

# THE FINANCIAL SUPERVISORY AUTHORITY

## REGULATION NO. 9

### **REGULATION No.9/ 2014** **on the Authorisation and Operation of Investment Management Companies, Undertakings** **for Collective Investment in Transferable Securities and of the Depositaries of Undertakings** **for Collective Investment in Transferable Securities**

Based on the provisions of Art. 1 Para (2), Art. 2 Para (1) Letters a) and d), Art. 3 Para (1) Letter b), Art. 6 Para (1) and (2) and Art. 14 of Government Emergency Ordinance No. 93/2012 on the establishment, organization and operation of the Financial Supervisory Authority, as subsequently amended and supplemented, approved by Law No. 113/2013, as subsequently amended and supplemented,

Based on the provisions of Art. 9 Para (5) and (7), Art. 12 Para (2), Art. 33 Para (1), Art. 47 Para (1), Art. 52 Paras (2) and (4), Art. 56, Art. 63 Para (3), Art. 64 Para (2), Art. 66 Para (1), Art. 71 Para (2), Art. 74 Para (1), Art. 75 Paras (1) and (2), Art. 76, Art. 83 Para (2), Art. 86 Para (1), Art. 92 Paras (1), (4) and (5), Art. 93 Paras (2) and (4), Art. 104 Para (1) and Art. 142 Paras (1) and (2) of Government Emergency Ordinance No. 32/2012 on undertakings for collective investment and investment management companies, as well as for the amendment and supplementation of Capital Market Law No. 297/2004,

According to the deliberations of the Financial Supervisory Authority's Board of 28 May 2014,

**The Financial Supervisory Authority** issues this regulation.

#### **TITLE I** **General Provisions**

#### **CHAPTER I** **Investment Management Activity**

#### **SECTION 1** **Activities Carried Out by Investment Management Companies**

**Art. 1.** - (1) This regulation establishes rules for the application of Capital Market Law No. 297/2004, as subsequently amended and supplemented, hereinafter referred to as *Law No. 297/2004*, and of Government Emergency Ordinance No. 32/2012 on the undertakings for collective investment and the investment management companies, as well as for the amendment and supplementation of Capital Market Law No. 297/2004, hereinafter referred to as *GEO No. 32/2012*, on the authorisation and operation of investment management companies, hereinafter referred to as *SAI*, of undertakings for collective investments in transferable securities, hereinafter referred to as *UCITS*, and of the depositaries of UCITS.

(2) The Financial Supervisory Authority, hereinafter referred to as *FSA*, is the authority competent to enforce the provisions of this regulation, by exercising its prerogatives established by Government Emergency Ordinance No. 93/2012 on the establishment, organization and operation of the Financial Supervisory Authority, as subsequently amended and supplemented, approved by Law No. 113/2013, as subsequently amended and supplemented.

**Art. 2.** - (1) The terms, abbreviations and expressions used herein shall have the meanings provided in GEO No. 32/2012 and in Law No. 297/2004.

"2. For the purposes of this Regulation, the terms and expressions below shall have the following meanings:

- a) unit blocks – amounts between 10,000 and 50,000 units;
- b) replication error - the difference between the marketability of the tradable UCITS portfolio and the profitability of the reference index replicated by that UCITS "
- c) Price error - the difference between the marketable UCITS return calculated on the basis of market prices and the return on the reference index replicated by it for the same period;
- d) compositional error - the sum of the differences between the weights of each unit of the replicated reference index and the weights of those units in the tradable UCITS portfolio;

- e) market maker - the intermediary defined in art. 2 par. (1) point 11 of Law no. 24/2017 on issuers of financial instruments and market operations with an initial capital representing the equivalent in RON of at least EUR 730,000, which undertakes to maintain market liquidity for the units of a tradable UCITS;
- f) appropriate instructions - documents issued by the board of directors / managing board or the supervisory board of the IMC / self-managed investment company or by a person empowered to do so by the board of directors / managing board or the supervisory board, which establish the operations that the depositary is obliged to follow with regard to the activities that the latter performs. Appropriate instructions are either general instructions, which allow specific, routine or frequently repeated specific actions, or special communications for special situations;
- g) Exchange Traded Fund-ETF - a UCITS admitted to trading on a regulated market in Romania, a Member State or a third State (if it complies with the provisions of the ESMA Guideline on ETFs and other UCITS issues, as subsequently amended and supplemented) whose investment policy set out in the fund rules aims at fully or partially replicating the performance of a given share index, referred to as the reference index, by investing totally or partial in the components of the reference index;
- h) managed entities - UCITS for which a IMC performs specific management activities, under the terms of the law and this regulation;
- i) authorized participant - the intermediary defined in art. 2 par. (1) point 20 of Law no. 24/2017 having an initial capital representing the equivalent in lei of at least EUR 730,000, involved in the issue and redemption of units, who buys or sells unit blocks directly from or to the IMC that undertake to minimize the mean square offset between the market price of the units of a UCITS and the indicative net asset value (iNAVPS). The authorized participant may be the same person as the market maker indicated at point e);
- j) internal rules and procedures - the rules and procedures drafted according to GEO no. 32/2012, including the internal regulations provided in art. 14 par. (1) and art. 195 letter m) of the relevant Emergency Ordinance, as well as Art. 272 par. (1) letter i) point 2 of Law no. 297/2004, approved by the competent statutory body of the IMC / self-managed investment company and signed by the person authorized to do so;
- k) Third State - any State which is not a Member of the European Union or is not a signatory to the EEA Agreement;
- l) third party to whom the safe custody of the UCITS assets (sub-custody) was delegated. - a credit institution authorized by the National Bank of Romania in accordance with banking legislation or a branch of a credit institution in Romania, authorized in a Member State, authorized by the ASF for the storage activity, which has included in its object of activity the related service of safekeeping and management of financial instruments on behalf of clients, including custody and related services such as the management of the funds or guarantees provided in art. 5 par. (11) letter a) of Law no. 297/2004, to which the depositary delegates all or some of the responsibilities related to the storage activity;
- m) indicative net asset value per share (iNAVPS ) - the net asset value of a tradable UCITS reported to the number of units issued, computed and updated on a continuous basis, at least once every 60 seconds, during the entire trading day, based on the trading prices of the UCITS portfolio;
- n) discounted sales - short sales defined in art. 2 par. (1) letter (b) of Regulation (EU) no. 236/2012 of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps."
- (3) For the application of Art. 3 Para (1) Item 25 of GEO No. 32/2012, durable medium includes the following: registered letter or letter with acknowledgement of receipt, fax, CD, DVD and the hard drives of the personal computers where the electronic mail is stored, SMS and the Internet sites that are compliant with the information storage and reproduction criteria provided in the definition of the durable medium mentioned under Art. 3 Para (1) of GEO No. 32/2012.
- Art. 3.** - (1) FSA shall decide on the issuance of an authorisation decision and on the withdrawal of the authorisation within maximum 30 days from the registration of the complete file of the applicant, unless a different term is provided by GEO No. 32/2012 or this regulation.
- (2) If FSA rejects an application, it shall issue a reasoned decision, which may be challenged within maximum 30 days from its communication.
- (3) Any reasoned request from FSA for additional information or to amend the documents initially submitted shall interrupt the term provided under Para (1), and the term shall start running again as of the submission date of the said information or amendments, which shall not be later than 60 days from FSA's request, on penalty of rejecting the application.
- (4) If, further to FSA's request provided under Para (3), the documents submitted are incomplete, illegible or were submitted in an inadequate form, or documents are missing, and if the provisions of GEO No. 32/2012 and/or of FSA's regulations are not duly observed, they shall be returned to the applicant, based on a decision specifying the reasons of the return. The decision may be challenged within maximum 30 days from its communication.
- Art. 4.** - (1) The documents required by this Regulation for the authorization, approval and registration, as well as those regarding the records and reports shall be sent to ASF in Romanian or English, in a certified copy or in legalized translation for the documents submitted in other foreign languages."

(2) The acts and documents issued by authorities of other member states, submitted to FSA, shall have the legal regime established by the applicable Romanian legislation and by FSA's regulations.

(3) For the purposes of this regulation, the international circulation language agreed by FSA shall be the English language.

**Art. 5.** - (1) The investment management company (SAI) shall have as main object of activity the management of UCITS, authorised in compliance with the provisions of Art. 5 Para (1) of GEO No. 32/2012.

(2) In addition, and provided that a least one UCITS is managed, an investment management company (SAI) may also carry out, in accordance with the provisions of Art. 5 Para (2) of GEO No. 32/2012, the management activity of other undertakings for collective investment than UCITS (NON-UCITS), as well as the activities provided under Art. 5 Para (3) of the same government emergency ordinance, in observance of the provisions of Para (4) of the same article.

**Art. 6.** – The investment management shall be carried out under the control and supervision of FSA, in accordance with the provisions of GEO No. 32/2012 and of this regulation.

## SECTION 2

### Delegation of the Activities Carried Out by Investment Management Companies (SAI)

**Art. 7.** - (1) For the application of the provisions of Art. 33 Para (1) of GEO No. 32/2012, investment management companies (SAIs) may delegate the investment management activity, subject to FSA's prior approval and based on a written contract, to the entities indicated under Art. 33 Para (2) Letter c) of GEO No. 32/2012.

(2) For the application of the provisions of Art. 33 Para (1) of GEO No. 32/2012, investment management companies (SAIs) may delegate to third parties, subject to a prior notification sent to FSA and based on a written contract the exercise of the activities mentioned under Art. 6 Letter b) and c) of GEO No. 32/2012.

"(3) The activity of distribution of the units, indicated in art. 6 letter c) of GEO no. 32/2012 may be delegated to other IMCs, financial investment services companies (SSIFs) or credit institutions in accordance with the provisions of this Regulation on the basis of distribution contracts and the mention of the delegation in the issue prospectus. "

Paragraphs (4) and (5) shall be repealed

"(6) The distributors mentioned in par. (3) will be registered in this capacity in the Public Register of ASF as follows:

a) IMC;

b) SSIF and credit institutions, subject to the payment in the ASF account of the fees established in accordance with the regulations in force; "

"(7) The deletion from the ASF Public Register of the capacity of an IMC, SSIF or credit institution as a distributor of units of UCITS is made in the following cases:

a) following a written request made by the IMC, SSIF or credit institutions;

b) as a result of the withdrawal of the operating authorization by the ASF;

c) as a sanction.

(8) The request for deletion from the Public Register of ASF according to par. (7) shall be accompanied by proof of payment of the cancellation fee in the ASF account, established in accordance with the regulations in force. "

Article 8 shall be repealed

" Art. 9. - The IMC may carry out the activity of distributing units of the UCITS and through natural persons, other than those mentioned in art. 7 par. (3), referred to as distribution agents. "

Art. 10. - (1) In order to be licensed by FSA as a distribution agent of an investment management company (SAI), a natural person must meet the following requirements:

a) he/she provides evidence of a contractual relationship with the investment management company (SAI);

b) he/she has graduated at least upper secondary education and has a baccalaureate diploma;

c) he/she has participated in the training courses or has passed the test on the knowledge of the legislation applicable to UCITS, organised by the investment management company (SAI), FSA or by the vocational training providers certified by FSA;

d) he/she was not convicted for fraudulent management, abuse of trust, forgery of documents and trafficking therein, fraud, embezzlement, false statement, bribe giving or taking, or other economic crimes;

e) he/she does not fall under the incidence of the provisions of Art. 273 Para (1) Letter c) of Law No. 297/2004 applied by FSA or of similar sanctions applied by the National Securities Commission (NSC), the Insurance Supervisory Commission (ISC), the Private Pension System Supervisory Commission (PPSSC), the National Bank of Romania (NBR) or other foreign financial and economic supervisory and regulatory authorities.

(2) For the natural person distribution agent to be licensed and registered in FSA's Public Registry, the investment management company (SAI) shall submit to FSA an application accompanied by the following documents:

- a) copy of the identity document;
- b) affidavit of the natural person, under handwritten signature, declaring that he/she meets the conditions provided under Para (1) for the capacity as distribution agent;
- c) criminal record certificate and fiscal record certificate, submitted during their validity term, in original or in certified copy;
- d) affidavit of one of the investment management company's (SAI's) directors, who ensures the effective management thereof, regarding the fulfilment of, and compliance with, the requirements provided under Art. 11 Paras (1) and (2) for the distribution agents;
- e) proof of payment into FSA's account of the fee for the authorisation and registration in FSA's Public Registry as natural person distribution agent.

(3) The UCITS' issue prospectus shall mention the possibility for the distribution activity to be carried out through distribution agents.

Art. 11. - (1) Investment management companies (SAIs) have the obligation to provide proper training to the distribution agents and to supervise their activity to ensure that company complies with the provisions of GEO No. 32/2012 and hereof. Investment management companies (SAIs) shall verify whether the distribution agents have the capacity to communicate accordingly to the investors all relevant information in connection to the UCITS for which they carry out the distribution activity.

(2) Investment management companies (SAIs) shall verify whether the distribution agents who shall act on their behalf are reputable persons and possess sufficient professional and commercial knowledge to be able to communicate accordingly to the clients or prospective clients all relevant information regarding the undertakings for collective investments they are distributing.

(3) The natural person distribution agent shall inform the investors or prospective investors, upon contacting them or prior to providing distribution activities, the capacity in which he/she acts and the name of the investment management company/companies on whose behalf he/she acts.

(4) Investment management companies (SAIs) that employ natural person distribution agents shall be fully and unconditionally liable for any action or lack of action of the agents acting on behalf of such investment management companies (SAIs).

(5) Investment management companies (SAIs) using natural person distribution agents shall take adequate measures to avoid any negative impact on the UCITS' investors' activity that may be caused by the activity of such an agent acting on behalf of the investment management company (SAI).

(6) The natural person distribution agents of an investment management company (SAI) shall provide, free of charge, key information addressed to the investors regarding the UCITS, as provided under Art. 98 of GEO No. 32/2012, and while carrying out their activity, they shall ensure that the units' first subscription shall only be made after the investor receives the prospectus and after the transmission of the information provided under Art. 93 Para (3) of GEO No. 32/2012.

Article 12 shall be repealed Art. 13.

" Art. 13. - (1) The distribution agents who are natural persons may not be involved in the collection and payment operations from or to the investors in the UCITS for which they carry out the distribution activity."

(2) Investment management companies (SAIs) authorised by the competent authorities in other Member States which distribute units in Romania based on the free circulation of services, after completing the notification procedure in accordance with the provisions of GEO No. 32/2012, may only operate through natural person distribution agents.

(3) The investment management companies (SAIs) provided under Para (2) shall conclude contracts for the distribution of UCITS units in Romania with Romanian legal person distributors or they shall distribute units through branches established in Romania.

(4) The list of distribution agents shall be published on the website of each investment management company (SAI) and shall be updated in accordance with the list of its own distribution agents registered in FSA's Public Registry.

Art. 14. -

" Art. 14. - (1) The deletion from the Public Register of ASF of a natural person distribution agent can be done in the following cases:

- a) as a result of the written request made by the distribution agent with the motivation of the reasons for this request;
- b) as a result of the withdrawal of the decision, as a sanction. "

(2) The request for deregistration from FSA's Public Registry of the distribution agent shall be accompanied by the proof of payment by the distribution agent, in FSA's account, of the fee for the withdrawal of such capacity and by

the proof of termination of the contractual relationship with the investment management companies for which it carries out the units distribution activity.

(3) The withdrawal of the capacity as distribution agent, upon request, shall be decided by FSA within 30 days from the submission of the request.

(4) The termination of all contractual relationships between the investment management company (SAI) and the distribution agents that does not result in the deregistration of such distribution agents from FSA's Public Registry shall be notified to FSA within maximum two working days.

### SECTION 3

#### Management of Individual Portfolios of Investments

Art. 15. - (1) The individual portfolios of investments, including those held by pension funds, on a discretionary basis, within the limits of the mandate granted by the investors, shall be managed in compliance with the prudential rules and conduct rules provided by GEO No. 32/2012, with the provisions of this regulation, and on the capital adequacy requirements provided by FSA regulations issued for the application of Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy, approved as amended and supplemented by Law No. 227/2007, as subsequently amended and supplemented, hereinafter referred to as GEO No. 99/2006.

(2) The individual portfolios of investments shall be managed based on a contract prepared in compliance with the provisions of Art. 16.

Art. 16. – Investment management companies (SAIs) provide individual portfolio management services only based on a written contract, which shall include clauses regarding at least:

- a) the activities to be carried out and the type of financial instruments to be traded;
- b) the term of the contract, the renewal, amendment and/or termination modalities;
- c) the rights and obligations of the parties, and other terms on which the company shall carry out the portfolio of investments management activity; the rights and obligations of the contracting parties may be inserted through reference to other documents or legal texts;
- d) the procedure and means for transmission of orders and instructions in the name of the client;
- e) the nature, frequency and term of the reports related to the provision of the discretionary management activity intended to be provided by the investment management company (SAI) to the clients;
- f) the client's representation that it understands the terms and that it assumes the risk arising from the transactions with financial instruments;
- g) the commissions and fees charged for carrying out the individual portfolio management activity, as well as the related source withholding taxes and duties, incumbent upon the investor;
- h) the types of financial instruments that may be included in the client's portfolio, as well as the types of transactions that may be carried out with such instruments, including the existence of any restriction;
- i) the objectives of the portfolio management activities, the risk level related to the discretionary portfolio management and any limitation regarding the discretionary management;
- j) details regarding any potential delegation of the discretionary management of all or part of the financial instruments or funds in the client's portfolio;
- k) the client's option to unilaterally revoke the mandate given to an investment management company (SAI) based on the portfolio management contract or to withdraw, in part or in full, at any time, the funds which are free of charges, in the conditions established in the individual portfolio management contract; any potential losses or obligations regarding the settlement of the suspense items resulting from the early liquidation of the investments made on their account shall be borne by the investor;
- l) the regime of the interest related to the amounts deposited by the clients in the current accounts;
- m) the languages in which the client may communicate with the company or in which it can receive documents or any other information;
- n) the means of communication to be used in the relationship between the client and the company;
- o) the signature of the client, of the person authorised by the investment management company (SAI) and the company's stamp;
- p) any other clauses regarding the individual portfolio management activity agreed by the parties.

Art. 17. - (1) Investment management companies (SAIs) shall submit to FSA, within 10 working days from the end of each month, a centralised list including the identification data of the clients for which they supply management of individual portfolio of investments services, and the total assets of each of them.

(2) Investment management companies (SAIs) supplying portfolio management services shall send periodically to each client a reporting form on the portfolio management activity, on a durable medium.

(3) In the case of retail clients, the reporting form on the portfolio management activity provided under Para (2) shall include at least the following information:

- a) the name of the investment management company (SAI);
- b) the name or other information for the identification of the retail client's account;
- c) the situation regarding the content and the value of the portfolio, including details of each financial instrument held, the market value or, if the market value is not available, its updated value, determined in accordance with the evaluation methods used by the investment management company (SAI) to evaluate similar financial instruments in the portfolio of managed UCITS, the balance sheet at the beginning and at the end of the reporting period and the performance of the portfolio throughout the reporting period;
- d) the total amount of the commissions and taxes incurred during the reporting period, including at least the total management fees and the total costs associated to the execution of the transactions and, if relevant, a note specifying that a more detailed presentation shall be provided upon request;
- e) the comparison of the performance during the reporting period covered by the reporting form with a reference point of the investment performance, if it was agreed between the investment management company (SAI) and the client;
- f) the total amount of the dividends, interest and other receivables related to the clients' portfolios;
- g) information on corporate activities conferring rights in connection with the financial instruments held by the client in the portfolio and exercised by the investment management company (SAI) in accordance with the contractual provisions;
- h) upon request, for the transactions executed during the reporting period, the information provided under Art. 122 Para (6) Letters c) to i) of Regulation No 32/2006 on the financial investment services, approved by Order No. 121/2006 of the national Securities Commission, as subsequently amended and supplemented, hereinafter referred to as Regulation No 32/2006, unless the client chooses to receive information regarding the transactions executed on a "transaction by transaction" basis, in which case the provisions of Paras (7) to (9) shall apply.

(4) In the case of retail clients, the portfolio management reporting form provided under Para (2) shall be provided once every 6 months, with the exception of the following cases:

- a) at the client's request, the portfolio management reporting form shall be provided every 3 months;
- b) if the provisions of Paras (7) to (9) apply, the portfolio management reporting form shall be provided every 12 months.

(5) Investment management companies (SAIs) shall inform the retail clients on their rights to request information in compliance with the provisions of Para (4) Letter a).

(6) The exception provided under Para (4) Letter b) shall not apply in the case of transactions with financial instruments provided under Art. 2 Para (1) Item 11 Letter c) or with any instrument provided under Art. 2 Para (1) Item 11 Letter d) of Law No. 297/2004.

(7) If the client chooses to receive information regarding the transactions executed on a "transaction by transaction" basis, the investment management company (SAI) shall provide it, within two working days from the initiation of the transaction, with the essential information regarding this transaction on a durable medium.

(8) If the client provided under Para (7) is a retail client, the investment management company (SAI) shall send it a notification confirming the transaction and containing the information provided under Art. 122 Para (6) and (7) of Regulation No 32/2006, no later than two working days from the conclusion of the transaction. The confirmation form for the execution of the orders received from the intermediary, validated by the signature of an authorised person and the stamp of the investment management company (SAI), shall be deemed a valid notification.

(9) The provisions of Para (8) shall not apply if the notification sent by the investment management company (SAI) contained the same information as the confirmation that would have been sent to the investment management company (SAI) by any of the parties involved in the execution of orders/transactions.

(10) During the individual portfolio management activity, in the case of professional clients, the investment management company (SAI) shall provide them, upon request, with the reports provided under Para (3) in compliance with the provisions of the contract concluded between them.

(11) Upon request, the reporting forms provided above shall be submitted to FSA within maximum 3 working days.

Art. 18. - (1) The structure of the individual portfolio with regard to the investment limits in the total value of the portfolio shall be established by the contract between the two parties, the client assuming the additional risk deriving from not diversifying the portfolio, further to the compliance with the mandate given by it.

"(2) The IMC may enter in the individual portfolio of the client, only with its written consent, the units of the UCITS it manages and other placements in entities with which the IMCs / directors / administrators / employees of the IMC are in relations business / legal relationships. "

(3) Investment management companies (SAIs) may introduce in the client's individual portfolio money market instruments such as commercial papers issued by legal persons and acquired exclusively by endorsement, only with the client's written consent and in compliance of the provisions of Art. 4 Para (1) of Rule No. 14/2013 on the investment of undertakings for collective investment in money market instruments such as promissory notes, approved by Resolution No. 59/2013 of the Financial Supervisory Authority's Board, hereinafter referred to as FSA Rule No. 14/2013.

"(4) The collection of the amounts related to the investments mentioned in paragraph (3) shall be carried out in compliance with the provisions of art. 10 of ASF's Rule no. 14/2013 on the investment of undertakings for collective investment in money market instruments such as promissory notes applicable to UCITS "

Art. 19. – The financial instruments and the cash of individual clients shall be held and recorded in separate accounts from those of the investment management company (SAI) and from those of the managed UCITS.

Art. 20. - (1) Investment management companies (SAIs) shall establish and maintain, throughout their operation, own funds calculated in accordance with FSA's regulations issued for the application of GEO No. 99/2006.

"(2) The obligation of the IMCs to fill the initial capital level, stipulated in art. 8 par. (2) of GEO no. 32/2012, rests with it throughout its operation time, the exchange rate used is determined by converting the amounts in euro using the average annual exchange rate communicated by the National Bank of Romania, at the end of the tax year. "

Art. 21. - (1) For the application of the provisions of Art. 8 Para (6) of GEO No. 32/2012, the fixed overheads are represented by the turnover of accounts 61\*\*, 62\*\*, 63\*\*, 64\*\* and 65\*\* which is included in the calculation of the profit and loss account, in compliance with the accounting regulations regarding the preparation of the annual financial statements, from which the variable overheads are deducted. Variable overheads means expenses proportional to revenues.

(2) For the calculation of the fixed overheads, the variable overheads shall be recorded separately.

Art. 22. - (1) If the obligations and requirements provided under Art. 20 hereof and under Art. 8 Para (6) of GEO No. 32/2012 are not complied with, the investment management company (SAI) and the persons within the internal control compartment shall notify FSA, within maximum 3 working days, of this situation and of the measures to remedy such situation.

(2) FSA may request the remedy of such a breach by an increase of the subscribed and paid-in share capital as part of the initial capital of an investment management company (SAI).

(3) The period for compliance with the provisions of Art. 20 hereof and of Art. 8 Para (6) of GEO No. 32/2012 shall be maximum 60 days from the notification to FSA of the situation provided under Para (1).

"(4) The IMCs that have not included in their scope of activity the management of the individual investment portfolios, i.e. the IMCs that have registered in their scope of activity the management of the individual investment portfolios but which do not actually carry out this activity, as well as the self-managing companies shall send to ASF, at least once every six months, the statement of the initial capital calculated in accordance with the provisions of Art. 23 and a statement of the structure of own funds calculated in accordance with the provisions of Title I of Part Two of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012, hereinafter referred to as Regulation (EU) No. 575/2013, showing compliance with art. 8 of GEO no. 32/2012, in the case of IMCs, respectively of art. 74 of GEO no. 32/2012, in the case of investment companies, as well as art. 20 of this Regulation. The own funds of the IMCs and investment companies subject to this Article may not have a lower level than the initial capital of the IMCs as set out in Art. 8 par. (1) of GEO no. 32/2012 or of the investment company provided under art. 74 par. (1) of the same normative act, as the case may be, from the date of authorization by ASF. The reporting shall be sent to ASF in electronic format within a maximum of 25 days from the end of the reporting period."

(5) If investment management companies (SAIs) whose object of activity includes management of individual portfolio of investments, but which do not actually carry out such activity, the situation of their own funds provided under Para (4) shall be accompanied by an affidavit signed by the legal representative of the investment management company (SAI) certifying that during the reporting period no management of individual portfolio of investments activity was carried out.

(6) In the case of investment management companies (SAIs) actually carrying out individual portfolio management activities, the reporting regarding the prudential requirements shall be prepared in accordance with FSA regulations issued for the application of GEO No. 99/2006.

"(7) The SAIs that have registered in their object of activity and actually carry out the activity referred to in art. 7 par. (1) of GEO no. 32/2012 have the obligation to comply with the provisions of art. 63-68, art. 80-87, art. 140 and art. 142-144 of Regulation no. 32/2006.

(8) The SAIs which actually performs the activity referred to in art. 7 par. (1) of GEO no. 32/2012 shall immediately notify ASF of the commencement / termination of that activity. "

## CHAPTER II

### Authorisation of Investment Management Companies (SAIs)

Art. 23. - (1) In order to obtain the operation authorisation, investment management companies (SAIs) must meet the conditions provided under Title I Chapter II Section I of GEO No. 32/2012, and the following requirements:

a) it is managed by a board of administration/supervisory board consisting of at least 3 members, and the effective management of its activity is ensured by directors/members of the executive board, in accordance with the provisions of Art. 12 Para (1) of GEO No. 32/2012. The directors/members of the executive board are persons who, in accordance with the deed of constitution and/or resolutions of the statutory bodies of investment management companies (SAIs), are authorised to manage and coordinate its day-to-day activity and are competent to bind the investment management company (SAI). This category shall not include persons ensuring the direct management of the compartments within investment management companies (SAIs), of the subsidiaries and secondary office. In the case of branches of foreign legal person investment management companies (SAIs) operating in Romania, the effective management shall be ensured by persons authorised by the foreign legal person investment management company (SAI) to manage the branch's activity and to legally bind the foreign legal person investment management company (SAI) in Romania;

b) the directors of an investment management company (SAI) may be members of the board of administration of such investment management company (SAI);

c) the members of the board of administration/supervisory board and directors/members of the executive board of the investment management company (SAI), and the persons replacing them shall meet the general conditions provided by Law No. 31/1990, for the exercise of said position, supplemented by the special conditions provided by GEO No. 32/2012;

d) in addition to the conditions provided under Letter c), members of the board of administration/supervisory board of the investment management company (SAI) shall meet all of the following conditions:

1. they are reputable persons and have sufficient experience to ensure the safe and prudent management of the investment management company (SAI);

"2. not be members of the board of directors / supervisory or management board / members of the board of another investment management company or investment firm must not be members of the board of directors / supervisory or management board / members of the board of a SSIF with whom the IMC has entered into a financial intermediation contract must not be members of the board of directors / supervisory board or executive officers / department managers (with tasks related to the certification of the net asset value or other activities specific to a depositary) within a credit institution that performs the depositary function for one of the managed collective investment undertakings and must not be employed or have any contractual relationship with another IMC or an investment firm, subject to the provisions of Article 21 of the Delegated Regulation (EU) no. No 438/2016 of 17 December 2015 supplementing Directive no. 2009/65 / EC of the European Parliament and of the Council as regards the obligations of depositaries, hereinafter referred to as The delegated regulation (EU) no. 438/2016;"

3. they were not convicted by a final sentence for fraudulent management, abuse of trust, forgery of documents and trafficking therein, fraud, embezzlement, false statement, bribe giving or taking, or other economic crimes;

4. they do not fall under the incidence of the provisions of Art. 273 Para (1) Letter c) of Law No. 297/2004 applied by NSC or of similar sanctions applied by NBR, ISC, PPSSC or by other foreign financial and economic supervisory and regulatory authorities;

5. they graduated higher education institutions and have a bachelor's degree or diploma exam, as applicable;

6. they have professional experience in the field of capital market/insurance/private pension or in the banking or investment management field of at least 3 years;

7. they did not hold the position of administrator of a company regulated by Law No. 31/1990 or of a foreign company under judicial reorganisation or bankrupt, in the last 2 years prior to the initiation of the bankruptcy proceedings, a situation for which they are proven liable, if the liability was established by a final court decision;

e) the directors/members of the executive board of an investment management company (SAI), and the persons replacing them shall meet the conditions provided under Letter c) and Letter d) Items 1 to 5 and 7, and shall have an experience of at least 3 years in investment management or in the field of capital market; the directors/members of the executive board shall exercise their duties during the normal business hours of the company; their replacement may work part time, and in case of permanent replacement further to the termination of the contractual relationship between the investment management company (SAI) and the directors/members of the executive board they are replacing, the investment management company (SAI) has the obligation to request the authorisation of the change of the effective management body membership;



f) Investment management companies (SAIs) shall possess the minimum initial capital related to the proposed object of activity, in accordance with Art. 8 of GEO No. 32/2012. The initial capital of an investment management company (SAI) shall be calculated in accordance with the provisions of Art. 26 Para (1) Letters a) and e) of Regulation (EU) No 575/2013;

g) they possess a space for a registered office, which shall meet at least the following conditions:

1. it is used exclusively by the investment management company (SAI);
2. it is adequate for the organisational structure, business and activities plan to be authorised;
3. it has a surface area of at least 70 sqm;
4. it is properly partitioned so as to ensure the effective separation of the activities carried out;
5. it is not located in the basement of buildings;

h) if an investment management company (SAI) holds both a registered office and a main office, the conditions provided under Letter g) shall be met by the main office, and the registered office shall meet only the condition provided under Letter g) Item 1. The main office shall be the premises where the investment management company (SAI) shall conduct the activities to be authorised by FSA;

i) they are adequately equipped for carrying out the activity;

j) they submit all documents provided under Art. 24.

"2. The members of the board of directors / supervisory board, managers / board members, auditors and employees of an IMC may not be significant shareholders, may not hold a position or be employees of another IMC or self-managed investment company authorized by ASF / a competent authority in another Member State. For the members of the board of directors / supervisory board of the IMC, the restriction does not apply if they are part of the board of directors / supervisory board of an IMC within the group."

(3) A person appointed as replacement, may fulfil this capacity alternatively for the persons ensuring the effective management of the investment management company (SAI), in accordance with the provisions of Art. 12 Para (1) second sentence of GEO No. 32/2012, without, however, replacing at the same time more than one of these persons.

Art. 24. - (1) The authorisation granted to an investment management company (SAI) shall be issued based on an application, prepared in accordance with Annexes 1A and 1B, accompanied by the following documents:

a) its deed of constitution, authenticated, in original;

b) copy of the ruling issued by the delegated judge with ORC regarding the incorporation and registration of the company;

c) copy of the registration certificate with ORC;

d) for each of the members of the board of administration/supervisory board and for the directors/members of the executive board of the company and for the persons replacing them, the following documents are required:

1. curriculum vitae dated and signed, containing the general presentation of their professional experience, revealing the fulfilment of the conditions provided under Art. 23 Para (1) Letter d) Items 5 and 6, and Letter e);

2. copy of the identity document;

3. certified copy of the education degrees;

4. criminal record certificate, submitted during its validity term, in accordance with the legal provisions in force, in original;

5. fiscal record certificate, submitted during its validity term, in accordance with the legal provisions in force, in original;

6. affidavit, under handwritten signature, prepared in accordance with Annexe 1C, revealing that he/she does not breach the provisions of Law No. 31/1990, of GEO No. 32/2012 and of the regulations in force regarding the investment management activity, and regarding the observance of the requirements provided under Art. 23 Para (1) Letters c) and d) for the members of the board of administration/supervisory board, and of Art. 23 Para (1) Letters b), c) and e) for directors/members of the executive board and for the persons replacing them;

7. affidavit, under handwritten signature, prepared in accordance with Annexe 1D, containing all individual holdings in, and the holdings related to other persons involved in and closely linked with, any company regulated by Law No. 31/1990 and representing at least 10% of the share capital or of the voting rights;

"e) for significant shareholders who are legal entities, the corresponding documents set out in Annexes no. 1 and 2 or Annex no. 3 to Regulation no. 3/2016 on the applicable criteria and the procedure for the prudential assessment of the acquisitions and increases of the participations in the entities regulated by the Supervisory Authority, hereinafter referred to as the ASF Regulation no. 3/2016;

f) for significant shareholders who are natural persons, the corresponding documents set out in Annexes no. 1 and 2 or Annex no. 3, as the case may be, to the ASF Regulation no. 3/2016 on the applicable criteria and the

procedure for the prudential assessment of acquisitions and increases of participations in the entities regulated by the Financial Supervisory Authority, as subsequently amended;

g) the internal rules and procedures of the investment management company (SAI) approved by the company's competent statutory body and signed by the person authorised in this respect;

h) the business plan, which shall include at least the following:

1. the identification data of the investment management company (SAI): name, complete address of the registered office/main office, as applicable, telephone, fax, email, web page address, subscribed and paid-in share capital, Sole Registration Code or its equivalent for foreign persons, bank and IBAN Code;

2. information on the activities to be carried out;

3. information on how the investment management company (SAI) intends to conduct its activity in a safe and prudent way, including information regarding the risk management position;

4. the organisational structure, specifying the liabilities and the competence limits of the decision-making personnel;

5. a study of the market and of the factors that may affect the feasibility of the business plan;

6. the investment policy and the business financing plan, including the investment recovery period;

i) the list of signature specimens for the members of the board of administration/supervisory board and for the directors/members of the executive board of the investment management company (SAI), and for the person/persons whom the investment management company (SAI) wishes to authorise as representative/representatives of the internal control compartment;

j) the documents provided herein for the authorisation of the representative/representatives of the internal control compartment;

k) certified copy of the document attesting to the legal possession of the space for the registered office and, as applicable, the main office necessary for the operation of the investment management company (SAI), which shall meet the requirements provided under Art. 23 Para (1) Letters g and h), as applicable. If there is a lease/sublease contract, it shall have a validity of at least 12 months from the submission of the application for authorisation. The sublease contract submitted to FSA shall be accompanied by an authenticated statement of the landlord that it agrees to the destination of the subleased space, if the possibility of the sublease is not expressly provided in the lease contract, and the certified copy of the lease contract registered with the fiscal authority, in the case of natural persons. The lease/sublease contract shall be renewed and submitted to FSA within maximum 15 days from the expiry date. Association in participation contracts shall not be acceptable as proof of holding a space for registered office. The documents shall be accompanied by an affidavit of the company's legal representative, under handwritten signature, regarding the existence of the technical equipment necessary for carrying out the company's activity;

l) proof of holding the minimum initial capital; upon establishment the initial capital shall be equal to the share capital fully paid-in into the account specifically opened with a bank;

m) the contract concluded with a financial auditor, member of the Chamber of Financial Auditors of Romania, hereinafter referred to as CFAR, which meets the criteria established by FSA and CFAR;

n) specification of the internal auditors of the company, members of the audit committee, members of the remuneration committee in the case of IMCs of significant dimensions as defined in art. 53 par. (3) letter m) and the person (s) responsible for the implementation of the legal provisions on the prevention and combating of money laundering, terrorist financing and international sanctions; "

o) any other documents that FSA may request to verify that the investment management company (SAI) ensures an effective prudential management;

p) proof of payment into FSA's account of the fees determined in accordance with the regulations in force.

