sanction of being precluded from managing its own business.

(2) Failure by the persons in charge to provide the judicial administrator/judicial liquidator with the information and documents as stated entitles the syndic judge to apply the fines referred to in article 60, par (2), accordingly.

Art. 83

(1) After the decision ordering the opening of the proceeding remains final, all documents and correspondence issued by the debtor, the judicial administrator or the judicial liquidator must necessarily indicate in a visible manner in Romanian, English and French, the indication: "*în insolvenţă, in insolvency, en procédure collective*".

(2) After opening of the judicial reorganization or the bankruptcy, the documents and correspondence shall, according to par (1), be marked "*în reorganizare judiciară, in judicial reorganization, en redressment*" or "*în faliment, in bankruptcy, en faillite*", as the case may be. After the opening of the simplified procedure they shall also be marked "*în faliment, in bankruptcy, en faillite*".

(3) Where the debtor holds or administers one or several internet pages, its management bodies are bound to post on the debtor's own internet pages, within twenty four (24) hours from service of the decision ordering the opening of the proceeding, the information concerning the company' condition as well as the number date and court of law having issued the decision.
(4) The prejudices incurred by good faith third parties pursuant to the failure to observe the obligations under par (1) to (3), shall be repaired solely by the persons who concluded the acts as valid representatives of the debtor, without prejudice to the debtor's estate.

Art. 84

(1) Except as provided in article 87, the cases authorized by the syndic judge or approved by the judicial administrator, all acts, operations and payments made by the debtor after the opening of the proceeding are lawfully void.
(2) The special administrator appointed in an insolvency proceeding shall be held liable for the breach of article 87 and the syndic judge, at the request of the judicial administrator, of the creditors meeting, filed by the chairman of the creditors committee or by another creditor appointed by it, or at the request of the creditor holding 50% of the amount of claims registered in the table of claims, may order that part of the liabilities so caused is borne by the special administrator, without exceeding the prejudice which has a cause-effect relation with the acts or operations so conducted.
(3) The debtor and/or the judicial administrator, as applicable, is/are bound to prepare and keep a list of all collections, payments and offsets made after the opening of the proceeding, indicating the nature and amount thereof and the identification data of counterparties.

Art. 85

(1) The opening of the proceeding results in removal of debtor's right of administration – consisting in the right to manage its own business, to administer the assets in its estate and to dispose of them, unless it has declared its intention to be reorganized according to article 67, par (1) letter g). The removal of the administration right shall also be ordered in the event that the debtor failed to declare its intention to be reorganized within the term set out in article 74.
(2) Except as expressly stated by the law, the provisions of par (1) are also applicable to the assets that the debtor acquires after the opening of the proceeding.
(3) The syndic judge may order the removal in full or in part of the debtor's right of administration while appointing a judicial administrator, and shall simultaneously indicate the terms and conditions for exercise of the management of debtor's activity.
(4) The debtor's right of administration lawfully ceases as of the date when the opening of the bankruptcy is ordered.
(5) The creditors, the creditors committee or the judicial administrator may at any time revert to the syndic judge and require it to remove the debtor's right of administration provided that proof is produced that losses continue to affect the debtor's estate or there is no likelihood of achieving a reasonable business plan.

(6) The syndic judge shall, within fifteen (15) days, examine the request referred to in par (5), in a meeting for which the judicial administrator, the creditors committee and the special administrators shall be summoned.
(7) As of the opening of the bankruptcy, the debtor may only carry out the activities which are necessary for the liquidation operations.

Art. 86

(1) The syndic judge shall, by its sentence or resolution, as applicable, ordering the removal of the debtor's right of administration, instruct all banks where the debtor has accounts opened, not to dispose of the existing amounts in the absence of an instruction in this respect from the judicial administrator/judicial liquidator. The judicial administrator/judicial liquidator shall expeditiously notify the banks about this interdiction.
(2) The failure to abide by the interdiction notified by the judicial administrator/judicial liquidator results in the bank's liability for prejudices caused, as well as in a judicial fine of 4,000 lei up to 10,000 lei.

Art. 87

(1) During the observation period, the debtor shall be permitted to continue to carry out its current activity and to make payments to its known creditors, all of which meet the conditions of its ordinary course of business, as follows:
   a) Under supervision of the judicial administrator, if the debtor applied for reorganization, according to article 67, par (1) letter g), and the right of administration was not removed;
   b) Under coordination of the judicial administrator, if the debtor was precluded from managing its own business.
(2) The documents, operations and payments that fall beyond the conditions referred to in par (1) may be authorized by the judicial administrator in exerting its supervisory duties; the judicial administrator shall call for a meeting of the creditors committee in order to require them to approve the special administrator's request, within maximum five (5) days from receipt thereof. In the event that a certain operation that exceeds the current activity is recommended by the judicial administrator and the proposal is approved by the creditors committee, the respective operation shall be necessarily performed by the special administrator. In the event that the activity is coordinated by the judicial administrator, the operation shall be performed by it, subject to approval of the creditors committee, with no need to have a request filed by the special administrator.
(3) Where proposals are filed for the sale of assets from the debtor's estate which are affected by causes of privilege, the holding creditor has the following rights:
   a) To benefit of proper protection of its claim according to article 78;
   b) To benefit of allocations of amounts according to article 159, par (1), indent 3, and article 161, indent 1, as long as it cannot benefit of proper protection of its claim affected by a privilege, according to article 78.
(4) The financing offered to the debtor during the observation period in order to conduct its daily activities, subject to approval of the creditors meeting, are given priority upon repayment according to article 159, par (1), indent 2 or, as applicable, according to article 161, indent 2. Such financing shall mainly be secured with assets or rights that do not form the subject of causes of privilege, and, where no such assets or rights are available, subject to approval of the creditors who are beneficiaries of the respective causes of

privilege. Where the approval of such creditors is not obtained, the priority upon repayment of these claims referred to in article 159, par (1), indent 2, shall pro rata reduce the percentage of satisfaction of the creditors who are beneficiaries of the causes of privileges, by reference to the entire value of the assets or rights that form the subject of such causes of privileges. Where there are no assets or the existing assets are insufficient to be encumbered with causes of privileges in favor of creditors offering financing during the observation period in order to allow the debtor to conduct its current activities, for that part of the claim which is unsecured, the creditor will benefit of the priority according to article 161, indent 2.

Art. 88 Where a right, a legal writ or fact did not become opposable to third parties on the date of opening of the proceeding, all records, transcriptions, registrations and any other specific formalities necessary in this respect, including those ordered in a criminal trial in order to implement special and/or extended confiscation, performed after the date of opening of the proceeding, are not binding on the creditors, except when a duly filed motion or notification was received by the qualified court of law, authority or institution, the latest on the day before the date of the decision ordering the opening of the proceeding. The registrations made in breach of this article are lawfully de-registered.

Art. 89

(1) Any transfer, fulfillment of an obligation, exercise of a right, act or fact performed based on some qualified financial contracts as well as any netting agreement are valid, may be executed and/or opposed to an insolvent counterparty or to an insolvent guarantor of a counterparty, according to the conditions resulting from the parties' agreement, and shall serve as basis for registration of the claim in the proceedings referred to herein.

(2) The only obligation of a party to a contract – if any at all under the contract – pursuant to performance of a netting under the terms and conditions of a qualified financial contract, shall be to deliver the net obligation and the payment obligation or the obligation to do, respectively, resulting from the netting to its counterparty.

(3) The only right of a party to a contract – if any at all under the contract – pursuant to performance of a netting under the terms and conditions of a qualified financial contract, shall be to receive the net right or the amount to be paid or the obligation to do, respectively, resulting from the netting from its counterparty.

(4) No duty offered herein to a body authorized to apply the insolvency proceeding shall preclude the termination of the qualified financial contract and/or the acceleration of the fulfillment of payment obligations or obligations to do or the realization of a right under one or several qualified financial contracts which are based on a netting agreement, and these duties are limited to the net amount resulting from the application of the netting agreement.

(5) Except when the debtor is found to have had fraudulent intentions according to article 117, par (2), letter g), the judicial administrator/judicial liquidator or the court of law, as applicable, may not prevent, request the cancellation of or decide the termination of some operations with derivatives, including the fulfillment of a netting agreement, performed based on a qualified financial contract.

Art. 90

(1) The opening of the insolvency proceeding does not preclude the right of any creditor to claim offset of its claim against the claim of its debtor against it, whenever the requirements of the law applicable in the matter of legal offset are met on the date of the opening of the proceeding. The offset may also be ascertained by the judicial administrator or the judicial liquidator.

(2) The provisions of par (1) are applied accordingly to mutual claims arising after the date of opening of the insolvency proceeding.

Art. 91

(1) The assets sold by the judicial administrator or the judicial liquidator while fulfilling its duties according to this law are acquired free of any encumbrances such as privileges, mortgages, pledges or liens, sequestrations, of whatever nature. By way of exception, interim measures ordered in a criminal trial with a view to special and/or extended confiscation are not subject to this regime.

(2) By way of exception from article 885, par (2) of the Civil Code, de-registration from the land book of any encumbrances and interdictions referred to in par (1) shall be made based on the act of disposal signed by the judicial administrator or the judicial liquidator.

Art. 92

(1) The judicial administrator shall prepare and lodge with the syndic judge within the term set by the latter, which cannot exceed twenty (20) days from being appointed, a report proposing either the opening of the simplified proceeding or the continuation of the observation period in the general proceeding.

(2) The report shall indicate whether the debtor meets the criteria referred to in article 38, par (2), and, consequently, whether it needs to be subject to the simplified proceeding under this law, in which case the report shall enclose documentary evidence and the proposal to open the simplified bankruptcy proceeding. The judicial administrator shall notify the proposal to open the bankruptcy through the simplified proceeding to the creditors that filed for a petition for opening of the proceeding and to the debtor, through the special administrator, and shall, along with the request, lodge the proof on service of process with the court.

(3) The syndic judge shall submit the proposal referred to in par. (2), concerning the opening of the bankruptcy against the debtor in simplified proceeding, to the parties vote in public session, within maximum fifteen (15) days from receipt of the report of the judicial administrator.

(4) The syndic judge shall, in the session referred to in par (3) above, and after hearing the concerned parties, issue a sentence approving or rejecting, as the case may be, the conclusions of the report.

(5) Where the report referred to in par (4) is approved, the syndic judge shall, in the same sentence, decide on the opening of bankruptcy against the debtor, according to article 145, par (1), letter D.

Art. 93 After the opening of the simplified proceeding, in the event that the documents referred to in article 67, par (1), letters b) to f) and l) are not lodged by the debtor, the appointed judicial liquidator shall, to the largest extent possible, restore those documents, and the expenses incurred in this respect shall be paid out of the debtor's estate.

Art. 94 In order to expedite the insolvency proceeding, according to article 38, par (2) letter c), the court may entrust the creditor that filed for the opening of the insolvency proceeding or the appointed judicial administrator, with duties in respect of production of written evidence, may request written information, may call for cross examination the persons identified to be part of the company's management, may request the assistance and support thereof in preparing the procedural documents, as well as any other actions necessary to settle the matter.

Art. 95 When the debtor no longer carries out activity at the seat registered with the relevant register, and the creditor that filed for the opening of the insolvency proceeding is not aware of any other seat, operating unit or place where activity is carried out, and after hearing the judicial administrator's report according to article 97 stating that the debtor falls under one of the categories referred to in article 38, par (2) letter c), any procedural acts, including those concerning the opening of the proceeding, shall be communicated or notified to the debtor only through the IPB.

Art. 96 In applying the provisions of this law, the judicial administrator shall require information concerning the company's main seat, the operating units or other locations where assets of the debtor can be found or activities of the debtor are carried out, as well as data about the company's management, information about the estate assets and documents concerning the company's activity from the authorities that have or might have such information. These authorities shall provide for the requested information free of any fees, commissions or charges to be paid according to other legal provisions governing these activities.

Art. 97

(1) The judicial administrator or the judicial liquidator in the simplified procedure, as applicable, shall prepare and lodge with the syndic judge within the term set by the latter but which cannot exceed forty (40) days from appointing of the judicial liquidator, a report on the causes and circumstances that led to the debtor's insolvency, indicating the persons to whom insolvency might be attributable to. At the grounded request of the judicial administrator or of the judicial liquidator, in matters of high complexity, the term may be extended by the syndic judge for maximum forty (40) additional days.

(2) Where the debtor does not meet the criteria referred to in article 38, par (2), the report shall indicate whether there are actual chances for efficient restructuring of the debtor's activity or the reasons that do not allow reorganization, as applicable, and in this case it shall propose the opening of the bankruptcy.

(3) Where the judicial administrator infers in its report that the debtor's business may recover based on a judicial reorganization plan, it must indicate whether it recommends that the reorganization plan is proposed by the debtor, whether at the request of the debtor it would cooperate in the elaboration thereof or whether it intends to propose a different reorganization plan alone or together with one or several creditors.

(4) The proposal to open the bankruptcy of the debtor according to par (2) shall be submitted for approval to the general meeting of creditors in its first

session thereafter. The special administrator shall be entitled to participate in that meeting but shall have no voting rights.

(5) Where the judicial administrator's report proposes the opening of bankruptcy, the judicial administrator shall publish in the IPB an announcement concerning the report, indicating the date of the first creditors meeting, or shall call the creditors meeting in the event that the report is lodged after the first meeting's date. In this creditors meeting the judicial administrator shall submit to vote the proposal for opening of the bankruptcy.

(6) The judicial administrator shall assure the possibility for the report referred to in par (1) to be consulted at its headquarters, at the expenses of the applicant. A copy of the report shall be lodged with the tribunal's clerk office and with the trade register or, with the register where the debtor is incorporated, as applicable, and shall be notified to the debtor.

Art. 98

(1) In the creditors meeting referred to in article 97, par (4), the judicial administrator shall inform the attending creditors of the votes validly received in writing in respect of the proposal to open the bankruptcy against the debtor in general proceeding.

(2) The creditors meeting shall approve the proposal of the judicial administrator referred to in article 97, par (2), with the vote of at least two thirds of the claims present in the meeting. Irrespective of the vote results, the proposal shall not be approved if one or several creditors, holding together more than 20% of the claims included in the preliminary table of claims, express their intention to submit within the statutory term a plan for the reorganization of the debtor.

(3) If the creditors' meeting approves the judicial administrator's proposal referred to in article 97, par (2), the syndic judge shall, by sentence, decide the opening of the bankruptcy according to article 145, par (1), indent D.

(4) The provisions of par (1) – (3) do not apply to the report referred to in article 97, par (2), in the event that, by the date of the creditors meeting called to approve it, a reorganization plan was confirmed.

Section 4 – First Actions. Preparing the Table of Claims. Oppositions

Art. 99

1) Following the opening of the proceeding, the syndic judge shall send a notification to all creditors referred to in the list lodged by the debtor according to article 67, par (1) letter c), or according to article 74, as applicable, to the debtor and to the office of the trade register or to the register of agricultural companies, or to other registers where the debtor is incorporated/registered, as applicable, in order to record the opening of the proceeding therein.

2) Where the creditors seated or domiciled abroad have representatives in Romania, the notification shall be sent to them.

3) The notification referred to in par (1) shall be sent according to the Civil Procedure Code and shall also be published at the expenses of the debtor's estate, in a largely circulated newspaper and in the IPB.

Art. 100

1) The notification shall be communicated to the creditors promptly and in any event no later than ten (10) days before expiration of the term for registration of the proof of debt, and shall indicate:
   a) The due date for the creditors to lodge their oppositions to the sentence ordering the opening of the proceeding, issued pursuant to the petition filed by the debtor according to article 71, par (1), as well as the term for settlement of the oppositions, which cannot be more than ten (10) days from expiration of the term for lodging thereof;
   b) The due date for registration of proofs of debt against the debtor's estate, which shall be maximum forty five (45) days from the opening of the proceeding, as well as the requirements for a registered claim to be deemed valid;
   c) The term for verification of claims, for preparation and publication in the IPB of the preliminary table of claims, which shall not exceed twenty (20) days for the general proceeding or ten (10) days for the simplified proceeding, from expiration of the term set out in point b) above;
   d) The term for finalization of the table of claims, which shall not exceed twenty five (25) days for the general and simplified proceeding, from expiration of the term corresponding to each proceeding, as referred to at letter c) above;
   e) The place, date and hour of the first creditors meeting to be held within maximum five (5) days from expiration of the term referred to in letter c) above.
2) Depending on the particulars of the matter and for grounded reasons, the syndic judge may decide an extension of the terms set out in par (1) letters b), c) and e) above by maximum thirty (30) days.

Art. 101

1) The judicial administrator shall, within sixty (60) days from the opening of the proceeding, being the stock taking in respect of the debtor's assets, based on the information received from the debtor according to article 67 or article 74 and/or based on any information and documents requested from the qualified authorities under the law. The sixty (60) day term may be extended at the request of the judicial administrator for properly grounded reasons, by the syndic judge.
2) Where some of the debtor's assets are subject to transcription, inscription or registration with the publicity records, the judicial administrator/judicial liquidator shall provide the courts of law, the authorities or institutions that keep such records with a copy of the decision concerning the opening of the proceeding, in order to have it registered therein.

Art. 102

1) Except for the employees the claims of whom will be registered by the judicial administrator according to the accounting records, all the other creditors, the claims of which are dated before the date of opening of the proceeding, shall lodge their proofs of debt within the term set in the decision concerning the opening of the proceeding; the proofs of debt shall be recorded in a register to be kept by the tribunal's clerk office. The budgetary claims ascertained in a tax inspection report prepared after the opening of the proceeding but which refers to the prior activity of the debtor are also deemed prior claims. Within sixty (60) days from publication in the IPB of the notice on the opening of the

proceeding, the tax inspection bodies will conduct the tax inspection and shall prepare the tax inspection report according to the provisions of Government Ordinance 92/2003 on the Tax Procedure Code, republished, as further amended and supplemented. The budgetary creditors shall lodge their proofs of debt within the term set forth in article 100, par. (1), letter b) and, within sixty (60) days from publication in the IPB of the notice on the opening of the proceeding, they register a supplement to the initial proof of debt, if applicable.

2) The claim based on which the insolvency proceeding was opened is registered by the judicial administrator based on the documentary evidence attached to the petition for opening of the proceeding after verification, and with no need to lodge a proof of debt, according to par (1), except when accessories are calculated until the date of opening of the proceeding.
3) The proof of debt must be filed even if the claims are not determined in a writ.
4) The claims which on the date of opening of the proceeding are not due and payable or are not conditional shall be registered in the table of claims and shall be entitled to participate in the distribution of amounts to the extent permitted by this title.
5) The voting right and the distribution right of the holders of claims under condition precedent on the date of opening of the proceeding, including those of the holders of claims the sale of which is conditional on the prior execution of the main debtor, shall arise only after that condition is fulfilled.
6) The claims arising after the opening of the proceeding, during the observation period or in the judicial reorganization proceeding shall be paid according to the documents on which they are based, and it is not necessary to be registered in the table of claims. This provision applies accordingly to claims arising after the date of opening of the bankruptcy proceeding.
7) Where the bankruptcy proceeding is opened after the observation or reorganization period, the creditors shall apply for registration in the additional table of claims for claims arising after the opening of the insolvency proceeding which were not satisfied.
8) The claim of an aggrieved party in a criminal suit shall be registered under condition precedent until a final decision is issued in the civil action under the criminal suit in favor of that aggrieved party, by filing a proof of debt. Where the civil action in criminal suit is not completed until the closing of the insolvency proceeding either pursuant to the successful implementation of the reorganization plan or as a result of liquidation, the claims, if any, arising from the criminal suit shall be covered from the estate of the reorganized legal entity or, if necessary, from the proceeds obtained from the action for vicarious liability of persons who facilitated the insolvency of that legal entity, according to the provisions of article 169 et seq.
9) All claims presented in order to be admitted and registered with the clerk's office of the tribunal shall be presumed valid and correct if not disputed by the debtor, the judicial administrator or the creditors.

Art. 103 The claims that benefit of a cause of privilege are recorded in the final table of claims up to the market value of the security as established by the valuation ordered by the judicial administrator or the judicial liquidator and conducted by a valuator appointed according to article 61. In the event that assets affected by a cause of privilege are sold at a price higher than the amount registered in the final table of claims or in the final consolidated table of claims, the positive balance shall be given to the secured creditor as well,

even if part of its claim had been registered as unsecured claim, up to the full amount of the main claim and of the accessories, to be calculated according to the documents backing the claim, until the asset is sold. This provision applies as well in case of an unsuccessful reorganization plan and sale of the asset in bankruptcy.

Art. 104

1) The proof of debt shall indicate: the name of the creditor, the domicile/seat of the creditor, the due amount, the grounds of the claim, as well as indications as to the causes of privileges, if any.
2) The documentary evidence of the claim and of the acts creating causes of privileges shall be attached to the claim the latest at the due date set for lodging the proof of debt.
3) The holders of promissory notes or bearer bonds may require the judicial administrator to be remitted the original bonds and to keep certified true copies thereof. The judicial administrator shall indicate on the original that the respective notes or bonds were presented to it.

Art. 105

1) All claims shall be verified according to the procedure referred to in this chapter, except for those ascertained by enforceable court orders as well as by enforceable arbitration awards. In the event that these court orders or arbitration awards are canceled, quashed or modified by the remedies at law, then the judicial administrator/judicial liquidator shall remake the table of claims accordingly. Where the court of law does not, in canceling or quashing the decision, rule also on the merits of the matter, then the judicial administrator or the judicial liquidator shall proceed to verification of that claim and shall notify the creditors if the claim was not fully or partially registered, according to article 110, par. (4). In this last case, the creditors may file opposition against the partial registration or non-registration of that claim with the table of claims, according to article 59, par. (5).
2) This proceeding is not applicable to the budgetary claims resulting from a writ of execution which was not challenged within the statutory terms provided by special laws.
3) The claims resulting from leasing contracts rescinded before the opening of the insolvency proceeding shall be registered as follows:
   a) Where the ownership in the assets under the leasing contract is transferred to the debtor, the funds provider shall acquire a statutory mortgage in those assets, ranking the same as the initial leasing operation, and its claim shall be registered according to article 159, par. (1), indent 3;
   b) Where the assets under the leasing contract are recovered, only the difference between the entire claim amount and the market value of assets under the leasing contract, as determined by an independent valuator, shall be registered and shall benefit of the priority referred to in article 161, indent 8, unless other assets exist which offer to their holder the capacity of creditor benefiting a cause of privilege;
   c) Where one or several assets recovered were leveraged by the leasing company before the preliminary table of claims is prepared, the price obtained from sale thereof shall be deducted from the total amount of the claim to be registered.

4) In case of leasing contracts in progress on the date of opening of the proceeding and maintained in force according to article 123, par (12), the current installments shall not be registered in the table of claims, and they shall be paid when due. The previous installments registered in the table of claims shall be governed by the laws governing the claims referred to in article 159, par (1), indent 3. If all current claims were paid and all the other obligations arising after the opening of the proceeding were paid, the ownership title in the asset under the financial leasing contract shall be transferred to the debtor, in which case the funds provider shall, in respect of the previous installments registered in the table of claims, acquire a statutory mortgage in that asset, of a priority rank equal to the one of the initial leasing operation. The judicial administrator/judicial liquidator shall notify the funds provide on the fact that the ownership title was transferred and shall record in the relevant publicity registers the fact that the rank of the funds provider's claim is maintained.

Art. 106

1) The judicial administrator shall immediately initiate verification of every proof of debt and of the documents submitted and shall conduct a thorough investigation in order to establish the validity, exact amount and priority of each claim.
2) In the event that, by way of derogation from article 2512 et seq. of the Civil Code, the judicial administrator/judicial liquidator finds that extinctive prescription occurred in respect of the claim, it shall notify the creditor in this respect and it shall no longer look into the merits of the claim.
3) In order to fulfill the power referred to in par (1), the judicial administrator may request explanations from the debtor, discuss with each debtor and request, if it deems necessary, additional information and documents.

Art. 107

1) Claims consisting in obligations that were not calculated in money or the value of which is subject to adjustment, shall be calculated by the judicial administrator/judicial liquidator and registered in the table of claims at the nominal value they had on the date of opening of the proceeding. The syndic judge shall decide on each opposition against the calculation made by the judicial administrator/judicial liquidator for such claims.
2) The claims expressed or consolidated in foreign currency shall be registered in the preliminary table of claims at their value in lei, at the currency exchange published by the National Bank of Romania on the date of opening of the insolvency proceeding.

Art. 108

1) A claim of a creditor with several joint debtors shall be registered in all lists of creditors at its nominal value, until it is fully covered. All tables of claims shall be updated accordingly with the distributed amounts.
2) If the claims were satisfied or modified in full or in part, the table of claims shall be modified accordingly, as the case may be. Simultaneously with the convening letter for the creditors meeting there shall be published the table of claims updated with the amounts paid or modified during the proceeding. When opposing to the protocol of the meeting, the creditors may also oppose, under the same terms and conditions, the table so published.

