\*National language legislation will prevail over translated versions

DECISION NR. 1470 of December 6, 2007

on approving the Methodological Norms for application of provisions in the Government Emergency Ordinance nr. 64/2007 on public debt

*Text in force as of Friday, January 1, 2016*

*By: THE INFORMATION TEHCNOLOGY COMPANY NEAMT (CIN)*

*Text updated by the legal IT product LEX EXPERT based on amending acts published in Romania’s Official Gazette, Part I, before Monday, April 27, 2015.*

***Baseline Act***

**#B**: *#B: Government Decision nr. 1470/2007.*

***Amending Acts***

**#M1**: *#B: Government Decision nr. 1458/2008.*

**#M2**: *#B: Government Decision nr. 468/2009.*

**#M3**: *#B: Government Decision nr. 759/2009.*

**#M4**: *#B: Government Decision nr. 608/2010.*

**#M5**: *#B: Government Decision nr. 132/2011.*

**#M6**: *#B: Government Decision nr. 646/2012.*

**#M7**: *Revision published in the Official Gazette of Romania, Part I, nr. 730 of October 29, 2012.*

**#M8**: *#B: Government Decision nr. 362/2013.*

**#M9**: *#B: Government Decision nr. 1075/2014.*

**#M10**: *#B: Government Decision nr. 192/2015.*

**#M11**: *#B: Government Decision nr. 275/2015.*

*Amendments and Supplements introduced by the above-mentioned acts are in Italics. Each amendment and change is preceded by the name of the piece of legislation that introduced it in the first place, in the form #M1, #M2 etc.*

**#CIN**

***NOTE:***

*Please refer to the Order nr. 1059/2008 issued by the minister of economy and finance, for approving the methodological norms regarding the recording and reporting of public debt.*

**#B**

Based on art. 108 of the Romanian Constitution, as republished, and on art. 12 par. (1) of the Government Emergency Ordinance nr. 64/2007 on the public debt,

The Government of Romania has adopted the Decision herein below.

Article 1.

The methodological norms are approved for the application of the Government Emergency Ordinance nr. 64/2007 on the public debt, and included in the annex that is part of the current decision.

Article 2.

On the effective date of the current methodological norms, the Government Decision nr. 2415/2004 approving the methodological norms for the application of Public Debt Law nr. 313/2004 that was published in the Romanian Official Gazette, Part I, nr. 57 of January 18, 2005, as further amended and supplemented.

**#CIN**

***NOTE:***

*Below are the provisions in art. II of the Government Decision nr. 1458/2008 (#M1).*

**#M1**

*"Article II.*

*As of the effective date of the current decision, the foreign financial leasing contracts of central public institutions shall be transferred from private debt to government public debt, and will be reported exclusively by the Ministry of Economy and Finance with the central bank BNR having no longer the reporting obligation. The main budget holders will have the obligation to report on all on-going financial leasing contracts, in line with the Order nr. 1.059/2008 issued by the minister of economy and finance to approve the methodological norms on public debt recording and reporting , as subsequently supplemented and amended, and attach all documents in evidence of the contracted leasing (leasing contract, comfort letters etc.)."*

**#B**

ANNEX

METHODOLOGICAL NORMS

For the application of provisions in the Government Emergency Ordinance nr. 64/2007 on the public debt

1. Art. 1 of the Government Emergency Ordinance nr. 64/2007 (hereinafter referred to as the emergency ordinance):

The current emergency ordinance sets out the general framework and the principles of public debt management.

Methodological norms:

1.1. The management of public debt is the collection of operations regarding the sizing, structuring, contracting and running the government public debt, including the re-financing/repayment, modification of characteristics, recording and reporting, as well as operations aimed at managing the risks associated to the government public debt and the operations related to the authorization and monitoring of local public debt.

2. Art. 2 points d) and e) of the emergency ordinance:

For the purpose of the current emergency ordinance, the below terms and the expressions shall have the following meanings:

a) permanent budget appropriation - the Government’s authorization to ensure continuous resources of the state budget for the payment of principal, interest, fees and other costs arising from the government public debt, in accordance with the legal provisions in force;

b) Inter-Ministerial Committee for Financing, Guarantees and Insurance – the body responsible for approving the financial terms for the issuance of state guarantees and for on-lending, in the form of government public debt liabilities, with the structure and competency thereof to be approved by Government Decision;

c) public debt – total liabilities in the form of government and local public debt;

d) government public debt – the total state obligations at any moment, arising from reimbursable financing either contractually committed or guaranteed by the Government through the Ministry of Economy and Finance, in accordance with the provisions of the current emergency ordinance;

e) local public debt – the total obligations of the administrative-territorial units, at any moment, arising from reimbursable financing either contractually committed or guaranteed by the local public administration authorities, in accordance with the provisions of the current emergency ordinance and the Local Public Finance Law 273/2006;

f) risk fund – the fund established with the Ministry of Economy and Finance and at the level of the administrative-territorial units by the local public administration authorities, formed of fees collected from the beneficiaries of on-lending/guarantees, or from the beneficiaries of the guarantees issued by the local public administration authorities, as well as from any other sources as stipulated by law;

g) beneficiary of the guarantee – any legal person for which the repayment of the state-guaranteed financing must be covered from own resources, without affecting the state budget or, in the case of guarantees issued to the administrative-territorial units, the repayment is to be done from the local budgets, as well as from the revenues of the economic operators and public services under the administrative-territorial units that benefit of the guarantees, for which the repayment must be covered from own sources;

h) guarantee – the commitment by the Government in the name and on behalf of the state, through the Ministry of Economy and Finance, or by the territorial units, through the local public administration authorities, in their capacity as guarantor, to pay the outstanding obligations of the guarantee beneficiary as they become due, under the terms of the current emergency ordinance;

i) public debt servicing – the total amounts in principal, interest, fees and other costs related to the public debt, resulted from the reimbursable financing either committed on contractual basis or guaranteed by the Government, through the Ministry of Economy and Finance, or by the territorial units through the local public administration authorities, for any given period;

j) on-lending – reimbursable financing committed by the state through the Ministry of Economy and Finance and transferred to the beneficiary of the on-lending under an on-lending agreement;

k) beneficiary of the on-lending – the legal entity which benefits of on-lending committed by the Ministry of Economy and Finance and the repayment of which is to be ensured exclusively from the own revenues of such legal entities, without any prejudice to the state budget or, in the case of territorial units, such reimbursement is to be provided from local budgets;

**#M1**

*Methodological norms:*

*2.b) The Inter-Ministerial Committee for Financing, Guarantees and Insurances – is responsible for reviewing and approving the necessary documentation for the issuance of state guarantees for the loans contracted by the economic operators and the administrative-territorial units and for the on-lending thereto granted by the Ministry of Economy and Finance.*

**#M5**

*2.c) Public Debt shall mean all liabilities in the nature of government and local debt, in either domestic or foreign currency. In order to evaluate Romania’s public debt, all foreign debt obligations is calculated in domestic currency using the exchange rate communicated by the National Bank of Romania (NBR) of the last banking day of the reporting interval, as posted on the website of the Ministry of Public Finance and NBR.*

**#M6**

*2.d) The Government Public Debt includes the direct government public debt and the contingent government public debt.*

*- the direct government public debt is formed of all the state liabilities at any given moment, representing reimbursable financing contracted by the Government through the Ministry of Public Finance, according to the provisions in the Government Emergency Ordinance 64/2007 on the public debt, as approved with revisions and supplements in the Law 109/2008, as revised (hereinafter referred to as emergency ordinance), including the obligations contracted by the central public administration authorities, until the effective date of the emergency ordinance;*

*- the contingent government public debt is formed of all the state liabilities at any given moment, arising from reimbursable financing guaranteed by the Government through the Ministry of Public Finance, in line with the emergency ordinance provisions, exclusive of the obligations contracted by the central public administration authorities, until the effective date of the emergency ordinance;*

*- government loan – the liability generated by a contract under which the state, through the Ministry of Public Finance in capacity as borrower, receives funds from either a natural or legal person, resident or non-resident, and commits to repay these funds plus interest and other related costs, with an established period of time;*

*- government security – a financial instrument attesting the public debt, in the form of notes, treasury bills, bonds, including T-Bills for population not repurchased at maturity and changed into certificates of deposit or other financial instruments accounting for short term, medium term and long term state borrowings in either domestic or foreign currency. These may be either dematerialized or in a materialized form, and they can be nominal or bearing, negotiable or non-negotiable securities;*

*- short term government security – treasury notes and treasury bills, either bearing interest or discounted, having a maturity of maximum one year, as well as other financial instruments that can be created by the issuer, under the law;*

*- medium-term or long-term government security – state bond with maturity of over one year and maximum five years after the issuance, and a maturity of over five years after the issuance, respectively, which is either interest-bearing or discount note, and has been issued in line with the government loan regulations;*

*- interest-bearing government security – government security with a nominal value for which an established interest is paid, at specified dates;*

*- discounted government security – a zero-coupon government security, sold at a lower value than its nominal value;*

*- capital of interest-bearing government securities – amount that is borrowed from the person offering the loan, on the issuance date of interest-bearing government securities;*

*- capital of discounted government securities – amount that is borrowed from the person offering the loan, on the issuance date of discount government securities, at a value that is the price of discount government securities;*

*- dematerialized government security – a government security for which the issuance, probation and transfer or incorporated rights are recorded by registration in the account registration system; this instrument may be used by investors as a loan collateral;*

*- materialized government security – a government security in a material form, printed, which includes mandatory statements about the issuer, nominal value, interest rate or discount rate, maturity, transfer mode and other elements specific to each category of security;*

*- account registration system – operational system in which the government securities are issued in dematerialized form, the registration thereof being the responsibility of the Ministry of Public Finance or its designated agent;*

*- government security price – an amount paid by the buyers of government securities;*

*- nominal value of government security – the value of a government security that is reimbursable at maturity;*

*- premium – the difference between the price of government security on the issuance date and its nominal value, if the price is higher than the nominal value;*

*- discount – the difference between a government security on the issuance date and its nominal value, if the price is lower than the nominal value;*

*- interest rate – the interest in percentages per year, paid for the capital of an interest bearing loan or government security;*

*- floating interest rate – the rate of an interest bearing loan of government security, which changes at different time intervals, according to an index, a formula or other criterion stipulated in the loan agreement or the terms of the prospectus of issuance;*

*- the interest/coupon - the amount of cash calculated as corresponding to the interest/coupon period, the payment of which has been committed by the Ministry of Public Finance according to the prospectuses of issuance;*

*- the accrued interest - the interest calculated for the period between the coupon date, which is prior to the issuance/reopening date, and the issuance/reopening date, for the benchmark bonds and the government securities denominated in foreign currency which can be reopened;*

*- maturity date – the date on which the nominal value and the last interest tranche of an interest bearing loan of government security, or the nominal value of a discount government security become chargeable, in accordance with the loan agreement or the terms of the prospectus of issuance;*

*- interest payment date – the date set for paying the interest on a loan or a specific government securities series which are interest bearing;*

*- repurchase date – the date on which a loan is reimbursed, that is earlier than the maturity date of the respective loan;*

*- value date – settlement date of the transaction;*

*- transaction date – the date on which the trade occurs;*

*- change of loan agreement currency – a decision made by the Ministry of Public Finance to change the denomination of the currency of a loan and the financial terms, based on the market conditions and agreed with the lender;*

**#M11**

*- reopening of government securities – an operation decided by the Ministry of Public Finance to attract additional amounts from either resident or non-resident investors, using a coupon-based issuance that is already in its portfolio;*

**#M6**

*- prospectus of issuance – a document introducing the features of the government securities:*

*a)* *the issuance title and date and the amount offered in government securities;*

*b)* *the type of state borrowing – discount or interest bearing securities;*

*c)* *the interest rate, the calculation method and the interest dates, if any;*

*d)* *maturity date and incorporated options, if any;*

*- private placement – debt instrument consisting in directly contracting loans or directly selling government securities to an investor or a limited group of investors authorized to operate on the financial markets having the capacity to assess and manage the benefits and risks of an investment opportunity and are regulated by the financial markets supervisory authorities. This instrument is used under specific circumstances determined by the confidential nature of the transaction required by the investors.*

**#M11**

*- additional non-competitive bid session (ANCS) - an auction organized only for benchmarks, on the next business day after the regular auction, where primary dealers are offered government securities with the same features as the ones launched in the regular auction.*

*- primary dealer - an entity accepted by the Ministry of Public Finance to conduct direct operations with the government securities on the domestic primary market, in compliance of the legal regulations in force;*

*- the frame programme of medium-term government securities “Medium-Term Notes” (the Programme) - a non-committing facility which is concluded by the Ministry of Public Finance with a group of financial entities selected by the issuer, under which government securities can be issued regularly on the basis of standard contract documents, with the financial terms and conditions for the issuances under the Programme established at the time of each transaction. The Programme is approved by means of Government Decision;*

*- dealer in the frame programme of government securities “Medium-Term Notes” - a financial institution which signed with the Ministry of Public Finance the document called “Dealer Agreement” and which can be appointed as manager/administrator of a future transaction, following a selection process;*

*- fiscal agent and payer within the MTN Programme - a financial institution selected by the Ministry of Public Finance to act as agent in the operations related to the registration and payment in respect of the payment events for the government bonds issued on the foreign capital markets;*

*- buyback of government securities - a transaction by which a debt is reimbursed before maturity, based on a partial or total repurchase of a government security issuance in circulation, using either the existing financial resources of the balance of the State Treasury General Current Account, or the funds attracted to this very purpose by issuing government securities;*

*- government securities exchange - a transaction by which the government securities of one or more issuances in circulation are totally or partially withdrawn before maturity (the repurchase leg of the operation) and replaced with newly issued or reopened government securities (the issuance leg of the operation);*

*- differences from government securities revaluation or exchange - the difference between the net price of government securities on the redemption or exchange date and the par value thereof. The differences from revaluation may be positive, when they influence in a positive way the debt balance (net price below par value), or non-positive, when they influence in a negative way the debt balance (when the net price is above the par value), either diminishing or increasing the public debt balance;*

*- gross price - the purchase or sale price of government securities which includes the accrued interest; the gross price is expressed as a percentage of the nominal value;*

*- net price - the purchase or sale price of government securities which doesn't include the accrued interest; the net price is expressed as a percentage of the face value;*

**#M6**

*Unless otherwise stipulated by the prospectus of issuance, the basic formulas used on the domestic market of government securities are as below:*

*a) short term discount government securities – discount Treasury-Bills:*

*(d x r)*

*P = 1 - ---------*

*360*

*Y = r / P,*

*Where:*

*P = the price of the discount T-Bill with four decimals;*

*d = the number of days until redemption;*

*r = discount rate (with two decimals);*

*Y = yield (interest rate) with two decimals;*

*b) short term interest bearing government securities – interest bearing Treasury-Bills:*

