

**RULE no. 38/2015**  
**on the technical reserves established for the insurance business, their  
calculation manner for the purposes of preparing annual financial statements and  
the special register of assets it covers**

*in force as at 1 January 2016*  
*Published in the Official Journal, Part I, no. 981 dated 30 December 2015.*

*Further to deliberations held in the meeting of the Financial Supervisory Authority's Board dated 23 December 2015,*

*In line with the provisions of Art. 2 par. (1) sub-par. b), Art. 3 par. (1) sub-par. b) and Art. 6 par. (2) of the Government Emergency Ordinance no. 93/2012 on the establishment, organization and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law no. 113/2013, as subsequently amended and supplemented,*

*Based upon the provisions of Art. 173 par. (1) sub-pars. i), j) and t) and of Art. 179 par. (4) of Law no. 237/2015 on the authorization and supervision of the business of insurance and reinsurance,*

The Financial Supervisory Authority hereby issues this rule.

**ARTICLE 1**

Subject matter and scope

**(1)** This rule regulates the types of technical reserves established for the business of non-life insurance, respectively life insurance, as well as their calculation manner for the purposes of recording them in the accounting records and preparing the annual financial statements.

**(2)** This rule applies:

- a)** To companies provided under Art. 1 par. (1) sub-par. a) of Law no. 237/2015 on the authorization and supervision of the business of insurance and reinsurance, hereinafter referred to as companies;
  - b)** To branches established on the Romanian territory by companies in third party states, under the conditions provided by part I title I chapter X of Law no. 237/2015;
  - c)** To branches established on the Romanian territory by companies licensed in other member states, as per provisions of Arts. 111 and 112 of Law no. 237/2015.
- (2)** For the purposes of this rule, references to companies shall be read as all entities set out under par. (2), unless otherwise provided.

## **ARTICLE 2**

### General provisions

- (1)** The amount of the technical reserves established, kept and registered in the accounting records by companies may not be less than the amount obtained by calculating such reserves as per the provisions of this rule.
- (2)** The technical reserves shall be highlighted in accounting differently, by each insurance category, i.e. non-life insurance and life insurance and according to the types of reserves set out by this rule; company's technical-operational records allow at the same time to identify the types of technical reserves pertaining to each insurance class within the two insurance categories mentioned, for which the company is licensed to underwrite.
- (3)** If the insurance contract provides the collection of premiums and payment of compensations into foreign currency, the related technical reserves are established and kept in a foreign currency; calculation of the premium reserve is made into the foreign currency in which the insurance contract was subscribed, and the reported claims reserve is calculated in the foreign currency in which the compensation is to be paid.
- (4)** For the purposes of enforcing this rule's provisions, gross premiums written relating to an insurance contract shall be determined as follows:
  - a)** The gross premium written for contracts concluded for one year or less is the amount of gross premiums earned and to be earned relating to the contract;
  - b)** The gross premium written for contracts concluded for more than one year shall be determined as follows:
    - (i)** For contracts where a single premium is collected, the gross premium written is the amount of the single gross premium relating to the contract;
    - (ii)** For contracts where the insurance premium owed by the underwriter is collected by instalments, the gross premium written is the amount of

- gross premiums earned and to be earned relating to a calendar year of the contract;
- (iii) For life insurance and annuities related to investment funds, the gross premium written is the due gross premium.
- (5) Sums transferred to technical reserves represent obligations of companies and are deducted from their income to determine profit.

### **ARTICLE 3**

#### Types of reserves

- (1) Companies shall establish, keep and record in their accounting the following types of reserves relating to the obligations undertaken by the non-life insurance, respectively life insurance contracts concluded:
- a) premiums reserve;
  - b) Registered claims reserve;
  - c) Unregistered claims reserve;
  - d) Unexpired risks reserve;
  - e) Profit and return participation reserve.
- (2) In addition to the technical reserves provided under par. (1), companies shall establish the following technical reserves:
- a) Non-life-insurance operations- catastrophe reserve;
  - b) Life insurance operations- reserves provided under Arts. 10-12.