(2) Within maximum 60 days from the issuance of the authorisation, the investment management company (SAI) whose object of activity includes management of individual portfolio of investments activities has the obligation to present to FSA the proof of membership with the Investors Compensation Fund.

(3) Investment management companies (SAIs) may provide management of individual portfolio of investments activities only after fulfilling the condition provided under Para (2).

(4) If the application for authorisation submitted by an investment management company (SAI) is rejected, it has the obligation to change its name, i.e. to eliminate the phrase "investment management company" or "SAI" and to change its object of activity or it has the obligation to wind up in accordance with the procedure provided by Law No. 31/1990.

### CHAPTER III

#### Withdrawal of the Authorisation

Art. 25. – The withdrawal of the authorisation of an investment management company (SAI) shall occur in the situations provided under Art. 11 of GEO No. 32/2012, by:

a) a withdrawal decision, if the investment management company (SAI) provides evidence of submitting all documents provided under Art. 27;

b) a sanctioning decision, in compliance with the provisions of Title I Chapter VII of GEO No. 32/2012.

Art. 26. – The decision to withdraw the authorisation or, as applicable, the sanctioning decision shall be communicated to the investment management company (SAI), and to the depositary, in writing, with acknowledgement of receipt.

Art. 27. - (1) The withdrawal of the authorisation at the express request of the investment management company (SAI) shall be performed based on the application, accompanied by the following documents:

a) resolution of the statutory body of the investment management company (SAI) regarding the cessation of the activities mentioned under Art. 5 Paras (1) to (3) of GEO No. 32/2012, and regarding the change of the object of activity and of the name of the company (i.e. the elimination of the phrase “investment management company” or “SAI”) or regarding the initiation of the winding-up procedure;

b) proof of publication in a national newspaper of a notice regarding the resolution provided under Letter a);

c) proof of payment of its debts to FSA;

d) the specification of the address of the archive and the identification data and contact details of the person in charge of managing the company's archive;

e) the financial auditor's report regarding the company's situation upon the cessation of activity;

f) the proof of payment into FSA's account of the fees determined according to the regulations in force;

g) any other documents that FSA deems necessary for the settlement of the application.

(2) If the investment management company (SAI) does not start to carry out its activity within 12 months from obtaining the authorisation or does not carry out any activity authorised by FSA for a period of more than 6 months, it shall submit to FSA the documents provided under Para (1).

(3) If the investment management company (SAI) provided under Para (1) manages UCITS for which it did not request the withdrawal of the authorisation and whose assets it wishes to transfer to another investment management company (SAI) or manages individual portfolios of investments which, by mutual agreement with their holders, it transfers to another investment management company (SAI), it shall prepare and submit, in addition to the documents provided under Para (1), the following documents:

a) delivery-receipt report regarding the transfer of the duties and operations specific to the management activity to another investment management company (SAI), including the transfer of the books and records, the correspondence, marketing materials, contracts and any other documents, in original, of the managed undertakings;

b) a report regarding the cessation of activity and the transfer of duties, having the contents and the annexes provided in the annual report of undertakings for collective investment (UCI) managed, and for the individual portfolios of investments managed, audited by a financial auditor, member of CFAR.

(4) Within 30 days from the withdrawal of the authorisation, the conclusions of such report shall be published on FSA's website and in FSA's Bulletin.

Art. 28. - (1) In the case of withdrawal of the authorisation of an investment management company (SAI) by sanctioning decision, FSA shall also appoint a provisional administrator, which shall carry out only administration acts for the preservation of the patrimony of the managed entities, and the mandatory transfer of the management to another investment management company (SAI) and the publication of this situation, taking all necessary measures in this respect.

(2) Within 15 days from its appointment by FSA, the provisional administrator shall publish, in at least 3 national newspapers, the list of entities temporarily managed and shall thereby communicate its availability to receive applications for transfer of such entities to other investment management companies (SAIs) for management.

(3) The provisional administrator has the obligation to provide the applicants with all information necessary for them to make an informed decision.

(4) While analysing the received offers, the provisional administrator shall consider the following criteria:

a) the initial capital of the offeror investment management company (SAI);

b) the extent to which the distribution network that the new investment management company (SAI) may ensure covers the initial distribution network;

c) the proposed management commission;

d) the experience and performances obtained in the management activity;

e) the volume of the assets managed upon the evaluation;

f) the sanctions applied by FSA, as applicable.

(5) The provisional administrator has the obligation to identify and propose to FSA, within maximum 90 days from its appointment, the appointment of another investment management company (SAI).

(6) For the duration of its activity, the provisional administrator shall prepare and publish the reports related to the activity of the temporarily managed entities, within the term and in compliance with the requirements provided herein.

(7) If the provisional administrator exceeds the term specified under Para (5), FSA may extend its mandate only once, for a period of 90 days or it may decide to replace it, replacement which shall be made within maximum 15 days from the expiry of the mandate of the previous provisional administrator.

(8) If after the expiry of the terms provided under Para (7) the condition provided under Para (5) was still not met, FSA has the right to order the winding-up of the fund and to appoint a liquidator.

(9) In case of failure to comply with the provisions of Paras (2) to (4) and (6), the provisional administrator shall return to the temporarily managed entities the commissions collected.

Art. 29. – The commission of the provisional administrator shall not exceed the maximum limit of the management commission charged by the investment management company (SAI) which was withdrawn the operation authorisation and shall be paid from the assets of the temporarily managed entities.

**Art. 30. -** (1) Upon the communication of the sanctioning decision by withdrawing the authorisation, the investment management company (SAI) shall:

a) cease all management activities of the UCITS and individual portfolios managed by it;

"(b) initiate the transfer of the tasks and operations specific to the management activity to the designated interim director, including the transfer of registers and records, correspondence, advertising materials, contracts and any other original documents of the bodies managed. The transfer must end no later than 10 days from the date of notification of the sanctioning decision."

(2) The withdrawal of the authorisation of an investment management company (SAI) by sanctioning order shall not affect the fulfilment of the depositary contracts regarding the managed UCITS. The depositary shall continue to fulfil its duties until the conclusion of a depositary contract with the new investment management company (SAI) or, as applicable, until the delivery of the assets to a new depositary.

## CHAPTER IV

### Modification of the Organisation and Operation of Investment Management Companies (SAIs)

**Art. 31. -** (1) Investment management companies (SAIs) shall submit to FSA for authorisation, prior to their registration with ORC and within maximum 10 days from the occurrence of any modifications, the following organisation and operation modifications:

a) increase/decrease of share capital;

b) extension/limitation of the object of activity;

c) modification of the shareholding structure further to the acquisition or reduction of the qualified positions approved by FSA in compliance with Regulation No. 2/2009;

d) modification of the membership of the board of administration/supervisory board;

e) modification of the management of the investment management company (SAI);

f) change of the registered office;

g) registration/deregistration of secondary office;

(h) change of the company's name."

"(2) In the case of the authorization of the modifications provided for in paragraph (1), ASF shall issue an individual act of to supplement and/or to amend the operation authorisation of the IMC. The modifications provided in paragraph (1) are enforceable as of the date of their registration with the National Trade Register Office.

(3) If the increase of share capital provided under Para (1) Letter a) is performed by contribution in kind, the value thus contributed shall be considered upon the calculation of the own funds.

(4) The ASF shall issue an individual act of approval or rejection of the changes in the organization and operation of the IMC within 30 days of the submission of the complete documentation.

(5) In well-justified cases, ASF may extend the 30-day period from paragraph (4) for another 30 days. "

**"Art. 32. - (1) After obtaining the individual act provided in art. 31 par. (2), within maximum 10 days from the date of registration of the changes in the organization and operation of the IMC with the National Trade Register Office, but no later than 90 days as of the date of the authorization issued by the ASF, the IMC has the obligation to send to ASF the copy of the registration certificate, or the copy of the new registration certificate, if the modification requires a new certificate to be issued. "**

(2) In case of modification of the documents based on which the authorisation was issued, other than those provided

under Art. 31, the investment management company (SAI) has the obligation to notify FSA, within maximum 15 days from the occurrence thereof, attaching copies of the supporting documents.

(3) If the investment management company (SAI) holds both a registered office and a main office, it has the obligation to notify FSA regarding the change of the main office, within maximum 15 days, attaching the supporting documents.

(4) FSA has the right to request the modification of the documents if they are in breach of the provisions of this regulation and/or of the legal provisions in force, or it may refuse to authorise the modifications provided under Art. 31, if the requirements provided herein are not met.

" (5) The date from which the new members of the board of directors / supervisory board and the directors / members of the IMC's executive board actually exercise their mandate is the date of their authorization by the ASF . "

### **Art. 33. -**

"Art. 33. - (1) The individual act provided in art. 31 par. (2) may be issued by ASF based on an application accompanied, where appropriate, by the following documents:

a) the decision of the statutory body of the IMC, which, in the case of the establishment of secondary offices, will also include the activities to be carried out at the respective secondary offices;

b) the addendum to the articles of incorporation of the IMC, as the case may be, in original or legalized copy;

c) the proof of the full payment of the share capital in an account opened for this purpose in a credit institution as well as the financial auditor's report on the lawfulness of the increase / decrease of the share capital, prepared in accordance with ISAE 3000 International Standard on Insurance Missions, in the form of an insurance report that must contain a clear statement of the auditor's conclusion regarding the increase / decrease of the share capital;

d) the documents provided in Annexes no. 1, 2 or 3, as the case may be, of ASF Regulation no. 3/2016, for each significant shareholder of the IMC that participates in the increase of the share capital, for the modifications provided in art. 31 par. (1) letter a);

e) the documents referred to in art. 9 par. (1) or art. 10 par. (1) of the *ASF Regulation no. 14/2015 on the evaluation and approval of the members of the management structure and of the persons holding key positions within the entities regulated by the Financial Supervisory Authority, as subsequently amended and supplemented, hereinafter referred to as ASF Regulation no. 14/2015*, as the case may be, in the situation of the modification provided by art. 31 par. (1) letter d) and e) of this Regulation ;

f) proof of legal possession of the space required for its operation, in a legalized copy, observing the conditions stipulated in art. 24 paragraph (1) letter k), for the modifications provided in art. 31 par. (1) letter f) and g);

g) the organization and operation regulation, which will include the organization chart of the secondary office, as well as special procedures for keeping records and controlling the activity carried out at the secondary offices in relation to the duties and the responsibility of the staff working at the respective offices, the archiving of documents, the transmission of the situation and / or documents at the registered office, for the modifications provided in art. 31 par. (1) letter g);

h) the documents referred to in art. 24 paragraph (1) letter d) for the manager of a secondary office;

i) explanatory note on the situation of the archive, in the case of requesting the withdrawal of the authorization of some secondary offices;

j) declaration on own responsibility by the legal representative of the IMC on the fulfillment of the conditions provided by art. 34, for the modifications provided in art. 31 par. (1) letter g);

k) evidence of payment to the ASF account of the tariffs established according to the regulations in force. "

(2) Within maximum 60 days from the authorisation of the extension of the object of activity of an investment management company (SAI) by including management of individual portfolio of investments, it has the obligation to submit to FSA the proof of membership with the Investors Compensation Fund.

(3) Investment management companies (SAIs) may carry out management of individual portfolio of investments activities only after fulfilling the condition mentioned under Para (2).

**Art. 34. -** (1) Investment management companies (SAIs) may establish secondary offices in compliance, as applicable, with the operational requirements provided under Paras (2) to (6).

(2) At the secondary office, investment management companies (SAIs) may carry out part or all of the activities they are permitted to carry out, subject to obtaining the appropriate authorisations from FSA. Investment management companies (SAIs) may not carry out their activity in offices that were not authorised by FSA.

(3) If an investment management company (SAI) carries out in a secondary office all authorised activities, it shall meet the conditions imposed by this regulation for the main office.

(4) In order to be authorised, a secondary office shall meet all of the following conditions:

a) it has a space exclusively intended for such purpose, which may ensure the proper performance of the activity and whose surface area is not less than 15 sqm. The space intended as secondary office may not be located in the

basement of buildings; the secondary office where only the unit distribution activity is conducted are exempted from compliance with this provision;

- b) it has telephone and fax;
  - c) it ensures adequate technical equipment;
  - d) the director of the secondary office complies with the provisions provided under Art. 23 Para (1) Letter e);
  - e) it has in place its own organisation and operation regulation, approved by the board of administration/supervisory board of the investment management company (SAI);
  - f) it is connected through a computer to the registered/main office of the investment management company (SAI).
- (5) A centralised situation of all activities carried out in the secondary office, and the trial balance sheets related to the branches' activities are submitted, on a monthly basis, in copy to the registered/main office of the investment management company (SAI) for the purpose of preparing the financial statements of the company.
- (6) On a quarterly basis, all information related to the management activity carried out by the secondary office shall be submitted in original for archiving to the main office of the investment management company (SAI), based on a delivery-receipt report.
- (7) Investment management companies (SAIs) have the obligation to maintain the conditions imposed upon the authorisation of the secondary office throughout their functioning term, and to notify any modification to FSA within maximum 15 days from the occurrence thereof and attaching copies of the supporting documents.

## CHAPTER V

### Internal Control of Investment Management Companies (SAIs)

#### SECTION 1

##### Conditions and Procedures for the Authorisation of the Internal Control Compartment Representatives

**Art. 35. -** (1) Each person within the internal control compartment, in charge of supervising the activity carried out by the investment management company (SAI), hereinafter referred to as *internal control compartment representative*, shall be subject to FSA authorisation and shall be registered in FSA's Public Registry. Internal control compartment representatives have the obligation to participate in the training courses on the capital market legislation.

"2. In performing his / her duties, the internal control department representative shall report to the board of directors / supervisory board and notify the directors / members of the management. The internal auditor shall have access to all investigations / controls of the internal control department representative and shall verify the effectiveness of the internal control system, in accordance with the provisions of Art. 23 par. (2) [letter a\)](#) from GEO no. 32/2012. "

**Art. 36. –** To be authorised by FSA as internal control compartment representatives of the investment management company (SAI), natural persons shall meet the following conditions:

- a) they are employed based on employment contracts with the investment management company (SAI) and they carry out control activities only within such investment management company (SAI);
- b) they have economic or legal degrees, obtained based on bachelors' or diploma exams, as applicable, and at least 2 years of experience in the capital market. If the experience in the capital market is of more than 5 years, their higher education degrees may also be in any specialisations other than economic or legal;
- c) they participated/participate in the training courses and passed/pass within maximum 6 months from the authorisation date, the test on the knowledge of the legislation in force, organised by vocational training providers certified by FSA;
- d) they are not significant shareholders of the investment management company (SAI), they are not members of the board of administration/supervisory board or director/member of the executive board and do not exercise any duties similar to those they are to control, they are not financial auditors of the investment management company (SAI), of a depository, of an investment firm (SSIF) or of a regulated market, they are not involved in another investment management company (SAI) or in another depository and they are not employed by another investment management company (SAI) or a depository within the department/service carrying out depository-related operations;
- e) they were not convicted for fraudulent management, abuse of trust, forgery of documents and trafficking therein, fraud, embezzlement, false statement, bribe giving or taking, or other economic crimes;
- f) they were not sanctioned by FSA, NSC, ISC, PPSSC, NBR or by other financial and economic supervisory and regulatory authorities of Romania, other Member States or of a third state with the interdiction to carry put activities on the markets supervised by them.

**Art. 37. -** (1) For the authorisation of the internal control compartment representative, investment management companies (SAIs) shall submit to FSA an application for authorisation, accompanied by the following documents:

- a) curriculum vitae specifying the training and professional experience, updated, dated and signed;
  - b) copy of the identity document;
  - c) certified copies of the education degrees;
  - d) criminal record certificate and fiscal record certificate, submitted during their validity term, in accordance with the legal provisions in force, in original;
  - e) affidavit in original, prepared in accordance with Annexe No. 2, of each internal control compartment representative, regarding the fulfilment of the conditions provided under Art. 36;
  - f) copy of the graduation certificate of the course for internal control compartment representatives, issued by FSA, where applicable;
  - g) confidentiality contract concluded by the internal control compartment representative with the investment management company (SAI);
  - h) proof of payment into FSA's account of the fees determined in accordance with the regulations in force.
- (2) Until the internal control compartment representative/representatives passes/pass the test provided under Art. 36 Letter c), the directors/members of the executive board of the investment management company (SAI) shall be jointly liable with them for the internal control activity carried out in the company.
- (3) If the investment management company (SAI) requests the authorisation of several persons to carry out internal control activities, the application for authorisation shall be accompanied by the detailed responsibilities of each person within the internal control compartment and the documents provided under Para (1) for each person.
- "(4) The statements on own responsibility under the ASF regulations as part of the documentation required for authorization / approval / endorsement / registration in the Public Register of ASF shall be prior to the date of registration of the application for authorization / approval / endorsement / registration in the ASF Public Register as follows:
- a) up to 5 working days for Romanian natural and legal persons;
  - b) up to 20 working days for foreign natural and legal persons.
- (5) In the event of changes in the data on which the statement referred to in paragraph (4) was based, the signatory of the statement has the obligation to update it accordingly within 24 hours of the date of the change. Up-to-date statements shall be filed with ASF under the conditions set out in paragraph (4).
- (6) The provisions of paragraph (4) and (5) shall apply accordingly to the natural persons distribution agents referred to in Art. 10 par. (2)."

**Art. 38. -** (1) The authorisation of the internal control compartment representative may be withdrawn:

- a) at the request of the investment management company (SAI);
  - b) as a sanction.
- (2) Investment management companies (SAIs) have the obligation to request FSA to withdraw the internal control compartment representative authorisation no later than the termination or amendment date of the labour relationships.
- (3) If investment management companies (SAIs) fail to fulfil their obligation provided under Para (2), internal control compartment representatives are entitled to request the withdrawal of their authorisation, all related taxes and commissions being borne by the investment management companies (SAIs).
- (4) The withdrawal of the authorisation of the internal control compartment representative shall be decided by FSA within 30 days from the submission of the application, accompanied by the explanation of the reasons that led to such request, by supporting documents regarding the termination or amendment date of the labour relationships and by the proof of payment into FSA's account of the fees determined in accordance with the regulations in force.

**Art. 39. -** (1) After the withdrawal, in accordance with Art. 38 Para (1) Letter a), of the internal control compartment representative authorisation issued in the name of an investment management company (SAI), such person may be authorised in the same capacity in the name of another investment management company (SAI), provided that he/she submits the documents mentioned under Art. 37 Para (1) Letters a) to f) updated, if they were amended or are no longer within their validity term as provided by the regulations in force, and the proof of payment into FSA's account of the fees determined in accordance with the regulations in force.

(2) If investment management companies (SAIs) no longer have an internal control compartment representative or if such representative is temporarily unavailable, in accordance with the provisions of this regulation, one of the directors/members of the executive board investment management company (SAI) shall also fulfil, on a provisional basis, for a period of maximum 3 months in one calendar year, the role of internal control compartment representative. The director/member of the executive board temporarily fulfilling such position shall be notified to FSA.

(3) In the case provided under Para (2), at the request of the investment management company (SAI), the requirement regarding the experience of the internal control compartment representative provided under Art. 36 Letter b) may be reduced by FSA by maximum 6 months, during which period the liability for the internal control shall devolve jointly upon the director/member of the executive board of the investment management company (SAI) provided under Para (2).

## SECTION 2

### Duties of the Internal Control Compartment Representative

**Art. 40.** - (1) Internal control compartment representatives shall carry out their activity based on written supervisory and control procedures, prepared to ensure the observance by the investment management company (SAI) and its employees of the laws, regulations, instructions and procedures applicable to the capital market, and of the internal rules and procedures of the company.

(2) Internal control compartment representatives shall have access to any relevant information so as to be able to fulfil their duties.

**Art. 41.** - Internal control compartment representatives have the following duties:

- a) to act in accordance with their competencies to prevent any breach by the investment management company (SAI) or by its employees of the laws, regulations in force applicable to the capital market or of the company's internal procedures and to propose measures to remedy such situations;
- b) to ensure the information of the investment management company (SAI) and of its employees with regard to the legal regime applicable to the capital market;
- c) to approve the documents submitted by the investment management company (SAI) to FSA to obtain the authorisations provided by FSA's regulations and to ensure that the reports that the investment management company (SAI) must submit to FSA and to the capital market entities are submitted within the legal term provided by the regulations in force;
- d) to analyse and approve the information/marketing materials of the investment management company (SAI);
- e) to be in direct contact with FSA;
- f) to monitor and verify on a regular basis the application of the legal provisions applicable to the investment management companies' (SAIs') activity and of the internal rules and procedures, to keep record of the irregularities found;
- g) to verify the observance of the prudential regulations;
- h) to verify the correct separation of the assets of the managed entities;
- i) to verify the effectiveness of the computer system and the internal procedures;
- j) to verify the effectiveness of the risk control system.

**Art. 42.** - (1) For the application of the provisions of Art. 18 of GEO No. 32/2012, internal control compartment representatives shall keep a registry at the registered/main office of the investment management company (SAI), and at each branch, where the potential complaints of the investors shall be promptly recorded. The registry of complaints shall be public, and may be consulted at the registered/main office of the investment management company (SAI), as applicable, and shall include at least the following information:

- a) identity of the investor filing the complaint and the activity forming the object of the complaint;
- b) identification data of the persons within the investment management company (SAI) to whom the complaints are addressed or to whom the investor appealed for such activity;
- c) complaint date;
- d) deeds complained of;
- e) prejudice claimed by the investor;
- f) date and the settlement modality of the complaint. The complaint settlement term cannot exceed 30 days from its filing date.

(2) The internal control compartment representatives of each branch have the obligation to send, in copy, on a monthly basis, to the registered/main office of the investment management company (SAI) the Registry of Complaints kept at such branch. The information in the registry of complaints shall be centralised on a monthly basis at the registered/main office of the investment management company (SAI).

(3) The Registry of Complaints shall be made available to FSA upon request.

**Art. 43.** - (1) For the exercise of the duties provided under Art. 41, internal control compartment representatives shall keep a registry recording the investigations conducted, the duration of such investigations, the period to which they refer, their result, the proposals submitted in writing to the board of administration/supervisory board and to the directors/members of the executive board of the investment management company (SAI) and the decisions taken by the persons competent to take measures for their settlement.

**Paragraphs (2) and (3) shall be repealed Art. 44.** - Within 60 days from the end of each year, the internal control compartment shall submit to the board of administration/supervisory board of the investment management company (SAI) a report regarding the activity carried out, the investigations conducted, the irregularities found, the proposals made and the schedule/plan of investigations proposed for the following year. The report, the approved proposals and



the investigation plan approved by the board of administration/supervisory board shall be submitted to FSA prior to the date of 15 March of each year.

"Art. 44<sup>1</sup> - (1) The representative of the internal control department of the IMC shall immediately inform the members of the board of directors / directors or the members of the supervisory board / management, as the case may be, of the deviations found from the regulations in force and the internal procedures of the company.

(2) If the members of the board of directors / directors or the members of the supervisory board / management, as the case may be, do not take the necessary measures within the deadlines established in the report prepared by the representative of the internal control department, the representative of the internal control department shall be obliged to immediately notify ASF of the deviations found from the regulations in force, including the internal procedures of the company. "

## **CHAPTER VI**

### **Internal Rules and Procedures**

**Art. 45. -** (1) The investment management companies' (SAIs') activity shall be carried out in accordance with their internal rules and procedures prepared in compliance with the provisions of GEO No. 32/2012, which shall be submitted to FSA together with the application for authorisation.

(2) Any amendments of the internal rules and procedures of an investment management company (SAI) provided by GEO No. 32/2012 shall be notified to FSA within 5 working days from their entry into force.

**"Art. 46. - (1) The internal rules and procedures shall be drawn up taking into consideration the provisions of art. 15-51 of Title I, Chapter. II Sections 2 - 6 of GEO no. 32/2012, including at least: "**

- a) rules and procedures for ensuring an internal audit function separate and independent from other functions and activities of the investment management company (SAI)/self-managed investment company;
- b) internal rules and procedures for ensuring a permanent risk and global exposure management function and of a counterparty risk management function in the UCITS management activity;
- c) internal rules and procedures on the avoidance of conflicts of interest within the investment management company (SAI)/self-managed investment company, including with regard to personal transactions;
- d) adequate procedures to ensure the security, integrity and confidentiality of information;
- e) internal rules and procedures on the centralisation and registration upon receipt of the UCITS units' subscription and repurchase requests;
- f) internal rules and procedures on the maintenance of the records provided under Arts. 26 and 27 of GEO No. 32/2012 for a period of at least 5 years;
- g) adequate internal rules and procedures to ensure that the investors' complaints are treated accordingly and that no restrictions are imposed on them in the exercise of their rights;
- h) internal rules and procedures to prevent fraudulent practices which may affect the capital market's stability and integrity;
- i) internal rules and procedures on the decision-making process to ensure that the investment decisions taken on behalf of UCITS are taken in compliance with the UCITS' objectives, investment strategy and risk limits, including with regard to the time and modality to exercise the voting rights of the instruments held in the managed portfolios;
- j) internal rules and procedures allowing the transmission of orders for the prompt and fair execution of transactions with the financial instruments in the UCITS' portfolio;
- k) internal rules and procedures on the performance of UCITS' transactions with negotiated derivative financial instruments outside the regulated markets or alternative trading systems.
- "l) internal remuneration policies and practices developed in application of the provisions of art. 34<sup>1</sup> paragraph (4) of GEO no. 32/2012, in compliance with the provisions of the ESMA / 2016/575 Guideline *on sound remuneration policies in accordance with the UCITS Directive*;
- m) internal rules and procedures allowing internal reporting by the IMC employees of violations of the provisions of this Regulation and / or GEO no. 32/2012 through a specific, independent and autonomous channel. For the purposes of this letter, it is considered that in order to fulfill the requirement of establishing a specific, independent and autonomous channel, the IMC shall establish and manage an e-mail address to which all the IMC employees have access and through which they can internally report violations of the provisions of this Regulation and / or of GEO no. 32/2012. "

(2) The rules related to the personal transactions of the employees and of the investment management company (SAI) shall include at least the following interdictions:

- a) members of the board of administration/supervisory board, directors/members of the executive board of an investment

management company (SAI), and any persons with whom the investment management company (SAI) has concluded an employment contract are prohibited from using privileged information regarding the investment policy of a UCITS when performing transactions with financial instruments in their own portfolio;

- b) members of the board of administration/supervisory board, directors/members of the executive board of an investment management company (SAI), and any persons with whom the investment management company (SAI) has concluded an employment contract are prohibited from disseminating information regarding the transactions that the investment management company (SAI) intends to perform with the financial instruments in the managed entities' portfolios.

(3) The internal rules and procedures shall expressly specify that the investment management company (SAI) operates in accordance with the provisions of the managed UCITS' operating documents administrate and that they do not perform operations benefiting to some of the managed individual portfolios and UCITS/NON-UCITS, to the detriment of others.

(4) The internal rules and procedures of an investment management company (SAI) shall include the obligation to submit, on a mandatory basis, upon the repurchase of the units, except for those performed by telephone, the original of the identification document of the unit-holder/its attorney-in-fact and to verify its consistency with the data mentioned in the application for subscription. When payment of the repurchase amounts, except in the case of repurchases made by Internet and by telephone, is requested in cash or into another account than that indicated in the initial application for subscription, the investment management company (SAI) shall retain a copy of the identity document of the unit-holder/its attorney-in-fact or shall verify the signature specimen of the unit-holder/its attorney-in-fact.

(5) If the investment management company (SAI) delegates its unit distribution activities, the provisions of Para (4) shall also apply accordingly to the distributors, and the distribution contract shall contain provisions in this respect.

"(6) Internal rules and procedures for avoiding conflicts of interest in the IMC / self-managed investment company, including in relation to personal transactions, stipulate that any personal transaction conducted by a relevant person, as defined in art. 3 point 14 of GEO no. 32/2012, shall be notified in advance to the representative of the internal control department of the IMC / investment company in order to verify its compliance with the requirements established by GEO no. 32/2012 and ASF's rules on avoiding conflicts of interest and the conduct of personal transactions. "

**Art. 47. -** (1) The organisational structure of the investment management company (SAI) shall be established in consideration, on a mandatory basis, of the following elements:

- a) the board of administration/supervisory board shall be responsible for elaborating the general investment policy for each entity managed, which shall be compliant with the UCITS' constitutive documents. The directors/members of the executive board shall not be liable for the application of the general investment policy for each UCITS managed;
- b) investment management companies (SAIs) shall include a separate compartment in charge of analysing the investment opportunities and of investing the assets in accordance with the investment strategies approved by the directors/members of the executive board;
- c) one of the compartments of investment management companies (SAIs) shall be in charge of making electronic records of all transactions with financial instruments in the portfolio of the managed UCITS and of the applications for unit subscription or repurchase, and of keeping such records in accordance with the provisions of GEO No. 32/2012. This activity shall be separate from that of investment analysis and actual investment of the assets;
- d) investment management companies (SAIs) shall include an internal control compartment which shall ensure that the company carries out its specific activities in compliance with law;
- e) one of the compartments of investment management companies (SAIs) shall be in charge of evaluating the portfolio for each separate UCITS, in accordance with their constitutive documents and with the provisions hereof, of determining the net asset value, determining the net asset value per share, in compliance with the provisions of GEO No. 32/2012 and of this regulation, the calculation of any fees and commissions owed for each separate UCITS.

(2) investment management companies (SAIs) shall have in place a computer system which ensures the safekeeping of the records regarding the market price for each asset in the portfolio of each UCITS, of the net asset value, of the net asset value per share for each day (including for non-working days) for each UCITS managed, the record of the calculation modality of all commissions, taxes and fees owed, and preserves the history of such operations for a period of at least 5 years.

(3) The computer systems of investment management companies (SAIs) shall ensure the record keeping of unit-holders, including their identification details mentioned in the subscription document of the fund units/shares held by each of them. The computer system must allow the recording of any amendments occurred over time with regard to the holding of units, and of the investors' subsequent repurchases or subscriptions, until their withdrawal from such UCITS, the repurchase or subscription price for each separate operation. Such data shall be kept for a period of at least 5 years from the data when the investor withdraws from the UCITS.

(4) The computer systems used for the electronic registration of the transactions, for the evaluation of the portfolio and for keeping a record of the investors shall be accessed by users identified based on passwords, who shall have predefined consultation and/or modification rights, based on the duties of each employee, in accordance with the internal rules and procedures of the investment management company (SAI). Internal control compartment representatives shall have consultation rights over the computer systems.

(5) Investment management companies (SAIs) shall keep back-up records of the information provided under Para (4).

"Art. 47<sup>1</sup>. - (1) Operations for the establishment of financial securities or mortgages on the units of a UCITS not admitted to trading on a regulated market or on an alternative trading system / multilateral trading system, as well as the registration and delisting of the seizure / attachment on some units of UCITS not admitted to trading on a regulated market or on an alternative trading system / multilateral trading system shall be made by separately recording and highlighting these financial instruments in special accounts opened on behalf of the respective holders of the respective units / debtor in the IT system of the IMC / self-managed investment company, both in the management of collective investment portfolios and in the management of individual investment portfolios, according to the IMC / self-managed investment company rules and procedures and under the law.

(2) The measures referred to in paragraph (1) meet the requirement of opaque publicity for enforceability from the moment they are registered in the IT system of the IMC / self-managed investment company, under the law.

(3) The removal of the seizure / attachment of some units registered in the IT system of the IMC / self-managed investment company is performed by the IMC / self-managed investment company according to its rules and procedures, under the law.

(4) Upon receipt by the IMC / self-managed investment company from the competent bodies / persons of an application for the seizure / attachment / transfer of a mortgage on units of UCITS managed by the IMC / self-managed investment company, the IMC / the self-managed investment company shall immediately notify the holders of the participating units in accordance with their own regulations issued in this respect, except where information is expressly prohibited.

(5) The redemption of units of a UCITS not admitted to trading on a regulated market or on an alternative trading system / multilateral trading system and the transfer of sums of money in RON or foreign currency resulting from this operation to the bailiff shall be performed in accordance with the rules and procedures of the IMC / self-managed investment company, in compliance with the provisions of the Civil Code regarding the legal regime of the security interests in movable property.

(6) In the case of a UCITS admitted to trading on a regulated market or an alternative trading system / multilateral trading system, the forced execution process initiated following the establishment of the seizure / attachment / mortgage on the units shall be executed according to the ASF regulations in the legal regime of the security interests on financial instruments. "

## **CHAPTER VII**

### **Rules of Conduct and Conflict of Interest**

**Art. 48. -** (1) Investment management companies (SAIs) shall use their best endeavours to ensure that the transactions performed on behalf of the managed undertakings are performed in the most advantageous conditions for said undertakings with regard to their timing, quantity and nature.

(2) Upon establishing the optimum conditions, they shall consider the price to be paid or collected, and other costs borne directly or indirectly by the managed undertakings.

**Art. 49. –** For the application of the provisions of Art. 40 Para (2) of GEO No. 32/2012, investment management companies (SAIs)/self-managed investment companies shall provide the unit-holders, by publication on the management company's website, with information on the policy regarding the transmission of orders/execution of transactions and on any significant amendment thereto. The policy regarding the transmission of orders/execution of transactions shall be made available to the investors free of charge, upon request.

**Art. 50. -** For the application of the provisions of Arts. 29-32 and 43 of GEO No. 32/2012, investment management companies (SAIs) shall identify all situations in which the contractual conditions agreed with the business partners are in conflict of interest with the managed entities and shall ensure that:

- a) managed entities do not incur costs that may be avoided and are not excluded from obtaining benefits they are entitled to;
- b) investors shall be informed through the prospectus of the revenue sources or other monetary and/or non- monetary advantages regarding the management of undertakings for collective investment, in any form other than management commissions (including discounts or exemptions from the payment of fees/commissions to third parties), and regarding the essential terms of the contracts concluded with third parties which generate commissions

or monetary or non-monetary advantages, investment management companies (SAIs) also having the obligation to communicate any other details, at the request of the unit-holders.

**"Art. 51.** - The following situations may represent conflict of interest, without limitation to:

a) transactions made by the IMC on behalf of and / or in relation to the managed UCITS or with cash holdings of the individual investment portfolios managed by the IMC, unless the mandate on a discretionary basis does not expressly provide for the investor's consent to the IMC's execution of such transactions with entities that are part of the same group as the IMC, as the "group" was defined in art. 2 par. (1) [point 9](#) of the Law no. 297/2004;

b) transactions between UCITS / individual investment portfolios managed by IMCs and companies with which the IMC, its managers, directors or employees already have business relationships or are in financial pecuniary relations; in the case of transactions which are the object of this letter, the UCITS / individual investment portfolio manager has the obligation to manage the potential conflict of interest in favor of the interests of the unit-holders of the UCITS / the individual investment portfolio holder, to include them in the remuneration policies of the UCITS / individual investment portfolios of SAI / self-managed investment company and quarterly reporting of direct and indirect holdings in shares, non-listed bonds or any other unlisted financial instruments issued by owned / controlled companies / with which the UCITS manager / individual investment portfolio is in business or financial pecuniary relations;

(c) the obtaining by the IMC of a fee from the intermediary executing the trading orders, based on the total amount of the orders sent by the IMC on behalf of the UCITS, and that benefit is not included in the UCITS 'incomes;

d) the charging by the IMC of an unjustified administration fee which, by its amount, method of calculation or frequency of collection, seriously affects the interests of the unit-holders;

e) transactions with the assets of the UCITS or of the clients for which the IMC operates management of individual portfolios of investments, as appropriate, conducted by the IMC, self-managed investment company with people that the IMC / self managed investment companies controls."

**Art. 52.** - Investment management companies (SAIs) have the obligation to prevent the situations provided under Art. 51, and if they occur, to ensure the correct management and to act in the best interest of the investors or all managed UCITS.

## CHAPTER VIII

### Reporting Obligations of Investment Management Companies (SAIs)

**"Art. 53.** - (1) The IMC and the branches of the foreign legal entities IMCs operating on the territory of Romania shall prepare and send to ASF a half-year report and an annual report on their own activity, the annual report being certified by a financial auditor within the prescribed term and in the reporting format provided in the ASF regulations.