Art. 109

1) A creditor, who, before filing a proof of debt, has received partial payment on account of its claim from a co-debtor or from a fidejussor of the debtor, may cause its claim to be registered in the table of claims only in respect of that part which it did not collect yet. The creditor has the obligation to report any amount collected, within three (3) days from the time of collection.
2) A co-debtor or a fidejussor who is entitled to restitution or damages from the debtor for the amount paid shall be registered in the table of claims for the amount it paid to the creditor. In this case, the joint creditor is entitled to request to be paid, up to the full amount of its claim, the portion due to the co-debtor or to the fidejussor, and it shall remain a creditor thereof only in respect of the unpaid amount.
3) The co-debtor or the fidejussor of the debtor which, in order to assure the right to sue for compensation, benefits of a cause of privilege affecting the assets of the debtor, concurs to the table of claims in order to facilitate satisfaction of this right but the price obtained from the sale of the encumbered assets shall be allotted to the creditor and shall be deducted from the due amount.

Art. 110

1) As a result of the verifications conducted, the judicial administrator/judicial liquidator shall prepare and lodge with the tribunal a preliminary table of claims encompassing all claims against the debtor's estate, subject to the restrictions mentioned in article 5, indent 68.
2) For the claims that benefit of a cause of privilege there shall be indicated the title establishing the privilege, the ranking and, where applicable, the grounds for which the claims were partially registered in the table of claims or were removed from it.
3) The preliminary table of claims shall also be published in the IPB. After publication, the creditors registered in the preliminary table of claims may participate in the creditors meeting.
4) Simultaneously with the publication of the table of claims with the IPB, the judicial administrator/judicial liquidator shall immediately notify the creditors whose claims or preferential rights were partially registered in or removed from the table of claims, with indication of the reasons.

Art. 111

1) The debtor, the creditors and any other concerned party shall be entitled to file oppositions against the claims and preferential rights included or not included, as appropriate, by the judicial administrator/judicial liquidator in the preliminary table of claims.
2) The oppositions must be lodged with the tribunal within seven (7) days from publication in the IPB of the preliminary table of claims, both in general proceeding and in simplified proceeding.
3) The opposition must be accompanied by the original of the proof on the payment of the stamp fee, as well as by all writs that the party understands to use in supporting its claims, and must indicate any other pieces of evidence required, except for those which are not in possession of that party or are not known at the time the opposition is lodged; otherwise, the opposition shall be canceled.
4) The party filing opposition shall send, with confirmation of receipt, one copy of the opposition and of the documents accompanying it to each of the

judicial administrator/judicial liquidator, the creditor whose claim is contended, and to the special administrator. In case of failure to observe this obligation the syndic judge shall automatically apply a fine according to the Civil Procedure Code.

5) The statement of defense shall be filed within ten (10) days from communication of the opposition and of the attached documents. A copy of the statement of defense shall also be sent, with confirmation of receipt, by the party filing the statement of defense, to the contender, to the judicial administrator/judicial liquidator and to the debtor, under the penalty referred to in article 208, par (2) of the Civil Procedure Code.
6) At the hearing set in the sentence ordering the opening of the proceeding for finalization of the table of claims, the syndic judge shall issue a single sentence to settle all oppositions at once, even if for the settlement of some of them it would be necessary to produce evidence; in this last case, the syndic judge may admit in full or in part the temporary registration of the respective claims in the final table of claims. The claims temporarily registered shall be provided with all rights permitted by the law, except for the right to collect the amounts proposed for distribution. These shall be deposited in the unique account until the claim is final.
7) Where the claim is admitted without the claimed preferential right, the claim shall participate in the distribution of amounts obtained from sale of assets not affected by causes of privileges.
8) The portion that would be attributable to that claim shall be blocked from the proceeds to be obtained from the sale of assets affected by the contended preferential right.

Art. 112

1) Once all oppositions to claims were settled and the report on securities valuation was delivered, the judicial administrator/judicial liquidator shall immediately lodge with the tribunal and shall publish in the IPB the final table of all claims against the debtor, indicating the amount, the ranking of each claim and whether it benefits or not of a privilege.
2) After registration of the final table of claims, only the holder of those claims which were included in the final table of claims are permitted to participate in the vote on the reorganization plan or in any distribution of amounts in case of bankruptcy in simplified proceeding.
3) The maximum term of the observation period is twelve (12) months, calculated from the opening of the proceeding. In order to observe this term, the syndic judge shall be entitled to apply the provisions of article 113, par. (4) accordingly.

Art. 113

1) After expiration of the term allowed for filing of oppositions, referred to in article 111, par (2), until the closing of the proceeding, any concerned party may file opposition against registration of a claim or of a preferential right in the final table of claims or in the updated lists, if forgery, misrepresentation or material errors are discovered, which caused the claim or the preferential right to be admitted, as well as if solid titles are discovered, which were unknown until then.
2) The opposition shall be lodged within fifteen (15) days from the date when the party became aware or should have become aware of the event triggering the filing of the opposition.

3) The opposition shall be ruled upon according to the provisions of article 111, par (4).
4) Until a final decision is issued in respect of the opposition, the syndic judge may declare the claim or the preferential right as admitted only temporarily.

Art. 114

1) Except when notification of the opening of the proceeding was made in breach of the provisions of article 42, the holder of claims antecedent to the opening of the proceeding, which does not file the proof of debt the latest on the date of expiration of the term referred to in article 100, par (1) letter b), shall, in respect of the respective claims, be precluded from being registered in the table of claims and shall be unable to become a creditor entitled to participate in the proceeding. It will not be entitled to satisfy its claims against the debtor or against the members or unlimited liability partners of the legal entity debtor after the closing of the proceeding, provided that the debtor had not been sentenced for simple or bankruptcy fraud, or had not been held liable for making fraudulent payments or transfers.
2) The preclusion shall be ascertained by the judicial administrator/judicial liquidator who shall no longer register the creditor in the table of claims.

Section 5 – Situation of some judicial actions of the debtor

§ 1 General

Art. 115

1) All actions filed by the judicial administrator or the judicial liquidator in applying the provisions of this chapter, including in respect of recovery of debts, are exempted from the stamp fee.
2) The publication in the IPB of the process issued by the courts of law or by the judicial administrator/judicial liquidator during the insolvency proceeding shall be free of charge.
3) The process issued by the judicial administrator/judicial liquidator which, according to this chapter, are also subject to publication in the trade register in addition to publication in the IPB, shall be lodged with the IPB and registration with the trade register shall be made automatically and free of charge.

Art. 116 The measures referred to in this section are applicable in the judicial reorganization proceeding as well as in the bankruptcy proceeding, pursuant to its commencement in both general proceeding and simplified proceeding.

§ 2 Cancellation of Fraudulent Acts

Art. 117

1) The judicial administrator/judicial liquidator may lodge with the syndic judge petitions for cancelation of fraudulent acts or operations made by the debtor to the detriment of its creditors' rights over the last two (2) years before the opening of the proceeding.
2) The following acts or operations made by the debtor may be canceled for the purpose of restituting the assets transferred or the amount of other services delivered:

a) The transfers free of charge made over the last two (2) years before the opening of the proceeding; sponsoring for humanitarian purposes are exempted;
b) Operations in which the debtor's obligations manifestly exceed the obligations received, made over the last six (6) months before the opening of the proceeding;
c) Acts concluded over the last two (2) years before the opening of the proceeding with all parties' intention to conceal assets from pursuit by the creditors or to otherwise prejudice their rights;
d) Acts of transfer of ownership to a creditor in order to satisfy a previous debt or for the benefit of that creditor, made over the last six (6) months before the opening of the proceeding, if the amount which the creditor might obtain in case of bankruptcy of the debtor is less than the amount obtained under the transfer deed;
e) Establishing a preferential right for a claim that was unsecured, over the last six (6) months before the opening of the proceeding;
f) Advance payments on account of debts, made over the last six (6) months before the opening of the proceeding, if their due date had been set for a date after the opening of the proceeding;
g) Deeds of transfer or undertaking of obligations made by the debtor over the last two (2) years before the opening of the proceeding, with the intention to conceal/delay the insolvency or to fraud a creditor.

3) The provisions of par (2) letters d) to f) are not applicable to deeds concluded in good faith in performing an arrangement with the creditors entered pursuant to out of the court negotiations for debt restructuring, provided that such arrangement was likely to reasonably result in the financial recovery of the debtor and was not intended to prejudice and/or discriminate some creditors. The provisions above apply as well to the legal deeds concluded within the procedures referred to in Title I of this law.

4) The following acts or operations concluded over the last two (2) years before the opening of the proceeding with persons having legal relationships with the debtor may also be canceled and the obligations/services may be recovered:
a) With a general partner or an associate holding at least 20% of the share capital of the company or of the voting rights in the general meeting of associates, as applicable, when the debtor is that limited partnership or an agricultural company, a general partnership or a limited liability company, respectively;
b) With a member or director, when the debtor is an economic interest group;
c) With a shareholder holding at least 20% of the debtor's shares or of the voting rights in the general meeting of shareholders, as applicable, when the debtor is that joint stock company;
d) With a director, a manager or a member of the debtor's supervisory bodies, where the debtor is a cooperative company, a joint stock company with limited liability or an agricultural company, as applicable;
e) With any other individual or legal entity holding control in the debtor or its activity;
f) With a co-owner or joint owner of a common asset;
g) With the spouse, in-laws or kindred back to the 4th degree inclusively, of the individuals listed at letters a) to f).

Art. 118

1) The petition for cancelation of fraudulent acts concluded by the debtor to the detriment of the creditors, referred to in article 117, may be filed by the judicial administrator/judicial liquidator within one (1) year from expiration of the term allowed for preparation of the report referred to in article 97, but no later than sixteen (16) months from the opening of the proceeding. If the petition is admitted, the parties shall be reinstated in the previous positions and the encumbrances existing on the date of transfer shall be re-registered.
2) The creditors committee may file such a petition with the syndic judge if the judicial administrator/judicial liquidator fail to do so.
3) This petition may also be filed under the same conditions by the creditor that holds more than 50% of the value of claims registered in the table of claims.

Art. 119 No cancelation may be requested in respect of an act awarding or transferring assets, made by the debtor in the ordinary course of its business.

Art. 120

1) Third party acquirer in a patrimonial transfer cancelled according to article 117 shall have to restitute the transferred asset in the debtor's estate or, if the asset no longer exist or there are hindrances of any nature whatsoever for the debtor to take it back, then the third party shall repay the value thereof as of the time of the transfer made by the debtor, determined by expert report prepared under the law. In case of restitution, the parties shall be reinstated in the previous positions so that the encumbrances existing at the time of transfer shall be re-registered.
2) The third party acquirer who restituted to the debtor the asset or the consideration of the asset that had been transferred by it shall have against the debtor a claim equal to the price paid plus the value added of that asset, at the very most, generated by investments, if any, made by the debtor, provided that the third party shall have accepted the transfer in good faith, with no intention to prevent, delay or mislead the creditors of the debtor. At its request, the third party acquirer acting in good faith shall be registered in the table of claims for its claim resulting from restitution of the asset or of the value thereof to the debtor according to this article and shall be permitted to participate in distributions of amounts according to article 161, indent 4. The third party acquirer acting in bad faith shall be entitled to receive only the price paid and shall be entitled to participate in the distribution of amounts according to article 161, indent 10 letter a). Bad faith of the third party acquirer must be proved.
3) Where the third party acquirer fails to restitute the asset or the value thereof willingly or based on a settlement agreement, its claim arising according to article 120, par (2), may be requested only based on a counterclaim to be filed within the action lodged against it according to article 117.
4) The third party acquiring in good faith an asset free of charge shall restitute the asset as is and, where the asset no longer exists, it shall repay the difference of value which it enriched by. In case of bad faith, the third party shall in all cases restitute the entire value as well as the fruits collected.

Art. 121

1) The judicial administrator, the judicial liquidator, the creditors committee or the creditor holding more than 50% of the value of claims registered in the table of claims may file petition for recovery from the subsequent acquirer of

the asset or the consideration of the asset transferred by the debtor, only if the subsequent acquirer failed to pay the corresponding value of the asset and was aware or had to be aware that the initial transfer was likely to be canceled. It may claim from the debtor only the amount of the added value generated by the investments made, and in this case it shall benefit of all procedural rights permitted to the third party acquirer acting in bad faith according to article 120, par (2) and (3) and article 161, indent 10 letter a).

2) Where the subsequent acquirer is a spouse, a relative or kindred up to the 4th degree inclusively of the debtor, it is relatively presumed to have known the event described in par (1).

Art. 122

1) The petition for cancelation of an act awarding or transferring assets from the debtor's estate shall be automatically registered in the relevant publicity registers.
2) Whenever a person acquires title in or a preferential right in the respective asset after such registration, such title or right shall be conditional on the right to recover the asset.
3) In respect of the acts and operations referred to in article 117, par. (2), a relative presumption of fraud to the detriment of the creditors is put in place.
4) The presumption of fraud persists also in the event that, due to an abuse of process, the debtor delayed the time of opening of the proceeding in order to cause the terms referred to in article 117 to expire.
5) As regards petitions for cancellation, the capacity to sue belongs to the judicial administrator/judicial liquidator in the cases referred to in article 117, to the creditors committee in the case referred to in article 118, par (2), and to the creditor that holds more than 50% of the value of claims included in the table of claims in the case referred to in article 118, par (3).
6) The standing to be sued in petitions for cancelation referred to in article 117 belongs to the debtor and to the third party acquirer or subsequent acquirer, as applicable. The debtor will be summoned as defendant through the special administrator or special curator according to article 53, par (3).
7) As of the date of opening of the proceeding, the cancelation of some acts concluded by the debtor over the last two (2) years before the opening of the insolvency proceeding, on the ground of fraud to the detriment of the creditors, may be requested exclusively by means of the actions referred to in article 117.

§ 3 Ongoing Contracts

Art. 123

1) Ongoing contracts are considered maintained in full force and effect on the date of opening of the proceeding and article 1417 of the Civil Code is not applicable. Any clauses providing for termination of ongoing contracts, for lapse of time or for acceleration of obligations on the ground that the insolvency proceeding was opened are void. The provisions concerning maintenance in full force and effect of ongoing contracts and voidance of clauses providing for the termination or acceleration of obligations are not applicable to qualified financial contracts and to netting operations performed under a qualified financial contract or a netting agreement. In order to leverage the debtor's estate to the largest extent possible, within a limitation period of three (3) months from the opening of the proceeding, the judicial

administrator/judicial liquidator may terminate any contract, un-expired leases, other long term contracts, as long as they were not fully or substantially performed by all parties involved. The judicial administrator/judicial liquidator must, within thirty (30) days from receipt, provide an answer to the notification sent by the contracting party within the first three (3) months from the opening of the proceeding, requesting termination of the contract; in the absence of such answer the judicial administrator/judicial liquidator shall be precluded from requesting performance of contract and the contract shall be deemed terminated. A contract is deemed terminated:

a) At the elapse of a thirty (30) days term from receipt of the counterparty's request for termination of contract, if the judicial administrator/judicial liquidator fails to answer;
b) On the date of the notice of termination of the judicial administrator/judicial liquidator.

2) If the judicial administrator/judicial liquidator requests performance of contract it shall specify on a quarterly basis in its activity report whether the debtor has the necessary cash available to pay the price of goods or services delivered by the counterparty.
3) The term elapses for the debtor if, during the first three (3) months from the opening of the proceeding, the counterparty fails to notify to the judicial administrator its intention to terminate the contract or to accelerate the obligations. After the contract is maintained in full force and effect, the counterpart may require the termination thereof for fault of the debtor and the request shall be settled by the syndic judge.
4) In case of termination of contract, a motion for indemnification may be filed by the counterparty against the debtor and shall be settled by the syndic judge. The rights determined in favor of the counterparty pursuant to the motion for indemnification shall be paid to it according to article 161, indent 4, based on the final decision in this respect.
5) During the observation period and subject to the approval of counterparty, the judicial administrator shall be entitled to amend the clauses of contracts concluded by the debtor, inclusively of credit facility agreements, so that they assure equivalence of future obligations. The petitions, if any, filed based on article 1271 of the Civil Code, shall be settled by the syndic judge.
6) Where the seller of a real estate withholds title in it until the purchase price is paid in full, the sale shall be considered executed by the seller and shall not be subject to the provisions of par (1); the reserve shall be opposable to the judicial administrator/judicial liquidator if the publicity formalities required by the law were performed; the asset which the seller withheld title in joins the debtor's estate and the seller benefits of a cause of privilege according to article 2347 of the Civil Code.
7) An individual employment agreement or a lease agreement entered as lessee may be terminated only subject to the statutory termination notices.
8) After the opening of the proceeding, the termination of individual employment agreements for the debtor's personnel may be expedited by the judicial administrator/judicial liquidator. The judicial administrator/judicial liquidator shall grant only the statutory termination notice to the personnel to be dismissed; in the event that the provisions of Law 53/2003 – Labor Code, republished, as further amended and supplemented in respect of collective dismissals are applicable, the terms set out in article 71 and article 72, par

(1) of Law 53/2006, republished, as further amended and supplemented, shall be reduced to half.

9) Where a contract provides for payments to be made from time to time by the debtor, the contract remaining in full force and effect will not result in the judicial administrator/judicial liquidator's obligation to make outstanding payments for periods before the opening of the proceeding. In respect of such payments, the creditor may file for a proof of debt against the debtor.

10) In order to leverage the debtor's estate to the largest extent possible or in the event that the contract can no longer be executed, the judicial administrator may assign ongoing contracts to third parties, provided that they were not conclude *intuitu personae*, according to the conditions of the Civil Code.

11) In case of termination of financial leasing contracts by the financing party, the financing party may elect between the following options:
    a) To transfer the ownership in the assets that form the subject matter of the leasing contract to the debtor, in which case the financing party shall acquire a statutory mortgage in those assets with the same ranking as the leasing operation and shall be registered as creditor according to the priority referred to in article 159, par. (1), indent 3, for the amount of outstanding installments and accessories, invoiced and not paid on the date of opening of the proceeding, plus the remaining of outstanding amounts under the leasing contract but without exceeding the market value of the assets, to be determined by an independent valuator according to article 61.
    b) To recover the assets that form the subject matter of the leasing contract, in which case the financing party shall be registered as creditor according to article 161, indent 8, if there are no other assets that would make the holder a creditor who benefits of a cause of privilege, for the amount of outstanding installments and accessories, invoiced and not paid on the date of opening of the proceeding, plus the remaining amounts due under the leasing contract minus the market value of the recovered assets, to be determined by an independent valuator, according to article 61.

12) Notwithstanding the provisions of par (1), sentence I, in case of a financial leasing contract, if the financing party fails to express within three (3) months from the opening of the proceeding its express approval for the contract to be maintained in full force and effect, the contract shall be deemed rescinded on the date of expiration of such term. In the event that, within the same term, the financing party sends to the judicial administrator a notification requiring it to terminate the contract, the contract shall be deemed rescinded upon expiration of a thirty (30) day from receipt of the notification by the judicial administrator. In order to leverage the debtor's estate to the largest extent possible, the judicial liquidator may terminate any financial leasing contract and the contract shall be deemed terminated on the date the termination is notified by the judicial administrator/judicial liquidator.

Art. 124 Where a movable asset sold to the debtor and unpaid by it was in transit on the date of opening of the proceeding, and the asset is not yet available to the debtor and no other party acquired rights in it, then the seller may take the asset back. In this case, all expenses will be borne by the seller who shall also be bound to remit to the debtor any advance from the price. Where the seller accepts to deliver the asset, it may recover the price by registering its claim in the table of claims. If the judicial administrator/judicial liquidator

requests that the asset is delivered it shall have to cause the entire price under the contract to be paid out of the debtor's estate.

Art. 125 Where the debtor is party to a contract included in a master netting agreement which provides for the transfer of some commodities, property or possession title in commodities or financial assets listed on a regulated market of commodities, services and derivatives, at a specific date or within a limited period of time, and the due date falls or the period expires after the opening of the proceeding, then a netting operation will be performed in respect of all contracts included in that master netting agreement, and the difference, if positive, must be paid to the debtor, and shall be included in the table of claims if it is a liability of the debtor.

Art. 126 Where an agent that holds title in assets to be received or in commodities becomes the subject matter of a petition for opening of the insolvency proceeding, then the principal shall be entitled to take back its titles or commodities or to request that their value is paid by the agent.

Art. 127

1) If a debtor holds commodities as consignee or any other asset that belongs to others on the date of filing of the petition for opening of the insolvency proceeding, the owner shall be entitled to recover its asset according to article 2057 par (4), of the Civil Code, except when the debtor has a valid privilege in the asset.
2) If on one of the dates referred to in par (1) above, the commodities are not in possession of the debtor and it is unable to recover them from the current holder, the owner will be entitled to register its claim in the table of claims for such value as the commodities had at that time. If the debtor holds possession of the commodities on that date, but it later on loses possession therein, the owner may request that the entire value of commodities is registered in the table of claims.

Art. 128 The owner of a leased real estate being a debtor according to this procedure shall not result in termination of the lease agreement, except when the rent is not lower than the market rent. However, the judicial administrator/judicial liquidator may refuse to assure delivery of any services owed by the lessor to the lessee during the lease term. In this case, the lessee may vacate the building and may request registration of its claim in the table of claims or may continue to hold the real estate and deduct the cost of services owed by the lessor from the rent. If the lessee elects to continue to hold the real estate, it shall not be entitled to registration of its claim in the table of claims but it shall only have the right to deduct the cost of services owed to the lessor from the rent it pays.

Art. 129 The judicial administrator/judicial liquidator may terminate, according to article 123, par (1), the contracts whereby the debtor undertook to provide for certain specialized services or strictly personal services.

Art. 130

1) Where the partner in an agricultural company, in a general partnership, in a limited partnership or in a limited liability company, or the shareholder of a joint stock company is debtor in a proceeding according to this law and the

debtor's involvement in such a proceeding does not result in the dissolution of that company, then the judicial administrator/judicial liquidator may request liquidation of the debtor's rights in that company according to the last approved financial statement or may propose that the debtor continues to be an associate therein provided that the other associates agree.

2) The provisions of par (1) are applicable accordingly to the members of cooperative companies and of economic interest groups as well.

Art. 131

1) The obligations under a sale and purchase pre-agreement with certified date attested before the opening of the proceeding, shall, where the promissory seller becomes insolvent according to this law, be performed by the judicial administrator/judicial liquidator at the request of the promissory seller, if:
   a) The contract price was paid in full or may be paid in full on the date of the petition, and the asset is in possession of the promissory purchaser;
   b) The price is not inferior to the market value of the asset;
   c) The asset is not of the essence for the success of a reorganization plan;
   d) In case of real estate properties, pre-agreements are registered in the land book.
2) In order to make it possible for the final sale and purchase agreement to be concluded with the promissory purchaser according to article 91, par (1), the judicial administrator or the judicial liquidator shall first cause observance of the following rights of the creditors that hold privileged claims in the assets to be sold according to par (1), and caused their rights to be registered in the publicity registers provided by the law, before the date of conclusion of the pre-agreement:
   a) The right to collect with priority any amounts received in the debtor's estate based on the sale and purchase agreements concluded as stated in par (1), according to article 159 herein; and/or
   b) The right to benefit of proper protection measures, such as:
      1. To receive an amount representing maximum the market value of the asset minus the expenses referred to in article 159, par (1), indent 1;
      2. To receive a security in real property with a value equal to the market value of the asset as determined in the procedure by an updated valuation report to be prepared by a valuator appointed according to article 61;
      3. To receive a bank letter of guarantee for an amount equal to the market value of the asset as determined in the procedure but no more than the value of the creditors' claim as registered in the table of claims.
3) The measures to be implemented according to par (2) letter b) shall be proposed by the judicial administrator/judicial liquidator in the activity report recommending the sale and shall be notified to the creditor that benefits of a cause of privilege.

Section 6 – Reorganization

§ 1 Reorganization Plan

Art. 132

1) The following categories of persons are entitled to lodge a reorganization plan:
   a) The debtor, subject to approval of the general meeting of shareholders/associates, within thirty (30) days from publication of the final table of claims, provided that it expressed its intention for reorganization according to article 67, par (1) letter g), if the proceeding was initiated by the debtor, and according to article 74 is the proceeding was initiated pursuant to the request of one or several creditors;
   b) The judicial administrator, as of the date of its appointing until elapse of a thirty (30) days term from publication of the final table of claims;
   c) One or several creditors holding together at least 20% of the total value of claims included in the final table of claims, within thirty (30) days from publication thereof; the judicial administrator has the obligation to make available to the creditors the information existing and necessary to draft the reorganization plan. In this respect, the debtor – through the special administrator – or the judicial administrator, to the extent that it holds them and where the debtor was precluded from managing its own business, have the obligation to make available to the creditors, within maximum ten (10) days from receipt of a request thereon, the documents and information referred to in article 67, par (1) letters a), b) and e), properly updated as per the final table of claims. The creditors shall further be provided with a list of all claims arising during the proceeding, as well as with any other documents required, which are useful for the elaboration of a reorganization plan.
2) At the request of any diligent party or of the judicial administrator, the syndic judge may extend by maximum thirty (30) days and for solid grounds, the terms allowed for lodging the reorganization plan referred to in par (1).
3) The reorganization plan may provide either for restructuring and continuation of the debtor's business or for the liquidation of some of its assets, or a combination of the two.
4) Neither the debtor who, over the last 5 years before the filing of the initial petition, has already been already subject of the proceeding set forth in this law nor the debtor who by itself, or whose directors, managers and/or shareholders/associates/general partners who control the debtor, were finally sentenced for a crime committed intentionally against the debtor's estate, for corruption, for a job-related crime, for forgery, as well as for the crimes referred to in Law 22/1969, as further amended, in Law 31/1990, republished, as further amended and supplemented, in Law 82/1991 on accountancy, republished, as further amended and supplemented, in Law no. 21/1996 on competition, republished, in Law 78/2000, as further amended and supplemented, in Law 656/2002, republished, as further amended, in Law 571/2003, as further amended and supplemented, in Law 241/2005 for prevention and combating tax evasion, as further amended and supplemented, and the crimes referred to in this law, over the last 5 years before the opening of the proceeding – shall be entitled to propose a reorganization plan;

5) Failure to observe the terms referred to in par (1) will preclude the parties from filing a reorganization plan and, as a consequence, to go into bankruptcy upon instruction of the syndic judge.

