Financial Supervisory Authority

Regulation No. 14/2015

on the assessment and approval of the members of the management structure and of persons holding key functions in the entities regulated by the Financial Supervisory Authority

In force as of 1 January 2016

Published in the Official Journal of Romania, Part I, No. 975 of 29 December 2015.

In accordance with the provisions of Art. 2(1), Art. 3(1) Letter b), Art. 6(2) and Art. 28 of Government Emergency Ordinance No. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law No. 113/2013, as subsequently amended and supplemented,

on the basis of the provisions of Art. 179(4) of Law No. 237/2015 on the authorisation and supervision of the insurance and reinsurance business, of Art. 17 of Capital Market Law No. 297/2004, as subsequently amended and supplemented, Law No. 411/2004 on privately managed pension funds, republished, as subsequently amended and supplemented, Law No. 204/2006 on voluntary pensions, as subsequently amended and supplemented, Art. 14 of Government Emergency Ordinance No. 32/2012 on undertakings for collective investment in transferable securities and investment management companies, and amending and supplementing Capital Market Law No. 297/2004, approved as subsequently amended by Law No. 10/2015, and Art. 1(6) and Art. 8(1) Letter b) of Law No. 74/2015 on alternative investment fund managers, as subsequently amended and supplemented,

for the consistent application of applicable sectoral regulations,

further to the deliberations held in the meeting of the Financial Supervisory Authority of 16 December 2015,

the Financial Supervisory Authority hereby issues this regulation:

Chapter I

General provisions

Art.1 – (1) This regulation lays down the criteria and procedures applicable by ASF and by the regulated entities for the assessment**,** approval/notification of the persons proposed to the management structures and to hold key functions in the entities regulated by the Financial Supervisory Authority, hereinafter referred to as ASF.

(2) The provisions of this regulation shall not apply to credit institutions, distribution agents of investment management companies, insurance brokers and private pension brokers.

(3) By way of exception from the provisions of Para (2), the credit institutions which are registered with ASF as intermediary shall subject to authorisation only the persons appointed to hold the internal control function.

Art.2 – (1) The terms, abbreviations and expressions used in this regulation, except for those referred to in Para (2), shall have the meanings specified in the specific legislation applicable to the sector of financial supervision provided for in Art. 2(1) Letters a)-c) of Government Emergency Ordinance No. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law No. 113/2013, as subsequently amended and supplemented, and the meanings set out in Para (2).

(2) For the purposes of this regulation, the terms and expressions below shall have the following meanings:

a) ***approval*** **–** means the issuance of an individual act for authorisation, endorsement or validation of an assessed person;

b) **professional competence and experience –** means a body of theoretical and practical knowledge, acquired by a person in the course of his/her business;

c) **conflict of interests –** means the situation or circumstances which may occur in the operational or decision-making process, where the direct or indirect personal interest of the personnel and members of the management structure/persons holding key functions within the entity is contrary to such entity's interest, so that it affects or could affect their independence and impartiality in making decisions, professional judgment or the timely and objective fulfilment of their duties, or likely to affect, by nature, the financial market stability or integrity;

d) **board –** means the board of directors for the monistic administration system, and the supervisory board for the two-tier administration system;

e) **executive/higher management –** means the persons who, according to the instruments of incorporation and/or resolution of the statutory bodies of the

regulated entity, are empowered to manage and coordinate such entity's day-to-day business and are entrusted with the power to engage the liability of the company, i.e. the managers appointed by the board of directors, for the monistic administration system, or the executive board appointed by the supervisory board, for the two-tier administration system; the persons who direct the compartments and secondary offices of the regulated entity shall not be included in this category;

f) **financial and banking field –** means the banking market and non-banking financial markets supervised by the National Bank of Romania or ASF, or by equivalent competent authorities of other EU Member States or members of the European Economic Area, or third countries;

g) **regulated entity –** means the company authorised, regulated and supervised by ASF which carries out the activities and transactions referred to in the legislation specific to the sector of financial supervision;

h) **persons holding key functions –** means the persons whose duties have a significant influence on the achievement of the strategic objectives of the regulated entity, who are not members of the management structure and who fulfil the following tasks within the regulated entity in accordance with the legislation specific to the sector of financial supervision, as appropriate:

   (i) risk assessment and management (risk management);

   (ii) internal control/compliance;

   (iii) internal audit;

   (iv) investment manager, within private pension fund managers;

   (v) actuary.

i) ***assessed person*** – means the person proposed by a regulated entity to a function within the management structure or to hold key functions;

j) ***sector of financial supervision*** – means any of the three sectors of activity supervised by ASF, i.e. the financial investment and instruments sector, insurance-reinsurance sector, private pension system sector;

k) ***management structure*** – means the members of the board and the executive management/higher management.