### **ARTICLE 4**

#### Premium reserves

- (1) The technical reserve provided under Art. 3 par. (1) sub-par. a) is calculated monthly by summing up the shares in the gross premiums written, relating to the unexpired periods of the insurance contracts, as such that the difference between the volume of gross premiums written and this reserve reflects the gross premiums assigned to the part of the expired risks in the calculation date.
- (2) The premium reserve is calculated separately for every insurance contract, and the total premium reserve established shall be obtained by summing up the amounts calculated for each contract.
- (2) Determination of the premium reserve pertaining to an insurance contract is made using actuarial methods.
- 01/01/2016 – Derogation in Rule 38/2015.*
- (3) By way of exception to the provisions of par. (3), the non-life insurance contracts whose risk insured is distributed evenly and linearly for the term of

their carry out, the premium reserve pertaining to the contract is determined as follows:

$$R_p = (X: Y) \times P_{bs},$$

where:

X – number of days corresponding to the unexpired period, relating to the gross premium written;

Y – number of days corresponding to the period relating to the gross premium written;

P<sub>bs</sub> – amount of gross premium written.

**(4)** The total amount of the R<sub>pt</sub>. Premium reserve relating to all the insurance contracts, is determined as follows:

$$R_{pt} = \sum_{i=1}^n R_{pi}$$

Where:

n – number of contracts in force;

R<sub>pi</sub> – premiums reserves relating to the contract i.

## **ARTICLE 5**

### **Registered claims reserve**

**(1)** The technical reserve provided under Art. 3 par. (1) sub-par. b) is established and updated monthly, based on the estimates for registered claims received by the company, as such that the fund created is enough to cover payment for such claims.

**(2)** The registered claims reserve is established for registered claims and pending settlement for every insurance contract for which an insured event has been notified, starting from the predictable expenses to be incurred in the future to settle such claims.

- (3) If the insurance compensation/indemnity shall be paid as annuities, the registered claims reserve shall be calculated using actuarial methods.
- (4) The total amount of the registered claims reserve to be established is determined by summing up the amounts of the reserve calculated for every insurance contract.
- (5) Where calculating the registered claims reserve, the estimated amount of compensations due for the registered claim shall be included, along with the costs relating to the ascertainment and assessment of damages, i.e. damage settlement costs, relating to the services rendered by third parties, such as: costs for technical expertise, court fees and others of this kind.
- (6) Where there are compensation claims subject to an action to court, the registered claims reserve shall be established and kept at the level of claims requested in court, under the limit of the sum insured, to which the estimated value of the total court fees shall be added.  
*01/01/2016 – Derogation in Rule 38/2015.*
- (7) By way of exception to the provisions of par. (6), for claims of compensations for material damage further to bodily injuries or death, the registered claims reserve shall be established based on the case law and company's practice, according to the internal procedures to calculate such reserve for such cases.
- (8) The internal procedures to calculate the registered claims reserve for material damage further to bodily injury or death, provided under par. (7) shall be approved by the company's management and notified to A.S.F 30 calendar days before their enforcement.
- (9) Companies shall draw up and keep distinct records of claims registered, to allow A.S.F. to control the amount and modality of the claims reserve's establishment at any time.

## **ARTICLE 6**

### **Unregistered claims reserve**

The technical reserve provided under Art. 3 par. (1) sub-par. c) shall be created and adjusted at least at the end of the financial year, if company's internal regulations do not provide otherwise. Calculation of the unregistered claims reserve shall be made based upon the company's estimates as to the claims amount for events occurred, but not yet registered or insufficiently registered. The calculation shall feature actuarial methods and statistical data for a representative period, as such that the unregistered claims reserve is sufficient to cover the claims occurred to be notified over the next financial years. When determining the unregistered claims reserve, recoveries by rights of subrogation or updating factors of future cash flows shall be disregarded.

## **ARTICLE 7**

### Unexpired risks reserve

- (1)** The unexpired risks reserve shall be calculated based on the estimates of claims to occur after the financial year is closed, where it is ascertained that the costs relating to claims estimated in the future exceed the premium reserves established less the procurement costs deferred and, as a consequence, during the future periods the amount of the premium reserve calculated in accordance with Art. 4 less the deferred procurement costs shall not suffice to cover the claims to arise over the following financial years. It is understood by costs relating to claims the estimated amount of the compensation owed, as well as expenses related to ascertainment and assessment of damage, respectively damage settlement costs relating to the services rendered by third parties, such as: costs for technical expertise, court fees and others of this kind.
- (2)** The reserve amount for unexpired risks  $R_n$  shall be determined as follows for non-life insurance contracts:

$$R_n = \text{Dest} - R_{pt},$$

Where:

Dest – amount of estimated claims to arise during future periods;  
Rpt – total amount of the premium reserve less deferred procurement charges.

