1 April 2019

Changes to the financial assets tax affecting banks in Romania

On 29 March 2019, following significant pressure from all relevant players in the market, the Romanian Government adopted the Government Emergency Ordinance no. 19/2019 ("**GEO on Revised Financial Assets Tax**") providing, *inter alia*, several structural changes to the tax on financial assets of banks ("**Financial Assets Tax**") imposed as of 1 January 2019 to banks established in Romania (such as Subsidiaries of both EEA and non-EEA bank) and Romanian branches of foreign banks (either EEA or non-EEA).

The GEO on Revised Financial Assets Tax brings key updates to the Financial Assets Tax, as reflected below:

- the Financial Assets Tax applies on the bank's financial assets, less, *inter alia*, (i) cash; (ii) flat value of the cash balance with the central banks (excluding non-performing exposures), (iii) flat value of the non-performing exposures; (iv) debt securities issued by and loans to public authorities (excluding non-performing exposures); (v) loans under state guaranteed loans programmes (excluding non-performing exposures) as well as (vi) deposits with other banks and other account receivables related to the financial business;
- the Financial Assets Tax rate is no longer linked to ROBOR but differentiated depending on the market share of the relevant bank, namely (i) 0.4% p.a. for banks with a market share of at least 1% and (ii) 0.2% p.a. for banks with a market share of less than 1%;
- discounts on the Financial Assets Tax may be granted to banks reaching certain KPIs set by the Romanian Government: (i) up to 50% of the Financial Assets Tax based on the annual increase of the crediting volume to households and non-financial companies (the 2019 target is set at 8%) and (ii) up to 50% of the Financial Assets Tax based on the annual decrease of the interest margins (the 2019 target decrease is set at 8%) or if the interest margin is below the reference interest margin set out by the Romanian Government (set at 400 bps for 2019);
- the Financial Assets Tax is capped at the book profit of the banks and no Financial Asset Tax will be due by the banks recording book losses at the end of the relevant semester / year;
- for taxpayers newly established during a financial year, the Financial Assets Tax would start to accrue during the next financial year.

Further, the GEO on Revised Financial Assets Tax changes as of 2 May 2019 the mandatory regime for the calculation of floating interest rates under Lei loan agreement to consumers by replacing the ROBOR benchmark rate with a reference rate to be calculated daily by the National Bank of Romanian as the weighted average interest rates on interbank market – the Romanian version of a risk-free rate.