

Rule no. 18/2017

on the procedure for the settlement of petitions regarding the activity of insurance and reinsurance companies and insurance brokers

In force starting August 1st, 2017

Published in the Official Journal, Part I no. 555 of July 13th, 2017

In accordance with the provisions of art. 1 par. (2), art. 2 par. (1) letter b), art. 3 par. (1) letter b), as well as art. 6 par. (2) of Government Emergency Ordinance no. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved with amendments and completions by Law no. 113/2013, as amended and supplemented,

Under the provisions of art. 41¹ of Law no. 32/2000 on the activity and supervision of insurance and reinsurance intermediaries, with subsequent amendments and completions and the provisions of art. 107 par. (2) and art. 173 par. (1) letter s) of Law no. 237/2015 on the authorisation and supervision of the business of insurance and reinsurance, as subsequently amended,

In order to protect the rights of policyholders and to promote the stability of insurance activity in Romania,

According to the deliberations of the Board of the Financial Supervisory Authority during the meeting of July 3, 2017,

The Financial Supervisory Authority hereby issues this Rule.

Art. 1 –Common provisions

(1) This Rule regulates the way of solving the petitions regarding the activity of the insurance and reinsurance companies authorized under Law no. 237/2015 on the authorisation and supervision of the business of insurance and reinsurance, as subsequently amended, hereinafter referred to as Law no. 237/2015 and the insurance brokers authorized under the Law no. 32/2000 on the activity and supervision of insurance and reinsurance intermediaries, as subsequently amended and supplemented, hereinafter referred to as Law no. 32/2000.

(2) The provisions of this Rule are applicable to companies defined in accordance with Law no. 237/2015, hereinafter referred to as companies, insurance brokers, hereinafter referred to as brokers and the Financial Supervisory Authority, hereinafter referred to as A.S.F.

Art. 2. – Definitions

For the purpose of this Rule, the terms below shall have the following meanings:

1. petitioner - a natural or legal person who has the status of the insured person, contractor, beneficiary, injured party or their representatives, as defined by the laws in force;
2. petition - the petition, the complaint, the referral, in writing or by e-mail, through which a petitioner expresses dissatisfaction with the activity of the companies and the brokers.

Art. 3. –Responsibilities of the petitioners' representatives

For the purpose of communicating the information, the representatives of the petitioners shall present a copy of the identity document in the case of natural persons and the representation document, in original copy, in certified or legalised form or copies thereof, signed as certified true copy, so that the identity of the parties and the capacity of the signatories of the legal act may be verified.

Art. 4. – Provisions applicable to A.S.F.

(1) In order to properly and legally settle petitions concerning the activity of companies and brokers, addressed in accordance with the provisions of art. 8 par. (12) of Law no. 237/2015 and art. 5 letter o) of Law no. 32/2000, A.S.F. acts according to the provisions of Government Ordinance no. 27/2002 on the regulation of the complaint settlement activity, with the subsequent modifications and completions, in conjunction with the provisions of the laws specific to the field of insurance and of this rule.

(2) While investigating and settling petitions, A.S.F. seeks to enforce insurance laws and contractual terms by companies and brokers according to its enforcement, supervision and control responsibilities.

(3) A.S.F. does not express an opinion on the issues complained by petitioners if their settlement is determined by the manner of administering evidence of a technical and legal nature the quality, admission and administration of which does not exclusively relate to the application of insurance laws; in all these cases, natural persons are directed to settle the dispute through the

alternative dispute resolution entity in the non-banking area, and the legal ones through mediation or arbitration, without restricting their right to act in court.

(4) A.S.F. settles petitions on the basis of documents provided by both the petitioner and the company complained about; A.S.F. is not responsible for the solutions communicated to petitioners if the documents are not submitted in full or if incorrect or incomplete information is provided.

(5) Answers formulated by A.S.F. to petitions are not administrative actions in the sense of the provisions of the Law on administrative contentious no. 554/2004, as amended and supplemented.

(6) In order to protect the rights of policyholders and to promote the stability of insurance activity in Romania, A.S.F. verifies the manner in which the legal and contractual provisions related to the cases presented in the petitions and of this rule are applied and complied with by companies and brokers.