- (3)** The unexpired risks reserve shall be determined depending on the insurance class.

## **ARTICLE 8**

### Profit and return participation reserve

- (1)** The technical reserve provided under Art. 3 par. (1) sub-par. e) shall be established for insurance contracts providing premium reductions if they are to be renewed, and/or premium refunds, if underwriters participate in the company's profit.
- (2)** The profit and return participation reserve shall also be established for life insurance contracts providing the contract beneficiary's right to participate in the benefits gained from the exploitation of the mathematical reserve, as per the obligations undertaken.

## **ARTICLE 9**

### Catastrophe reserve

- (1)** The technical reserve provided under Art. 3 par. (2) sub-par a) shall be created by companies holding insurance contracts covering the natural catastrophes risks by applying monthly a percentage of minimum 5% over the volume of gross premiums written, relating to these contracts until the reserve fund reaches at least the level of own withholding or 10% of the accumulation of responsibilities undertaken by the insurance contracts covering the natural catastrophes risks.
- (2)** To monitor how this reserve is calculated, companies shall keep separate records of the contracts covering natural catastrophes risks.

## **ARTICLE 10**

### Technical reserves specific to life insurance

The companies shall, in relation to the life insurance operations, establish the following specific technical reserves as well, in addition to those provided under

- a)** Mathematical reserve, which is determined at net value or using Zillmer's method; any negative mathematical reserve shall be reported and highlighted as equal to zero;
- b)** An additional technical reserve is calculated if the current or predictable yield of company's assets relating to life insurance operations is insufficient to fulfil the commitments undertaken toward the underwriters with regard to the interest rate;
- c)** Additional reserves for general risks that are not individualized;
- d)** Reserve for unassigned premiums, established for life insurance and annuities related to investment funds, which are established at the level of gross premiums written, but unassigned to the underwriter's account.

## **ARTICLE 11**

### Principles to determine the technical reserves amount for life insurance

The amount of technical reserves established for the life insurance operations, in accordance with the provisions of Art. 3 par. (1), Art. 10 and 12, shall be determined as per the following principles:

- a)** The amount of technical reserves for life insurance is calculated via a prospective actuarial assessment sufficiently prudent, to take account of all

future obligations determined by the insurance conditions for every existing insurance contract, including:

- (i)** All benefits guaranteed, including the redemption amounts guaranteed;
  - (ii)** Bonuses to which the insured, underwriters or beneficiaries are entitled either collectively or individually, irrespective of the type of bonuses acquired, declared or assigned;
  - (iii)** All options available for the insured, underwriters or beneficiaries based on contract terms;
  - (iv)** Costs, including commissions, from which the future premiums owed amount is deducted;
- b)** Allows the use of a retrospective method if it can be proven that technical reserves thus resulted are not lower than those that would have resulted based upon a prospective calculation sufficiently prudent or if a prospective method cannot be used for the type of contract concerned;
  - c)** A prudent assessment is not an “as per the best estimate” assessment, but includes an appropriate margin to the adverse variation of the factors with relevant influence;
  - d)** An assessment method for technical reserves should not only be prudent in itself, but it should also have regard to the assessment method for the assets covering the technical reserves concerned;
  - e)** Technical reserves are calculated separately for every contract; however, use of suitable generalizations or approximations is allowed if they produce roughly the same outcome as individual calculations; the principle of separate calculation does not prevent in any manner the establishment of additional reserves provided under Art. 10 sub-par. c);
  - f)** When the redemption value of an insurance contract is guaranteed, the amount of mathematical reserves for that insurance contract shall be upheld permanently at least at the level of the guaranteed value;
  - g)** The interest rate used is chosen carefully, depending upon the currency in which companies undertake their payment obligations within the insurance contract and it may not exceed the yield foreseen for the appropriate assets held by the company at that time, having regard to an adequate deduction; when company’s assets are assessed at their fair value, the company may relate to the anticipated yield of assets held at that time, as well as future assets;
  - h)** Statistical items for assessment and assignment of expenses to be selected carefully, having regard to the obligations undertaken, type of contract and administrative costs and commissions estimated to be paid;
  - i)** For insurance contracts with participation on the investment outcome, the technical reserves ‘calculation method’ may take account, either implicitly or explicitly, all types of future bonuses, in line with both future projections, and the current method of bonuses distribution;