Art. 133

1) The reorganization plan shall provide for an overview of the recovery prospects depending on the debtor's possibilities and particular activity, the available financial means and the market demand versus the debtor's offer and shall include actions compliant with the public order, inclusively as regards the method for selection, appointing and replacement of directors and managers.
2) The reorganization plan must necessarily include the claims payment schedule. The claims registered with causes of privilege in the final table of claims may be bearer of interests and other accessories.
3) The implementation of the reorganization plan may not exceed three (3) years calculated from the confirmation date. The payment due dates under the contracts – including under credit contracts or leasing contracts – may be maintained in the reorganization plan even if they exceed the three (3) year period. These terms may also be extended subject to the express approval of the creditors if they were initially provided for less than three (3) years. After all obligations under the reorganization plan are fulfilled and the reorganization proceeding is closed, these payments will be resumed according to the contracts they resulted from.
4) The reorganization plan shall indicate:
   a) The categories of claims which are not underprivileged according to this title;
   b) The treatment of underprivileged categories of claims;
   c) If and to what extent the debtor, the members of the economic interest group, the associates in general partnerships and the general partners in limited partnerships shall be discharged of liability;
   d) The damages to be offered to the holders of all categories of claims by reference to the rough estimate value that might be allotted to them in case of bankruptcy; the rough estimate value shall be determined based on a valuation report to be prepared by a valuator appointed according to article 61;
   e) The payment mechanics for current claims.
5) The reorganization plan shall specify the proper actions meant to help implementing it, such as:
   A. The debtor is permitted to preserve full or part of its right to manage its own business, inclusively the right to dispose of its assets, subject to supervision of its activity by the judicial administrator appointed according to the law;
   B. Financial resources are obtained in order to facilitate achievement of the reorganization plan and the sources are clearly indicated; the financing approved through the plan will benefit of priority upon repayment according to article 159, par (1), indent 2, or according to article 161, indent 2, as appropriate;
   C. All or part of the debtor's assets are transferred to one or several individuals or legal entities established before or after the confirmation of the reorganization plan;
   D. The debtor goes into merger or split up according to the law inclusively by observing the obligations to notify the concentration operations as

per the competition laws; in case of split up the provisions of article 241^1, par (3), of Law no. 31/1990, republished, as further amended and supplemented, do not apply;

E. All or some of the debtor's assets are liquidated separately or jointly, free of any encumbrances, or they are offered to the creditors on account of their claims against the debtor. The offering of assets to the creditors may be performed only provided that the creditors have expressed their written consent for such manner to satisfy the debts;

F. The debtor's total asset shall be partially or totally liquidated in order to implement the reorganization plan. The proceeds obtained from the sale of assets affected by causes of privileges, according to the Civil Code, shall necessarily be distributed to the creditors holding those causes of privileges, subject to article 159, par (1) and par (2);

G. The causes of privileges are either modified or extinguished but an equivalent security or protection must necessarily be offered to the creditor holding such a privilege, according to article 78, par (2) letter c), up to the full amount of its claim, including the interests agreed upon in contracts or according the reorganization plan, based on a valuation report, with the obligation to follow the procedure referred to in article 61;

H. Due dates are extended and the interest rates, the penalties or any other clauses in the contracts or the other sources of debtor's obligations are amended;

I. The articles of incorporation of the debtor is amended according to the law;

J. The debtor or any of the persons mentioned in sections D and E above issues securities according to Law 31/1990, republished, as further amended and supplemented, and Law 297/2004, as further amended and supplemented. In order for an issue of securities to be registered in the reorganization plan it is necessary to have the express written approval of the creditor which is going to receive the issued bonds, which shall be expressed before creditors cast their vote on the reorganization plan. By way of exception from the provisions of article 205, par (2), of Law 297/2004, as further amended and supplemented, the operations referred to in this section are considered exempted operations according to article 205, par (1), of Law 297/2004, as further amended and supplemented.

K. By way of derogation from the provisions of section J above, the reorganization plan may not provide for swap of budgetary claim into securities;

L. Some clauses will be inserted in the articles of incorporation of the debtor who is a legal entity or of the persons mentioned at sections D and E above, as follows:

   a) Clauses prohibiting the issuance of shares without voting right;
   b) Clauses setting – in terms of various categories of ordinary shares – a proper distribution thereof between these categories;
   c) In case of preferential shares with dividend prevailing on other categories of shares, clauses governing in a satisfactory manner the appointing of directors which represent the respective categories of shares where the obligation to pay dividends was not fulfilled.

6) By way of derogation from Law 31/1990, republished, as further amended and supplemented, and from Law 297/2004, as further amended and supplemented the reorganization plan proposed by the creditors or by the judicial administrator may provide for the modification of the articles of incorporation, without the statutory approval of the members or shareholders/associates of the debtor.
7) The amendment registration with the trade register shall be requested by the judicial administrator at the expenses of the debtor, based on the decision for confirmation of the reorganization plan, to be published in the Official Gazette of Romania, Part IV.

Art. 134

1) For the purposes of casting vote on the reorganization plan, a category of indispensable creditors may be established, as the same is defined in article 5, indent 23. The judicial administrator shall fully or partially confirm or invalidate the list of indispensable creditors.
2) The list of indispensable creditors mentioned in par (1) shall be lodged by the debtor along with the other documents mentioned in article 67, par (1), and shall be attached to, indicating also the current claims thereof, to the report prepared by the judicial administrator/judicial liquidator according to article 97. Failure to lodge this list results in preclusion of the debtor from proposing, the category of indispensable creditors, in order to vote the reorganization plan.

Art. 135 The following shall not be deemed to be a cause for modification of the claim or of the conditions for recovery thereof: the proposed plan provides for return to conditions for the claims recovery that existed before the occurrence of events that triggered their modification, such as the failure to pay one or several outstanding installments of a loan at the due dates and according to the conditions of the contract, which results in acceleration of repayment of the entire remaining loan amount.

Art. 136 One copy of the proposed reorganization plan shall be lodged with each of the tribunal's clerk office and the register where the debtor is incorporated, and shall be communicated to the debtor, through the special administrator, to the judicial administrator and to the creditors committee.

Art. 137

1) The judicial administrator shall, within five (5) days from filing of the reorganization plan, publish an announcement in this respect in the IPB, indicating the plan initiator, the intended date for the vote thereon in the creditors meeting as well as the fact that voting by correspondence is permitted.
2) The creditors meeting dedicated to casting of votes on the reorganization plan shall be held within twenty (20) to thirty (30) days from publication of the announcement. The judicial administrator shall cause the reorganization plan and its appendices to be communicated in electronic format as scanned copy by e-mail or to be posted on its website.
3) The creditors holding bearer bonds must lodge the originals thereof with the judicial administrator at least five (5) days before the scheduled date for the vote, under penalty of preclusion from voting.

4) As of the time of publication, all concerned parties shall be deemed to have become aware of the reorganization plan and of the intended date for voting. In all cases, the debtor shall cause the reorganization plan to be available for consultation at its seat, at the expenses of the applicant.

Art. 138

1) In the opening of the voting session, the judicial administrator shall first inform the creditors of the votes validly cast in writing.
2) Each claim offers the right to one vote which the holder shall exercise within the category of claims that the respective claim belongs to.
3) The following claims are ranged in distinct categories which vote separately:
   a) Privileged claims;
   b) Salary claims;
   c) Budgetary claims;
   d) Claims of indispensable creditors;
   e) Other unsecured claims.
4) A plan is considered accepted by a category of claims if the plan is accepted in that category by the absolute majority of the amount of claims in that category.
5) The creditors which directly or indirectly control, are controlled or are under joint control with the debtor may vote on the reorganization plan, provided that the claims payment schedule does not offer them any amount or offers them less than what they would receive in case of bankruptcy and provided that any such payments are granted to them according to the priority order of subordinated claims referred to in article 161, indent 10, letter a).
6) If several reorganization plans were proposed, then the vote thereon shall be cast during the same session of the creditors' meeting, according to the order decided pursuant to the creditors' vote.

Art. 139

1) The syndic judge shall set the term for confirmation of the reorganization plan within maximum fifteen (15) days from the date when the judicial administrator lodged with the tribunal the protocol of creditors meeting whereby the reorganization plan was approved. The syndic judge may require a specialist to express an opinion on the feasibility of the reorganization plan, before confirming it. The plan will be confirmed if the following conditions are met:
   A. Where there are five (5) categories, the plan shall be deemed accepted if at least three (3) of the categories of claims mentioned in the payment schedule, out of the ones referred to in article 138, par. (3), accept the plan, provided that at least one of the underprivileged categories accept it and at least 30% of the total amount of claims (in terms of value) accept it;
   B. Where there are three categories, the plan shall be deemed accepted if at least two (2) categories accept it, provided that one of the underprivileged categories accept it and at least 30% of the total amount of claims (in terms of value) accept it;
   C. Where there are two (2) or four (4) categories, the plan shall be deemed accepted if voted for by at least half of the number of categories, provided that one of the underprivileged categories accept it and at least 30% of the total amount of claims (in terms of value) accept it;

D. Each underprivileged category of claims that rejected the plan shall be given a fair and equitable treatment through the plan;
E. The following shall be deemed to be underprivileged claims and shall be considered to have accepted the plan: the claims to be fully paid within thirty (30) days from confirmation of the reorganization plan or according to the credit or leasing contracts they result from;
F. The plan observes the provisions of article 133 in terms of validity and feasibility.

2) Fair and equitable treatment exists when the following conditions are met simultaneously:
   a) None of the categories rejecting the plan and no claim rejecting the plan receives less than they would have received in case of bankruptcy;
   b) No category and no claim in a category receives more than the total amount of its claim;
   c) Where an underprivileged category rejects the plan, no category of claims with a ranking lower than the ranking of the rejecting underprivileged category as results from the hierarchy set out in article 138, par (3), receives more than it would receive in case of bankruptcy;
   d) The plan provides the same treatment for each claim within a distinct category, except for the different ranking of those who benefit of a cause of privilege, as well as in the event the holder of a claim consents to a less favorable treatment for its claim.
3) Only one reorganization plan shall be confirmed.
4) The confirmation of a reorganization plan precludes confirmation of any other reorganization plan.
5) The reorganization plan may be amended and even extended at any time during the reorganization proceeding, without exceeding a total maximum duration for the implementation thereof, of four (4) years from the initial confirmation date. The amendment may be proposed by anyone who is entitled to propose a plan, irrespective whether it proposed or not that plan. The amendment shall be voted in the creditors meeting by the remaining claims as of the date of the vote, under the same conditions as applicable for the voting on the reorganization plan. The amendment of the reorganization plan must be confirmed by the syndic judge.

Art. 140

1) At the time the sentence confirming a plan becomes effective, the debtor's activity shall be restructured accordingly; the claims and rights of creditors and of the other concerned parties shall be adjusted as specified in the plan. In case of opening of the bankruptcy, the situation shall be reinstated as determined in the final table of all claims against the debtor referred to in article 112, par (1) of this law, minus the amounts paid during the reorganization plan.
2) If, after confirmation of the reorganization plan, additional amounts will be recovered based on motions filed according to article 117, these amounts shall be distributed as specified in article 163.
3) The amounts resulting from the current activity of the debtor or from sale of assets not encumbered by causes of privilege shall be meant to be distributed pro rata for each claim intended to be paid during reorganization, after deduction of amounts considered necessary to pay current outstanding claims and the ones necessary to assure the working capital, if applicable.

The claims payment schedule shall provide for the payment of these amounts in the quarter following the one when they become available.

4) Creditors shall preserve their rights of action for the entire amount of their claims against co-debtors and fidejussors of the debtor, even if they voted in favour of acceptance of the plan.
5) If no plan is confirmed and the term allowed for proposing a plan according to article 132 expired, the syndic judge shall order the immediate opening of the bankruptcy according to article 145.
6) The remunerations due to the persons retained based on article 57, par (2), article 61 and article 63, as well as other procedural expenses shall be paid when due, as applicable according to the law, except when the concerned parties accept in writing other terms of payment. The reorganization plan must include in the payment schedule the manner in which such payments will be made.
7) Payment may be made on a quarterly basis, based on statutory documents.

§ 2 Reorganization Period

Art. 141

1) Pursuant to confirmation of a reorganization plan, the debtor shall conduct its business under supervision of the judicial administrator and according to the confirmed plan, until the syndic judge orders based on proper grounds either the closing of the insolvency proceeding and the taking of all actions in order to reinsert the debtor into the business circuit, or the termination of reorganization and the opening of the bankruptcy, according to article 145.
2) During reorganization, the debtor shall be managed by the special administrator, under supervision of the judicial administrator, subject to the provisions of article 85, par (5). The shareholders, the associates and the limited liability members are not entitled to interfere with the management of activity or with the administration of debtor's estate, except for and within the limits of the express and limited situations provided by the law and in the reorganization plan.
3) The debtor shall be bound to immediately implement the structure changes provided for in the reorganization plan.

Art. 142 By way of exception from article 77, the syndic judge may, at the request of the supplier, compel the debtor to deposit a bound with a bank, as a condition for the supplier's obligation to provide services during the judicial reorganization proceeding. Such a bond may not exceed 30% of the cost of services delivered to the debtor and unpaid after the opening of the proceeding.

Art. 143

1) Where the debtor fails to comply with the plan or the carrying out of its business results in losses or new debts accrue to the creditors in the proceeding, any of the creditors or the judicial administrator may at any time require the syndic judge to order the opening of the bankruptcy against the debtor. The petition shall be ruled upon without any undue delays.
2) The filing of the petition referred to in par (1) does not suspend the continuation of debtor's activity until the syndic judge issues a resolution thereon.

3) The holder of a claim which is current, undisputed, liquid and payable for more than sixty (60) days and has a value which exceeds the threshold value, may request, at any time during the reorganization plan or after fulfillment of the payment obligations undertaken in the plan, the opening of the bankruptcy. Its petition shall be rejected by the syndic judge if its claim is not due, is paid or the debtor enters into a payment arrangement with this creditor.

Art. 144

1) The debtor, through the special administrator or the judicial administrator, as applicable, must present quarterly reports to the creditors committee concerning the financial standing of the debtor. After approval by the creditors committee, the reports shall be lodged with the tribunal's clerk office and the debtor or the judicial administrator, as applicable, shall notify all creditors thereon, in order to allow consultation of the reports.
2) In addition, the judicial administrator shall present a list of expenses incurred in connection with the ordinary course of business in order to have them recovered, and the list shall be approved by the creditors committee.
3) The creditors committee may, within five (5) days from approval of the reports, call the creditors meeting in order to present the actions taken by the debtor and/or the judicial administrator, their effects and to propose other properly grounded actions to be taken.

Section 7 – Bankruptcy and Liquidation of Assets

Art. 145

1) The syndic judge shall, by sentence or resolution, as applicable, according to article 71, decide the opening of the bankruptcy, in the following events:
   A.
      a) The debtor expressed its intention to enter into simplified bankruptcy proceeding;
      b) The debtor did not declare its intention to be reorganized;
      c) None of the other entitled legal entities filed a reorganization plan according to article 132 or none of the proposed reorganization plans was accepted and confirmed;
   B. The debtor declared its intention to be reorganized but it did not propose a reorganization plan or the plan proposed by it was not accepted or confirmed;
   C. The payment obligations and the other obligations undertaken are not fulfilled as required in the confirmed reorganization plan, or the conducts of debtor's activity during reorganization generates losses;
   D. The judicial administrator's report proposing the opening of the bankruptcy according to article 92, par (5), or article 97, par (5), as applicable, is approved;
   E. In the events described in article 75, par (4) and article 143, par (3).
2) In its decision ordering the opening of the bankruptcy, the syndic judge shall decide the dissolution of the debtor and shall order:
   a) Removal of the debtor's right to manage its own business;
   b) In case of general proceeding, appointing of a temporary judicial liquidator as well as establishing the duties and fee thereof, according to the criteria established by the law on organization of the profession;

c) In case of simplified proceeding, confirming the judicial administrator appointed according to article 57, par (2) or according to article 73, as applicable, as judicial liquidator;
d) The maximum period allowed since the opening of the bankruptcy in general proceeding, for transfer of the estate management from the debtor/judicial administrator to the judicial liquidator, along with the list of acts and operations made after the opening of the proceeding referred to in article 84, par (2);
e) Preparation by the judicial administrator and delivery to the judicial liquidator within maximum five (5) days from the opening of the bankruptcy in general procedure of a list encompassing the names and addresses of creditors and all their claims existing on the date of opening of the bankruptcy, specifying the ones arising after the opening of the proceeding, the final table of claims and any other tables prepared in the proceeding, any distribution reports, the list of acts and operations made after the date of opening of the proceeding. This obligation shall be fulfilled by the special administrator with approval of the judicial administrator, unless the debtor's right to manage its own business was not removed until the date of opening of the proceeding;
f) The opening of the bankruptcy to be notified.

3) In case of opening of the bankruptcy, the resolution or the sentence, as applicable, shall indicate also the terms referred to in article 146, par (2), or article 147, par (2), as applicable.
4) After opening of the bankruptcy in general proceeding, the provisions of articles 99 – 114 shall be applied, where necessary and accordingly, in respect of claims arising at any time between the opening of the proceeding and the date of going into bankruptcy, as well as in respect of the procedure for admittance thereof.

Art. 146

1) In case of bankruptcy in general proceeding, the judicial liquidator shall send a notice to all creditors referred to in the list lodged by the debtor/judicial administrator and referred to in article 145, par (2), letter e), the claims of which appeared after the opening of the proceeding, to the debtor and the register where the debtor is incorporated, in order to be recorded therein. The provisions of par (2) and par (3) of article 99 apply accordingly.
2) The notice shall be communicated to the creditors at least ten (10) days before the expiration of the due date for filing of proofs of debt and shall include:
   a) The due date for filing of proofs of debt referred to in par (3), in order to prepare the additional table of claims, which shall be maximum forty five (45) days from the date of going into bankruptcy, as well as the requirements for a claim to be considered valid;
   b) The term allowed for verification of claims referred to in par (3), for preparation and publication of the additional table of claims, which shall not exceed thirty (30) days from elapse of the term referred to in letter a);
   c) The term allowed for filing of oppositions with the tribunal, which shall be seven (7) days from publication in the IPB of the additional table of claims;

d) The term allowed for preparation of the final consolidated table of claims, which shall not exceed thirty (30) days from elapse of the term referred to in letter b).

3) Verification shall address all claims against the debtor including the budgetary claims, arising after the opening of the proceeding, or, as applicable, the claims the amount of which was modified as opposed to the final table of claims or as opposed to the payment schedule under the reorganization plan, as a result of payments made after the opening of the proceeding.

4) The claims admitted for the final table of claims shall no longer be subject to verification; all creditors will be permitted to file oppositions in respect of the additional table of claims.

5) The final consolidated table of claims shall include all claims admitted against the debtor, as existing on the date of going into bankruptcy, subject to the provisions of article 112.

6) The holders of claims arising after the opening of the proceeding which do not file proofs of debt within the term referred to in par (2) letter a), shall be subject to article 114, accordingly.

Art. 147

1) In case of opening of bankruptcy in simplified proceeding, the judicial liquidator shall send a notice concerning the opening of the bankruptcy and, where the debtor is a legal entity, concerning the removal of the debtor's right to manage its own business and the dissolution thereof, to all creditors notified according to article 99, to the debtor and to the trade register office or to the register of agricultural companies or to the register of associations and foundations, as applicable, where the debtor is incorporated, in order for the notice to be registered therein. Where extension is justified according to article 100, par (2), in respect of the terms allowed for publication of the preliminary table of claims as per article 100, par (1) letter c), and for finalization of the table of claims as per article 100, par (1) letter d), the new terms as extended shall be notified to the creditors.

2) In the event that, by the time the judicial administrator's proposal as per article 92, par (4) is approved, the debtor undergoing bankruptcy in simplified proceeding continued its activity, the judicial liquidator shall, within five (5) days from the opening of the bankruptcy, notify the creditors that hold claims against the debtor, with priority according to article 161, indent 4, arising during the observation period, and shall require them to file, within ten (10) days from receipt of the notice, proofs of debt accompanied by the documentary evidence. The notification shall also provide for the terms allowed for publication of the preliminary table of claims as per article 100, par (1), letter c), and for finalization of the table of claims as per article 100, par (1), letter d), as the same were inserted in the notification referred to in par (1) above or, as appropriate, article 99, par (1). The provisions of par (2) and par (3) of article 99 apply accordingly.

3) Verification shall address all claims against the debtor including the budgetary claims, arising after the opening of the proceeding.

4) The holders of claims arising after the opening of the proceeding which do not file proofs of debt within the term referred to in par (2), shall be subject to article 114, accordingly.

Art. 148 In case a debtor goes into bankruptcy after confirmation of a reorganization plan, the creditors participate in distributions for their claims amount as the same were registered in the final consolidated table of claims.

Art. 149 The security interests in personal and real property established in order to fulfill the obligations undertaken in the reorganization plan remain valid in favor of the creditors for the payment of the amounts due to them according to the reorganization plan.

Art. 150

1) The creditors are not bound to restitute the amounts collected during reorganization.
2) The deeds concluded without consideration, between the date of confirmation of the reorganization plan and the date of opening of the bankruptcy, are void.
3) The other deeds concluded during the timeframe referred to in par (2), except for those concluded in accordance with article 87, par (1) and par (2) and the ones permitted by the reorganization plan, are presumed to be made to the detriment of the creditors and shall be cancelled, unless the counterparty proves to have acted in good faith at the time the deed was concluded.
4) The money claims against the debtor shall be deemed due and payable as of the date of opening of the bankruptcy proceeding. This provision is not applicable to qualified financial contracts and netting operations made under a financial qualified contract or a netting agreement.

§ 1 Pre-liquidation Actions

Art. 151

1) The following shall be placed under seal: the shops, the storage rooms, the warehouses, the offices, the business correspondence, the archive, the data storage and processing devices, the contracts, the commodities and any other immovable assets of the debtor's estate.
2) In the event referred to in article 93, the stock taking of debtor's assets shall be made after having obtained written information as to the standing of the debtor's goods. If, pursuant to the actions taken according to articles 94 – 96, the judicial administrator does not identify any asset the inventory list shall be prepared based on the written information provided by the relevant authorities.
3) The following shall not be placed under seal:
   a) The items that need to be expeditiously sold to avoid physical damage or loss of value;
   b) The accountancy titles;
   c) The bills of exchange and other bonds which are due or are going to become due shortly, as well as the shares and any other equity interests of the debtor which shall be taken over by the judicial liquidator in order to be collected or to perform the necessary conservation actions;
   d) The cash that the judicial liquidator shall deposit in bank on account of the debtor's estate.
4) During the sealing operation the judicial liquidator shall cause that the necessary actions are taken to assure conservation of the assets.

Art. 152

1) Where the stock taking in respect of debtor's estate takes only one day, the judicial liquidator may immediately initiate the stock taking without affixing the seals. In all the other cases the stock taking shall be performed as soon as practicable. The special administrator must be present and assist in the stock taking if the syndic judge so instructs. Failure to be present in the stock taking procedure will preclude the special administrator from contending the information recorded therein.
2) During stock taking, the judicial liquidator takes possession of each and every asset and thus becomes their judicial trustee.

Art. 153

1) The inventory list must describe all identified assets of the debtor.
2) The inventory list shall be signed by the judicial liquidator and by the special administrator, and, where the latter is absent, only by the judicial liquidator.
3) For the purposes of patrimonial conservation, where there are no sufficient liquidities in the debtor's estate, the judicial liquidator may expeditiously sell some of debtor's assets and in particular those which are not affected by privileges, in order to obtain the available cash, without approval of the creditors. The sale shall be made by public tender after previous valuation, the opening price being the liquidation value indicated by the valuator.

§ 2 Liquidation Procedure

Art. 154

1) Liquidation of assets from the debtor's estate shall be performed by the judicial liquidator under control of the syndic judge. In order to leverage the debtor's estate to the largest extent possible, the judicial liquidator shall use its best endeavors for a proper marketing of the assets with the advertising expenses being paid from the debtor's estate.
2) Liquidation will commence immediately after completion by the judicial liquidator of stock taking and filing of the valuation report. The assets may be sold globally or individually. Any global sale of assets, as an operational unit, irrespective whether it is made during reorganization or in bankruptcy, may be considered a transfer of assets if it meets the provisions of article 128, par (7), of Law 571/2003. The method of sale of assets, meaning public tender, direct negotiation or a combination of the two, respectively, and the regulation for the sale appropriate for the chosen method of sale shall be approved by the creditors meeting based on the proposal of the judicial liquidator. For the purposes of public tender, publicity shall be made also by posting on the website of the National Union of Insolvency Practitioners of Romania. In order to assess the assets in the debtor's estate, and subject to approval of the creditors committee, the judicial liquidator may retain a valuator on behalf of the debtor and establish its fee. The valuators must be members of ANEVAR (Romanian National Association of Chartered Valuators) and valuation must be made according to the international valuation standards.
3) The assets in the debtor's estate shall be assessed globally as well as individually. Global valuation addresses either assessment of all assets in the debtor's estate or assessment of operational sub-assemblies.