*z*

*D = VN x d x -----,*

*360*

*where:*

*D = interest (coupon);*

*VN = individual nominal value;*

*d = interest rate (with two decimals);*

*z = number of actual days of interest; r = discount rate (with two decimals);*

*c) medium and long term interest bearing government securities – fixed coupon Treasury-Bonds:*

*z*

*D = VN x d x -------------,*

*365 or 366*

*where:*

*D = interest (coupon);*

*VN = individual nominal value;*

*d = interest rate (with two decimals);*

*z = number of actual days of interest; r = discount rate (with two decimals);*

*366 = number of days in a leap year;*

*or*

*D = VN x r / annual coupon frequency,*

*where:*

*D = interest (coupon);*

*VN = individual nominal value;*

*r = coupon rate;*

*annual coupon frequency =*  *1, for annual payments;*

*2, for semi-annual payments;*

*4, for quarterly payments.*

*When Treasury-Bonds are issued under special laws (dedicated issuances) with an interest period (quarter, six months or one year) which does not go beyond the calendar year, but with the payment occurring in the following calendar year, the interest calculation formula will use in the denominator the number of days in the calendar year for which the interest is due and assessed.*

*When Treasury-Bonds are issued as standard T-Bonds, with an interest period that exceeds the calendar year and the payment occurring in the following calendar year, the interest calculation formula will use in the denominator the number of days in the year when the coupon payment occurs;*

*d) medium and long term index-linked T-Bonds:*

*z*

*D = VN x d x -----,*

*365*

*where:*

*D = interest (coupon);*

*VN = individual nominal value;*

*z = number of actual days of interest; r = discount rate (with two decimals);*

*d = interest rate, with 6 decimals, for each coupon period, calculated as annualized product (P) of the six monthly CPIs published by the National Statistics Institute plus a margin M that will be calculated for each time period using the formula below:*

*365*

*d = ----- [P (IPCi / 100) - 1] x 100 + M,*

*z*

*where:*

*i = the indices stated in the prospectus of issuance of government securities, depending on the coupon payment date;*

*IPCi = monthly consumer price index, as published by the National statistics Institute; the monthly index shall be used, regardless of the issuance date;*

*M = the margin, in percentages, is the bid ranking element.*

*In order to comply with accepted standards under ISMA Agreements (International Securities Market Association), the Ministry of Public Finance may choose to use other calculation formulas for the discount or the coupon.*

**#M11**

*e) The accrued interest of government securities is expressed in the currency in which the instrument is denominated, with 2 decimals, and it is calculated using the formula below:*

*a*

*Da = VN x D x ------,*

*Z x f*

*where:*

*Da = accrued interest;*

*VN = the face amount of the government security;*

*D = coupon rate with two decimals;*

*a = the number of days between the last coupon payment date (not included) and the settlement date (inclusive);*

*Z = total number of days between the coupon payments (365 or 366 for leap years)*

*f = frequency of coupon payments in one year.*

**#B**

2.e) The local public debt is formed of direct local public debt and the contingent local public debt.

The direct local public debt includes all obligations incurred by the territorial units, at any given time, arising from the reimbursable financing directly contracted by these units, in line with the provisions in the current emergency ordinance and the Law 273/2006 on local public finance, as further revised and supplemented.

The contingent local public debt includes all the obligations incurred by the administrative-territorial units, at any given time, arising from the guaranteed reimbursable financing, according to the provisions in the current emergency ordinance and the Law 273/2006, as further revised and supplemented.

3. *Art. 3 of the emergency ordinance:*

(1) In the management of the government public debt, the Ministry of Economy and Finance’s objective is to ensure the needs for government financing, against the background of minimizing the long-term costs and under limited risk circumstances;

(2) The instruments intended by the Ministry of Economy and Finance for the purpose of reaching the government public debt objectives are to be set forth through norms to be issued in application of the current emergency ordinance.

The regulations in the field issued by the competent European Institutions shall be taken into consideration when defining the debt instruments;

(3) For the risk management operations related to the obligations of the nature of government public debt, the Ministry of Economy and Finance may enter into agreements with financial institutions for the use specific instruments, which may stipulate the mutual offset of the obligations resulted between the counterparts, so that a single net obligation of one single party should result at regular intervals, in accordance with the legislation in the field and the norms issued for the application of the current emergency ordinance;

(4) The Ministry of Economy and Finance, after consultations with the Romanian National Bank, shall define the government public debt policy on a medium term, which shall be submitted to the Government for approval and to the Romanian Parliament for information purposes; this policy is to be revised annually, or at any moment when required by the market conditions and/or financing needs;

(5) The revenues collected and the expenditures incurred as a result of the operations carried out for the purpose of managing the government public debt, in respect of par. (1), are either state budget or state treasury budget’s revenues and expenditures.

**#M4**

*Methodological norms:*

*3.1. The Ministry of Public Finance is the sole administrator of the government public debt, direct and contingent, in domestic and foreign currency, and to meet this purpose it has the authority to carry out the following:*

*a) estimate and ensure the liquidity needs and the funds available to carry out the budget expenditures in due time and under safe conditions;*

*b) manage the government public debt, including associated costs and risks, securing the coverage of financing needs at the best cost that can be obtained given the domestic and foreign financial market conditions at the respective time so that, in the long run, costs could be minimized by accepting limited risks;*

*c) establish, taking into account the context and the macroeconomic perspectives, and taking into account the requirements and the perspectives of the financial markets, the strategy, the features and the instruments of the government public debt;*

*d) in the government public debt management process, keep permanently in touch with domestic and foreign financial institutions, the investment environments and rating international agencies and monitor the factors which may influence the efficient and safe performance of the specific operations. To this end, the Public Finance Ministry is authorized to conclude and/or renew contracts or master agreements with the rating agencies assessing the country risk;*

*e) elaborates, on an yearly basis, the general account of the public debt, as annex to the general annual account of the state budget execution.*

**#M1**

*3.2. The debt instruments used for the government public debt management may be issues and/or used only by the Ministry of Economy and Finance, and are denominated in lei and/or foreign currency, by accessing the domestic and foreign financial markets.*

*3.2.1. The government public debt instruments which may be contracted are, but not limited to:*

**#M9**

*a) the government securities issued on the foreign markets, as well as those issued on the domestic market, or the inter-bank market supervised by the National Bank of Romania and/or on the regulated market managed by the Bucharest Stock Exchange and supervised by the Financial supervisory Authority, including the T-Bills for individuals, which are not repurchased at maturity and converted to deposit certificates;*

**#M1**

*b) borrowings from either Romanian or foreign financial institutions;*

*c) borrowings from foreign governments and government agencies, international financial institutions or bodies;*

*d) temporary financing from the funds available in the state treasury general current account;*

*e) structured instruments such as supplier credits;*

*f) financial leasing;*

*g) cash management instruments (deposits attracted, repos and other similar);*

*h) letter of state guarantees.*

**#M2**

*i) loans extended by the European Union under EU Council Regulation nr. 332/2002 setting up a medium term financial assistance mechanism for the MS payment balances, published in the EC Official Journal L53 of February 23, 2002;*

**#M3**

*j) private placements.*

**#B**

3.2.2. The debt instruments may be contracted on a short term (with up to 1-year repayment period) on a medium term (the repayment period is over one year but under 5 years) and on a long term (the repayment period is over 5 years).

**#M1**

*3.2.3. Any debt that is contracted, before the effective date of the emergency ordinance, by the main budget holders without the guarantee of the state, shall be recorded in the public debt register.*

**#M3**

*3.2.4. \*\*\* Repealed*

**#B**

3.2.5. The Ministry of Economy and Finance, depending on the selected instrument and the complexity of the selection procedure, may issue norms establishing the procedures for selection of the financing institution, which are to be approved by Order of the minister of economy and finance, to ensure the transparency, duration and security of the contracting procedure for the reimbursable financing in question appropriate to the features of the markets that are accessed and allowing the efficiency of the operations in question.

3.2.6. For the management of risks associated to the government public debt, the Ministry of Economy and Finance is authorized to perform the following operations, the list being non-exhaustive:

a) foreign currency swaps, futures contracts, options and other specific operations for the currency risk management;

b) forward contracts, interest rate swaps, options and other specific operations for the interest risk management;

c) operations for the management of the government debt servicing through refinancing the debt at maturity and/or early repayment of a non-maturing existing government debt, including the modification of conditions regarding the existing debt through early repurchase of government securities, turning the existing ones into new government securities, exchanging existing instruments for other government public debt, and other operations;

d) operations for the management of the credit risk associated to the government debt portfolio, through granting/requesting guarantees/collateral from other parties involved in the contracts/agreements concluded for the management of government public debt.

**#M11**

*3.2.6^1. In order to limit the risks taken by the state by using the debt instruments, depending on the complexity of specific operations and the associated contractual documentation, the Ministry of Public Finance, through its dedicated directorate, may select the law firm to supply the legal consulting services, according to the law.*

**#M1**

*3.2.7. \*\*\* Repealed*

**#B**

3.3.1. In order to perform the operations regarding the management of risks associated to the obligations of the government public debt nature, the Ministry of Economy and Finance may conclude framework agreements/contracts (ISDA agreements) with financial institutions; these agreements/contracts do not generate financial obligations for the signatory parties but stipulate the general conditions for the performance of any operations between the parties.

3.3.2. The agreements mentioned in point 3.3.1 define and regulate the bilateral offset operations (netting), which refer to the compensation until reaching a net amount (off-set), which is converted into one currency, of the value of some rights or payment obligations resulted between MEF and the financial institutions involved in the agreements/financial contracts concluded for the government debt management and/or the management of risks associated to the government public debt obligations.

3.3.3. Under the agreements concluded with the financial institutions, as provisioned in point 3.3.2, MEF may use derivative instruments (currency swaps, interest rate swaps, forwards or futures contracts, options etc.) to hedge against specific risks associated to existing and/or future government debt obligations, without a prior selection of the financial institution that will supply the chosen instrument.

3.3.4. The derivatives used in accordance with the provisions in point 3.3.3 may generate cash-flow changes in the existing and/or future government public debt obligations, which are closely relying on such support operations. The definitions and conditions for the use of such instruments are established through norms issued by order of the minister of economy and finance.

3.4.1. The medium term strategy for the government debt management lays down the objectives regarding the government debt management on a medium term, as well as the instruments to be used in order to reach such objectives, with appropriate consideration to the macroeconomic developments and perspectives and the financial markets developments over the covered period.

3.4.2. The first medium term strategy for the government debt management, covering the period 2008-2010, is to be drafted, submitted to Government approval and sent out for information to the Parliament before the end of 2007.

3.4.3. The government debt management strategy may be revised annually, or whenever necessary, depending on the market evolution and the change in the financing needs as a result of the change in the budget deficit target.

**#M5**

*3.4.4. \*\*\* Repealed*

**#B**

3.5.1. The revenues and expenditures resulted from using the derivative instruments and/or other specific risk management instruments associated to the government public debt, shall represent revenues and/or expenditures of the state budget.

3.5.2. The revenues in accrued interest collected from benchmark issues of government securities represent revenues to the state treasury budget; the payment at maturity of the interest for such government securities shall be done from the state treasury budget, within the limits of the approved budget allocations, that will be topped up by amounts from the state budget.

**#M6**

*3.5.3. The income from the accrued interest collected from the government securities issued in foreign currency which can be reopened is revenue to the state budget; the interest on these securities is paid at maturity by the state budget.*

**#M1**

*4. Art. 4 of the emergency ordinance:*

*(1) The Government may incur obligations in the form of government public debt, in the name and on behalf of the state, only through the Ministry of Economy and Finance, for the following purposes:*

*a) finance the state budget deficit , temporarily finance the previous years deficits in the social security budget until the allocation of ear-marked amounts, finance temporary state budget and social security budget deficits of the current year;*

*b) refinance and early repay the government public debt;*

*c) secure, at any moment in time, an appropriate balance of the State Treasury General Current Account, as decided by the Ministry of Public Finance, in accordance with the criteria provided in the methodological norms issued according to art. 12 par. (1);*

*d) finance, pursuant to the law, such programs/projects or needs which are deemed as priorities in the Romanian economy.*

*e) support the balance of payments in line with the EU Council Regulation nr. 322/2002 setting up a medium term financial assistance mechanism for the MS balance of payments.*

*By derogation from the provisions in par. (1), the main budget holders may commit obligations in the form of government public debt for purchases in leasing system, based on a Government Decision, only if the Ministry of Economy and Finance, in capacity as sole manager of the public debt, accepts that government public debt be committed by the main budget holders by choosing this specific financial instrument after performing a risk/cost analysis and provided that the objectives and principles stated in the government public debt strategy are observed.*

*(2) in the case of par. (1) let. d) the beneficiaries of state guarantees, as well as of the on-lending, shall be established by law, for each case, but only after obtaining the opinion of the Inter-ministerial Committee for Financing, Guarantees and Insurance.*

*(3) the central public administration authorities may not be the beneficiaries of either state guarantees or on-lending by the Ministry of Economy and Finance.*

*(4) during one-year time, the Ministry of Economy and Finance shall contract government loans for the purposes provisioned in paragraph (1), regardless of the developments of the funds available in the State Treasury general current account and also regardless of the evolution of the state budget revenues and expenditures during the year.*

*(5) The reimbursable financing from the international financial bodies for financing the state budget deficit shall be approved by law.*

*(6) The way of approving the operations of contracting government public debt shall be established by norms issued for the application of the current emergency ordinance.*

**#M6**

*Methodological norms:*

*4.1.a),b)1. The following steps shall be followed when issuing government securities on the domestic market:*

*1. A report shall be submitted for the approval of the Order for the government securities prospectus of issuance; this report will include:*

*1.1. A rationale of the volume of government securities to be issued, taking into account:*

*-* *the amount of government securities maturing in the interval considered for the issuance of government securities;*

*-* *the amount at historical rate of the maturing principal installments for the foreign currency loans taken to support the balance of payments, and to finance and refinance the government debt;*

*-* *the estimated amount of population T-Bills repurchases, sold through the State Treasury network, calculated as monthly mean of the balance thereof as per the field reporting;*

*-* *the amount of budget deficits which are temporarily supported with the funds available in the state treasury general current account, as per operative data as at the end of the previous month;*

*-* *the value of debtor/creditor balance of the state treasury general current account, according to the forecast on the developments regarding the funds available in this account during the time interval considered for issuing the government securities.*

*1.2. Maturity structure of government securities;*

*A rationale concerning the grounds for the selection of maturities, coupon in the case of T-Bonds;*