(2) The IMCs and the branches of the foreign legal entities IMCs operating on the territory of Romania shall prepare and send to ASF financial statements for their own activity in accordance with the accounting regulations issued by ASF

(3) The IMC shall send to ASF, by 31 January at the latest, a report on the organizational structure of the company, comprising the following:

a) the names of the members of the board of directors / supervisory board and the validity of their mandate;

b) the names of the directors / members of the management and the persons replacing them;

c) the names of the members of the audit committee;

d) address of the registered office and secondary offices (including the validity of the lease contract);

e) the names and identification data of the internal auditor (including the validity of the contract, if the latter is not an employee of the IMC);

f) names and identification data of the financial auditor (including the validity of the contract);

g) the names and identification data of the person in charge of risk management;

h) the names and identification data of the representative of the internal control department;

(i) the names and identification data of the person designated as replacement for the internal control department;

j) indication of the positions delegated by the IMC (including identification data of the third entity to which certain positions have been delegated, the validity of the delegation contract);

k) the names and identification data of the person responsible for applying Law no. 656/2002 on the prevention and sanctioning of money laundering, as subsequently amended and supplemented;

l) the names and identification data of the person responsible for the application of Government Emergency Ordinance no. 202/2008 on the implementation of international sanctions, as subsequently amended and supplemented;

m) the names of the members of the remuneration committee in the case of significant IMCs. In the application of art. 34<sup>2</sup> par. (4) of GEO no. 32/2012, the IMCs of significant size are those IMCs authorized by ASF, managing UCITS in Romania, holding a market share of at least 20% of the value of the UCITS' net assets authorized and supervised by

## CHAPTER IX

### The Procedure for Replacement of an Investment Management Company (SAI), Managing a UCITS, with another Investment Management Company (SAI)

**Art. 54. -** (1) In order to replace an investment management company (SAI) managing a UCITS, hereinafter referred to as *transferable UCITS*, with another investment management company (SAI), the company managing the transferable UCITS upon the initiation of the replacement shall request FSA's approval.

(2) FSA shall grant the approval regarding the replacement of the investment management company (SAI) within 15 working days from the submission of the complete documentation, if this operation does not affect the investors' interests, based on an application accompanied by the documents provided under Art. 55.

(3) FSA is entitled to withhold the approval if it deems that a prudential management of the investment cannot be ensured.

**Art. 55. –** The application provided under Art. 54 Para (2) shall be accompanied by the following documents:

- a) resolution of the general meeting of shareholders/board of administration/supervisory board of the company initially managing the transferable UCITS regarding the hand-over of the management of said UCITS;
- b) resolution of the general meeting of shareholders/board of administration/supervisory board of the company taking over the management of the transferable UCITS approving the take-over of the management of such UCITS;
- c) depositary contract concluded by the investment management company (SAI) taking over the management of the transferable UCITS with the depositary of such UCITS;
- d) if the UCITS is established by a deed of constitution, the resolution of the general meeting of shareholders of the transferable UCITS revealing the consent for the replacement of the investment management company (SAI);
- e) information note to the investors.
- "f) proof of payment in the ASF account of the tariffs established according to the regulations in force."

**Art. 56. -** (1) The information note shall include, without limitation, the following information:

- a) presentation of the stages of the take-over process provided herein;
  - b) identification data of the investment management company (SAI) taking over the management of transferable UCITS: the name of the company, its legal form, its registration date and number with ORC, the company's registered office and main office, if it is different from the registered office, telephone, fax, web address, the company's secondary office, the sole registration code, the term (if it is limited), the number and date of the operation authorisation issued by FSA, the registration number and date in FSA's Public Registry;
  - c) name of the UCITS managed by the investment management company (SAI) and whether or not it conducts management of individual portfolio of investments activities, including of the portfolios held by pension funds and related activities;
  - d) management commission that the investment management company (SAI) taking over the management of the transferable UCITS shall charge;
  - e) issue/repurchase commissions (if they are amended);
  - f) identification data of the depositary (its name and legal form, registered office and main office, if it is different from the registered office, and the address of the branch where the depositary activity is carried out, as applicable, telephone, fax, web address) and the maximum limit of the depositary commission;
  - g) identification data of the distributors (where applicable);
  - h) objectives of the UCITS and its investment policy;
  - i) right of investors to fully or partially repurchase their units held in transferable UCITS;
  - j) any other modifications of UCITS's documents.
- (2) Investment management companies (SAIs) managing transferable UCITS have the obligation to publish/transmit, within maximum two working days from the entry into force of the approval to replace the investment management company (SAI), the information note to the investors and to submit to FSA, in the following working day, the proof of publication/transmission of the information note.
- (3) Upon the expiry of a 15 day-term from the publication/transmission of the information note provided under Art. 55 Letter e) and for the performance of the transfer of management of the transferable UCITS, FSA shall suspend the issuance and repurchase of units thereof until the authorisation of the investment management company (SAI) as manager of such UCITS.
- (4) Investment management companies (SAIs) managing transferable UCITS have the obligation to honour all requests

for repurchase submitted during the 15 day-term from the publication/transmission of the information note to the investors and until the suspension of issuance and repurchase of units.

**Art. 57. -** (1) Investment management companies (SAIs) managing transferable UCITS have the obligation to initiate, within maximum two days from the suspension of the unit issue and repurchase, the transfer to the investment management company (SAI) taking over the management of such UCITS of the specific management duties operations, and of the registries and records, correspondence, marketing materials (where applicable), contracts and any other documents of such UCITS, in original.

(2) Within 3 working days from the completion of the full transfer of the assets and documents mentioned under Para (1), the investment management company (SAI) that took over the transferred UCITS shall submit to FSA a copy of the delivery-receipt report concluded with the investment management company (SAI) that took over the transferable UCITS and shall request FSA to authorise the amendments occurred in the operation of such UCITS, attaching, in this respect, the following:

- a) modification documents of the transferable UCITS, in compliance with the specifications included in the information note addressed to investors;
- b) depositary contract concluded with the depositary that shall deposit the assets of the transferable UCITS the additional acts thereto;
- c) the distribution contracts or the additional acts thereto, where applicable.

**Art. 58. -** (1) The authorisation of the modifications occurred in the operation of UCITS, provided under Art. 57 Para (1) shall be issued within 15 days from the registration with FSA of the complete file.

(2) The capacity of the investment management company (SAI) that handed over the transferable UCITS shall cease upon the submission with FSA of the delivery-receipt report provided under Art. 57 Para (2).

**Art. 59. -** FSA shall lift the suspension of unit issue and repurchase after the settlement of the application for authorisation, where applicable, of the modifications occurred in the operation of the transferable UCITS and after receiving the delivery-receipt report provided under Art. 57 Para (2).

## **"CHAPTER X**

### **Authorization conditions and procedure for the person in charge of the risk management of the UCITS**

**Article 59<sup>1</sup>. -** (1) The person responsible for managing the UCITS risks is authorized by ASF in accordance with the provisions of the ASF Regulation no. 14/2015.

(2) In order to authorize the person mentioned in par. (1), the SAI submits to ASF, in addition to the documents provided under art. 9 par. (1) or Art. 10 par. (1) of the ASF Regulation no. 14/2015, as appropriate, the following documents:

- a) the confidentiality contract concluded by the person responsible for risk management with the IMC;
- b) proof of graduation of a specialization course organized by specialized institutions of national or international professional training bodies, which attest to acquiring knowledge in the field of investment management or risk management and enabling them to fulfill the responsibilities related to the occupied position.

(3) Where the IMC has a multi-person risk management department, the eligibility and registration requirements in the ASF Registry shall be fulfilled only by the person who manages the department.

(4) If the IMC manages the assets of the NON-UCITS (Non-UCITS) as well, the person responsible for the risk management of Non-UCITS also complies with the provisions of the ASF Regulation no. 10/2015.

(5) Withdrawal of the authorization of the person mentioned in par. (1) shall be carried out in accordance with the provisions of the ASF Regulation no. 14/2015.

(6) The IMC shall require to ASF to withdraw the authorization of the person responsible for managing the UCITS risk not later than 48 hours after the cessation or change of the employment relationship.

(7) Should the IMC fail to fulfill its obligation under para. (06), the person in charge of the risk management of the UCITS is entitled to request the withdrawal of its authorization, all the fees and commissions being borne by the IMC.

(8) Withdrawal upon request of the authorization of the person responsible for the risk management of the UCITS shall be decided by ASF within 30 days from the filing date of the application together with an explanation of the reasons which led to the request, with the supporting documents regarding the cessation date or change of employment relationships and proof of payment of the tariffs established in accordance with the regulations in force in the ASF account.

(9) In case the IMC no longer has a person authorized as a risk manager or in the case of its temporary unavailability according to the provisions of this Regulation, one of the directors / members of the Board of the IMC shall provisionally occupy, for a maximum period 3 months in a calendar year, the risk manager position. The manager of the IMC, which is responsible for the coordination and supervision of the portfolio management position within the IMC, cannot temporarily take over the duties of the risk management position. The person who provisionally occupies this position shall be

notified to ASF. "

## TITLE II The Depositary

### CHAPTER I Licensing of the Depositary

**Art. 60. -** (1) Romanian credit institutions, authorised by NBR in compliance with the banking legislation and registered in FSA's Public Registry as intermediaries or Romanian branches of credit institutions authorised in another Member State, licensed as depositaries, shall ensure the safe-keeping of all assets of undertakings for collective investment and an ongoing supervision, in compliance with law, of the operations carried out by the investment management company (SAI) acting on behalf of the managed UCITS.

"2. The depositary shall be liable to the unit-holders together with the IMC for any irregularity and / or fraud committed by the latter in relation to the assets of the UCITS managed and which should have been identified by the depositary in accordance with the powers laid down by GEO no. 32/2012 and this Regulation and which it has not reported to ASF.

(3) Where the depositary of the UCITS assets is in the same group as the IMC that manages them, in addition to the provisions of art. 24 of the Delegated Regulation (EU) no. 438/2016, the depositary shall ensure the separation of operational activities for safekeeping (custody) of other services as depositary (storage) by implementing distinct internal procedures. "

**Art. 61. -** In order to carry out the depositary activities, the credit institution authorised by NBR or the Romanian branch of a credit institution authorised in a Member State shall request FSA to issue the license to operate as depositary and to register it in FSA's Public Registry.

**Art. 62. -** (1) The license provided under Art. 61 shall be issued based on an application accompanied by the documents provided under Art. 63.

(2) The application for licensing as depositary shall be signed by the legal representative of the credit institution authorised by NBR or of the Romanian branch of a credit institution authorised in a Member State.

**Art. 63. -** (1) The following documents shall be attached to the application for licensing and registration in FSA's Public Registry, filed by a credit institution seated in Romania or by a Romanian branch of a credit institution authorised in a Member State:

- a) registration certificate with ORC, in certified copy;
- b) authorisation revealing that it was authorised to carry out depositary activities for the assets of investment funds and of investment companies in accordance with the legal provisions in force;
- c) certificate of registration of specifications regarding the amendment of the object of activity in accordance with Letter b), where applicable;
- d) evidence issued by NBR/the competent authority in the EU Member State revealing that the applicant bank/Romanian branch of a credit institution authorised in a Member State is not under supervision or special administration;
- e) deed of constitution and all additional acts thereto, if any – in certified copy;
- f) organisational chart of the company/Romanian branch of a credit institution authorised in a Member State, the structure and the functions of the department/service carrying out operations related to the depositary activity, the personnel of such department/service, the decision making and their transmission modality and the internal control modalities, the security and inspection procedures, and those applicable in case of force majeure events, that allow the safe-keeping of all assets of UCI it deposits, a description of the technical capabilities and of the equipment it possesses;
- g) written procedures, approved by the competent structures of the credit institution or of the branch for exercising the duties and carrying out the operations related to the depositary activity, including the separation of its assets from those of the UCITS for which it carries out depositary activities and among them - in original;
- h) curriculum vitae dated and signed, criminal record certificate, submitted during its validity term, in accordance with the legal provisions in force, in original, fiscal record certificate, submitted during its validity term, in accordance with the legal provisions in force, in original, for the decision-making personnel within the department/service carrying out operations related to the depositary activity and for the persons replacing them;
- i) list of signature specimens for the persons representing the depositary in its relationship with FSA;
- j) proof of payment into FSA's account of the fees established in accordance with the regulations in force.

(2) The decision-making personnel, who ensure the effective management of the depositary activity, must have higher education degrees, obtained based on a bachelor's or diploma exam, as applicable, and at least 3 years of experience in the field of capital markets/insurance/private pensions or in the banking field.



"(3) In the application of the provisions of art. 56<sup>1</sup> par. (2) of GEO no. 32/2012, ASF shall send the received information to the competent authorities of the home Member State of the investment management company within 5 working days as of receipt. "

**Art. 64. -** (1) If the application provided under Art. 63 is approved, FSA shall issue a license granting it the capacity as depositary.

(2) If the application is rejected, FSA shall issue a reasoned decision, which it shall transmit to the applicant company, and which may be challenged within maximum 30 days from its communication date.

"(3) The notice referred to in paragraph (1) is not generally valid, and ASF may request, at the time of authorization / registration of a UCITS, additional documents from the depositary demonstrating compliance with the conditions set out in Art. 53 of GEO no. 32/2012. "

## **CHAPTER II**

### **Duties, Obligations and Interdictions of Depositaries**

**"Art. 65. -** In the case of UCITS that are managed by an IMC, the depositary contract shall be concluded by the IMC on their behalf in accordance with Art. 2 of the Delegated Regulation (EU) no. 438/2016. In the case of self-managed investment companies, the depositary contract shall be concluded by the legal representative of the investment company concerned."

**Art. 66. –** The depositary shall register, verify, monitor and control all assets held by each UCITS for which it carries out depositary activities.

**Art. 67. –** The depositary shall receive the proceeds of the sale of units issued by a UCITS and shall credit the UCITS's account, if the depositary contract so provides.

**Art. 68. –** The assets of a UCITS may not be subject to the forced execution procedures initiated by the depositary's creditors, may not be sequestered or garnished by them and shall not be included in receivables table in case of bankruptcy of the depositary.

**"Art. 69. -** (1) The depositary shall make payments from the UCITS account only upon receipt of the appropriate instructions in the following cases:

- (a) for the purchase by UCITS of financial instruments;
- b) for the payment of the redemption of the units of a UCITS;
- c) for the settlement of obligations, including the payment of interest, taxes, commissions and operational expenses of UCITS;
- d) for any other purpose indicated in the relevant instructions, drafted in compliance with the constituent documents of UCITS "

(2) If the depositary finds, upon the settlement of transactions, that the provisions of GEO No. 32/2012, of this regulation or of the internal rules and procedures of the UCITS are breached, it has the obligation to immediately notify FSA and the investment management company (SAI) with regard to such situation.

"(3) In the application of the provisions of art. 54 par. (2) of GEO no. 32/2012, the phrase "without undue delay" in the case of loss of a financial instrument held in custody by the depositary, refers to the fact that the delays cannot exceed one business day from the date of the event. "

**Art. 70. -** (1) The depositary shall release the financial instruments in the portfolio of a UCITS only upon receiving the relevant instructions from the investment management company (SAI) or from the board of administration/executive board of the self-managed investment company, only in the following situations:

- a) upon the settlement of the transaction, upon the sale of a financial instrument on a delivery-versus-payment basis;
- b) further to the instructions received in case of merger and even from the trustee in bankruptcy in case of winding-up;
- c) further to the establishment of guarantees for the operations carried out by UCITS, in compliance with the legal provisions in force;
- d) in case of loans granted by UCITS, in accordance with Art. 99.

(2) For all financial instruments in the portfolio of a UCITS settled within a compensation, settlement and depositary system, the depositary shall release/receive the instruments including on a delivery/receipt-versus-payment basis.

(3) By exception from the provisions of Para (2) and in the exceptional situations, indicated in the depositary contract, the issue prospectus or the internal procedures of the depositary, the depositary and the investment management company (SAI), i.e. the board of administration/executive board of the self-managed investment company may agree on other settlement modalities, in compliance with the legal provisions in force.

**Art. 71. –** The depositary shall inform in writing the investment management company (SAI) or the self-managed



investment company of any act of deed that is relevant for the activity of the UCITS for which it provides depositary services.

**Art. 72.** – The depositary shall be informed in writing by the investment management company (SAI) or by the board of administration/supervisory board of the self-managed investment company of all relevant changes in the management, organisation and operation of the UCITS for which it carries out depositary activities.

**Art. 73.** – To fulfil all obligations incumbent upon it, including for making available the funds of a UCITS, based on the relevant instructions, the depositary may request any information and/or documents it deems necessary to evaluate the compliance of such option with the legal provisions and with the internal rules and procedures of the UCITS.

**Art. 74.** - Investment management companies (SAIs) or the boards of administration/supervisory boards of self-managed investment companies cannot refuse to supply the information and/or documents provided under Art. 73 by invoking confidentiality.

**Art. 75.** – The depositary shall inform FSA of any refusal to supply such information and/or documents, together with a description of the situation for which such refusal was expressed, within maximum 24 hours from receiving the refusal of the investment management company (SAI) or of the board of administration/supervisory board of the self-managed investment company.

**Art. 76.** – In the case provided under Art. 75, FSA/the investment management company (SAI) or self-managed investment company may suspend the issue and repurchase of units until the situation is clarified, but not more than two working days.

**Art. 77.** - (1) If, after supplying all relevant documents and/or information requested by the depositary, there are disputes between it and the investment management company (SAI) or the board of administration/supervisory board of the self-managed investment company on the legality of an operation, the depositary shall submit to FSA an application, accompanied by relevant documents, requesting its standpoint with regard to the legality of such operation and its approval.

(2) FSA shall settle the application and shall communicate its decision within no more than 48 hours from the registration of the application.

(3) In particular circumstances, when it needs further documents and/or information in order to decide on the legality of the operation, FSA may extend the term within which it has the obligation to settle the application by maximum 72 hours, provided that such extension is communicated to the depositary that submitted the application, within the term provided under Para (2).

**Art. 78.** - (1) The depositary shall ensure the confidentiality of the information and/or documents received from the investment management company (SAI) or the board of administration/supervisory board of the self-managed investment company during the evaluation of the legality of the operations carried out by it on behalf of the managed undertakings.

(2) The depositary may not invoke the confidentiality provided under Para (1) in the case of controls carried out by FSA, NBR or by the supervisory authorities in the home state of the credit institution's branch.

(3) The depositaries have the obligation to ensure the storage on a durable medium of all information related to the depositary activity regarding the UCITS' assets for a period of at least 5 years from the moment the depositaries receive such information.

(4) FSA may request that, upon the withdrawal of the authorisation of the investment management company (SAI) or of the depositary, the latter keep the information provided under Para (3) that were in its possession upon the withdrawal of the authorisation, for a period of 5 years from the withdrawal of the authorisation.

(5) The depositary shall prepare properly internal rules and procedures in accordance with the provisions of art. 46 par. (1) letter m).

**Art. 79.** - (1) The depositary may not transfer, pledge, guarantee in any way or otherwise dispose of the financial instruments or amounts of money entrusted to them for safekeeping on behalf of the UCITS, unless there are relevant instructions and only in the best interest of the investors.

(2) The interdiction provided under Para (1) shall not apply if FSA orders special measures.

(3) The depositary has the obligation to immediately inform FSA when it finds, during its specific activity, that an investment management company (SAI) used or is using the deposited assets of an UCITS, in breach of the legislation in force, including with regard to the abusive use by investment management companies (SAIs) of the information in their possession or that an investment management company (SAI)/self-managed investment company exceeds the investment limits.

### **"CHAPTER III Changes subject to ASF notification"**

**Art. 80.** - (1) Any change to the documents mentioned under Art. 63 Para (1) Letter f), regarding the structure and roles of the department/office conducting depositary transactions, how decisions are made and transmitted, internal control modalities, security, control procedures and the procedures applicable in case of force majeure events, and to those mentioned under Art. 63 Para (1) Letter g) shall be subject to FSA's notification, prior to its entry into force.

(2) The notification of the change shall be accompanied by documents regarding and based on which such change is made, and an affidavit bearing the handwritten signature of the heads of the department/office conducting the depositary activity verifying that the internal procedures comply with the provisions of the capital market legislation and will be applied by the depositary accordingly.

(3) Each year, the depositary shall send to FSA, no later than 31 January, a report on the organisational structure of the department/office conducting the depositary activity, and information on the number of UCITS and the value of the deposited assets.

**Art. 81.** – The replacement of the personnel that actually conducts the depositary activity shall be forthwith notified to FSA together with the documents provided under Art. 63 Para (1) Letter h).

**"Art. 82.** - (1) If the names of the persons included in the list of specimens of signatures mentioned in art. 63 par. (1) letter i) are changed, this list will be resent to ASF with the modifications made accordingly, within two working days of the date of the change."

(2) Changes to the deed of constitution of the credit institution in Romania/Romanian branch of a credit institution, authorised by FSA as depositary, shall be notified to FSA within 15 days from the date when they are approved/notified by/to NBR.

#### **"CHAPTER IV Deposit of assets"**

**Art. 83.** - (1) The depositary shall be liable for the safekeeping of all assets entrusted by a UCITS for deposit.

"(2). The depositary may transfer part of the assets entrusted for the safekeeping by a UCITS to a third party (sub-custodian), being jointly liable for the safekeeping of the assets.

(3) The assets falling under art. 52 par. (6) letter b) of GEO no. 32/2012 are exempt from the obligation to be kept in custody with the depositary. "

(4) The depositary shall not be exempt from the liability regarding the safekeeping of entrusted assets, except if it may prove that, if the assets of the UCITS whose safekeeping it delegated are lost, the loss occurred because of an exterior event beyond its reasonable control, whose consequences would have been unavoidable despite all its reasonable efforts to counteract.

(5) The depositary shall verify the existence and value of the assets mentioned herein above as follows:

a) based on the excerpt of the monthly balance issued by the company's administrator, for accounting assets;

"b) based on the documents evidencing the ownership of the real estate assets necessary for carrying out its activity, issued by the competent bodies for the certification of their existence, respectively on the basis of the valuation report, for the certification of the value, in the case of real estate assets;

c) based on the excerpt from issuers, the investment management company (SAI) and/or ORC, the sale/purchase contract, the resolution of the general shareholders meeting (GSM) of the investment management company (SAI)/issuer, etc., to certify the existence, or based on the book value, to certify the value, in the case of transferable securities not admitted to trading;

d) based on the documents issued by the bank where the investment was made, in case of monetary investments;

e) based on the documents issued by the intermediary/clearing house for derivative financial instruments;

f) based on the documents agreed upon by the depositary and the investment management company (SAI), in exceptional cases indicated in the deposit contract according to the provisions of Art. 70 Para (3).

"(6) The activities of the third parties to whom the safekeeping of UCITS assets has been delegated (sub-custody) shall be carried out in compliance with the conditions provided by GEO [no. 32/2012](#) and this Regulation on storage.

(7) The transfer of assets to a delegated third party under their safe custody is done by entering into the issuer's prospectus / UCITS documents the information regarding the identification data of the delegated third party and the delegated activities, this information being brought to the knowledge of investors.

(8). Liability for the legality of deposit operations in the case of transfer of UCITS assets to a delegated third party shall be the responsibility of the depositary who carried out the transfer jointly with the third party.

**"Art. 84.** - (1) The depositary or the third party to whom the safekeeping of UCITS assets has been delegated may open, upon the IMC's instruction and in accordance with the provisions of the depositary contract, securities accounts and bank accounts for the settlement of transactions on behalf of each UCITS. These accounts are debited / credited

only on the basis of its deposit functions in strict accordance with the appropriate instructions of the investment company. "

(2) Transferable securities and other equivalent securities shall be deposited separately for each entity and shall be recorded so as to be identified as property of the UCITS for which the depositary activity is carried out.

(3) If the transferable securities that are assets of a UCITS are recorded and transferred to the central depositary, in a dematerialised form, a depositary may keep record thereof, provided that the transferable securities are recorded in an account of the depositary opened with the central depositary on behalf of the UCITS.

## **CHAPTER V**

### **Cessation of the role of depositary**

#### **SECTION 1**

##### **Conditions and means of replacing the depositary**

**Art. 85.** – In accordance with the provisions of Art. 56 of GEO No. 32/2012, a depositary may cease its function in the following cases:

- a) unilateral termination of the contract by either party, notified to FSA within minimum 90 days before it becomes effective;
- b) initiation of the process of special supervision or administration by NBR or opening of the bankruptcy proceedings;
- c) withdrawal of the operation license/authorisation by FSA, NBR or the competent authorities of the Member State supervising the activity of the credit institution.

#### **SECTION 2**

##### **Unilateral termination of the deposit contract**

**Art. 86.** – A deposit contract shall terminate as follows:

- a) at the initiative of one of the parties under the conditions laid down in the contract;
- b) by parties' consent.

**Art. 87.** - (1) An investment management company (SAI) or self-managed investment company, where applicable, or a depositary may unilaterally terminate a contract of deposit of the assets of UCITS, only after a prior written notice of at least 90 days.

(2) The term of the prior notice stipulated under Para (1) shall start running from the date the contract's termination is notified to FSA.

(3) If the deposit contract is terminated by parties' consent, the investment management company (SAI) or the board of administration of a self-managed investment company shall send to FSA the additional act (in original) to the old deposit contract, with regard to the cessation of the contractual relations between the two entities.

(4) The decision to terminate the deposit contract shall be published on the website of the investment management company (SAI) or the self-managed company within 3 working days from the termination date.

(5) The investment management company (SAI) or the board of administration/supervisory board of a self-managed investment company shall conclude a new deposit contract within the 90-day term provided under Art. 85 Letter a), and the new contract shall enter into force no later than the first working day following the 90<sup>th</sup> day.

#### **SECTION 3**

##### **Commencement of special supervision or administration or of bankruptcy proceedings**

**Art. 88** - (1) If special supervision, administration or the bankruptcy proceedings are initiated against the depositary, within maximum 5 days from the commencement of such proceedings, the investment management company (SAI) or the board of administration of the self-managed investment company shall change the depositary for the bodies managed, by unilaterally terminating the contract in writing.

(2) In case of bankruptcy, the proceedings shall be deemed commenced further to the issuance by the receiver of the resolution admitting the opening thereof.

#### **SECTION 4**

##### **Suspension and withdrawal of the license granted by FSA**

**Art. 89.** - (1) FSA may suspend the license of a depositary at the grounded request of the depositary, if, for a period of

18 months, the depositary has not concluded at least one contract for the deposit of the assets of UCITS or NON-UCITS.

(2) The individual document suspending the license shall state the reason and period of suspension, which may range between 6 and 24 months.

(3) The depositary activity shall be resumed only after FSA is notified and provided the provisions of GEO No. 32/2012 are observed.

(4) The notification provided under Para (3) shall be accompanied by:

- a) copy of the contract for the deposit of the assets of UCITS;
- b) revised documents provided under Art. 63 Para (1).

(5) FSA may order the lifting of the suspension provided under Para (2) after it establishes that the conditions provided under Paras (3) and (4) have been complied with.

(6) If, upon expiry of the suspension period provided under Para (2), the depositary fails to fulfil the conditions under Paras (3) and (4), FSA shall be entitled to withdraw its license as depositary.

(7) The provisions of this article shall only apply to credit institutions registered in FSA Public Registry as depositary.

**Art. 90.** – FSA shall be entitled to withdraw the license issued under the following conditions:

- a) if it was obtained based on false or misleading information or documents;
- b) if the depositary fails to comply with the legal provisions regarding the activities, obligations and liability of depositaries;
- c) if NBR or another competent authority from the Member State has withdrawn the license to the depositary;
- d) at the depositary's request;
- e) if the conditions applicable when the depositary received the license are no longer fulfilled;
- f) if the depositary has failed to conclude contracts to deposit the assets of UCITS for a period of 18 months from the date when the license was granted and has failed to request suspension in accordance with the provisions of Art. 89.

**Art. 91.** - (1) If the license is withdrawn for the depositary's failure to observe the legal provisions, then FSA shall communicate its decision to the depositary and to all SAIs or self-managed UCITS that concluded deposit contracts therewith.

(2) After the investment management company (SAI) or the self-managed investment company receives FSA's decision to withdraw the depositary's license, the provisions of Art. 88 shall apply.

## **SECTION 5**

### **Restrictions and measures regarding the transfer of UCITS' assets to the new depositary**

**"Art. 92.** - (1) Within two working days from the date of conclusion of the depositary contract referred to in art. 87 para. (5), the contract shall be sent to ASF for approval. Within two working days of the date of communication of the ASF's approval of the depositary contract, the assigning depositary shall start the full transfer of UCITS assets to the new depositary who has concluded a contract with the IMC or with the self-managed investment company, as appropriate.

(2) During the period of transfer of UCITS assets, the issue and redemption of UCITS fund units are suspended. The transfer period may not exceed 30 days from the date of the new depositary's approval. "

(3) Within maximum two days from the completion of the assets' transfer, but no later than the 30-day deadline provided under Para (2), the assignor depositary shall send to FSA the delivery-receipt report of the assets. Otherwise, FSA shall enforce upon the assignor depositary's representatives the sanctions provided under Art. 195 Letter g) and Art. 196 Para (1) Letter a) of GEO No. 32/2012.

(4) The liability for the prejudices caused by the transfer provided under Para (1) shall devolve upon the assignor depositary or the new depositary at fault for the prejudice.

**"Art. 93.** - (1) Within 7 days as of the end of the UCITS assets transfer process, the depositary is obliged to send to ASF and the IMC or the board of directors / supervisory board of the self-managed investment company, as the case may be, a report for each UCITS, which shall contain the detailed description of the way in which the transfer of assets took place, the certified value of the net asset and the unit net asset, the number of unit-holders and the number of units issued at the time when the last transfer operation was carried out.

(2) Within 30 days from the date of approval of the new depositary agreement, the IMC or the board of directors / supervisory board of the self-managed investment company, as the case may be, shall have the obligation to update the UCITS documents with the name of the new depositary and the elements of the new depositary contract and send them to ASF.

(3) Within 15 days from the date of completion of the UCITS assets transfer process, the new depositary has the obligation to send to ASF the delivery note of UCITS assets concluded with the depositary. The cancellation of suspension of the issue and redemption of the units takes place from the date of submission of the minutes with ASF by

the assigning depository or by the depository to which the assets are transferred, as each depository is responsible for the compliance of the provision regarding the submission deadline."

### **TITLE III**

#### **Undertakings for collective investment in transferable securities**

### **CHAPTER I**

#### **General provisions**

**Art. 94.** - (1) Open-end fund Open-end funds shall be established based on articles of association in accordance with the provisions of Law No. 287/2009 on the Civil Code, republished, as subsequently amended, of GEO No. 32/2012 and this regulation.

(2) The initiative of establishing a open-end fund shall rest exclusively with the SAIs, according to the decision made by their statutory bodies as per the competences laid down in the deed of constitution.

**Art. 95.** - (1) The articles of association shall be drawn up in writing by the investment management company (SAI) that has the initiative of creating the open-end fund and shall have the minimum contents provided in Annexe No. 3.

(2) The articles of association shall represent an adhesion framework contract in which the investor becomes a contracting party by subscription of fund units and signing a statement in compliance with the provisions of Art. 93 Para (3) of GEO No. 32/2012.

**Art. 96.** – Investment companies are established as joint stock companies by public subscription in accordance with the provisions of Law No. 31/1990, of GEO No. 32/2012 and this regulation.

**"Art. 97** - (1) In order to convert an NON-UCITS / AIF into a UCITS, the relevant NON-UCITS / AIF shall amend its documents for the purposes of categorizing the UCITS mentioned in this Regulation and shall submit the entire documentation to the AIF following the authorization procedure referred to in the Chapter. IV or VI of this Title, depending on the type of UCITS in which it intends to qualify.

(2) Subsequently, the IMC shall send an information note to investors of its intention to convert the relevant NON-UCITS / AIF into a UCITS within a maximum of two working days from the date of transmission of the initial documentation to ASF. The notice shall include an impact analysis of the portfolio of the NON-UCITS generated by the UCITS transformation operation, taking into account the new investment strategy, the liquidity profile, the redemption frequency offered to the investors, as well as the new investment and eligible investment limits imposed by the need compliance with the provisions of GEO no. 32/2012 and this Regulation. The notice shall also include a warning of the possibility that the AIF may not authorize the NON-UCITS / AIF transformation operation into the UCITS and the possibility of making changes to the information provided in the transformation project.

(3) In the event that the investors do not agree with the proposed amendments, the IMC shall be obliged to honor the full redemption requests filed within a maximum period of 15 days from the date of transmission of the notice provided in par. (2).

(4) If, after the exercise of the right of withdrawal by investors, the NON-UCITS / AIF assets are attracted from less than 2 (two) investors, the IMC proceeds to the voluntary liquidation of the NON-UCITS / AIF.

(5) After the expiry of the period of 15 days provided in paragraph (3), and if the NON-UCITS has at least two investors, ASF will withdraw the registration certificate / authorization as NON-UCITS and authorize the UCITS resulted from the transformation.

(6) The individual act issued by ASF authorizing the transformation of NON-UCITS / AIF into UCITS provides for the transitory period up to which the new authorized UCITS complies with the provisions of GEO no. 32/2012 and the ASF regulations in relation to the UCITS activity, taking into account at least the NON-UCITS / AIF liquidity profile, the subscription and redemption frequency offered to investors and the liquidity conditions of the capital market at the time of the transformation operation."

### **CHAPTER II**

#### **Common provisions for UCITS**

**Art. 98.** - (1) A UCITS may contract loans, with FSA's prior approval, according to the provisions of Art. 103 Paras (2) and (3) of GEO No. 32/2012.

(2) The loans provided under Art. 103 Para (2) Letter a) of GEO No. 32/2012 may be received only to provide liquidities to settle repurchase requests and to exercise the subscription rights related to the financial instruments included in the fund's assets.

(3) No charges or commissions may be charged by an investment management company (SAI) on a UCITS in relation to or further to such loan.

(4) To obtain the authorisation to contract a loan, the investment management company (SAI) of a UCITS or, if

applicable, a self-managed investment company, shall file a request accompanied by a report on the loan, mentioning the amount to be borrowed, the currency of the borrowed amount, the term of the loan (which may not exceed 30 days), the financing source, the guarantees requested thereby, the sources considered for the repayment of the loan, and the essential clauses of the loan contract.

(5) Within maximum 5 working days from the submission of the documentation, FSA shall grant the authorisation to contract the loan or the reasons for its rejection.

(6) FSA may refuse to grant the authorisation if it deems that a loan contracted by a UCITS breaches the applicable legal provisions, there is no justification to contract the loan or the contractual terms thereof seriously prejudice the UCITS' activity.

(7) The negative balance of the account shall not be deemed a loan if it occurs unintentionally and for maximum 5 working days. The depositary shall notify FSA of the occurrence and cessation of such situation.

**Art. 99.** - (1) A UCITS may conclude transferable security lending arrangements and may establish guarantees assimilated thereto in compliance with this regulation and GEO No. 32/2012, Regulation No. 13/2005 on the authorisation and operation of the central depositary, of clearing houses and central counterparties, approved by Order No. 60/2005 of the National Securities Commission, as subsequently amended and supplemented, of Regulation No. 32/2006 and Regulation No. 5/2010 and in consideration of the ESMA Guidelines on ETFs and other UCITS issues (ESMA/2012/832) and the Q&A prepared by ESMA based on the said guidelines.

(2) The transferable security lending contract shall be concluded by the investment management company (SAI)/self-managed investment company with an authorised intermediary from a Member State, or an authorised credit institution from a Member State.

(3) If a UCITS intends to lend transferable securities, such operations shall be expressly specified in the UCITS's issuance prospectus. The prospectus shall include at least provisions regarding:

- a) the purpose of the lending operations;
- b) the conditions and limitations in which the lending operations are performed, according to this regulation;
- c) a description of the risks associated with lending operations, and the fact that such risks are properly accounted for in the risk management system of the UCITS.

(4) A UCITS may lend transferable securities if intra-group conflict of interest is avoided. In this regard, the loan shall be granted to the entity with the most advantageous offer, according to the criteria laid down in advance by the UCITS in its documents.

(5) A UCITS may not lend transferable securities representing more than 20% of its assets, and the lending term may not exceed 3 months. In the case of marketable ETFs, the limit indicated may be increased up to 50%.

(6) Further to a transferable security lending operation, the transferable securities shall be recorded distinctly under a new section "Transferable securities granted as loan under settlement" in the UCITS's assets.

(7) The financial guarantees associated with transferable security lending may be established as cash, liquid shares forming part of stock indexes fulfilling the conditions provided by ESMA/2012/832 Guidelines, and government securities.

(8) The value of the guarantee shall be determined by the investment management company's (SAI)/self-managed investment company's own risk management procedures and shall represent at any time minimum 110% of the value of the lent transferable securities.

(9) The guarantee shall be reflected in the UCITS' asset only when it is enforced, in observance of the provisions of Government Ordinance No. 9/2004 on certain financial guarantee contracts, approved as amended and supplemented by Law No. 222/2004, as subsequently amended and supplemented, herein after referred to as *GO No. 9/2004*.

(10) Income obtained from the lending operation shall be recorded in tranches in the UCITS' assets, by recognising on a daily basis the income related to the period lapsing from the date when the loan was granted, under "Other assets", in a separate line "Income from transferable security lending operation".

(11) The financial guarantee contract shall be concluded without a transfer of ownership, in accordance with the provisions of *GO No. 9/2004*.

(12) A UCITS lending transferable securities may use the financial guarantees obtained further to such lending, in compliance with the rules on the management of collaterals provided by ESMA/2012/832 Guidelines. In this regard, the UCITS depositary shall monitor how the investment management company (SAI) or, if applicable, the self-managed investment company observes the rules mentioned above.

(13) The amendment of the issuance prospectus of a UCITS by inserting provisions allowing it to lend units shall be performed with the proper observance of the provisions of Arts. 153-155.