Art. 155 The valuation report shall be lodged with the court and an announcement concerning the filing thereof and a summary excerpt thereof shall be published in the IPB. The valuation report shall be available for consultation by the creditors in a location indicated in the announcement by the judicial liquidator.

Art. 156

1) The judicial liquidator shall call the creditors meeting within maximum fifteen (15) days from filing of the valuation report in order to determine the method of sale.
2) If assets are sold by public tender, the tender may be organized also according to the Civil Procedure Code. If the creditors' meeting does not approve a sale regulation according to article 154, par (2), or in the event that although a sale regulation was approved the assets were not sold within a reasonable time, at the request of the judicial liquidator, as approved by the syndic judge, then assets will be sold by public tender, according to the Civil Procedure Code.
3) If assets are sold by direct negotiation, the judicial liquidator shall require the creditors' meeting to approve also the regulation of sale.
4) Assets shall be sold after the sale announcements are published by the judicial administrator/liquidator in a largely circulated newspaper. The concerned person may inspect the assets offered for sale after the sale announcements are published.

Art. 157 Securities shall be sold according to Law 297/2004, as further amended and supplemented.

Art. 158

1) The judicial liquidator shall conclude sale and purchase agreements. The proceeds obtained from sales shall be deposited in the account referred to in article 39, par (2).
2) Where assets are sold by public tender, the adjudication protocol signed by the judicial administrator shall stand for an ownership title. When the law requires that the deeds of transfer of the ownership right are notarized, they shall be concluded by the notary public based on the tender protocol.

§ 3 Distribution of Proceeds from Liquidation

Art. 159

1) The funds obtained from the sale of assets and rights from the debtor's estate, which are affected by causes of privileges in favor of the creditor, shall be used to cover the following liabilities, in the following order:
    1. The fees, stamps, and any other expenses in connection with the sale of those assets, inclusively the expenses necessary for conservation and administration of these assets, as well as the expenses advanced by the creditor in the forced execution procedure, the claims of utilities suppliers arising after the opening of the proceeding, according to article 77, remunerations due on the distribution date to professionals retained for the joint interests of all creditors, according to article 57, par (2), article 61 and article 63, shall be borne pro rata, depending on the value of all assets in the debtor's estate;

2. The claims of privileged creditors arising during the insolvency proceeding. These claims include the capital, interests, as well as other accessories, as the case may be;
3. The claims of privileged creditors, comprising the entire capital, interests, increases and penalties of whatever nature, including expenses, as well as those under article 105, par (3), and article 123, par (11), letter a);

2) In the event that the amounts obtained from sale of these assets are insufficient to fully cover those claims, the creditors shall, in respect of the difference, hold unsecured or budgetary claims, as appropriate, which shall compete with the ones included in the corresponding category according to their nature, referred to in article 161, and shall be subject to the provisions of article 80. If, after payment of the amounts referred to in par (1), there is a positive difference, the judicial liquidator shall cause such difference to be deposited on account of the debtor's estate.
3) A privileged creditor is entitled to participate in any distribution of amounts made before the sale of the asset affected by a privilege in its favor. The amounts received from such distributions shall be deducted from the ones that the creditors would be entitled to receive later on from the proceeds obtained from the sale of the asset affected by a privilege, if this is necessary in order to prevent such a creditor from receiving more than what it would have received if the asset affected by a cause of privilege in its favor had been sold before the distribution.

Art. 160

1) Every three months, calculated from the date of commencement of liquidation, the judicial liquidator shall provide the creditors committee with a report on the funds obtained from liquidation and collection of debts, as well as a plan for distribution between creditors, if applicable. The report and the plan shall be registered with the tribunal's clerk office and shall be published in the IPB. The report shall also provide for the payment of the judicial liquidator's fee and of the other expenses referred to in article 159, par (1), indent 1, or article 161, indent 1, as applicable.
2) The report concerning the funds obtained from liquidation and from collection of debts shall provide for at least the following information:
   a) The balance existing in the liquidation account after the last distribution;
   b) The collections made by the judicial liquidator from the sale of each asset and from claims recovery;
   c) The amount of interests or other income that the debtor's estate benefits of pursuant to keeping the amounts not distributed in bank accounts or pursuant to administration of the assets existing in the debtor's estate;
   d) The total amounts in the liquidation account.
3) The plan for distribution to creditors must necessarily include the following information concerning each creditor to which allocation is made:
   a) The updates to the final table of claims;
   b) The amounts already distributed;
   c) The amounts remaining after adjustment of the final table of claim and the distributions already made;
   d) The amounts that form the object of distribution;
   e) The amounts remaining to be paid after distribution is made.

4) For solid grounds, the syndic judge may extend by maximum one (1) month or may reduce the term allowed for presentation of the report and of the distribution plan. The distribution plan shall be registered with the tribunal's clerk office and the judicial liquidator shall notify each creditor thereon. A copy of the report and a copy of the distribution plan shall be posted on the tribunal's door.
5) The creditors committee or any creditor may, within fifteen (15) days from publication of the report and the plan in the IPB, file opposition against them. A copy of the opposition shall be expeditiously sent to the judicial liquidator. Within five (5) business days from expiration of the term allowed to file oppositions, unless any opposition is filed, the judicial liquidator shall proceed to actual payment of the distributed amounts. If oppositions were indeed filed the judicial liquidator shall refrain from distributing the amounts that form the object of opposition according to par (6) and shall commence payment of the amounts not disputed.
6) Within twenty (20) days from publication, the syndic judge shall organize a meeting for which it shall summon the judicial liquidator, the debtor and the creditors, and shall issue a sentence settling at once all oppositions. Within five (5) business days from the date when the decision settling the oppositions becomes a writ of execution, the judicial liquidator shall proceed to actual payment of the amounts distributed, as determined by the courts of law.

Art. 161 Claims shall, in case of bankruptcy, be paid according to the following order:
1. The fees, stamps, or any other expenses in connection with the proceeding set forth by this title, inclusively the expenses necessary for conservation and administration of the assets in the debtor's estate, for activity to continue, as well as for the payment of the considerations due to professionals retained according to article 57, par (2), article 61, article 63 and article 73, subject to the provisions of article 140, par (6);
2. Claims resulting from financing granted according to article 87, par. (4);
3. Claims resulting from labor relations;
4. Claims resulting from the debtor's activity being continued after the opening of the proceeding, the ones payable to counterparts according to article 123, par (4), and the ones payable to third party acquirers acting in bad faith or subsequent acquirers that restitute to the debtor the assets or the value thereof according to article 120, par (2), and article 121, par (1), respectively;
5. Budgetary claims;
6. Claims consisting in amounts payable by the debtor to third parties based on some obligations to provide financial support, minor children allowance or to pay periodic amounts destined to assure the living means;
7. Claims consisting in the amounts determined by the syndic judge for support of the debtor and its family, where the debtor is an individual;
8. Claims representing bank loans and the related expenses and interests, the ones resulting from delivery of products, provision of services or other works, from rents, as well as the claims under article 123, par (11), letter b);
9. Other unsecured debts;
10. Subordinated claims in the following order of preference:
    a) The claims arising in the patrimony of bad faith third party acquirers of the debtor's assets based on article 120, par (2), the ones due to subsequent bad faith acquirers based on article 121, par (1), as well as the shareholder loans granted to the debtor – legal entity – by an

associate or shareholder holding at least 10% of the share capital and from the voting rights in the general meeting of shareholders, respectively, or by a member of the economic interest group, respectively;

b) Claims resulting from deeds without consideration.

Art. 162 The amounts to be distributed between creditors with the same priority ranking shall be granted pro rata to the amount allotted for each claim in the final consolidated table of claims.

Art. 163

1) Amounts may be distributed to the holders of claims in a specific category only if the holders of claims in a higher category were fully satisfied, according to the order of preference referred to in article 161.
2) Where the amounts necessary to cover the full amount of claims with the same priority ranking are insufficient, the holders thereof shall receive a bankruptcy quota which means a pro rata amount equal to the percentage that their claim account for in the category of the respective claims.
3) The insolvency account opened as referred to in article 39, par (2), may in no way be blocked by any criminal, civil or administrative action, ordered by the criminal prosecution bodies, administrative bodies or courts of law.

Art. 164 In the event that the assets that form the estate of an economic interest group or of a general partnership or limited partnership are not sufficient to cover the claims included in the final consolidated table of claims, then in respect of that group or company the syndic judge shall authorize the forced execution according to the law, against unlimited liability associates or, as applicable, against the members, and shall issue an enforceable sentence to be enforced by the judicial liquidator, through court officer.

Art. 165 When partial distributions are made, the following amounts shall be provisioned:

1. the pro rata amounts due to the creditors the claims of which are subject to conditions precedent that are not fulfilled yet;
2. the pro rata amounts due to the holders of promissory notes or bearer bonds and who hold the originals but did not present them yet;
3. the pro rata amounts due to the temporarily admitted claims;
4. the reserves destined to cover the future expenses of the debtor's estate, including those generated by ongoing litigation.

Art. 166 For the creditors holding claims registered in the final consolidated table of claims to whom amounts were allotted only partially, or claims under condition precedent and who took part in the distribution, the due amounts shall be kept in the bank in a special deposit account, until their situation is clarified.

Art. 167

1) After the assets in the debtor's estate were liquidated, the judicial liquidator shall provide the syndic judge with a final report accompanied by the final financial statements; copies of these documents shall be forwarded to all creditors and to the debtor, by publication in the IPB. The syndic judge shall cause the creditors meeting to be called within maximum thirty (30) days

from publication of the final report. The creditors may file objections against the final report at least five (5) days before the convening date.

2) At the meeting date, the syndic judge shall, by resolution, settle all objections at once, shall approve the final report, or shall order the corresponding amendment thereof, as applicable.

3) The claims which, on the date of registration of the final report, shall continue to be under condition precedent, shall not participate in the final distribution.

Art. 168 Once the syndic judge approves the final report of the judicial liquidator the latter shall have to operate the final distribution of all funds from the debtor's estate. The funds not claimed within thirty (30) days by the entitled persons shall be deposited in the account referred to in article 39, par (4).

Section 8 – Liability for Insolvency

Art. 169

1) At the request of the judicial administrator or of the judicial liquidator, the syndic judge may order that all or part of the liabilities of the debtor – legal entity – undergoing insolvency, without exceeding the prejudice which has a cause-effect relation with the respective action, is borne by the members of the management and/or supervisory bodies in the company, as well as by any other persons who concurred to the insolvency of the debtor, by acting as follows:
   a) They used the assets or the credits of the legal entity for their own benefit or for the benefit of other persons;
   b) They performed production activities, trading acts or provided services for personal purposes under the umbrella of the legal entity;
   c) They have ordered, for personal interest, the continuation of an activity which was manifestly causing the legal entity to be unable to make payments;
   d) Have kept fictitious accounting records, caused some accounting documents to disappear or failed to keep the accounting records as required by the law. In case of failure to deliver the accounting records to the judicial administrator or to the judicial liquidator, both the fault and the cause-effect relation between the action and the prejudice are presumed. The presumption is relative;
   e) Have embezzled or concealed part of the assets of the legal entity or fictitiously increased the liabilities thereof;
   f) Used subversive means to procure funds for the legal entity in order to delay the inability to make payments;
   g) During the month before payments were ceased, they have paid or instructed payments to a specific creditor to the detriment of the other creditors;
   h) They have intentionally committed any other act that concurred to the insolvency of the debtor, as determined according to this chapter.

2) Where the judicial administrator or the judicial liquidator, as applicable, did not indicate the persons in default for the insolvency of the debtor and/or decided that it was not necessary to file the petition referred to in par (1), then such petition may be filed by the chairperson of the creditors committee based on a decision of the creditors meeting, or, if no creditors committee was established, by a creditor appointed by the creditors meeting. This

petition may be also filed under the same conditions by the creditor that holds more than 50% of the amount of claims registered in the table of claims.

3) The petition files based on par (1) or par (2), as appropriate, shall be ruled upon separately, and an associated file shall be formed;
4) If there are several persons in default, the persons referred to in par (1) shall be jointly held liable provided that the insolvency occurred simultaneously or before the time period in which they exerted their mandate or held the position from which they concurred to the insolvency.
5) The respective persons may not be held liable if, within the corporate governance bodies of the legal entity, they objected to the actions or facts which concurred to the insolvency, or were absent when decisions have been made which concurred to the insolvency, and caused their opposition to be written down after the decisions were made.
6) The respective persons may not be held liable if, in the month before payment were ceased, payments were made in good faith under an arrangement with the creditors, concluded pursuant to out of the court negotiations for debt restructuring, provided that such arrangement was likely to lead to financial recovery of the debtor and was not intended to prejudice and/or discriminate some creditors. These provisions apply also in case of arrangements entered into under the preventive concordat proceeding.
7) Where a court decision was issued rejecting the action filed based on par (1) or par (2), as applicable, the judicial administrator/the judicial liquidator who does not intend to file for appeal against it shall notify the creditors committee in this respect or, where no creditors committee was established, the creditors meeting. In the event that the creditors meeting or the creditor who holds more than half of the value of all claims decides that it is necessary to file for appeal, then the appeal shall be filed by the chairperson of the creditors committee or by the majority creditor, as the case may be.
8) The application of the provisions of par (1) does not preclude application of the criminal law for the actions that may be deemed crimes.
9) Where a sentence was issued whereby the syndic judge ordered the statutory director to be held liable for patrimonial prejudices, the respective sentence shall be automatically communicated to the National Office of the Trade Register.
10) A person found to be liable as determined by a final court order may no longer be appointed director or, if he/she is director in other companies, he/she shall be precluded from holding such office, for a ten (10) year term from the date when the decision was final.

Art. 170 The limitation period for the petition referred to in article 169 is of three (3) years. The limitation period starts running from the date the person who concurred to insolvency was known or should have been known, but no later than two (2) years from the issuance of the court decision ordering the opening of the insolvency proceeding.

Art. 171 The amounts deposited according to article 169, par (1), shall join the debtor's estate and shall be used, in case of reorganization, to cover the claims under the payment schedule, to supplement the funds necessary for the debtor to continue to operate, and, in case of bankruptcy, to cover the liabilities.

Art. 172

1) Simultaneously with the petition filed according to article 169, par (1) or par (2), as applicable, the judicial administrator or the judicial liquidator, or the creditors committee, as applicable, may request the syndic judge to implement preventive measures in respect of the assets belonging to the persons pursued according to article 169. The setting of a bond of 10% of the claims value is mandatory.
2) The petition for preventive measures may be filed also after the petition referred to in article 169 is lodged.

Art. 173

1) The forced execution against the persons referred to in article 169, par (1), shall be made by the court officer, according to the Civil Procedure Code.
2) After closing of the bankruptcy proceeding, the amounts resulting from forced execution shall be distributed by the enforcement officer according to the provisions of this title, based on the final consolidated table of claims made available to it by the judicial liquidator.

Section 9 – Closing of Proceeding

Art. 174

1) If, at any stage of the proceeding referred to in this title, it is stated that the debtor's estate has no assets or that the assets are insufficient to cover the administrative expenses and no creditor offers to put up the corresponding amounts, the syndic judge shall call an urgent meeting of creditors and, if they refuse to put up the money necessary or fail to be present, although the summoning was performed through the IPB, it shall issue a sentence ordering the closing of the proceeding and it shall further decide, in the same sentence, de-registration of the debtor from the register where it is recorded.
2) The provisions of article 167 are not applicable in the event referred to in par (1) above.

Art. 175

1) A proceeding for reorganization as a going concern or a proceeding for liquidation based on a plan shall be closed by sentence, based on a report of the judicial administrator stating the fulfillment of all payment obligations undertaken in the confirmed plan, as well as the payment of all outstanding current claims. Where a proceeding commences as reorganization but then turns into bankruptcy the proceeding will be closed based on article 167.
2) A bankruptcy proceeding shall be closed when the syndic judge shall have approved the final report, all funds or assets in the debtor's estate shall have been distributed and the unclaimed funds shall have been deposited with a bank.
3) The assets may be distributed to the creditors on account of their claims against the debtor's estate, pursuant to a proposal of the creditor, subject to the creditor being bound to pay all amounts which would have been owed to the creditors with previous priority ranking, as well as to those with the same priority ranking according to articles 159 and 161, as if the asset had been sold to a third party. If there are several proposals, the asset shall be allotted to the one who offers a higher price, in which case the claim of that creditor shall be deducted from the price due. In all cases the price of assets

distributed to creditors on account of their claims shall not be lower than the amount determined in the valuation report.

Art. 176 Where claims were fully satisfied pursuant to the distributions made, the syndic judge shall issue a sentence ordering the closing of the bankruptcy proceeding and de-registration of the debtor from the register where it is recorded:

a) Even before the assets in the debtor's estate were fully liquidated, in the event that all shareholders of the legal entity or the individual, as applicable, require it within thirty (30) days from the judicial liquidator's notice sent to the special administrator, and the assets shall be transferred in the co-ownership of the associates/shareholders pro rata to their contributions to the share capital;
b) In all the other cases, the proceeding shall be closed only after full liquidation of the assets, and the residual amounts, if any, after the last distribution, shall be deposited in a bank account available for the shareholders or for the individual, as the case may be;
c) If, after recovery of all claims, after closing of the proceeding and de-registration the debtor from the relevant registers, assets are found which were not known during the insolvency proceeding, they shall be lawfully transferred to the shareholders.

Art. 177

1) In case of a proceeding opened based on the insolvency claim filed by the debtor, subject to article 71, if the syndic judge states at the expiration of the term allowed for registration of proofs of debt that no such proof was filed, it shall issue a sentence ordering the closing of the proceeding.
2) In the event referred to in par (1), the closing of the proceeding does not have the effects referred to in article 176. However, the administration operations validly made for the debtor's estate shall be effective and the rights acquired before the closing shall remain unprejudiced.

Art. 178 If all creditors included in the final table of claims receive the amounts owed to them in the observation period or waive the trial during the observation period, the syndic judge shall order the closing of the proceeding herein without ordering de-registration of the debtor from the relevant register.

Art. 179 The sentence ordering the closing of the proceeding shall be notified by the syndic judge to the territorial division of the public finance or to the county administration of public finance, as appropriate, and to the trade register office or to the register of agricultural companies or to other registers where the debtor may be registered, respectively, in order to be recorded therein. It shall be further notified to all creditors, by publication in the IPB.

Art. 180 Pursuant to closing of the proceeding the syndic judge, the judicial administrator/the judicial liquidator and all person having assisted them are discharged from any duties or liabilities in connection with the proceeding, the debtor and its estate, the creditors, the holders of privileged rights, the shareholders and the associates.

Art. 181

1) Pursuant to the closing of the bankruptcy proceeding the debtor who is individual shall be discharged of his/her obligations dating from before the opening of the bankruptcy, but provided that he/she is not found guilty for bankruptcy fraud or fraudulent payments or transfers; in these cases, he/she shall be discharged from liabilities only to the extent that they were paid within the proceeding.
2) On the date of confirmation of a reorganization plan, the debtor is discharged of the difference between the value of its liabilities before the plan confirmation and the value provided for in the plan, during the judicial reorganization proceeding. When bankruptcy is opened the provisions of article 140, par (1), become applicable.

Art. 182

1) The judicial administrator/judicial liquidator may be held liable for exerting its powers and duties in bad faith or with severe negligence. Bad faith exists when the judicial administrator/the judicial liquidator breaches the material or criminal procedure norms attempting at or tolerating personal injury. Severe negligence exists when the judicial administrator/the judicial liquidator fails to fulfill or inadequately fulfils a statutory obligation and this causes the prejudice to a legal interest.
2) In addition to the provisions of the paragraph above, the judicial administrator/the judicial liquidator may be held liable for civil, criminal, administrative or disciplinary liability for the actions taken during the proceeding, according to the norms of general jurisdiction.
3) The judicial administrator/the judicial liquidator who acts in good faith and within the limits of its powers entrusted by the law and of the available information may not be held liable for the procedural acts performed or for the content of instruments prepared during the proceeding.

Chapter II Special provisions concerning the insolvency of group of companies

Art. 183 The provisions of Chapter I shall apply mutatis mutandis to insolvency of the group of companies, with the derogations and additions provided in this chapter.

Art. 184 At the request of any concerned party, the syndic judge may instruct verifications as regards the applicability of this chapter.

Section 1 – Special Rules Concerning Competence and Bodies Authorized to Apply the Proceeding

Art. 185

1) Where the insolvency proceeding was commenced against members of the group of companies, pursuant to the filing of a joint petition for opening of the insolvency proceeding, the qualified court to rule on it is the tribunal in the forum of which the parent company or, as applicable, the company with the highest turnover according to the last published financial statement is seated, for all members of the group of companies.
2) A separate file shall be opened for each member of the group.
3) By way of derogation from the provisions of article 53 of Law 304/2004, republished, as further amended and supplemented, all case files opened

according to par (2) shall be distributed to the syndic judge appointed, according to the random distribution system, in the first file lodged with the court's computerized system.

Art. 186 The creditors' committees appointed for each member of the group that is subject to the insolvency proceeding, shall meet at least quarterly, with the main purpose to issue recommendations as to the activity of the debtors and the proposed reorganization plans.

Art. 187 The general meetings of shareholders/associates of the group members shall appoint the same special administrator for each member of the group.

Art. 188 Where the creditors that hold at least 50% of the claims are the same for each member of the group, then the same judicial administrator or consortium of judicial administrators shall be appointed for each member of the group, according to article 57.

Art. 189 Where the claims structure does not allow application of article 188, the judicial administrators appointed as stated in article 57, shall be bound to cooperate. The obligation to cooperate shall also materialize in the signing of a cooperation protocol which shall provide for a summary of the manner in which the integrated economic, legal and operational activities shall be conducted at group level. The cooperation protocol shall be attached to the insolvency file in which the coordinating insolvency practitioner was appointed, within ten (10) days from the opening of the proceeding and shall be approved by the syndic judge. Any of the judicial administrators appointed for the insolvency proceedings may participate in the creditors meetings and in the creditors' committees of any of the group members.

Art. 190 The judicial administrator appointed for each of the group members shall have capacity to sue in respect of proposing a reorganization plan under the proceeding(s) of the other group members.

Art. 191 In the event referred to in article 188, the judicial administrator(s)/judicial liquidator(s) shall be appointed after confirmation that there is no conflict of interests.

Section 2 – Opening of the Proceedings

Art. 192 Two or more debtors, members of a group and undergoing insolvency, or one or several members of the group of companies that meet the conditions of article 196, may file with the qualified court of law a joint petition for opening of the insolvency proceeding.

Art. 193 The creditor holding a claim against two or more members of a group of companies, which meets the requirements of article 5, indent 20, may file a joint petition for opening of the insolvency proceeding.

Art. 194 In addition to the documents required to be lodged according to article 67, the debtor has the obligation to file:

a) A full list of the group members, irrespective whether they are subject or not of the petition for opening of the insolvency proceeding;

b) A description of the manner in which activity is carried out in the group;
c) A list of ongoing contracts concluded between the group members.

Art. 195 If the petition filed by the debtors or the creditor, as applicable, meets the requirements in article 71 or article 72, respectively, the syndic judge shall issue a resolution ordering the opening of the general or simplified proceeding, as the case may be.

Art. 196 In order to prevent further opening of the insolvency proceeding against it, by way of exception from the provisions of article 66, par (1), a member of a group which is not in insolvency or threatening insolvency, may join a joint petition for opening of the insolvency proceeding. In this case, the joint petition for opening of the insolvency proceeding shall be approved by the general meeting of shareholders/associates of that group member.

Section 3 – Procedural Measures

Art. 197 The creditor's claim against joint debtors which are subject to the provisions of this chapter shall be recorded in the tables of claims according to article 108 and shall confer a voting right and shall participate in the quorum formation both in the proceeding opened against the main debtor, and in those opened against joint debtors.

Art. 198 In the event that motions are filed against a group member for the cancelation of awarding or transfer of patrimonial rights, according to article 117, then the judicial administrator shall notify its intention in this respect to the other judicial administrators and to the coordinating insolvency practitioner. Based on the cooperation obligation, the judicial administrators shall analyze in good faith the potential effects of such a motion and the decision concerning the filing or not of such a motion shall be made based on opportunity grounds, after consultation of the creditors' committees.

Art. 199 By way of derogation from article 132, the term allowed for filing the reorganization plans shall be sixty (60) days from the posting of the final tables of claims.

Art. 200 Based on the cooperation obligation, the judicial administrators shall make available to the other judicial administrators the necessary information in order to elaborate compatible and coordinated reorganization plans.

Art. 201 By way of derogation from article 161, the claims of the group members against another group member arising before the date of opening of the insolvency proceeding may not be offered the priority order referred to in article 161, indent 8 or 9. They shall be recorded by the judicial administrator under the order or preference referred to in article 161, indent 10, letter a).