(3) The internal control/compliance function may also include the compliance officers or persons appointed for the application of Law No. 656/2002 for the prevention and sanctioning of money laundering, and taking measures to prevent and combat terrorist financing, republished, as subsequently amended, and of Government Emergency

Ordinance No. 202/2008 on the enforcement of international sanctions, approved as amended by Law No. 217/2009, as subsequently amended and supplemented.

Art. 3 – (1) The following shall be subject to approval by ASF:

a) the members of the management structures within the regulated entities;

b) the persons holding key functions referred to in Art. 2(2), Letter h), Points (i), (ii) and (iv), except for those holding critical functions and the key functions referred to in Art.1(2) Point 18 and Art. 26(1) Letter f) of Law No. 237/2015 on the authorisation and supervision of the insurance and reinsurance business.

(2) The regulated entities shall inform ASF, at least 15 days before taking up their duties, after the management structure has verified and acknowledged the fulfilment by the concerned persons of the conditions set out in this regulation and of the legal provisions, of the persons holding the following functions:

a) the key functions referred to in Art. 2(2), Letter h), Points (iii) and (v);

b) the persons referred to in Art. 2(3);

c) the critical and key functions referred to in Art. 1(2) Point 18 and Art. 26(1) Letter f) of Law No. 237/2015.

(3) The notification referred to in Para (2) shall be sent in accordance with Annexe No. 2 and accompanied by the questionnaire laid down in Annexe No. 1, filled in by the person proposed to exercise the key/critical function.

(4) The documents proving the fulfilment by the persons referred to in Para (2) of the conditions set out in this regulation shall be kept at the premises of the regulated entity at least 5 years after the termination of the employment/contractual relationships with such entity. They shall be made available for verification purposes, at ASF's request or whenever necessary.

(5) Where the duties specific to key functions are exercised by distinct organisational structures, the regulated entities shall ask for the approval or, as appropriate, shall inform ASF for/of every person appointed to perform the management thereof.

(6) Where the law applicable to the regulated entity enables outsourcing certain key functions, it shall be carried out in compliance with the conditions laid down in that legislation; the notification referred to in Para (3) shall comprise the data and information relating to the natural person who will effectively exercise the duties and shall be accompanied by a copy of the contract concluded between the regulated entity and the natural/legal person assuming those duties.

(7) The regulated entity may not be exempted from liability and its liability cannot be limited by entrusting the duties and obligations specific to a key function to another entity, a natural or legal person, on penalty of nullity of the legal acts in question.

Chapter II

Requirements and criteria on the assessment of the suitability of the assessed persons

Art. 4 – (1) ASF shall establish the suitability of the assessed persons in the following situations:

a) in the case of a request for authorisation by the regulated entity;

b) in the case of a request for approval of a person in the course of business;

c) within the supervisory process of the regulated entity.

(2) The management structure must, in accordance with the legal and statutory provisions, verify compliance with the requirements provided for in this regulation and assess in advance the suitability of the persons for whom approval is requested or notified to ASF.

(3) The regulated entity shall establish adequate policies and procedures for the assessment of the prior and continuous suitability of the assessed persons in accordance with the provisions of this regulation and of the sectoral legislation in force.

(4) The regulated entity, through its management structure, must ensure that the assessed person does not represent a potential risk for the entity, making it vulnerable, taking into account at least the following:

a) whether such person has sufficient experience, relevant for the duties specific to the function;

b) whether such person has any criminal records of the type of those referred to in Art. 7(2);

c) any activities previously sanctioned by a competent authority;

d) any reasonable indications on the possibility of affiliation to a certain group of interests or the risk of being subjected to unjustified influence from outside the entity, situations that might affect his correctness, independence or impartiality in making decisions;

e) any reasonable indications leading to any doubts relating to his integrity, good repute or professional behaviour.