*1.4. The features of the government securities;*

*- Other relevant information.*

*2. The Order for the approval of the issuance is drafted and with all necessary visas obtained to allow submission for approval by the top management of the Ministry of Public Finance Finance.*

*3. The Order sent out for publication in the Official Gazette of Romania, Part I, on the website of the Ministry of Public Finance and the NBR, for the purpose of informing the primary market dealers;*

*4. The government securities settlement shall be recorded as follows:*

*- the nominal amount, in the financing/refinancing of the government debt;*

*- the premium, which is the difference between the face value of a benchmark bond/government security denominated in foreign currency which can be reopened and the net price thereof; for government securities in foreign currency the premium received in the foreign currency account of the Ministry of Public Finance and confirmed by the central bank shall be sold at a rate communicated by NBR which is valid 3 business days from the date on which the respective amount is credited to foreign currency account. The lei amounts or the equivalent in lei of the premium is a negative expense and shall be recorded in the economic classification of the state budget, in the budget of the Ministry of Public Finance under "General Actions”, in chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.01 "Interest on domestic debt” par. 30.01.03 "Premium on issuance of government securities;*

*- the discount, expressed as the difference between the nominal value of the benchmark bond/government security denominated in foreign currency that can be reopened and the net price thereof, where the net price is lower than the nominal value, shall be recorded as expenditures of the state budget and shall be paid from chapter 55.01 "Public Debt and Borrowing Operations”, title 30 "Interest", art. 30.01 "Interest on domestic debt”. The discount amount shall be used, on the settlement date of the issuance awarding results, to replenish up the nominal value of the benchmark securities//government securities denominated in foreign currency that can be reopened;*

*- the accrued interest on benchmarks issuances shall become revenue to the state treasury budget and will be transferred in chapter 31.09.02 "Interest Incomes of the State Treasury from other sectors”;*

*- the accrued interest collected in respect of the government securities issued in foreign currency which can be reopened is revenue to the state budget; the accrued interest collected to the foreign currency account of the Ministry of Public Finance and confirmed by NBR shall be sold at a rate communicated by NBR which shall be valid for 3 business days from the date on which the respective amount is credited to the foreign currency account, and the lei equivalent shall be transferred to the budget chapter 31.01 “Interest Income”, sub/chapter 31.01.03 “Other interest income”;*

*- for the discount government securities issued in foreign currency on the domestic market, the loan nominal value top-up shall be secured from the state budget through the Ministry of Public Finance – General Actions chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.01 "Interest on domestic debt” par. 30.01.01 "Interest on direct domestic debt” taking into account the discount value. The discount amount will be used to replenish the nominal value of government securities.*

*The rules for topping up the nominal value are as follows:*

*- when the foreign currency government securities are issued to refinance a maturing security/loan denominated in foreign currency, the replenishment shall be in foreign currency;*

*- when the foreign currency government securities are issued to finance the budget deficit or finance the budget deficit and refinance the public debt, the replenishment shall be in domestic currency (lei). The amounts in domestic currency used to reconstruct the loan from the state budget shall be used to finance the budget deficit and refinance the public debt either on or after the replenishment date. The nominal value of the issuance shall be topped up in lei using an exchange rate communicated by the National Bank of Romania on the foreign currency receipt date.*

*In the case of premium securities, the premium shall be a negative expenditure of the state budget.*

**#M11**

*4.1.a), b).1^1. The following steps shall be followed in the procedure of issuing government securities for investors - natural persons on the regulated market managed by the Bucharest Stock Exchange SA and supervised by the Financial Supervisory Authority:*

**#M9**

*1. the dedicated directorate of the Ministry of Public Finance makes its case to support the opportunity and/or the need to issue government securities for the investors - natural persons, in the form of an internal memorandum approved by the public finance minister or the minister delegated for budget matters, according to the law;*

*2. in order to select the manager/underwriter for the issuance, the Ministry of Public Finance sends out the call for bids to financial institutions which have the capacity and the experience to perform such transactions. The call for bids shall include the main features of the issuance, including the amount, maturity, selection criteria, deadline for submission of bids, and other elements that the issuer deems as relevant, on a case by case basis. The selection criteria must include quantitative and qualitative evaluation elements, such as: the underwriter’s fee, the proposed launching strategy, the distribution capacity, technical capabilities, experience in finalizing similar transactions, and other factors that the issuer deems as relevant. The evaluation of submitted bids and the rationale supporting the proposal to appoint the managers for the issuance shall be performed through an internal memorandum approved by the public finance minister or the minister delegated for budget matters, according to the law;*

*3. following the selection of the manager/underwriter, the Ministry of Public Finance shall issue the mandate/underwriting contract, which shall include the responsibilities and the obligations of the parties in the transaction, the fees to be charged and any potential costs to be incurred by the underwriters and the issuer, as applicable;*

**#M11**

*3^1. The Ministry of Public Finance shall select the paying agent for the issuance after a call for bids;*

**#M9**

*4. the prospectus of issuance will include clarifications regarding the implementation of primary and secondary market operations, details on the underwriter, the period of subscription, the award method, the main features of the government securities, namely: the nominal amount of a government security, the currency, the maturity, the coupon, the payment dates and other elements deemed as relevant by the issuer, the manager/underwriter and the Bucharest Stock Exchange SA. The prospectus of issuance is not a prospectus for the purpose of the provisions in Directive 2003/71.EC of the European Parliament and the Council of November 4, 2003 on the prospectus that must be released for the purpose of a public offer of securities or for the admission for trading of securities, and amending the Directive 2001/34/EC and the Regulation (EC) 809/2004 of the Commission of April 29, 2004, on the implementation of Directive 2003/71/EC with respect to the information included in the prospectuses, such as the format, the inclusion and release of such prospectuses and dissemination of publicity material;*

*5, the order issued by the public finance minister or the minister delegated for budget matters, according to the law, for the approval of the prospectus of issuance, shall be published in the Official Gazette of Romania, Part I, and on the website of the Ministry of Public Finance, the Financial Supervisory Authority and the Bucharest Stock Exchange SA.;*

*6. in the case of government securities issued on the regulated primary market managed by the Bucharest Stock Exchange SA, the settlement of operations conducted on the primary and secondary markets is performed via the Central Repository - SA, in accordance with the capital market legislation and the specific secondary legislation and regulations;*

*7. For the investors - natural persons, the government securities settlement shall be recorded as follows:*

*- the nominal amount, in the financing/refinancing of the government debt;*

*- when the government securities are selling at a premium, the premium amount is a negative expense and shall be recorded in the economic classification of the state budget, in the budget of the Ministry of Public Finance under "General Actions”, in chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.01 "Interest on domestic debt” par. 30.01.03 "Premium on issuance of government securities;*

*- when the government securities is selling at a discount, the lei amount of the discount is an expenditure of the state budget and shall be paid from the chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.01 "Interest on domestic debt” par. 30.01.01 "Interest on direct domestic debt”. The discount amount shall be used, on the settlement date of the issuance awarding results, to replenish the nominal value of the government securities;*

**#M11**

*8. The Ministry of Public Finance is authorized to pay fees, including the fee to the underwriter, incur costs related to activities aimed at promoting the transaction, via media communication channels, as well as other costs for issuing the government securities intended for investors - natural persons, from the state budget, through the budget of the Ministry of Public Finance - General Actions, chapter 55.01 "Public Debt and Loan Operations” , article 20 "Goods and Services", art. 20.24 "Fees and other loan-related costs” par. 20.24.02 "Fees and other costs related to domestic loans”.*

*4.1.a), b).1^2. The following are being given consideration when implementing the buyback/exchange procedure for government securities issued in lei on the domestic market:*

*1. To manage the risks associated to the government public debt, and depending on the market conditions, the Ministry of Public Finance may use specific market operations by buying back the government securities issued in domestic currency on the domestic market which are traded on the secondary market and/or exchange those securities for new government securities, denominated in domestic currency, on the domestic market, issued either by placing new issuances or by reopening the existing ones.*

*2. The general framework which includes the objectives, the strategy and the use of buyback and exchange procedures of government securities as public debt management means are approved by the public finance minister.*

*3. The public debt management operations, wither through the prospectuses of issuance or prior announcements, on the basis of a supporting memo approved by the responsible secretary of state, which shall include at least the following elements: the purpose for using the respective instruments; the instruments which are used; the series of government securities which are the subject matter of the buyback or exchange procedure; the features of the new issuance; as well as the indicative price references of the securities which are being redeemed or exchanged at the time of the analysis.*

*4. The Ministry of Public Finance may buy back any security in domestic currency in circulation, which is the subject matter of a buyback or exchange operation. The government security series eligible for buyback and exchange are established by order of the public finance minister, as will be the indicative amount of such operations.*

*5. The buyback/exchange operations with government securities are performed by means of auctions, either by the Ministry of Public Finance or the National Bank of Romania, or another agent authorized by the Ministry of Public Finance to conduct such operations. The final amount and the other features of the securities which are redeemed or exchanged and of the new or reopened bond issuance will be established at the time that the transaction is performed, depending on the market conditions, and later on published by the above-mentioned communications channels.*

*6. Two days before the auction, the Ministry of Public Finance announces the government securities which are to be redeemed or exchanged, by publishing on its website and by using the same communications means as for the auctions on the primary market, namely the electronic platforms of financial news.*

*7. The participants to the buyback or exchange operations of government securities are the primary dealers.*

*8. On the day of the auction, the primary dealers submit the bid in ther own name and on behalf of their clients, legal holders of government securities series announced for buyback and exchange procedures.*

*9. In the case of buyback operations of government securities, the Ministry of Public Finance shall publish the following information:*

*- the auction date, the place and the time limit for receiving the bids;*

*- the transaction settlement date;*

*the indicative amount;*

*- elements identifying the government securities to be redeemed, namely the type, series (ISIN Code), the annual coupon rate, the maturity date etc.;*

*- the individual nominal value;*

*- the total minimum nominal amount for an individual to take part in the auction;*

*- the accrued interest per security on the transaction settlement date;*

*- whether or not non-competitive bids are accepted and if yes, the maximum percentage and the categories of investors which may submit this type of bids.*

*10. The primary dealers shall include in their bids the net price, with 4 decimals, for which they are willing to sell the government securities to the Ministry of Public Finance. If the net price is lower than the maximum accepted net price, the bid is entirely accepted; if the net bid price is equal to the maximum accepted net price, the Ministry of Public Finance may accept the entire bid at this level or may accept only part of it.*

*11. In the case of exchange operations of government securities, the Ministry of Public Finance shall publish the following information:*

*- the auction date, the place and the time limit for receiving the bids;*

*- the transaction settlement date;*

*- the indicative amount of the government securities that are to be exchanged;*

*- identification elements of government securities, for the government securities issued and for those which are exchanged: the type, series (ISIN Code), annual coupon rate, maturity date, individual face amount;*

*- the total minimum nominal amount for which the individual bids are to be submitted, if necessary;*

*- the accrued interest per government security on the transaction settlement date, for newly issued government securities and for the government securities to be exchanged*

*- whether or not non-competitive bids are accepted and if yes, the maximum percentage and the categories of investors which may submit this type of bids;*

*- on the auction date, the Ministry of Public Finance published the net fixed price, with four decimals, based on which the government securities that are to be exchanged will be repurchased.*

*11.1. Primary dealers specify in their bids the net price for which they are willing to purchase the government securities from the newly issued or reopened series (with 4 decimals), the number and total nominal amount of those securities (which will be in observance of the total individual amount of bids submitted for the series of government securities intended for exchange), as well as the number and the total nominal amount of the government securities that they wish to exchange.*

*11.2. In the allocation for the newly issued/reopened government securities, if the net price of an individual bid is higher than the minimum net price accepted, the bid shall be accepted. The amount of exchange bids for each participant shall be calculated according to the formula:*

*\*

*VTOPP = /\_\_ NPRi x PFi x VNPi,*

*i*

*where:*

*VTOPP = total amount of exchange bids for each participant;*

*NPRi = the number of securities that the participant wishes to exchange for each series (ISIN Code) subject to the exchange procedure;*

*PFi = the fixed gross price established by the Ministry of Public Finance for each ISIN subject to exchange;*

*VNPi = the nominal individual amount of each ISIN that is to be exchanged.*

*If the net price of a bid equals the minimum accepted net price, the Ministry of Public Finance may accept the bid at this level, either totally or partially.*

*If more bids are submitted with the same price level, the award of the government securities shall be pro-rated.*

*11.3. The number of new securities allocated for each tranche determined for each participant, rounded up according to the below formula:*

*SAT*

*NTNA = ---------------,*

*PNT X VNN + Da*

*where:*

*NTNA = the number of new securities allocated to each individual tranche;*

*SAT = the individual amount allocated per each tranche for the new government securities, to each participant;*

*PNT = the net price of the individual tranche;*

*VNn = the nominal amount of the series of newly issued/reopened government securities;*

*Da = the accrued interest in respect of the new government securities.*

*11.4. The share of exchanged government securities to be allocated to each participant shall be determined based on the following formula:*

*NPR x PF x VNP*

*PAi = -----------------------,*

*\*

*/\_\_ NPRi x PFi x VNPi*

*i*

*where:*

*PAi = the share of each ISIN in the total individual bid of each participant;*

*NPR = the number of securities that the participant wishes to exchange for a specific ISIN subject to the exchange procedure;*

*PF = the fixed gross price established by the Ministry of Public Finance for a specific ISIN subject to exchange;*

*VNP = the nominal individual amount of a specific ISIN that is to be exchanged;*

*NPR = the number of securities that the participant wishes to exchange for each ISIN Code subject to the exchange procedure;*

*PFi = the fixed gross price established by the Ministry of Public Finance for each ISIN subject to exchange;*

*VNPi = the nominal individual amount of each ISIN that is to be exchanged;*

*11.5. After establishing the individual amount allocated for exchange to each participant, the umber of exchanged securities of each ISIN in respect to each participant shall be established, by rounding down the number, based on the formula:*

*PAi x min(VTOPP; VAI)*

*NTTRi = ---------------------,*

*PFi x VNPi*

*where:*

*NTTRi = the total number of securities exchanged for each participant of each ISIN;*

*PAi = the share of each ISIN in the total individual bid of each participant;*

*VTOPP = total amount of exchange bids for each participant;*

*VAI = the individual allocation amount for each participant;*

*PFi = the fixed gross price established by the Ministry of Public Finance for each ISIN subject to exchange;*

*VNPi = the nominal individual amount of each ISIN that is to be exchanged;*

*11.6. In the issuance stage of the exchange operation, the Ministry of Public Finance may issue government securities in a maximum amount equal to the total amount requested by the holders of the government securities subject to exchange. The difference between the gross amount awarded to each participant and the gross amount of the governments offered for exchange by the respective participant shall be paid by each participant on the settlement date.*