(7) If the analysis of the substantiation note drawn up by the analysis and settlement team submitted to A.S.F. shows that the adopted solution does not observe the rights of the insured persons, the contractors, the beneficiaries, the injured persons or is found the unjustified delay of the transmission of the requested documentation, which may lead to the failure to settle the petitions within the legal term, A.S.F. shall adopt, individually or cumulatively, the following measures:

a) communicates to the companies and / or brokers concerned the point of view on the settlement of the issues raised in the petitions and asks for an emergency review of the solution communicated to A.S.F. or to the petitioner;

b) applies sanctioning measures if, from the analysis of the documents provided by the company, violations of the legal provisions can be detected without the need to perform an unannounced control;

c) performs unannounced control to companies and / or brokers on the way of settlement of the issues raised in petitions by the company and / or broker concerned and applies sanctioning measures if there is found a violation of legal provisions.

(8) The petitions filed by insured persons, contractors, beneficiaries, injured persons or their representatives, Romanian legal or natural persons, against companies carrying out insurance activity on the territory of Romania on the basis of the freedom to provide services or the right of establishment, are administered by the body which deals with the settlement of petitions in the state whose legislation is applicable to the insurance contract.

(9) If possible, A.S.F. informs the petitioner of how the petition will be settled.

(10) If A.S.F. receives a petition referring to a company that carries out insurance activity on the territory of Romania on the basis of the freedom to provide services or the right of establishment, and the contract is concluded according to the Romanian laws, the following procedure shall apply:

a) in the case of companies carrying out insurance activity under the right of establishment, A.S.F. sends the petition to the Romanian branch with a view to resolving it, and the branch then submits to A.S.F. a substantiation note on the solution adopted, accompanied by supporting documents relating to the case;

b) in the case of companies carrying out insurance activity under the freedom to provide services, A.S.F. sends the petition to the claims representative in Romania or to the company or authority in the state that granted the operating authorization to the company, in order to resolve it, with the information of the A.S.F.;

c) A.S.F. informs the competent authority of the Member State of origin on the petition received.

Art. 5. –Provisions applicable to companies

(1) In order to settle properly and within the legal term the petitions addressed to them, in accordance with the provisions of art. 107 of the Law no. 237/2015, companies have written procedures for receiving and resolving petitions both at the main office and territorial offices.

(2) The settlement procedures of petitions are approved by the executive management of the company.

(3) Amendments to the petitions settlement procedures shall be submitted to the A.S.F., accompanied by the approval decision, within 30 days of their approval.

(4) Petitions settlement procedures, information on how to settle them amicably, including through the ADR, mediation or arbitration, as well as information on the email address and telephone number to which information on the status of petitions may be requested is accessible to the public at the office and on the website of companies;

(5) Companies prepare and maintain a petitions ledger in secure electronic format, per calendar year, in accordance with Annex no. 1, ensuring the following:

a) restarting the numbering from 01 on each beginning of the year in which all petitions shall be recorded chronologically, in the order of their receipt, without the repetition of the assigned registration numbers, including those received at the territorial offices, regardless of the manner of receipt: registration office, via e-mail, via the on-line system on the official website of the company;

b) securing it by implementing a mechanism guaranteeing non-repudiation of entries.

(6) Companies hold and ensure the maintenance of the online system for the receipt of petitions.

(7) Companies set up a petitions analysis and settlement team consisting of specialized and experienced insurance professionals qualified on the classes of insurance for which the company is authorized, which will analyze all aspects reported by the petitioners, in compliance with applicable legal and contractual provisions applicable to each case, organized as follows:

a) the petitions analysis and settlement team is managed by a coordinator;

b) the decision to designate the coordinator of the petitions analysis and settlement team and its substitute shall be submitted to the A.S.F. for information within 10 days of its approval;

c) the appointed coordinator or, as the case may be, his substitute is responsible for the work of the team and the legality of the final solution adopted in each analysed case.