(5) The regulated entity must forthwith inform ASF of any situations arising after the approval/notification and leading to the failure by the assessed persons to meet the requirements laid down in this regulation.

(6) Failure to comply with the obligation to verify whether the persons designated to exercise key functions as referred to in Art. 3(2) meet the requirements of this regulation shall constitute grounds for reassessing the members of the management structure liable for the failure to fulfil such obligation.

Art. 5 – In order to ensure a sound and prudent management of the regulated entity, the assessed persons shall meet and preserve, throughout their activity, the requirements laid down in this regulation referring to:

a) professional competence and experience;

b) integrity and good repute;

c) governance.

Art. 6 – (1) In order to assess the professional competence and experience corresponding to the position concerned, account shall be taken of the following:

a) theoretical knowledge obtained on the basis of studies and vocational training;

b) seniority and practical experience gained from previous relevant occupations;

c) extent of competence, responsibilities, related risks and, where relevant, ability to make decisions considering previous functions and the intended function;

d) managerial skills, considering the number of employees, where applicable;

e) other relevant aspects.

(2) In order to ensure a prudent, sound and efficient management of the regulated entity, the members of the management structure must be higher education graduates attested by examination or diploma, must meet the general requirements laid down in Company Law No. 31/1990, republished, as subsequently amended and supplemented, and must have experience corresponding to the nature, scale and complexity of the business of the regulated entity and assigned responsibilities.

(3) The persons appointed to provide the executive/higher management must have at least 5 years of relevant experience, unless otherwise provided by law, in the financial and banking field or in the specialist field, as well as adequate theoretical and practical knowledge on the activities to be coordinated within the regulated entity.

(4) The persons holding key functions within the regulated entity must have at least 3 years of experience corresponding to the duties which they shall carry out and, where relevant, if the sectoral legislation so provides, shall have completed vocational traineeships or shall have passed the test on the knowledge of the legislation in force specific to the field of activity of the sector of financial supervision, organised by vocational training providers pursuing business on the three financial markets under the supervision of ASF.

(5) In the event that none of the members of the executive management proposed for approval is a Romanian citizen, they shall submit documents which show that at least one of them knows the Romanian language, or failing that, the Romanian language control shall take place within the interview referred to in Art. 9(2).

Art. 7– (1) Unless there are objective and demonstrable grounds raising reasonable doubts for the last 10 years of activity, it shall be deemed that the assessed person meets the good repute and integrity requirements.

(2) The repute and integrity of the assessed person, set out in Para (1), are being questioned where there is information, not limited to it, on the existence of any of the following situations:

a) criminal proceedings or conviction in cases referring to:

   (i) crimes provided for in the financial and banking legislation, including crimes set out by the legislation on money laundering and terrorist financing;

   (ii) property crimes or other crimes specific to the economic/financial field;

   (iii) crimes provided for in the fiscal legislation;

   (iv) other crimes provided for in the company law, bankruptcy, insolvency legislation and that on consumer protection.

b) past or ongoing relevant administrative investigations or enquiries, actions for enforcement of the law or imposition of administrative sanctions for breach of the provisions applicable to the activities governed by the financial and banking legislation;

c) past or ongoing relevant enquiries, actions for enforcement of the law taken by other regulatory or vocational bodies;

d) professional misconduct raising reasonable doubts regarding that person's ability to exercise his/her job duties, to ensure a sound and prudent management of the regulated entity.

(3) In applying Para (2) Letter d), the following aspects are relevant:

a) the assessed person was not transparent, open and cooperative in his/her relations with the regulatory authorities;

b) the rejection, revocation, withdrawal or termination of a registration, approval, membership or license for an activity or profession, or the exclusion or prohibition from carrying out activities in a field, by a regulator;

c) the financial and professional results of the entities owned or managed by the person subject to assessment or in which that person held a majority interest,

taking into account in particular the reorganisation, bankruptcy and involuntary liquidation proceedings and, where appropriate, in what way the person concerned contributed to the situation that led to those proceedings;

d) the declaration of personal bankruptcy, where appropriate;

e) any reasonable indications that the assessed person is affiliated to a certain group of interests or the risk of being subjected to influence from outside the entity, which affected the previous professional activity, affects or might affect the correctness, independence or impartiality of decisions.