*12. The outcome of the auction is published by means of an announcement on the website of the Ministry of Public Finance, on the electronic platforms of financial news, on the auction platform and/or the website of the National Bank of Romania in its capacity as agent of the government, as applicable.*

*13. The Ministry of Public Finance may buy back or exchange government securities issued and traded on the domestic market depending on the market conditions, the objectives considered by the Ministry of Public Finance and the appetite and demand of the investors.*

*14. The government securities that are the subject matter of the buyback or exchange shall be canceled, and the amount in circulation of the series of government securities will be decreased accordingly, by the nominal value of the government securities that have been canceled.*

*15. The use of the public debt management operations may change the cash-flows of existing and/or future government public debt obligations, given the features of the benchmark bonds that are the subject matter of the transaction. The domestic public debt management operations settlement shall be recorded according to the provisions of sub-point 4, point 4.1.a), b)1, and sub-point 5.3.1, as well as:*

*- with the positive difference from revaluation of the buyback or exchange operation, expressed as the difference between the nominal amount of the redeemed or exchanged government securities and the net price of such securities, when the net price is lower than the nominal value, reducing the principal payment obligation of the securities redeemed or exchanged;*

*- with the negative difference from revaluation of the buyback or exchange operation, expressed as the difference between the nominal amount of the government securities and the net price of such securities, when the net price is higher than the nominal value, increasing the principal payment obligation of the securities redeemed or exchanged, which shall be provided, the case may be, from the sources provided for in sub-point 5.3.1.*

*- the accrued interest in respect of the government securities subject to buyback or exchange is an expenditure of the central government and shall be supported by the state budget, namely the budget of the Ministry of Public Finance - General Actions, chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.01 "Interest on domestic debt” par. 30.01.01 "Interest on direct domestic debt”.*

*4.1.a), b)2. The following shall be considered when issuing government securities on the foreign markets:*

*1. The public finance minister shall approve whether or not it is opportune and/or needed to issue government securities on the foreign markets as an individual issuance or under the Programme, and the start of the selection procedure of the financial institutions which will act as managers/intermediaries and the process of selection of the Romanian and/or foreign professional civil lawyer firms to provide legal advice.*

*2. After an individual issuance or a issuance under the Programme is approved, the process of selecting the financial institutions to underwrite the issuance will take place, in parallel with the process of selecting the Romanian and/or foreign professional civil lawyer firms to provide legal assistance in respect of the issuance, according to the law. For this purpose, the Ministry of Public Finance sends out the call for bids to financial institutions which have the capacity and the experience to perform such transactions and/or programmes. The call for bids shall include the main features of the issuance and/or the Programme, such as the estimated issuance and/or Programme amount, the maturity, selection criteria, deadline for submission of bids, and other elements that the issuer deems as relevant, on a case by case basis. The selection criteria may include, on a case by case baisi, qualitative and quantitative assessment elements, such as: the rates of fees and expenses incurred for the transaction, legal fees, the issuance strategy, the issuance distribution capacity to potential investors, the background and the experience in finalizing similar transactions of sovereign issuers, the activity on the primary and secondary markets, the domestic and external markets of government securities issued by Romania, how performing the dealer is on the primary market, as well as other factors deemed as relevant by the issuer, including the rotation of dealers which act as managers for the Eurobond issuance.*

*3. The financial institutions acting as managers for the issuance and/or the Programme shall be selected by the dedicated directorate, after a review and an assessment of all the offers received and a memorandum supporting the proposal to name the administrators of the issuance and/or dealers under the Programme, via an internal note approved by the public finance minister. The selection process may include an intermediary stage taking the form of shortlist of bidders with whom negotiations will be held to improve the initial offers and which is approved by the public finance minister.*

*4. After the selection of financial institutions, the Ministry of Public Finance shall provide those institutions with a mandate to underwrite the issuance and/or the Programme, which includes the duties and obligations of the parties in performing the transaction and/or Programme intermediation, as well as the rate of fees charged and any potential expenses to be incurred by each party, as applicable.*

*5. The list of dealers in the Programme may be revised annually by the Minister of Public Finance, depending on the funding strategy and the need to access various bond markets, taking into account a number of criteria, such as the activity of a dealer trading government securities issued in Romania, its the position in international classification of transactions performed by sovereign issuers in the region, the experience and capacity to perform transactions on various markets, the availability and the action taken to provide advice to the ministry on topics related to the development of the markets of government securities.*

*6. In parallel with the selection process of the financial institutions that will act as underwriters of the individual issuance or an issuance under the Programme, the Ministry of Public Finance will select the Romanian and/or foreign professional civil lawyer firms to provide legal assistance in which relates to the issuance, according to the provisions of sub-points 3.2.6^1, either based on the criteria mentioned in the call for bids of an individual issuance, or in compliance with the internal procedure by which the professional civil lawyer firms are selected, which in the case of an issuance under the Programme is approved by an order of the public finance minister.*

*7. The Minister of Public Finance may select one or more institutions for the financial cash-flow management of foreign bonds, by providing fiscal and paying agent services, taking account of the experience, the capacity of those institutions to perform such activities on various markets and the rates of fees charged for the services.*

*8. The management fees may be agreed either for individual issuances or approved annually by the public finance minister, in the form of a fee grid, by categories of maturities, at a level comparable to the fees paid by sovereign issuers and international financial institutions for similar instruments.*

*9. In order to identify the most opportune time to issue debt on the foreign markets, the dedicated directorate of the Ministry of Public Finance, in a joint effort with the managers, will permanently monitor the developments on the foreign financial markets and, depending on the specificity of each transaction, perform the following, as necessary: prepare or update the country prospectus, organize meetings with the transaction managers and representative government institutions ("due diligence"), run road-shows to promote the issuance in financial centers recommended by the transaction managers, negotiate the contract documentation, set forth the financial terms and conditions: coupon, yield, price, establish the related fees, unless they have been already decided.*

*10. The individual issuances or issuances under the Programme are approved by order of the public finance minister. The amount, maturity, coupon, number of series as well as all other financial terms and conditions shall be established at the time of the issuance, depending on the market conditions.*

*11. Taking into account the market conditions and the need to finance the budget deficit and refinance the government public debt, as well as to take advantage of the opportunities offered by the foreign markets, on the basis of a proper case built for this purpose, under the individual issuances and/or the issuance under the Programme, two or more series of government securities may be issued, at the same time or within a time interval that will not exceed 30 days from the end date of the previous issuance or series of government securities, which may have different features (for instance maturities, currencies, how the interest rate is calculated, discount), on the basis of a single order of the public finance minister approving the issuance of the respective series of government securities. These series may be issued based on single contractual documentation or based on different documentations, depending on the needs of the transaction, according to the sub-point 10, with the same transaction managers, unless the issuance approval order provides otherwise.*

*12. The Programme and its issuances specific documentation, as well as the documentation in respect of individual issuances, shall be signed by the public finance minister, namely: the Subscription Agreement or the Framework Agreement, the Agreement on working procedures for initiating and completing each individual transaction, Fiscal Agent and Payer Agreement, generic terms and conditions applying to all issuances under the Programme, the final note, the global note and other similar documents;*

*13. The amount of the individual issuance or an issuance under the Programme shall be transferred to the account of the Ministry of Public Finance, according to the legal provisions in force. The nominal amount shall be topped up, as the case may be, from the management fees and other expenses associated with the issuance, plus the discount in the case of discount issuances.*

*The nominal amount for the issuance shall be topped up as follows:*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Loan Operations” , title 20 "Goods and Services", art. 20.24 "Fees and other loan-related costs” par. 20.24.01 "Fees and other costs related to foreign loans” – with the amount of the management fees and other related expenses; and*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.02 "Interest on foreign debt” par. 30.02.01 "Interest on direct foreign debt” taking into account the discount value.*

*The nominal amount for the issuance shall be topped up as follows:*

*- when the foreign currency government securities are issued to refinance a maturing security/loan denominated in foreign currency, the replenishment shall be in foreign currency;*

*- when the foreign currency government securities are issued to finance the budget deficit or finance the budget deficit and refinance the public debt, the replenishment shall be in domestic currency (lei). The amounts in domestic currency used to reconstruct the nominal loan amount from the state budget shall be used to finance the budget deficit and refinance the public debt either on or after the replenishment date. The nominal value of the issuance shall be topped up in lei using an exchange rate communicated by the National Bank of Romania on the business day prior to the foreign currency collection date.*

*14. In the case of premium securities, the premium shall be a negative expenditure of the state budget. The equivalent in lei of the amount collected from selling the foreign currency representing the premium, at the rate published by NBR on the day before the currency exchange operation, shall be a negative expense and shall be recorded in the state budget, namely the budget of the Ministry of Public Finance - General Actions, chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.02 "Interest on foreign debt” code 30.02.04 "Premium on issuance of government securities”.*

*15. The government securities issued on the foreign markets can be reopened, depending on the developments on the domestic and foreign financial markets, taking account of the needs to finance the budget deficit and refinance the government public debt and based on a case built to this purpose, in accordance with the provisions of sub-points 1 and 10. The accrued interest collected form reopening the securities shall be revenue to the state budget. The equivalent in lei from selling the currency representing the collected accrued interest, at the rate published by NBR on the day before the currency exchange operation, shall be transferred to the budget chapter 31.01 “Interest Income", sub-chapter 31.01.03 “Other interest income".*

*4.1.a), b)2^1. The buyback or bond exchange procedure of government securities issued on the foreign markets in foreign currency shall give consideration to the following:*

*1. To manage the risks associated to the government public debt, the Ministry of Public Finance may use specific market operations by buying back the government securities issued in foreign currency and traded on the secondary markets and/or the exchange of those securities for new government securities, issued in foreign currency on the foreign capital markets or by reopening the existing issuances.*

*2. The buyback or the exchange of government securities in foreign currency shall be performed depending on the price obtained at the time of the transaction.*

*3. In the same operation, the Ministry of Public Finance may buy back or exchange more series of government securities in foreign currency issued on the foreign capital markets, by using the amounts available to this purpose or those obtained from a new issuance or the reopening of an existing issuance.*

*4. The Ministry of Public Finance may buy back or exchange government securities in foreign currency issued and traded on the foreign markets, depending on the market conditions (the trading price of government securities as well as the terms for issuing new government securities in foreign currency), the objectives of the public debt management and the demand of investors and/or holders of government securities that are intended for buyback and/or exchange.*

*5. The stages to be followed in a buyback or exchange procedure are the following:*

*5.1. The opportunity and/or the need to perform a buyback or exchange operation of government securities on the foreign capital markets shall be approved by the public finance minister, base on a supporting note that may include the method and selection criteria of public institutions that will act as managers of the transaction and of the Romanian and/or foreign professional civil lawyer firms that will provide legal assistance.*

*5.2. After the individual note regarding the buyback or the exchange is approved, the process of selecting the financial institutions that will manage the transaction will take place, in parallel with the process of selecting the Romanian and/or foreign professional civil lawyer firms to provide legal assistance for the transaction, according to the law. For this purpose, the Ministry of Public Finance sends out the call for bids to financial institutions which have the capacity and the experience to perform such transactions. It will mention the main features of the transaction, such as: the series of government securities intended to be redeemed or exchanged, the amount, the maturity of the new government security, the selection criteria and the deadline by which the bids can be received, as well as other elements considered relevant, on a case by case basis. The selection criteria may include qualitative and quantitative assessment elements, as the case may be, such as: the rates of fees and expenses incurred for the transaction, legal fees, the transaction structuring strategy strategy, the issuance distribution capacity to potential investors, the background and the experience in finalizing similar transactions of sovereign issuers, the activity on the primary and secondary markets of government securities issued by Romania on domestic and foreign markets, as well as other factors deemed as relevant by the issuer, including ensuring the rotation of dealers which act as managers for the transaction.*

*5.3. The Ministry of Public Finance selects the financial institutions that will manage the buyback or the exchange, in observance of the provisions of point 4.1.a, b)2 sub-points 3 and 4. In the case of an exchange operation, the selected financial institutions will manage the new issuance and the exchange operation of new issuances.*

*5.4. In parallel with the selection process of the financial institutions that will act as managers of the buyback and exchange operations, the Ministry of Public Finance will select, according to the law, the Romanian and/or foreign professional civil lawyer firms to provide legal assistance on matters relating to the transactions, according to the provisions of sub-points 3.2.6^1, based on the criteria mentioned in the call for bids or, as the case may be, in compliance with the internal norms approved by an order of the public finance minister in the case of selecting the professional civil lawyer firms.*

*5.5. The management fees in respect of the transaction may be agreed either for individual transactions, or annually based on an internal note approved by the public finance minister, in which the ministry will establish the fee grid, by categories of maturities, at a level comparable to the fees paid by sovereign issuers and international financial institutions for similar instruments.*

*5.6. In order to decide on the proper time to perform the transaction, the dedicated directorate of the Ministry of Public Finance, together with the managers, will permanently monitor the developments on the foreign financial markets. In addition, depending on the specificity of each transaction, the following stages shall be implemented, as applicable: prepare or update the prospectus of issuance or the country prospectus and other documents necessary to perform the transaction, organize meetings with the transaction managers and representative institutions of the government (“due diligence”), run road-shows to promote the issuance in financial centers recommended by the transaction managers.*

*5.7. The buyback or exchange shall be approved by order of the public finance minister. The financial terms and conditions shall be established at the time of the transaction, depending on the market conditions.*

*5.8. The Ministry of Public Finance may issue a higher amount than the amount requested for buyback or exchange by the holders of government securities.*

*5.9. The specific documents of the new issuance, according to point 4.1.a, b)2, sub-point 11, as well as the documentation specific to the buyback or exchange shall be signed by the public finance minister. The documents specific to the buyback or exchange may include, as applicable: the Tender Offer Memorandum, the contract between the issuer and the transaction managers, the contract between the issuer and the agent empowered to distribute the Tender Offer Memorandum, the notification letter of the stock exchange and other alike.*

*5.10. The government securities that are the subject matter of the buyback or exchange shall be canceled, and the amount of the series of government securities will be decreased accordingly, by the amount of the government securities that have been canceled.*

*5.11. For the buyback of government securities, the payment shall be made as follows:*

*- the principal of government securities subject to buyback shall be paid from the foreign currency resources of the Ministry of Public Finance, legally earmarked to this purpose;*

*- the negative difference from revaluation of the buyback operation of government securities, expressed as the difference between the nominal amount of the government securities and the net price thereof, when the net price is higher than the nominal value, shall increase the principal payment obligation of the securities that are redeemed ans shall be paid from the earmarked foreign currency sources of the Ministry of Public Finance;*

*- the positive difference from revaluation of the buyback operation of government securities, expressed as the difference between the nominal amount of the government securities and the net price thereof, when the net price is lower than the nominal value, shall decrease the principal payment obligation of the securities that are redeemed;*