Art. 202 A group member may enter into a loan agreement with another group member after the opening of the insolvency proceeding in order to support the debtor's activity, or in the observation period, respectively, or in order to support the reorganization plan, subject to approval of the creditors committee. In this case, the group member who offered the loan shall have a

claim with the priority order stated in article 16, par (4), against the borrower's estate.

Art. 203 A group member may secure the loan contract concluded with a third party by another group member in insolvency, subject to approval of the creditors committee.

Chapter III Special rules concerning bankruptcy of credit institutions

Section 1 – Special Provisions

Art. 204 The provisions of Chapter 1, except for those of Section 6, shall apply mutatis mutandis to the bankruptcy proceeding of credit institutions, with the derogations and additions referred to in this chapter.

Art. 205 The bankruptcy proceeding referred to in this chapter is applicable to credit institutions which are Romanian legal entities, including their branches headquartered abroad.

Art. 206 Whenever used in this chapter, the expressions "credit institution", "Member State", "home Member State", "host Member State", "branch", "financial instruments" and "qualified authority" shall have the meaning ascribed to them in Government emergency Ordinance 99/2006 on credit institutions and capital adequacy, approved with amendments and supplements by Law 227/2007, as further amended and supplemented.

Art. 207

1) In addition to the duties established in article 45, the syndic judge has the following powers and duties:
   a) To resolve the opposition filed by the credit institution against the petition for opening of the insolvency proceeding lodged by the National Bank of Romania;
   b) To appoint based on proper grounds, in its resolution ordering the opening of the proceeding, from among the compatible insolvency practitioners who presented an offer of services in this respect for that specific matter, the judicial liquidator who shall coordinate the proceeding until the same is confirmed or, where applicable, replaced by the creditors meeting or by the creditor that holds at least 50% of the claims amount, to set the fee according to the criteria established in Government emergency Ordinance 86/2006, republished, as further amended and supplemented, as well as their duties for the period. Offers shall be submitted to the case file after receiving the prior approval of the National Bank of Romania. If no offers were submitted to the case file, the syndic judge shall appoint a judicial liquidator from among insolvency practitioners approved by the National Bank of Romania. The obligation to obtain the prior approval of the National Bank of Romania falls also on the insolvency practitioners who are proposed to act as judicial liquidators by the creditors' meeting;
   c) Resolving the motions for liability of the members of management bodies, of the officers and heads of divisions, departments and other similar structures, of the auditors and execution personnel with control powers in the credit institution undergoing insolvency, who concurred to

the insolvency thereof, as well as to notify the criminal prosecution bodies about the special crimes committed;

d) To resolve the oppositions filed by the representative of the shareholders of the debtor credit institution or by the creditors against the measures ordered by the judicial liquidator.

2) The resolutions issued by the syndic judge are enforceable. They may be challenged separately only in appeal, within seven (7) days from service.

Art. 208

1) The appeal shall be settled within fifteen (15) days from registration of the file with the court of appeal, and summoning shall be made according to the Civil Procedure Code, for the judicial liquidator, and according to the general jurisdiction law rules applicable to insolvency proceeding, for the other parties. When the National Bank of Romania files a motion for opening of the insolvency proceeding, it shall be summoned according to the Civil Procedure Code.

2) The appeal against the court order for the opening of the proceeding must be lodged within seven (7) days from the service of the court order. It shall be ruled upon within forty eight (48) hours from being docketed. The challenged court order may not be suspended by the court of appeal.

Art. 209 In addition to the duties established in article 64, the judicial liquidator has the following powers and duties:

a) At the time it receives the court order concerning the opening of the bankruptcy proceeding, it shall open with a bank, Romanian legal entity or branch of a foreign bank authorized to operate on the territory of Romania, two accounts, one in Lei and one in foreign currency, marked “standard account for credit institution in bankruptcy”, with exclusive right of operation for the purposes of the bankruptcy proceeding. In these “standard accounts for credit institution in bankruptcy” there shall be transferred – upon instruction of the judicial liquidator – the amounts existing in accounts with other financial-banking institutions. The judicial liquidator shall immediately notify the National Bank of Romania of the name of the commercial bank and the accounts opened with it, and then the National Bank of Romania shall immediately transfer in these accounts the available money of the credit institution appearing in its records. The operations of the credit institution in bankruptcy shall continue to be performed through these accounts;

b) To perform the stock taking of the credit institution’s asset and to take the necessary actions for their preservation;

c) To retain, subject to the legal provisions, the personnel necessary in order to liquidate and manage the activity thereof, inclusively by hiring them from within the existing personnel of the debtor credit institution;

d) To coordinate the activity of the credit institution and to perform operations for the benefit of the bankruptcy proceeding, respectively, including through credit rescheduling and fixing new interest rates for the assets of the credit institution, provided that any new interest rate level is not lower than the level of the last reference interest rate communicated by the National Bank of Romania, as well as through participating on the inter-banking currency market, to take all action such as resizing the employed personnel in order to permanently reduce the operation and liquidation expenses;

e) To maintain, terminate or rescind contracts concluded by the credit institution as well as to enter into new contracts for the purposes of the bankruptcy proceeding;
f) To enter into any document on behalf of the credit institution, to initiate and coordinate on behalf of the credit institution any actions or legal procedures;
g) To file motions for cancelation of the creation of preference rights or of the transfers of patrimonial rights to third parties, and for restitution by them of the assets transferred and of the consideration of other services delivered, all of which were performed by the debtor credit institution to the detriment of the creditors interests, by the deeds concluded in the year before the opening of the proceeding with persons having a special relation with it, as the same are referred to at indents 8-11 of the "List of unsecured deposits" referred to in the appendix to Government Ordinance 39/1996 on the creation and operation of the Deposits Guarantee Fund in the banking system, republished, as further amended and supplemented;
h) To receive money in Lei and in foreign currency on behalf of the credit institution and to deposit them in the new accounts thereof and to pay the current expenses necessary for conservation and administration of the estate of the credit institution, including the expenses for the personnel hired as stated at letter c) above;
i) To take the adequate actions concerning the foreign currency accounts of the debtor credit institution opened with corresponding credit institutions, by:
    1. Notifying the corresponding credit institutions of the fact that the debtor was declared bankrupt, as well as of the fact that the available money in the respective foreign currency accounts were blocked;
    2. Transferring later on, as soon as practicable, the available money into the new foreign currency account opened with the commercial bank, to be broken down by analytical accounts for each currency; the amounts in the foreign currency account shall be converted in Lei and transferred in the account opened in Lei;
    3. Making payments for the ongoing operations of the debtor credit institution, as well as to efficiently administer the available money;
j) To liquidate the assets and rights in the credit institution's estate;
k) To prepare a monthly report on the progress of the bankruptcy proceeding and on the progress of its duties respectively; this report shall include information about the total value of claims against the credit institution and the total value of assets thereof which were sold, the proceeds obtained from liquidation and collection of debts, the plan of distribution between creditors, the expenses incurred; the report shall be lodged with the court and an abstract thereof shall be published in the IPB; before filing the report, the judicial liquidator shall forward it to the National Bank of Romania;
l) To prepare the final liquidation financial statements; if liquidation takes more than one financial year, the judicial liquidator has the obligation to prepare the annual financial statements and to lodge them with the qualified authorities and within the statutory terms;
m) To notify the syndic judge about any issue that may require a resolution from it, according to the powers offered to it herein;

n) To perform any procedural acts required by the law.

Art. 210 The creditors committee must necessarily include the Deposits Guarantee Fund in the banking system.

Art. 211 In addition to the duties established in Chapter 1, the creditors meeting has the following powers and duties:

a) To approve the method of liquidation of the assets and rights in the estate of the debtor credit institution and the operations for purchase of assets and undertaking of liabilities;
b) To approve the report referred to in article 97.

Art. 212

1) In fulfilling its duties, the syndic judge and the judicial liquidator may request the opinion of the National Bank of Romania, as prudential supervisory authority, about any prudential matters. The National Bank of Romania may provide the syndic judge and the judicial liquidator all along the bankruptcy proceeding with its opinion or with the information it deems relevant, whenever it considers it necessary. The judicial liquidator shall, at request, provide the National Bank of Romania with any information or documents concerning the credit institution or the liquidation proceeding.
2) After opening of the proceeding, the general meeting of shareholders appoints a representative that shall act solely on their behalf.

Section 2 – Opening of the Proceeding and Effects

Art. 213

1) In its resolution concerning the opening of the bankruptcy proceeding the syndic judge shall appoint the temporary judicial liquidator and establish the duties and remuneration thereof.
2) At the time the bankruptcy proceeding is opened by court order, the rights and duties of the general meeting of shareholders, of the board of directors and of the executive management of the credit institution shall lawfully cease.

Art. 214

1) The representative of the shareholders or any of the creditors may file opposition against the actions taken by the judicial liquidator.
2) The syndic judge shall resolve the opposition within five (5) days from the lodging thereof, in the council's chamber, summoning the contender and the judicial liquidator and may, if it considers necessary, suspend the execution of the contested measure. The syndic judge shall also summon the National Bank of Romania if the petition was filed by it.

Art. 215

1) The syndic judge may, at any stage of the proceeding, replace the judicial liquidator based on solid grounds, according to article 57, par. (4), subject to approval of or at the suggestion of the National Bank of Romania.
2) At the time the duties of the new judicial liquidator are established, the duties of the former judicial liquidator shall cease. The newly appointed judicial liquidator shall take over the activity from the replaced judicial liquidator, under control of the syndic judge.

Art. 216

1) The bankruptcy proceeding commences based on a petition filed by the debtor credit institution or by the creditors thereof or by the National Bank of Romania.
2) The petition for opening of the bankruptcy proceeding filed by the credit institution or by the creditors thereof shall be accompanied by the prior approval of the National Bank of Romania.
3) The National Bank of Romania may reject the petition of the credit institution or of the creditors thereof when it is of the opinion that the credit institution is not in insolvency. In this case, the National Bank of Romania may decide to establish the special administratorship provided that the legal conditions for such procedure are met.
4) The decision of the National Bank of Romania to approve or reject the petition shall be grounded and may be challenged directly in court according to the provisions of Government emergency Ordinance 99/2006, approved with amendments and supplements by Law 227/2007, as further amended and supplemented.

Art. 217

1) The credit institution in insolvency is bound to lodge with the tribunal a petition in order to benefit of the provisions of this chapter, within maximum thirty (30) days from when the insolvency occurred.
2) The credit institution must first require the National Bank of Romania, within maximum ten (10) days from the date of occurrence of the insolvency, the approval for the filing of the petition for opening of the bankruptcy proceeding.
3) The National Bank of Romania resolves the request within ten (10) days from receipt thereof by grounded decision.
4) Within ten (10) days from receipt of the prior approval of the National Bank of Romania for filing a petition for opening of the bankruptcy proceeding, the debtor credit institution has the obligation to lodge the petition with the tribunal in order to benefit of the provisions to this chapter.

Art. 218

1) Any creditor that has an undisputed, liquid and enforceable claim may file a petition with the tribunal, according to article 70, par (1) and par (2), against a debtor credit institution which failed to satisfy in full such a claim for a period of at least thirty (30) business days from the due date, in case of central units of credit cooperatives, inclusively in case of credit cooperatives affiliated to them, and for a period of at least seven (7) business days from the due date, in case of the other credit institutions.
2) The creditor may not file any petition without first producing the proof of the preliminary approval of the National Bank of Romania for the filing of the petition for opening of the bankruptcy proceeding.
3) The National Bank of Romania resolves the creditor's request within ten (10) days from receipt thereof, by grounded decision.

Art. 219

1) The National Bank of Romania, as prudential supervisory authority, shall file a petition for opening of the bankruptcy proceeding against the credit institution which falls under one of the situations referred to in article 5, indent 30.

2) The petition of the National Bank of Romania shall be accompanied by a decision of the Board of Trustees of the National Bank of Romania to withdraw the authorization of the respective credit institution and by any other documents necessary to justify the petition filed with the court.

Art. 220

1) Pursuant to registration of the petition lodged according to articles 217 – 219, the syndic judge shall immediately notify the parties referred to in these articles.
2) The National Bank of Romania shall appoint an interim director and shall establish its remuneration on the date of filing its petition or on the date of receipt of the notice referred to in par (1). If the credit institution is in special administratorship proceeding on that date, the duties of the interim director shall be exerted by the special administrator, according to this chapter.
3) The expenses in connection with the interim administration shall be borne by the debtor credit institution. The interim director may be revoked by the National Bank of Romania.
4) If the credit institution was not under special administratorship, the duties of the board of directors of the debtor credit institution shall be lawfully suspended on the date of appointing of the interim director until expiration of its mandate. The board of directors may contend the petition filed according to articles 218 and 219 also during its suspension.
5) The interim director shall be permitted to take only those actions which are necessary to prevent reduction of the assets and increase in the liabilities.
6) As of the date the petition is filed by a creditor or by the credit institution according to articles 217 – 219, and of the date the interim director is appointed, the authorization of the credit institution shall be deemed granted only for the purposes of conservatory measures and for performing current operations. The interim director shall not be permitted to accept new deposits and shall not be able to grant any other credits. The ongoing contracts shall be performed according to their terms or according to the parties' consent.
7) In case of an institution in the situation referred to in par (4), the executive management thereof is subordinated to the interim director. In the event that the chairperson of the board of directors is also the chairperson of the credit institution, he/she shall continue to hold the chairman position after the suspension of the board of directors according to par (4), until expiration of the mandate of the interim director.
8) The duties of the interim director lawfully cease as of the date of appointing of the judicial liquidator.

Art. 221

1) The opposition against the petition for opening of the bankruptcy proceeding may be lodged within ten (10) days from the notification of the filing thereof.
2) The syndic judge shall resolve the opposition within ten (10) days from the registration of the opposition.
3) At the first hearing, the syndic judge shall analyze the petition for opening of the bankruptcy proceeding and, unless the credit institution contends the insolvency in case of petitions filed by the parties referred to in articles 218 and 219, it shall issue a decision ordering the opening of the bankruptcy proceeding.
4) Pursuant to the issuance of the decision for opening of the bankruptcy proceeding, the syndic judge shall immediately inform thereof the persons

referred to in articles 217 and 218, the judicial liquidator, the Deposits Guarantee Fund in the banking system as well as the trade register office where the credit institution is incorporated, in order to register it as “credit institution in bankruptcy”. The notification shall be published in two nationally circulated newspapers.

5) In the event that the credit institution has branches opened in other countries, the National Bank of Romania shall immediately inform the banking supervisory authorities of host country of that branch about the opening of the bankruptcy proceeding, according to the provisions of this chapter.
6) The syndic judge shall notify the National Bank of Romania of its decision to open the bankruptcy proceeding, immediately, on the very day when made, by fax, e-mail or telephone. The National Bank of Romania shall, immediately after finalization of payments settlement in that day, according to the regulations in force, close the accounts of the debtor credit institution opened in its records. The available amounts shall be transferred in the standard accounts for a credit institution in bankruptcy, opened with a commercial bank, according to article 209.
7) As of the date of opening of the bankruptcy proceeding, all papers of the debtor shall be marked as stated in par (4).

Art. 222 Once the opening of the bankruptcy proceeding was ordered according to article 221, all persons who held management positions, as well as the significant shareholders of the debtor credit institution are forbidden, under penalty of voidance, to transfer the shares held in that credit institutions without the approval of the syndic judge.

Art. 223 The employees of the credit institution undergoing bankruptcy shall appoint two persons to represent them during the procedure in order to recover their claims consisting in salaries and other pecuniary rights.

Art. 224

1) All expenses shall be borne out of the estate of the debtor credit institution.
2) The judicial liquidator fee shall be paid on a quarterly basis only after the judicial liquidator presents the monthly reports referred to in article 209, letter (k), concerning the funds obtained from liquidation and collection of debts and the computation of the remuneration due to it, as well as the report referred to in article 97. The syndic judge may extend by maximum one (1) month the term allowed for presentation of the report and of the distribution plan. The distribution plan shall be registered with the tribunal’s clerk office and the judicial liquidator shall publish it in the IPB. Any creditor may file objections against the judicial liquidator’s report and the distribution plan within ten (10) days from publication in the IPB. The syndic judge shall call a meeting with the judicial liquidator and the creditor within twenty (20) days from publication of the report in the IPB, and shall settle at once all objections.

Art. 225 Once the court decision on the opening of the bankruptcy proceeding is issued, the judicial liquidator prepares the report referred to in article 97 which must include, inter alia, proposals for the modality of liquidation of the assets and rights of the estate of the credit institution. The methods of liquidation of the assets and rights of the estate of the credit institution may be the following:

1. transactions concerning the purchase of assets and undertaking of liabilities;
2. sale of assets such as buildings, lands, securities, liquidation operations to be performed according to Section 7 of Chapter 1;
3. other techniques for asset leverage, such as assignment of claims or novations, performed for the purposes of the bankruptcy proceeding at a negotiated value.

Section 3 – Transactions Concerning Asset Purchase and Liability Undertaking

Art. 226

1) The transactions concerning the purchase of assets and undertaking of liabilities represent a liquidation method whereby a credit institution with a solid financial standing acquires in full or in part the assets of the debtor credit institution and fully or partially undertakes the liabilities thereof, including the entire set of secured deposits.
2) The transactions concerning asset purchase and liability undertaking may be term or at sight operations, with option.
3) For the operations concerning asset purchase and liability undertaking the judicial liquidator may request from the acquiring credit institution a negotiated premium depending on the quality of assets purchased and liabilities undertaken, payable at the time of property transfer as well as a premium for the exercise of the option, depending on the term of the option, payable at the time of negotiation. After purchase, in respect of the assets which form the object of fraudulent operations, for which proof is produced that they rely on frauds or result from stolen financial instruments, the parties may amend the initial transaction and the acquiring credit institution shall receive from the judicial liquidator, other assets or money of equivalent value.
4) The judicial liquidator may file the proposal concerning the liquidation method through asset purchase and liability undertaking only after consultation of the National Bank of Romania. The National Bank of Romania may provide the judicial liquidator with its opinion on the liquidation method through asset purchase and liability undertaking, should it consider it necessary. The judicial liquidator shall further inform the creditors meeting about this opinion.
5) After approval by the creditors meeting of the liquidation method referred to in article 225, the judicial liquidator shall immediately, in the event that the approved liquidation method allows it, organize the negotiation for the purchase of assets and liability undertaking. For this purpose, the judicial liquidator organizes a briefing session with all credit institutions considered eligible based on a preliminary evaluation of the National Bank of Romania which shall address the effects of such operation on the financial standing of the acquiring credit institution and on its ability to comply with the prudential requirements, in order to present the terms and conditions of the negotiation. Before the briefing session, the judicial liquidator shall sign with all credit institutions present in the meeting a non-disclosure agreement whereby they commit to keep the professional secret according to the law of all information under the demand of offer referring to the credit institution in bankruptcy, which is going to be the subject matter of negotiation.

Art. 227 Depending on the interest manifested by the credit institutions participating in the meeting, the judicial liquidator shall prepare a demand of offer concerning

the purchase of assets and undertaking of liabilities, which shall basically encompass the following elements:

a) The categories of assets and liabilities to be acquired and the volume thereof, itemized depending on the liquidity ratio and due date;
b) The liquidation value per category of assets;
c) The premium that may be established by the judicial liquidator and which shall be paid by the offering credit institutions, to be determined depending on several elements, among which the quality of assets and liabilities, the celerity of the operation;
d) The term allowed to the offering credit institutions to submit their offers with the judicial liquidator.

Art. 228 The judicial liquidator shall, in strict confidentiality, send the demand of offer concerning the asset purchase and liabilities undertaking to the offering credit institutions, established by it, which participated in the briefing session and which expressed their interest for such a transaction.

Art. 229 Within the term allowed for receipt of offers, as stated in the demand of offer, which cannot exceed fifteen (15) calendar days, the offering credit institutions shall provide the judicial liquidator in sealed envelope with their offers concerning the proposed purchase of assets and undertaking of liabilities.

Art. 230 The judicial liquidator shall, within the shortest time, analyze the offers received and elect, based on the minimum cost principle and subject to approval of the National Bank of Romania, which shall also take into account the criterion under article 226, par (5), the offer of the offering credit institution(s) with which it shall enter into the agreement for purchase of assets and undertaking of liabilities. The liquidator shall further inform the Competition Council of the potential transaction.

Art. 231 Depending on the quality of assets of the credit institution in bankruptcy, the acquiring credit institutions may, according to the law, undertake liabilities in a differentiated manner, that is, only secured deposits as referred to in article 2, par (3), letter b) of Government Ordinance 39/1996, republished, as further amended and supplemented, or deposits, whether secured and not secured, up to taking over entirely the credit institution declared in bankruptcy.

Art. 232 Where no offers are filed within the term referred to in the demand for offers, or the received offers are not approved by the National Bank of Romania, the liquidation shall be performed through the other methods permitted by this law.

Art. 233 The funds obtained from sale of assets and rights from the debtor's estate, which are affected by privileges in favor of the creditor, shall be distributed in the order of preference referred to in article 159.

Art. 234 The claims shall be paid in Lei in case of bankruptcy of a credit institution, according to the following order:

1. The fees, stamps, and any other expenses in connection with the bankruptcy proceeding, inclusively the expenses necessary for conservation and administration of the assets of the debtor's estate; as

well as payment of the fees of personnel retained under the law, inclusively of the judicial liquidators remuneration;

2. Claims resulting from secured deposits, inclusively those of the Deposits Guarantee Fund in the banking system resulting from subrogation in the rights of secured depositors and/or funding, including by issuance of securities, of some operations that involved the transfer of secured deposits of the debtor credit institution, as well as the claims resulting from labor relations covering maximum six (6) months before the opening of the proceeding;
3. The claims resulting from debtor's activity after the opening of the proceeding;
4. Budgetary claims, the claims of the Deposits Guarantee Fund in the banking system, other than the ones referred to at indent 2, as well as the claims of the National Bank of Romania under credits granted by the latter to the credit institution;
5. Claims resulting from treasury operations, inter-banking operations, customers operations, operations with bonds, other banking operations, as well as those resulting from delivery of products, provision of services or other works, from rents as well as other unsecured claims;
6. claims under free of charge deeds;
7. claims resulting from debt instruments and loans, based on conventions which provide for a subordination clause according to which, in case of liquidation or bankruptcy of the credit institution these claims shall be paid after the claims of all non-subordinated unsecured creditors and, as the case may be, of other subordinated unsecured creditors; in this category of claims, payment shall be made observing the order of priority established in the subordination clause related to each claim;
8. claims of shareholders of the credit institution in bankruptcy, and the claims of the members of credit cooperatives affiliated to the central unit of credit cooperatives in bankruptcy, respectively, resulting from the residual right of their quality, according to the statutory and corporate provisions.

Section 4 – Liability of Corporate Governance Bodies, of Auditors and of Execution Personnel or Personnel with Control Powers in the Credit Institution in Bankruptcy

Art. 235 In the event that the report prepared according to article 97 identifies persons to whom the insolvency may be attributable, the syndic judge may, at the request of the judicial liquidator, order that all or part of the unpaid liabilities of the debtor in insolvency is borne by the members of corporate governance bodies or the officers/coordinators with internal control powers of divisions, departments or other similar structures, by the execution personnel with internal control powers, by the auditors of the credit institution in insolvency, who held the respective positions for the last three (3) years before the opening of the proceeding, if they concurred to the insolvency thereof by the acts referred to in article 169, par (1) or by:

a) Having granted credits in breach of the prudential requirements approved by the norms in force, as well as in breach of the internal norms in force;
b) Having prepared financial statements, other accounting statements or reports in breach of the legal provisions;

c) Having failed, during their internal control verifications, to identify and notify, in breach of their job duties, the facts that led to fraud and defective management of patrimony.

Art. 236 In order to implement the measures referred to in article 235, the syndic judge may be notified by the judicial liquidator, by a shareholder or by any of the creditors, by the National Bank of Romania, based on the information available in the matter, and it may order preventive measures.

Section 5 – Closing of Proceeding

Art. 237

1) The bankruptcy proceeding shall be closed by the syndic judge at the request of the judicial liquidator based on a closing decision, when the syndic judge approved the final report, all funds or assets in the estate of the credit institution in bankruptcy were distributed and the funds unclaimed by the concerned persons within ninety (90) days from the final report date were deposited by the judicial liquidator with the State Treasury, and the statement of account shall be lodged with the syndic judge. The decision shall be communicated in writing or in the media within at least two nationally circulated newspapers, to all parties involved.
2) After the debtor credit institution goes into bankruptcy the judicial liquidator shall forward for archiving with the county division of national archives or with the Bucharest division of national archives, as applicable, the documents of the debtor credit institution, archived according to Law 16/1996, as further amended and supplemented. The judicial liquidator shall, within sixty (60) business days from issuance of the decision to close the bankruptcy proceeding, lodge with the county division of national archives or with the Bucharest division of national archives, as applicable, the other documents of the debtor credit institution.

Section 6 – Miscellaneous

Art. 238 The persons who need to receive or convey information about the information or consultation procedures referred to in this chapter have the obligation to preserve the professional secrecy according to articles 3 and 52 of Law 314/2004 on the Statutes of the National Bank of Romania and to the provisions of Title II, Chapter II of Government emergency Ordinance 99/2009, approved with amendments and supplements by Law 227/2007, as further amended and supplemented, except for any judiciary authorities which are subject to the national provisions in force.