Art. **8 –** The assessment of whether the governance requirement referred to in Art. 5 Letter c) is met refers to:

a) the existence of a possible conflict of interests, as defined in Art. 2(2) Letter c);

b) any restrictions and incompatibilities between the assessed function and the positions held within the same entity or within other entities, as they are defined in the specific sectoral legislation;

c) the ability to actually carry out the activity and allocate the time necessary therefor;

d) the assessed person's ability to fulfil his/her duties independently, and any relevant aspects ensuing from the analysis of the information obtained, referring to:

(i) the activities carried out when holding past and current functions within regulated entities or within other entities;

(ii) any personal, professional relations or other economic relations with members of the management structure within the same regulated entities, the parent company or from other entities of the group to which the regulated entity belongs;

(iii) any personal, professional relations or other economic relations with the shareholders controlling the regulated entity, parent company or other group entities.

e) the overall composition of the management structure, the collective knowledge and experience necessary for the good functioning of the regulated entity, where applicable.

Chapter III

Procedure for the assessment and approval of assessed persons

Art. 9 – (1) For each of the assessed persons appointed to the management structure or to exercise key functions, the regulated entity shall submit to ASF the request

assumed and signed by the legal representative, accompanied by the following documentation:

a) copy of the identity card, certified by the ID holder's handwritten signature as a true copy of the original;

b) curriculum vitae, signed and dated, Europass format; where relevant, the supervisory authority of the entities within which the person concerned worked shall be indicated;

c) copy of diplomas and other relevant certificates;

d) questionnaire set out in Annexe No. 1, filled in and signed by the assessed person;

e) statement under own responsibility showing that the person concerned complies with the legal provisions in force concerning the activity to be carried out, that he/she is not in any of the situations of incompatibility set out by the legislation in force and, if the person concerned is in any such situation, then such situation shall be eliminated, within 30 days of the communication of his/her approval by ASF, submitting, upon expiry of the deadline, the supporting documents revealing that the situation of incompatibility ended;

f) valid criminal and tax offense record certificate or any other equivalent document issued by the competent authorities of the country where such person is domiciled and/or resident; for persons who have established their place of residence in Romania for less than 3 years, the criminal or tax offense record certificate or other equivalent document issued by the competent authorities of the last country where they domiciled/had their place of residence shall be also submitted;

g) statement under own responsibility of the assessed person concerning any incidents in the last 10 years, likely to tarnish their repute and integrity;

h) supporting document proving the payment of the fee/tariff set out in ASF Regulation No. 16/2014 on the Financial Supervisory Authority's revenues.

(2) Interviews shall be conducted where the regulated entity in which the assessed person is proposed falls within any of the following categories or situations:

a) it is an insurance-reinsurance undertaking, private pension fund manager, market operator/system operator, central depository, central counterparty;

b) it is a regulated entity within which the activities performed have a particular impact in terms of risk management or pose such importance so that any difficulty or failure in performing them could have a significant negative effect on the entity's ability to meet its legal obligations or to continue its activity.

(3) ASF may request additional information and documents, including by conducting interviews with the assessed persons, whenever deemed necessary.

(4) ASF shall, in the interview referred to in Para (2), request the assessed person to describe the activity to be undertaken, his/her relevant professional experience obtained from previous work, including the measures taken to solve special situations, the level of knowledge of specific legislation and proposed measures for the achievement of the objectives contained in the business/activity plan of the regulated entity, as appropriate.

(5) The assessed persons shall prove, where appropriate, with appropriate documents that the information provided is accurate and complete.

(6) The provisions of Para (5) shall be without prejudice to the right of ASF to verify the information and claims of the assessed persons, by requesting documents to prove that those declared are true to the reality, and/or by obtaining an acknowledgement from other national authorities or authorities of other states, where appropriate.