**Art. 100.** - (1) The purchase price of a unit of a UCITS shall be the issuance price of the unit paid by the investor and consists of the net asset value per share calculated by the investment management company (SAI) or, if applicable, the self-managed investment company, and certified by the depositary, as follows:

- a) for the amounts entering the collector account(s) of the UCITS prior to time of day laid down under Para (3), the purchase price shall be calculated based on the assets of the day when the collector account(s) of the UCITS was/were credited;
  - b) for the amounts entering the collector account(s) of the UCITS after the time of day laid down under Para (3), the purchase price shall be calculated based on the assets of the day following the day when the collector account(s) of the UCITS was/were credited. The purchase price shall also include the purchase/subscription price, if provided in the issuance prospectus;
  - c) the investment management company (SAI)/self-managed investment company shall present the depositary a detailed description of the subscriptions/repurchases depending on the time of day laid down under Para (3).
- (2) A person subscribing units shall become an investor of the UCITS as of the day when all units are issued. The units are issued as follows:
- a) for the amounts entering the collector account(s) of the UCITS prior to time of day laid down under Para (3), the units shall be issued on the day following the day when the collector account(s) of the UCITS was/were credited;
  - b) for the amounts entering the collector account(s) of the UCITS after the time of day laid down under Para (3) the units shall be issued on the second working day following the day when the collector account(s) of the UCITS was/were credited;
- (3) The UCITS' documents of establishment may provide the time of day depending on which the investment management company (SAI)/self-managed investment company shall calculate the purchase or the repurchase price, and the time of registration of subscription/repurchase applications.
- (4) If the UCITS' establishment documents/deed of constitution do not provide the time of day mentioned under Para (3), then the following provisions shall be applied:
- a) the issuance price of a unit shall be calculated based on the assets of the day when the UCITS' account was credited;
  - b) the units are issued on the working day following the day when the collector account of the UCITS was credited. A person subscribing units shall become an investor of the UCITS as of the day when the units are issued.
- (5) Throughout the period lapsing between the date of crediting of the UCITS' collector account(s), inclusively, and the date of issuance of the units, exclusively, the amounts not allotted from the collector account(s) shall not form part of nor be included in the calculation of the net asset of the UCITS, their recording in the net asset's structure being optional.
- (6) The amounts existing in the collector account(s) of the UCITS may bear current account interest, in which case the interest shall represent income for the UCITS.
- "(7) The identification of the amounts paid by investors or potential investors for the issuance of the subscribed units, the processing of the payments of the amounts due to the investors as a result of the cancellation of the redeemed units and the verification of the legal provisions regarding the prevention and combating of the money laundering, terrorist financing and / or minimize the risk of fraud may be based on personal identification number (PIN) of investor or potential investor. "

**Art. 101. -** (1) If the subsequent purchase of units is made through bank transfer, without completing a subscription document, then such subscription modality shall be provided in the initial subscription documents. If such subscription modality is used, then the investment management company (SAI) or the self-managed investment company, where applicable, shall provide the investor on a durable medium or submit at the premises of the investment management company (SAI)/distributor a document (investor certificate or statement of account distinctly mentioning the subscription operation based on which it was issued), attesting to the participation in such UCITS.

(2) Any unit-holder shall constantly hold at least one fund unit.

(3) If a person intending to become investor of an UCITS deposits an amount lower than the minimum mandatory amount for subscription, then the investment management company (SAI) shall initiate, on the day of publication of the net asset value of units valid on the day of depositing the initial amount, the necessary steps to return or to request the supplementation of such amount. If the request is to supplement the initial amount, then the net asset value of units taken into account shall be the value of the day when the initially deposited amount is supplemented. If the amount may not be returned for reasons not ascribable to the investment management company (SAI) for 3 years, then the amounts not identified shall be recorded as income of the UCITS, according to the establishment documents, together with all the amounts posted under "Suspense items" which may not be returned/recovered for various reasons.

**Art. 102. -** (1) The repurchase price of a UCITS' unit shall be the price due to the investor upon registration of the repurchase request and shall consist of the net asset value per share calculated by the investment management company (SAI) or the investment company, where applicable, and certified by the depositary, as follows:

- a) for repurchases registered prior to the time of day provided under Art. 100 Para (3), the repurchase price shall be calculated based on the assets of the day when the repurchase request was registered;

- b) for repurchases registered after the time of day provided under Art. 100 Para (3), the repurchase price shall be calculated based on the assets of the working day after the day when the repurchase request was registered.  
From the re-purchasable value, the repurchase fee (if provided by the issuance prospectus) and any other legal charges and bank commissions according to the issuance prospectus shall be deducted.
- (2) If the documents of establishment/deed of constitution of the UCITS do not stipulate the time of day provided under Art. 100 Para (3), then the repurchase price of a unit shall be calculated based on the assets of the day when the repurchase request was registered.
- (3) After the investment company's shares are admitted to trading on a regulated market, the shares may be repurchased any time by the issuer.
- (4) The investment management company (SAI) or the self-managed investment company, where applicable, shall provide the investor on a durable medium or submit at the premises of the investment management company (SAI) or the entity to which the distribution of the units was delegated a document (investor certificate or statement of account distinctly mentioning the subscription operation based on which it was issued), attesting to the repurchase of such units.
- Art. 103.** - (1) The UCITS' units may be subscribed and repurchased on the Internet in accordance with Instruction No. 2/2009 on the subscription and repurchase of units issued by undertakings for collective investment on the Internet, approved by Order No. 30/2009 of the National Securities Commission, including by using the Internet/home banking platform of the other SAIs, credit institutions or investment firms (SSIFs) to which the distribution activity was delegated in accordance with the provisions of Art. 7 Para (3), the contract concluded by the investor with any of such entities being assimilated to a distance contract.
- (2) Subsequent subscriptions and/or repurchases of units may also be performed by telephone under the conditions presented in the UCITS' issuance prospectus.
- (3) If subscriptions/repurchases of units are performed by telephone, then the investment management company (SAI) or, where applicable, the unit distributors mentioned in the UCITS' issuance prospectus shall have the obligation to keep a record of telephone conversations with investors for a period of minimum 5 years.
- (4) Subscriptions/repurchases by telephone shall be performed in compliance with the provisions of Chapter I of Title IV of Regulation No. 32/2006.
- (5) If the distribution activity is delegated in accordance with the provisions of GEO No. 32/2012, the rules of distribution by telephone shall be applicable *mutatis mutandis* to the unit distributors mentioned in the UCITS' issuance prospectus.
- Art. 104.** - (1) Distribution of units by telephone to interested clients shall be performed based on a distance contract, defined according to Art. 28 Para (3) of Law No. 297/2004, concluded between the client and the investment management company (SAI) or, where applicable, the unit distributors mentioned in the UCITS' issuance prospectus, or based on a contract concluded at the premises of the investment management company (SAI)/distributors provided under Art. 103 Para (1).
- (2) Using the telephone as a means of distributing units shall not exonerate the investment management company (SAI)/self-managed investment company from the obligation to observe the rules provided by GEO No. 32/2012 and this regulation regarding the management of UCITS.
- (3) To handle any malfunctioning of telephone systems, the investment management company (SAI) shall provide efficient alternative procedures so that the distribution of units is performed in proper conditions. Investors shall be informed by the investment management company (SAI), in the contract concluded with it, of the existence of such alternative procedures and how to use them.
- (4) The payment for repurchases may only be made in the account held by the investor/its attorney-in-fact, indicated in the contract for operations with fund units on the Internet and by telephone or in the account notified by the investor/its attorney-in-fact in writing to the investment management company (SAI), in case it changes.
- (5) The payment for repurchases in case the repurchase request is sent via the Internet banking/home banking platform of the entities mentioned under Art. 103 Para (1) distributing the fund units shall only be made in the current account of the investor/its attorney-in-fact associated therewith on the Internet banking/home banking platform.
- Art. 105.** - (1) The fund unit issuance prospectus shall have at least the minimum contents provided in Annexe No. 7.
- (2) In addition to the contents laid down in Annexe No. 7, the prospectus shall include in the text the following:
- mentions from the articles of association not specified in Annexe No. 7;
  - the calendar days when the investment management company (SAI) and/or distributors do not record subscriptions and/or repurchases of units.
- (3) The fund unit issuance prospectus shall warn potential investors, in a standard wording, printed on the cover of the prospectus, of the fact that:
- investments in open-end fundOpen-end funds are not bank deposits, and banks, in their capacity of shareholders of investment management companies (SAIs), do not offer any guarantee to the investor that they will recover the invested amounts;



- b) the approval of the initiation and development of the continuous public offer of units by FSA does not imply in any way whatsoever that FSA has approved or assessed the quality of the investment in such units, it only reveals that the offeror has complied with the provisions of GEO No. 32/2012 and this regulation;
  - c) funds mean not only specific advantages, but also the risk of not fulfilling the objectives, including risk of losses for investors, and the income resulting from the investment is regularly proportional to the risk.
- (4) Each fund unit investor shall sign a statement that they have received, read and understood the provisions of the prospectus.
- (5) The provisions of Paras (1) - (4) shall also be applicable to feeder and master open-end fund.
- "(6) In applying the provisions of art. 105 para. (1) of GEO no. 32/2012, the income of an open-end investment fund may be distributed to investors, provided that the prospectus of the fund includes the proposed payment schedule, if applicable, to unit-holders as follows:
- 1. if the income distribution is dependent on the return on the fund , it will be specified that the distribution is not guaranteed and that this payment depends on the return on the open-end investment fund, which is influenced by the specific risks;
  - 2. If the fund distributes a fixed amount of income, which is set in advance by the manager, the following shall also be mentioned:
    - (i) distribution may also involve returns of the amounts invested by the investor;
    - (ii) the open-end investment fund will diminish;
    - (iii) the distribution of a fixed income is realized with the impairment of the value of the fund unit;
    - (iv) the payment cycle to fixed income distributions investors may continue until the available capital is exhausted. "
- Art. 106.** – The prospectus shall be issued on paper, each page being smaller than A5, with a font size of minimum 10.

### **CHAPTER III**

#### **Minimum contents of investment companies' issuance prospectus**

- Art. 107.** - (1) The share issuance prospectus shall have at least the minimum contents provided in Annexe No. 9.
- (2) The following shall also be included in the contents of the issuance prospectus:
- a) deed of constitution;
  - b) management contract, where applicable;
  - c) excerpt from the deposit contract;
  - d) internal rules and procedures in case of self-managed investment companies;
  - e) regulated market where the trading of the investment company's shares is intended;
  - f) conditions in which the self-managed investment company or the investment management company (SAI) managing an investment company may suspend the issuance of the transferable securities.
- (3) The share issuance prospectus shall warn potential investors, in a standard wording, printed on the cover of the prospectus, of the fact that:
- a) investments in investment companies are not bank deposits, and banks, in their capacity of shareholders of investment companies, do not offer any guarantee to the investor that they will recover the invested amounts;
  - b) the approval of the initiation and development of the continuous public offer of shares and the share issuance prospectus by FSA does not imply in any way whatsoever that FSA has approved or assessed the quality of the investment in such equity interest, it only reveals that the offeror has complied with the provisions of GEO No. 32/2012 and this regulation
  - c) investment companies mean not only specific advantages, but also the risk of not fulfilling the objectives, including risk of losses for investors, and the income resulting from the investment is regularly proportional to the risk
- (4) The investors shall be provided with all the additional acts to the prospectus.
- (5) Self-managed investment companies or investment management companies (SAIs) managing investment companies shall rewrite annually the issuance prospectus, by including all the related additional acts.
- (6) The rewritten prospectus shall be submitted to FSA within 30 working days from the end of the corresponding year.
- (7) The provisions of Paras (1) - (6) shall also be applicable to feeder and master investment companies.
- Art. 108.** – Any underwriter of the said shares shall sign a statement confirming that they have received, read and understood the provisions of the prospectus.
- Art. 109.** – The prospectus shall be issued on paper, with a maximum A5 size for each page, and a font size of minimum 10.

### **CHAPTER IV**

#### **Authorisation and operation of open-end fund**

**Art. 110.** - (1) To authorise a open-end fund, investment management companies (SAIs) shall submit to FSA a request prepared by the legal representative of the management company and accompanied by the following documents:

- a) articles of association – in original;
- b) fund unit distribution contract in original, where applicable;
- c) contract concluded between the fund's management company and the depositary (which is a contract concluded on condition the open-end fund is authorised and shall enter into force as of the authorisation date thereof), which shall have at least the contents provided under Arts. 58 - 62 of GEO No. 32/2012, in original;
- d) issuance prospectus;
- e) key investor information document having the contents provided under Commission Regulation (EU) No 583/2010 of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website, herein after referred to as *European Commission Regulation No. 583/2010*. The information contained in the key investor information document (KIID) shall be presented in observance of the provisions of Instruction No. 5/2012 on the form, contents and presentation of the key investor information document in undertakings for collective investment in transferable securities, approved by Order No. 87/2012 of the National Securities Commission, herein after referred to as *Instruction No. 5/2012*;
- f) fund rules, attached to the issuance prospectus, with the contents mentioned under Annexe No. 4;
- g) model of the fund unit subscription and repurchase forms. The subsequent amendment thereof shall be notified to FSA within maximum 3 days from the date the investment management company (SAI) changes, which shall not conduct subscription and repurchase operations based on the new forms unless after notifying FSA;
- h) proof of payment into FSA's account of the fees established according to the regulations in force.

(2) The issuance prospectus and the fund rules shall be submitted to FSA in two originals, one of which shall be returned to the investment management company (investment management company (SAI)), if the request is approved, together with the authorisation decision.

(3) Apart from the minimum contents provided under Annexe No. 4, the fund rules shall also comprise the conditions and situations in which investment management companies (SAIs) may suspend/limit temporarily the issuance and repurchase of the fund units of a open-end fund in observance of the provisions of Art. 104 of GEO No. 32/2012.

(4) The conditions and situations mentioned under Para (3) shall be consistent with the liquidity management mechanisms in extreme circumstances that must be used by investment management companies (SAIs) and shall be similar to the examples indicated herein below, without limitation:

- 1. investors holding more than a certain percentage of the asset of the UCITS in question (for instance, 5%) may request in a certain timeframe (e.g., one week) to repurchase maximum 1% of the asset of such UCITS;
- 2. any repurchase request exceeding a certain percentage of the value of the UCITS' asset (e.g., 1%) shall be charged additionally (e.g., by 10%) of the total value or the value exceeding such holding percentage, i.e., 1%;
- 3. if, in one day's timeframe, the counter value of the repurchase requests exceeds a certain percentage of the value of the UCITS' assets (e.g., 10%), then the investment management company (investment management company (SAI))/self-managed investment company shall reserve the right to suspend the operations for a certain period of time (e.g., 5 days).

(5) If FSA considers that the suspension/limitation mentioned under Para (3) ordered by the investment management company (investment management company (SAI)) was not performed in observance of the applicable provisions or the extension thereof affects the investors' interests, then it shall be entitled to order the lifting of the suspension/limitation.

"6. Where the rules of the UCITS provide for the possibility of activating liquidity management mechanisms in extreme situations, such as those provided for in paragraph (4), the IMC shall draw up and review at least annually an escalation plan, ensuring that the UCITS' liquidity management mechanisms are up-to-date and can be used efficiently, promptly and in an orderly manner, where appropriate.

(7) The escalation plan in par. (6) includes measures and sets out rules by which the IMC ensures at least that:

- (a) has the operational capacity to exercise the liquidity management capabilities of the UCITS portfolio in a transparent, fair and orderly manner to ensure compliance with the interests of the UCITS investors;
- b) the escalation plan in extreme situations can be activated promptly and run in an orderly manner, taking into account the duration of the UCITS portfolio and its risk-return profile;
- c) the escalation plan includes an inventory of measures that may be adopted by the IMC under extreme conditions, a list of senior management and / or key positions within the IMC responsible for carrying out each measure on the basis of appropriate deadlines, as well as a timetable for communication with ASF in the event of the activation of a liquidity management mechanism. "

**Art. 111.** - (1) A open-end fund consisting of several investment compartments shall represent a open-end fund

managed by an investment management company (SAI) comprising one or more sub-funds, with the following characteristics:

- a) each sub-fund shall have a separate investment policy, included in the fund's issuance prospectus;
- b) a sub-fund may not invest in the units of another sub-fund belonging to the same fund;
- c) the liabilities of a sub-fund may not be covered from the assets of another sub-fund;
- d) the investors of a sub-fund may transfer to another sub-fund belonging to the same fund, the conversion of fund units being mentioned in the issuance prospectus;
- e) the sub-funds may have different currencies to denominate the net asset value;
- f) each sub-fund may be liquidated separately, without entailing the liquidation of another sub-fund;
- g) the assets of all sub-funds shall be entrusted to a single depositary for safe-keeping;
- h) each fund and/or sub-fund may issue one or more classes of fund units. The structure of commissions, the minimum amount for provided the initial investment, the currency of the net asset value and categories of eligible investors may differ depending on each class of fund units;
- i) each new sub-fund or class of fund units must be authorised by FSA;
- j) each new sub-fund or class of shares must be authorised by FSA;
- k) each sub-fund shall have separate accounts;
- l) to observe the investment limits provided under Title I Chapter IV Section 4 of GEO No. 32/2012, each sub-fund shall be deemed a distinct UCITS.

(2) For FSA to authorise a open-end fund consisting of several investment compartments, investment management companies (SAIs) shall submit to FSA a request prepared by the legal representative of the management company, which shall be accompanied by the following documents:

- a) articles of association – in original;
- b) fund unit distribution contract in original, where applicable;
- c) contract concluded between the fund's management company and the depositary (which is a contract concluded on condition the open-end fund consisting of several investment compartments is authorised and shall enter into force as of the authorisation date thereof), which shall have at least the contents provided under Arts. 58-62 of GEO No. 32/2012, in original;
- d) issuance prospectus, which shall have the minimum contents provided under Annexe No. 8;
- e) for each sub-fund, the key investor information document having the contents provided under Commission Regulation (EU) No 583/2010;
- f) fund rules, attached to the issuance prospectus, with the contents mentioned under Annexe No. 5;
- g) model of the fund unit subscription, repurchase and conversion forms. The subsequent amendment thereof shall be notified to FSA within maximum 3 days from the amendment date, and the investment management company (SAI) shall not conduct subscription, repurchase and conversion operations based on the new forms unless after notifying FSA;
- h) proof of payment into FSA's account of the fees established according to the regulations in force.

(3) The provisions of Art. 110 Paras (2) - (4) shall apply accordingly in the case of open-end fund consisting of several investment compartments.

(4) The fund rules shall also include the conditions in which investment management companies (SAIs) may temporarily suspend the conversion of fund units.

(5) For each new sub-fund or class of fund units, investment management companies (SAIs) shall submit to FSA the following documents:

- a) key investor information;
- b) revised issuance prospectus;
- c) revised fund rules;
- d) proof of payment into FSA's account of the fees established according to the regulations in force.

**"Art. 112. - (1)** In case of approval of the application, ASF shall issue an individual act of authorization for the establishment and operation of the fund within maximum 60 days from the date of receipt of the complete documentation provided by the regulations in force. The ASF also authorizes the fund rules and the prospectus. "

(2) In case the request is rejected, FSA shall issue a reasoned decision, which it shall transmit to the fund's management company.

## **CHAPTER V**

### **Rules for valuation of UCITS' assets, calculation of net asset value and value of units**

#### **SECTION 1**

## Valuation rules of UCITS' assets

**Art. 113.** – Financial instruments admitted to trading and traded in the last 30 trading days (working days) on a regulated market or in trading systems other than regulated markets, from a Member State, including in an alternative trading system in Romania, and those admitted at the official rate of stock exchange or an alternative trading system from a third State shall be valued as follows:

- a) the shares and transferable securities provided under Art. 3 Para (1) Item 26 Letter c) of GEO No. 32/2012:
  - 1. at the closing price of the market section deemed main market, of the day of calculation, in the case of shares admitted to trading on such regulated market from the Member State/stock exchange from the Non-Member State; or
  - "2. at the reference price of the day for which the calculation is made, in the case of shares listed in trading systems other than regulated markets, including in other alternative trading systems, provided by the operator of that trading system for each of the segments of that system. The price used as the reference price shall be calculated on the basis of the trading day of the day for which the asset is calculated, used as a benchmark in the opening of the trading session of the following day. "
- b) fixed income securities, following any of the methods below, established in accordance with the provisions of Art. 122 Paras (1), (3), (5) and (9):
  - 1. one of the methods indicated under Letter a), depending on the trading place of such transferable securities;
  - "2. the method based on daily interest recognition and amortization of discount / premium for the period elapsed since the placement took place;
  - 3. the method based on using MID market quotations (calculated as the arithmetic mean between the best selling price and the best purchase price), if there are relevant composite price models published by worldwide acknowledged official institutions or private firms (such as, NBR, Bloomberg, Reuters);
  - 4. if the method of valuation set out in point 3 is chosen and for a fixed income instrument there is no relevant composite price model, the relevant instrument will be valued on the basis of the method set out in point 2, starting from the net acquisition price (in the case of newly issued instruments for which there is no relevant composite price model) or the latest composite price used in the valuation. From the moment of the occurrence of a relevant composite price and provided it exists for a 30-day trading period (the observation period in which the relevance of this price is analyzed), the fixed-income instrument shall be valued on the basis of the valuation method provided for in point 3 starting from the business day immediately following the 30-day trading period. "
  - 5. if the valuation method provided under Item 3 is chosen and the composite price model used is not available or becomes irrelevant during a 30-trading day observation period, the method based on the daily recognition of interest and amortization of discount/related premium shall be used, starting from the working day immediately following the 30-trading day observation period, starting from the last composite price used in the valuation. If, subsequent to the application of the method based on the daily recognition of interest and amortization of discount/related premium, there is a trading history and a relevant composite price model during a 30-trading day observation period, then the valuation method provided under Item 3 shall be reverted to, starting from the working day immediately following the 30-trading day observation period;
  - 6. investment management companies (SAIs) that apply the valuation method provided under Item 3 shall prepare and send to FSA rules and procedures to determine the relevance of the composite quotations used;
- c) money market instruments, similarly to the provisions of Letter b);
- d) derivative financial instruments, similarly to the provisions of Letter a);
- "e) the units issued by the UCITS, similar to the provisions of letter a); "
- f) structured products shall be valued at reference price (related to an individual issuance of structured products, *i.e.*, trading session) calculated by the market operator where such transferable securities are traded, as follows:
  - 1. the arithmetic average, calculated based on the best ask and best bid introduced/managed by the liquidity provider/providers or the market maker/market makers, as the case may be, existing in the market after the closing of the current trading session, if there have been quotations of the liquidity provider/providers or market maker/market makers, and the symbol was available for trading. Such value shall be rounded at the nearest price tick corresponding to such symbol;
  - 2. the closing price recorded in the main market of the symbol in the current trading session if it has been available to trading, if there are no available quotations of the liquidity provider/providers or the market maker/market makers, according to Item 1, and transactions were recorded in such trading session;
  - 3. the last reference price of the symbol (the reference price remains unchanged), if the following conditions are cumulatively met:
    - (i) no transactions were recorded in the latest trading session where the symbol in question was available to

trading;

- (ii) there were no quotations of the liquidity provider/providers or the market maker/market makers, as the case may be, upon the closing of the last trading session where the symbol was available to trading.

**Art. 114.** - (1) The financial instruments mentioned under Art. 113 admitted to trading on several regulated markets and/or in alternative trading systems other than regulated markets, from a Member State, including alternative trading systems in Romania, traded in the last 30 trading days (working days), shall be valued at the closing price of the market section deemed main market or at the reference price provided in alternative systems having the highest degree of liquidity and frequency of trading such financial instrument determined by the volume and number of transactions registered in the previous calendar year.

(2) If the financial instruments mentioned under Para (1) are also admitted on alternative stock exchanges or systems from a third State, the price of the market with the highest degree of liquidity and frequency of trading shall be taken into account.

(3) Financial instruments admitted to trading only on several stock exchanges and/or alternative trading system from third States shall be valued at the closing price of the stock exchange or at the reference price provided in alternative systems having the highest degree of liquidity and frequency of trading such financial instrument determined by the volume and number of transactions registered in the last 365 days, corresponding to the day for which the calculation is made. The calculation shall be made annually, at the beginning of each calendar year.

**Art. 115.** - (1) Financial instruments not admitted to trading on a regulated market or in trading systems other than regulated markets, including alternative trading systems in Romania, from a Member or third State shall be valued as follows:

a) shares according to either of the following methods:

"1. the book value per share, as evidenced by the entity's last annual financial statement. In the case of operations to increase / decrease the share capital (by increasing / decreasing the number of shares in circulation) of some companies registered with the National Trade Register Office (in the case of a company not admitted to trading at a trading venue) or which are registered in the system of a central depository (for issuers) during the same financial year and for which the new number of shares in circulation is not actually reflected in the most recent approved annual financial statements for the purposes of calculating the accounting value referred to in this point, the information provided by the company / issuer shall be used, on the basis of supporting documents (the registration certificate with the National Trade Register Office or the monthly verification balance - for non-listed companies - or certificate of securities registration, hereinafter referred to as *CIVM*, issued by ASF - in the case of issuers - and, to the extent that a report is available to an independent auditor certifying the new value of equity of the company); in the case of credit institutions, the book value per share calculation may be based on the equity value contained in monthly reports submitted to the NBR, if these reports are available ; or

2. the value determined by applying valuation methods in accordance with international valuation standards (using the fair value principle), approved by the board of directors / management of the IMC / self-managed investment company; "

b) fixed income securities shall be valued according to provisions of Art. 113 Letter b) Items 2 and/or 3;

c) money market instruments shall be valued similarly to the provisions of Letter b);

d) derivative financial instruments shall be valued using established techniques on the financial markets (e.g., reporting at current value of another similar financial instrument, models of cash flow analysis and option valuation, etc.), so as to observe the fair value principle;

"(e) the units issued by the UCIs will be valued at the latest unit value of the net asset calculated and published by their manager or published by internationally recognized private companies (e.g. Bloomberg, Reuters). "

(2) The financial instruments admitted to trading on a regulated market, in an alternative system or in systems other than regulated markets, from a Member State, including alternative trading systems in Romania, and those admitted at the official rate of a stock exchange or an alternative trading system from a third State, but not traded in the last 30 trading days (working days), shall be valued starting from the 31<sup>st</sup> non-trading day as follows:

(i) the shares and transferable securities provided under Art. 3 Para (1) Item 26 Letter c) of GEO No. 32/2012, derivative financial instruments and units issued by UCI similarly to the valuation provided under Para (1);

"(ii) fixed income financial instruments and money market instruments shall be valued in accordance with Art. 113 letter b) [points 2](#) and / or [3](#) . When choosing the method provided in art. 113 letter b) pt. 2, the daily recognition of interest and amortization of discount / related premium will be made from that price level starting from the date of change in the valuation method. "

(3) The financial instruments mentioned under Paras (1) and (2), issued by the same entity, but traded in different tranches, shall be valued similarly to Para (1).

"(4). Holdings in current accounts shall be valued by taking into account the available balance at the date of the

calculation. The amounts existing in the current UCITS accounts to credit institutions in bankruptcy procedure will be included in the net asset value at zero.

(5) Bank deposits and depositary receipts shall be valued using the method based on the daily recognition of the interest of the period elapsed from the investment date.

(6) Structured deposits shall be valued based on the daily recognition of the minimum guaranteed interest of such structured deposit granted by the bank as bonus. If a minimum interest is not guaranteed, then the valuation shall consider the minimum current account interest. Upon maturity, if the evolution of the underlying asset has complied with the conditions required to establish the deposit, the positive difference of interest shall be recognized for the entire period elapsing from the establishment of the deposit. The valuation method shall be maintained throughout the entire term of the deposit.

(7) Deposits with interest paid in advance, regardless of the deposit term, shall be valued at the initial amount established as deposit throughout the entire deposit term.

(8) If interest has been received prior to maturity for the deposits provided under Para (5), the amounts received shall be deducted from the value calculated.

(9) Money-market instruments in the form of commercial papers shall be valued similarly to the calculation method of fixed income securities, as mentioned under Art. 113 Letter b) Items 2 and 3.

(10) The shares of companies admitted to trading on a regulated market or in trading systems other than regulated markets, but not traded in the last 30 trading days, in relation to which FSA or another competent authority has decided to initiate the financial recovery proceedings through special administration, shall be valued according to the methods provided under Para (1) Letter a).

**"Art. 116.** - (1) Shares suspended from trading for a period of at least 30 trading days (working days) as a result of the decision of the market or system operator in order to provide the investors of information with information that may lead to changes of the share price of the issuer, will be valued at the weighted average price of the last 30 trading days (working days) calculated until the occurrence of such an event as an arithmetic average of the weighted average prices of each of the last 30 trading days or at the value determined using valuation methods in line with international valuation standards (in which the fair value principle is used) and approved by the board of directors / management of the IMC / the self-managed investment company. If the suspension from trading takes place during the trading session, the shares are valued at the closing / benchmark price for calculating the value of the day's assets, as the case may be, and for the purpose of counting the 30 trading days (working days) the first day is considered the next business day following the suspension. If the suspension takes place right from the start of the trading session, the first day is considered as the day of suspension. If the weighted average prices of each of the last 30 trading days are not available for calculating the arithmetic mean, the IMC / self-managed investment company shall only use to determine the price of the suspended shares the value determined by using valuation methods that comply with international valuation standards (in which the principle of fair value is used).

(2) Shares not admitted to trading, including those issued by credit institutions or admitted to trading and not traded during the last 30 trading days (working days), whose financial statements are not obtained within 90 days of the legal submission date, are included in the asset as follows:

1. at zero or at the value determined by using valuation methods in line with international valuation standards (using the fair value principle) and approved by the board of directors / management of the IMC / the self-managed investment company;

2. in the case of shares admitted to trading and not traded during the last 30 trading days (working days) and in the case of non-traded shares, it shall be considered that the methods indicated in point 1 shall only be applied if on the website of the regulated market, the alternative trading system, the Ministry of Public Finance or the issuer are not available quarterly / half-yearly financial reports on the basis of which the value of the respective shares could be determined. For the purpose of counting the 30 days of non-trading, the first non-trading day will be deemed to be the first business day in which the transaction has not been traded.

(3) The shares of undertakings regulated by Law No. 31/1990 in insolvency or reorganisation shall be included in the net assets of the UCITS as of the date when the announcement was made public on the website of the regulated market or the alternative trading system where transactions are performed, either at nil value or at the value determined by an independent evaluator using the valuation methods compliant with the International Valuation Standards (according to the fair value principle), chosen by the UCITS' administrator. If the administrator chooses to use valuation methods compliant with the International Valuation Standards (observing the fair value principle), the net asset of the UCITS must be calculated by taking into account the value mentioned in the independent evaluator's report.

(4) The shares of undertakings regulated by Law No. 31/1990 in judicial winding-up or other forms of winding-up and those that have temporarily or permanently ceased their activity shall be included in the net assets of the UCITS at nil value, as of the date when the announcement was made public on the website of the regulated market or the alternative

trading system where the transactions are conducted.

(5) In case of companies in insolvency or reorganisation, whose shares have been re-admitted to trading on a regulated market or alternative trading system based on a final court decision whereby the appointed receiver confirms the reorganisation plan of the entity and the issuer/market or system operator confirms that it would not challenge by appeal the ruling confirming the reorganisation plan, the shares shall be valued in accordance with Art. 113 Letter a) if the shares have a market price, namely transactions were recorded from the date of their re-admission to trading. If the shares have no market price, they shall be evaluated until an available reference price is recorded, according to Art. 115 Para (1) Letter a).

(6) The shares of the companies regulated by Law [no. 31/1990](#) or the applicable law in Member States or third countries in the portfolio of UCITS not admitted to trading or admitted to trading on a regulated market under an alternative scheme or other trading venue in a Member State, including on an alternative trading system in Romania, as well as those admitted to the official listing of an alternative trading system in a third-party country, but not traded in the last 30 trading days (working days), with negative values of the own funds are included in the calculation of the net asset at zero.

(7) The valuation methods provided in this article shall also apply in the case of shares of undertakings regulated by Law No. 31/1990 in insolvency or reorganisation not admitted to trading on a regulated market or in an alternative trading system.

(8) If a company admitted to trading on a regulated market / alternative trading system that has the value of negative equity, is not traded over a period of more than 30 trading days and this period coincides with the trading suspension period of that share, then the relevant share is valued in the portfolio of the UCITS at zero. "

**"Art. 117 -** (1) In the case of dividing / consolidating the nominal value of shares admitted to trading on a regulated market or in trading systems other than regulated markets, the shares resulting from the division shall be valued, starting with the ex-date and up to the date of the introduction to their trading, by dividing the price before the division into the division coefficient, respectively by multiplying it by the consolidation coefficient.

(2) In the case of operations for diminishing the share capital by reducing the number of shares of companies admitted to trading on a regulated market or in trading systems other than regulated markets starting with the ex-date and until the date of their trading, shares are valued by dividing the last market price available prior to the operation of the change in the share capital to the coefficient of the share capital reduction."

**Art. 118. –** Investment management companies (SAIs) and self-managed investment companies shall record the financial instruments from the UCITS' portfolios starting from the transaction date.

**Art. 119. -** (1) Dividends and shares distributed without monetary consideration resulting from the participation in the capital increases shall be recorded in the UCITS' asset on the first day the investors purchasing the shares no longer receive dividends or on the first day when investors purchasing the shares may no longer participate in the capital increase. If, for lack of information, the dividends for holding shares listed on foreign markets may not be recorded in the asset in accordance with the first paragraph, the counter value of such dividends must be recorded as an asset on the date the UCITS' administrator or the depositary of its assets becomes aware of the information on the ex-dividend date, evidenced by documents/excerpts/publications.

"(2) In the case of share capital increases involving a cash consideration from investors, without the issue of preference rights, if the IMC / self-managed investment company decides to participate in the share capital increase of the issuer, the due shares and the amount owed by the UCITS as a result of the participation in the share capital increase is recorded in the UCITS assets as follows:

a) on the first day when investors who buy the shares can no longer participate in the capital increase if the market price is higher than the subscription price;

b) on the dated of the actual payment of the shares subscribed to the share capital increase, if the market price is lower than the subscription price.

In the event that the operation for the increase of the share capital with cash consideration from the investors is not performed within the legal term established by Law no. 31/1990 from the date of the adoption of the GMS decision, the IMC / self-managed investment company excludes the subscribed shares from the UCITS portfolio and may record the amounts paid for the non-operating capital increase under "Other assets - Receivable amounts. The IMC / self-managed investment company will use all legal steps to recover the cash consideration paid to the issuer for shares that have not been subscribed for objective reasons attributable to the issuer.

(3) In case of share capital increases involving monetary consideration on the investors' part, involving pre-emptive rights, the due shares shall be recorded in the UCITS' assets on the actual payment date of the subscribed shares for the share capital increase.

(4) Upon admission to trading, the shares subscribed by the UCITS in an initial public offering of shares shall be considered as "newly issued securities" and shall be valued on the basis of the purchase price of the shares subscribed



under the public offering. This way of recording and evaluating the respective shares subscribed by the UCITS shall be maintained until the date of the first stock exchange transaction. "

(5) If such shares are not admitted to trading within maximum 12 months from the commencement date of the offering procedure, the shares indicated under Para (4) shall be valued similarly to shares not-admitted to trading, according to the methods provided under Art. 115 Para (1).

(6) If the public offer of transferable securities indicated under Para (4) involves the issuance of marketable allotment rights, then the allotment rights due to the UCITS, which have subscribed and paid in full shares within the offering indicated under Para (4), *i.e.*, within the period of exercise of the pre-emptive right, shall be valued as follows:

- a) between the issuance date and the date of the potential admission to trading of the allotment rights, based on the purchase price of shares subscribed within the public offering;
- b) between the date of the potential admission to trading of the allotment rights and the actual date of admission of the shares to trading, after valuating such allotment rights, according to Art. 113 Letter a).

(7) If UCITS that have subscribed and paid in full shares within the offering indicated under Para (4) hold shares in such company prior to the development of the public offering and admission of such shares to trading, they shall be valued as follows:

- a) between the issuance date and the date of the potential admission to trading of the allotment rights, in accordance with the methods provided under Para (5);
- b) between the date of the potential admission to trading of the allotment rights and the actual date of admission of the shares to trading, after valuating such allotment rights, according to Art. 113 Letter a).

(8) The allotment rights provided under Para (6) shall be disclosed in the UCITS' reporting forms as follows:

- a) until admission to trading, in the sections related to holdings of other transferable securities and money market instruments not admitted to trading;
- b) between admission to trading and issuance of the shares subscribed in the public offering, in the section related to holdings of other transferable securities similar to shares and money market instruments admitted or traded.

(9) Newly-issued bonds containing a listing commitment shall be valued until admission to trading according to Art. 115 Para (1).