*- the accrued interest payable in respect of the government securities subject to buyback shall be paid from the state budget, the budget of the Ministry of Public Finance - General Actions, chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.02 "Interest on foreign debt” par. 30.02.01 "Interest on direct foreign debt”.*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Loan Operations” , title 20 "Goods and Services", art. 20.24 "Fees and other loan-related costs” par. 20.24.01 "Fees and other costs related to foreign loans” – with the amount of the management fees and other related expenses;*

*5.12. The following provisions apply to the government securities exchange operations:*

*- the amount of the new issuance from which the payment obligations in respect of the exchanged issuance are withheld, shall be transferred to the account of the Ministry of Public Finance according to the legal provisions in force;*

*- the provisions of point 4.1.a, b)2, sub-points 13, 14 and 15 shall apply to the amount of the new issuance; and*

*- the amount of the new issuance shall be replenished by the accrued interest payable in respect of the government securities subject to exchange and shall be paid from the state budget, the budget of the Ministry of Public Finance - General Actions, chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.02 "Interest on foreign debt” par. 30.02.01 "Interest on direct foreign debt”.*

*- the amount representing the principal of government securities that are exchanged shall be considered as paid by the amount withheld from the newly issued principal amount;*

*- the positive difference from revaluation of the exchange operation of government securities, expressed as the difference between the nominal amount of the government securities and the net price thereof, when the net price is lower than the nominal value, shall decrease the principal payment obligation of the securities;*

*- the negative difference from revaluation of the exchange operation of government securities, expressed as the difference between the nominal amount of the government securities and the net price thereof, when the net price is higher than the nominal value, shall increase the principal payment obligation of the securities;*

**#M1**

*4.1.a), b) 3. The loan contracting procedure from foreign governments and foreign government agencies shall follow the stages described below:*

*1. 1.* *In line with the public debt management strategy, the Ministry of Economy and Finance prepares and submits to the Government and the President of Romania, as the case may be, a memorandum on the topic: Agreement in principle on loan contracting and the approval of the negotiation mandate. The entire procedure of requesting the approval, approving the negotiation mandate, approving the results of negotiation, and issue of full powers to sign the legal document which governs the loan shall be in compliance with the procedure stipulated in Law nr. 590/2003 on treaties. The documents that are necessary to prepare and send out the memorandum include:*

*-* *The rationale of the need for the loan;*

*-* *The rationale for selecting the donor;*

*-* *The mandate, that will include the main technical and financial components advanced by the donor, as well as the proposal for negotiation.*

*2. The negotiations for the loan shall be in accordance with the approved mandate. It can be either direct or by correspondence. When the legal document governing the loan is directly negotiated by the parties, the minute of the negotiation session shall be signed by the representative of the Ministry of Economy and Finance who leads the Romanian delegation.*

*3. After the negotiations, the Ministry of Economy and Finance through the relevant directorate will prepare a memorandum for the approval of the negotiation report and the allocation of full power enabling the signature of the legal document governing the loan. This memorandum is submitted for approval to the Government or the President of Romania, as the case may be.*

*4. Based on the approved memorandum, according to par. 3, by the Government and the President of Romania, as the case may be, if specifically requested by the donor, the Ministry of Foreign Affairs will issue the full powers enabling the duly representative of Romania to sign the legal document governing the loan.*

*5. Under exceptional circumstances, when the signature of the legal document governing the loan is a matter of emergency and only if there is sufficient evidence that the text agreed upon or adopted will not contain substantial material differences as compared to the proposal made by the Romanian party, a joint memorandum may be prepared to approve the negotiations and sign, that is to be submitted for approval to the Government and the President of Romania, as applicable.*

*6. The legal document governing the loan, once signed, will be ratified or approved in a piece of legislation that will have the legal power of a law. The authorized translation of the legal document governing the loan will be ensured by an authorized firm, selected by the Ministry of Economy and Finance in accordance with the law.*

*7. The contracting procedure in par. 1 to 6 will be adjusted to the specificity of any foreign donor.*

**#M5**

*8. In the case of loans that must be disbursed only based on the implementation of sectoral investments and/or other action necessary to sectoral reforms, the documentation referred to in in par. 1 shall include an explaining memo, issued by the main credit holder, in capacity as leader of the line ministry responsible for the sector, on why the investments/other sectoral reform action must be implemented, as applicable.*

**#M1**

*9. 9.* *For the loans identified in par. 8, based on the ratification law and after publication of this law in the Official Gazette of Romania, Part, I, the Ministry of Economy and Finance shall enter into subsidiary agreements with the primary budget holders, in order to agree upon the rights and obligations of the parties given the circumstances, except for the obligations related to drawings and public debt servicing, which is the task of the Ministry of Economy and Finance, carried out by the responsible directorates, in accordance with the provisions laid down in the legal documents governing the loan. The Subsidiary Agreement (SA) shall include, but without being limited to, the following: the allocation of funds under the project and financing of the objectives thereof, the functional link within the compartments (if any), reporting duties etc. The SA terms may be adjusted to be in line with the provisions included in the legal document governing the implementation of the loan, which lays down the rights and obligations of all parties with regard to the physical and financial implementation of the project.*

*The SA will be signed by the duly authorized representatives of the involved institutions, after endorsement by the relevant directorates of the Ministry of Economy and Finance and the people with preventive and delegated control responsibilities.*

**#M5**

*10. The funds drawn by the Ministry of Public Finance from the loans contracted according to point 8, in respect of which the primary credit holders have not incurred any expenses and/or on the basis of reports of expenses incurred in which errors were found on a later date, shall be returned by the Ministry of Public Finance to the funding institution, based on the latter’s approval, together with, as applicable, other potential costs, from the reimbursement sources provided for in the legislation that ratified the respective loan, by applying the public debt service payment mechanism.*

**#M1**

*4.1.a), b) 4. The loan contracting procedure with either domestic or foreign financial institutions shall follow the stages below:*

*A Memorandum is prepared and submitted for Government approval for contracting a loan with domestic or foreign financial institutions - as an instrument used to finance the budget deficit and refinance the public debt - and describing the general features of the loan that is to be contracted (amount, maturity, currency of the loan); in case of the loans for which disbursement is based on the implementation of programs/projects or needs that are considered a priority to the Romanian economy, this memorandum will include a note for the motivation of the need to implement the respective objectives, assumed by the main credit holder in capacity as leader of the line ministry in charge of the respective sector;*

**#M3**

*2. 2.* *The Public Finance Ministry selects the financing institution/institutions in observance of the provisions laid down in par. 3.2.5;*

**#M1**

*The transaction is authorized by order of the minister of economy and finance. The order will identify the financing institution/institutions, the loan amount, the maturity and other basic features of the transaction, except for those that depend on the market trends and may change by the time of contracting the loan;*

*The contractual documents are negotiated and signed by the representatives of the Ministry of Economy and Finance and the representatives of the selected financial institutions;*

*5.* *The loan amount is transferred to the account of the Ministry of Economy and Finance.*

**#M3**

*4.1.a), b) 5. The loan contracting procedure of private placements shall follow the stages described below:*

*1. One investor or a small group of investors sends an offer for a private placement to the Ministry of Public Finance;*

*2. 2.* *The Ministry of Public Finance, through its responsible directorate, performs a comparative review of terms and conditions in this offer and the terms and conditions of similar debt instruments issued by Romania (i.e. price, yield, maturity, currency) on the domestic and foreign financial markets. If there are no similar debt instruments with similar features as those issued by Romania, this review will involve similar instruments issued by countries with the closest rating;*

*3.* *When the offer is found advantageous in terms of market conditions, the mandate for negotiation is submitted for approval to the public finance minister (financial terms and conditions and other conditions, as necessary);*

*4.* *All terms and conditions of this offer and the related contractual documents is negotiated in accordance with the mandate approved by the public finance minister;*

*5.* *The outcome of negotiations is to be approved by the public finance minister;*

*6.* *The contractual documents for the transaction is to be signed by the public finance minister;*

**#M4**

*7.* *The private placement amount shall be transferred to the account of the Public Finance Ministry, in accordance with the legal provisions in force.*

*The amount collected shall include, as necessary, the management fee and other related costs, lawyer fees, plus the discount, if this is a discount private placement. The loan amount shall be topped up, as follows:*

*7.1.* *For the amounts contracted on the foreign market:*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Loan Operations” , title 20 "Goods and Services", art. 20.24 "Fees and other loan-related costs” par. 20.24.01 "Fees and other costs related to foreign loans” – with the amount of the management fees and other related expenses; and*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.02 "Interest on foreign debt” par. 30.02.01 "Interest on direct foreign debt” taking into account the discount value.*

*7.2.* *For the amounts contracted on the domestic market:*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Loan Operations” , article 20 "Goods and Services", art. 20.24 "Fees and other loan-related costs” par. 20.24.02 "Fees and other costs related to domestic loans” – with the amount of the management fees and other related expenses;*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.01 "Interest on domestic debt” par. 30.01.01 "Interest on direct domestic debt” taking into account the discount value.*

*The nominal value shall be replenished as follows:*

*-* *When a private placement in foreign currency has been contracted to refinance a maturing government security/loan denominated in foreign currency, the replenishment shall be in foreign currency;*

*-* *When a private placement in foreign currency has been contracted to finance the budget deficit or finance the budget deficit and refinance the public debt, the replenishment shall be in lei. The amounts in domestic currency used to reconstruct the nominal loan amount from the state budget shall be used to finance the budget deficit and refinance the public debt either on or after the replenishment date.*

*The nominal value of the issuance shall be topped up in lei using an exchange rate communicated by the National Bank of Romania on the foreign currency receipt date.*

**#M1**

*4.1.b) Refinancing the government public debt means the contracting of a new debt for the repayment of an existing and maturing financial obligation of the nature of government public debt. The buyback is the payment before deadline/maturity of a government public debt obligation, resulting from this option being called by either the lenders or the Ministry of Economy and Finance, with the purpose of efficiently managing the government public debt and the government debt servicing. In the case of a buyback, the costs associated to this operation represent budget expenditures for the year during which such operation is performed.*

*4.1.c) In order to ensure permanent and safe financial resources necessary for the payments from the state treasury general current account, MEF will establish, through order by the minister of economy and finance, a minimal level of the funds available in such account. Any amounts exceeding this minimal value may be reinvested, in accordance with the legislation in force regarding the use of the state treasury resources, with appropriate consideration to the funds’ security, liquidity and profitability, in the above order of priority.*

**#M8**

*4.1.c)^1 In order to keep at all times a proper balance of the State Treasury General Current Account, the Ministry of Public Finance will take into consideration the following criteria:*

*a) the foreign and domestic currency composition of the public debt servicing which matures in the net 12-month interval;*

*b) the annual budget deficit approved;*

*c) the financing strategy for the budget deficit in foreign and domestic currency;*

*d) the strategy for refinancing the public debt in foreign currency and domestic currency which matures in the next 12-month interval;*

*e) assess the potential shocks that may occur on the foreign and domestic market;*

*f) establish and keep a foreign currency reserve, as a move to protect the public finances against the unforeseen foreign shocks, which will cover the gross financing needs for a specific period of time, defined as an approximate number of months, approved by order of the public finance minister or the minister delegated for budget matters, according to the law.*

**#M2**

*4.1. i) The contracting procedure for the loans extended by the European Union under EU Council Regulation nr. 332/2002 involves taking the following steps:*

*1. The Ministry of Public Finance prepares and submits for approval by the Government and the President of Romania, as the case may be, a memorandum to receive the approval for contracting EU financial assistance based on EU Council Regulation 332/2002 and the power for the public finance minister to sign the letter of intent in which the funds are requested from the European Commission with a view to supporting a specific set of economic policy measures.*

*2. 2.* *The letter of intent is signed and sent out, in which the funds are requested from the European Commission with a view to supporting a specific set of economic policy measures; this letter will describe the conditionalities negotiated with the European Commission.*

*3. 3.* *After the adoption of a decision made by the EU Council (ECOFIN) on extending the financial assistance, the Public Finance Ministry prepares and submits for Government approval a memorandum on the topic: Approval of the mandate letter for negotiating the loan conditions and attached conditionalities for each tranche of the financial assistance in question. This document will identify the main technical and financial terms advanced by the donor, as well as the proposal for negotiation; the loan shall be negotiated in accordance with the boundaries set in the approved mandate.*

*4. After negotiation of legal documents governing the loan, the Public Finance Ministry prepares and submits to the Government and the President of Romania, as the case may be, a Memorandum on approving the outcome of negotiations and issuing the full power to sign the legal documents governing the loan: the Memorandum of Understanding and the Loan Agreement.*

*5. Based on the approval of the memorandum in par. 4, if specifically requested by the donor, the Ministry of Foreign Affairs will issue the full powers enabling the duly representative of Romania to sign the legal document governing the loan.*

*6. Under exceptional circumstances, when the signature of the legal documents governing the loan is a matter of emergency and only if there is sufficient evidence that the text agreed upon or adopted will not contain substantial material differences as compared to the proposal made by the Romanian party, a joint memorandum may be prepared to approve the negotiations and sign, that is to be submitted for approval to the Government and the President of Romania, as the case may be.*

*7. Signature of the legal documents governing the loan: the Memorandum of Understanding and the Loan Agreement.*

*8. The legal documents governing the loan which are signed and translated by an authorized translation firm, selected by the Public Finance Ministry according to the law, will be ratified or approved in a law. If necessary, the text of the respective law will identify the loan implementation mechanism and the potential documents to be concluded based on it.*

**#M4**

*9. After the tranches are transferred to the account of the Public Finance Ministry, the nominal amount will be supplemented, when necessary, with the equivalent of the costs incurred by attracting the EU funds, for instance cost with the preparation and execution of the loan documents, payments for rating services, travel expenses etc., as the case may be, plus the discount when the loan is a bond issuance.*

*The nominal amount for the loan shall be topped up as follows:*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 “Public Debt and Borrowing Operations”, title 20 “Goods and Services”, art. 20.24 “Fees and other loan related costs”, indent 20.24.01 "Fees and other foreign loan related costs” – with an amount equivalent to the costs incurred for attracting EU funds; and*

*- from the state budget, through the budget of the Public Finance Ministry – General Actions chapter 55.01 "Public Debt and Borrowing Operations” title 30 "Interest", art. 30.02 "Interest on foreign debt” par. 30.02.01 "Interest on direct foreign debt” taking into account the discount value.*

*The nominal amount for the loan shall be topped up as follows:*

*- when the foreign currency government securities are issued to refinance a maturing security/loan denominated in foreign currency, the replenishment shall be in foreign currency;*