- j) Assessment of future expenses may be made implicitly, for instance by using the future value of the premiums net of management taxes; however, general, implicit or explicit assessment, should be higher than or equal to a prudential estimate of future relevant costs;
- k) The technical reserves calculation method shall not be altered from one year to the other further to arbitrary amendments made to the method or bases for calculation and it shall allow for the recognition of benefits allocation adequately; also, the same method shall be used during a financial year.

## **ARTICLE 12**

### Life insurance and annuities not related to investment funds

- (1) When the benefits offered by an insurance contract are directly connected to the amount of facilities within an undertaking for collective investment in transferable securities or to the value of assets contained in an internal fund held by the company, usually divided into units, the technical reserves concerning the respective benefits must be represented as accurately as possible by these units or, if new units are set up, by the respective assets.
- (2) Where the benefits offered by an insurance contract are not directly related to an index in shares or of different reference value, others than those mentioned under par. (1), the technical reserves concerning the respective benefits should be represented as accurately as possible by the units which must represent the reference value or, if new units are set up, by the assets presenting the guarantee and adequate marketability corresponding as accurately as possible to those on which the specific reference value is based on.
- (3) Where benefits mentioned under pars. (1) and (2) include a guarantee of investments yield or over benefits guaranteed, the additional corresponding technical reserves fall under the provisions of Arts. 2-8 and Art. 10 and 11.

## **ARTICLE 13**

### Special register for assets covering gross technical reserves

- (1) Companies shall prepare and keep at their headquarters and shall permanently update a special register for assets covering gross technical reserves, hereinafter referred to as Register, by complying with the provisions of this article.
- (2) Companies carrying out non-life insurance operations and life insurance shall draw up, keep and permanently update a register for each of the two insurance categories.

- (3)** Registers shall be drawn-up under the formats provided under annexes 1 and 2, which are integral part to this rule, shall be organized by sections, depending upon the type of assets covering gross technical reserves and shall be kept on an electronic support.
- (4)** The special register of assets covering gross technical reserves established for life insurance, as per annex 2, shall point out distinctly the assets held in the country and those abroad, both for life insurance without accumulation component (traditional), and unit-linked life insurance and annuities.
- (5)** The total amount of assets recorded in the Register, assessed in accordance with the statutory provisions in force, must be, at any time, at least equal to the amount of gross technical reserves determined in accordance with the provisions of this rule.
- (6)** The information relating to the assets covering the technical reserves from the Register are completed by the opening balance of the financial year 2016 or, for companies licensed by A.S.F. after this date, by the balance existing on the licensing date.
- (7)** Lands and construction are pointed out by each land or immovable property.
- (8)** State securities, municipal bonds and bank deposits are highlighted by every asset.
- (9)** Cash availabilities existing in the checking accounts and in hand, into Lei and foreign currency, are highlighted at the value of the final balance of the period for which reporting is made, which is justified by data written in the balance sheet of availabilities in checking accounts at banks and in hand, by foreign currencies, based upon bank statements and cash situations.
- (10)** Securities traded are highlighted by every component of the portfolio.
- (11)** Receivables relating to gross premiums written are highlighted at the value of the final balance for the reporting period, which shall have to be justified by an analytical chart of accounts 401 “ Insurance premiums settlements” and 405 “Co-insurance operations settlement” or by other operational records concerning gross premiums written and not collected.
- (10)** Companies shall notify A.S.F. at once with regard to any encumbrance on an asset registered in the Register and they are under the obligation to check that existing assets cover the gross technical reserves; the, such as notification is accompanied by supporting documents, such as land register excerpt, appraisal report, guarantee contract etc.
- (12)** If an asset registered in the Register is not free of encumbrances in favour of a creditor or a third party, resulting in rendering unavailable a part of this asset’s value to cover the gross technical reserves, this instance shall be entered in the Registry, and the unavailable amount is not included in the total amount mentioned under par. (5).
- (13)** In an asset admitted to cover technical reserves is encumbered in favour of a third party or a creditor without meeting the requirements provided by

par. (13) or if a creditor is entitled to ask for their receivable's compensation by the company's debt in the event of insolvency and bankruptcy, this shall be entered in the Register, and the legal provisions in force shall be applicable to those assets.