(10) The shares of companies not admitted to trading resulting from share capital increases with monetary consideration shall be valued as follows:

- a) until the share capital increase is registered with the ORC, at their subscribed value;
- b) from the date the share capital increase is registered with the ORC, similarly to the provisions of Art. 115 Para (1), corroborated with Art. 116.

"(11) Shares of non-trading companies resulting from increases in registered capital without cash consideration shall be recorded in the UCITS's assets as of the date of the operation of the share capital increase with the National Trade Register Office, based on written evidence provided by the company certifying the new value of the equity corresponding to the new share capital.

(12) By way of exception to the provisions of paragraph (1), dividends distributed by companies not admitted to trading on a trading venue in a Member State or on a third-party exchange are recorded in the UCITS assets at the time of their receipt. "

"Art. 120. - (1) The valuation of the shares held by UCITS as a result of the participation in the increase of the share capital without cash consideration, as well as those with cash consideration registered in the assets according to the provisions of art. 119 para. (2) shall be made at the closing price of the market section considered as the main market or at the reference price provided under systems other than the regulated markets, including alternative trading systems by the Operator of that trading system, relating to the day for which performs the calculation.

(2) The amount due as a result of the participation in the increase of the registered capital with cash consideration in the assets shall be valued at the subscription value.

(3) In the event that the ASF does not approve the prospectus for the issuance of new shares decided by the EGM of an issuer, the newly issued shares previously registered in the UCITS 'assets under the provisions of paragraph 1 shall be removed from the UCITS' assets."

**Art. 121. -** (1) If the capital increase is performed by issuing pre-emptive rights, such rights shall be recorded in the fund's asset on the first day the investors purchasing the shares may no longer participate in the capital increase.

(2) Until the first trading day, pre-emptive rights shall be valued at theoretical value. The theoretical value of a pre-emptive right shall be calculated using the following formula:

Pre-emptive right theoretical value = (market price of old shares -  
new share subscription price based on pre-emptive rights) \* [number of new shares/  
(number of old shares + number of new shares)] \* [number of old shares/number of issued pre-emptive rights]



where the market price of old shares shall mean the price valued according to Art. 113 Letter a), of the last day the share purchasers are entitled to participate in the capital increase.

(3) After admission to trading, the pre-emptive rights shall be valued at the price valued according to Art. 113 Letter a) of the day for which the calculation is made. If no transactions are recorded, the valuation shall be maintained at theoretical value.

(4) After the trading period of the pre-emptive rights until the exercise thereof, pre-emptive rights shall be valued at the last closing price of the trading period and recorded in a distinct caption "Dividends or other collectable rights".

(5) When the pre-emptive rights are exercised, the due shares shall be recorded accordingly in the UCITS' asset.

(6) Dividends and shares distributed without monetary consideration, those distributed with monetary consideration and amounts due to the UCITS shall be recorded in a distinct caption "Dividends or other collectable rights" in the UCITS assets.

(7) If the dividends and shares distributed without monetary consideration are not paid/allotted within the legal term/term provided in the GSM resolution, then they shall be included in the assets at nil value. If the legal term/term provided in the GSM resolution to pay/allot dividends falls on a non-working day, then it shall be extended until the end of the first working day.

"(8) If the principal and the coupons related to fixed income instruments are not paid within 10 working days of the deadline set in the issue prospectus, they shall be included in the asset at zero. In monitoring the number of 10 working days, the timing to be considered is the corresponding calendar of the country of residence of the fixed income instruments, where there may be differences between the working days in Romania and the working days related to other states. If the payment deadline coincides with a non-working day, it is automatically extended until the end of the first business day.

(9) For fixed-income financial instruments not admitted to trading on a regulated market or an alternative trading system in the UCITS portfolio, for prudential purposes, where the IMC finds, according to the periodic financial statements of that issuer, that there is a significant risk that it will not fulfill its payment obligations regarding the periodic coupon and principal amount, the IMC shall make gradual value adjustments of the exposure on that instrument, based on an internal analysis or an evaluation report prepared by an authorized valuator. The respective value adjustments applications shall be notified to ASF upon the triggering of this procedure.

(10) Depreciation in the value of fixed income financial instruments also applies if delays in coupon payments, changes to the payment date, after their maturity, as well as changes in the maturity date are noted. "

" (11) The IMC shall publish in the half-yearly and annual activity report sent to ASF on the basis of the provisions of art. 53, as the case may be, complete information on the substantiation, the causes that led to the adjustment of value, and the details of the methodology used for the gradual adjustment of value.

(12) If, following the application of the value adjustment, the issuer of fixed income instruments not admitted to trading on a regulated market or an alternative trading system does not actually fulfill its payment obligation for regular coupons and the principal, they will be included in active at zero.

(13) If after being included in the UCITS assets at zero in accordance with the provisions of paragraph (12), the issuer of fixed income financial instruments not admitted to trading on a regulated market or an alternative trading system, fulfills all its outstanding payment obligations to the UCITS, then those instruments are revalued in the UCITS assets in accordance with the provisions of Art. 115 par. (1) letter b).

(14) Monetary market operations, i.e. reverse purchase / sales of shares eligible for trading (repo / reverse repo), are highlighted in the UCITS portfolio as follows:

a) Reverse purchases under which UCITS acquires eligible assets for trading, with the counterparty's firm commitment to redeem those assets at a later date and at a price set at the date of conclusion of the transaction, are valued through the daily recognition of the amount of the claim that is added to the purchase value;

b) reverse sales where the UCITS sells eligible assets eligible for trading, under a firm commitment to redeem those assets at a later date and at a price fixed at the date of the transaction, are valued as follows:

1. for the period between the date of receipt of the amount of the money market transaction and the date of the firm's commitment for redemption, the units subject to the transaction shall be assessed on a daily basis according to art. 113-115. The units that are the subject of the transaction will be highlighted in a dedicated asset item: "Support units for Report Contracts" in the category corresponding to the respective instruments;

2. During the same period, the denomination value will be written down with the minus value together with the daily debt recognition in an asset item "Money market instruments other than those traded on a regulated market, in accordance with Article 82 letter (g) of GEO 32/2012 - Reporting contracts on securities issued by the central public administration.

(15) In the case of capital reduction operations of a company the shares of which are admitted to trading on a regulated market or in an alternative trading system without distribution of money as a result of the reduction in the number of

shares, the UCITS' assets starting with the ex-date will reflect the new reduced number of shares, and the valuation will be performed according to the provisions of art. 117. In the event that ASF does not approve the share capital reduction operation, the amounts previously recorded in the UCITS assets in accordance with the provisions in force are removed from the UCITS's assets from the date of the individual rejection act.

(16) The registration in the UCITS assets of the available funds as a result of the distribution to shareholders of amounts of money during the operations of diminishing the share capital by reducing the nominal value of the share or as a result of the reduction of the number of shares and the distribution to the existing shareholders at the registration date of an amount of money corresponding to the reduction of the nominal value or the number of shares approved by the GMS Decision is made in the same manner as for the registration of the dividends distributed to the shareholders provided by para. (6), ie the coverage in the UCITS' assets of the amounts to be cashed as a result of the decrease in the share capital under the item "Dividends and other receivables", as opposed to the reduction in the number of shares related to the reduction of the share capital.

**Art. 122. -** (1) The UCITS' assets shall be valued according to the procedures indicated under Art. 20 Para (4) of GEO No. 32/2012 and the provisions hereof, by using the valuation methods to be included in the UCITS' deed of constitution.

(2) The procedures indicated under Art. 20 Para (4) of GEO No. 32/2012 shall be issued by the board of administration/supervisory board of the investment management company (SAI)/self-managed investment company and shall also mention the modality to detect, prevent and remedy within the shortest time possible errors in determining the net asset value per unit and, where applicable, the modality to compensate for the prejudices caused to the unit-holders.

(3) The investment management company (SAI)/self-managed investment company shall maintain the method of valuation of the UCITS' assets specified in the prospectus and the fund rules/deed of constitution of the investment company throughout minimum 12 months. If the investment management company (SAI) manages more than one UCITS, then such method shall be used for all UCITS managed.

(4) Asset valuation using the valuation methods compliant with the International Valuation Standards (according to the fair value principle), except derivative financial instruments, may also be performed by/with the consultation of the members of the National Association of Authorised Romanian Evaluators or other similar professional bodies and shall only be performed after FSA authorises the changes of the UCITS' establishment documents, within the meaning of Para (1).

(5) The responsibility for setting the methods of valuation of assets shall lie with the board of administration/supervisory board of investment management companies (SAIs)/self-managed companies, which shall adopt such valuation methods that protect the investors' interests and market integrity, acting with honesty, fairness and professional diligence.

(6) If the responsibility to value the UCITS' assets is delegated to an independent evaluator, then the board of administration/supervisory board of investment management companies (SAIs)/self-managed investment companies shall, firstly and periodically, assess how such evaluator fulfils its duties.

(7) The board of administration/supervisory board of investment management companies (SAIs)/self-managed investment companies shall conduct annually, through a third party appointed by considering the need to avoid conflict of interest, an analysis of the valuation procedures and methods used, for the purpose of verifying that they are adequate at all times and are actually enforced.

(8) The weekly report on the status of the UCITS' net assets shall be accompanied by an annexe listing the valuation methods used for each of the assets in the portfolio for which one of the valuation methods compliant with the International Valuation Standards was applied. The annexe to the report shall bear the approval of the UCITS' depositary.

(9) By way of exception from the application of the provisions of Para (3) related to the obligation to maintain the valuation method, if the valuation method changes in compliance with the international valuation standards provided in the prospectus and the fund rules/deed of constitution of the investment company, the report provided under Para (8) shall describe the underlying reasons for such change and how such change affects the interests of the UCITS' investors. The report shall be communicated to the investors through publication on the website of the investment management company (SAI)/self-managed investment company and operator of the regulated market/alternative trading system (in the case of UCITS admitted to trading).

"(10) To assess the participations held by the UCITS, an evaluator holds membership in the National Association of Romanian Valuers (ANEVAR), specializing in the assessments of companies or other international organizations recognized by ANEVAR with an equivalent specialization."

"Art. 122<sup>1</sup> - (1) A tradable UCITS retains in its portfolio the pre-established shares in the structure of the reference index so that the default error does not exceed 15% in the case of a tradable UCITS maintaining the structure of the reference index. The 15% limit does not apply if a tradable UCITS is actively managed and the manager has the obligation to

- include in the prospectus of the fund, in the key investor information document and in the advertising material, the fact that it is actively managed and how it intends to record a higher performance to an index.
- (2) In order to ensure liquidity, a tradable UCITS may invest no more than 15% of its assets in deposits established in accordance with the provisions of Art. 82 letter e) from GEO no. 32/2012. For the purpose of calculating the limit established in this paragraph, the amounts available in current accounts and cash in RON and foreign currency are assimilated to the term "deposit".
- (3) The process of issuing units of a tradable UCITS involves the transfer, through the central depository, from the authorized participant to the UCITS depository of a basket of shares in the structure of the reference index. The IMC shall send to the depository of the UCITS' shares the asset transaction instruction of the appropriate basket of shares and verify that the structure of the transferred asset basket corresponds to the UCITS structure. The UCITS depository shall verify that the structure of the asset basket transferred by the central depository corresponds to the instruction received from the IMC.
- (4) If the depository of UCITS assets confirms to the IMC that the structure of the transferred basket of shares provided in par. (3) corresponds to the instruction received from the IMC, the IMC instructs the central depository to send blocks of units corresponding to the structure of the basket of shares transferred to the authorized participant who will sell to investors on a regulated market.
- (5) The redemption process involves the purchase on the regulated market by an authorized participant of a number of blocks of units and their transmission to the depository of the UCITS assets. The latter, depending on the terms of the tradable UCITS prospectus, informs or not the IMC on the number of units received and on the identity of the authorized participant who initiated the transfer. On the basis of a positive response from the IMC or a mandate granted in advance through the tradable UCITS issue prospectus, the UCITS depository shall transfer to the authorized participant the equivalent basket of shares corresponding to the number of units redeemed through the central depository.
- (6) Transmission of shares and units from and to the depository of the tradable UCITS assets, respectively from and to the authorized participant, shall be made with the transfer of the title over the shares and units, made by the central depository who has concluded a contract register with the IMC through a direct transfer operation.
- (7) The transfer referred to in paragraph (6) shall be performed according to the provisions of the prospectus but no later than the business day immediately following the day when the IMC which manages the tradable UCITS receives the request for issue / redemption of unit blocks from the authorized participant.
- (8) The value of the unit net asset on the basis of which the transfer referred to in paragraph (6) is to be made shall be the value from the day when the authorized participant submits the application for issue / redemption of units, determined by the IMC and certified by the depository, according to the method set out in the UCITS documents, in compliance with the legal provisions in force. For the determination of the value of the shares in the reference index, criteria similar to those provided by art. 123-132 for the determination of the UCITS net asset shall be used.
- (9) Where specific provisions exist in the instruments of incorporation of the tradable UCITS, the issue and redemption of units may also be effected through cash funds, in which case the fund manager will acquire shares in the structure of the benchmark index in accordance with the UCITS strategy, respectively will return to the authorized participant the consideration of those units.
- (10) The purchase or sale by the IMC of shares in the basket of the reference index, as the case may be, shall be made within a maximum of 3 working days from the receipt of the cash or redemption request of the block of units, and during this period the value of the cash (in the case of the purchase) or of the respective shares (in case of sale) is recorded in the UCITS assets.
- (11) Exceeding the compositional error level over the 3 days indicated in paragraph (10) is not a deviation from the operating rules of the tradable UCITS.
- (12) Investors who buy or sell traded shares of a tradable UCITS other than market makers / authorized participants on a regulated market may not underwrite direct underwritings and redemptions from the IMC
- (13) The issue prospectus of a tradable UCITS contains a warning to prospective investors on the secondary market printed on the cover of the prospectus that:
- (a) the units of the tradable UCITS can not be redeemed directly from the IMCs except by the authorized participants;
  - (b) investors may purchase and sell units of a tradable UCITS through the conclusion of contracts with the intermediaries defined in Article 2 (1) (20) of Law no. 24/2017, in which case the provisions of Regulation no. 32/2006 shall apply.
- (14) The authorized participant may purchase blockss of units in the account of institutional investors (pension funds, etc.) with cash and / or shares provided by them.
- (15) The purchase by an authorized participant, at the order of the institutional clients, of the unit blocks of the tradable UCITS shall be made through the global account of clients of the authorized participant, without the transfer of the

ownership right to the respective institutional clients benefitting from the derogation provided for in paragraph (7).

(16) The reporting by a tradable UCITS of the number and type of investors (natural or legal persons) shall be made on a monthly basis on the Friday of the first week of the month immediately following the reporting month.

(17) The issue prospectus of a marketable UCITS must contain, in addition to the information set out in Annex no. 3, the following information on the reference index to be replicated and the mechanism used to obtain index exposure:

a) a description of the reference index, including details of how the index is constructed. The prospectus may contain a link to the website where the exact composition of the index is published;

b) the policy of the tradable UCITS regarding the errors stipulated in art. 2 par. (2) letter b), c) and d), including their maximum level;

c) a description of the issues affecting the ability of the UCITS to fully replicate benchmark performance (costs, low-index and non-liquidity shares, reinvestment of dividends, etc.);

d) details of the replication policy pursued by the UCITS (total or partial replication of the index).

(18) Where shares in the reference index structure replicated by a tradable UCITS are suspended from trading for more than 30 days and removed from the index by the market operator for the duration of the suspension, they will be recorded in the tradable UCITS' asset at zero, for that period.

(19) In the process of replicating the performance of the target index, a tradable UCITS may exceed investment limits under the conditions set out in Art. 86 of GEO no. 32/2012.

(20) The management company of the tradable UCITS must continually calculate and provide to the market operator, at least every 60 seconds, the net asset value per share (NAVPS) throughout the relevant trading hours.

(21) Concomitantly with the reception indicated in art. 20, for the continuous dissemination of the indicative net asset value per share (NAVPS) to the market participants, the market operator will ensure the publication of the respective value on its website.

(22) A UCITS may become a tradable UCITS only if the investment policy of that UCITS has as its object the reproduction of the structure of a particular stock index, in accordance with the provisions of Art. 86 of GEO no. 32/2012.

(23) The admission to trading on a regulated market of a UCITS is made on the basis of the issue prospectus authorized by the ASF and of the market operator's regulations taking into account the provisions of art.12 paragraph (2) a) of Regulation no.1 / 2006.

(24) In order for a tradable UCITS to be authorized by ASF, the management company of the UCITS shall submit to ASF the documents referred to in Art. 110 par. (1) or Art. 141 para. (1), as appropriate, as well as the following documents:

a) the agreement in principle of the market operator managing the regulated market where the admission to trading of securities is intended;

b) proof of payment of the registration fee to the ASF of the units in accordance with the regulations in force.

(25) Following admission to trading, the tradable UCITS shall duly comply with the provisions of the applicable law applicable to issuers and UCITS.

(26) IMCs seeking authorization of a tradable UCITS to ASF shall require the operator to admit the tradable UCITS to trading so that the transaction can begin no later than 30 business days after the IMC received the Securities Registration Certificate related to the tradable UCITS. This deadline may be extended by a maximum of 15 business days on the basis of a reasoned request submitted to the ASF by the IMC requesting to ASF to authorize a marketable UCITS.

(27) Where an UCITS authorized by ASF requires, in accordance with paragraph (22), transformation into a tradable UCITS, the issue and redemption of the units of the relevant UCITS is suspended from the date of entry into force of the decision to amend the UCITS documents with a view to its transformation into a tradable UCITS until the date of admission (in the case of open-end investment funds), respectively until the date when the market operator approves the transfer of the shares of the investment companies into the category relevant to the tradable UCITS.

(28) If the process of transformation provided in paragraph (27) implies the splitting of the price of the units, within the information notice indicated in art. 155 and the current report according to the provisions of art. 76 par. (1) of Law no. 24/2017, the manner in which it is to be done and the opening price of the units shall be presented.

(29) Securities Registration Certificates issued to tradable UCITS do not provide for the number of units issued. "

## SECTION 2

### Rules of calculation of UCITS' assets

**Art. 123.** - (1) To determine the net asset value of a UCITS, the portfolio holdings shall be valued and reflected in the net assets of such UCITS, at values established in accordance with the accounting rules in force and the provisions of Arts. 113 - 122.

(2) The net asset value per share of a open-end fund at a certain date shall be calculated based on the following

formula:

$$\text{Net asset value per share as at such date} = \frac{\text{Net asset value of the fund as at such date}}{\text{Total number of fund units outstanding at such date}}$$

(3) The net asset value per share of an investment company at a certain date shall be calculated based on the formula:

$$\text{Net asset value per share as at such date} = \frac{\text{Net asset value as at such date}}{\text{Number of shares issued and outstanding as at such date, excluding own shares repurchased by the company}}$$

(4) The initial value of a fund unit, in case of Open-end funds, may not be lower than 5 RON or the equivalent thereof in other currencies (if the open-end fund is denominated in other currencies).

(5) The issuance prospectus shall mention the number of decimals to which the net asset value per unit is rounded, which number may not be lower than two decimals.

(6) If fractions of fund units are used, the issuance prospectus shall mention the number of decimals for calculating the fund unit fractions, which number may not be lower than two decimals.

(7) For the application of the provisions of Paras (5) and (6), the issuance prospectus shall specify the rounding criteria used (at the nearest whole number or by truncation). For subscription, the number of allotted fund units shall be obtained by dividing the subscribed amount by the subscription price and shall be rounded at the number of decimals used to express the fund unit. If the constitutive documents of the fund provide it, the number of fund units issued further to a subscription may be a whole number, the difference shall be repaid to the investor, and the cost of the repayment shall be borne by the investment management company (SAI). To perform the repayment operations, the amount resulted by multiplying the net asset value per share by the number of repurchased units shall be rounded at two decimals. If a fixed amount is repurchased, the number of cancelled fund units shall be calculated by dividing such amount by the repurchase price and shall be rounded at the number of decimals used to express the fund unit.

(8) If a open-end fund consists of several classes of fund units, the net asset value per unit of a class of fund units in a open-end fund at a certain date shall be calculated based on the following formula:

$$\text{Net asset value per share of the class of fund units as at such date} = \frac{\text{Total fund assets attributable to the class of fund units} - \text{Value of liabilities attributable to the class of fund units}}{\text{Total fund units outstanding as at such date for such class}}$$

$$VUAN_i^t = \frac{A_i^t - C_i^t}{NUF_i^t}$$

where:

$VUAN_i^t$  - shall mean the net asset value per share of class i of fund units calculated for day t;

$A_i^t$  - shall mean the assets attributable to class i for day t;

$C_i^t$  - shall mean the total liabilities of the fund attributable to the class of fund units i for day t;

$NUF_i^t$

- shall mean the number of fund units outstanding of the class of fund units i for day t.

(9) The fund's assets and liabilities shall be allotted by classes of fund units according to one of the following methods, which shall be applied based on the principle of permanence of methods:

"a) The relative net asset method

The total asset attributable to class „i" ( $A_i^t$ ) (for day t can be calculated by the following formula:

$$A_i^t = A_i^{t-1} + \Delta A^t \times c_i^t$$

where,

$\Delta A^t$  is the total asset common to all fund classes in " t " day and consists of the increase or decrease of the total asset due to the result of the investments (realized income, realized or unrealized gains and losses, appreciation or depreciation of assets) in day "t"

$A_i^t$  is the asset attributable only to the "i" class of units and consists of the asset already assigned to the class of units "i" up to day " t-1 " but also of what is attributed exclusively to the "i" class on day "t"

$c_i^t$  is the division coefficient for the class "i" of the total asset

Fund obligations allocated to fund unit class i ( $C_i^t$ ) for day " t " can be calculated using the following formula:

$$C_i^t = C_i^{t-1} + \Delta C^t \times c_i^t$$

where,

$\Delta C^t$  is the value of common obligations related to all classes of fund in day t and consists of increasing or decreasing the common fund obligations happened in day " t "

$C_i^t$  is the amount of the requirements attributable only to the class of units " i " and consists of obligations already assigned to the class of units " i " up to day " t-1 " and also of what is attributable solely to class "i" in day " t "

$c_i^t$  is the division coefficient for the " i " class of the total asset

The division coefficient can be calculated using the following formula:

$$c_i^t = \frac{NAV_i^{t-1} + S_i^t - R_i^t}{NAV^{t-1} + S^t - R^t}$$

where

$NAV_i^{t-1}$  is the net asset of the class " i " in day " t-1 " ;

$S_i^t$  is the value of underwritings of fund units of class "i" processed in day "t" ;

$R_i^t$  is the value of redemption of fund units of class "i" processed in day "t" ;

$NAV^{t-1}$  is the net asset value of the fund in day " t-1 " ;

$S^t$  is the value of fund underwritings of all fund classes processed on day t;

$R^t$  is the redemption value of fund units of all fund classes processed on day "t".

b) Method of simultaneous equations

For a fund consisting of two classes (A and B), the allotment method may be achieved based on a system of two equations with two unknowns

$$NAV_A^t + NAV_B^t = C^t + G^t$$

Equation 1:

where:

$NAV_A^t$  - shall mean the net assets to be allotted to class A for day "t";

$NAV_B^t$  - shall mean the net assets to be allotted to class B for day "t";

$C^t$  - shall mean the cumulative capital of the fund for day "t";

$G^t$  - shall mean the cumulative net increase (decrease) of the fund's net assets not distributed to the fund's capital for day "t".

$$\text{Equation 2: } \frac{NAV_A^t / NUF_A^t}{VUAN_A^0} - \frac{NAV_B^t / NUF_B^t}{VUAN_B^0} = d \times \Delta$$

where:

This translation serves only an informative purpose. In case of discrepancies between the official Romanian version and this translation, the first will prevail.

$NAV_A^t$

- shall mean the net assets to be allotted to class A for day "t";

$NAV_B^t$

- shall mean the net assets to be allotted to class B for day "t";

$NUF_A^t$

- shall mean the number of fund units outstanding of the class of fund units A for day "t";

$NUF_B^t$

- shall mean the number of fund units outstanding of the class of fund units A for day "t";

$d$

- shall mean the time adjustment factor calculated as the ratio between the number of days calculated between day "t" and the latest date of the commencement date of class B, ex-dividend date for the last profit allocation or the date of change of the commission distributed at class level and 365 days. The commencement date of class A shall be assumed as prior to the commencement date of class B;

$\Delta$

- shall mean the difference between annualized expenses rates of the two classes;

$VUAN_A^0$

- shall mean the unitary net assets of class A on day 0, where day 0 shall mean the latest date of the commencement date of class B, the ex-dividend date for the last profit allocation or the date of change of the commission distributed at class level;

$VUAN_B^0$

- shall mean the unitary net assets of class B on day 0, where day 0 shall mean the latest date among the commencement date of class B, the ex-dividend date for the last profit allocation or the date of change of the commission distributed at class level.

To also treat leap years, the time adjustment factor ( $d$ ) may be calculated as difference between day "t" and the end date of the previous year, divided by 366 days. In this case, day 0 shall be the end date of the previous year and, consequently, the net asset value per share of class A ( $VUAN_A^0$ ) and the net asset value per share of class B ( $VUAN_B^0$ ) shall mean the value calculated for the end date of the previous year.

The management of investment management companies (SAIs) may decide to re-set, at the beginning of each year, the net asset value per share of class A ( $VUAN_A^0$ ) and net asset value per share of class B ( $VUAN_B^0$ ) at the values of the end date of the previous year, and to calculate the time adjustment factor ( $d$ ) having the end date of the previous year as reference;

c) any other method deemed adequate by the management of investment management companies (SAIs), so that the annualized rate of return of a class of fund units is different from the annualized rate of return of another class of fund units, in general through the expense differential between the two classes.

**Art. 124.** – The net asset value of UCITS shall be calculated by subtracting liabilities from the total assets:

Net asset value of UCITS = Total value of UCITS' assets – Total value of UCITS' liabilities.

**Art. 125.** – The number of fund units outstanding shall be determined as the difference between the number of fund units issued and the number of fund units repurchased at a certain date.

**Art. 126.** - (1) The total value of UCITS' assets shall be calculated daily, by summing the value of all the assets in its portfolio, valued in accordance with the provisions of Arts. 113 - 122.

(2) Errors identified in the daily calculation of the net asset value per share subsequent to the reporting of such values shall be corrected and settled upon the establishment thereof.

"(3) The IMC / self-managed investment company has the obligation of permanent classification within the following maximum tolerance limits of the material error of calculating the net asset mentioned in paragraph (2) and the value of which is set out in the issue prospectus of each managed UCITS, according to the investment strategy used in the management of that UCITS, as follows:

a) 0.2% (20 basis points) of the net asset value of the UCITS of the *money market funds* ;

(b) 0.5% (50 basis points) of the net asset value of the UCITS using investment strategies other than those referred to in point a);

(4) If the calculation of the net asset set out in paragraph (1) is found to be within the maximum tolerance limits set out in paragraph (3) or the lack of prejudicing of the investors for which there were transactions with fund units if the limit of tolerance of the calculation error was exceeded, the IMC / the self-managed investment company shall not perform again the valuation.

(5) If the limit of tolerance of the calculation error and the existence of damages to the investors for which the operations

with fund units have been established, its value shall be determined and the necessary operations shall be carried out by correcting the number of the allocated units, respectively by paying the difference to the investors at the date of the correction. "

**Art. 127. -** (1) Liabilities of a UCITS shall consist, where applicable, of:

- a) expenses with the payment of commissions due to investment management companies (SAIs);
- b) expenses with the payment of commissions due to the depositary;
- c) expenses with the payment of commissions due to the intermediaries and other expenses related directly or indirectly to trading;
- d) expenses with turnover commissions and other bank services;
- e) interest expenses, if the open-end fund contracts loans as provided hereby;
- f) expenditure on allowances and tariffs payable to ASF;"
- g) issuance expenses with the documents of the open-end fund;
- h) expenses with the financial audit for the open-end fund;
- i) the counter value of amounts due on account of loans contracted as provided hereby;
- j) the counter value of cancelled fund units (at repurchase price) that have not been paid to investors yet.(2) If other expenses than those mentioned under Para (1) arise, they shall be listed separately in the issuance prospectus.

**Art. 128. -** (1) Establishment, distribution and publicity expenses of UCITS shall be borne by investment management companies (SAIs)/self-managed investment companies, where applicable.

(2) The amounts collected from the subscription and/or repurchase commissions of fund units, if any, may be collected by investment management companies (SAIs), provided it is expressly stipulated in the establishment documents of such open-end fund.

"(3) The IMC shall have the obligation, if any, that the redemption fee charged to investors be determined solely as a percentage of their assets according to their characteristics, the investment strategy, the duration of the units' holding and the and the policy of active or passive asset management of the investment portfolio of the UCITS and not to prejudice their interests in any way by the method of calculation or the period of application of the redemption fee.

(4) For the purposes of paragraph (3), ASF may request the IMC to revise its commission policy if there are indications that the interests of the unit-holders are likely to be prejudiced."

**Art. 129. –** Expenses shall be recorded daily, taking into account as follows:

- a) the distribution of expenses shall not generate significant variations in the values of unitary assets;
- b) expenses shall be planned monthly, recorded daily in the calculation of the net asset value and settled at the end of the month (administrative, depositary expenses);
- c) expenses shall be estimated daily, recorded and settled periodically (issuance expenses, commissions other than those described under Art. 127).

**Art. 130. -** (1) The total asset value and net asset value, the issuance and repurchase price may be expressed in RON or foreign currency, in observance of the regulations regarding the currency regime issued by NBR, and the provisions of other applicable regulations of FSA and/or NBR. The currency used for denomination shall be mentioned in the fund rules.

(2) If the fund units are denominated in a convertible foreign currency, the following conditions must be fulfilled:

- a) the fund's net asset shall be calculated in such foreign currency, using the valuation criteria hereunder;
- b) the fund units shall be distributed in compliance with the NBR's regulations regarding the supply of foreign exchange services.

"(3) If the UCITS asset is expressed in RON, the following provisions shall be used:

- a) for asset items denominated in convertible currencies, for the conversion into lei, the exchange rate communicated by the NBR for that currency on the day for which the calculation is made shall be used;
- b) for assets denominated in currencies for which the NBR does not communicate a currency exchange rate, for the conversion in RON shall be used the exchange rate communicated by the central bank of the country in the currency of which the asset is denominated against the euro and the EUR / RON exchange rate communicated by the NBR in the day for which the calculation is made;

4. Where the UCITS' assets are expressed in a convertible currency, the following provisions shall be used:

- a) for assets denominated in convertible currencies other than the fund's currency, the exchange rate in the foreign currency of the fund shall be the rate communicated by the NBR of the denomination currency of the asset against RON, and then the exchange rate communicated by the NBR in relation to the fund's currency;



b) for asset items denominated in currencies for which the NBR does not communicate an exchange rate, the exchange rate in the foreign currency of the fund shall be the rate communicated by the central bank of the country in the currency of which the asset is denominated against the euro and the EUR / RON exchange rate communicated by the NBR in the day for which the calculation is made and then the exchange rate communicated by the NBR against the fund's currency.

(5) If the UCITS' assets are expressed in a currency for which the NBR does not communicate an exchange rate, the following provisions shall be used:

a) for asset items denominated in convertible currencies, the exchange rate in the currency of the fund shall be the rate communicated by the NBR of the denomination currency of the asset against the RON, the EUR / RON exchange rate communicated by the NBR and then the exchange rate communicated by the central bank of the country in whose currency the fund is denominated against the euro;

b) for asset items denominated in currencies for which the NBR does not communicate an exchange rate, for the conversion in the currency of the fund shall be used the exchange rate communicated by the central bank of the country in whose currency the asset is denominated against the EUR and then the exchange rate communicated by the central bank of the country in whose currency the fund is denominated against the euro. "

**Art. 131. -** (1) If the net asset value per share increases uninterruptedly throughout one year, investment management companies (SAIs) may request FSA to approve the conversion of the fund unit. The conversion factor must be established so that the value of a fund unit does not decrease below 5 RON or the equivalent thereof in other currencies (if the open-end fund is denominated in other currencies).

(2) FSA shall approve the request of the investment management companies (SAIs) within 30 days from the filing thereof.

(3) The units issued by a UCITS shall be cancelled depending on the time of registration of the repurchase request, as follows:

a) for repurchases registered prior to the time of day established under Art. 100 Para (3), on the working day immediately following the date of registration of the repurchase request;

b) for repurchases registered after the time of day established under Art. 100 Para (3), two working days after the date of registration of the repurchase request.

(4) if the establishment documents/deed of constitution of the UCITS do not establish the time of day mentioned under Art. 100 Para (3), the units shall be cancelled on the working day immediately following the date of registration of the repurchase request.

**Art. 132. -** (1) The investment management company (SAI)/self-managed investment company shall calculate the net asset value per share, and the depositary shall verify the calculation method and net asset value per share based on which the units of a UCITS are purchased and repurchased, so that the net asset value per share is available on the website of the investment management company (SAI)/self-managed investment company on the certification day. When choosing the investment management company (SAI)/self-managed investment company, having this matter mentioned in the issuance prospectus, the net asset value per share shall also be made public in the daily newspaper indicated in the issuance prospectus on the working day following the certification.

(2) Until the units are issued, the amounts credited in the UCITS' account may not be used by the investment management company (SAI)/self-managed investment company, except for the case mentioned under Art. 100 Para (6), of which the investor shall be informed upon the initial investment.

(3) Between the date of cancellation of the units and the date of payment of the repurchase amounts, such amounts shall be posted under "Redemptions payable", as part of the UCITS' liabilities.

(4) Between the date established for the payment of the dividends or other rights due to unit-holders, where applicable, and the date of payment of the amounts related to such rights, such amounts shall be posted under "Dividends or other rights payable", as part of the UCITS' liabilities.

## CHAPTER VI

### Authorisation of investment companies

#### SECTION 1

#### Establishment of investment companies

**Art. 133. -** (1) Investment companies operating in accordance with the provisions of GEO No. 32/2012 and which are not managed by investment management companies (SAIs) shall be managed by their own board of administration.

(2) Both self-managed investment companies and investment companies managed by investment management companies (SAIs) shall be subject to the provisions hereof.

(3) Investment companies shall issue dematerialised registered shares, recorded in accounts, having equal value.

**Art. 134.** – The initial capital of self-managed investment companies shall be established in accordance with the provisions of Art. 74 of GEO No. 32/2012 and shall be calculated in accordance with FSA's regulations issued for the application of GEO No. 99/2006.

**Art. 135.** - (1) The public subscription of shares of the investment company mentioned under Art. 96 shall be performed based on the issuance prospectus authorised by FSA.

(2) The issuance prospectus in authentic form shall be drawn up by investment management companies (SAIs), in the case of managed investment companies, or the founding members of self-managed investment companies, in the form provided under Art. 107-109.

**Art. 136.** – Together with the submission of the issuance prospectus and the application for the authorisation thereof, the founding members of the investment management company (SAI), where applicable, shall submit to FSA documents comprising information regarding:

a) legal person founding members:

1. excerpt or certificate attesting to the registration date, administrators, object of activity and share capital, issued by the ORC for Romanian legal persons, or by the similar authority of the state where the foreign legal person is registered and operates, issued no more than 60 days prior to the submission of the application;
2. group they are part of, if applicable;
3. structure of significant shareholders, to the level of natural person; *structure of significant shareholders, to the level of natural person* shall mean the shareholders holding indirect control over the investment company's significant shareholders;
4. the financial statement of the previous year and, if applicable, the bi-annual financial statement of the current year, registered with the financial administration, for Romanian legal persons, or the national fiscal authority from the home State, for foreign legal persons;

b) the natural person founding members:

1. copy of the identity card;
2. criminal record certificate submitted within the legal term in accordance with the legal provisions in force, in original;
3. fiscal record certificate submitted within the legal term in accordance with the legal provisions in force, in original.

**Art. 137.** – If the application is approved, FSA shall issue the decision for the authorisation of the issuance prospectus.

**Art. 138.** - (1) The issuance prospectus authorised by FSA shall be submitted to ORC to authorise its publication in accordance with the provisions of Law No. 31/1990.

(2) Public subscription shall be deemed completed upon the fulfilment of the following conditions:

- a) subscription of the shares by minimum 100 persons;
- b) reaching the level of share capital that observes the minimum level of initial capital provided under Art. 134, in case of self-managed investment companies.

**Art. 139.** – Failure to fulfil the conditions provided under Art. 138 Para (2) within 60 days from the launch of the public subscription shall incur the cancellation of the decision for the authorisation of the issuance prospectus issued by FSA.

**Art. 140.** – Within maximum 15 days from the closing date of the subscription, the founding members shall call the statutory meeting according to the provisions regarding the establishment of joint stock companies established by public subscription under Law No. 31/1990 and shall take the steps to obtain from FSA the license to operate as investment company.