*- when the foreign currency government securities are issued to finance the budget deficit or finance the budget deficit and refinance the public debt, the replenishment shall be in domestic currency (lei). The amounts in domestic currency used to reconstruct the nominal loan amount from the state budget shall be used to finance the budget deficit and refinance the public debt either on or after the replenishment date. The nominal value of the issuance shall be topped up in lei using an exchange rate communicated by the National Bank of Romania on the foreign currency receipt date.*

**#M1**

*4.1.1. The contracting of public debt through issuances of government securities shall be done taking into account the specific objectives regarding the development of the market of government securities that will be included in the medium term strategy regarding the management of the government public debt. Hence, in December each year the Ministry of Economy and Finance will announce the calendar of government securities to be issued on the domestic and foreign market in the future year. This calendar may be revised during the year, depending on the evolution of the financial markets and of the financing needs. The details of the annual calendar shall be published in the periodical announcements and prospectuses issued during the year, including the features of the government securities that are to be issued. The annual calendar, the announcements and the prospectuses may include information regarding other operations with government securities, such as the buybacks calendar and the government securities exchange operations.*

**#M9**

*4.1.1.^1 The Ministry of Public Finance may issue government securities on the interbank market supervised by the National Bank of Romania and/or the regulated market managed by the Bucharest Stock Exchange SA and supervised by the Financial Supervisory Authority.*

*4.1.1.^2 In the case of government securities issued on the regulated market managed by the Bucharest Stock Exchange SA and supervised by the Financial Supervisory Authority, the ways to place, reimburse and settle the government securities, as well as other setup or regulatory activities related to the primary and/or secondary market of government securities shall be decided by means of a convention concluded with the Bucharest Stock Exchange SA, the Central Repository SA and the Financial Supervisory Authority, as applicable.*

**#M1**

*4.1.2. For the government securities issued on the domestic inter-bank market, the serial numbers are established in accordance with the provisions laid down in the Convention concluded by the Ministry of Economy and Finance (MEF) with the Central Repository. MEF is authorized to pay the Central Repository for consideration of the ISIN codes allocation service.*

*4.1.3. The contracting of direct government public debt based on special laws shall be done through dedicated government bonds issuances, with the features detailed in the prospectus of issuance to be laid down in the special law provisions.*

*The nominal value and the issuance date for such government bonds shall be established on own responsibility by the beneficiary designated in the special law, who must sent a written request to the Ministry of Economy and Finance together with supporting documents: the accounting report and the account statement as at the date on which the loan is extended.*

*Based on the request of the designated beneficiary, the Ministry of Economy and Finance shall elaborate and approve, through order issued by the minister of economy and finance, the prospectus of issuance for the government bonds.*

*A convention will occur between the Ministry of Economy and Finance, in its capacity as borrower, and the beneficiary of the government bonds, as designed in the special law, in its capacity as lender; this convention will re-state and complete the loan conditions: nominal value, interest rate etc.*

*The Ministry of Economy and Finance, after approving the prospectus of issuance through a ministerial order and after signature of the convention, will send a copy and the original thereof to the designated beneficiary. At the same time, a notification will be sent to the National Bank of Romania, in its capacity as agent of the state, with the supporting documents which accompanied the request submitted by the designated beneficiary to be sent to the special department within the Ministry of Economy and Finance, to allow the performance of all the operations related to the issuance. The direct government public debt arising from government securities issued under special laws for which the central depository may not allocate ISIN codes, shall be repaid at maturity by means of payment orders.*

*4.1.4. The contracting of contingent government public debt under special laws is carried out based on letters of guarantees issued in favor, under the conditions and the ceilings established by the provisions in the special laws and/or the provisions in the Government Decisions passed for the application thereof. The beneficiaries designated in the special laws have the obligation to formulate and submit to the Ministry of Economy and Finance a written request laying down the approved ceilings, the amounts and the duration of the guarantee. Based on such request, the Ministry of Economy and Finance in accordance with the provisions of the special laws, will proceed to the elaboration of the letters of guarantee; the original letters of guarantee will be sent, after approval, to the designated beneficiaries.*

*4.1.5. The Ministry of Economy and Finance is authorized to offer compensations for the government securities, issued in materialized form, that were lost, stolen, destroyed or damaged in any way, provided the government securities in question be identified based on the serial number and description, in accordance with the regulations in force, and only in the cases where the investor had performed all the publicity formalities under the law.*

*4.1.6. The contracting procedure for the reimbursable financing representing direct government public debt for each specific debt instrument, as well as the procedure for issuing the state guarantees for the purpose of allowing economic operators and/or administrative-territorial units to implement specific projects/programs or achieve priority needs of the Romanian economy , are to be established by norms issued through order of the minister of economy and finance.*

*4.2.1. The administrative-territorial units may be the beneficiaries of state guarantees or on-lending granted by Ministry of Economy and Finance only under a law providing that the respective obligations are repaid from the local budgets thereof, and after prior approval from the Local Borrowing Authorization Commission and the Inter-Ministerial Committee for Financing, Guarantees and Insurances, in this specific sequence, and in observance of the state aid legislation.*

*4.2.2. For the other beneficiaries of the state guarantees or on-lending granted by Ministry of Economy and Finance, the state guarantee/on-lending must be approved by law, providing that the respective loans are repaid from own sources, with no impact on the general government, with the prior approval by the Inter-Ministerial Committee for Financing, Guarantees and Insurances and in observance of the state aid legislation.*

*4.2.3. The Romanian Export-Import Bank – Eximbank – will review and submit for approval by the Inter-Ministerial Committee for Financing, Guarantees and Insurances all the drafts proposed for authorization of guarantees or on-lending granted by the Ministry of Economy and Finance, based on a prior approval by the Ministry of Economy and Finance.*

*4.2.4. The working methodology of the Romanian Export-Import Bank – Eximbank and of the Inter-Ministerial Committee for Financing, Guarantees and Insurances related to the prior approval of state guarantees and on-lending granted by the Ministry of Economy and Finance shall be established through norms and working procedures approved by the Inter-Ministerial Committee for Financing, Guarantees and Insurances and published in the Romania’s Official Gazette, Part I.*

*4.2.5. The government guarantee conventions and the on-lending agreements, or the on-lending and government guarantee agreements, as the case may be, shall comply with the state aid legislation, with the provisions that must be included in the necessary documents to be identified in an order issued by the minister of economy and finance for the application of the current methodological norms.*

*4.2.6. The Minister of Economy and Finance shall charge a fee for securing the risk fund, under the terms of the emergency ordinance, unless otherwise stipulated in the loan ratification law; this fee is payable by either the financial institutions or the final beneficiaries.*

*4.2.7. The funds contracted by the Government, through the Ministry of Economy and Finance, on behalf of the state, shall be subject to on-lending to beneficiaries under an on-lending agreement concluded by the latter with the Ministry of Economy and Finance, or under an on-lending and guarantee agreement, as the case may be, concluded by the Ministry of Economy and Finance, on one hand, and the final beneficiaries and the administrative-territorial units acting as guarantor in accordance with Law nr. 273/2006 on local public finance, as amended and supplemented, on the other hand.*

*4.2.8. The Ministry of Economy and Finance, on behalf of the Romanian state and based on the terms of the loan agreements and the ob-lending agreements, may mandate a financial institution for the management of foreign loans, in compliance with the terms of the management agreement. For this service, the Ministry of Economy and Finance is authorized to pay a management fee from the sources identified in the state budget.*

*4.2.9. The refundable financing contracted by the Ministry of Economy and Finance and for the management of which a financial institution was mandated, shall be paid by the on-lending beneficiaries to the Ministry of Economy and Finance or to the respective financial institution, as the case may be, in accordance with the terms of the management agreement and the on-lending agreements or the terms of the on-lending and guarantee agreements.*

*4.5. The refundable financing contracted with IFIs shall be approved by law, in line with the Law nr. 590/2003.*

*4.6. The government securities issuances on the domestic market shall be approved by order of the minister of economy and finance, with the government securities issued on the foreign market to be approved by order of the minister of economy and finance after notification to the Government.*

*5. Art. 5 of the emergency ordinance:*

*(1) The reimbursement of the government public debt is an unconditional and irrevocable obligation of the state to repay all the amounts in principal, interest, fees and other costs arising from the reimbursable financing either contracted or guaranteed. The expenditures incurred for the services of assessing the sovereign risk by the rating agencies, as well as the fees, interest, the discount amount and other expenditures arising from the contracting of reimbursable financing in the name and on behalf of the state shall be repaid from the state budget and/or the State Treasury budget, as the case may be.*

*(1^1) Starting on the effective date of the Government Emergency Ordinance nr. 141/2007, the financial impact of the public debt servicing shall be offset against the state budget within maximum 30 days after the maturity date.*

*(1^2) For the financial impact arising from payments prior to the effective date of the current ordinance, the offsetting shall continue to occur before the last maturity date of each loan and/or after offsetting with the donors, under each loan.*

*(1^3) Until offsetting against the state budget, the amounts specified in par. (1^1) and (1^2) may be preserved in an account opened with the implementing lenders in the name and at the disposal of the Ministry of Economy and Finance and can produce interest.*

*(2) There will be a permanent budget appropriation for making the payments for the purpose of government public debt servicing.*

*(3) The sources for the government public debt service shall be, as applicable, the following:*

*a) the balance of the state treasury general current account;*

*b) the reimbursable financing contracted in the name of the state for re-financing the government public debt;*

*c) the amounts earmarked to this purpose in the state budget;*

*c^1) the state treasury budget replenished with amounts from the state budget, in the case of interest payments related to benchmark securities;*

*d) the amounts collected by the Ministry of Economy and Finance from the beneficiaries of on-lending, under agreements concluded with such beneficiaries, with respect to the conditions set forth in the agreements for contracting the initial reimbursable financing;*

*e) the amounts provided in the budgets of the legal persons which contracted reimbursable financing with a guarantee issued by the state;*

*f) the risk fund established at the Ministry of Economy and Finance, for the situations where the beneficiaries of the guarantees/on-lending fail to pay their obligations as stipulated in the agreements concluded with the Ministry of Economy and Finance;*

*f^1) the amounts received by the State Treasury from loans contracted by the budget holders with a state guarantee or contracted by the Ministry of Economy and Finance for on-lending to budget holders and managed by the Ministry of Economy and Finance, in line with provisions of art. 14;*

*g) other sources, pursuant to the law.*

*(4) The National Bank of Romania, based on agreements concluded with the Ministry of Economy and Finance, may act as agent of the state for the reimbursement of the government public debt contracted in any currency other than the domestic currency, as well as for the organization of government securities auctions on the domestic market.*

*(5) For the activities developed through the National Bank of Romania, in accordance with par. (4), in the capacity of the latter as agent of the state for the reimbursement of the government public debt and the placement of government securities issuances to third parties, the Ministry of Economy and Finance has the right to pay fees from the state budget, with the rates for such fees to be agreed on in a convention by both parties.*

*Methodological norms:*

*5.1. The amounts in principal, interest and fees and other government public debt-related costs, payable at maturity according to the prospectuses of issuance, the loan agreements or contracts, represent government public debt servicing and are an non-contingent and irrevocable liability of the state.*

*5.2. The repayment, at maturity, of the principal for the government public debt shall be done by:*

*a) the actual payment of the due amounts at maturity, leading to the decrease of the loan balance, or*

*b) the refinancing of the government public debt in accordance with the legal provisions in force.*

*5.3. The reimbursement of the government public debt, as well as the payment of interest, fees and other reimbursable financing-related costs shall be covered as follows:*

**#M4**

*5.3.1. For the reimbursable financing contracted by the Government through the Ministry of Economy and Finance for the state budget deficit financing, the public debt refinancing and early reimbursement, the Ministry of Economy and Finance has the obligation to make up the necessary resources to the payments and public debt servicing; the Ministry of Economy and Finance will ensure the necessary funds from the following sources, as the case may be:*

*a) borrowings from the balance of the state treasury general current account;*

*b) refundable financing contracted in the name of the state for re-financing the government public debt;*

*c) the foreign currency amounts drawn from loans;*

*d) the earmarked amounts in the state budget and the budget of the State Treasury;*

*e) the funds available in the State Treasury General Current Account, for the T-bills for population transformed into certificates of deposit, according to the specific methodological norms.*

**#M11**

*5.3.2. \*) the principal installments in respect of the foreign currency loans contracted to finance the budget deficit, refinance the public debt and redeem the debt before deadline, shall be paid from the foreign currency sources earmarked by the Ministry of Public Finance and/or by refinancing using the exchange rate published by the National Bank of Romania on the day before the maturity date, thus allowing an either full or partial reimbursement in foreign currency, using the existing balance.*

*The principal reimbursement mechanism in respect of foreign currency loans contracted as a move to finance the budget deficit, repurchase and refinance the public debt shall be depending on the debt management objectives, as below:*

*5.3.2.1. The full reimbursement of principal installments in the foreign currency/currencies of the obligation that is to be paid at maturity using the balance in the foreign currency of reimbursement recorded three banking days before the operation;*

*5.3.2.2. The reimbursement of the principal installments in the foreign currency/currencies of the obligation that is to be paid at maturity using partially the currency/currencies of the reimbursement from the balance recorded three banking days before the operation, and the difference to the full amount of principal shall be ensured by purchasing foreign currency. The equivalent in lei of the foreign currency/currencies purchased shall be procured by refinancing, based on the exchange rate/rates published by the National Bank of Romania on the day before the maturity date.*

*5.3.2.3. The capital installments are fully reimbursed by purchasing foreign currency. The equivalent in lei of the foreign currency that is purchased shall be procured by refinancing, based on the exchange rate/rates published by the National Bank of Romania on the day before the maturity date.*

**#CIN**

*Below are the provisions in art. II of the Government Decision nr. 275/2015 (#M11).*

**#M11**

*"Article II.*

*The provisions of sub-point 5.3.2 of the Methodological Norms issued for the implementation of the Government Emergency Ordinance 64/2007 on the public debt, approved in the Government Decision 1470/2007, with the revisions brought by the current decision, shall apply as of January 1, 2016. The amounts unused before December 31, 2015 from the loans for financing the budget deficit, refinancing the public debt and redemption shall be considered as final funding on January 1, 2016.*

**#M1**

*5.3.3. For the reimbursable financing contracted directly by the Government in order to finance various programs/projects or other priority needs of the Romanian economy and on-lent to final beneficiaries – economic operators and/or territorial units – based on on-lending agreements (subsidiary loan agreements), under the law requirements, the final beneficiary bear total responsibility for ensuring the necessary resources for the public debt servicing; the final beneficiaries have the obligation to cover from their own budgets and the local budgets, as the case may be, the funds in local currency necessary for the full payment of the public debt servicing.*

*5.3.4. The Ministry of Economy and Finance is responsible for paying back to lenders the loans contracted by the Government. This responsibility may be delegated by the Ministry of Economy and Finance to final beneficiaries, under loan agreements and/or subsidiary loan agreements, as the case may be.*