Art. 239 In case of going into bankruptcy, for statistical purposes, the credit institutions shall be deemed to continue to belong to the banking sector. The reports that need to be prepared and forwarded by the judicial liquidator to the National Bank of Romania, the frequency and the transmission method thereof shall be established by norms by the National Bank of Romania.

Art. 240 As regards qualified financial contracts and netting operations based on a qualified financial contract or a netting contract concluded by the debtor credit institution the provisions of article 89 shall apply accordingly.

Art. 241 Whenever used in the norms in force, the expression “proceeding for judicial reorganization and bankruptcy of credit institutions” shall be replaced with the expression “bankruptcy proceeding of credit institutions”, according to the provisions of this Title.

Chapter IV Provisions concerning insurance/re-insurance undertakings

Section 1 – General

Art. 242 The provisions of Chapter 1, except for those of section 6, shall apply accordingly to the bankruptcy of insurance/re-insurance undertakings, with the derogations provided in this chapter.

Art. 243

1) The bankruptcy proceeding referred to herein is applicable to the insurance/re-insurance companies mentioned in article 2 of Law no. 32/2000, as further amended and supplemented, inclusively to their branches seated outside Romania, as well as to the branches and subsidiaries of insurance/re-insurance undertakings from third party states which are seated in Romania.
2) The bankruptcy proceeding set out in this chapter does not apply to the branches of an insurance/re-insurance undertaking or a mutual company from a Member State, which was authorized by the supervisory authority in the home Member State.
3) The measures implemented during the bankruptcy proceeding and set out in this chapter are intended to protect the legal interests and rights of insurance creditors.

Art. 244

1) Whenever used in this chapter, the expressions “qualified authority”, “supervisory authorities”, “insurance creditors”, “insurance claims”, “insurance claims settlement agreement”, and “Guarantee Fund”, “financial recovery proceedings”, “Member States”, “home Member State”, “host Member State”, and “third party state” shall have the meaning ascribed to them in Law 503/2004 on financial recovery, bankruptcy, dissolution, and voluntary liquidation in insurance, republished, as further amended.
2) The expressions “branch”, “subsidiary”, “significant person” and “significant shareholder” shall have the meaning ascribed to them in Law 32/2000 as further amended and supplemented.

§ 1 Bankruptcy

Art. 245

1) Bankruptcy proceedings for an insurance/re-insurance undertaking are initiated pursuant to a petition filed either by the Financial Supervisory Authority or by the debtor insurance/re-insurance undertaking or by its creditors, as appropriate.
2) Bankruptcy proceedings against an insurance/re-insurance undertaking authorized in Romania, as well as against its branches established in other Member States, shall be governed by the Romanian law in terms of the bankruptcy proceedings regime and application, in particular in respect of:

a) the property subject to such proceedings, as well as the regime of property acquired by the debtor insurance/re-insurance undertaking after opening of the bankruptcy proceeding;
b) the duties of the debtor insurance/re-insurance undertaking and of the judicial liquidator;
c) the terms under which damages may be claimed;
d) the effects of the bankruptcy proceedings over ongoing contracts, in which the debtor insurance/re-insurance undertaking is a party;
e) the effects of the bankruptcy proceedings over individual enforcement procedures initiated by insurance creditors, save for cases pending with the courts of law of other Member States;
f) the claims that need to be registered against the debtor insurance/re-insurance undertaking and the treatment of claims arising after the opening of the bankruptcy proceeding;
g) the rules concerning the manner in which claims shall be stated, assessed and accepted for settlement;
h) the rules regarding the distribution of proceeds obtained from the sale of assets, the priority ranking of insurance claims and the rights of insurance creditors who were awarded partial payments after the opening of the bankruptcy proceeding based on a security interest or by way of claiming damages;
i) the terms and effects of closing bankruptcy proceedings;
j) the rights of creditors after the closing of the bankruptcy proceeding, the sharing of costs and expenses related to the bankruptcy proceeding;
k) the rules concerning the nullity, annulment or non-opposability of the legal documents which prejudice the legal rights and interests of all insurance creditors.

Art. 246

1) Based on this chapter, the insolvent debtor insurance/re-insurance undertaking, as defined in article 5, indent 31, letter (a), is bound to file for bankruptcy with qualified tribunal. The petition shall be submitted within maximum twenty (20) days from the date of occurrence of insolvency.
2) Prior to filing the petition referred to in par (1) with the tribunal, it shall be submitted to the Financial Supervisory Authority together with the instruments and documentary evidence, for review and subsequent preparation of the statement of defense referred to in article 248, par (1). The debtor insurance/re-insurance undertaking shall necessarily attach to the petition the specific registry of assets admitted to cover technical reserves referred to in appendix 2 to Law 32/2000, as further amended and supplemented.

Art. 247

1) The creditors of the debtor insurance/re-insurance undertaking, other than the insurance creditors the claims of which are paid out of the Guarantee Fund, may file with the tribunal a petition to initiate bankruptcy proceedings against the debtor, in accordance with this chapter, if they have a claim which meets the criteria under article 5, indents 20 and 70.
2) The provisions of article 246, par (2), shall apply mutatis mutandis in respect to the filing of the petition, instruments and documentary evidence with the Financial Supervisory Authority.

Art. 248

1) The petition referred to in article 246 par (1) and article 247 par (1) shall be recorded by the tribunal at the same time with the statement of defense prepared by the Financial Supervisory Authority, whereby it confirms whether the debtor insurance/re-insurance undertaking is subject or not to financial recovery proceedings, in accordance with article 3, letter (b) of Law 503/2004, republished, as further amended, in order to either reinstate its sound financial position or, as appropriate, to meet payment obligations to creditors within certain financial recovery administrative measures.
2) The initiation of bankruptcy proceedings shall be decided by the syndic judge when:
   a) The Financial Supervisory Authority has notified in its statement of defense that, at the date of filing the petition for opening of the bankruptcy proceeding, no financial recovery proceedings are ongoing in respect to the debtor insurance/re-insurance undertaking, in accordance with Law 503/2004, republished, as further amended; or
   b) The Financial Supervisory Authority has notified in its statement of defense that there are no real possibilities to reinstate the sound financial position of the undertaking or to settle the claims of all its creditors within financial recovery proceedings.

Art. 249

1) Pursuant to the provisions laid down in this title, the Financial Supervisory Authority may file a petition to initiate bankruptcy proceedings against a debtor insurance/re-insurance undertaking, in any of the events referred to in article 5, indent 31, letter b).
2) The petition shall be accompanied by the following documents, as appropriate:
   a) the decision of the Financial Supervisory Authority to withdraw the operation authorization of the debtor insurance/re-insurance undertaking, to state the insolvency and to file the petition for opening of the bankruptcy proceeding against it;
   b) the decision of the Financial Supervisory Authority to close the financial recovery proceedings, followed by the opening of the bankruptcy proceeding against the insurance/re-insurance undertaking;
   c) any other instruments or documents required to motivate the filing of the petition with the tribunal.

Art. 250

1) After the petition is filed, in accordance with articles 246 – 249, a notification shall be sent to the debtor insurance/re-insurance undertaking and, as appropriate, to the creditor that filed the petition or to the Financial Supervisory Authority. The said notification shall also be sent to the Guarantee Fund.
2) The insurance/re-insurance undertaking may file opposition against the petition referred to in article 247 or 249, within maximum five (5) days from receipt of the notification concerning the filing of such petition. The opposition shall find resolution without any undue delays. The decision of the syndic judge may only be challenged in appeal.
3) On the first hearing, the syndic judge shall review the petition filed and the related documents and, provided that the debtor insurance/re-insurance

undertaking has not contended the insolvency, in accordance with par (2), it shall issue decision to initiate bankruptcy proceedings.

Art. 251 The judicial liquidator, insolvency practitioner, is appointed according to article 63, its offer being presented after obtaining the preliminary approval of the Financial Supervisory Authority. In the absence of an offer submitted to the case file, the syndic judge shall appoint a judicial liquidator from among insolvency practitioners agreed by the Financial Supervisory Authority. The obligation to obtain the preliminary approval of the Financial Supervisory Authority falls also on the insolvency practitioners proposed for designation as judicial liquidators by the creditors' meeting.

Art. 252

1) Following the adoption of the decision to initiate bankruptcy proceedings, the judicial liquidator shall immediately notify the parties involved, the Guarantee Fund, as well as the trade register office where the debtor insurance/re-insurance undertaking is registered, in order to record it as "insurance/re-insurance undertaking in bankruptcy". The decision shall also be published by the Guarantee Fund in at least two national newspapers, in accordance with the legal provisions in force.
2) When the debtor insurance/re-insurance undertaking has branches and/or subsidiaries in other countries, the Financial Supervisory Authority shall immediately notify the supervisory authorities of the host country of the branch/subsidiary about the decision to initiate bankruptcy proceedings, in accordance with this title.
3) All the expenses related to the measures referred to in par (1) shall be borne by the debtor insurance/re-insurance undertaking; when necessary funds are not available, the liquidation fund, as defined in this title, shall be used.
4) As of the date when the bankruptcy proceedings are commenced, all the documents of the debtor insurance/re-insurance undertaking shall bear the indication referred to in par (1).

Art. 253

1) Following commencement of bankruptcy proceedings, any transfer by the significant shareholders of the debtor insurance/re-insurance undertaking or by the persons who held management positions, of shares held in the debtor insurance/re-insurance undertaking, without prior approval of the Financial Supervisory Authority and without approval of the syndic judge, shall be prohibited or otherwise be deemed null and void.
2) The syndic judge shall decide that shares are blocked in accordance with par (1), and mention shall be made of such decision in the records kept by the debtor insurance/re-insurance undertaking or in other independent records.

Art. 254 Bankruptcy proceedings referred to in this chapter, save for the appeal referred to in article 256, par (2), shall be subject to the exclusive competence of the tribunal under the jurisdiction of which the main seat of the debtor insurance/re-insurance undertaking is located and registered in the records of the trade register office; bankruptcy proceedings shall be conducted by a syndic judge appointed in accordance with the law.

Art. 255 Following the decision to initiate bankruptcy proceedings, the syndic judge shall cancel the right of the directors of the debtor insurance/re-insurance undertaking to represent the company, to manage and dispose of its assets.

Art. 256

1) The decisions of the syndic judge are enforceable and may only be challenged with appeal.
2) The appeal shall find resolution in the Court of Appeal, without any undue delays. The provisions of articles 43 and 44 of this law shall apply accordingly.

Art. 257

1) In addition to the provisions of article 45 of this law, the main duties of the syndic judge shall be as follows:
   a) To notify the Guarantee Fund, as well as the Financial Supervisory Authority about the filing of the petition for opening of the proceeding;
   b) To resolve the opposition filed by the insurance/re-insurance undertaking against the petition for opening of the proceeding lodged by the Financial Supervisory Authority, by the insurance creditors and by the other creditors, as appropriate;
   c) To resolve the Financial Supervisory Authority's motions for nullity or annulment of some fraudulent acts which prejudice the interests and rights of the insurance creditors, concluded before the opening of the bankruptcy proceeding;
   d) To resolve the motions for claims settlement filed by the insurance/re-insurance undertaking or by the insurance creditors, as applicable, with the approval of the Financial Supervisory Authority;
   e) To resolve oppositions filed by the Financial Supervisory Authority, by the insurance/re-insurance undertaking, by the insurance creditors or by any diligent person, as appropriate, against the actions taken by the judicial liquidator;
   f) to establish the liability of the management bodies, financial revisers, financial auditors and of the execution personnel or personnel with control duties within the debtor insurance/re-insurance undertaking, who concurred to the insolvency thereof.
2) In fulfilling its duties that require application of some regulations specific to the insurance activity of the insurance/re-insurance undertaking, the syndic judge may also request the opinion of the Financial Supervisory Authority as specialized autonomous administrative authority.

Art. 258 In addition to the provisions of article 64 of this law, the syndic judge has the following duties:

a) To review the activity of the insurance/re-insurance undertaking by reference to the state of facts and prepare a detailed report on the causes and circumstances that led to the insolvency thereof, indicating the persons to whom bankruptcy of the insurance/re-insurance undertaking might be attributable to, and the existence of premises for them to be held liable, according to article 268. The report shall be forwarded to the syndic judge within maximum forty (40) days from its appointing; a copy thereof shall be forwarded to the Financial Supervisory Authority. At the request of the judicial liquidator, for solid

grounds, the syndic judge may, by resolution, extend the period allowed for presentation of the report;

b) To notify the adoption of the decision to initiate bankruptcy proceeding against the insurance/re-insurance undertaking;

c) To verify the claims of the Guarantee Fund, as well as any other amounts due to the it, according to this title, with observance of the rights, privileges and/or its statutory guarantees;

d) To maintain or terminate contracts concluded by the insurance/re-insurance undertaking, subject to approval of the Financial Supervisory Authority;

e) To manage the business of the debtor insurance/re-insurance undertaking, to carry out operations in respect of the bankruptcy proceedings, including the recovery of overdue insurance premiums arising from insurance contracts, respectively;

f) To sign insurance claims settlement agreements, with the approval of the Financial Supervisory Authority and to have them confirmed by the syndic judge, with or without pledging the assets of the debtor insurance/re-insurance undertaking;

g) To employ under the law the required personnel who shall carry out the liquidation and management of the debtor; employees may be persons from among the existing personnel of the insurance/re-insurance undertaking;

h) To file motions for the annulment of fraudulent deeds concluded by the debtor insurance/re-insurance undertaking to the detriment of the insurance creditors' rights over the last two (2) years before the opening of the bankruptcy proceedings;

i) To file motions for the annulment of any awarding of preferential rights or transfer of patrimonial rights to third parties and for restitution by them of the transferred assets and of the consideration of other services, performed by the debtor insurance/re-insurance undertaking by means of:

   1. Free deeds, save for charity sponsorships, entered into in the two (2) years before the opening of the proceedings;
   2. Deeds entered into with a shareholder who holds at least 5% of the shares of the debtor insurance/re-insurance undertaking
   3. Deeds signed by a director, officer or any other member of the management and supervisory bodies of the debtor insurance/re-insurance undertaking;
   4. Deeds entered into with any other individual or legal entity closely related to the debtor insurance/re-insurance undertaking. A person shall be deemed closely related to the undertaking when:
      - That person holds direct participation or control of at least 20% of the share capital or voting rights of the debtor insurance/re-insurance undertaking;
      - That person is permanently linked to the debtor insurance/re-insurance undertaking through control or, as appropriate, through the implementation of some joint policy;
      - That person carries out control duties over the debtor insurance/re-insurance undertaking;

j) To file motions for the annulment of any awarding of preferential rights or transfer of patrimonial rights to third parties and for restitution by them of the transferred assets and of the consideration of other

services, performed by the debtor insurance/re-insurance undertaking by means of:

1. Deeds signed over the last two (2) years before the opening of the proceedings, whereby the parties involved sought to conceal assets from pursuit by insurance creditors or to prejudice their rights in any way;
2. Commercial operations where the services provided by the debtor insurance/re-insurance undertaking exceed by far the consideration received, carried out in the two (2) years before the opening of the proceedings;
3. Title deed transfers to a creditor for its benefit or in consideration of a previous debt, carried out in the last six (6) months before the opening of the proceedings, if the amount the same creditor might obtain following the proceedings is lower than the value of the transfer;
4. The creation of a preferential right for a claim that was unsecured in the last four (4) months before the opening of the proceedings;
5. Free transfer deeds, save for charity sponsorships made according to the law, entered into in the last two (2) years before the opening of the proceedings;
6. Deeds entered into with the significant persons or significant shareholders of the debtor insurance/re-insurance undertaking, in the last year before the opening of the proceedings;

k) To monitor the collection of any claims from the estate of the debtor insurance/re-insurance undertaking, arising from the transfer of assets or amounts of money, made by the debtor before the filing of the petition for opening of the proceedings; to file and produce evidence for actions for claims concerning collection of claims of the debtor insurance/re-insurance undertaking;

l) To prepare a monthly report concerning the progress of bankruptcy proceedings, which shall be forwarded to the syndic judge and shall be published in the BPI;

m) To notify the syndic judge of any issue which may require settlement;

n) To sign any documents on behalf of the debtor insurance/re-insurance undertaking, and to initiate and supervise any legal action or proceedings on behalf of the same;

o) To prepare the balance sheet for liquidation purposes. When the liquidation process exceeds the span of one financial year, the judicial liquidator shall prepare the annual financial statements and shall file them with the qualified bodies and within the terms set out in the templates of financial and accounting statements applicable to the companies governed by Law 31/1990, republished, as further amended and supplemented;

p) To enforce any provisions issued by the Financial Supervisory Authority as competent specialized autonomous administrative authority, in the events expressly provided by law, with the approval of the syndic judge, in order to secure and protect the interests and rights of insurance creditors;

q) To liquidate the assets and rights of the estate of the debtor insurance/re-insurance undertaking, with the prior approval of the Financial Supervisory Authority and with notification to the Guarantee Fund, subject to approval of the creditors meeting, in order to leverage

them to the largest extent possible and to pay the debts to insurance creditors, by means of:

1. transactions regarding the purchase of assets and undertaking of liabilities, whereby an insurance/re-insurance undertaking with sound or very sound financial position purchases, either in full or in part, the assets of a debtor insurance/re-insurance undertaking and undertakes, either in full or in part, the liabilities thereof;
2. sale of assets such as: buildings, lands, equipment, securities;
3. any other proceedings for the realization of the assets of the debtor insurance/re-insurance undertaking, such as claims assignments or novations entered into for the purpose of bankruptcy proceedings at negotiated value;

r) To carry out any procedures required by this law.

Art. 259

1) The debtor insurance/re-insurance undertaking and/or any of the insurance creditors, the Financial Supervisory Authority, the Guarantee Fund, as well as any concerned person, as appropriate, may file opposition against the measures taken by the judicial liquidator. Opposition shall be filed within the term set out in article 59, par (6).
2) Oppositions shall be resolved by the syndic judge without any undue delays. The syndic judge shall hold a meeting summoning the contender, the Financial Supervisory Authority, the insurance creditors and/or the Guarantee Fund, as appropriate.

Art. 260 The judicial liquidator may be replaced by the syndic judge for severe breach of its duties, according to article 57, par (4), of the law, with prior approval of the Financial Supervisory Authority.

Art. 261 The reports which the judicial liquidator has the obligation to prepare in accordance with this law must necessarily be forwarded to the Financial Supervisory Authority as well as to the Guarantee Fund.

§ 2 Opening of the Bankruptcy Proceeding. Effects

Art. 262

1) In accordance with this title, the opening of the bankruptcy proceedings against the debtor insurance/re-insurance undertaking shall be implemented by decision of the syndic judge.
2) The decision to initiate bankruptcy proceedings shall result in the withdrawal by the Financial Supervisory Authority of the operation authorization granted to the debtor insurance/re-insurance undertaking, unless such withdrawal had already been authorized before the abovementioned decision was made. The judicial liquidator shall publish the decision of the syndic judge in the Official Gazette of Romania, Part IV, as well as in at least two national newspapers. At the same time, the decision shall be communicated both to the qualified authority and to the Guarantee Fund.
3) Withdrawal of the operation authorization shall not prevent the judicial liquidator or any other person authorized by the said judicial liquidator to this purpose from carrying out some of the insurance business of the debtor insurance/re-insurance undertaking, to the extent this is necessary or

appropriate, in order to complete the bankruptcy proceedings. Such business shall be carried out solely with the prior approval of the qualified authority.

4) The decision to initiate bankruptcy proceedings shall result in the lawful suspension of all court or out of the court actions and enforcement procedures against the debtor insurance/re-insurance undertaking. All claims under these suits shall be recorded in the bankruptcy file of the tribunal and shall be examined and registered in the table of claims, in accordance with this law. The legal effects of bankruptcy proceedings over a pending civil case concerning an asset or right of which the insurance/re-insurance undertaking was dispossessed are governed by the law of the Member State where the said court case is pending.

5) The insurance claims determined in writs of execution obtained after the issuance of the decision to open the bankruptcy proceedings shall be recorded with the tribunal, under the penalty of preclusion, within maximum ten (10) days from the date of obtaining the relevant title deed. The judicial liquidator has the obligation to examine and, when appropriate, to record such claims in the table of claims, in accordance with the order of preference and/or the causes of privilege thereof. In all cases, the request to record claims shall be filed no later than the date when the final consolidated table of claims was prepared, in accordance with this title.

6) As regards qualified financial contracts and netting operations based on a qualified financial contract or a netting contract concluded by the debtor insurance and re-insurance undertaking, the provisions of article 89 shall apply accordingly.

Art. 263

1) After the issuance of the decision to initiate bankruptcy proceedings against a debtor insurance/re-insurance undertaking, the judicial liquidator shall prepare the report referred to in article 258, letter a), including, inter alia, information concerning the actual manner of liquidating the assets and rights of the debtor's estate, in accordance with article 258, letter q).

2) Provided that the creditors meeting approves the manner of liquidation referred to in article 258, letter q), indent 1, the judicial liquidator shall immediately organize, where the approved modality allows it, the negotiation process for the purchase of assets and undertaking of liabilities. The judicial liquidator shall hold a briefing meeting in this respect with all the insurance/re-insurance undertakings considered by the Financial Supervisory Authority, in order to present the terms and conditions of the negotiation process. Prior to the meeting, the judicial liquidator has the obligation to sign a non-disclosure agreement with each of the respective insurance/re-insurance undertakings, whereby the latter undertake, in accordance with the law, to keep the professional secret of the information concerning the debtor insurance/re-insurance undertaking subject to the negotiation process.

Art. 264

1) The judicial liquidator shall prepare and submit to the insurance/re-insurance undertakings which are interested in carrying out a transaction in accordance with article 263, par (2), and attended the briefing meeting, an offer regarding the purchase of assets and undertaking of liabilities; the said offer shall not be disclosed to any other parties.

2) Depending on the interest of the insurance/re-insurance undertakings attending the meeting, the demand of offer shall mainly include the following:

a) the categories of assets and liabilities subject to the transaction and the amount thereof, depending on the liquidity ratio and the due date thereof;
b) the liquidation value for each category of assets;
c) the end-date for submitting to the judicial liquidator the offers of the respective insurance/re-insurance undertakings regarding the proposed transactions for purchase of assets and undertaking of liabilities;
d) information from the special registry of assets admitted to cover the technical reserves, referred to in appendix 2 to Law 32/2000, as further amended and supplemented.

3) The offers of the insurance/re-insurance undertaking shall be sent to the judicial liquidator in a sealed envelope within maximum ten (10) days from the date when the relevant demand of offer is received; the judicial liquidator shall review the offers as soon as possible and shall select the offer of the insurance/re-insurance undertaking(s) with which it shall enter into contract, based on the minimum cost principle.

Art. 265 When no offers are received within the term set out in article 264, par (3), or the offers received do not meet the feasibility requirements of the proposed transaction or the said transaction is not approved by the Financial Supervisory Authority, as appropriate, the liquidation of the assets and rights of the debtor insurance/re-insurance undertaking shall be performed through other methods set out in this title.

Art. 266

1) The right of insurance creditors to require payment of the due amounts from the Guarantee Fund arises as of the date of publication of the decision whereby the Financial Supervisory Authority finds the existence of indications of the insolvency of the debtor insurance/re-insurance undertaking and the impossibility of financial recovery.
2) As of the date when the decision to initiate bankruptcy proceedings remains final and irrevocable in accordance with this title, the Guarantee Fund is entitled to make payments from the money available in this fund, in order to settle the claims of insurance creditors, in accordance with the law.
3) Insurance creditors whose claims were settled by the Guarantee Fund shall be prohibited from filing other petitions and/or from requesting realization of claims and/or the payment of any amounts claimed, during the bankruptcy proceedings against the debtor insurance/re-insurance undertaking. The Guarantee Fund shall be entitled to request qualified authorities to hold the alleged creditors liable and to compel them to repay any undue amounts received.

Art. 267

1) Insurance claims shall rank first before any other claims in respect of the assets admitted to cover the technical reserves of the insurance/re-insurance undertaking subject to bankruptcy proceedings. Such claims shall be paid in Lei, immediately after the payment of the claims referred to in article 159, par (1), indent 2.
2) The claims of the Guarantee Fund shall be deemed insurance claims for the purposes of this title and shall be paid in accordance with the order of preference laid down in par (1) above, with all rights and/or statutory privileges attached thereto, as a result of subrogation in the rights of

insurance creditors whose claims were paid out of the available amounts of the Fund.

Section 2 – Liability of Management Bodies of Insurance/Re-insurance Undertakings

Art. 268 The syndic judge may decide that part of the liabilities of the insolvent insurance/re-insurance undertaking is borne by the members of management and/or supervisory bodies of the insurance/re-insurance undertaking as well as by any person who concurred to the insolvency if the insurance/re-insurance undertaking, because they:

a) performed production activities, trading or provided services for personal purposes under the umbrella of the legal entity;
b) have ordered, for personal interest, the continuation of an activity which was manifestly causing the legal entity to be unable to make payments;
c) used the assets and/or the credits of the insurance/re-insurance undertaking for their own benefit or for the benefit of others;
d) have kept fictitious accounting records, facilitated the loss of some accounting documents or failed to keep the accounting books as required by the law;
e) have embezzled or concealed part of the assets of the insurance/re-insurance undertaking or fictitiously increased the liabilities thereof;
f) used subversive means to procure funds for the insurance/re-insurance undertaking in order to delay the inability to make payments;
g) during the thirty (30) days before insolvency was declared, they have paid or instructed payments to a specific creditor to the detriment of the other creditors;
h) have prepared annual financial statements, other accounting statements or reports in breach of the legal provisions;
i) failed to fulfill or inadequately fulfilled the administrative measure of financial recovery applied by the Financial Supervisory Authority or, as appropriate, have issued instructions without the approval or authorization of this authority, thus leading to the insolvency and to the opening of the bankruptcy proceeding against the insurance/re-insurance undertaking;
j) failed, during the internal control verifications, to identify and/or notify, by their fault, the facts that led to fraud and/or defective management of patrimony of the insurance/re-insurance undertaking.