## SECTION 2

### Authorisation procedures

**Art. 141.** - (1) The authorisation of an investment company shall be issued based on a request drawn up by the legal representative of the investment company, or, where applicable, the person empowered by the self-managed investment company's shareholders, accompanied by the following documents:

- a) resolution of the statutory body establishing the company and approving the deed of constitution, in accordance with the provisions of Law No. 31/1990;
- b) company's deed of constitution, authenticated, in original, drawn up in accordance with the provisions of Art. 147;
- c) copy of the minutes of the delegated judge attached to ORC to establish and register the company;
- d) results of the public share subscription;
- e) certificate of registration with ORC, in copy;
- f) proof of holding the minimum initial capital; upon establishment, the initial capital shall be equal to the share capital fully paid in into the account opened with any bank for this purpose;
- g) notarised copy of the deed attesting to the legal holding of the space intended to serve as registered office and, where applicable, head office necessary for the company's operation. If there is a rental/sub-rental contract, then it

must be valid for at least 12 months from the submission of the authorisation request. It shall be renewed and submitted to FSA within maximum 15 days from expiry. Joint venture contracts shall not be accepted as proof of holding the space intended as registered office. In the case of sub-rental contracts, the owner's written statement whereby it agrees with the destination of the sub-rented space shall be submitted along with the notarised copy of the rental contract, registered with the fiscal authority. The space intended to serve as registered office and, where applicable, head office, shall fulfil the conditions provided under Art. 23 Para (1) Letters g) and h). The documents must be accompanied by an affidavit of the company's legal representative, bearing a hand signature, in authentic form, regarding the existence of the technical equipping necessary for the conduct of the activity;

- h) contract concluded with a financial auditor member of the Chamber of Financial Auditors of Romania (CFAR);
- i) internal rules and procedures approved by the company's competent statutory body and signed by the empowered person, in original, in the case of self-managed investment companies, drawn up in accordance with the provisions of Art. 148;
- j) documents provided under Art. 33, for persons who are part of the internal control compartment of self-managed investment companies;
- k) documents provided under Art. 24 Para (1) Letter d), for the members of the board of administration and directors of self-managed investment companies, and for the replacements thereof;
- l) list of signature specimens of the directors of self-managed investment companies and/or the list of signatures of the directors of the investment management company (SAI) with which it concluded a management contract, as applicable, and of the person(s) who the self-managed investment company wishes to authorise as representative(s) of the internal control compartment;
- m) management contract concluded by investment companies with an investment management company (SAI), authorised by FSA, in case the investment companies are not self-managed, in original, in authentic form, having the form presented in Annexe No. 6;
- n) contract concluded between investment management companies (SAIs) or self-managed investment companies, as applicable, and the depositary, in original, in authentic form;
- o) issuance prospectus, if it was amended;
- p) key investor information document having the contents provided in Commission Regulation No. 583/2010. The information included in the key investor information document shall be disclosed according to the provisions of Instruction No. 5/2012;
- q) proof of payment into FSA's account of the fees established according to the regulations in force.

(2) In any document, letter or publication issued by the company, its name shall be accompanied by the phrase "investment company" and the registration number in FSA Registry.

**Art. 142.** - (1) If the request is approved, FSA shall issue the decision for the authorisation of the investment company's operation. FSA shall also authorise the initiation and development of the continuous public offering of units, and the deed of constitution.

(2) The individual document issued as provided under Para (1) shall be sent to the investment companies and, where applicable, the investment management companies (SAIs) managing such investment companies.

### **SECTION 3**

#### **Internal control rules**

**Art. 143.** – In the case of self-managed investment companies, the procedure regarding internal control provided under Chapter V of Title I shall be observed.

### **SECTION 4**

#### **Rules regarding the administrators and directors of investment companies**

**Art. 144.** – Investment companies may be managed by investment management companies (SAIs) based on a management contract, or may be self-managed.

**Art. 145.** – To conclude the management contract, in case of investment companies that are not self-managed, and to verify the performance thereof, the GSM may appoint representatives, elect censors or establish specialised commissions in observance of the provisions of Law No. 31/1990.

**Art. 146.** – In case of self-managed investment companies, the provisions of Art. 23 Para (1) Letters a), b), c) and e) and Para (2) shall apply accordingly to members of the board of administration/supervisory board, directors/members of the executive board, and replacements of the latter.

## **SECTION 5**

### **Minimum contents of investment companies' deed of constitution**

**Art. 147.** - (1) The investment companies' deed of constitution shall be drawn up in accordance with the provisions of Law No. 31/1990, of GEO No. 32/2012 and this regulation.

(2) In addition to the minimum contents provided by Law No. 31/1990, the investment companies' deed of constitution must include provisions regarding:

- a) full subscription and payment, in cash only, upon subscription, of the share capital;
- b) issuance of the investment company's shares exclusively in registered form;
- c) modalities to issue, sell, repurchase and cancel shares;
- d) modality of calculating the net asset value;
- e) how the investment company's investments are managed, namely whether by the board of administration/supervisory board or an investment management company (SAI). In the latter case, the deed of constitution shall mention the investment management company (SAI) and the person empowered to negotiate the contract on the part of the investment company, and the limitations of that person's powers;
- f) obligation to conclude a depositary contract with a depositary approved by FSA and the indication of such depositary;
- g) conditions in which the investment management company (SAI) and the depositary may be replaced, and the rules to ensure the investors' protection in this case;
- h) information on the possibility, cases and limits in which the investment company may contract loans;
- i) conditions and cases when the investment management company (SAI) managing an investment company or a self-managed investment company may temporarily suspend the repurchase of the units of an investment company in observance of the provisions of Art. 104 of GEO No. 32/2012;
- j) level of commissions levied by the investment management company (SAI) and expenses it may incur on behalf of the investment company, and method of calculation thereof.

(3) If FSA considers that the suspension mentioned under Para (2) Letter i) or the one mentioned under Art. 107 Para (2) Letter f) ordered by investment management companies (SAIs) or self-managed investment companies is not performed in compliance with the applicable provisions or that the extension thereof prejudices the investors' interests, then it shall be entitled to order the lifting of the suspension.

## **SECTION 6**

### **Internal rules and procedures of self-managed investment companies**

**Art. 148.** - (1) The activity of self-managed investment companies shall be conducted in accordance with their internal rules and procedures.

(2) The self-managed investment companies' internal rules and procedures shall be drawn up by taking into account the obligations of investment management companies (SAIs) to draw up the rules and procedures provided under GEO No. 32/2012.

(3) Rules regarding the personal transactions of the employees and investment companies must provide at least the following interdictions:

- a) members of the board of administration/supervisory board, directors/members of the executive board of investment companies, and any person with whom investment companies have concluded an employment contract shall be prohibited from using inside information related to the investment policy of investment companies, when they conduct transactions with financial instruments from their own portfolio;
- b) members of the board of administration/supervisory board, directors/members of the executive board of investment companies, and any person with whom investment companies have concluded an employment contract shall be prohibited from disseminating information on the transactions that investment companies intend to conduct with the financial instruments in their portfolios.

(4) The changes to the rules and procedures of self-managed investment companies shall be notified to FSA within two working days from the occurrence thereof.

**Art. 149.** - (1) The organisational structure of self-managed investment companies shall be established by taking the following elements into consideration:

- a) the board of administration/supervisory board shall be responsible for setting up the investment companies' general investment policy, which shall comply with the issuance prospectus. Directors/members of the executive board shall be responsible for the enforcement of the investment companies' general investment policy;
- b) the existence within investment companies of a separate directorate in charge of analysing investment opportunities

- and investing assets in accordance with investment strategies approved by directors/member of the executive board;
- c) the duty of one of the investment companies' compartments shall be to electronically record all transactions with financial instruments and equity interest subscription or repurchase requests, and keep such records in accordance with the provisions of GEO No. 32/2012. Such activity shall be separate from the activity involving the investment analysis and actual investment of assets;
- d) investment companies shall run an internal control compartment which shall verify the lawfulness of the companies' activities;
- e) the duty of one of the investment companies' compartments shall be to value the investment companies' portfolio, to determine the net asset value, the net asset value per share, and to calculate any taxes, fees and commissions owed by investment companies.
- (2) Investment companies shall have an IT system in place to safe-keep the records of the market price for each asset in their portfolio, of the net assets value, of the net asset value per share for each day (non-working days inclusively), to record the calculation modality of all commissions, taxes and fees due, keeping the records of such operations for a period of minimum 5 years.
- (3) Investment companies must have an IT system in place that records unit-holders, presenting the identification details thereof and shares held by each unit-holder. The IT system must allow the recording of any changes occurring in time as regards holdings of shares, the recording of investors' subsequent repurchases or subscriptions, until their withdrawal from the said investment company, the repurchase or subscription price for each separate operation. Such data must be kept for a period of at least 5 years from the date the investor withdrew from the said investment company.
- (4) The IT systems for electronic recording of transactions, valuating the investors' portfolio and records shall be accessed by users individualised by password, who shall have predefined inquiry and/or change rights, depending on each employee's duties according to the company's internal rules and procedures. The internal control compartment's representatives shall have inquiry rights over the IT systems.
- (5) Self-managed investment companies shall keep back-up records of the information stored in the IT systems to record transactions and investors and valuating the portfolio.
- (6) The provisions of Para (3) as regards the systems keeping record of the investors of investment companies shall not be applicable after the shares issued by the said investment company are admitted to trading on a regulated market.

**Art. 150.** – Self-managed investment companies shall observe the provisions of Arts. 51 and 52 on the rules of conduct accordingly.

## **CHAPTER VII**

### **Withdrawal of investment companies' operation authorisation**

**Art. 151.** – In case the operation authorisation of a self-managed investment company is withdrawn, the provisions of Arts. 25 - 30 on the withdrawal by FSA of the operation authorisation of investment management companies (SAIs) shall apply accordingly.

**Art. 152.** - (1) In case of failure to observe the provisions of Art. 134, and Art. 164 Para (1), FSA shall be entitled to withdraw the authorisation granted to such investment company.

(2) If the authorisation is withdrawn according to Para (1), the investment company shall be subject to judicial winding-up in accordance with Law No. 31/1990.

## **CHAPTER VIII**

### **Changes subject to FSA's approval**

#### **SECTION 1**

#### **Open-end funds**

**Art. 153.** - (1) Any change of the conditions underlying the authorisation of open-end funds, including open-end funds consisting of several investment compartments shall be subject to FSA's approval.

"(2) There are no changes to the conditions under which the open-end investment authorization was authorized, the modification of the administration fees below the maximum amount stipulated in the issue prospectus, the modification of commissions for the services rendered to the fund on the basis of the deposit contract (deposit, custody, transfer of securities, etc.) below the maximum stipulated in the issue prospectus, as well as the modification of the information provided in art. 110 par. (1) letter e) as well as in points 1.1, 2.1, 2.3, 3.2, 3.3 let. d) of annex no. 4 and 1, 2, 3.3, 3.5, e), 3.10, 6.1, 8, 10 and 11 of Annex no. 7, respectively in sections 1.1, 2.1, 2.3, 3.1, 3.2 letter d) of annex no. 5 and 1, 2, 3.1, 3.2, f), 3.7, 7.1, 9, 11, 12 of Annex no. 8 for the open-end investment fund consisting of several investment

compartments. "

(3) Any change in the information provided under Para (2) shall be notified the such fund's investors, in the daily newspaper mentioned in the prospectus, and to FSA within maximum 10 working days from the performance thereof and shall become effective as of the date of publication of the information note of the investors. The notification to FSA shall be accompanied by the revised documents of the open-end fund, which shall also be published on the website of the investment management company (SAI).

**Art. 154. -** (1) The request for the approval of the change shall be accompanied by the related documents, which shall individualise the changes occurred as compared to the previous documents approved, and by an information note of such fund's investors regarding the change the approval of which is being requested.

(2) Any change underlying the approval must be accompanied by a reasoning of such change, and the open-end fund's revised documents which shall also be published on the website of the investment management company (SAI).

**"Art. 155. -** (1) The notice to the holders of fund units shall be published by the IMC within two working days from the date of communication of the decision to authorize the amendments. Amendments shall enter into force 10 days after the notice is published.

(2) The IMC has the obligation to send ASF proof of publication of the notice on its website (including a reference to the amended prospectus of the open-end investment fund) on the business day immediately following the publication. "

(3) FSA shall revoke the decision for the authorisation of the changes if it finds that the provisions of Para (1) have not been observed and the investment management company (SAI) and the board of administration/supervisory board thereof shall be liable for any damages caused to investors.

## **SECTION 2**

### **Investment Undertakings**

**Art. 156. -** (1) Investment companies shall submit to FSA, prior to registration with the ORC, the following changes in their organisation and operation:

- a) share capital increase/decrease;
- b) change of membership of the board of administration/supervisory board and/or the directors/members of the executive board of the self-managed investment company;
- c) change of registered office and, if applicable, the head office;
- d) establishment/closing down of secondary office;
- "e) change of the name of the company."

(2) The changes mentioned under Para (1) Letters b)-e) shall be subject to FSA's approval within maximum 10 days from the occurrence thereof.

(3) In case the changes provided under Para (1) are authorised, FSA shall issue a decision to supplement and/or amend the investment company's operation authorisation.

**Art. 157. -** (1) The decision provided under Art. 156 Para (3) may be issued by FSA based on an application indicating separately the changes occurred to the previously approved documents, which shall be accompanied, if applicable, by the following:

- a) resolution of the investment company's statutory body;
- b) additional act to the investment company's deed of constitution, in original or legalized copy;
- c) documents provided under Art. 24 Para (1) Letter d), in case of the change provided under Art. 156 Para (1) Letter b);
- d) proof of the legal title over the space of operation, in legalized copy, for the changes provided under Art. 156 Para (1) Letters c) and d);
- e) organisation and operation regulation, which shall comprise special procedures on the record and control of the activity carried out at the secondary office regarding the duties and responsibility of the personnel conducting their activity in such office, document archiving, transmission of the status and/or documents to the registered office, for the changes provided under Art. 156 Para (1) Letter d);
- f) explanatory note on the status of the archive, in case the authorisation of the secondary office is withdrawn;
- g) affidavit of the investment company's legal representative on the fulfilment of the conditions provided under Art. 34, for the changes stipulated under Art. 156 Para (1) Letter d);
- h) proof of payment in FSA's account of the fees set according to the regulations in force.

(2) Any change in the conditions underlying the authorisation shall be accompanied by a motivation of such change.

**Art. 158. -** (1) After obtaining the authorisation provided under Art. 156 Para (3), within 10 days from registration with the ORC of the changes in the investment companies' organisation and operation, but no later than 90 days from the date of the authorisation issued by FSA, investment companies shall send to FSA the copy of the certificate for registration of

specifications, or the copy of the new registration certificate, if the change occurred requires the issuance of a new certificate.

(2) Failure to observe the term provided under Para (1) shall incur the annulment of the authorisation granted.

**Art. 159.** - (1) In case the documents based on which the authorisation was issued change, other than those provided under Art. 157 Para (1), the investment company shall notify FSA within maximum 15 days from the occurrence thereof, attaching copies of supporting documents.

(2) If investment companies have both registered office and head office, then they shall notify FSA of the change of the registered office, within maximum 15 days, attaching the supporting documents in this respect.

(3) FSA may request changes to the documents, if they breach the provisions hereof and/or the legal provisions in force, or may refuse to authorise the changes provided under Art. 156 Para (1) if the requirements provided hereunder are not observed.

### SECTION 3

#### Authorisation to change share capital

**Art. 160.** – To authorise the change of share capital of investment companies further to the issuance or repurchase of shares throughout a year, the managing investment management company (SAI) or the self-managed investment company shall submit annually to FSA, within maximum 30 days from the approval of the financial statements, an authorisation application accompanied by the following documents, as the case may be:

- a) resolution of the ordinary general meeting of shareholders approving the financial statements;
- b) results of the continuous issuance and repurchase of shares from the last financial year certified by the financial auditor;
- c) additional act to the company's deed of constitution, in original or legalized copy;
- d) proof of payment of the amount by which the share capital is increased into the account opened for such purpose by the investment company with a banking company;
- e) proof of payment into FSA's account the fees provided by the regulations in force.

### SECTION 4

#### Authorisation to Replace Investment Management Companies (SAIs) or the Depositary

**Art. 161.** - (1) Investment companies shall request FSA to authorise/approve the replacement of the investment management company (SAI)/depositary in any of the following situations:

- a) term of the management/deposit contract was expired, with no intention of extension;
- b) management/deposit contract has been cancelled or terminated;
- c) investment management company (SAI)/depositary is under dissolution or the bankruptcy proceedings have been initiated against it;
- d) withdrawal by FSA of the operation authorisation of the investment management company (SAI) or the depositary's approval or the withdrawal by NBR of the depositary's operation authorisation.

(2) The authorisation/approval application shall be submitted to FSA within maximum 15 days from the occurrence of one of the situations listed under Para (1) and is accompanied by the following documents:

- a) resolution of the statutory body;
- b) additional act to the deed of constitution, in original or legalised copy;
- c) management/deposit contract concluded with a new investment management company (SAI)/depositary authorised/approved by FSA;
- d) copy of the court decision initiating the dissolution or bankruptcy proceedings in the case provided under Para (1) Letter c);
- e) proof of payment into FSA's account the fees provided by the regulations in force.

**Art. 162.** - (1) In any of the situations provided under Art. 161 Para (1), regarding the investment management companies (SAIs), the investment company may decide to self-manage.

(2) In such case, the change occurred shall be subject to FSA's authorisation by submitting an application accompanied by the following documents:

- a) resolution of the statutory body;
- b) additional act to the deed of constitution, in original or legalised copy;
- c) all of the documents necessary to approve the changes in order to observe the provisions of Art. 141 Para (1) Letters i), j), k), l) and o);
- d) proof of payment into FSA's account the fees provided by the regulations in force.

## Chapter IX Operation of Investment Undertakings

### SECTION 1

#### Admission of Shares Issued by Investment Companies to Trading on a Regulated Market

**Art. 163.** – After registration with the ORC and obtaining the operation authorisation, investment companies shall initiate and develop the continuous public offering of shares based on the issuance prospectus authorised by FSA.

**Art. 164.** - (1) Within 90 days from issuance by FSA of the operation authorisation, the investment company shall request admission to trading on a regulated market.

(2) The conditions for admission and trading on a regulated market provided by Law No. 297/2004 and the regulations and procedures of the regulated market at issue shall also be applicable to investment companies.

**Art. 165.** - (1) The board of administration of the self-managed investment company, or the investment management company (SAI) that manages an investment company, shall establish the regulated market on which the trading of the investment company's shares are contemplated to be traded and mention it in the issuance prospectus.

(2) The request for admission to trading shall be filed and addressed to the regulated market by the board of administration/supervisory board or by the investment management company (SAI), as the case may be, on behalf of the investment company.

**Art. 166.** - (1) Self-managed investment companies or, if applicable, investment management companies (SAIs), shall conclude a contract with the entity authorised to record the shareholding, according to law.

(2) If the request for admission to trading on a regulated market, filed according to the provisions of Art. 79 Para (1) of GEO No. 32/2012 and Art. 164 Para (1) hereof, is not approved, then the investment company shall request trading in an alternative trading system.

**Art. 167.** - (1) Investment companies or investment management companies (SAIs), if applicable, shall communicate to the entity provided under Art. 166 all the information and documents regarding the issuance or repurchase of shares.

(2) The entity keeping the record of shareholders shall periodically inform the investment management company (SAI) (if applicable) or the investment company of the structure of the investment company's shareholding and, when realized, holdings that exceed 10% of the share capital of the investment company.

(3) From the date a repurchase application is submitted until it is honoured, no transactions shall be made with shares whose repurchase has been requested.

**Art. 168.** – The level of the share capital changed further to the continuous issuance of shares shall be communicated daily by the investment management company (SAI) to the depositary and the regulated markets where the investment company's shares are traded.

### SECTION 2

#### General meeting of shareholders

**Art. 169.** – The call and development of the GSM of investment companies shall take place in accordance with Law No. 31/1990, of GEO No. 32/2012, of Regulation No. 6/2009 on the exercise of certain rights of the shareholders in the general assemblies of undertakings regulated by Law No. 31/1990, approved by Order No. 44/2009 of the National Securities Commission, as subsequently amended and supplemented, and of this regulation.

## CHAPTER X

### Investments That May Be Made by a UCITS

**Art. 170.** - (1) For the application of the provisions of Art. 82 of GEO No. 32/2012, transferable securities shall mean financial instruments that fulfil the following criteria:

- a) the potential loss that the UCITS may incur as a result of holding such instruments is limited to the amount paid therefor;
- b) their liquidity does not affect the capacity of the UCITS to continuously issue and repurchase units;
- c) a reliable valuation thereof is available as follows:
  - (i) in the case of transferable securities admitted or traded on a regulated market, in accordance with Art. 82 Letters a)-c) of GEO No. 32/2012, the valuation is made by using exact, reliable and periodic prices that are either market prices, or prices available through valuation systems, independent of the issuers;
  - (ii) in the case of other transferable securities, in accordance with Art. 83 Para (1) Letter a) of GEO No. 32/2012, the



valuation is periodic and is the result of information obtained from the issuer of the transferable security or the result of a competent research on the investments;

d) proper information thereon is available as follows:

(i) in the case of transferable securities admitted or traded on a regulated market, in accordance with Art. 82 Letters a)-c) of GEO No. 32/2012, as periodic, exact and comprehensive information supplied to the market on such transferable securities or, if applicable, the portfolio of transferable securities underlying the transferable securities;

(ii) in the case of other transferable securities, in accordance with Art. 83 Para (1) Letter a) of GEO No. 32/2012, as periodic and exact information supplied to the UCITS on such transferable securities, or, if applicable, the portfolio of transferable securities underlying the transferable securities;

e) are negotiable;

f) their purchase is in line with the investment objectives and/or investment policy of the UCITS, in accordance with GEO No. 32/2012 and this regulation;

g) the risks associated therewith are included in the risk management system of the UCITS.

(2) Within the meaning of Para (1) Letters b) and e) and except when the UCITS holds information that could lead to a different conclusion, it shall be assumed that the financial instruments admitted or traded on a regulated market, in accordance with Art. 82 Letter a) or b) of GEO No. 32/2012, are negotiable and do not affect the capacity of the UCITS to continuously issue and repurchase transferable securities.

(3) For the application of the provisions of Art. 82 of GEO No. 32/2012, transferable securities shall also include:

a) units issued by NON-UCITS that fulfil the following criteria:

(i) comply with the criteria laid down under Para (1);

(ii) fall under the corporate governance requirements applied to companies regulated by Law No. 31/1990;

(iii) if another entity manages investments on behalf of a NON-UCITS, then such entity shall be bound by national regulations regarding investor protection;

b) financial instruments fulfilling the following criteria:

(i) comply with the criteria laid down under Para (1);

(ii) are supported by or related to the performance of other assets, which may be different from those provided under Art. 82 of GEO No. 32/2012.

(4) If a financial instrument provided under Para (3) Letter b) has a derivative component, in accordance with Art. 178 hereof, the requirements provided under Art. 84 of GEO No. 32/2012 shall be applied to such component.

**Art. 171.** - (1) For the application of the provisions of Art. 82 of GEO No. 32/2012, *money market instruments* shall mean as follows:

a) financial instruments admitted to trading or traded on a regulated market in accordance with Art. 82 Letters a) and b) of GEO No. 32/2012;

b) financial instruments not admitted to trading.

(2) *Instruments regularly traded on the monetary market* shall mean financial instruments that fulfil one of the following criteria:

a) the maturity upon issuance is up to 397 days, inclusively;

b) the residual maturity is up to 397 days, inclusively;

c) are subject to regular changes of yield, depending on the monetary markets conditions, at least once every 397 days;

d) their risk profile, including credit risk and interest rate risk, corresponds to the risk profile of financial instruments having a maturity as provided under Letter a) or b) or are subject to changes of yield, as provided under Letter c).

**Art. 172.** - (1) For the application of the provisions of Art. 3 Para (1) Item 5 of GEO No. 32/2012, liquid money market instruments shall mean financial instruments that may be sold at low costs in a relatively short period of time, given the obligation of the UCITS to repurchase the units at the request of every unit-holder.

(2) For the application of the provisions of Art. 3 Para (1) Item 5 of GEO No. 32/2012, money market instruments with a value that may be determined with accuracy at any time shall mean financial instruments for which accurate and reliable valuation systems are available, which fulfil the following criteria:

a) allow the UCITS to calculate the net asset value corresponding to the value at which the financial instrument in the portfolio may be exchanged between knowledgeable, willing parties in an arm's length transaction;

b) are based either on market data, or valuation models, including systems based on amortized costs.

(3) The criteria provided under Para (1) and (2) shall be deemed fulfilled in the case of financial instruments regularly traded on the monetary market, within the meaning of Art. 3 Para (1) Item 5 of GEO No. 32/2012, and that admitted or traded on a regulated market, in accordance with Art. 82 Letter a) or b) of GEO No. 32/2012, except if the UCITS holds information that might lead to a different conclusion.

**Art. 173.** - (1) For the application of the provisions of Art. 82 Letter g) of GEO No. 32/2012, money market instruments

other than those traded on a regulated market, whose issuance or issuer is subject to the regulations on the protection of investors and their savings, shall mean financial instruments that fulfil the following criteria:

- a) comply with one of the criteria set out under Art. 171 Para (2) and all the criteria set out under Art. 172 Paras (1) and (2);
- b) adequate information thereof are available, including information allowing a proper assessment of credit risks associated with investing in such instruments, given Paras (2), (3) and (4);
- c) are freely transferable.

(2) In the case of the money market instruments provided under Art. 82 Letter g) Items 2 and 4 of GEO No. 32/2012 or those issued by a local or regional authority of a member state or by an international public body but are not guarantees by a member state or, in the case of a federal state that is a member state, by one of the federation members, adequate information in accordance with Para (1) Letter b) consist of:

- a) information on both the issuance or the issuance programme, and the legal and financial status of the issuer prior to the issuance of the money market instrument;
- b) regular updates and upon the occurrence of any significant event regarding the information provided under Letter a);
- c) the information mentioned under Letter a), verified by third parties adequately qualified, which do not receive instructions from the issuer;
- d) available and reliable statistics regarding the issuance or the issuance programme.

(3) In the case of the money market instruments provided under Art. 82 Letter g) Item 3 of GEO No. 32/2012, the adequate information mentioned under Para (1) Letter b) consist of:

- a) information on regarding the issuance or the issuance programme or the legal and financial status of the issuer prior to the issuance of the money market instrument;
- b) regular updates and upon the occurrence of any significant event regarding the information provided under Letter a);
- c) available and reliable statistics regarding the issuance or the issuance programme or other information allowing a proper assessment of credit risks associated with investing in such instruments.

(4) In the case of all the money market instruments, provided under Art. 82 Letter g) Item 1 of GEO No. 32/2012, except those mentioned under Para (2) in this article and those issued by the European Central Bank or a central bank of a member state, the adequate information mentioned under Para (1) Letter b) consist of information on the issuance or the issuance programme or the legal and financial status of the issuer prior to the issuance of the money market instrument.

**Art. 174.** – For the application of the provisions of Art. 82 Letter g) Item 3 of GEO No. 32/2012, the entity that is subject to and complies with the prudential rules deemed by FSA as being at least as strict as those provided by European legislation shall mean an issuer that is subject to and complies with prudential rules and fulfils one of the following criteria:

- 1. is located in the European Economic Area;
- 2. is located in the countries of the Organisation for Cooperation and Development part of the Group of Ten;
- 3. it is considered at least investment grade;
- 4. it may be proven, based on a thorough analysis of the issuer, the prudential rules applicable to the issuer in question are at least as strict as those provided by the European legislation.

**Art. 175.** - (1) For the application of the provisions of Art. 82 Letter g) Item 4 of GEO No. 32/2012, *securitisation vehicles* shall mean the entities established as funds or companies, engaged in securitisation activities.

(2) For the application of the provisions of Art. 82 Letter g) Item 3 of GEO No. 32/2012, *bank financing line* shall mean the bank facility provided by a financial institution complying with the provisions of Art. 82 Letter g) Item 3 of GEO No. 32/2012.

**Art. 176.** - (1) For the application of the provisions of Art. 2 Para (1) of GEO No. 32/2012, *liquid financial instruments*, with reference to derivatives, shall mean the derivatives that fulfil the following criteria:

- a) their underlying assets consist of one or more of the following:
  - (i) the financial instruments mentioned under Art. 82 of GEO No. 32/2012, including financial instruments having one or more characteristics of such assets;
  - (ii) interest rates;
  - (iii) foreign exchange rates or foreign currencies;
  - (iv) financial ratios;
- b) derivatives traded outside regulated markets shall fulfil the conditions provided under Art. 82 Letter f) Items 2 and 3 of GEO No. 32/2012.

(2) For the application of the provisions of Art. 82 Letter f) of GEO No. 32/2012, derivatives shall include instruments fulfilling the following criteria:

- a) allow the transfer of credit risk of an asset mentioned under Para (1) Letter a), independently of the other risks associated with such asset;

- b) do not result in the delivery or transfer, including as cash, of assets other than those mentioned under Arts. 82 and 83 of GEO No. 32/2012;
  - c) fulfil the criteria for derivatives traded outside regulated markets according to Art. 82 Letter f) Items 2 and 3 of GEO No. 32/2012 and Paras (3) and (4) of this article;
  - d) the risks thereof are included in the risk management system of the UCITS and the internal control mechanisms in case of information inconsistencies between the UCITS and the counterparty to the derivative resulting from the counterparty's potential access to non-public information regarding companies whose assets are used as underlying assets for credit derivatives.
- (3) For the application of the provisions of Art. 82 Letter f) Item 3 of GEO No. 32/2012, fair value shall mean the amount in exchange of which an asset may be exchanged or a liability may be settled between knowledgeable willing parties in an arm's length transaction.
- (4) For the application of the provisions of Art. 82 Letter f) Item 3 of GEO No. 32/2012, daily and verifiable valuation shall mean an valuation made by the UCITS, corresponding to the fair value provided under Para (3), which does not only rely on the market quotations offered by the counterparty, and which fulfils the following criteria:
- a) the valuation basis is either a reliable and present market value of the financial instrument, or, if such value is not available, a pricing model that uses an adequate and established methodology;
  - b) the valuation is verified by any of the following entities:
    - (i) a proper third party, independent of the counterparty to the derivative traded outside regulated markets, with an adequate frequency and in a manner verifiable by the UCITS;
    - (ii) a department within the UCITS, independent of the department in charge of asset management and properly equipped in this respect.
- (5) For the application of the provisions of Art. 2 Para (1) and Art. 82 Letter f) of GEO No. 32/2012, liquid financial instruments do not include commodity derivatives.
- (6) The UCITS investments in derivatives shall be conducted according to the provisions of Sections XI and XII in the ESMA Guidelines ESMA/2012/832.
- Art. 177. - (1)** For the application of the provisions of Art. 82 Letter f) of GEO No. 32/2012, financial indexes shall mean indexes that fulfil the following criteria:
- a) are sufficiently diversified in structure, in the sense that the following criteria are met:
    - (i) the index is structured in such a way that the fluctuation of prices or trading activities with regard to a single component thereof does not adversely influence the performance of the whole index;
    - (ii) if the index comprises the assets provided under Art. 82 of GEO No. 32/2012, then its structure shall be at least as diverse as provided by Art. 86 of GEO No. 32/2012;
    - (iii) if the index comprises assets other than those mentioned under Art. 82 of GEO No. 32/2012, then its structure shall be as diverse as provided under Art. 86 of GEO No. 32/2012;
  - b) are representative for the market they refer to, in the sense that the following criteria are met:
    - (i) the index measures the performance of a representative group of underlying assets relevantly and adequately;
    - (ii) the index is revised or rebalanced periodically to verify whether it continues to reflect the markets it refers to, according to publicly accessible criteria;
    - (iii) the underlying assets are sufficiently liquid, which enables users to replicate the index, if required;
  - c) are adequately made public, in compliance with the following criteria:
    - (i) the publication thereof is based on solid procedures for price collection, subsequent calculation and publication of the indexes' values, using pricing procedures for elements for which a market price is not available;
    - (ii) relevant information on index calculation, rebalancing methodologies, changes of indexes or any operational difficulties in delivering accurate or timely information are widely communicated in due time.
- (2) If the objective of the investment policy of the UCITS is to replicate the structure of a certain index per shares or credit instruments according to Art. 86 Para (1) of GEO No. 32/2012, then the UCITS investments shall be made in consideration of the provisions of Section XIII of the ESMA/2012/832 Guidelines.
- (3) If the structure of the assets used as underlying assets of derivatives in accordance with Art. 82 of GEO No. 32/2012 does not fulfil the criteria provided under Para (1), then the derivatives at issue, if they meet the criteria stipulated under Art. 176 Para (1), shall be deemed derivatives having as underlying asset a combination of assets provided under Para (1) Letter a) Items (i), (ii) and (iii) of the same article.
- "Art. 177<sup>1</sup>. - 1.** A UCITS may invest in corporate bonds that are not admitted to trading on a regulated market or an alternative trading system, subject to at least the following detailed conditions in the UCITS 'prospectuses:
- a) the issuer of corporate bonds must have at least 2 years of activity at the time of the UCITS placement in the issue of corporate bonds. If the issuer of corporate bonds has more than 2 years of activity, the IMC or the competent statutory body of the self-managed investment company on behalf of the UCITS invests only in corporate bonds

- guaranteed by a credit institution authorized by the NBR or a branch in Romania of a credit institution authorized in another Member State;
- b) annual financial statements of the issuer of corporate bonds must be audited by law and not indicate significant risks (such as solvency risk, liquidity or solvency) on its financial position, likely to cause failure to observe payment of coupons and principal related to the issue of corporate bonds;
- c) the issuer of corporate bonds must not be included in the list of taxpayers with tax arrears published on the website of the National Agency for Fiscal Administration;
- d) the issuer of corporate bonds has made profit in at least the last three consecutive financial years, as evidenced by the annual financial statements, audited in accordance with the law; if the issuer of corporate bonds has less than 2 years of activity, then it has recorded profit in all previous financial years.
- (2) The statement of the guarantees stipulated in par. (1) letter (a) shall be notified to ASF when the first weekly report on the net assets of the UCITS is submitted after the placement.
- (3) In the application of par. (2), the statement of the guarantees referred to in paragraph (1) letter a) (which may be letters of guarantee, insurance of the issue of bonds by an insurance company or other similar documents issued by financial institutions) includes, besides the signature of the persons responsible in the IMC / self-managed investment company, the signature of depository of the relevant UCITS.
- (4) The valuation of such guarantees shall be carried out off balance sheet in accordance with the rules applicable to the UCITS assets valuation
- (5) By way of exception to art. 121 par. (8), the valuation in the UCITS's assets of corporate bonds not admitted to trading on a regulated market or an alternative trading system for which payment has not been honored at the due date specified in Art. 121 par. (8) shall be made at a value of 0 (zero) or the value of the collateral executed, as the case may be, and additional investments in financial instruments issued by the same issuer shall be prohibited.
- (6) Where the amounts related to UCITS investments in corporate bonds not admitted to trading on a regulated market or an alternative trading system issued by joint-stock companies are not collected within the time limit specified in Art. 121 par. (8), the IMC, respectively the directors or members of the management of the self-managed investment company, shall initiate and communicate to ASF the legal steps for recovery of the debt.
- (7) In order to carry out its tasks of monitoring and controlling the assets of the UCITS and reporting to ASF of any breaches of the legal provisions and of the regulations in force concerning the settlement of operations, the depository shall verify the compliance of the UCITS with the provisions of this Article.
- (8) If it holds in the UCITS' investment portfolio or intends to invest in corporate bonds not admitted to trading, the IMC shall observe internal rules and procedures to ensure a permanent risk management function with additional rules on the internal selection methodology of this type of financial instrument, subject to the requirements set out in this Article.
- (9) The internal methodology developed by SAI for the selection of corporate bonds not admitted to trading in the UCITS portfolio comprises a credit risk analysis of the issuer of corporate bonds not admitted to trading and is based at least on the following principles:
- (a) quantifying the credit risk of the issuer of corporate bonds not admitted to trading and assessing the probability of its default in payment and the issue of corporate bonds not admitted to trading on the basis of an evaluation model;
  - b) the use of qualitative indicators for assessing the issuer's credit risk, taking into account the national and international macroeconomic situation and the existing market conditions;
  - c) using the rating provided by a credit agency registered with the European Securities and Markets Authority (ESMA) or internationally recognized, if such rating is available, or indicative quotes provided by specialized agencies (eg Bloomberg, Reuters etc.) based on the principle of comparison with other similar financial transactions;
  - d) the cost-benefit analysis of the economic viability and economic profitability of the investment purpose for which the issuer of corporate bonds not admitted to trading seeks to attract financing;
  - e) analyzing the liquidity of the issuance of corporate bonds not admitted to trading by reference to other securities issued by the same issuer.
- (10) The provisions of paragraph (1) to ( 9 ) shall apply accordingly to individual investor accounts managed by IMC in accordance with Art. 15. "
- Art. 178. -** (1) For the application of the provisions of Art. 84 Para (10) of GEO No. 32/2012, transferable securities that embed a derivative shall mean financial instruments that fulfil the criteria stipulated under Art. 170 Para (1) and contain a component that meets the following criteria:
- a) based on such component, some or all of the cash flows that would otherwise be required by the transferable security acting as host contract may be modified depending on the interest rate, the price of the financial instrument, the foreign exchange rate, a price or rate index, a credit rating or credit index, or depending on another specified variable, and thus, vary similarly to an autonomous derivative;
  - b) the economic characteristics and risks are not closely related to the economic characteristics and risks of the host

contract;

c) has a significant impact on the risk profile and on setting the transferable security's price.