Art. 10 – (1) The request submitted for the approval of a person who has been previously assessed and approved by ASF for a position in the management structure or for a key function within a regulated entity, signed by the legal representative, shall be accompanied by:

a) a copy of the individual approval act issued by ASF;

b) the statement under own responsibility of the person subject to approval confirming that the information contained in the documents submitted upon first approval retains its validity or, where necessary, updated/supplemented documents, relevant to the position concerned;

c) the supporting document proving the payment of the fee/tariff set out in ASF Regulation No. 16/2014;

d) any other documents and information which ASF considers to be relevant to the position concerned.

(2) In the case of the persons referred to in Para (1), where the documents previously sent are older than 3 years, the approval documentation shall be submitted in accordance with Art. 9(1).

(3) All companies authorised to carry out activities corresponding to several sectors of financial supervision, thus falling within several categories of regulated entities, shall ensure compliance with Paras (4) - (6).

(4) In the case of members of the management structure, the entities referred to in Para (3) shall submit, for approval, a single application and one set of documents attesting to the fulfilment of the conditions specific to each category of regulated entity.

(5) The persons proposed to exercise the key functions referred to in Points (i) and (ii) of Letter h) of Art. 2(2) shall be approved separately for each field of activity of the regulated entity.

(6) The withdrawal of the approval given to the person of the management structure by any sector of financial supervision shall entail the termination of the approval granted to such person by the other sectors of the financial supervision.

Art. 11 – (1) ASF shall check, for each person proposed to exercise responsibilities within the management structure or duties corresponding to certain key functions, whether the eligibility requirements and the criteria laid down in the specific legislation applicable also to this regulation are met, taking into account the information from the documents submitted, from the interview, if applicable, or from any other available sources.

(2) ASF shall decide on the approval/rejection of the request no later than 30 days from the date of submission of the complete documentation, which may be extended by 30 days if the provisions of Art. 9(2), (3) or (6) apply.

(3) ASF shall reject the request for the approval of the person proposed to exercise responsibilities within the management structure or duties corresponding to certain key functions within a regulated entity if there are objective and demonstrable grounds for considering that the assessed person does not meet the requirements and criteria laid down in the specific legislation applicable also to this regulation or, where appropriate, if it is not satisfied that the assessed person can ensure the management of the activity and the exercise of the duties corresponding to the key functions in a correct, prudent and effective manner.

(4) The decision approving or rejecting the request, written and reasoned, shall be notified to the requesting regulated entity and may be contested with ASF within 30 days from the communication date, and challenged with the Bucharest Court of Appeal, Administrative-Fiscal and Dispute Section, in accordance with the provisions of the legislation in force.

Art. 12 – (1) ASF may request the replacement of the person notified by a regulated entity in accordance with Art. 3(2) if it considers that the notified person does not meet the criteria required to exercise the duties of those functions.

(2) Where, as part of the process for continuous monitoring and supervision, it is found that there are aspects which, by their nature, would lead to the non-compliance of the initial assessment requirements in relation to a particular person approved, ASF may order that the approval granted be withdrawn.

(3) Where there are reasonable indications concerning the defective fulfilment of the duties by the persons in the management structure, and by the persons holding key

functions within the regulated entities, ASF may proceed to their re-assessment and order the measures provided for in the applicable legislation, including the withdrawal of the approval.

Art. 13. – (1) ASF may withdraw the approval of the person assessed under the following conditions:

a) at the request of the regulated entity;

b) if the approval has been obtained on the basis of false or misleading information or documents;

c) where the conditions considered upon the approval are no longer met;

d) as penalty.

(2) The regulated entity must request ASF to withdraw the approval of the persons assessed not later than the date of termination or change of the employment relationships.

(3) The withdrawal on request of the approval of the persons assessed shall be decided by ASF within 15 days from the date of submission of the request accompanied by an explanation of the reasons which have led to this request, by supporting documents concerning the date of termination or change of the employment relationships and by the proof of payment of the fee for the withdrawal of the authorisation into ASF's account.

Chapter IV

Transitional and final provisions

Art. 14 – (1) The individual acts issued before the entry into force of this regulation for the approval of the members of the management structure and persons holding key functions within regulated entities shall remain valid.

(2) The requests for approval submitted to ASF and pending settlement upon the entry into force of this regulation, shall be settled by ASF in accordance with the provisions in force on the date of their submission.

