

RULE No. 12/2016

on the circumstances in which resolution measures may be applied

In accordance with the provisions of Art. 1(2), Art. 2(1) Letters b) and d), Art. 3(1) Letter b), Art. 6(2) and Art. 14 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. 160 Letter m) of Law No. 246/2015 on the insurers' recovery and resolution,

further to the deliberations held in the meeting of the Financial Supervisory Authority's Board of 27 January 2016,

the **Financial Supervisory Authority** hereby issues this rule:

Art. 1. – This rule lays down a number of elements underlying the establishment of the situations where the market specific to certain assets is such that their liquidation in the normal insolvency proceedings could have a negative impact on one or several financial markets in accordance with the provisions of Art. 116 Letter a) of Law No. 246/2015 on the insurers' recovery and resolution.

Art. 2. – The terms and expressions used in this rule shall have the meanings provided for in Law No. 246/2015 and in Law No. 237/2015 on the authorisation and supervision of the insurance and reinsurance business, unless they are contrary to the provisions of Law No. 246/2015.

Art. 3. – For the purpose of determining the situations where the market specific to certain assets is such that their liquidation in the normal insolvency proceedings could have a negative impact on one or several financial markets, FSA, as resolution authority, shall assess the following elements:

- a) the situation of the market of those assets;
- b) the impact of disposing of those assets on the markets in which the same are traded;

c) the impact on the financial stability.

Art. 4. – Upon the assessment set out in Art. 3, FSA, as resolution authority, may take into account the following elements:

a) whether the asset markets are impaired, considering the following:

(i) the evolution of the liquidity of the markets of those assets or of classes of comparable assets;

(ii) whether these assets or classes of comparable assets were deemed impaired in accounting terms and whether the insurers have set aside provisions for those assets;

(iii) the losses incurred and the unstable cash flows in these assets;

(iv) the negative adjustments of value of the assets or the corresponding price evolutions of the hedging instruments related thereto or of the classes of comparable assets;

(v) the increased price volatility of assets as compared to the market in general, in particular the unusually high price differences between various markets for the same asset or similar assets which, under normal market conditions, show the same evolution;

(vi) the reduction of the price of shares and deterioration of ratings and refinancing conditions of the institutions which have or issue large quantities of assets, as compared to the rest of the market;

b) the impact of disposing of these assets on the markets in which the same are traded, considering:

(i) the size of the markets concerned and the range of prospective buyers;

(ii) the estimated impact of the liquidation of assets on the prices of comparable assets, as appropriate;

(iii) the time estimated for the liquidation of the assets in the normal insolvency proceedings, including in a potential accelerated sale in cases of difficulty;

c) the impact on the financial stability, considering:

(i) the risk of a systemic crisis, as clearly shown by the number, size or importance of other insurers which are exposed to the risk of meeting the early intervention or resolution conditions;

(ii) the situation where the sale of assets or impairment of markets may cause a spill-over effect into other financial institutions which assess these assets at the market price;

d) other relevant elements, where FSA takes into account specific circumstances.

Art. 5. – This rule shall be published in the Official Journal of Romania, Part I, and shall enter into force on the date of its publication.

**President of the Financial Supervisory Authority,
Mișu Negrițoiu**

Bucharest, 28.01.2016

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