(2) Money-market instruments fulfilling one of the criteria provided under Art. 171 Para (2) and all of the criteria provided Art. 172 Paras (1) and (2) and which contain a component fulfilling the criteria under Para (1) of this article shall be deemed money market instruments embedding a derivative.

(3) A transferable security or money market instrument shall not be deemed as embedding a derivative if it contains a component that is contractually transferable, independently of the transferable security or the money market instrument. Such component shall be deemed a separate financial instrument.

**Art. 179.** - (1) For the application of the provisions of Art. 84 Para (4) of GEO No. 32/2012, the techniques and instruments used to efficiently manage the portfolio of transferable securities shall fulfil the following criteria:

a) are economically adequate, *i.e.*, are cost effectively designed;

b) are used for one or more of the following specific purposes:

(i) risk mitigation;

(ii) cost cutting;

(iii) creation of capital or additional revenues for the UCITS with a risk level consistent with the UCITS risk profile and the risk diversification rules provided under Art. 85 of GEO No. 32/2012;

c) the risks associated therewith are properly considered in the risk management system of the UCITS.

(2) The techniques and instruments fulfilling the criteria provided under Para (1) related to money market instruments shall be deemed techniques and instruments related to money market instruments used to efficiently manage the portfolio in accordance with Art. 84 Para (4) of GEO No. 32/2012.

(3) If a UCITS uses techniques and instruments for the efficient management of the portfolio according to Art. 84 Para (4) of GEO No. 32/2012, then the provisions of Sections X and XII in ESMA/2012/832 Guidelines shall be applied.

"Art. 179<sup>1</sup> - A UCITS may not hold a total exposure exceeding 35% of its assets in financial instruments issued by legal persons belonging to the same group of companies. For the purposes of this paragraph, a group of companies shall consist of legal persons having at least one common shareholder holding at least 33% of the share capital of each of the member companies of the group or having at least one common member in the board of directors, in the case of companies organized in a unitary system, or in the management, in the case of companies organized in a dual system."

**Art. 180.** - (1) For the application of the provisions of Art. 86 Para (1) of GEO No. 32/2012, the replication of the structure of an index per shares or credit instruments shall mean the replication of the structure of the index's underlying assets, including by using derivatives or other techniques and instruments in accordance with Art. 84 Para (4) of GEO No. 32/2012 and Art. 179 of this regulation.

(2) For the application of the provisions of Art. 86 Para (1) of GEO No. 32/2012, an index whose structure is sufficiently diverse shall mean an index that complies with the risk diversification rules of GEO No. 32/2012 and this regulation.

(3) For the application of the provisions of Art. 86 Para (1) of GEO No. 32/2012, an index representative for the market it refers to shall mean an index whose supplier uses an established methodology that does not generally result in the exclusion from the index's structure of a major issuer on the market it refers to.

(4) For the application of the provisions of Art. 86 Para (1) of GEO No. 32/2012, an index adequately made public shall mean an index fulfilling the following criteria:

a) it is accessible to the public;

b) the index's supplier is independent of the UCITS replicating the index.

(5) The provisions of Para (4) Letter b) shall not exclude the possibility that index suppliers and the UCITS belong to the same economic group, provided that efficient measures to manage conflict of interest are in place.

"(6) A UCITS as provided in Art. 86 [par. \(1\)](#) of GEO no. 32/2012 maintains in its portfolio the shares of the structure of the reference index whose replication follows, so that the compositional error, defined according to art.2 par. (2) letter (d) shall not exceed 15%. " (7) If, further to the revision or rebalancing of the index mentioned under Art. 177 Para (1) Letter b) Item (ii), the limit calculated according to Para (6) or the investment limits per issuer are no longer observed, then within 30 days from the publication of the revised index, investment management companies (SAIs)/the management of self-managed investment companies shall proceed so as to comply with the provisions hereof.

**Art. 181.** - (1) A UCITS may hold current accounts and cash in RON and foreign currency of maximum 5% of its assets. Such limit may be exceeded up to maximum 20%, provided the following conditions are cumulatively met:

a) the amounts result from the issuance of transferable securities, investments that have reached maturity or from the sale of financial instruments from its portfolio;

b) the limit is not exceeded more than 30 days.

The calculation of such limit does not include the margins established by the investment management companies (SAIs) in the case of investments for UCITS managed in derivatives.

"(2) By way of exception to the provisions of paragraph (1), the 20% limit may be exceeded up to a maximum of 60%, subject to cumulative fulfillment of the following conditions:

- (a) the amounts are determined by the establishment activity, are derived from major investments in the units of the relevant UCITS or from major disinvestment of financial instruments in the portfolio;
- b) amounts exceeding 20% are deposited with the depositary;
- c) exceeding the limit of 20% to a maximum of 60% shall not be extended to more than 30 days;
- (d) those amounts may be placed in overnight deposits with the depositary without this placement being considered as a breach of the exposure limit on a bank. "

(3) In the conditions of Para (1), the amounts available in current accounts shall not be taken into account when calculating the exposure limit per bank.

**Art. 182.** – The structured deposits shall fall under the category of “deposits” mentioned under Art. 82 Letter e) of GEO No. 32/2012, in compliance with the investment limits provided hereunder.

**"Art. 183.** - (1) In order to apply the provisions of art. 82 of GEO no. [32/2012](#) , the IMC or the self-managed investment company shall submit to ASF the application for approval of the regulated market or regulated market in a third State with a minimum of 30 business days prior to the investment on that stock exchange / market. "

(2) When assessing the eligibility of the third State market or stock exchange, FSA shall take into account the fulfilment thereby of the following conditions:

1. the market or the stock exchange are authorised and supervised by a competent authority appointed for such purpose in that state, verifying at least the following:
  - (i) existence of financial resources necessary for the operation of the operator of the market/stock exchange in question;
  - (ii) direct and continuous supervision of market participants;
  - (iii) existence of conditions for admission to trading;
  - (iv) existence of liquidity requirements;
  - (v) transparency of transactions;
  - (vi) enforcement of sanctions for breaching the rules and regulations that market participants must comply with;
2. the clearing-settlement system existing in such state must be regulated and must provide settlement terms similar to those in the EU member states;
3. the legislation applicable in such third State allows the undertakings for collective investment similar to UCITS (intended for retail investors) to invest on such market or stock exchange, providing the best custody conditions for the assets of such undertakings;
4. transactions on such market or stock exchange must be conducted regularly within a trading programme at least similar to the regulated markets in EU member states;
5. investors have direct or indirect access to information on financial instruments traded on such market or stock exchange, including the information related to potential investment limits applicable to investors from states other than such third State or potential regulations allowing or restraining the repatriation by such investors of the capital and/or proceeds from investments on that market or stock exchange.

(3) To obtain approval for the investment provided under Para (1), investment management companies (SAIs) or self-managed investment companies shall submit to FSA an application accompanied by the following documents and information:

- a) specification of the maximum limit expressed as percentage of the UCITS's asset intended to be invested in such third State, which limit shall also be indicated in the documents of the UCITS in question;
  - b) specification of the means of accessing the information on the trading and clearing-settlement of transferable securities or money market instruments, including the website of the competent authority, of the stock exchange or the regulated market and of the entity managing the clearing-settlement system, which shall have an English language version as well;
  - c) confirmation from the depositary of the UCITS's assets that it has access to the relevant information allowing the calculation of the net asset value per share (NAVPS) and description of how it safe keeps the assets on such market.
- (4) The provisions of Paras (1)-(3), except for Para (3) Letter c), shall also apply accordingly in the event the UCITS intends to invest in derivatives admitted at the official rate of a stock exchange from a third State or negotiated on another regulated market in a third State.

"(5). In assessing the eligibility of a market or stock exchange from a third State, the provisions of paragraph (2) shall be deemed to be fulfilled as of right for the markets or stock exchanges from a non-EU member of the G7 (i.e. [Canada](#), [Japan](#) and USA)."

**Art. 184.** – The newly-issued transferable securities mentioned under Art. 82 Letter c) of GEO No. 32/2012, shall be

reclassified under Art. 83 Para (1) Letter a) of GEO No. 32/2012, if the admission is not ensured within one year from issuance.

**Art. 185.** - UCITS do not invest directly or indirectly (including through investments in participation certificates issued by collective investment undertakings fulfilling the cumulative conditions provided for in Article 82 (d) of GEO no. 32/2012) in money market instruments such as commercial bills not traded on a regulated market or for which there is no composite price tag . "

**Art. 186.** – UCITS may invest in government bonds in accordance with the provisions of Art. 85 Para (5) and Art. 87 of GEO No. 32/2012.

**Art. 187.** – A UCITS may exceed the investment limits mentioned under GEO No. 32/2012 if it exercises the underwriting rights related to financial instruments included in its asset, provided that the excess does not last longer than 90 days.

## **CHAPTER XI**

### **Rules on the Transparency and Publicity of a UCITS**

#### **SECTION 1**

##### **Publicity of UCITS**

**Art. 188.** - (1) A *UCITS publicity material* shall mean any information or document transmitted by any means, whose purpose is to draw investors, and with an impact on their investment decisions.

(2) A *UCITS informative material* shall mean and information or document addressed to an investor resolute regarding the existing contractual relationship with investment management companies (SAIs).

**Art. 189.** - (1) The dissemination of any publicity material regarding a UCITS shall only be permitted if the provisions of this section on the contents and structure of publicity materials is observed.

(2) The UCITS publicity materials shall be approved by the representative of the internal control compartment prior to their public dissemination. Electronic copies of all publicity materials shall be kept at the registered/head office of the investment management company (SAI) or the self-managed investment company for a period of 2 years from issuance or posting. The investment management company (SAI) or the self-managed investment company shall provide FSA with all publicity materials, if requested.

(3) It is prohibited to publish publicity materials prior to the publication of the UCITS's issuance prospectus, authorised by FSA.

(4) If it is found that the publicity material published or disseminated breaches the provisions of this section, then FSA shall request the investment management company (SAI)/self-managed investment company to withdraw the publicity material or shall ban its further dissemination, so that the document is amended to comply with the legal provisions.

**Art. 190.** – The publicity material shall observe the following principles:

"(a) the information contained in the advertising material provided by the IMC / the self-managed investment company and by the managed UCITS distribution agents, clients or potential clients, ASF and market entities must be accurate, precise and clear, so as to provide complete and non-misleading information. It is forbidden to communicate, publish or disseminate to the public any advertising material about which the IMC / self-managed investment company knows to include false, unclear, unverified or ambiguous or misleading statements. Advertising materials must be clearly identified as such; "

b) the information included in the publicity materials shall be clear, accurate and compliant with the issuance prospectus of the UCITS;

c) any publicity materials shall display the warning "Please read the issuance prospectus and the key investor information, provided under Art. 98 of GEO No. 32/2012, before investing in this investment fund/company", indicating where and in what language the investors and potential investors may obtain such information or how they can have access thereto;

d) the sources of the information included in the publicity materials shall be indicated (statistics, results of research, other sources);

e) wording such as "the biggest", "the best investment fund/company" etc. shall not be permitted;

f) if the publicity material includes information on the previous performance of the UCITS, then the statistical data published shall relate to a period of at least one year, as at the publication date. In the case of UCITS authorised for less than one year, the statistical data published related thereto shall refer to at least one semester/quarter/month, as the case may be. The following statement shall be added: "The previous performances of the investment fund/company do not represent a guarantee of future accomplishments", if the publicity material contains information on previous performance;



g) mandatory information and specifications shall be printed in at least 12-point sized letters.

**Art. 191.** – Any publicity material designed and distributed for a UCITS shall contain at least the following information:

- a) the full name, number and date of registration in FSA's Public Registry of the investment management company (SAI) and, if applicable, the UCITS;
- b) the registered office and contact details of the investment management company (SAI), the self-managed investment company, manner in which the issuance prospectus may be obtained and name of depositary.

**Art. 192.** – The following shall be prohibited in publicity materials:

- a) estimates regarding the future accomplishments of the UCITS;
- b) comparisons among accomplishments and any other matters related to different UCITS;
- c) using statements of previous, present or potential investors.

**Art. 193.** – Publicity materials disseminated via television and radio shall include at least the following information:

- a) full name of the investment management company (SAI), and if applicable, the UCITS;
- b) the website or telephone number of the investment management company (SAI)/self-managed investment company;
- c) the name of the depositary of the UCITS's assets;
- d) the warning "Please read the issuance prospectus and the key information for investors before investing in this investment fund/company", indicating where and in what language the investors and potential investors may obtain such information or how they can have access thereto.

## SECTION 2 Transparency Rules

**Art. 194.** – (1) Investment management companies (SAIs), for the UCITS managed thereby, or the self-managed investment company, as the case may be, shall prepare, publish and send FSA's report for the first quarter, the annual report comprising the status of their assets and liabilities, and the detailed status of investments, the contents of which shall be at least as provided under Annexe No. 10.

(2) Apart from the minimum contents provided under Para (1), the bi-annual and annual report contains information on:

- a) investment revenues;
- b) other revenues;
- c) net income;
- d) allocation and reinvested income;
- e) changes to the capital account;
- f) appreciation and depreciation of the investment;
- g) other changes that influenced the assets and liabilities of the open-end fund during the reporting period.

"h) the information provided in art. 13 of Regulation (EU) No. 2365/2015, in conjunction with Section A of the same Regulation. This information will be mentioned starting with the report for the second half of 2017. "

(3) The annual report shall be accompanied by the annual financial statement prepared in accordance with the accounting regulations in force and shall be audited by financial auditors members of the Chamber of Financial Auditors in Romania.

(4) Such reports shall be published in FSA's Bulletin and on the website of investment management companies (SAIs)/self-managed investment companies, as the case may be.

(5) The national daily newspaper mentioned in the UCITS's issuance prospectus shall publish, within 3 working days from the submission to FSA, an announcement for investors mentioning their issuance and the modalities to obtain such reports upon request, free of charge.

(6) The reports mentioned under Para (1) shall be sent to FSA and published as follows:

- a) the report for the first semester, within two months from the closing of the semester;
- b) the annual report, within 4 months from the end of the reporting year.

"(7). The IMC or the self-managed investment company shall, as appropriate, draw up and submit to ASF weekly reports of assets, the number of investors and the net asset value per business day for the UCITS it manages , in the form provided in Annex no. 10 or 11, as the case may be, as well as the detailed statement of investments made in accordance with Annex no. 10 for the last working day of the week. These reports are certified by the depositary of that UCITS. The reporting deadline for weekly reports is the fifth working day following the last day of the reporting week. "

(8) FSA may request, anytime deemed necessary, a detailed presentation of the reports provided under Para (7), and investment management companies (SAIs)/self-managed investment companies shall have the obligation to respond to the request within 3 working days, and the detailing shall be certified by the depositary.

(9) The weekly, monthly and annual reports shall contain explanations regarding the valuation methods used for such



financial instruments for which valuation methods have been chosen in compliance with International Valuation Standards based on the fair value principle.

"(10) The financial instruments referred to in art. 113 and purchased by the IMC or the self-managed investment company, as the case may be, into the managed UCITS account on several regulated markets and / or more trading systems are registered aggregated / unitary in the market segment considered as the main market / alternative system with the highest degree of liquidity and frequency of trading of these financial instruments determined on the basis of the volume and number of transactions recorded in the previous calendar year from the reporting ("Statement of Assets and Liabilities") forwarded to ASF in the form set out in Annex no. 10.

(11) The transmission of the documents provided by the National Securities Commission / ASF's regulations, by the IMC and the self-managed UCITS, at the request of the judicial bodies or other public authorities, shall be performed in compliance with the following conditions:

(a) a copy of each original document is kept at the premises of the entity, under the same conditions as the original document;

b) the legal representative of the entity and, where applicable, the compliance officer of the entity certifies the compliance of each copy with the original document;

c) the copy must bear the words "certified true copy " ;

d) the original documents shall be transmitted on the basis of a hand-over receipt, which shall be stored on a durable medium together with the copy referred to in a) for a period of at least 5 years.

(12) The IMC has the obligation to provide the depositary with all information regarding the UCITS operations required for the asset calculation, no later than 24:00 on the working day following that in which they were concluded. This obligation is included in the working procedures concluded between the IMC / self-managed investment company and the UCITS depositary "

## **CHAPTER XII**

### **Offering units of UCITS in Romania**

**Art. 195. -** (1) A UCITS from another member state may offer publicly units in Romania, in observance of the provisions of Title I Chapter V Section 2 Subsection 2 "Special Provisions Applicable to UCITS from Other Member States Distributing their Equity Securities in Romania" of GEO No. 32/2012 and the specific information on the distribution of units issued by UCITS from other member states on the territory of Romania, available on FSA's website.

(2) The distribution of units issued by UCITS from other member states on the territory of Romania may be made through:

a) investment firms (SSIFs) and investment management companies (SAIs) from Romania, authorised by FSA;

b) investment companies and investment management companies (SAIs) authorised by the competent authorities from member states, subsequent to conclusion of the notification procedure in accordance with the applicable legal provisions;

c) credit institutions in Romania authorised by NBR or credit institutions authorised by competent authorities from member states, subsequent to conclusion of the notification procedure in accordance with the applicable legal provisions;

d) branches of investment companies/investment management companies (SAIs)/credit institutions from third States, subsequent to fulfilment of the authorisation procedure in accordance with the applicable legal provisions;

e) other entities that may be authorised by FSA in this respect.

"(3) The specific information provided by art. 175 par. (1) of GEO no. 32/2012, regarding the marketing arrangements in Romania, the units of UCITS established in another Member State are set out in the Annex no. 12. "

## **CHAPTER XIII**

### **Free Movement of Services**

**Art. 196. -** (1) Investment management companies (SAIs) from a third State may establish subsidiaries on the territory of Romania under the conditions provided by Art. 178 of GEO No. 32/2012.

(2) To obtain the authorisation, prior to the registration with the ORC, investment management companies (SAIs) from a third State shall send FSA an application accompanied by the documentation attesting to the fulfilment of the requirements provided under Art. 9 of GEO No. 32/2012, as follows:

a) authorisation issued by the competent authority from the home state;

b) company's deed of constitution;

c) presentation of the significant shareholding up to the level of natural persons;

d) certificate from the competent authority from the home state revealing:

1. address of the registered or head office, which has to be located in the same state of the competent authority issuing the authorisation;
  2. object of activity, similar to the services provided under Art. 5 of GEO No. 32/2012;
  3. company's initial capital, which has to represent the equivalent of the minimum initial capital provided under Art. 8 of GEO No. 32/2012;
  4. certification that the company has been audited by a financial auditor at the end of the last financial year and that it has not registered losses in the last 2 years;
- e) subsidiary's organisation and operation regulation and internal procedures whereby the provisions hereof are complied with;
  - f) documents attesting to the legal holding of the premises intended as the subsidiary's office;
  - g) business plan that shall include: the subsidiary's identification details, the presentation of the operations to be conducted, the subsidiary's management, the organisational structure with the description of the responsibilities and competence limits for decision-making personnel, study of the market and the factors that may affect the feasibility of the business plan, the investment policy and the business financing plan, including the investment recovery period;
  - h) criminal record and fiscal record certificates, submitted within the validity term thereof in accordance with the legal provisions in force, for the subsidiary's directors;
  - i) list of the specimen signatures of the subsidiary's directors in the relation with FSA and of the representative(s) of the internal control compartment;
  - j) documents provided under Art. 34 to authorise at least one representative of the internal control compartment;
  - k) compensation scheme for compensating investors for the management of individual investment portfolios;
  - l) proof of payment into FSA's account of the fees set out according to the regulations in force;
  - m) other documents that FSA may request to verify the observance of the authorisation requirements.

**Art. 197.** - (1) FSA shall decide upon the authorisation of investment management companies (SAIs) from a third State under the conditions provided under Art. 9 Paras (2) - (7) of GEO No. 32/2012.

(2) If the indicated investor compensation scheme is the Investor Compensation Fund - S.A., then the subsidiary may commence the management of the individual investment portfolio as of the date when it is granted the authorisation, provided it submits to FSA the proof of its membership in the Fund.

(3) If the indicated investor compensation scheme is not the Investor Compensation Fund - S.A., then the subsidiary shall submit the proof of membership in such compensation scheme together with its identification details and the specific procedures applicable in the case of compensation of investments made in Romania, together with the application and documentation supporting the subsidiary's authorisation.

(4) Subsequent to the authorisation, the subsidiary shall notify FSA within maximum two working days from occurrence, of any changes in the conditions and/or documentation underlying the issuance of the authorisation and shall request the authorisation/withdrawal of the authorisation of the internal control compartment representatives, in case they are replaced.

**Art. 198.** – Investment management companies (SAIs) in Romania authorised by FSA may manage investments in a third State only if FSA has concluded a cooperation agreement with the competent authority in the home third State, and provided that a subsidiary is established in such third State.

## TITLE IV Merger and Division

### CHAPTER I Merger and Division of Investment Management Companies (SAIs)

**Art. 199.** - (1) The merger and division of investment management companies (SAIs) shall be governed by the provisions of Law No. 31/1990, of Law No. 297/2004, and this regulation.

(2) If the management companies merge or are divided, then the investors of the UCITS under the management of investment management companies (SAIs) involved in the merger/division process shall be informed through an information note according to this regulation and the merger/division process shall be initiated within 15 days from such note. During this period, investors may file applications to repurchase only all the units to be honoured by the investment management company (SAI).

**Art. 200.** - (1) Investment management companies (SAIs) may merge with other companies regulated by Law No. 31/1990 only if the resulting company fulfils the conditions to be an investment management company (SAI).

(2) If the merger is conducted through the absorption of another company regulated by Law No. 31/1990, then the resulting company shall maintain its investment management company (SAI) authorisation.

**Art. 201.** - (1) Undertakings resulting from the divisions of an investment management company (SAI) may also have different object of activity than investment management, provided that at least one of the thus resulting companies remain an investment management company (SAI) and take over all of the obligations of the divided company regarding undertakings for collective investment and the individual portfolios managed thereby.

(2) Investment management companies (SAIs) resulting from division shall observe the legal and contractual provisions as regards individual clients or other entities managed.

**Art. 202.** – To obtain the authorisation to change the share capital further to merger/division, investment management companies (SAIs) shall submit to FSA the following documents, prior to the registration of the change with the ORC:

- a) application for authorisation of the change of share capital accompanied by the documents provided under Art. 33 Letters a), b) and k), and the proof of full payment of the share capital into an account especially opened for this purpose with a banking company as well as the financial auditor's report regarding the legality of such change;
- b) application to suspend the activity of the merging company;
- c) resolutions of the extraordinary general assemblies of shareholders of the companies involved in the merger/division;
- d) merger/division project;
- e) additional acts amending the deed of constitution of the companies involved;
- f) merger/division accounting balance sheets;
- g) administrators' and the financial auditors' reports regarding the merger/division;
- h) proof of payment into FSA's account of the fees set out according to the regulations in force.

**Art. 203.** – Undertakings formed out of amalgamation or further to division shall request FSA, as the case may be:

- a) the withdrawal of the operation authorisation of the investment management company (SAI) involved in the merger;
- b) the operation authorisation of the newly formed companies.

## **CHAPTER II**

### **Merger and Division of open-end funds Authorised by FSA, Which Have Not Notified Cross-Border Distribution on the Territory of Other Member States**

#### **SECTION 1**

##### **General Provisions**

**Art. 204.** – A merger between open-end funds may be performed through the following methods:

- a) absorption of one or more funds by another fund;
- b) creation of a new open-end fund through the amalgamation of two or more funds.

**Art. 205.** - (1) Merger by absorption shall be performed through the transfer of all of the assets of one or more Open-end funds to another fund, called *the receiving fund*, entailing the dissolution of the incorporated fund(s).

(2) Amalgamation shall be performed by the creation of a new open-end fund, to which the amalgamating funds dissolve and transfer all of their assets.

**Art. 206.** – The initiative of the merger between/among two or more open-end funds shall rest with the investment management company(ies) (SAI/SAIs) that manages/manage such funds. Through merger, the investment management company(ies) (SAI/SAIs) shall only seek to secure the protection of the interests of the investors of the funds to be merged.

**Art. 207.** - (1) The investment management company(ies) (SAI/SAIs) shall send to FSA the notification regarding the intention to merge the funds together with the project based on which the merger is performed and a company details certificate issued by the depositary regarding the number of investors and the net asset value of the funds involved in the merger.

(2) Within maximum 30 days from the submission of the documents mentioned under Para (1), FSA shall issue a decision to suspend the issuance and repurchase of the unit funds involved in the merger process, except for full repurchases of fund units, until the completion of the merger, but no more than 90 days from the suspension date.

(3) The suspension decision shall enter into force within 30 days from the communication thereof to the interested investment management company (SAI). Within 5 days from such communication, the investment management company(ies) (SAI/SAIs) shall publish and send to FSA the proof of publication of the announcement regarding the intention to merge and of the date as of which the issuance and repurchase of the fund units of the funds involved in the merger are suspended.

(4) To protect investors, the investment management company(ies) (SAI/SAIs) shall mention in the merger announcement that, further to the merger, a unit fund value equal to the previous one is not guaranteed.

(5) The investment management company(ies) (SAI/SAIs) shall address all the requests for repurchase submitted between the date of publication of the announcement mentioned under Para (3) and the entry into force of the

suspension to issue and repurchase the fund units of the funds involved in the merger process, in which case the provisions of Art. 110 Paras (3) and (4) shall not apply.

**Art. 208.** - (1) In case of merger by absorption, FSA shall withdraw the authorisation of the merging fund. The receiving fund shall continue to operate according to this regulation.

(2) If the merger is performed through the amalgamation of more authorised funds, FSA shall withdraw the operation authorisation of the funds involved in the merger process and authorises the resulting fund.

(3) The funds thus merged shall be managed by a single investment management company (SAI).

"(4). The IMC of the fund resulted from the merger shall, on the next business day following the merger, submit to ASF a certificate issued by the depositary showing the new merged fund statement similar to that filed at the time of registration of the merger notification."

(5) The date of calculation of the conversion rate of the fund units shall be the merger date.

(6) If the funds involved in the merger process have different depositaries, then the certificate mentioned under Para (4) shall be accompanied by the delivery-reception minutes concluded upon the transfer of the assets of the open-end funds concerned to the depositary of the fund resulting from the merger.

**Art. 209.** – It is prohibited to divide a open-end fund.

## SECTION 2

### Transfer of Assets and Fund Units

**Art. 210.** – Undertakings involved in the merger process shall adopt identical valuation criteria for the same type of financial instruments representing assets of the funds concerned. Such criteria shall be identical to those established for the fund resulting from merger.

**Art. 211.** – No additional cost shall be charged to investors further to the merger.

**Art. 212.** – The adequacy and reasonableness of the valuation criteria used and the conversion rate of the fund units of the funds involved in the merger shall be assessed by financial auditors CFAR members.

## CHAPTER III

### Winding-up of open-end funds

**Art. 213.** - (1) FSA shall withdraw the authorisation of a open-end fund in the following cases:

"a) at the request of the IMC, on the basis of the submission of a rigorous substantiation, if it is found that the value of the assets no longer justifies the economic operation of that fund; in the case of an open-end investment fund with a fixed duration of operation after the operational period has been reached and following the voluntary decision of the IMC to liquidate that fund, the IMC duly performs the capacity of liquidator; "

b) if a new administrator may not be appointed subsequent to the withdrawal of the authorisation of the investment management company (SAI).

(2) The request of the investment management company (SAI) provided under Para (1) Letter a) shall be sent to FSA together with the resolution of the statutory body, within two working days from the date of the general meeting of shareholders or the meeting of the board of administration of the investment management company (SAI).

(3) The resolution provided under Para (2) shall include as follows:

a) a thorough motivation of the liquidation decision;

b) status of holdings (information on the number of investors and net asset value, including the value per share) certified by the fund's depositary;

"(c) the auditor's report on the assets and liabilities of that open-end investment fund;"

d) investors' information note regarding the liquidation of the open-end fund;

e) contemplated schedule (timeline) of the liquidation process.

"(4) Within 15 days from the date of submission of the documents referred to in paragraph (3), ASF issues a suspension decision and approves the investor information note, which will be published by the IMC at least on its own website and in the daily newspaper specified in the issue prospectus, the day following the receipt of the suspension decision from ASF. The operation to suspend the issue and redemption of fund units, in the process of winding up its assets, is carried out without the right to redeem for the investors.

(5) Within 5 working days from the commencement of the period of suspension indicated in ASF's decision in para. (4), the IMC shall request to ASF to withdraw the authorization of the open-end investment fund, enclosing the following documents and information:

a) the updated statement of the holdings of the existing fund at the beginning of the period stipulated in paragraph (4) (information on the number of investors and the net asset value, including unit value), certified by the fund depositary;

b) the financial auditor's report on the current situation of the assets and liabilities of the respective open-end investment fund ".

**Art. 214.** - (1) Within maximum 15 working days from communication by FSA of the decision to withdraw the operation authorisation of the open-end fund, the investment management company (SAI) shall conclude a contract with a financial auditor that is a CFAR member, which may be different from the auditor with which the investment management company (SAI) has concluded a contract in accordance with the provisions hereof, in order to appoint it as administrator of the fund's liquidation.

(2) The contract shall specify the obligations and responsibilities of the liquidation administrator, laid down in accordance with the provisions of Law No. 297/2004 and the regulations issued for the application thereof.

(3) A copy of the contract concluded after analysing at least 3 offers, so that the contract price is minimum, shall be sent to FSA.

(4) The major obligation of the liquidation manager shall be to act in the interest of the fund unit holders.

(5) The payment of the liquidation administrator shall be performed from the funds resulting from the liquidation of the open-end fund's assets.

**Art. 215.** - (1) The liquidation administrator may subcontract natural or legal persons to obtain assistance and expertise in the fulfilment of its duties and obligations, and shall be directly liable for the manner in which they carry out their duties.

(2) The subcontractors and their duties and obligations shall be mentioned in the contract concluded between investment management companies (SAIs) and the liquidation administrator.

(3) The liquidation administrator shall be liable for the payment of fees and other expenses to all subcontractors, which shall be paid exclusively from the liquidator's fee.

**Art. 216.** - (1) The liquidation administrator shall place all assets under seal and shall take the necessary measures for the preservation thereof.

(2) The liquidation administrator shall take in custody copies of all accounting records and books regarding the fund subject to liquidation, kept by the investment management company (SAI) and the depositary, in accordance with the provisions hereof.

**Art. 217.** - (1) Within maximum 20 working days from the conclusion of the contract, the liquidation administrator shall draw up a full inventory of the fund's assets and liabilities and shall prepare a report on the inventory, which shall include, without limitation:

- a) a valuation of all of the fund's assets at market value and current liabilities;
- b) a list of all fund unit holders, the number and value of the fund units held by each of them prior to the initiation of the liquidation;
- c) a schedule of the dates when the assets' liquidation is performed and when the amounts resulting from liquidation are distributed.

(2) The report mentioned under Para (1) shall be sent to the investment management company (SAI) and FSA within maximum 48 hours from preparation and shall be published in FSA's Bulletin.

**Art. 218.** - (1) The liquidation administrator shall choose a bank in Romania or the Romanian branch of a foreign bank enjoying of good repute and financial creditworthiness, to open an account to deposit all the amounts resulting from liquidation.

(2) Only the liquidation administrator shall exercise rights to operate such account. It shall be prohibited to deposit funds other than those resulting from liquidation into such account.

**Art. 219.** - (1) The liquidation administrator shall complete liquidation within maximum 60 working days from the publication of the report mentioned under Art. 217 Para (1).

(2) The liquidation administrator shall liquidate the assets of the open-end fund at the maximum value offered on the market.

(3) The liquidation administrator may request FSA to extend by maximum 30 working days the term provided under Para (1), to liquidate the assets.

**Art. 220.** - (1) Throughout the liquidation of a open-end fund managed by an investment management company (SAI), further to the request for full repurchase, the legal obligations regarding calculation, certification and publication shall only apply as regards the net asset of the open-end fund.

(2) The valid net asset per share, if the investment management company (SAI) mentioned under Para (1) does not decide to withdraw the fund's authorisation, shall be the last NAVPS calculated by the investment management company (SAI) and certified by the depositary.

**Art. 221.** - (1) After all assets are liquidated, the liquidation administrator shall pay all the liquidation related expenses, and any other costs and overdue debts of the open-end fund, and shall keep record of all the money withdrawn in this respect from the amounts obtained from liquidation.

(2) Subsequent to the stage provided under Para (1), the liquidation administrator may initiate the distribution of the amounts resulting from liquidation, in accordance with the scheduled dates in the inventory report.

(3) The liquidation administrator shall distribute the amounts resulting from the sale of the assets of the fund unit holders within maximum 10 working days from conclusion of the liquidation. The net amounts shall be distributed strictly based on the number of fund units held by each investor upon commencement of liquidation and in observance of the principle of the equal, fair and non-discriminatory treatment of all investors, irrespective of any other criteria.

"(4) In case of impossibility to pay the value of units to some investors, the liquidation administrator shall keep in the bank account indicated in art. 218 par. (1) the amounts owed to them for an indefinite period of time. The bank account in question is established as a non-interest-bearing escrow account and is open to a credit institution authorized by the NBR or a branch of a credit institution authorized in another Member State.

(5) The liquidation administrator shall make available to the credit institution the identification data of all investors whose assets are placed in the relevant collector account and the updated balance of each investor.

(6) The creditors of the liquidation administrator may not institute legal proceedings on the amounts of money existing in the bank account referred to in art. 218 par. (1). The liquidator shall inform the credit institution at the time of the opening of that bank account of this situation. **"Art. 222. - (1)** The liquidation administrator shall prepare the final report comprising the results of the liquidation and distribution of the amounts obtained from the assets' liquidation, and the modality of payment of the amounts due to investors, and shall provide evidence of the payment of such amounts. The final report shall be sent to FSA and published according to the specifications in the fund's issuance prospectus and in FSA's Bulletin.

"(2) After all payments have been made, the liquidator shall close the bank account, except in the case provided by art. 221 par. (4)."

"(3) The payments stipulated in paragraph (2) shall be considered to have been fully carried out if all the amounts owed to investors have been paid."

#### **CHAPTER IV**

##### **Merger and division of investment undertakings authorised by FSA, which have not notified cross-border distribution on the territory of other Member States**

**Art. 223. –** The merger and division of investment companies authorised by FSA that have not notified cross-border distribution on the territory of other member States shall be governed by the applicable provisions of Law No. 31/1990 and this regulation.

**Art. 224. –** An investment company may merge only if the resulting company fulfils all the conditions to be an investment company.

**Art. 225. - (1)** Investment companies intending to merge shall submit to FSA the resolutions of the extraordinary general assemblies of shareholders regarding the merger and shall request the suspension of the issuance and repurchase of their shares.

(2) Within maximum 15 days from registration of the merger notification, FSA shall suspend the issuance and repurchase of the shares of the investment companies involved in the merger process.

**Art. 226. –** Investment companies resulting from an amalgamation or division shall request the following to FSA, as the case may be:

- a) withdrawal of the operation authorisation of the companies involved in the merger;
- b) establishment/operation authorisation of the resulting investment company.

**Art. 227. –** Investment companies that have absorbed other companies shall request the following to FSA, as the case may be:

- a) authorisation of the changes in the documents of the receiving investment company;
- b) withdrawal of the the operation authorisation of the merging investment company.