(3) Within 180 days after the entry into force of thuis regulation, the members of the management structure and the persons holding key-functions must be in line with the provisions of this regulation.

(4) The policies and procedures referred to in Art. 4(3) shall be prepared or supplemented, or amended, as appropriate, by the regulated entities, within 90 days from the entry into force of this regulation.

(5) The regulated entities must, prior to the expiry of the deadline referred to in Para (3), assess whether the requirements referred to in Art. 5 Letters a), b) and c) are met by the members of the management structure/persons holding key functions and, as appropriate, send ASF requests for the approval, amendment and/or notifications, in order to comply with the provisions of this regulation.

Art. 15 – (1) The documents and information referred to in this regulation shall be transmitted in the Romanian language, and the documents issued in a foreign language shall be submitted in certified copy, together with their legalised translation.

(2) The request for approval shall be accompanied by the documentation submitted in one copy, filed and paginated, accompanied by a list of documents.

Art. 16 – Failure to comply with the provisions of this regulation shall be sanctioned in accordance with the specific legislation.

Art. 17 – The provisions of this regulation shall be supplemented by the provisions of the specific regulations applicable to the regulated entity, as appropriate, in so far as they do not contravene the provisions of this regulation.

Art. 18. – (1) The following shall be repealed with effect from the entry into force of this regulation:

a) Art. 7 Letter d) and Art. 22 Letters a) - e) of Regulation No. 13/2005 on the authorisation and functioning of the central depository, clearing houses and central counterparties, approved by NSC Order No. 60/2005, published in the Official Journal of Romania, Part I, Nos. 983 and 983 bis of 4 November 2005, as subsequently amended and supplemented;

b) Art. 19 Letters a) - e) and Art. 20 of Regulation No. 2/2006 on regulated markets and alternative trading systems, approved by NSC Order No. 15/2006, published in the Official Journal of Romania, Part I, No. 228 of 14 March 2006, as subsequently amended and supplemented;

c) Art. 8(3) and (4) and Art. 11(1) Letter e) of Regulation No. 3/2006 on the authorisation, organisation and operation of the Investor Compensation Fund, approved by NSC Order No. 12/2006, published in the Official Journal of Romania, Part I, No. 124 of 9 February 2006, as subsequently amended;

d) Art. 6(3) Letters b), c) and c1), Art. 7(1) Letter d), Art. 71 Letters b), d) and e), Art. 72(1), Art. 73, Art. 81(1) and (3), Art. 83, Annexe 1C and Annexe 1D of Regulation No. 32/2006 regarding financial investment services, approved by NSC Order No. 121/2006, published in the Official Journal of Romania, Part I, Nos. 103 and 103 bis of 12 February 2007, as subsequently amended and supplemented;

e) Art. 8 Letters a) - e) and h), Art. 9(1) Letters b), e) and f) and Art. 11 of NSC Regulation No. 4/2010 on the registration with the National Securities Commission and

operation of “Fondul Proprietatea” - SA, and trading the shares issued by it, published in the Official Journal of Romania, Part I, No. 161 of 12 March 2010, as subsequently amended and supplemented;

f) Art. 4(2) Letter f), Art. 13(7) Letters b), f), g) and h), Paras (8), (10) - (12) and Art. 17(4) Letters a) - e) of Regulation No. 3/2013 on the authorisation and operation of central counterparties issued in accordance with the provisions of Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, approved by Resolution No. 28/2013 of the Financial Supervisory Authority’s Board, published in the Official Journal of Romania, Part I, No. 552 of 30 August 2013, as subsequently amended and supplemented;

g) Art. 23(1) Letter d) Points 1 and 3 -7, Art. 24(1) Letter d) Points 1-7, Art. 36 Letters b), e) and f), Art. 37(1) Letters a) -e) and h), Art. 38 and Art. 39(1) of ASF Regulation No. 9/2014 on the authorisation and operation of investment management companies, undertakings for collective investment in transferable securities and of depositories of undertakings for collective investment in transferable securities, published in the Official Journal of Romania, Part I, Nos. 436 and 436 bis of 16 June 2014, as subsequently amended;