(8) Companies shall respond to petitions received directly from petitioners within a maximum of 30 days as of the registration of the petition, regardless of whether the solution is favorable or unfavorable.

(9) Companies shall submit electronically, for each request received from A.S.F., within 10 days or within the time expressly specified therein, the following documents:

a) the substantiation note drawn up by the petitions analysis and settlement team, in which the solution adopted is duly justified, with the compliance and mandatorily clarification of the legal and contractual provisions envisaged in the communicated decision; b) the full damage file, in a copy, accompanied by:

(i) the schedule thereof, in copy;

(ii) the finding record or the additional finding record, as the case may be, accompanied by their relevant requests, in copy;

(iii) the note or report and the documents on which the rejection of the right to compensation was based, in copy;

(iv) the own investigation report or technical expertise report, if the claim file was subject to additional research, in copy;

(v) the photographs in the file;

(vi) the RCA or the voluntary insurance policy, the insurance conditions applicable in the relevant case and the risk inspection carried out at the conclusion of the policy, where applicable, in copy;

c) the schedule of claim files opened based on the RCA contracts, drafted in accordance with the specifications that the organizational structure requesting the documentation will send;

d) proof of detailed information to insured persons, contractors, beneficiaries, injured parties or their representatives on the manner of establishing damages, justifying any differences from the amounts claimed in the claim for damages;

e) proof of sending to the petitioner the information on the solutions adopted to settle all the aspects presented in the petition addressed by the latter to A.S.F., specifying the legal and contractual grounds, accompanied by the documents that were the basis for the adoption of the solutions, at the request of A.S.F. or of the petitioner;

f) the schedule of the documents sent;

g) other supporting documents requested.

(10) The substantiation note or any other correspondence shall be signed by one of the members of the executive management of the company and the coordinator of the petitions

analysis and settlement team and, in its absence, by the designated substitute, and the extended electronic signature may be used; the substantiation note shall be also sent in printed format if it is not signed with extended electronic signature.

(11) Companies shall send quarterly to A.S.F. the following reports:

a) "Situation of petitions", which contains chronologically the petitions recorded during the reporting period in the petitions ledger in accordance with Annex 2;

b) "Information on the main problems identified in the petitions settlement and management activity", according to Annex no. 3;

c) "The situation of damage files opened based on RCA contracts (related to the activity in Romania)", which contains the damage files approved on the basis of the RCA contracts during the reporting period, shall be transmitted only by the insurance companies authorized to practice the RCA and is prepared according to the clarifications received from the organizational structure that centralizes the data;

d) "Number of approved damages", according to Annex no. 4, which contains all damage files approved during the reporting period, structured on the classes of insurance that the company is authorized to practice.

(12) The reports referred to in paragraph (11) shall be sent to A.S.F. in electronic format, within 45 days of the end of the quarter for which the reporting is made, by uploading the data in the electronic reporting application.

(13) In order to certify the accuracy and completeness of the data contained in the reports referred to in paragraph (11), as well as the date on which they were transmitted and uploaded electronically, the companies shall send to A.S.F. a written letter, signed by handwriting or an extended electronic signature by one of the members of the executive management, in compliance with the relevant reporting deadline.

(14) In order to ensure transparency of the registration and settlement of petitions, companies shall publish on their own website the following information:

a) the total number of petitions registered uniquely by petitioner and by case;

b) the total number of favourable settled petitions registered uniquely by petitioner and by case;

c) the number of favourable settled petitions related to damage files;

d) the total number of petitions for which the damage files were paid;

e) the total number of unfavourably settled petitions registered uniquely by petitioner and by case

f) the total number of requests for alternative settlement of disputes.

g) the total number of requests for alternative settlement of disputes effectively settled;

h) the total number of requests for alternative settlement of disputes settled in favor of policyholders, contractors, beneficiaries, injured parties or their representatives;

(15) Companies shall publish each month on their own website and update the information provided in paragraph (14) in the first 15 days of each month.

