

The Financial Supervisory Authority - ASF

RULE No. 31/2016

on the allocation and/or payment by insurers of the share capital for the voluntary pension funds management activity

In force as of 2 August 2016

Published in the Official Journal, Part I no. 588 of 2 August 2016. No changes until 3 August 2016.

In accordance with the provisions of art. 2 paragraph (1) letter b), art. 3 paragraph (1) letter b) and art. 6 paragraph (2) of the Government Emergency Ordinance no. 93/2012 on the establishment, organization and functioning of the Financial Supervisory Authority, approved with amendments and additions under Law no. 113/2013, with subsequent amendments and additions,

pursuant to the provisions of art. 173 paragraph (1) letter 6) and of art. 179 paragraph (4) of Law no. 237/2015 on the authorization and supervision of the insurance and reinsurance business,

in consideration of provisions of art. 21 paragraph (6) of Law no. 237/2015,

following deliberations of the Financial Supervisory Authority's Board in the meeting of 19 July 2016,

The Financial Supervisory Authority issues this rule.

ARTICLE 1

General provisions

(1) This rule regulates the procedure and conditions under which an insurer may allocate from its own share capital, related to the life insurance business, sources for capital formation necessary for authorization as manager of voluntary pension funds according to art. 10 of Law no. 204/2006 on voluntary pensions, with subsequent amendments and additions.

(2) This rule shall apply to both insurers supervised according to Part I of Law no. 237/2015 on the authorization and supervision of the insurance and reinsurance business, and those supervised according to Part II of the same Law.

(3) The insurer shall carry out the allocation referred to in paragraph (1) only with the prior approval of the Financial Supervisory Authority, hereinafter referred to as A.S.F., under this rule.

(4) After authorization to conduct the business of management of voluntary pension funds, any transfer between assets, liabilities, income and expenditure on conducting the insurance business and assets, liabilities, income and expenditure related to the business of management of voluntary pension funds shall be prohibited, and they shall be organized, recorded and managed separately for the two businesses.

ARTICLE 2

Definitions

(1) The terms, expressions and acronyms used herein have the meanings set out in art. 1 paragraph (2) of Law no. 237/2015 and in art. 2 of Law no. 204/2006, with subsequent amendments and additions.

(2) For the purposes of this rule, "insurer" means the insurer, composite insurer and mixed insurer, as they are defined in art. 1 paragraph (2) points 3, 4 and 6 of Law no. 237/2015.

ARTICLE 3

Conditions for approval of allocation

(1) In order to obtain A.S.F. approval referred to in art. 1 paragraph (3), the insurer shall prove that this operation does not affect the insurance business, cumulatively fulfilling the following conditions, with proper application of the provisions of paragraph (2):

a) value of the share capital allocated to the insurance business is at least at the minimum level set out under art. 3 paragraph (5) of the Financial Supervisory Authority Rule no. 20/2016 on authorization and monitoring of insurance and reinsurance companies;

b) for the insurer supervised according to Part I of Law no. 237/2015:

(i) holds eligible own funds to cover SCR and MCR;

(ii) the composite insurer, including that authorized pursuant to art. 20 paragraph (5) of Law no. 237/2015, shall also prove that it holds elements of basic own funds to cover the notional MCR for the life insurance business, according to provisions of art. 49 paragraph (2) letter a) and paragraph (3) of the same law;

c) for the insurer supervised according to Part II of Law no. 237/2015:

(i) holds a safety fund, an available solvency margin and a liquidity ratio for the life insurance business, at least equal to the minimum levels required by the Financial Supervisory Authority Rule no. 28/2015 on the operation of insurers supervised according to national regime;

(ii) covers its gross technical reserves constituted for the life insurance business with assets admitted to cover these reserves, in accordance with the legal provisions in force.

(2) The insurer shall prove that it fulfills the conditions set out in paragraph (1) both at the end of the month prior to submission of documentation referred to in art. 4 and, subject to transfer of capital for the voluntary pension funds management business, for a period of 3 years calculated therefrom.

ARTICLE 4

Documents and information necessary to approve the allocation

In order to get approval, the insurer shall submit to A.S.F. the following documents:

a) decisions of competent bodies of the insurer on approval to supplement the line of business with the voluntary pension funds management business and to allocate capital for this purpose;

b) for the insurer supervised according to Part I of Law no. 237/2015:

(i) the following reports provided by the Commission Implementing Regulation (EU) 2015/2450 of 2 December 2015 laying down implementing technical standards with regard to the templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council, hereinafter referred to as Regulation, having as reference date the end of the month prior to submission to A.S.F. of the documentation referred to in this article:

1. the template laid down in art. 13 letter a) of the Regulation, on own funds;
2. the template laid down in art. 14 letters a), b) or c) of the Regulation, as appropriate, on SCR;
3. the template laid down in art. 15 letter a) or b) of the Regulation, as appropriate, on MCR;

(ii) a simplified business plan, drawn up for a period of 3 years calculated from the date referred to in point (i), including the items referred to in art. 22 paragraph (2) letters a) - c) of Law no. 237/2015;

c) only for the insurer supervised according to Part II of Law no. 237/2015, the following reports drawn up according to templates provided by the legal provisions in force on the date of application, for the life insurance business:

(i) reports reflecting the situation at the end of the month prior to submission to A.S.F. of the documentation referred to in this article, on:

1. the required solvency margin and the available solvency margin;
2. the safety fund;
3. the liquidity ratio;
4. the statement of assets admitted to cover gross technical reserves;

(ii) reports reflecting the estimated value of indicators referred to in point (i), subject to transfer of capital for the voluntary pension funds management business, for a period of 3 years calculated from the date referred to in point (i).

ARTICLE 5

Granting approval

(1) A.S.F. shall analyze, within 5 days from the receipt of documents and information, the completeness of documentation and inform the applicant in this regard.

(2) A.S.F. may request, in order to substantiate the approval decision, the submission of additional relevant documents and information.

(3) A.S.F. shall decide on granting approval within 30 days from the date when it informs the applicant, according to paragraph (1).

(4) In the situation referred to in paragraph (2), the deadline of 30 days shall be extended with maximum 20 days, calculated from the date of receipt of all additional information and documents requested.

(5) A.S.F. shall cease the approval procedure and close the related documents in the following situations:

a) if the additional information or documents requested are sent to A.S.F. exceeding the deadline of 30 days;

b) if the documentation is incomplete and the submission of missing documents exceeds 30 days.

(6) The deadlines referred to in paragraph (5) may be extended with A.S.F. approval and in accordance with the principle of documentation and qualified reasoning, by maximum 30 days.

ARTICLE 6

Penalties

Failure to comply with the provisions of this rule shall be punishable under art. 163 of Law no. 237/2015 on the authorization and supervision of the insurance and reinsurance business.

ARTICLE 7

Final provisions

(1) This rule shall be published in the Official Journal of Romania, Part I, and shall enter into force on the date of its publication.

(2) Upon entry into force of this rule, the Financial Supervisory Authority Rule no. 33/2015 on the approval of allocation of the capital necessary to authorize insurers as voluntary pension funds managers, from the capital related to the life insurance business, published in the Official Journal of Romania, Part I, no. 974 of 29 December 2015, shall be repealed.

President of the Financial Supervisory Authority,

Mișu Negrițoiu

Bucharest, 21 July 2016.

No. 31.