*5.3.5. For the refundable financing contracted directly by the Government, through the Ministry of Economy and Finance, and on-lent to the final beneficiaries – authorities of the central public administration – public institutions, under on-lending agreements (AIS), according to the law, the responsibility to provide the necessary resources for the government debt servicing –until the deadline stipulated in art. 14, par. (1) – lies entirely with the final beneficiaries, who have the obligation to ensure, in the state budget, the social security budget and the unemployment budget, as the case may be, the funds in local currency necessary for the full public debt servicing.*

*5.3.6. For the loans contracted by the central public administration authorities and guaranteed by the state, the public debt servicing payments are made directly to the lenders’ account by each guarantee beneficiary, before the deadline stipulated in the emergency ordinance, art. 14, par. 1, from the earmarked amounts in the state budget, at the deadlines and under the terms laid down in the loan agreements.*

*5.3.7. For the loans contracted by the economic operators and/or the administrative-territorial units and guaranteed by the state, the public debt servicing payments are made directly to the lenders’ account by each guarantee beneficiary from own sources and/or the local budget, as the case may be, at the deadlines and under the terms laid down in the loan agreements. For the loans contracted by the economic operators and/or public services subordinated to the territorial units and guaranteed by such units, the public debt servicing payments are made directly to the lenders’ account by each guarantee beneficiary from own sources, at the deadlines and under the terms laid down in the loan agreements.*

*5.3.8. When the final beneficiaries of the loans – economic operators and/or territorial units –contracted by the state through the Ministry of Economy and Finance and on-lent to such final beneficiaries and the beneficiaries of the loans guaranteed by the state through the Ministry of Economy and Finance lack the necessary financial resources to repay the maturing debts, according to the clauses in the loan agreement and/or the on-lending agreement, the responsibility for the public debt servicing lies with the Ministry of Economy and Finance, in its capacity as borrower or guarantor, and shall be covered from the risk fund under art. 6 par. (4) in the emergency ordinance.*

*5.3.9. When the guarantees issued by the state under special laws are in the situation of being executed, the Ministry of Economy and Finance has the obligation to pay the guaranteed amounts, using the sources stipulated by law.*

*Depending on the provisions in the special law under which the guarantee to be executed was initially issued, the sources of funds for the payments are, as the case may be, the state budget - the expenditure chapter having this destination through government securities and other sources stipulated in the special law.*

*The guarantees issued by the state under special laws which either expire or for which, depending on the special law provisions, as the case may be, the deadline occurs before the maturity mentioned in the letter of guarantee, shall be canceled by the Ministry of Economy and Finance.*

**#M4**

*5.3.10. For the on-lending to final beneficiaries – economic operators and/or administrative-territorial units – and those contracted by economic operators and/or territorial units and guaranteed by the state, for which the piece of legislation approving/ratifying the respective agreements states the own sources are the repayment sources, replenished with amounts from the central government, or local budget, as the case may be, or only own sources, which have been active until the effective date of the emergency ordinance, as amended, the public debt servicing is carried out in accordance with the procedures laid down in the legislation applicable until the date in question.*

*In the case of the refundable financing which is directly contracted by the Government for financing the central government deficit, refinancing the public debt, repurchases, supporting the balance of payments and the foreign currency reserve, loans which are ongoing on the effective date of the emergency ordinance, as further revised, the government public debt shall be reimbursed from the sources provided for in article 5 of the government ordinance, as further revised.*

**#M1**

*5.4. The funds remained uncommitted in the state treasury general current account after financing the budget deficits provisioned in art. 7, par. (1) in the Government Emergency Ordinance 146/2002 on formation and use of the state treasury resources, as approved with modifications in Law 201/2003, as amended, may be used for the purposes stipulated in art. 7, par. (2) of the same piece of legislation.*

*5.5. Other sources may be used to repay the government public debt only in observance of the requirements established by law and within the limits of the available funds as per the account statement issued 3 days ahead of the transaction day. The amounts collected and used for reducing the loans contracted for financing and refinancing the state budget deficit will be used to decrease the previous years’ deficits, in the order of their registration.*

*5.6. The expenditures provisioned in the state budget for the government debt servicing shall be incurred in accordance with the provisions in the Minister’s Order 1792/2002 for approving the Methodological Norms regarding the commitment, approval, ordering and payment of the public institutions’ expenditures, as well as on the organization, registration and reporting of the budgetary and legal commitments.*

**#M4**

*5.7. The principal repayment at maturity, for the state loans, shall be made from the legal earmarked sources, taking into account the financial market terms and priorities, as the case may be. The interest and other costs associated with the state loans shall be repaid according to 5.3.1. d).*

**#M1**

*5.8. If the maturity date for any of the public debt servicing cash-flows is a holiday or a non-business day, the payment shall be made in the first business day after the maturity date, unless the loan agreement/contract/convention or the prospectus of issuance stipulate otherwise, without any default interest. The government securities in this situation will remain the property of the registered investors and may not be subject to any trading.*

*5.9. If the on-lending agreement stipulates that the payments are to be made through the Ministry of Economy and Finance, the beneficiary of the on-lending/the final beneficiary shall transfer to the Ministry of Economy and Finance, 10 calendar days before the maturity date stipulated in the loan agreement, the amount in domestic currency or the equivalent in domestic currency of the payment obligation in foreign currency, calculated based on the exchange rate on the payment date to the Ministry of Economy and Finance, plus a 5% security margin that would cover the exchange rate fluctuation during the period between the payment date to the Ministry of Economy and Finance and the payment date to the lender. If the equivalent in domestic currency calculated by this method does not cover the payment obligation of the on-lending/final beneficiary, which is the equivalent in domestic currency at the exchange rate applicable at least four calendar days before the maturity date of the payment due to the lender, the beneficiary shall pay the difference to the Ministry of Economy and Finance, at his/her own initiative. Any amounts paid in excess by the on-lending/final beneficiaries shall be returned by the Ministry of Economy and Finance on its own initiative. When the lei amount transferred by the beneficiary of the on-lending does not cover the equivalent in lei of the foreign currency purchased by the Ministry of Economy and Finance from the National Bank of Romania, thus causing the late settlement of the amount in lei corresponding to the foreign currency liability of the Ministry of Economy and Finance to the National Bank of Romania, for which the central bank charges penalties, the beneficiary of the on-lending shall pay in full the penalty communicated/calculated by the National Bank of Romania for the partial settlement of the amounts due.*

*5.10. The government debt servicing may be made by MEF in other currency than the domestic currency, through the NBR, under a convention signed with the latter.*

*5.10.1. In the case of loans from the foreign market, the Ministry of Economy and Finance draws up the foreign exchange order for purchasing the foreign currency, if needed, and the foreign currency payment order, based on the payment notification sent by the lender. On the maturity date, which is the same day as the foreign currency purchase day, the Ministry of Economy and Finance transfers the equivalent amount in domestic currency calculated based on the exchange rate communicated by the National Bank of Romania for the respective day. The supporting documents for the payment of the equivalent in domestic currency of the foreign currency cash-flow will include the payment notification received from the lender and/or, as the case may be, the letter sent by the National Bank of Romania regarding the exchange rate valid on the cash-flow date.*

*5.10.2. In the case of loans contracted on the domestic market that are to be repaid in foreign currency, and if the MEF foreign currency sources for the government debt servicing, under the law, are not enough to make the payments at maturity, the necessary foreign currency shall be purchased from NBR based on a foreign exchange order issued for purchasing the foreign currency. The actual payment in foreign currency shall be made based on the foreign currency payment order and the payment obligation at maturity to the final investors of the government securities. For the purchased foreign currency and on the same day, MEF will calculate and transfer to NBR the equivalent thereof in domestic currency, using the exchange rate released by NBR for the payment day in question.*

*When the servicing of the government debt contracted on the domestic market is in domestic currency, MEF may use the foreign currency constituted to this purpose, under the law, by selling the foreign currency to NBR based on a foreign exchange order, at the exchange rate valid on the payment date.*

*5.11. - (1) The state guarantee shall no longer be valid in the following situations:*

*a). the contingent liabilities associated with the loans guaranteed by the state are entirely repaid by the beneficiary or a third party;*

*b) The Ministry of Economy and Finance makes the payment/payments to the lender, on behalf of the government guarantee beneficiary;*

*c) the validity period stipulated in the letter of guarantee runs out;*

*d) other conditions stipulated in the letter of guarantee.*

*(2) The writing-off of the obligations arising from the loan agreement will cause the validity letter of guarantee to expire; the letter of guarantee shall be returned to the issuer, namely the Ministry of Economy and Finance, within 10 days after any of the situations laid down in par. (1) occurs.*

*5.12. As of 2009 the foreign currency cash-flows can be run through the Central Operative Treasury, from the correspondent foreign currency account opened by MEF, in accordance with the legislation in force regarding the formation and use of the State Treasury resources.*

**#M11**

*5.13. The Ministry of Public Finance, through the economic and financial department, will monitor the way the beneficiaries of the loans guaranteed by the state or the beneficiaries of the funds on-lent by the state, ensure the reimbursement sources for the repayment of the loans, interest, fees and/or other loan-related costs.*

**#B**

6. *Art. 6 of the emergency ordinance:*

(1) A risk fund shall be established with the purpose of covering the financial risk arising from state guarantees and on-lending;

(2) The level of the fee payable to the risk fund by the territorial units shall be set below the level calculated in accordance with the procedures laid down in the methodological norms issued based on art. 12 par. (1), by joint order of the minister of economy and finance and the minister of interior and administration reform, after consultations with the Local Public Finance Committee, established according to the Local Public Finance Law 273/2006, as further revised;

(3) The sources for such risk funds shall be:

a) the amounts collected in fees from the beneficiaries of on-lending/guarantees;

b) the amounts collected from the beneficiaries of on-lending/guarantees in principal, interest, fees and other costs arising from the reimbursable financing guaranteed or on-lent by the state, which are paid by the Ministry of Economy and Finance, in the name of the beneficiary of the guarantee or on-lending;

c) interest on the available amounts in the risk fund;

d) penalties for late payment, established at the level of the penalties set for the failure to pay fiscal obligations on time, applicable to beneficiaries of guarantees or on-lending for the failure to pay within the deadline the fees to the risk fund and the amounts in principal, interest, fees and other costs related to the reimbursable financing;

e) amounts recovered pursuant to the law;

f) fund allocated to this purpose by the state budget;

(4) The amounts included in the risk fund are to be used for the payment of the obligations arising from state guarantees and on-lending, for the beneficiaries of guarantees and on-lending which do not hold, at the moment when such obligations become due, the own financial resources necessary to cover these obligations.

(5) The risk fund is managed by the Ministry of Economy and Finance, according to the law, through the State Treasury General Current Account, with respect to the funds security, liquidity and efficiency.

(6) The amounts available in the risk fund shall be balanced, at the end of the year, with the state budget to the extent of the amounts allocated from this budget. The balance of the risk fund after the offset against the state budget at the end of the year shall be carried forward to the following year, with the same destination.

Methodological norms:

6.1. Based on the economic and financial analysis of the file submitted by the legal person applying for the state guarantee of on-lending, Eximbank or other designated agent shall establish the risk level of the applicant, upon the latter’s request;

6.2. Depending on the risk level established in accordance with point 6.1., the Ministry of Economy and Finance shall determine the risk fee rate, as a percentage, with the amount due to be calculated by applying the rate to the amount of the guaranteed loan or the on-lending, with the exception of the territorial units, where the level of the fee payable to the risk fund is set below the level calculated according to point 6.1. and 6.2. by joint order of the minister of economy and finance and the minister of interior and administrative reform, after prior consultations with the Local Public Finance Committee, established under Law 273/2006 on local public finance, as further revised and supplemented.

6.3. The risk fee is the amount payable to the risk fund by the beneficiary of a loan guaranteed by the state or by the on-lending beneficiary, at a rate and on the deadlines stipulated in the guarantee convention, the on-lending agreement or the on-lending and guarantee agreements, as the case may be, concluded with the Ministry of Economy and Finance.

6.4. The Ministry of Economy and Finance shall issue technical norms for the calculation of the risk fee, subject to approval by order of the minister of economy and finance.

6.5. The management of the risk fund, as well as the way that the operations related to state guarantees and on-lending have to be reflected by the state treasury accounting and the legal persons accounting shall be established by norms approved by order of the minister of economy and finance.

6.6. The accounting records for the risk fund shall be kept by both the Ministry of Economy and Finance and any legal person having committed to pay contributions to the risk fund, under a guarantee convention, an on-lending agreement or an on-lending and guarantee agreement.

6.7. The government guarantees issued in respect of the refundable financing represent the indirect liability of the Romanian state, which are executed when the final beneficiary cannot pay, either partially or entirely, the principal, interest, fees and/or other associated costs established in accordance with the clauses laid down in the loan agreement/contract.

6.8. When the beneficiary of reimbursable financing guaranteed and/or contracted by the state and on-lent to such beneficiary cannot cover, either partially or entirely, at deadline, the amounts necessary for the repayment of the principal, interest, fees and/or other associated costs related to the reimbursable financing in question, the beneficiary has the obligation to send a request to the Ministry of Economy and Finance in which the latter is required to pay the amounts to the lender, in accordance with the provisions in the letters of guarantee and the loan agreement/contract, as the case may be; the beneficiaries must declare on own responsibility, 10 calendar days before the maturity dates stipulated in the loan contracts/agreements, the lack of funds available necessary for the payment of their obligations at maturity. The request for payment shall include the principal amounts due and the maturity date of the payments to be made to the lender by the Ministry of Economy and Finance.