(16) The information shall be presented for all petitions and requests for alternative settlement of disputes registered with companies, irrespective of their source, as follows:

a) for the previous calendar year;

b) from the beginning of the year until the current month;

c) for the last 3 calendar months preceding the current month;

(17) The information referred to in paragraph (14) shall be published on the company's own website, respecting cumulatively the following:

a) displaying the introductory text: "In order to ensure transparency of the way of recording and settling petitions, as well as requests for alternative resolution of disputes, by the company S.A., we provide the following information:";

b) the presentation of information as table, distinct for petitions and for requests for alternative resolution of disputes, placed inside a dedicated page, accessible both through a window that opens when the main page of the site is accessed and by the existence of a permanent link on the main page.

(18) The structure of the tables referred to in paragraph (17) letter b) and the characteristics of the format of the displayed text are provided in Annex no. 6.

Art. 6. –Provisions applicable to brokers

(1) In order to properly and legally settle the petitions addressed to them, brokers have written procedures for receiving and settling petitions at both the main office and the territorial offices.

(2) Petitions settlement procedures are approved by the executive management of brokers.

(3) Changes to existing procedures shall be submitted to A.S.F, accompanied by the approval decision, within 30 days of their approval.

(4) The procedures for the settlement of petitions, information on how to resolve them amicably, including through the ADR, mediation or arbitration, as well as information on the email address and telephone number to which information on the status of petitions may be requested is accessible to the public at the office and on the website of the broker;

(5) Brokers prepare and maintain a petitions ledger in secure electronic format, per calendar year, in accordance with Annex no. 1, ensuring the following:

a) restarting the numbering from 01 on each beginning of the year in which all petitions shall be recorded chronologically, in the order of their receipt, without the repetition of the assigned registration numbers, including those received at the territorial offices, regardless of the manner of receipt: registration office, via e-mail, via the on-line system on the official website of the brokers;

b) securing it by implementing a mechanism to ensure non-repudiation of entries.

(6) Brokers shall respond to petitions received directly from petitioners within maximum 30 days as of the registration of the petition, irrespective of whether the solution is favorable or unfavorable.

(7) Brokers shall send, in electronic form, for each request received from A.S.F. within a maximum of 10 days or within the express period specified therein, a substantiation note as well as all information, documents and situations requested; the substantiation note or any other

correspondence shall be signed by one of the significant persons, according to art. 35 par. (15) of the Law no. 32/2000 and shall be sent to A.S.F. in printed format.

(8) Brokers shall provide assistance to the existing insured in their own portfolio, regarding the performance of the insurance contract in compliance with the insurance conditions, as well as the legal provisions for the whole period of its validity, including for the amicable settlement of the possible disputes.

(9) Brokers shall send half-yearly reports to A.S.F. on the "Situation of petitions" and "Information on the main issues identified in the settlement and management of petitions", within 45 days after the end of the semester for which the reporting is made, according to Annex no. 5, respectively annex no. 2; The reporting "Situation of petitions" shall contain chronologically the petitions recorded during the reporting period in the ledger of petitions.

(10) The reports shall be submitted to A.S.F. in electronic format, by uploading the data into the electronic reporting application, and by written letter the correctness and completeness of the data included in each reporting, including the date when they were transmitted and uploaded electronically, is certified.

(11) The address mentioned in paragraph (10) shall be signed by written signature or by extended electronic signature by one of the significant persons mentioned in art. 35 par. (15) of the Law no. 32/2000 and shall be sent to A.S.F. within the specified deadline for each reporting.

Art. 7. –Provisions applicable to companies and brokers

(1) For the legal settlement of the petitions addressed to them, the executive management of companies and brokers shall require research measures, detailed analysis and quick and thorough settlement of all aspects reported by the petitioners, strictly observing the legal and contractual provisions in force.

(2) In the event that the issues raised in the petition submitted to A.S.F. require more detailed research, the executive management of companies and / or the coordinator of the petitions analysis and settlement team, and in its absence, the appointed substitute and the executive management of the brokers shall ask A.S.F. the extension of the deadlines provided in art. 5 par. (10) and art. 6 par. (7) with a maximum of 5 days.