h) the provisions of Art. 8(1) Letters a), b), d) - g), Para (2) Letters a), c) - g), Para (3), Art. 13(1) Letters b), e), f), Para (2) Letters a) - e) and g) and Para (10) Letters a) - d) and g) of ASF Regulation No. 10/2015 on the alternative investment fund management, published in the Official Journal of Romania, Part I, No. 562 of 28 July 2015;

i) Executive Order No. 10/2005*;

j) Art. 4 Letters b), f) and g), Arts. 5 and 6 of Executive Order No. 11/2012*;

k) Art. 1(9) Letters b), f) and g) and Paras (10) and (12)-(15) of Executive Order No. 27/2012*;

l) the provisions of Art. 5 of Executive Order No. 6/2013*;

* Executive Order No. 10/2005, Executive Order No. 11/2012, Executive Order No. 27/2012 and Executive Order No. 6/2013 have not been published in the Official Journal of Romania, Part I.

m) Order No. 16/2012 of the President of the Insurance Supervisory Commission for the enforcement of the Rules on the authorisation and operation of insurers, published in the Official Journal of Romania, Part I, No. 631 of 3 September 2012, as subsequently amended and supplemented;

n) Art. 12, Art. 29(1), Art. 30(2) and (3), Art. 34(1), Art. 35(2) and(3) of Rule No. 12/2010 on the authorisation of formation of pension companies and authorisation of management of privately managed pension funds, approved by Resolution No. 22/2010

of the Private Pension System Supervisory Commission, published in the Official Journal of Romania, Part I, No. 691 of 14 October 2010, as subsequently amended and supplemented;

o) the provisions of Art. 13, Art. 31(1) Letters a) - g), j), k) and o), Art. 32(2) and (3), Art. 36(1) Letters a) - f) and Art. 37(2) and (3) of Rule No. 13/2010 on the authorisation of formation of pension companies and authorisation of management of voluntary pension funds, approved by Resolution No. 23/2010 of the Private Pension System Supervisory Commission, published in the Official Journal of Romania, Part I, No. 691 of 14 October 2010, as subsequently amended and supplemented;

p) any other provisions to the contrary.

(2) Whenever reference in legislative acts is made to the repealed provisions under Para (1), then reference shall be deemed to be made to the revisions of this regulation.

President of the Financial Supervisory Authority,

Mişu Negriţoiu

Bucharest, 17 December 2015.

No. 14

ANNEXE NO. 1

QUESTIONNAIRE[1]

for the members of the management structure and persons holding key functions within regulated entities

No.	Subject/Question	Answer		Explanations		
		YES	NO			
1	Regulated entity			Name	Registered office	Type of entity
2	Identity of the candidate (Foreign persons shall also add the date as of which they shall have/had their domicile/residence in Romania.)			Surname and first name		
				CNP		
				Series and number of the identity card, issuer and date of issuance		
				Date and place of birth		
				Citizenship		
				Domicile and/or residence		
3	Function proposed (For persons with managerial duties, add the list of activities to be coordinated.)			Description of the duties and responsibilities		
4	Vocational training and relevant experience					
5	Shareholder or associate in the last 10 years			1. Individual holdings[1]		
				Name and activity of the entity	Participation share (%)	
				2. Holdings together with other persons involved or with close links [2]		
				Name and activity of the entity	Participation share (%)	

[1] Provide the holdings accounting for at least 1% of the voting rights; in the case of the companies admitted to trading, provide the holdings accounting for at least 5% of the voting rights

6	Administration or managerial responsibilities in the last 10 years other than those indicated in the CV			Name and activity of the entity	Function	Period	Responsibilities	Results
7	Business relationships with the regulated entity							
8	Assessments carried out in the last 10 years by other authorities of Romania or another state			Name of the authority		Result of the assessment (supported by documents)		
9	Conflicts with financial-banking supervisory authorities of Romania or other states, refusal of approval or sanctions of the financial-banking supervisory authorities of Romania or other states, in the last 10 years			Provide details:				
				1. Type of sanction and period of time necessary to regain reliability				
10	Sanctions imposed as a result of professional, disciplinary, administrative or judicial enquiry, investigation or procedure in the last 10 years in Romania or another state (Information shall be also provided although reliability has been regained.)			Sanctioning authority	Sanctioned deed	Sanction		Date of sanction
11	Details of disciplinary sanctions in a function or position as director, fiduciary relation or similar relation - dismissal or cessation/revocation of mandate			Object of sanction		Sanction		Date of sanction
12	Major financial difficulties, financial deadlocks, enforcement procedures, judicial or extrajudicial proceedings pending settlement or settled			Please provide the aspects supplied as follows:				
13	Do you have, or intend to acquire in the next 12 months, any holding in the capital of the regulated entity referred to in Point 1?							