Art. 269 The amounts paid as stated in article 268 shall be deemed to be assets of the insurance/re-insurance undertaking and shall be used for payment of its debts in accordance with the law.

Art. 270

1) In order to adopt the decision to compel the persons referred to in article 268 par (1) to partially bear the liabilities of the insolvent insurance/re-insurance undertaking, the syndic judge may be notified by the judicial liquidator, by any of the insurance creditors, by the Financial Supervisory Authority as well as by the chairperson of the creditors committee, according to article 169, par (2). Based on the documents produced in the case file, the syndic judge may allow enforcement of some preventive measures.

2) Forced execution against the persons referred to in article 268 shall be made in accordance with the provisions of the Civil Procedure Code, unless otherwise established by law.

Section 3 – Closing of proceedings

Art. 271

1) In accordance with this chapter, the syndic judge shall issue a resolution ordering the closing of bankruptcy proceedings at the request of the judicial liquidator, in the event that, as the case may be, one of the situations below is found to have occurred:
   a) the final report was approved;
   b) all the funds and/or assets of the debtor insurance/re-insurance undertaking were distributed;
   c) the claims of insurance creditors were paid pursuant to a creditors' settlement agreement or other similar measures;
   d) all the amounts due to the Guarantee Fund were recovered by it.
2) The resolution to close the bankruptcy proceeding shall be notified by the syndic judge to all the parties involved, in accordance with this chapter. The amounts remaining following payments to all entitled persons, according to this title, shall be transferred to the Guarantee Fund, for safekeeping and management, as per the applicable legal provisions.

Art. 272 At any stage during the proceeding, the syndic judge may issue a resolution ordering the closing of the proceedings if the debtor insurance/re-insurance undertaking is found to have no assets in its estate or such assets are insufficient to cover the administrative costs and no creditor offers to put up the necessary amounts.

TITLE III. CROSS-BORDER INSOLVENCY

Chapter 1 General provisions

Art. 273

1) This title includes:
   a) Norms for identifying the law applicable to an international private law relations in the matter of insolvency;
   b) Procedural norms in litigations concerning international private law relations in the matter of insolvency;
   c) Norms concerning the conditions under which qualified Romanian authorities require and offer, as appropriate, assistance in respect to the insolvency proceedings opened on the territory of Romania or of a foreign country;
2) For the purposes of this title, the international private law relations in the matter of insolvency are private law relations with cross-border element which are subject to settlement pursuant to the opening of the insolvency proceeding, under the conditions established by it.

Chapter 2 Relations with Non-Member States

Art. 274

1) This chapter is applicable in the following events:

a) Assistance is sought in Romania by a foreign court or a foreign representative in connection with a foreign insolvency proceeding;
b) Assistance is sought in a foreign state in connection with a proceeding under Romanian law;
c) A foreign proceeding and a proceeding under Romanian law in respect of any member of a group of companies as referred to in article 5, indent 35, are taking place concurrently;
d) Creditors or other concerned persons in a foreign state have an interest in requesting the opening in Romania of a proceeding according to this law or in participating in an open proceeding.

2) This chapter does not apply to an insolvency proceeding for which special provisions exist which derogate from the general jurisdiction law and which refer to:
a) Banks, credit cooperatives or other credit institutions;
b) Insurance/re-insurance companies and agents;
c) Financial investment services companies, undertakings for collective investments in securities, investment administration companies;
d) Stock exchange companies, members of commodities exchanges, clearing offices, clearing members of commodities exchanges, brokers, traders.

3) The international private law relations in the matter of insolvency which fall under the scope of the EC Regulation 1346/2000 are excluded from the scope of this title.

Art. 275 In case of discrepancy between the provisions herein and Romania's obligations under any treaties, conventions, or any other form of bilateral or multilateral international agreement which Romanian is part to, then the provisions of that treaty, convention, or international agreement shall prevail.

Art. 276 The duties referred to in this chapter relating to recognition of foreign proceedings and cooperation with foreign courts fall on the tribunal, through the syndic judge, as well as on the Romanian representative, as follows:
A. The tribunal in the jurisdiction of which the debtor's seat is located. For the purposes of this law, a foreign legal entity is considered to be seated in Romania also if it has a branch, agency, representative office, or any other unincorporated entity on the territory of Romania. In the event that the debtor has several seats in Romania, any of the tribunals in the jurisdiction of which the respective seats are located shall be qualified to rule on the matter;
B. If the debtor has no seat in Romania, jurisdiction shall be given:
a) To the tribunal or to any of the tribunals in the jurisdiction of which the real estate properties of the debtor are located, when the object of the petition includes real estate properties exclusively or along other assets;
b) To the tribunal in the jurisdiction of which is kept the register of incorporation of the ship or aircraft that forms the subject matter of the petition;
c) To the tribunal in the jurisdiction of which is located the Romanian company in which the debtor holds the securities that form the subject matter of the petition;
d) To the Bucharest Tribunal, if the subject matter of the petition consists in intellectual property rights protected in Romania,

securities, treasury bond, state and municipal bonds belonging to the debtor;

e) If the subject matter of the petition consists in claims of the debtor against a person or a public authority, to the tribunal in the jurisdiction of which the domicile or residence or the seat of that person or of that public authority, respectively, is located.

Art. 277 A Romanian representative is authorized to act in a foreign state on behalf of a proceeding under Romanian law, as permitted by the applicable foreign law.

Art. 278

1) Romanian courts may refuse to recognize a foreign proceeding, to enforce a foreign court order adopted in such a proceeding, the decisions that result directly from the insolvency proceeding and are closely related to it, or to allow any other measure provided for herein, only in the event that:
   a) The decision is the result of a fraud committed in the foreign proceeding;
   b) The decision breaches the public order rules of international private Romanian law.
2) The breach of legal provisions within the meaning of par (1) represents a ground for refusal of such recognition.

Art. 279 The provisions of this title shall be supplemented, if compatible, with the provisions of Title VII of the Civil Code in respect to international private law provisions.

Art. 280 In the interpretation of this title, regard is to be had to its international origin and to the need to promote uniformity in its application and the observance of good faith.

Art. 281 A foreign representative is entitled to apply directly to a court in Romania or to the Romanian representative.

Art. 282 The foreign representative is entitled to apply to commence a proceeding under this law, if the conditions for commencing such a proceeding under Romanian law are otherwise met.

Art. 283 The foreign representative is entitled to apply to participate in a proceeding already opened against the debtor according to this law, only as of the date of recognition of the foreign proceeding.

Art. 284 The sole fact that an application pursuant to this chapter is made to a court in Romania by a foreign representative does not subject the foreign representative or the foreign assets and affairs of the debtor to the jurisdiction of the courts of Romania for any purpose other than the settlement of that application.

Art. 285

1) Foreign creditors have the same rights regarding the commencement of, and participation in, a proceeding open under this law as the Romania creditors.

2) Par (1) of this article does not affect the ranking of claims in a proceeding under this law, in case of bankruptcy. As regards claims of foreign creditors they shall not be ranked lower than the unsecured debts, save for the claims that fall under the category of claims subordinated to unsecured claims.
3) The provisions of this law shall apply mutatis mutandis to non matured claims and conditional claims.
4) The provisions of this law shall apply mutatis mutandis to claims that benefit of a preferential right in full or in part, which are not due on the date of registration of the proof of debt.

Art. 286

1) Notification shall be given to known foreign creditors and any procedural documents shall be served and notified to them according to this law. The court may order that appropriate steps be taken with a view to notifying any foreign creditor whose address is not yet known.
2) Such notification as referred to in par (1) shall be made to the foreign creditors individually, unless the court considers that, under the circumstances, some other form of notification would be more appropriate. No letters rogatory or other, similar formality is required.
3) When a notification of commencement of a proceeding is to be given to foreign creditors, the notification shall include the elements requested herein, including the minimum mandatory content of the proof of debt against the debtor's estate.

Art. 287

1) A foreign representative may apply to the court in Romania for recognition of the foreign proceeding in which the foreign representative has been appointed. The court so notified shall examine *ex officio* whether it has jurisdiction according to article 276.
2) An application for recognition shall be accompanied by one of the following documents:
   a) A certified copy of the decision commencing the foreign proceeding and appointing the foreign representative; or
   b) A certificate from the foreign court affirming the existence of the foreign proceeding and of the appointment of the foreign representative; or
   c) In the absence of evidence referred to in subparagraphs (a) and (b), any other evidence of the existence of the foreign proceeding and of the appointment of the foreign representative, acceptable to the court according to Government Ordinance 66/1999 on Romania's accession to the Convention abolishing the requirement of legalization of foreign public documents adopted in the Hague, on October 5th, 1961, approved by Law no. 52/2000, as further amended, or according to any other treaties, conventions, or any other form of bilateral or multilateral international agreement which Romanian is part to.
3) An application for recognition shall also be accompanied by a statement identifying all foreign proceedings in respect of the debtor that are known to the foreign representative.
4) The court may, if it deems necessary, require a translation of documents supplied in support of the application for recognition into Romanian language.

Art. 288

1) If the decision or certificate referred to in article 287, par (2), subparagraphs a) and b), indicates that the foreign proceeding applied for recognition is a proceeding within the meaning of article 5, indent 49, and that the foreign representative is a person or body within the meaning of article 5, indent 56, the court is entitled to so presume.
2) The court is entitled to presume that documents submitted in support of the application for recognition are authentic, whether or not they have been legalized.

Art. 289

1) Subject to article 278, a foreign proceeding shall be recognized to the extent it meets the following conditions simultaneously:
   a) The foreign proceeding is a proceeding within the meaning of article 5, indent 49;
   b) The foreign representative applying for recognition is a person or body within the meaning of article 5, indent 56;
   c) The application for recognition meets the requirements of article 287, par (2);
   d) The application has been submitted to the court referred to in article 276;
   e) There is reciprocity as to the effects of foreign decisions between Romania and the state of the court issuing the decision.
2) The foreign proceeding shall be recognized:
   a) As a foreign main proceeding if it is taking place in the foreign state where the debtor has the center of its main interests;
   b) As a foreign non-main proceeding if it is taking place in the foreign state where the debtor has an establishment within the meaning of article 5, indent 57.
3) An application for recognition of a foreign proceeding shall be decided upon at the earliest possible time. When notification was duly served, the trial may continue the next day or at short successive terms set with the parties being aware of them.
4) The court decides on the application for recognition after summoning the parties by issuing a decision that may be challenged in appeal.
5) The decision for recognition of the foreign proceeding has the relative authority of res judicata; the court may terminate of fully cancel it, as appropriate, to the extent that, pursuant to its issuance, the grounds and conditions for granting are found to have been were fully or partially lacking or have ceased to exist.

Art. 290 From the time of filing the application for recognition of the foreign proceeding, the foreign representative shall inform the court promptly of:

a) Any substantial change in the status of the foreign proceeding subject pending recognition or recognized, or the status of the foreign representative's appointment; and
b) Any other foreign proceeding regarding the same debtor that becomes known to the foreign representative.

Art. 291

1) From the time of filing an application for recognition and until the application is decided upon, the court may, at the request of the foreign representative,

where relief is urgently needed to protect the assets of the debtor or the interests of the creditors, grant relief of a provisional nature, including:

a) Staying the acts, operations and any other individual execution measures against the debtor's assets;
b) Entrusting the administration, conservation or realization of all or part of the debtor's assets located in Romania to the foreign representative or another person designated by the court, in order to protect and preserve the value of assets that, by their nature or because of other circumstances, are perishable, susceptible to devaluation or otherwise in jeopardy;
c) Any other relief referred to in article 293, par (1) letter c), d) and g).

2) Decision shall be made in respect to the application referred to in par (1) by summoning the interested parties.
3) Unless extended under article 293, par (1), letter f), the relief granted under par (1) of this article terminates when the application for recognition is decided upon.
4) The court may refuse to grant relief under par (1) if such relief would interfere with the proper administration of a foreign main proceeding.

Art. 292

1) Upon recognition of a foreign proceeding that is a foreign main proceeding, commencement of the following actions or applications, judicial or extrajudicial is stayed and if already commenced, they are lawfully suspended:
   a) individual actions or individual proceedings concerning the debtor's assets, rights and obligations;
   b) acts, operations, and any other individual execution actions against the debtor's assets.
2) At the request of a creditor holding a preferential claim according to this law, the court may remove the suspension referred to in par (1) according to the Romanian law.
3) Starting on the date referred to in par (1) exercise of the right to sell, encumber or otherwise dispose of the debtor's asset is suspended. The deeds concluded in breach of these provisions are lawfully void.
4) Exercise by the debtor of its right to make acts, operations and payments in the ordinary course of its business for which the court may decide suspension according to article 293, is excluded from the scope of par (3).
5) Recognition of a main foreign procedure precludes commencement of the period of limitation for applications and proceedings under par (1) and, if already commenced, recognition of main foreign procedure represents a cause of interruption of the limitation period for those applications and proceedings.
6) Par (1) does not preclude the right to request the commencement of a proceeding under this law or the right to file proof of debts in such a proceeding.

Art. 293

1) After recognition of a foreign proceeding, whether main or non-main, where necessary to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including:

a) Staying the commencement or continuation of individual actions or individual proceedings concerning the debtor's assets, rights and obligations, to the extent they have not been stayed or suspended under par (1), letter a), of article 291;
b) Staying execution against the debtor's assets to the extent it has not been stayed or suspended under par (1), letter b) of article 291;
c) Suspending the right to transfer, encumber or otherwise dispose of any assets of the debtor to the extent this right has not been suspended under par (3) of article 292;
d) Producing evidence as to the debtor's assets, legal deeds, rights or obligations as well as taking of evidence and causing a court officer to state a certain fact;
e) Entrusting the administration or realization of all or part of the debtor's assets located in Romania to the foreign representative or another person designated by the court;
f) Extending relief granted under par (1) of article 291;
g) Granting any additional relief that may be available to the Romanian representative under this law.

2) After recognition of a foreign proceeding, whether main or non-main, the court may, at the request of the foreign representative, entrust the administration and realization of all or part of the debtor's assets located in Romania to the foreign representative or another person designated by the court, provided that the court is satisfied that the interests of Romanian creditors are adequately protected.
3) In granting relief under this article to a representative of a foreign non-main proceeding, the court must be satisfied that the relief relates only to assets that, under the law of Romania, should be administered in the foreign non-main proceeding or concerns only information required in that proceeding.

Art. 294

1) In granting or denying relief under articles 291 or 293, or in modifying or terminating relief under par (3) of this article, the court must be satisfied that the interests of the creditors, of the debtor and of other interested persons, are adequately protected.
2) The court may subject relief granted under articles 291 or 293 to any conditions it considers appropriate.
3) The court may, at the request of the foreign representative or of another concerned person, or of its own motion, decide to modify or terminate the relief granted under article 291 or article 293.

Art. 295

1) Upon recognition of a foreign proceeding, the foreign representative has standing to initiate actions meant to render ineffective the debtor's acts detrimental to its creditors that are available to the Romanian representative and, as appropriate, actions for voidance or nullity according to this law.
2) When the foreign proceeding is a foreign non-main proceeding, the court must be satisfied that the action relates only to assets that, under the law of Romania, should be administered in the foreign non-main proceeding.

Art. 296 Upon recognition of a foreign proceeding, the foreign representative may, provided that the other requirements of the Romanian law are met, have

standing to intervene in any applications or proceedings, whether judicial or extrajudicial, in which the debtor is a party.

Art. 297

1) In matters referred to in article 274, the Romanian courts shall cooperate to the maximum extent possible with foreign courts or foreign representatives, either directly or through the Romanian representative.
2) The court is entitled to communicate directly with, or to request information or assistance directly from, foreign courts or foreign representatives.

Art. 298

1) In matters referred to in article 274, a Romanian representative shall, in the exercise of its functions and subject to the supervision of the court, cooperate to the maximum extent possible with foreign courts or foreign representatives.
2) The Romanian representative is entitled, in the exercise of its functions and subject to the supervision of the court, to communicate directly with foreign courts or foreign representatives.

Art. 299 Cooperation referred to in articles 297 and 298 may be implemented by any appropriate means, including:

a) Appointment of a person or body to act at the direction of the court;
b) Communication of information by any means considered appropriate by the court;
c) Coordination of the administration and supervision of the debtor's assets and affairs;
d) Approval or implementation by courts of agreements concerning the coordination of proceedings;
e) Coordination of concurrent proceedings regarding the same debtor.

Art. 300 After recognition of a foreign main proceeding, a proceeding under this law against the same debtor may be commenced according to this law and only if the debtor has a seat Romania. The effects of the proceeding referred to herein shall be restricted to the assets of the debtor that are located in Romania and, to the extent necessary to implement cooperation and coordination under articles 297 – 299, to other assets of the debtor that, under the law of Romania, should be administered in that proceeding.

Art. 301 Where a foreign proceeding and an insolvency proceeding under the Romanian law are taking place concurrently regarding the same debtor, the court shall seek cooperation and coordination under articles 297 – 299, and the following shall apply:

A. When the application for recognition of the foreign proceeding is filed after commencement of the insolvency proceeding in Romania:
   a) Any temporary relief granted under article 291 or 293 must be consistent with the insolvency proceeding in Romania; and
   b) If the foreign proceeding is recognized in Romania as a foreign main proceeding, article 295 does not apply;
B. When the application for recognition of the foreign proceeding is admitted or only filed before commencement of the insolvency proceeding in Romania:

a) Any temporary relief in effect under article 291 or 293 shall be reviewed by the court and shall be modified or terminated if inconsistent with the insolvency proceeding in Romania; and
b) If the foreign proceeding is recognized as a foreign main proceeding, the stay and suspension referred to in par (2) of article 292 shall be modified or terminated pursuant to par (1) and (3) of article 292 if inconsistent with the insolvency proceeding in Romania;

C. In granting, extending or modifying temporary relief granted to a representative of a foreign non main proceeding, the court must be satisfied that the relief relates to assets that, under the law of Romania, should be administered in the foreign non-main proceeding or concerns only information required in that proceeding.

Art. 302 In matters referred to in article 274, in respect of more than one foreign proceeding regarding the same debtor, for which the provisions of EC Regulation 1346/2000 do not apply, the court shall seek cooperation and coordination under articles 297 – 299, and the following shall apply:
a) Any relief granted under articles 291 or 293 to a representative of a foreign non-main proceeding after recognition of a foreign main proceeding must be consistent with the foreign main proceeding;
b) When the application for recognition of a foreign non-main proceeding is admitted or only filed before recognition of a foreign main proceeding, any temporary relief in effect under article 291 or article 293 shall be reviewed by the court and shall be modified or terminated if inconsistent with the foreign main proceeding;
c) If several foreign non-main proceedings are recognized successively, the court shall grant, modify or terminate temporary relief for the purpose of facilitating coordination of the proceedings.

Art. 303
1) In the absence of evidence to the contrary, recognition of a foreign main proceeding is, for the purpose of commencing a proceeding under Romanian law, proof that the debtor is insolvent.
2) The provisions of par (1) do not apply if the recognized foreign proceeding is a non-main proceeding.

Art. 304
1) A creditor who has received part payment in respect of its claim in a proceeding pursuant to a law relating to insolvency in a foreign state may not receive additional payment for the same claim in a proceeding under Romanian law regarding the same debtor, so long as the payment to the other creditors of the same class is proportionately less than the payment the creditor has already received.
2) Par (1) does not prejudice the rights of holders of preferential claims.

Chapter III Rules on Coordination of Insolvency of Groups of Companies

Art. 305 Where the foreign proceeding and the proceeding under Romanian law refer to two or more companies of the same group of companies, the Romanian court and the Romanian representative, on the one hand, and the foreign court and the foreign representative, on the other hand, shall cooperate to

the largest extent possible provided that such cooperation is beneficial to facilitate efficient coordination of proceedings, is not inconsistent with the applicable norms and does not result in a conflict of interests.

Art. 306 For cooperation between the Romanian representative and the foreign representative, in addition to the means referred to in articles 297 – 299 the Romanian representative shall, in exerting its powers and under supervision of the court, be entitled to

a) Communicate directly information and procedural documents in connection with the insolvency proceeding;
b) Analyze the possibility of group restructuring and, where this is available, to support the proposal, negotiation and application of a reorganization plan across the group, and it shall coordinate its efforts with the foreign representative;
c) Conclude a cross-border insolvency agreement with the foreign representative.

Art. 307 Upon recognition of the foreign proceeding of any of the group members, under the Romanian the foreign representative is entitled, under the Romanian proceeding of insolvency of one of the group members:

a) To be heard by the court and to participate especially in creditors meetings;
b) To propose a reorganization plan;
c) To apply for any reliefs available to the Romanian representative so long as all the other conditions are otherwise met under the Romanian law.

Art. 308 For cooperation purposes, in addition to the means referred to in articles 297 – 299 the Romanian courts shall cooperate with foreign courts, including by:

a) Coordination of the administration and supervision of the assets and affairs of the group companies;
b) Coordination of hearings including by scheduling common sessions;
c) Coordination of approval and implementation of the reorganization plan;
d) Communication of information or procedural documents regarding the Romanian proceeding of one of the group members;
e) Possibility to approve a cross-border insolvency agreement aimed at coordinating the insolvency proceedings;
f) Possibility to appoint a representative across the group in insolvency proceedings, yet checking the existence of a conflict of interests.

Art. 309 The cooperation between the Romanian courts on the one hand and the foreign courts and foreign representatives on the other hand shall not prejudice the principle of independence and unbiased character of the justice or of the rights and interests of the participants in the insolvency proceeding under the Romanian law.

Art. 310 The Romanian representative shall be able to enter into a cross-border insolvency agreement with the foreign representative based on the prior approval of the creditors meeting, under this law and subject to the conditions under the foreign law. This agreement may provide for:

a) Sharing of responsibilities, including by appointing one of the representatives as coordinating representative;

b) A modality for administration and supervision of the group members including in respect of daily activities;
c) The financing granted or to be granted after the commencement of the proceeding;
d) The modalities of administration, preservation or realization of assets;
e) The correlation between dates of creditors meeting;
f) Treatment of intra-group claims.

Art. 311 The applications for recognition and execution of foreign decisions commencing and closing insolvency proceedings, of foreign decisions adopted during the insolvency proceeding as well as of foreign decisions which directly result from the insolvency procedure and are closely related to it, filed before the effective date of this law, shall be decided according to the regulations in force on that date.

Chapter IV Rules on International Private Law Relations in Credit Institutions Insolvency

Art. 312

1) The tribunal referred to in article 41 is the only authority authorized to decide on the application of a bankruptcy proceeding in respect of a credit institution, Romanian legal entity, including its branches incorporated in other Member States.
2) The qualified tribunal shall, through the National Bank of Romania, promptly inform the qualified authorities in the host Member States of its decision to commence bankruptcy, including of the practical consequences it may have. Where this is not possible before making the decision, information shall be communicated immediately thereafter.
3) The provisions laid down in paragraphs (1) and (2) do not preclude the provisions regarding remedies at law against decisions of the syndic judge.

Art. 313

1) The commencement of a bankruptcy proceeding against a credit institution authorized in Romania and the branches thereof established in other Member States is governed by the Romanian law in respect to the regime and application of the bankruptcy proceeding, inclusively in terms of:
   a) The assets that form the object of the bankruptcy proceeding and the regime of assets acquired by the credit institution after the opening of the proceeding;
   b) The duties of the credit institution and of the judicial liquidator;
   c) The conditions under which statutory offset may be invoked;
   d) The effects the bankruptcy proceeding on the ongoing contracts which the credit institution is a part to;
   e) The effects the bankruptcy proceeding on the individual forced execution proceedings commenced by the creditors, except for trials already pending with the courts of law of other Member States, in which case the provisions of par (2) shall apply;
   f) The claims that must be declared against the credit institution and the regime of claims that arise after the opening of the bankruptcy proceeding;
   g) The rules concerning the declaration, verification and admittance of claims;

h) The rules concerning the distribution of proceeds obtained from realization of assets, the priority order for payment of claims and creditors' rights who obtained a partial payment after the opening of the bankruptcy proceeding based on a real right or by invoking the statutory offset;
i) The conditions and effects of closing of the bankruptcy proceeding;
j) The rights of creditors after the closing of the bankruptcy proceeding;
k) The persons who bear the costs and expenses in connection with the bankruptcy proceeding;
l) The rules regarding nullity, annulment or absence of opposability of legal deeds which prejudice the rights of all creditors.

2) The following are excluded from the scope of par (1):
a) Exercise of the ownership title or of other rights in financial instruments the existence or transfer of which is subject to registration in a register, in an account or in a central depository system, kept or located in a Member State, which shall be governed by the law of that member state;
b) Report contracts and contracts that form the basis of transactions carried on a regulated market, which shall be governed by the law applicable to those contracts, provided that the provisions of letter a) are not breached;
c) Contractual offsetting and netting agreements, for which the governing law is the law applicable to those contracts.

