

The Financial Supervisory Authority

Regulation no. 9/2017
for the amendment of the Regulation of the Financial Supervisory
Authority no. 4/2016 on the organization and operation of the
Alternative Dispute Resolution Entity in the Non-Banking Financial
Sector (SAL-FIN) of September 22, 2017

In force as of September 29th, 2017

Published in the Official Gazette, Part I no. 674 of August 17th, 2017

Under the provisions of the Government Emergency Ordinance no. 93/2012 on the establishment, organization and operation of the Financial Supervisory Authority, approved with amendments and completions by Law no. 113/2013, as amended and supplemented,

following the deliberations of the meeting of the Financial Supervisory Authority Council dated September 20, 2017,

The Financial Supervisory Authority issues this Regulation.

Art. I. - The Regulation of the Financial Supervisory Authority no. 4/2016 regarding the organization and operation of the Alternative Dispute Resolution Entity in the Non-Banking Financial Sector (SAL-FIN), published in the Official Gazette of Romania, Part I, no. 383 of May 19th, 2016, shall be amended as follows:

1. Article 12 shall be amended and shall have the following content:

" Art. 12. - (1) Any natural person who meets cumulatively the requirements below may become a conciliator and shall be entered in the Register of Conciliators of SAL-FIN:

a) he/she must have full capacity to act;

- b) he/she must be long term higher education graduates, attested by a bachelor's degree diploma;
- c) he/she is of good repute;
- d) he / she has professional training in alternative dispute resolution, attested / certified by a body legally authorized in this respect;
- e) he / she has professional skills in the field of alternative dispute resolution and in the field in which he / she will conduct his / her conciliation activity, respectively, as appropriate, insurance and / or private pensions and / or the capital market; proof of these professional competences is done through a certificate of competency issued by the Institute for Financial Studies following examination and / or evaluation of the candidate;

f) he/she has not been convicted by final ruling for property crime, corruption, embezzlement, forged documents, tax evasion, crimes provided for in Law no. 656/2002 republished, as amended and supplemented, or for other crimes punished by law by prison sentence of 3 years or longer, proven by a criminal record certificate;

g) he/she has not been sanctioned in the last 5 years by A.S.F. with the withdrawal of the approval / authorization for the position held;

h) he/she is not an associate or shareholder, does not carry out an activity based on an individual employment contract or a contract of mandate / cooperation contract, within the insurance and / or reinsurance companies, the private pension fund management companies, the intermediaries of operations with financial instruments, financial investment services companies, collective investment undertakings, investment management companies;

i) he/she is not a member of the governing bodies of the associations or other associative forms aimed at protecting the consumer

j) he/she has filed the application form together with all required documents, in accordance with this paragraph;

k) he/she was validated, by vote, by the Coordination College, as a result of analyzing the documents that were at the basis of the request and of the interview with the members of the Coordination College, according to art. 7 par. (4).

(2) The conciliators' registration in the Conciliator Registry is made by SAL-FIN, after their approval by the ASF's Board, at the proposal of the Coordinating College, according to art. 9 par. (1) letter. c)."

2. Article 13 shall be amended and shall have the following content:

" Art. 13. - (1) The register of conciliators shall be established in accordance with the provisions of this Regulation.

(2) The conciliators' registration in the Conciliator Register is made with the specification of the professional activity carried out by each conciliator and the range of competencies in which he/she can settle the disputes.

(3) The termination of the conciliator status and its deletion from the Conciliator Register shall be made under the conditions provided in art. 14.

(4) The Registry of Conciliators is public and available on the SAL-FIN website.

(5) The conciliators must be independent of the parties to the dispute, not be paid directly or indirectly by them, and not be in a cause of incompatibility or conflict of interest with the parties to the dispute in the cases in which they were appointed.

(6) The conciliators enrolled in the Conciliators' Registry are required to follow on an annual basis a form of continuing professional training agreed by the Coordination Committee of SAL-FIN.

(7) The conciliator is incompatible with the settlement of a dispute, irrespective of the procedure chosen, if:

- a) a ruling was given in which another dispute between the two parties was settled;
- b) he/she has been a witness, expert, arbitrator, prosecutor, judge, lawyer, magistrate, assistant, mediator in a dispute between the two parties or has worked in the last 2 years within the professional party to the dispute;
- c) he/she, his/her spouse, relatives or in-laws up to the second degree have been paid by one of the parties in the last 2 years;
- d) he/she is a relative or in-law up to the second degree inclusively with the consumer which is a party to the dispute;
- e) he / she, his / her spouse, relatives or his / her in-laws up to the second degree inclusively are shareholders or members of the executive management bodies of the professional party to the dispute;
- f) he/she knows or ought to have been aware of any other circumstances that might affect his / her independence and impartiality.

(8) The Coordination College of SAL-FIN may request conciliators relevant information and / or documents to ensure their integrity and impartiality in the cases administered.

(9) The conciliators entered in the Register of Conciliators are obliged to inform immediately about the occurrence of any situation of incompatibility or conflict of interest and to maintain the conditions provided in art. 12 during the registration period in the SAL-FIN Registry.

(10) The conciliators entered in the Register of Conciliators shall be recused under the conditions provided for in paragraph (7) and (9) and according to the provisions of the SAL procedures adopted by the Coordination Board."

Art. II. - (1) The conciliators registered in the Registry of Conciliators are obliged to comply within one month after the entry into force of this Regulation to comply with the provisions of Art. 12 paragraph (1) letters e) and h) of the Regulation of the Financial Supervisory Authority no. 4/2016, as amended by this Regulation, without paying the re-registration fee.

(2) In case of non-observance of the provisions of para. (1), the conciliators shall be removed from the Registry of Conciliators and shall be reimbursed the enrolment fee paid only if they have not settled any dispute until the entry into force of this Regulation.

Art. III. - This Regulation shall be published in the Official Gazette of Romania, Part I, and shall enter into force on the date of its publication

On behalf of the Chairman of the Financial Supervisory Authority,
Ovidiu Răzvan Wlassopol

Bucharest, September 22nd, 2017.

No. 9.