**(14)** The composition of assets registered in the Register according to the provisions of this article, at the time the bankruptcy proceedings are opened, must not change and no change can be made in the Register, except to correct purely clerical errors, unless A.S.F. so approves and also the delegated judge's approval.

**(15)** Except as provided in the provisions of par. (15), liquidators must add to the value of the respective assets all income earned from their exploitation, as well as the amount of premiums collected in the respective activity in between the moment the bankruptcy proceedings are opened and that when payment for claims related to the insurance activity is made or, as applicable, that of portfolio transfer.

**(16)** If the product of assets is lower than their estimated value in the registers, liquidators are under the obligation to provide rationale for this to A.S.F., as well as to the delegated judge.

**(17)** Companies shall send to A.S.F. on a quarterly basis the registers in electronic format, in the ASF-EWS application, until the last calendar day of the following month after the quarter's end for which reporting is made; A.S.F. may request, at any point, that the Register be sent on paper, updated by the balance existing on the request date, signed by the company's management.

## **ARTICLE 14**

### Penalties

Failure to comply with this rule's provisions shall be penalized by A.S.F. as per the provisions of Art. 163 of Law no. 237/2015.

## **ARTICLE 15**

### Entry into force

**(1)** This rule shall be published in the Official Journal of Romania, Part I, and shall enter into force on 1 January 2016.

**(2)** The following shall be repealed on this rule's entry into force:

**a)** Order of the Insurance Supervisory Commission's Chairman no. 3.109/2003 enforcing the Rules on the methodology to calculate an emphasize minimum technical reserves for the non-life insurance operations, published

in the Official Journal of Romania, Part I, no. 770 of 3 November 2003, as subsequently amended and supplemented;

b) Order of the Insurance Supervisory Commission's Chairman no. 3.106/2005 enforcing the Rules on the Special register for assets covering technical reserves, published in the Official Journal of Romania, Part I, no. 531 of 22 June 2005;

c) Art.1, Art. 2, Art. 10, Art. 11 and Arts. 13-15 of the Rules on technical reserves for life insurance, assets admitted to cover them and dispersion of the assets used to cover gross technical reserves, enforced by Order given by the Chairman of the Insurance Supervisory Commission no. 8/2011, published in the Official Journal of Romania, Part I, no. 325 of 11 May 2011, as subsequently amended and supplemented.

Chairman of the Financial Supervisory Authority  
Mișu Negrițoiu

Bucharest, 23 December 2015.  
No. 38.

## **ANNEX NO. 1**

### Special register of assets covering gross technical reserves established for non-life insurance

No.	Asset name	Asset value on 31/12/2015		Date the operation was registered in the accounting records		Net book value on the reporting date	Value according to A.S.F. <sup>1</sup> rules on the reporting date	Total revenue earned from assets exploitation	Observations encumbered
		Net book value	value according to A.S.F. <sup>1</sup> rules	Input	Output				
		- thousand Lei-	- thousand Lei-						

<sup>1</sup> The column shall be completed only by insurers licensed as per part II of Law no. 237/2015 by values determined according to A.S.F. rule on the operation of supervised insurers in accordance with the national regime.

**ANNEX No. 2**

Special register of assets covering gross technical reserves established for life insurance

No..	Asset name	Asset value on 31/12/2015		Date the operation was registered in the accounting records		Net book value on the reporting date				Value according to A.S.F. <sup>1</sup> rules on the reporting date		Total revenue earned from assets exploitation - thousand lei -	Observations concerning the encumbered asset
		Net book value	value according to A.S.F. <sup>1</sup> rules	Input	Output	in the country		abroad, specify the country		Traditional insurance	Unit-linked insurance		
						Traditional insurance	Unit-linked insurance	Traditional insurance	Unit-linked insurance				
		- thousand lei -	- thousand lei -			- thousand lei -	- thousand lei -	- thousand lei -	- thousand lei -				

<sup>1</sup> The column shall be completed only by insurers licensed as per part II of Law no. 237/2015 by values determined according to A.S.F. rule on the operation of supervised insurers in accordance with the national regime.