Art. 314

1) The syndic judge shall immediately take the necessary actions to publish an abstract of the decision commencing bankruptcy with the Official Journal of the European Union and in two nationally circulated newspapers of each home Member States.
2) The content of such abstract must indicate in the official language or in one of the official languages of the concerned Member States the object and legal ground for the decision issued. The abstract must clearly indicate the term allowed for filing appeal, inclusively the date of expiration thereof, as well as the address of the court called to rule on the matter.
3) The bankruptcy proceeding applies irrespective of the publication referred to in par (1) and is fully binding on the creditors.

Art. 315

1) The syndic judge is entitled to request registration of a decision to commence bankruptcy against a credit institution in the land register, in the trade register and in any other public register kept in the other Member States.
2) The syndic judge shall take the necessary actions to cause registration, whenever necessary according to the governing law of the respective Member State.
3) The registration expenses shall be considered proceeding expenses.

Art. 316

1) The judicial liquidator appointed according to this law may act without any other formality on the territory of the host Member States, based on a certified true copy of the decision of the qualified court of law appointing it, issued by that court.

2) The judicial liquidator shall be entitled, as far as the territory of host Member States are concerned, to exert all duties according to the Romanian law. It will be entitled to appoint other persons to assist or represent it in the proceeding on the territory of those states, in particular in order to overcome difficulties, if any, which the creditors in those states are facing.
3) In exerting its duties, the judicial liquidator shall abide by the governing law of the Member State on the territory of which it acts, in particular as regards realization of assets and supply of information to the employees of the credit institution in that Member State. The judicial liquidator is not entitled to use force and is not called to settle disputes or litigations.

Art. 317

1) A person held to perform an obligation in a state for the benefit of an unincorporated credit institution which is subject to an insolvency proceeding commenced in another state, instead of performing it for the benefit of the judicial liquidator appointed for that proceeding, shall be released from performing it if it was not aware of the commencement of the proceeding.
2) A person who performs the respective obligation before publicity is fulfilled as stated in article 317, is presumed until proven otherwise to not having been aware of the commencement of the insolvency proceeding; a person is presumed until proven otherwise to have been aware of the commencement of the proceeding if the obligation is performed after publicity is fulfilled.

Art. 318

1) After commencement of the bankruptcy proceeding against a credit institution which is a Romanian legal entity with branches opened in other Member States the judicial liquidator shall immediately inform thereon each of the known creditors with regular residence, domicile or corporate seat in the other Member States.
2) Such disclosure shall be made in the form of notification in writing and must refer in particular to end-dates, sanctions enforced whenever such end-dates are missed and the legal requirements to be met in order for the claims to be taken into consideration by the court called to register the proofs of debt, or observations in connection with these claims and with the other actions or proceedings. The notification shall also indicate whether preferential claims or for which privileges were created are subject or not to examination.

Art. 319

1) Any creditor of the debtor credit institution with domicile/residence or, as appropriate, corporate seat in a Member State other than Romania, including the public authorities, is entitled to declare their claims or file written observations on their claims against the credit institution, and shall file them with the judicial liquidator. The statement of claims or, as appropriate, the observations, may be filed in the official language or in one of the official languages of that Member State but must be marked in Romanian: “Proof of debt/Statement of claims” (“Cerere de admitere a creanţelor/Declaraţie de creanţe”) or, as appropriate “Observations on claims” (“Observaţii privind creanţele”).
2) The claims of creditors with domicile/residence or, as appropriate, corporate seat outside Romania shall be treated similarly and shall have the same priority ranking as the claims of the same nature of the creditors with domicile/residence or, as appropriate, corporate seat in Romania.

3) The creditors who enforce their right referred to in par (1), shall send copies of the documents backing them, if any, and shall indicate the nature of the claim, the date on which it was born and the value thereof, whether there are any privileges and similar rights in connection with those claims and the assets in which such preference rights were established.
4) At the request of the judicial liquidator, the creditors must provide also for a translation in Romanian language of the “Proof of debt/Statement of claims” or, as appropriate, of the “Observations on claims” and of the documents submitted.
5) The judicial liquidator shall cause the creditors to be permanently kept informed in such a manner as it considers adequate, in particular of the progresses (developments) of realization of assets of the debtor credit institution.

Art. 320

1) The administrative or judicial authorities of the home Member State are the only ones authorized to decide on the application of one or several reorganization proceedings or the commencement of liquidation in respect of a credit institution, inclusively in the branches thereof established in other Member States. The governing law of the home Member State shall be applied according to article 313, par (1). Article 313, par (2), shall also apply to Romanian branches of credit institutions of other Member States.
2) The administrative or judicial authorities are the authorities established by the national law which are in charge with deciding on reorganization or commencement of liquidation proceedings.
3) The reorganization measures are the measures adopted by the administrative or judicial authorities, intended to maintain or rehabilitate the financial standing of a credit institution and which might prejudice the pre-existing rights of third parties, and include measures which may involve payment suspension, suspension of forced execution measures or reduction of claims; the persons involved in the internal activity of the credit institutions, the directors and shareholders are not considered third parties.
4) The liquidation proceeding is a collective proceeding commenced and controlled by the administrative or judicial authorities with the purpose of leveraging the assets of credit institutions acting under their supervision, inclusively in the event that the proceeding ends up in a concordat or other similar measure.

Art. 321

1) Where reorganization measures were ordered or a liquidation procedure were commenced against a credit institution of a Member State which operates on the territory of Romania, such measures will be applied with no other formalities on the territory of Romania and shall be effective under the conditions and as of the date referred to in the regulations of the respective Member State.
2) The reorganization measures or the liquidation procedure shall apply according to the regulations of the home Member States and by taking into account article 313.
3) Upon receipt of proper notification from the qualified authority of the home Member State, the National Bank of Romania shall, by publication in the Official Gazette of Romania, Part IV, promptly notify the decision to commence a judicial reorganization or a bankruptcy proceeding.

4) The competent administrative or judicial authorities of the home Member State, the administrator or the judicial liquidator shall immediately notify the office of the trade register where the branch of the concerned credit institution is registered, about the decision to implement reorganization measures or to commence the liquidation procedure, in order to be properly registered. In addition, notice shall be sent by the above mentioned authorities to two nationally circulated newspapers of Romania for publication purposes.
5) *Administrator* means a person or body appointed by the administrative or judicial authorities, who is entrusted with implementing the reorganization measures.
6) *Judicial liquidator* means a person or body appointed by the administrative or judicial authorities, who is entrusted with implementing the liquidation proceedings.
7) The persons empowered to implement the measures ordered by the administrative or judicial authority in the home Member State shall be entitled to act, without further formalities, on the territory of Romania, based on a certified true copy of the deed appointing them or a certificate issued by that authority, accompanied by a translation in Romanian language.
8) The persons referred to in par (5) may exert on the territory of Romania all duties entrusted to them by the laws of the home Member State. These persons shall be entitled to appoint others to represent them in Romania, inclusively for the purpose of offering assistance to creditors during the implementation of the relevant measures.
9) In exerting their duties in Romania, the persons referred to in par (5) shall abide by the Romanian regulations in particular in respect of asset realization procedures and supply of information to the Romanian employees of the foreign credit institution. They shall not be entitled to use force or to settle disputes or litigations.

Art. 322
1) The National Bank of Romania shall promptly inform the qualified authorities of the host Member States of the reorganization measures or of the decision to commence liquidation, adopted in a non-member state against a credit institution and in the Romanian branch thereof, when the credit institution is seated in a state other than a Member State and has branches opened on the territory of other Member States.
2) Notification shall be sent immediately after the National Bank of Romania withdrew the operation permit of that branch pursuant to commencement of the liquidation proceeding or as soon as it became aware that reorganization measures were ordered against the branch. The notification shall also indicate that the operation permit of the Romanian branch was withdrawn.

Chapter V Rules on International Private Law Relations in Bankruptcy of Insurance/Re-insurance Undertakings

Section 1 – Scope of Application. Competence and Governing Law

Art. 323 The provisions laid down in this chapter shall govern:
a) bankruptcy proceedings against insolvent insurance/re-insurance undertakings which are Romanian legal entities, and the insolvent branches thereof, seated on the territory of other Member States;

b) bankruptcy proceedings against the branch seated in a Member State of an insurance/re-insurance undertaking seated in a third state;
c) the terms and conditions under which relevant authorities shall engage in and consult with each other concerning the bankruptcy of insurance/re-insurance undertakings.

Art. 324

1) The court established in accordance with article 41 shall be the only authority authorized to decide on the enforcement of bankruptcy proceedings against an insurance/re-insurance undertaking, Romanian legal entity, including the branches thereof in other Member States. Relevant court decisions may be passed in the absence or after the implementation of financial recovery measures. The decision to commence bankruptcy proceedings, as well as the legal effects thereof shall be subject to the laws of Romania. The provisions laid down in articles 9 and 10 of Law 503/2004, republished, as further amended and supplemented, shall apply accordingly.
2) The decision of the qualified authority referred to in par (1) regarding the commencement of bankruptcy proceedings against insurance/re-insurance undertakings, Romanian legal entities, including the branches thereof in other Member States, shall be recognized, without any other formalities, on the territories of all other Member States and shall also be effective in such States, as soon as the same decision becomes effective in Romania.
3) The qualified court referred to in par (1) shall immediately notify the Financial Supervisory Authority of the decision to commence bankruptcy proceedings, including of the actual effects of such proceedings; such notification shall be given prior to the adoption of the decision or immediately thereafter. The Financial Supervisory Authority shall urgently inform the supervisory authorities of all other Member States of the decision to commence bankruptcy proceedings, including the actual effects of such proceedings.
4) The provisions laid down in par (1) to par (3) do not preclude implementation of provisions regarding remedies at law against the court decisions.

Art. 325

1) Following the notification referred to in article 324 par (3), the Financial Supervisory Authority shall take all actions necessary to publish an excerpt of the decision to commence bankruptcy proceedings in the Official Journal of the European Union.
2) The provisions laid down in articles 9 to 11 of Law 503/2004, republished, as further amended and supplemented, shall apply accordingly. In addition, the principle according to which the effects of commencement of a bankruptcy against an insurance/re-insurance undertaking which is a Romanian legal entity, including against its branches from other Member States, fall under the scope of application of the Romanian law, does not apply to contractual offset and any netting agreement; in this case the governing law shall be exclusively the law applicable to those contracts.

Art. 326

1) The court established in accordance with the Romanian legislation is entitled and may request registration of the decision to commence bankruptcy proceedings against the debtor insurance/re-insurance undertakings with the land registry, the trade register, as well as with any other public registry kept in other member States.

2) In all the situations where the registration referred to in par (1) is mandatory in accordance with the legislation of the respective Member State, the court shall decide on all the measures necessary to perform such operation. All expenses incurred with the registration shall be deemed to be proceeding expenses.

Art. 327

1) The judicial liquidator appointed in accordance with article 251 may act on the territory of host Member States without any other formalities, either on the basis of a certified copy of the decision whereby the competent court has appointed the said judicial liquidator, or on the basis of a certificate issued by the same court. The relevant document may be translated in the official language or in one of the languages of the Member State where the judicial liquidator shall act, without legalization or any other similar certifications.
2) The judicial liquidator may exercise on the territory of host Member States all duties established in accordance with the Romanian law and may appoint any person to assist and/or represent it in the proceedings conducted in the aforementioned states, particularly in order to overcome the difficulties faced by insurance creditors in the respective states. Under the same conditions, the judicial liquidator appointed in accordance with the law of another Member State may act on the territory of Romania, when Romania is the host Member State.
3) In exercising its her duties, the judicial liquidator shall abide by the laws of the Member State on the territory of which it acts, particularly regarding the realization of assets and the provision of information to the employees of the insurance/re-insurance undertaking in the respective Member State; the judicial liquidator shall not be entitled to use force or to settle litigations or disputes of any kind.

Art. 328 When, after the commencement of bankruptcy proceedings, an insurance/re-insurance undertaking sells for proper consideration a property, a ship and/or an aircraft subject to registration in a public register or, as appropriate, securities and/or title deeds the existence or transfer of which involves recording with a registry or account under the law or which are placed with a central depository system regulated by the law of a Member State, the validity of such transactions shall be subject to the provisions of the law of the member State where the property is located or under whose jurisdiction the respective registry/account/system is maintained.

Section 2 – Disclosure and Rights of Insurance Creditors

Art. 329

1) After commencement of bankruptcy proceedings against an insurance/re-insurance undertaking, Romanian legal entity, the Financial Supervisory Authority or, as appropriate, the judicial liquidator, shall immediately inform all known insurance creditors, having their regular residence, domicile or corporate seat in Romania or in another Member State.
2) Such disclosure shall be made in the form of notification in writing given to each insurance creditor, with particular reference to end-dates, the sanctions enforced whenever such end-dates are missed, the body or authority qualified to accept the claims filed or observations concerning claims and other legal measures, legal requirements to be met in order for the claims or

the observations related to such claims to be taken into consideration by the court qualified to register proofs of debts. The notification shall also indicate whether preferential claims or for which privileges were created are subject or not to examination In the case of insurance claims, the notification shall also refer to the general effects of the liquidation proceeding over insurance contracts, particularly the date when insurance contracts or insurance activities shall stop being effective, as well as the rights and duties of policyholders concerning such contracts or activities.

3) The disclosure referred to in par (2) shall be given in the Romanian language. The following forms may be used in this respect: “Proof of debt; time limits to be observed” or, as appropriate, “Invitation to lodge observation in connection with a claim; time limits to be observed” written in all the official languages of the European Union. In any event, if a known creditor holds an insurance claim, the information in the notification shall be provided in the official language or in one of the official languages of the Member State(s) where the said creditor usually has its residence, domicile or main seat, as appropriate.

Art. 330

1) Insurance creditors who have their permanent residence, domicile or main seat, as appropriate, on the territory of a Member State, including public authorities of said State, shall be entitled to submit and lodge insurance claims or submit written observations relating to such claims, in accordance with this law.
2) The proofs of debts and/or the observations relating to such claims, as appropriate, shall be submitted to the Guarantee Fund and/or the judicial liquidator in the official language or in one of the official languages of the Member State, and shall necessarily include the heading “Proof of debt” or “Observations relating to claims” in the Romanian language.
3) The claims of insurance creditors who usually have their residence, domicile or main seat in a Member State shall be treated similarly and shall have the same priority ranking as the insurance claims of the same nature, likely to be filed by the creditors with regular residence, domicile of main seat, as appropriate, in Romania.
4) The insurance creditors who exercise the rights set out in paragraph (1) are bound to provide copies of the documents evidencing such claims, if any, indicating the nature of the claims, the time when such claims originated and the value thereof, whether there are any causes of privilege and other similar rights, as well as the claims that benefit of such privileges. Insurance creditors are not bound to indicate the priority ranking of insurance claims under article 267.
5) The Guarantee Fund and/or the judicial liquidator, as appropriate, shall periodically inform insurance creditors in accordance with the law, particularly regarding the progresses made in realizing the assets of the debtor insurance/re-insurance undertaking.
6) The supervisory authorities of the Member States may request information concerning the stage of the bankruptcy proceedings from the Financial Supervisory Authority.

Section 3 – Rules on Bankruptcy Proceedings Applicable to Romanian Branches of Insurance/Re-insurance Undertakings of Other Member States

Art. 331 The administrative or judicial authorities of the home Member State shall be solely responsible for the decision to commence bankruptcy proceedings against an insurance/re-insurance undertaking, including in respect of the branches established in Member States. The law of the home Member State shall apply in accordance with the provisions of articles 9 – 11 of Law 503/2004, republished, as further amended and supplemented, of article 325, par (2), and of article 328 of this law.

Art. 332

1) The bankruptcy proceedings decided against an insurance/re-insurance undertaking of another Member State which carries out business in Romania, shall apply without any other formalities and shall become effective under the conditions and as of the date set out in the legislation of the respective Member State. Under the same conditions, the bankruptcy proceeding referred to in this law shall apply on the territory of Member States with respect to an insurance/re-insurance undertaking, Romanian legal entity, including the branches thereof, established on the territory of the respective Member States.
2) Bankruptcy proceedings shall apply in accordance with the legislation of the home Member State, unless otherwise established by law.
3) Upon receipt of relevant notification from the Financial Supervisory Authority of the home Member State, the qualified authority shall immediately inform insurance creditors of the decision to commence bankruptcy proceedings, by way of publication thereof in the Official Gazette of Romania, Part I.

Art. 333

1) The persons authorized to implement the measures decided by the competent authorities of the home Member State may act without any other formalities on the territory of Romania, on the basis of a certified copy of the decision whereby the said authority has appointed the respective persons, or on the basis of a certificate issued by the same authority, accompanied by the Romanian translation.
2) The persons referred to in par (1) may exercise in Romania all their duties in accordance with the legislation of the home Member State; such persons shall be able to appoint other persons to represent them in Romania, also for the purpose of providing assistance to insurance creditors during implementation of the respective measures.
3) In exercising their duties and powers in Romania, the persons referred to in par (1) shall comply with the Romanian legislation, particularly regarding the realization of assets and the provision of information to the employees of the insurance undertaking in Romania.

Art. 334 The competent administrative or judicial authorities of the home Member State or the judicial liquidator, as appropriate, shall notify the decision to commence bankruptcy proceedings to the office of the trade register where the respective insurance/re-insurance undertaking is registered, in order to register appropriate mentions.

Art. 335

1) The competent court in accordance with the Romanian law has the obligation to immediately inform, through the Financial Supervisory Authority, the qualified authorities of the home Member States of the decision to commence bankruptcy proceedings, including of the effects that such proceedings may have, if the decision was made with respect to a branch or subsidiary in Romania of an insurance/re-insurance undertaking seated in a state other than a Member State, but which has other ranches and/or subsidiaries on the territory of other Member States.
2) Disclosure shall be made before the date of the decision to commence bankruptcy proceedings or immediately thereafter, and shall also indicate whether the operation permit of the respective branch or subsidiary was withdrawn.

Section 4 – Branches of Insurance/Re-insurance Undertakings in non-Member States

Art. 336

1) Subject to the definitions set out in article 5, indent 31 and indent 62, and for the purposes of the provisions concerning bankruptcy proceedings set forth in this chapter, with respect to branches in other Member States opened by insurance/re-insurance undertakings having their main seat outside the European Community:
   a) home Member State shall mean the Member State where the branch is authorized to operate;
   b) supervisory authorities and qualified authorities shall mean the authorities of the Member State where the branch is authorized to operate.
2) When an insurance/re-insurance undertaking having its main seat outside the European Union has branches established in at least two Member States, each branch shall be treated independently for the purposes of this title. The qualified authorities and the supervisory authorities, as well as the designated judicial liquidators of these Member States shall cooperate and coordinate their actions in order to exercise the duties and competences established by the law.

TITLE VI. SANCTIONS

Art. 337

1) The failure to abide by the provisions of article 83, par (3), represents an offence and is penalized with a fine of 10,000 Lei up to 30,000 Lei.
2) Offences are ascertained and penalties referred to in par (1) are applied by the specialized bodies of the National Agency for Tax Administration, of their own motion or upon notification of the judicial administrator/judicial liquidator or of any concerned person. The proceeds resulting from application of the penalty referred to in par (1) shall be deemed to be income to the state budget.
3) The breach in any way of the obligations referred to in article 246 concerning the registration of the petition to commence bankruptcy proceeding against an insurance/re-insurance undertaking represents an offence and is penalized as follows:

a) a fine of 15,000 Lei up to 30,000 Lei, applicable to the insurance/re-insurance undertaking,
b) a fine of 5,000 Lei up to 15,000 RON, applicable to the significant persons of the insurance/re-insurance undertaking;
c) a fine of 5,000 Lei up to 15,000 RON, applicable to the significant persons of the insurance/re-insurance broker;
d) a fine of 5,000 Lei up to 15,000 RON, applicable to the liquidators of the insurance/re-insurance undertaking or to the insurance/re-insurance broker;

4) Offences are ascertained and penalties referred to in par (3) are applied by the Financial Supervisory Authority. Penalties shall be applied to the insurance/re-insurance undertaking or to the significant persons who participated in the committing of those offences. The fine shall be applied separately to each person who participated in the committing of the offence.
5) Depending on the nature and severity of the offence, the Financial Supervisory Authority may, in addition to the fine referred to in par (3), apply any of the penalties referred to in article 39, par (3), letter d) and e), of Law 32/2000, as further amended and supplemented.
6) The offences referred to in par (1) and par (3) are subject to the provisions of Government Ordinance 2/2001 on the legal regime of offences, approved with amendments and supplements by Law 180/2002, as further amended and supplemented.

TITLE V – TRANSITIONAL AND FINAL PROVISIONS

Art. 338 The amount of judicial fines referred to in this law shall be adjusted from time to time by government decision, depending on the inflation rate.

Art. 339

1) The bankruptcy proceeding referred to in Title II, Chapter IV, commenced against an insurance/re-insurance undertaking that purchases an asset does not prejudice the retention of the title on property of the seller when, at the time the procedure is commenced, the asset is located on the territory of a Member State other than the state where proceeding was commenced.
2) The bankruptcy proceeding commenced against an insurance/re-insurance undertaking that sells an asset, after the selling thereof, cannot stand for a cause of rescission or termination of the sale and does not preclude the purchaser from acquiring the property, if the asset is, at the time the procedure is commenced, located on the territory of a Member State other than the state where proceeding was commenced.
3) The provisions of par (1) and par (2) do not prevent the filing of actions for nullity, annulment and/or lack of opposability referred to in the law.
4) The bankruptcy proceeding referred to in Title II, Chapter I does not preclude and does not prejudice exercise of insurance creditors' rights to offset their claims against the claims of the insurance/re-insurance undertaking that are subject to these proceeding, according to the law. The provisions of par (3) shall apply accordingly.

Art. 340 Any reference in laws or other norms to Law 85/2006 regarding the insolvency proceeding, as further amended and supplemented, or to Law 381/2009 on preventive concordat and ad-hoc mandate, as further amended, or to Government Ordinance 10/2004 on the bankruptcy of credit institutions,

approved with amendments and supplemented by Law 278/2004, as further amended and supplemented, to sections 1-3 of Chapter III, to Chapter IV and article 83 of Law 503/2004, republished, as further amended and supplemented, or to Law 637/2002 regarding the international private law relations on insolvency matters, as further amended and supplemented, which are repealed by this law, shall be deemed to be references to this law.

Art. 341 Any preclusions, limitations, interdictions or the like established in laws or contractual provisions in respect of the commencement of the insolvency proceeding shall be applicable only from the date of opening of the bankruptcy proceeding. Any provisions to the contrary are repealed.

Art. 342

1) The provisions of this law shall be in addition to the provisions of the Civil Procedure Code and of the Civil Code, to the extent they are compatible with them.
2) The provisions of Chapter I of Title III are not applicable to the international private law relations on insolvency matters which fall under the scope of application of the Council Regulation (EC) no. 1346/2000.

Art. 343 Proceedings commenced before the date this law becomes effective shall continue to be subject to the law in force before that date.

Art. 344 On the effective date of this law, the following shall be repealed:

a) Law 85/2006 regarding the insolvency proceeding, published in the Official Gazette of Romania, Part I, No 359 of April 21st, 2006, as further amended and supplemented;
b) Law 381/2009 on preventive concordat and ad-hoc mandate, published in the Official Gazette of Romania, Part I, No 870 of December 14th, 2009, as further amended and supplemented;
c) Government Ordinance 10/2004 on the bankruptcy of credit institutions, published in the Official Gazette of Romania, Part I, No 84 of January 30th, 2004, approved with amendments and supplements by Law 278/2004, as further amended and supplemented;
d) Sections 1-3 of Chapter III, Chapter IV and article 83 of Law 503/2004 on financial recovery, bankruptcy, dissolution and voluntary liquidation of insurance undertakings, published in the Official Gazette of Romania, Part I, No 453 of July 23rd, 2013, as further amended and supplemented,
e) Law 637/2002 regarding the international private law relations on insolvency matters, published in the Official Gazette of Romania, Part I, No 931 of December 19th, 2002, as further amended and supplemented;
f) Article 175 of Law 187/2012 for the application of Law 286/2009 on the Criminal Code, published in the Official Gazette of Romania, Part I, No 757 of November 12th, 2012, as further amended and supplemented, as well as article 81 of Law 255/2013 for the application of Law 135/2010 on the Criminal Procedure Code and for modification and supplementing of some norms that refer to criminal procedural measures, published in the Official Gazette of Romania, Part I, No 515 of August 14th, 2013;
g) Any other provisions to the contrary.

This law transposes Directive 2001/24/EC of the European Parliament and of the Council of April 4th, 2001, on the reorganization and winding up of credit institutions, published in the Official Journal of European Communities, series L, No 125 of May 5th, 2001.

This law was adopted by the Parliament of Romania, subject to the provisions of article 75 and of article 76, par (1), of the Constitution of Romania, republished.

CHAIRMAN OF THE CHAMBER OF DEPUTIES	CHAIRMAN OF THE SENATE
VALERIU-ŞTEFAN ZGONEA	**CĂLIN POPESCU-TĂRICEANU**

Bucharest,
No-