14	Are you in any manner whatsoever financially indebted to the regulated entity, including to the entities of the same group, to its shareholders, directors or members of the management structure - details, including the issuance of collateral, mortgage or other financially measured instruments								
15	Please communicate any additional information which may be deemed relevant to assess your qualification, professional experience and good repute								

[1] Provide the holdings accounting for at least 1% of the voting rights; in the case of the companies admitted to trading, provide the holdings accounting for at least 5% of the voting rights.

[2] Idem Point 1.

I, the undersigned ……, in awareness of the provisions of Art. 326 of the Criminal Code regarding false statements, hereby declare under my own responsibility that all answers are correct, complete and true to the reality, that I meet the legal requirements for the.....function and that there are no other relevant facts of which ASF should be informed. I also undertake to inform ASF of all modifications of the information provided.

Signature

. . . . . .

Date

. . . . . .

NOTE:

ASF shall keep the confidentiality of the information comprised herein, unless otherwise provided by law.

ANNEXE NO. 2

Notification Form

I. Contact data

Name of the regulated entity	RON Code and Unique Identification Code					
		Contact Person				
		First name	Surname	Function	Telephone number	Email address

II. Notified elements, as appropriate
Information on previous notifications

Date	Notification number	Sector

III. Description of notified duties

Date of assignment of duties	Key-function or person appointed/Compliance officer for the application of Law No. 656/2002 and Government Emergency Ordinance No. 202/2008	Duties and responsibilities of the person	Other information deemed relevant for assessment by the company

IV. Information on the notified person

Surname and first name	
Former names	
Nationality	
Personal identification code (CNP)	
Date of birth	
Place of birth	
Domicile/Personal address	
Telephone number	

Information on the previous assessment or notification process, carried out by a supervisory authority in the EEA financial sector	Add: a) the name of the authority; b) the Member State; c) the date.
Information on previous jobs, duties qualified as member of the management:	Add: a) the name and RON code or Unique Identification Code; b) the nature and scope of operations; c) the registered office of the entity; d) the duties.
Description of the level of knowledge, competence and experience of the person to whom duties are assigned	Add also: a) the knowledge and skills (higher education, courses, diplomas and certificates); b) relevant professional experience.
Detailed information on potential conflicts of interest, where appropriate, describing the circumstances, and a statement on the manner in which the notified person intends to manage the same	
Qualified holdings and other forms of significant influence within the company	
Other entities where the notified person holds a direct or indirect qualifying holding	Add: a) the name and RON code or Unique Identification Code; b) the nature and scope of operations; c) the registered office of the entity; d) the participation (as percentage).
Close relatives with qualifying holdings in the company or in any other entity with qualifying holdings in the company	
Convictions of national courts or courts of other States in the last 10 years, explaining the circumstances, where appropriate	
Proceedings pending before the courts of law	
Capacity as member of a board of directors of an entity, for which such member has not been discharged of liability	
Dismissal by a financial institution or entity or removal from the office of member of the management or key-function by another entity	
Involvement in a bankruptcy or similar proceedings in other states	
Rejection of a request for approval, exclusion or limitation in other ways of the right to manage operations or pursue professional activities requiring authorisation, registration or similar requirements from an authority, organisation or body	
Supervisory sanctions imposed on the notified person or on entity where such person held a key function	
Other information relevant for assessment	

V. Statements

The statement signed by the legal representative of the company according to which:

a) the assessment has been carried out to ensure compliance with the legal provisions and internal policies concerning the professional competence and moral integrity, and according to which the notified person is suitable for the assigned duties;

b) the information provided in the notification is accurate and complete: date, print name and signature