EXERTING CONTROL ACTIVITIES ON THE ROMANIAN CAPITAL MARKET

EXERCITAREA ACTIVITĂȚII DE CONTROL PE PIAȚA DE CAPITAL ROMÂNEASCĂ

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Abstract: *The control activity practised in Romania by the National Board of Movable Assets (Comisia Națională de Valori Mobiliare) is focused on maintaining an orderly and efficient capital market having at its disposal a real capacity of preventing and fighting against activities of market manipulation. Improvement of the quality of control activities in recent years is represented by the increased number of control activities and by special attention paid to the guiding component of this activity.*

Key words: *capital market, market supervision, market control, regulated entities*

INTRODUCTION

Controlling is a systematic and planned activity, in which breaking the law, as it is defined in legislation, is acknowledged by natural persons, authorised by the National Board of Movable Assets (Comisia Națională de Valori Mobiliare - C.N.V.M.), with assignments regarding control of the way in which legal stipulations are obeyed in capital market practices.

Exerting the control function has in view strict observance of capital market legislation, with regard to ensuring a transparent climate of confidence for the market participants. In this respect, C.N.V.M. pays special attention to this activity, that is performed on the basis of thematic basic control sessions, in keeping with the stipulations of secondary legislation established by C.N.V.M.

MATERIAL, METHOD, RESULTS AND DISCUSSIONS

C.N.V.M., beside basic control sessions, performs thematic unexpected control activities, determined by aspects resulting from supervision activities and from complaints regarding the activity of some of the entities regulated and supervised. In the process of increasing the efficiency and the quality of the control act at the level of the Board, the control teams group specialists with assignments in supervision activities and with expertise in legislative counseling. According to the stipulations of the capital market legislation, the sanctions are published in the Bulletin of C.N.V.M. and can be seen on the site of the institution, transparence and appropriate information of the investing public being thus ensured. According to the stipulations of Law no. 297/2004 regarding the capital market, the facts mentioned in the control documents of C.N.V.M. were individualized both for legal persons and for natural persons directly in charge.

The active role of C.N.V.M., that of an active prudential authority for supervising market entities, as well as for establishing some measures for preventing and fighting against activities of financing terrorist acts, materialized in control activities performed together with representatives of the National Office of Prevention and Fighting Against Money Laundreing (Oficiul Național de Prevenire şi Combatere a Spălării Banilor). In addition to applying sanction measures, changes of certain regulations have also taken place, in cases of non-existent regulations for certain events or of activities insufficiently regulated.

Improvement of the quality of control activities is represented by the increased number of control activities and by special attention paid to the guiding component of this activity. Thus, for a series of deficiencies noticed in the activity of the inspected entities, resulting from erroneous interpretation of concepts of particular complexity, C.N.V.M. offered assistance free of charge.

The activity of solving complaints received from investors and from the entities regulated and supervised, is seen by the C.N.V.M. as a natural consequence of its regulating, supervision and control assignments, giving to those who do dot agree with the decisions of the capital market authorities the opportunity to express their right of questioning these decisions. C.N.V.M. is also open for the entities that require legal information or professional consulting. The activity of solving disputes

consists in analyzing and suggesting measures, in writing official answers within preceding administrative procedures. Collaboration with The national Office of the Register of Commerce (Oficiul Național al Registrului Comerțului), societies with an independent register, lawyers' offices, legal courts, The Public Ministry (Ministerul Public), as well as other institutions and state authorities.

Depending on the gravity of the incriminated facts, the control activity materialises in giving warnings, fines, in suspending or withdrawing operation licences, in temporary interdictions regarding certain activities. The evolution of the sanctions given by C.N.V.M. is shown in Figure 1, and the total number of sanctions given between 2005-2009 is shown in Figure 2.

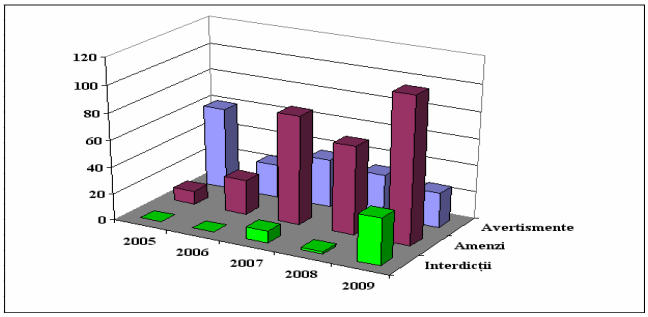


Fig. 1 – Dynamics of the results of control activities of C.N.V.M.

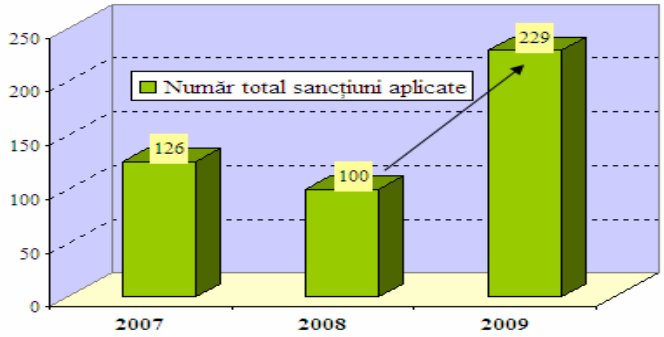


Fig. 2 –Evolution of the total number of sanctions given by C.N.V.M.

A remark common for the two graphs is the fact that the number of sanctions given increased in the interval of time under study.

In case of serious acts that require additional investigations, beyond the responsibilities of C.N.V.M., the Board transmits data and refers the matter to other control bodies, with specific duties in the respective domain (The National Office of Prevention and Fighting Against Money Laundreing /Oficiul Național de Prevenire şi Combatere a Spălării Banilor), The Ministry of Administration and Home Affairs/ Ministerul Administrației şi Internelor – The General Inspectorate of Romanian Police/ Inspectoratul General al Poliției Române; The Prosecutor's Office of the High Court of Appeal/Parchetul de pe lângă Înalta Curte de Casație şi Justiție; The National Authority of Fiscal Administration –The Financial Guard /Autoritatea Națională de Administrare Fiscală-Garda Financiară, etc).

CONCLUSIONS

The increased number of sanctions, higher from year to year, is due, on the one hand to more strict exigencies in control activity, motivated by the objective of limiting unfavourable effects of recent evolutions on the capital market, and on the other hand, to absorbing into local legislation stipulations of European legislation, a fact that brought additional complexity to the regulations formulated at national level, thus favouring situations of erroneous interpretation.

The whole activity of supervision and control of C.N.V.M. has in view to ensure protection for investors and to consolidate their trust in the capital market in Romania, within a healthy, efficient and transparent competitional environment.

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