(3) With a view to amicably settle disputes between companies, brokers and insured persons, contractors, beneficiaries, injured parties or their representatives, at the request of one of the parties, the alternative dispute settlement methods provided by the legal provisions in force shall be used, respectively, in the case of natural persons SAL-FIN, the Entity for Alternative Resolution of Disputes, and in the case of legal persons, mediation or arbitration; the amicable settlement or alternative dispute resolution methods do not limit the right of the parties to appeal to competent courts.

(4) The executive management of companies and brokers and the coordinator of the petitions analysis and settlement team shall ensure:

a) the good organization and conduct of the reception activity, highlighting and resolution of the petitions addressed to them;

b) the legality of the solutions adopted;

c) the communication of the adopted solutions, accompanied by the complete documentation of the cases, within the legal deadline to A.S.F. or to the petitioners, as the case may be;

d) ensuring participation in alternative dispute resolution procedures such as conciliation through SAL-FIN, mediation or arbitration, as the case may be, when requested by the consumer.

Art. 8. – Final provisions

(1) Failure to comply with the provisions of this Rule shall be sanctioned by A.S.F. under the conditions and according to the provisions of art. 163 of Law no. 237/2015 or art. 8 and 39 of Law no. 32/2000.

(2) Annexes no. 1-6 are an integral part of this rule.

Art. 9. - Entry into force

This Rule shall be published in the Official Journal, Part I and shall enter into force on August 1st, 2017.

Art. 10. –Repeal

On the date of entry into force of this Rule, Rule no. 24/2014 on the procedure for the settlement of petitions regarding insurers' and insurance brokers' activity, published in the Official Journal of Romania, Part I, no. 824 of November 12, 2014 shall be repealed.

Chairman of the Financial Supervisory Authority

Leonardo Badea

Bucharest, July 13th, 2017

No. 18

Annex no. 1
COMPANIES / BROKERS

Ledger of petitions

Number of petition	Date of petition	Name of petitioner	Address/ telephone/ e-mail	Number of file	Number of policy	Object of petition	Origin of petition		Remarks
							Petitioner ¹	No. and date ²	

¹ Indicate the origin of the petition: directly from the petitioner, through the Financial Supervisory Authority or through / from another entity.

² To be filled in with the number and date of registration of the petition with the institution / entity from which the petition is made.

Company

STATEMENT OF PETITIONS
in the quarter..... year

No.	Incoming number and date of petition		Name of petitioner	Damage file no.	Policy no.	Insurance type	Insurance class	Object of petition	State of petition	Date of settlement of petition	Settlement method of petition	The reason why the petition was not resolved favourably to the petitioner.	Observations	The origin of the petition				
	No.	Date												Country	FOS/FOE	Petitioner	No.	Date
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19

Company

**Information on main issues identified in the activity for the settlement and management of petitions
in..... year**

1 What are the main causes increasing the number of petitions?							
		Insurance class	How did you reach this conclusion?	What were the reasons generating this cause?	Did you take any measures to address this cause? YES/NO	Do you think that the measures taken to address the cause are efficient? YES/NO	How did you reach this conclusion?
Cause 1							
Cause 2							
Cause 3							
2 What are the main causes decreasing the number of petitions?							
			How did you reach this conclusion?	What were the reasons generating this cause?	Did you take any measures to address this cause? DA/NU	Do you think that the measures taken to address the cause are efficient? DA/NU	How did you reach this conclusion?
Cause 1							
Cause 2							
Cause 3							
3 What are the main life insurance products for which an increase in the number of petitions was registered?							
			How did you reach this conclusion?	What are the reasons generating this increase?	Did you take any measures to address this cause? DA/NU	Do you think that the measures taken to address the cause are efficient? DA/NU	How did you reach this conclusion?
Product 1							
Product 2							
Product 3							
4 What are the main life insurance products for which a decrease in the number of petitions was registered?							
			How did you reach this conclusion?	What are the reasons generating this decrease?	Did you take any measures to address this cause? DA/NU	Do you think that the measures taken to address the cause are efficient? DA/NU	How did you reach this conclusion?
Product 1							
Product 2							
Product 3							
5 What are the main non-life insurance products for which an increase in the number of petitions was registered?							
			How did you reach this conclusion?	What are the reasons generating this increase?	Did you take any measures to address this cause? DA/NU	Do you think that the measures taken to address the cause are efficient? DA/NU	How did you reach this conclusion?
Product 1							
Product 2							
Product 3							
6 What are the main non-life insurance products for which a decrease in the number of petitions was registered?							
			How did you reach this conclusion?	What are the reasons generating this decrease?	Did you take any measures to address this cause? DA/NU	Do you think that the measures taken to address the cause are efficient? DA/NU	How did you reach this conclusion?
Product 1							
Product 2							
Product 3							