**#M1**

*6.8^1. When the beneficiary of the reimbursable financing guaranteed by the state and/or contracted by the state for on-lending are subject to a bankruptcy and/or insolvency procedure, the Ministry of Economy and Finance shall order, in its capacity as guarantor and/or borrower, the repayment at maturity of the capital, interest, fees and/or other loan related costs, in accordance with the provisions in the letters of guarantee and the loan agreements/contracts, based on a payment notice received from the creditor and the payment request of the judicial administrator and/or liquidator.*

**#M11**

*6.8^2. When the beneficiaries of funds guaranteed by the government default on the payments to lenders, without requesting the Ministry of Public Finance to make the payment on the basis of the documents provided for in point 6.8 and/or 6.8^1, the Ministry of Public Finance shall pay the lender on their behalf, on the basis of the provisions in the letters of guarantee and the loan agreements/contracts.*

*6.8^3. When the beneficiaries of the funds contracted by the government and on-lent to them default on the payment of their obligations to the Ministry of Public Finance or the lender, as applicable, or if they don’t notify in writing the Ministry of Public Finance about the fact that they have difficulties in paying their obligations, or if they don’t provide the documents required in point 6.8, 6.8^1, than the Ministry of Public Finance shall make the payment to the lender from the risk fund, on the basis of the provisions in the subsidiary loan agreement or the loan or credit contracts and, as applicable, based on the Economic and Financial Inspection Report prepared by the specialized directorates with attributions in the field of economic and financial inspection, or a notification to the lender that the amount payable at maturity was not collected.*

*6.9. In case the specifications in the request for payment are in accordance with the clauses of the loan agreement or the loan/credit contracts, based on the documents provisioned in point 6.8., 6.8^1 and the provisions of points 6.8^2 and 6.8^3, the Ministry of Public Finance instructs the National Bank of Romania to pay the amounts due to the lenders, in the accounts specified by the final beneficiary of the reimbursable financing guaranteed by the state and/or contracted and on-lent by the state and by the lenders, on the date specified in the request, and will instruct the transfer from the risk fund of the equivalent amount in lei of the foreign currency, on the day the foreign currency is purchased and using the exchange rate published by the National Bank of Romania on the business day before the settlement.*

*The same procedure shall apply in the case of reimbursable financing guaranteed by the state and/or contracted and on-lent by the state, which were contracted in foreign currency from a domestic donor.*

**#B**

6.10. In the case of guarantees denominated in lei granted by the Ministry of Economy and Finance to the territorial units contracting loans for pre-financing the investments included in Measure 2.1. SAPARD, and when the beneficiaries thereof cannot cover, either entirely or partially, on deadline, the amounts necessary to repay the principal or pay the interest, fees and/or other costs associated to the reimbursable financing, the territorial units have the obligation to send a request to the Ministry of Economy and Finance in which they require the latter to pay the amounts to the lender, according to the provisions in the letter of guarantee and the loan contract and must declare on their own responsibility, 10 calendar days before the payment date, that they do not have the funds necessary for the payment of their obligations at maturity. The Ministry of Economy and Finance will make the payment within 10 calendar days after the receipt of the written request from the domestic financing entity. The payment application shall include the information stipulated at point 6.8.

**#M11**

*6.11. In the case of reimbursable financing guaranteed by the state and/or on-lent which is contracted, under the law, with any domestic financing entity, based on the documents provisioned in points 6.8. , 6.8^1 and/or 6.9., and the provisions of point 6.8^2 and 6.8^3, the Ministry of Public Finance shall order the payment of the amount in lei due to the domestic lender, in such account as indicated by the beneficiary/final beneficiary of the reimbursable financing guaranteed by the state and/or contracted and on-lent by the state, as well as by the domestic lender.*

**#B**

6.12. The risk fund shall be managed by the Ministry of Economy and Finance, through the State Treasury General Current Account, with due respect to the security, liquidity and efficiency of funds, in the above order of priority. The risk fund balance existing in the State Treasury General Current Account is interest-bearing. The interest rate shall be the rate of sight interest applicable by the State Treasury.

7. *Art. 7 of the emergency ordinance:*

(1) The amounts paid at maturity by the Ministry of Economy and Finance, in its capacity as beneficiary of a guarantee or borrower, in principal, interest, fees and other costs, on behalf of the guarantee or on-lending beneficiaries, as a result of a lack of funds of the latter, any fees due and not paid to the risk fund as well as any penalties for these debt categories shall be recovered, in compliance with the legislation in force on collection of fiscal claims, by the tax bodies with jurisdiction over the fiscal domicile of the beneficiaries of state guarantees and on-lending, based on documents issued by the specialized directorates of the Ministry of Economy and Finance assessing the amounts to be recovered and having the power of a writ of enforcement. After the Courts issue the orders with regard to these amounts, the enforcement procedures are implemented based on the final court ruling that is a writ of enforcement, under the law.

(2) The amounts recovered based on the current article shall be used to replenish the risk fund of the government public debt.

Methodological norms:

7.1. The amounts paid by the Ministry of Economy and Finance on behalf of the beneficiaries of on-lending and state guarantees due to the lack of funds of the latter, accounting for principal, interest, fees and other costs, fees due and not paid to the fund risk, as well as the penalties for late payment of these debt categories shall be recovered according to the legislation in force regarding the collection of fiscal receivables by the fiscal bodies the on-lending or guarantee beneficiaries are registered with, based on the notifications by the specialized directorates within the Ministry of Economy and Finance, which lay down the amounts to be recovered at deadline and which represent, when issued, a writ of receivables and will become, according to the law, a writ of enforcement. The procedure for recovering the amounts paid by the Ministry of Economy and Finance is established by order of the minister of economy and finance.

8. *Art. 8 of the emergency ordinance:*

The Ministry of Economy and Finance issues an annual report regarding the Government public debt and submits it to the Government for approval. The approved version of the report is sent to the Parliament for information purposes, but no later than July 30 of the year following the reporting year.

**#M5**

*Methodological norms:*

*8.1. On an yearly basis, the Ministry of Public Finance draws up and submits to the Government, for approval, and to the Parliament, for information, the Report on the government public debt, which shall include information on the government debt portfolio, the debt servicing, the indebtedness indicators, as well as information regarding the primary and secondary markets of government securities and on how the medium-term debt management strategy is implemented.*

**#B**

9. *Art. 9 of the emergency ordinance:*

1) The use or submission of forged, inaccurate or incomplete data for the purpose of receiving the necessary approvals or the guarantees needed for the reimbursable financing provided by the current emergency ordinance, which results in unduly obtaining such funds, shall be regarded as a criminal act and punished by 3 to 10 years in prison.

2) If the criminal act provided in par. (1) produces extremely serious consequences, the punishment shall be 5 to 15 years in prison and the interdiction to exercise certain rights.

3) Attempted crime shall be punished.

10. *Art. 10 of the emergency ordinance:*

(1) The modification, without respecting the legal provisions, of the destination reimbursable financing directly contracted or guaranteed by the state or by the administrative-territorial units, shall be regarded as crime and punished by 6 months to 5 years in prison.

2) If the criminal act provided in par. (1) produces extremely serious consequences, the punishment shall be 5 to 15 years in prison and the interdiction to exercise certain rights.

3) Attempted crime shall be punished.

11. *Art. 11 of the emergency ordinance:*

(1) The failure to respect the reporting obligations by the beneficiaries of loans which constitute public debt, in accordance with the norms issued to this purpose for the application of the current law shall be considered as a contravention and shall be fined by 5000 to 15000 lei.

(2) The finding of the contraventions and the application of the fines shall be executed by the competent fiscal bodies, pursuant to the law.

(3) The dispositions of par. (1) and (2) shall be completed with the provisions of the Government Ordinance 2/2001 on the legal regime of contraventions, as approved with revisions and supplements by the Law 180/2002, as subsequently supplemented and amended.

Methodological norms:

11.1. The assessment of contraventions and application of fines is the responsibility of the fiscal bodies where the beneficiaries of loans, on-lending or guarantees are registered, based on the notifications sent by the specialized directorates within the Ministry of Economy and Finance.

12. *Art. 12 of the emergency ordinance:*

(1) At the proposal of the Ministry of Economy and Finance and the Ministry of Interior and Administrative Reform, the Government shall approve methodological norms for the application of the current emergency ordinance, within 30 days after the effective date of the current emergency ordinance;

(2) The recording and reporting method for the public debt shall be laid down in the methodological norms provisioned in par (1).

Methodological norms:

12.2.1. The Ministry of Economy and Finance is responsible for keeping the public debt register, which shows the public debt situation in a chronological order. The public debt register is the electronic database in which the public debt is chronologically recorded and includes four components: the sub-register of the direct government debt, the sub-register of the contingent government debt, the sub-register of the direct local public debt and the sub-register of the contingent local public debt.

12.2.2. These registers will contain information regarding the directly contracted reimbursable financing and the guarantees, including the amount thereof, the interest rates, fees as well as other information as established by norms approved in an order issued by the minister of economy and finance.

12.2.3. The beneficiaries of the refundable financing representing public debt in accordance with the provisions in art. 2 of the emergency ordinance, shall report before the 15 of the current month the information regarding the previous month’s committed debt, in the structure established by norms approved in the order issued by the minister of economy and finance.

12.2.4. On an yearly basis, the Ministry of Economy and Finance draws up the Public Debt General Account, which is an annex to the General Annual Execution Account of the State Budget which is submitted to the Parliament for approval. The Public Debt General Account includes the government debt general accounts and the local debt general account, and the annexes represented by the situation of the guarantees granted by the state and the administrative-territorial units.

12.2.5. The structure of the general public debt account is established by means of norms issued by order of the minister of economy and finance.

13. *Art. 13 of the emergency ordinance:*

The provisions in Law 273/2006 on local public finance, as revised, shall apply in the contracting and management of the local public debt.

Methodological norms:

13.1. The local public debt, as defined in art. 2 of the ordinance, is part of the public debt of Romania, but does not represent obligations of the Romanian Government, and the local public debt servicing is to be covered from own revenues of the administrative-territorial units beneficiaries of the loans, as provided in art. 5 par. (1) let. a) of the Law 273/2006 on local public finance, as amended, or – as the case may be – from own resources of the beneficiaries of guarantees issued by the administrative-territorial units.

13.2. The reimbursable financing for the public investments of local interest and for refinancing the local public debt shall be contracted and guaranteed by the territorial units only based on prior approval by the Local Loan Authorization Commission within the Ministry of Economy and Finance, under the Law 273/2006 on local public finance, as revised.

13.3. The territorial units running directly contracted domestic and/or foreign loans have the obligation to report to the Ministry of Economy and Finance, on a monthly basis, the amounts drawn from such loans, within the deadline stipulated in point 12.2.3, to allow the assessment of the impact thereof on the general government deficit. In addition, estimates on the drawings for the following year shall be sent on a quarterly basis.

13.4. The local public debt shall be recorded and reported on in accordance with the norms approved by order of the minister of economy and finance.

14. *Art. 14 of the emergency ordinance:*

(1) As of 2008, the budget credits for the payment of the principal, interest, fees and other costs related to the foreign and domestic loans contracted by the main budget holders with or without a government guarantee, or contracted by the Ministry of Economy and Finance for on-lending to the main budget holders shall no longer be approved in the state budget’s spending of the main budget holders, the social security budget and the unemployment budget;

(2) The public debt obligations contracted for financing the previous years’ deficits of the social security budgets shall be an exception from the provisions in par. (1);

(3) In compliance with the provisions of par. (1), the Ministry of Economy and Finance shall secure the funds in the state budget – through the budget of the Ministry of Economy and Finance-General Actions – needed for the public debt servicing corresponding to the domestic and foreign loans contracted by the budget holders with the guarantee of the state or contracted by the Ministry of Economy and Finance for on-lending to the budget holders;

(4) As of 2008, the funds allocated from the foreign and domestic loans contracted by the main budget holders with a government guarantee or contracted by the Ministry of Economy and Finance for on-lending to the main budget holders shall no longer be included in the state budget’s spending of the main budget holders, the social security budget and the unemployment budget;

(5) The expenditures related to the amount of funds remained un-drawn from the loans provided in par. (4) shall be included in the state budget’s spending of the main budget holders, the social security budget and the unemployment budget within the funds allocated from these budgets;

(6) The Ministry of Economy and Finance shall draw from the loans provided in par. (4) and use the funds in question for financing the state budget deficit and for making the external payments for the government public debt;

(7) The financial liability resulted from the application of the current article shall be taken over by the Ministry of Economy and Finance based on a reception minute to be concluded with the main budget holders for the budgets in question, who have such liability. Such reception minutes shall be signed on or before November 30, 2007;

(8) The proposals for the 2008 state budget draft, for the application of the provisions herein, shall be developed by the Ministry of Economy and Finance in cooperation with the main budget holders involved in the application of these provisions;

(9) Before October 1, 2007, the loan agreements for the loans contracted directly or guaranteed by the State, as well as the acts for approving or ratifying these agreements shall be consequently amended, to allow application of the current article. In case the consent of the foreign financing entities is not obtained, the provisions in the loan agreement concluded with such entities shall be applied, as well as the provisions in the acts for approving or ratifying the agreements concluded before the effective date of the current emergency ordinance.

Methodological norms:

14.1. In order to apply the provisions in art. 14 of the emergency ordinance, the following categories of loans shall be taken over for administration by the Ministry of Economy and Finance, based on prior approval by the lending entities:

a) the loan agreements concluded for the loans contracted by the main budget holders with the guarantee of the state, or contracted by MEF and on-lent to the main budget holders, for which the repayment source is the state budget through the budgets of the main budget holders beneficiaries of the loan/on-lending, the social security budget and the unemployment budget, as laid down in the normative acts issued for the ratification/approval of the loan agreements;

b) the loan agreements concluded by MEF and the economic operators with the banks, under 3-party arrangements, for which the integral repayment source is the state budget through the budget of the main spending unit coordinating the economic operator signatory of the loan agreement, as laid down in the normative acts issued for the ratification/approval of the loan agreement; when the normative act issued for the approval/ratification of such loan agreements stipulates as repayment source the own sources of the economic operators completed by funds from the state budget, this will be deemed to be the lawful obligation of the economic agent beneficiary of the loan and, therefore, it shall not be taken over by MEF for the purposes of the current emergency ordinance;

c) the loan agreements for the loans contracted by the economic operators and guaranteed by the state, through MEF, for which the repayment source is only the state budget through the budget of the main spending unit coordinating the economic operator signatory of the loan agreement, as laid down in the normative acts issued for the ratification/approval of the loan agreement.

14.2. The Ministry of Economy and Finance, after consultations with the main budget holders, shall draw up the Methodological Norms in application of the provisions in art. 14 of the ordinance, subject to approval by Government Decision.

15. *Art. 15 of the emergency ordinance:*

(1) On the effective date of the current emergency ordinance, the Public Debt Law no. 313/2004, published in the Romanian Official Gazette, part I, no. 577 of June 29, 2004, as amended, shall be repealed as well as the provisions in art. 77, par. (1), let. c) and d), and from par. 2 – the norms for reference to the par. (1) let. c) and d), in Law 273/2006 on the local public finance as further supplemented.

(2) On the effective date of the current emergency ordinance, the reference in art. 20 of the Public Debt Law 313/2004 in art. 4 par. (1) of the GEO 111/2006 on financing a number of investment projects for each a period longer than one year is needed before completion, shall be regarded as reference to the art. 3 in the current emergency ordinance.

(3) The public debt contracting procedures under way on the effective date of the current emergency ordinance shall be finalized in accordance with the procedures in force at the date when such procedures were initiated, respecting the provisions in art. 14.

(4) The active loans on the effective date of the current emergency ordinance shall be carried on in accordance with the procedures established by the applicable legislation up to that date, except for the situations provisioned in art. 14.

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