NOTE:
The issues identified as recurrent or systemic and also the measures taken to rectify the same shall be taken into account.
Shall be sent quarterly by insurance companies and half-yearly by insurance brokers.

Company

**The number of approved claims for the life insurance activity
in the quarter year**

No..	Indicators	C1 ¹	C2 ¹	C3 ¹	C4 ¹	C5 ¹	C6 ¹	C7 ¹	A1 ²	A2 ²	Total
1	Number of claims approved at the end of the reporting period – pcs.										
2	Number of claims approved during the reporting period - pcs.										

¹ The classes of insurance are set out in Annex no. 1 Section C of Law no. 237/2015 regarding the authorization and supervision of the insurance and reinsurance activity.

² The classes of insurance set out in Annex no. 1, Section A of [Law no. 237/2015](#).

Company

**The number of approved claims for the general insurance activity
in the quarter year**

No.	Indicators	A1 ¹	A2 ¹	A3 ¹	A4 ¹	A5 ¹	A6 ¹	A7 ¹	A8 ¹	A9 ¹	A10 ¹	A11 ¹	A12 ¹	A13 ¹	A14 ¹	A15 ¹	A16 ¹	A17 ¹	A18 ^{1*}	Total	
1	Number of claims approved at the end of the reporting period – pcs.																				
2	Number of claims approved during the reporting period - pcs.																				

¹ The classes of insurance are set out in Annex no. 1 Section A of Law no. 237/2015 regarding the authorization and supervision of the insurance and reinsurance activity, as subsequently amended.

* According to the particularities provided by art. 4 par. (2) and (3) of Law no. 237/2015, as subsequently amended.

Company.....

STATEMENT OF PETITIONS
in the quarter year

No.	Incoming number and date of petition		Name of petitioner	The insurance company issuing the insurance policy.	Policy no.	Insurance type	Insurance class	Object of petition	State of petition	Date of settlement of petition	Settlement method of petition	The reason why the petition was not resolved favourably to the petitioner.	Observations	The origin of the petition		
	No.	Date												Petitioner	No.	Date
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17

PETITIONS

	Previous year	Reporting period: 1 January - current month (cumulated)	Last 3 months of the reporting period		
			Month 1	Month 2	Month 3
The total number of petitions registered uniquely by petitioner and by case					
The total number of favourable settled petitions registered uniquely by petitioner and by case					
The number of favourable settled petitions related to damage files					
The total number of petitions for which the damage files were paid					
The total number of unfavourably settled petitions registered uniquely by petitioner and by case					

REQUESTS FOR ALTERNATIVE RESOLUTION OF DISPUTES

	Previous year	Reporting period: 1 January - current month (cumulated)	Last 3 months of the reporting period		
			Month 1	Month 2	Month 3
The total number of requests for alternative settlement of disputes					
The total number of requests for alternative settlement of disputes effectively settled					
The total number of requests for alternative settlement of disputes settled in favour of policyholders, contractors, beneficiaries, injured parties or their representatives					

The font and size of graphical elements shall be similar to those used within the organisation's website.

No other advertising information or messages shall be published on the page.

The window containing the link to the presentation page shall display the following text: " The number of petitions/complaints as well as the requests for alternative dispute resolution, registered in the last 3 months, is....., respectively Their structure may be consulted [here](#), by accessing the dedicated page".

The window shall remain active for 5 seconds and may not be closed by the user.

The window shall cover one third of the display surface, and the text shall be sized accordingly by reference to the window size.