**Art. 228. - (1)** To obtain the authorisation regarding the share capital increase/decrease further to a merger by absorption/division, the receiving investment companies/investment companies subject to division shall submit to FSA an application accompanied by the following documents:

- a) documents provided under Art. 157;
- b) resolution of the extraordinary general assemblies of shareholders of the companies involved in the merger/subject to division;
- c) additional act amending the deed of constitution of the receiving investment companies/investment companies subject to division;
- d) merger/division balance sheets;
- e) administrators' and financial auditors' reports on the merger/division;

- f) proof of payment into FSA's account of the fees set out according to the regulations in force;
  - g) other information that FSA may request to analyse the documentation.
- (2) Within maximum 10 days from the registration with the ORC of the changes in the organisation and operation of the investment company, but no later than 90 days from the date of the authorisation issued by FSA, investment companies or, if applicable, investment management companies (SAIs), shall send to FSA the copy of the certificate for registration of specifications, or the copy of the new registration certificate, if the proposed change requires the issuance of a new certificate.
- (3) Failure to observe the term mentioned under Para (2) shall incur the nullity of the authorisation issued.
- Art. 229.** – The entity keeping record of the shareholders of the investment companies involved in the merger process/subject to division shall submit to FSA a company details certificate regarding the number of shareholders and net asset value of the investment companies involved. Subsequent to the completion of the merger/division, the investment management company (SAI) and the entity keeping record of the shareholders of the resulting investment company shall submit a similar certificate attesting to the status of the new investment company. Such statements shall be certified by the depositaries of the investment companies in question.
- Art. 230.** – To implement the merger, identical valuation criteria shall be adopted for the same type of transferable securities representing assets of the investment company concerned. Such criteria shall be identical to those set for the investment company resulting from the merger.
- Art. 231.** – The adequacy and reasonableness of the valuation criteria used and the conversion rate of the shares of the investment companies involved in the merger shall be assessed by financial auditors CFAR members.

## TITLE V Sanctions

- Art. 232.** – Any breach hereof shall be sanctioned according to the provisions of Art. 196 of GEO No. 32/2012.
- Art. 233.** - (1) Failure to comply with the conditions imposed upon authorisation by investment management companies (SAIs) and the modification of the documents based on which the investment management company (SAI) authorisation is granted without notifying or requesting, as the case may be, the supplementation and/or amendment of the operation authorisation shall be sanctioned by warning if the breach may be remedied within maximum 5 working days from receipt by investment management companies (SAIs) of the notification, by fine if the breach is remedied within maximum 90 days from receipt by investment management companies (SAIs) of the notification, and otherwise, by suspension of the authorisation until the legal conditions are fulfilled.
- (2) Failure to observe the provisions of Art. 32 Para (1) and Art. 158 Para (1) on the notification of registrations with the ORC shall be sanctioned, on a case by case basis, by warning or fine applied to the directors of investment management companies (SAIs) or self-managed investment companies.
- "(3) Failure to comply with the provisions of art. 177<sup>1</sup> shall be sanctioned according to the provisions of art. 195 [letter n](#)) of GEO no. 32/2012 and art. 272 par. (2) [letter a](#)) of Law no. 297/2004 regarding the capital market, with subsequent amendments and completions.
- (4) The activities of the IMC or the self-managed investment company for intentional misleading information, the provision of inaccurate or incomplete data or information, maladministration and avoidance of legal requirements, as well as the intention to mislead ASF, the UCITS depositary or the investors UCITS / individual portfolio investment portfolio holders shall be a contravention, unless otherwise provided in the applicable legislation, and shall be sanctioned in accordance with Art. 232.
- (5) The non-observance of the obligations stipulated in art. 44<sup>1</sup> shall be sanctioned according to the provisions of Title I, Chapter VII of GEO no. 32/2012. "

## TITLE VI Transitional and Final Provisions

- Art. 234.** - (1) Investment management companies (SAIs), UCITS and UCITS depositaries operating or pending authorisation on entry into force of this regulation shall comply with the following within 180 days from the entry into force of this regulation:
- a) adapt their establishment and operation documents and activity to the provisions hereof;
  - b) request the authorisation/approval of the necessary amendments to the documents mentioned under Letter a) and submit the applications and documentation in this respect.
- (2) The operation authorisation/approval of investment management companies (SAIs), UCITS and UCITS depositaries to whom the situation provided under Para (1) applies and which fail to comply with the obligations provided in this

article within the term mentioned shall be revoked or rejected, as the case may be.

(3) The necessary amendments of the documents mentioned under Para (1) Letter a) shall be authorised/approved free of the fees charged by FSA.

**Art. 235. Paragraphs (1) and (2) shall be repealed**

(3) After the restructuring process of the RASDAQ market is complete, the UCITS shall restructure the investment portfolios within 12 months from the transfer of the issuers on such market to an alternative trading system or a regulated market.

**"Art. 236.** - Annexes no. 1A-1D and 2-12 form an integral part of this Regulation, establishing the content of reports to ASF. For the purpose of automatically processing the information received by the ASF, the reporting format is to be established by the ASF by decision.

**Art. 237.** - (1) This regulation shall enter into force upon its publication in the Official Journal of Romania, Part I.

(2) Upon the entry into force hereof, the following shall be abrogated:

- a) the provisions of Arts. 1-184, Art. 235 Para (3), Arts. 237-268 of Regulation No. 15/2004 on the authorisation and operation of investment management companies, of undertakings for collective investment and of depositaries, approved by Order No. 67/2004 of the President of the National Securities Commission, published in the Official Journal of Romania, Part I, No. 1.271 of 29 December 2004, as subsequently amended, and Regulation No. 2/2008 of the National Securities Commission implementing Directive 2007/16/EC implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions, approved by Order No. 36/2008 of the National Securities Commission, published in the Official Journal of Romania, Part I, No. 216 of 20 March 2008;

b) the provisions applicable to UCITS in:

- 1. Instruction No. 4/2006 on the procedure whereby an investment management company (SAI) - administrator of an undertaking for collective investment – may be replaced with another investment management company (SAI), approved by Order No. 51/2006 of the National Securities Commission, published in the Official Journal of Romania, Part I, No. 489 of 6 June 2006;

**\*\***)2. Executive Orders No. 2/2007, No. 2/2009, No. 9/2010, No. 18/2010, No. 11/2011, No. 21/2010, No. 6/2012, No. 13/2012 and No. 23/2012 of the National Securities Commission;

- 3. Decisions No. 357/2007, No. 884/2007, No. 962/2007, No. 1.287/2007, No. 1.658/2007, No. 2.095/2008, No. 57/2010, No. 1.481/2010 and No. 105/2011 of the National Securities Commission;

- 4. Decision No. 834/2013 of the Financial Supervisory Authority and Decision No. 45/2014 of the Financial Supervisory Authority;

- 5. any other contrary provisions.

(3) All references to Regulation No. 15/2004, approved by Order No. 67/2004 of the President of the National Securities Commission, regarding the UCITS activity shall be deemed references hereto.

(4) The provisions of Regulation No. 15/2004, approved by Order No. 67/2004 of the President of the National Securities Commission, applicable to NON-UCITS and investment management companies (SAIs) managing upon the entry into force hereof such undertakings for collective investment, shall remain in force. If such provisions are applicable by reference to provisions applicable to UCITS, then such references shall be interpreted similarly to the provisions of Para (3).

(5) This regulation hereby transposes the provisions of:

- a) Commission Directive 2007/16/EC of 19 March 2007 implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions, published in the Official Journal of European Union No. L 79 of 20 March 2007;

"b) of annex [no. I](#) of Directive [2009/65 / EC](#) of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), published in the Official Journal of the European Union no. L 302 of 17 November 2009, as amended and supplemented. "

President of the Financial Supervisory Authority,

**Mișu Negrițoiu**

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**\*\***) The individual acts provided under Art. 237 Para (2) Items 2-4 have not been published in the Official Journal of Romania, Part I.



### **Additional provisions provided for in the Regulation no.2/2018**

**Art. II.** - (1) Throughout the ASF Regulation no. 9/2014 on the authorization and operation of investment management companies, undertakings for collective investment in transferable securities and depositaries of undertakings for collective investment in transferable securities, as subsequently amended and supplemented, the phrase "representative of the internal control department" shall read "compliance officer".  
(2) Throughout the ASF Regulation no. 9/2014, with subsequent amendments and additions, the term "AIF" refers to the AIF as defined in Art. 3 points 20, 21 and 22 of Law no. 74/2015 on Alternative Investment Fund Managers, with further additions .

(3 ) The IMC managing the UCITS and the self-managed investment companies authorized by ASF, which intends to distribute units in other EU Member States, will provide the individual investors, as defined in Art. 4 par. (1) of Regulation (EU) 1286/2014 of the European Parliament and of the Council of 26 November 2014 on key insider information and insurance-based investment products (PRIIPS) in those host Member States, with essential information drawn up in accordance with the requirements of that Regulation.

(4) The IMC which manages the UCITS and the self-managed public investment companies on their own website, the document referred to in paragraph (3) within 2 days of its approval by the ASF.

**Article III.** - (1) This Regulation shall be published in the Official Gazette of Romania, Part I, in the Bulletin of the Financial Supervisory Authority as well as on its website and shall enter into force on the date of its publication in the Official Gazette of Romania, Part I.

2. On the date of entry into force of this Regulation, the following shall be repealed:

a) The provisions of the measures of the National Securities Commission no. 4/2006, no. 7/2007, no. 14/2011, no. 15/2012 and no. 19/2012;

b) Decision no. 2074/2007 of the National Securities Commission; [\[1\]](#)

c) the provisions applicable to NON-UCITS from art. 1-7, 20-25 of the Order of the National Securities Commission no. 9/2010;

d) any other contrary provisions stipulated in the regulations of National Securities Commission / ASF

(3) On July 21, 2018, the provisions regarding UCITS under the Instruction of the National Securities Commission no. 1/2012 regarding the bodies for collective monetary investment, approved by the Order of National Securities Commission no.3/2012, published Official Gazette of Romania, Part I, no. 3 of January 13, 2012, is repealed.

4. Investments of a UCITS prior to the date of entry into force of this Regulation in promissory notes and other money-market instruments of the type of commercial bills shall be made in compliance with the provisions of the ASF Rule no. 14/2013 on the investment of undertakings for collective investment in money market instruments such as promissory notes.

(5) Investments of a UCITS in corporate bonds not admitted to trading on a regulated market or on an alternative trading system / multilateral trading system , prior to the date of entry into force of this Regulation, are exempted from the application of Art. 177 <sup>1</sup> paragraph (1) - (4) of the ASF Regulation no. 9/2014 , with subsequent modifications and additions .

(6) By the date stipulated in paragraph (3), the IMC managing monetary UCITS, the monetary UCITS and the depositaries of monetary UCITS have the obligation to adapt their documents on establishment and operation, as well as the activity under the provisions of Regulation (EU) No. 1131/2017 of the European Parliament and of the Council of 14 June 2017 on money market funds.

(7) IMCs / self-managed investment companies are obliged to draw up internal rules and procedures in accordance with the provisions of art . 47 <sup>1</sup> of the ASF Regulation no. 9/2014, with subsequent amendments and art. 151 par. (4) - (6) of the Law no. 297/2004 regarding the capital market , as subsequently amended and supplemented, within 12 months from the date of entry into force of this Regulation.

(8) IMCs / self-managed investment companies have the obligation to submit to ASF a declaration on their own responsibility that they have drawn up the internal rules and procedures stipulated in par. (7) within the time limit referred to in that paragraph. "

Art. IV. - 1. Within three months of the entry into force of this Regulation, the IMC, the UCITS and depositories of UCITS that are operating or are in the process of being authorized on the date of entry into force of this Regulation shall:

[\[1\]](#) The acts provided for in art. III par. (2) letter a) -c) have not been published in the Official **Gazette of Romania, Part I**.

**(a) adapt their establishment and operating documents and their activity to the provisions of this Regulation;**

**b) request for authorization / approval of the necessary modifications of the documents referred to in a) and submit the applications and documentation in this respect. The amendments made to the establishment documents of the UCITS as a result of the obligations imposed by the provisions of this Regulation shall apply from the date of their authorization by ASF.**

**(2) The IMC, the UCITS and the UCITS depositories in the situation referred to in paragraph (1) and which do not comply with the obligations laid down in this Article within that period shall be revoked or not granted the authorization / operating permit, as the case may be.**

**(3) Authorization / approval of necessary modifications of the documents referred to in paragraph (1) letter a) is performed without payment of the fees charged by ASF**

**[...]**

# Annexes

**to FSA's Regulation on the authorisation and operation of investment management companies, of undertakings for collective investment in transferable securities and of depositaries of undertakings for collective investment in transferable securities**

ANNEXE No. 1A

## Application for Authorisation of the Investment Management Company

PAGE 1/4 APPLICANT'S IDENTIFICATION DETAILS		APPLICATION FOR AUTHORISATION OF THE INVESTMENT MANAGEMENT UNDERTAKING <sup>1</sup>	
<b>FALSE STATEMENTS OR INTENTIONAL OMISSIONS OF DEEDS MAY CONSTITUTE BREACHES OF CRIMINAL LAW</b>			
1.	Applicant's		name:
2.	Registration	certificate	with the ORC:
3.	Sole	registration	(series, issuance number and date) code with the ORC:
4.	Registered office	(street and number) ..... (locality) (county) (postal code)	
5.	Registered office: <sup>2</sup>	(street and number) ..... (locality) (county) (postal code)	
6.	Telephone	number: Fax	number:
7.	Email: .....		
8.	Legal representative:	(surname, first name and position) (telephone number)	
9.	Contact person:	(surname, first name and position) (telephone number)	
This application is accompanied by the list of attached documents and a number of ..... documents, totalling ..... sheets.			
Signature of legal representative:		Signature of contact person:	
Date:		Stamp of company	

NOTE: If the space in the form is not long enough to answer, additional details shall be written down on a separate sheet, bearing the legal representative's signature and stamp of the company.

PAGE 2/4 AUTHORISED ACTIVITIES	APPLICATION FOR AUTHORISATION OF THE INVESTMENT MANAGEMENT COMPANY
10. Activities for which an authorisation is requested:	

<sup>1</sup> In the case of the authorisation of a branch of an investment management company from a third State, the phrase "of the investment management company" shall be replaced by "of the branch of the undertaking (name)".

<sup>2</sup> To be filled in if the SAI holds both a registered office and a main office.

(1) Management of undertakings for collective investment in transferable securities (UCITS)	<input type="checkbox"/>
(2) Management of other undertakings for collective investment (NON-UCITS)	<input type="checkbox"/>
(3) The management of the individual investment portfolios, including those held by pension funds, on discretionary basis, based on the mandates granted by investors, if such portfolios include one or more financial instruments, defined under Art. 2 Para (1) Item 11 of Capital Market Law No. 297/2004, as subsequently amended and supplemented <sup>3</sup>	<input type="checkbox"/>
(4) Related services: <sup>4</sup>	
i) investment consultancy regarding one or more financial instruments, defined under Art. 2 Para (1) Item 11 of Capital Market Law No. 297/2004, as subsequently amended and supplemented.	<input type="checkbox"/>
ii) safe-keeping and administration related to the units of undertakings for collective investment.	
Legal representative's surname and first name: .....	Legal representative's signature: .....
Contact person's surname and first name: .....	Contact person's signature: .....
Date: .....	Stamp of company

NOTE: If the space in the form is not long enough to answer, additional details shall be written down on a separate sheet, bearing the legal representative's signature and stamp of the company.

<sup>3</sup> To be ticked only if Items (1) or (2) have been ticked.

<sup>4</sup> To be ticked only if Item (3) has been ticked.

PAGE 3/4 MEMBERS OF THE BOARD OF ADMINISTRATION/ <u>SUPERVISORY BOARD, DIRECTORS/MEMBERS OF THE EXECUTIVE BOARD OF THE UNDERTAKING, REPLACEMENTS OF DIRECTORS/MEMBERS OF THE EXECUTIVE BOARD, REPRESENTATIVES OF THE INTERNAL CONTROL DEPARTMENT</u>		APPLICATION FOR AUTHORISATION OF THE INVESTMENT MANAGEMENT UNDERTAKING											
Surname and first name	Position <sup>5</sup>	Personal Number Code											
Legal representative's surname and first name:													
Legal representative's signature: .....													
Date: Stamp of company													

NOTE: If one page is not enough, additional details shall be written down on a separate sheet, bearing the legal representative's signature and stamp of the company.

PAGE 4/4 DATA ON ITS SHAREHOLDERS		APPLICATION FOR AUTHORISATION OF THE INVESTMENT MANAGEMENT UNDERTAKING				
11. Natural/legal person SHAREHOLDERS <sup>6</sup>						
No.	SHAREHOLDERS <sup>7</sup> Name/Surname and first name	Country of residence	Competent supervisory authority <sup>8</sup>	Holding		Sole registration code/ Personal Number Code <sup>9</sup>
				No. of shares	Percentage of share capital	
Legal representative's surname and first name:						
Legal representative's signature: .....						
Date: Stamp of company						

NOTE: If one page is not enough, additional details shall be written down on a separate sheet, bearing the legal representative's signature and stamp of the company.

<sup>5</sup> The column "Position" shall be filled in, as the case may be, with: BoA – member in the board of administration, SB – member in the supervisory board, D - director, MEB – member in the executive board, R - replacement; RIC – representative of the Internal Control Department.

<sup>6</sup> If the undertaking has more than 20 shareholders, only the undertaking's shareholders holding more than 5% of the share capital shall be listed, and the last line shall be filled in with "other natural and legal person shareholders holding less than 5%" and the total of their holdings.

<sup>7</sup> The column "Shareholders" shall be filled in starting with the structure of the shareholding of the undertaking requesting the authorisation. For each significant legal person shareholder, a new page shall be filled in, which shall mention the structure of its shareholding up to the level of natural person shareholder inclusively. There shall be no filling in in the case of companies admitted to trading on a regulated market and those in which the State or a public administration authority is a shareholder, but such situations shall be specified.

<sup>8</sup> To be filled in only for legal persons the name of the supervisory authority from the home State and the necessary contact details (full address, telephone, fax, email).

<sup>9</sup> To fill in, for foreign legal and natural persons, the passport series and number or the registration number with the institution similar to the ORC from the home State, as the case may be.

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PAGE 1/2		LIST OF DOCUMENTS FOR THE AUTHORISATION of the investment management company									
		..... <sup>1</sup>									
1. Deed of constitution, authenticated, in original											<input type="checkbox"/>
2. Copy of the minutes of the delegated judge attached to the ORC for the company's establishment and registration											<input type="checkbox"/>
3. Copy of the registration certificate with the ORC											<input type="checkbox"/>
4. Members of the board of administration/supervisory board		CV	Copy of ID	Copy of education document	Record certificate		Statement (Art. 24 Para (1) Letter d) Item 6)	Statement (Art. 24 Para (1) Letter d) Item 7)	Surname and first name		
					criminal	fiscal					
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
5. Directors in charge of the actual management of the company		CV	Copy of ID	Copy of education document	Record certificate		Statement (Art. 24 Para (1) Letter d) Item 6)	Statement (Art. 24 Para (1) Letter d) Item 7)	Proof of employment/conclusion of employment/mandate contract	Copy of FSA certificate	
Surname and first name					criminal	fiscal					
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
6. Replacements of company's directors		CV	Copy of ID	Copy of education document	Record certificate		Statement (Art. 24 Para (1) Letter d) Item 6)	Statement (Art. 24 Para (1) Letter d) Item 7)	Proof of employment/conclusion of employment/mandate contract	Surname and first name	
Surname and first name					criminal	fiscal					
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
7. Legal person significant shareholders <sup>2</sup>		Name									
8. Natural person significant shareholders <sup>3</sup>		Surname and first name									
9. The internal rules and procedures approved by the competent statutory body of the company and signed by the person empowered in this respect, in original (must include at least the elements mentioned under Title I Chapter VI)											<input type="checkbox"/>
10. The business plan (must include at least the elements mentioned under Art. 24 Para (1) Letter h)											<input type="checkbox"/>

<sup>1</sup> To be filled in with the applicant's name.<sup>2</sup> The corresponding documents provided in Annexe No. 2 to Regulation No. 2/2009.<sup>3</sup> Idem <sup>2</sup>.



11. The list of signature specimens for the members of the board of administration/supervisory board, directors/members of the executive board of the investment management company (SAI), and for the person(s) whom the investment management company (SAI) wishes to authorise as representative(s) of the internal control compartment to represent the company in the relationship with FSA	<input type="checkbox"/>
12. The documents provided under Art. 37 to authorise the representative(s) of the internal control compartment, specifying the responsibilities laid down in FSA's regulations and the international regulations of the investment management company (SAI). Surname and first name	<input type="checkbox"/>

PAGE 2/2	<b>LIST OF DOCUMENTS FOR THE AUTHORISATION</b> of the investment management company ..... <sup>4</sup>	
14. Legalised copy of the deed attesting to the legal holding of the space intended as registered office for the investment management company (SAI)'s activity Contract type: ownership <input type="checkbox"/> commodatum <input type="checkbox"/> lease <input type="checkbox"/> sub-lease <input type="checkbox"/>		<input type="checkbox"/>
Affidavit of the company's legal representative, under handwritten signature, in authentic form, regarding the existence of the technical equipment necessary for the conduct of the company's activity		<input type="checkbox"/>
In case of a sub-lease contract:		
- legalised copy of the lease contract, registered with the fiscal authority		<input type="checkbox"/>
15. Legalised copy of the deed attesting to the legal holding of the space intended as head office for the activity of the investment management company (SAI).		<input type="checkbox"/>
Contract type:		
ownership <input type="checkbox"/> commodatum <input type="checkbox"/> lease <input type="checkbox"/> sub-lease <input type="checkbox"/>		
In case of a sub-lease contract:		
- legalised copy of the lease contract, registered with the fiscal authority		<input type="checkbox"/>
16. Proof of holding the minimum initial capital		<input type="checkbox"/>
17. The contract concluded with a financial auditor member of the Chamber of Financial Auditors in Romania		<input type="checkbox"/>
18. Proof of payment into FSA's account the fees provided by the regulations in force		<input type="checkbox"/>
Legal representative's surname and first	Legal representative's signature:	
name:.....	.....	
Contact person's surname and first name:	Contact person's signature: .....	
.....		
Date:	Stamp of the company	

NOTE: If the space in the form is not large enough to answer, additional details shall be written down on a separate sheet, bearing the legal representative's signature and stamp of the company.

<sup>4</sup> To be filled in with the applicant's name.

### STATEMENT

The undersigned .....,  
domiciled in ....., holder of ID type .....<sup>1</sup>, Series ..... No. ....,  
issued by ..... on ....., valid until ....., PNC  
....., as .....<sup>2</sup> of the  
investment management company .....<sup>3</sup>, hereby declare  
that I am not in breach of the provisions of Law No. 31/1990, of GEO No. 32/2012 and the legal regulations in force  
regarding the investment management activity, and that I comply with the requirements mentioned under Art. 23 Para (1)  
Letter .....<sup>4</sup> of FSA Regulation No. 9/2014 on the authorisation and operation of investment management  
companies, of undertakings for collective investment in transferable securities and of depositaries of undertakings for  
collective investment in transferable securities.

<sup>1</sup> To be filled in with IB for identity bulletin or IC for identity card or PAS for passport, in the case of foreign natural persons.

<sup>2</sup> To be filled in with the position held: member in the board or administration/supervisory board, replacement of the director/member of the executive board.

<sup>3</sup> To be filled in with the name of the investment management company.

<sup>4</sup> Letters c) and d) shall be filled in for members of the board of administration/supervisory board, and b), c) and e) for directors/members of the executive board and persons replacing them.

Given and signed today, on my own account, fully aware that false statements are punished according to law.

Date .....

Signature .....

**ANNEXE No. 1D**

**STATEMENT**

The undersigned .....,  
domiciled in ....., holder of ID type ....<sup>1</sup>, Series ..... No. ....,  
issued by ..... on ....., valid until ....., PNC  
....., as .....<sup>2</sup> of the  
investment management company .....<sup>3</sup>, hereby declare  
that I hold as follows, which represent at least 10% of the share capital or voting rights:

a) individual holdings

No.	Name of company where shares are held	The country of residence of the company where shares are held	Participation in the undertaking's share capital/voting rights (%)

b) holdings regarding other persons involved

No.	Person involved	Name of undertaking where shares are held	The country of residence of the company where shares are held	Participation of the person involved in the company's share capital/voting rights (%)

c) holdings regarding other closely related persons

No.	Closely related person	Name of company where shares are held	The country of residence of the company where shares are held	Participation of the closely related person in the company's share capital/voting rights (%)

Given and signed today, on my own account, fully aware that false statements are punished according to law.

Date .....

Signature .....

<sup>1</sup> To be filled in with IB for identity bulletin or IC for identity card or PAS for passport, in the case of foreign natural persons.

<sup>2</sup> To be filled in with the position held: member in the board or administration/supervisory board, replacement of the director/member of the executive board.

<sup>3</sup> To be filled in with the name of the investment management company.

## STATEMENT

The undersigned .....,  
domiciled in ....., holder of ID type ....<sup>1</sup>, Series ..... No.  
....., issued by ..... on ....., valid until ....., PNC  
....., as employee under individual employment contract of the investment management company  
.....<sup>2</sup>, hereby declare that I fulfil the conditions provided by Art. 36 of FSA Regulation  
No. 9/2014 on the authorisation and operation of investment management companies, of undertakings for collective  
investment in transferable securities and of depositaries of undertakings for collective investment in transferable  
securities, to be authorised as representative of the internal control compartment and I hereby undertake to observe the  
provisions of GEO No. 32/2012 and FSA's regulations, and of regulated markets.

Given and signed today, on my own account, fully aware that false statements are punished according to law.

Date .....

Signature .....

<sup>1</sup> To be filled in with IB for identity bulletin or IC for identity card or PAS for passport, in the case of foreign natural persons.

<sup>2</sup> To be filled in with the name of the investment management company.

**MINIMUM FORM AND CONTENT of the articles of association of the open-end fund**

The articles of association shall comprise at least the following:

1. Fund's name.
  2. Legal basis for the fund's establishment.
  3. Fund's term.
  4. Fund's objectives.
  5. The fund unit - definition; description; initial value.
  6. The management company and the maximum limit of the management fee.
  7. The depositary and the maximum limit of the deposit fee.
  8. Force majeure - definition.
  9. Clauses to continue the contract with investors' heirs.
  10. Liquidation and merger of the fund - clauses; procedure; modalities to protect investors in such cases.
  11. Litigation; settlement; competency.
  12. Clause regarding contract termination according to the Romanian Civil Code.
  13. The parties' rights and obligations.
  14. A separate article providing that investors become contracting party by signing the subscription form and the statement whereby they acknowledge having received, read and understood the prospectus.
-

## MINIMUM CONTENT OF THE RULES of a open-end fund

### 1. Information on the open-end fund's management company and the relationship between the management company and investors

1.1. The identification details of the investment management company:

- a) name of company;
- b) no. and date of registration with the National Trade Register Office;;
- c) registered office of the company, and head office thereof if different from the registered office, telephone, fax, webpage;
- d) number and date of the operation authorisation issued by ASF;
- e) number and date of registration in ASF's Registry.

1.2. Object and objective of the management.

1.3. The maximum level of the administration fee received from the management company from the open-end fund managed by it.

1.4. The expenses that the investment management company (IMC) is authorised to incur for the open-end fund and modality of calculation thereof.

1.5. The operations that the investment management company (IMC) may conduct on behalf of the open-end fund in order to conduct the management activity.

1.6. The management company's responsibility in the management activity.

### 2. Information on the depositary, the relationship between the investment management company and the depositary

2.1. The depositary's identification details:

- a) the company's name and legal form;
- b) registered office and head office if different from the registered office, and premises of the branch where the deposit activity is conducted, if applicable, telephone, fax, webpage.

2.2. The object of the deposit contract concluded between the investment management company (IMC) and the depositary.

2.3. The duration of the contract concluded between the investment management company (IMC) and the depositary.

2.4. The instructions received by the depositary from the investment management company (IMC).

2.5. The level of the fee received by the depositary for the deposit activity.

2.6. The responsibilities of the depositary before the management company and the investors of the open-end fund for which it conducts the deposit activity.

2.7. Termination of the deposit contract.

2.8. Force majeure under the deposit contract.

### 3. Information on the open-end fund

3.1. A description of the objectives of the open-end fund, including:

- a) financial objectives, such as capital increase, obtaining income, etc.;
- b) investment policy, if specialised by geographical areas or industry sectors and any limitations of such policy;
- c) main categories of financial instruments to invest in;
- d) description of any technical instruments that may be used in managing the portfolio, such as hedging techniques;
- e) minimum recommended duration for investments, based on the type of the investment company;
- f) the risk factors resulting from the investment policy of the open-end fund.

3.2. The persons in charge of analysing investment opportunities.

3.3. Information on the issuance, sale, repurchase and cancellation of fund units in a open-end fund:

- a) the procedures to subscribe fund units, procedures to repurchase fund units;
- b) the circumstances in which the issuance and repurchase of fund units may be suspended by ASF;
- c) if the fund has a limited duration, the final date to purchase or repurchase fund units;
- d) the name and address of fund units' distributors, if applicable;

e) the modality of cancelling the fund units of a open-end fund.

3.4. The methods to determine the net asset values of a open-end fund:

- a) rules to valuate assets;
- b) method of calculating the net asset value;
- c) frequency of calculating the net asset value;
- d) means, places and frequency of publishing the net asset value;
- e) initial value of a fund unit.

3.5. The conditions to replace the investment management company (IMC) and the depositary:

- a) listing the cases when the investment management company (IMC) and depositary may be replaced;
- b) rules to ensure investor protection, such as the set of prudential procedures / conduct included by the IMC in its internal rules / regulations.

**4. The fund's rules shall mention in a visible place, in print, the date of preparation thereof.**

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## MINIMUM CONTENT OF THE RULES

### of an open-end investment fund comprising more investment compartments

#### **1. Information on the open-end fund's management company and the relationship between the management company and investors**

- 1.1. The identification details of the investment management company:
  - a) name of company;
  - b) no. and date of registration with the National Trade Register Office;
  - c) registered office of the company, and head office thereof if different from the registered office, telephone, fax, webpage;
  - d) number and date of the operation authorisation issued by ASF;
  - e) number and date of registration in ASF's Registry.
- 1.2. Object and objective of the management.
- 1.3. The maximum level of the management fee received from the management company from the open-end fund managed by it.
- 1.4. The expenses that the investment management company (IMC) is authorised to incur for the open-end fund and modality of calculation thereof.
- 1.5. The operations that the investment management company (IMC) may conduct on behalf of the open-end fund in order to conduct the management activity.
- 1.6. The management company's responsibility in the management activity.

#### **2. Information on the depositary, the relationship between the investment management company and the depositary**

- 2.1. The depositary's identification details:
  - a) the company's name and legal form;
  - b) registered office and head office if different from the registered office, and premises of the branch where the deposit activity is conducted, if applicable, telephone, fax, webpage.
- 2.2. The object of the deposit contract concluded between the investment management company (IMC) and the depositary.
- 2.3. The duration of the contract concluded between the investment management company (IMC) and the depositary.
- 2.4. The instructions received by the depositary from the investment management company (IMC).
- 2.5. The level of the fee received by the depositary for the deposit activity.
- 2.6. The responsibilities of the depositary before the management company and the investors of the open-end fund for which it conducts the deposit activity.
- 2.7. Termination of the deposit contract.
- 2.8. Force majeure under the deposit contract.

#### **3. General information on the open-end fund**

- 3.1. The persons in charge of analysing investment opportunities.
- 3.2. Information on the issuance, sale, repurchase and cancellation of fund units in a open-end fund:
  - a) the procedures of how to subscribe fund units, to repurchase fund units, to convert fund units;
  - b) the circumstances in which the issuance and repurchase of fund units may be suspended by ASF;
  - c) if the fund or its compartments have a limited duration, the final date for the purchase or redemption of fund units;
  - d) the name and address of fund units' distributors, if applicable;
  - e) the modality of cancelling the fund units of a open-end fund.
- 3.3. The methods to determine the net asset values of a open-end fund:
  - a) rules to value assets;
  - b) method of calculating the net asset value;
  - c) frequency of calculating the net asset value;



- d) means, places and frequency of publishing the net asset value;
- 3.4. The conditions to replace the investment management company (IMC) and the depositary:
  - a) listing the cases when the investment management company (IMC) and depositary may be replaced;
  - b) rules to ensure investor protection, such as the set of prudential procedures / conduct included by the IMC in its internal rules / regulations.

#### **4. Particular information on each sub-fund**

- 4.1. A description of the objectives of each sub-fund, including:
  - a) financial objectives, such as capital increase, obtaining revenues, etc.;
  - b) investment policy, (mentioning the geographical areas or industrial sectors in which investments are made, investment limits, investment strategy, maximum deviations from the assumed investment strategy, maximum leverage, cross-holdings according to Article 89 of GEO No. 32 / 2012).; The investment policy will be sufficiently precise and detailed to allow an objective assessment of the Sub-Fund's investors so that they can reasonably assess the impact of a possible decision to modify the investment policy by the IMC.
  - c) main categories of financial instruments to invest in;
  - d) description of any technical instruments that may be used in managing the portfolio, such as hedging techniques;
  - e) minimum recommended duration for investments, based on the nature of the sub-fund;
  - f) the risk factors resulting from the investment policy of the sub-fund.
- 4.2 If applicable, the classes of fund units issued and the characteristics of each class shall be mentioned for each sub-fund: structure of commissions, the minimum amount provided for the initial investment, the currency of the net asset value, the categories of eligible investors, etc.

#### **5. The fund's rules shall mention in a visible place, in print, the date of preparation thereof.**

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**MINIMUM FORM AND CONTENTS of the investment management contract for investment companies**

The parties

The investment management company, with its registered office and head office (as the case may be) in ..... , registered with ORC under No. .... , fiscal code ..... , no. of authorisation issued by FSA ..... , registered in FSA's Registry under no. ....

represented by ..... (surname, first name, domicile, position, IB/IC Series ..... No. ....)

and

investment company, with its registered office and head office (as the case may be) in ..... , registered with ORC under No. .... , fiscal code ..... , no. of authorisation issued by FSA ..... , registered in FSA's Registry under no. ....

represented by ..... (surname, first name, domicile, position, IB/IC Series ..... No. ....)

**1. Object of the contract**

The shareholders shall entrust to the investment management company, which accepts, the management of .....

By management, within the meaning hereof, the parties understand .....

The shareholders shall grant the investment management company all the powers required to perform the object of the contract.

The investment management company shall comply with any limitations arising from the provisions hereof.

**2. Object and objective of the management**

The management refers to the investment company .....

The objective of the management shall be .....

To achieve the objective of the management, the investment management company undertakes to open and keep a special, distinct record, adapted to the assets managed.

**3. Term of the contract**

The term hereof shall be ..... years, starting from the date of authorisation of the investment company by FSA, or once the takeover of the investment company by another investment management company is authorised.

**4. Contract price; payment modalities**

The contract price shall consist of the management fee, which shall be .....% applied to .....

**5. Authorised operations**

The investment management company shall be authorised to conduct at its own initiative and on its own responsibility the following operations:

..... To conduct the operations authorised, the investment management company shall act only in the interest of the shareholders of the investment company that it manages and shall take all measures to prevent, eliminate and mitigate losses, and to exercise and receive the rights related to the transferable securities and other financial instruments from the portfolio it manages.

The investment management company shall communicate to the shareholders any information required by the latter in connection with the portfolio managed.

The investment management company shall avoid conflict of interest, as defined under GEO No. 32/2012 and FSA Regulation No. 9/2014 on the authorisation and operation of investment management companies, of undertakings for collective investment in transferable securities and of depositaries of undertakings for collective investment in transferable securities, or shall inform investors of the situations that arise.

## **6. Deposit**

## **7. Losses**

The shareholders hereby declare that they are aware of the risks involved by the transactions conducted with their assets and the financial instruments managed by the management company.

## **8. Contract termination**

This contract shall be terminated as of full right and without court intervention in the cases provided by law and the special regulations applicable to either party.

The transfer of assets shall be performed according to law.

## **9. Amendment of the contract**

The contract shall be amended through an additional act signed by the legal representatives of the investment management company and of the investment company, and the amendments shall become effective according to the provisions of FSA Regulation 9/2014 on the authorisation and operation of investment management companies, of undertakings for collective investment in transferable securities and of depositaries of undertakings for collective investment in transferable securities.

## **10. Liability**

The investment management company shall be liable for any prejudice caused to the shareholders by:

- breaching the normative acts and/or the special regulations in force;
- breaching the internal regulations of the investment company;
- deceit;
- defaulting in the performance of the contract;
- failing to fulfil or improperly fulfilling the obligations undertaken hereunder.

## **11. Force majeure**

Force majeure shall eliminate liability, if communicated within ..... days and proven within ..... days – each from the date of occurrence.

## **12. Litigation.**

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**MINIMUM FORM AND CONTENT**  
**of the issuance prospectus of the open-end fund**

**1. Information on the open-end fund's management company**

- 1.1. Identification details of the investment management company:
  - a) company's name and legal form;
  - b) no. and date of registration with the National Trade Register Office;
  - c) registered office of the company, and head office thereof if different from the registered office, telephone, fax, webpage;
  - d) company's secondary office;
  - e) sole registration code;
  - f) duration (if limited);
  - g) names of undertakings for collective investment managed by the investment management company and whether it manages individual investment portfolios, including pension portfolios and non-core activities;
  - h) number and date of the operation authorisation issued by ASF;
- 1.2. The share capital subscribed and paid in by the investment management company.
- 1.3. Names of the persons members of the board of administration/supervisory board of the investment management company, of the directors/members of the executive board, of the persons replacing the latter and the professional experience of the members thereof, and the description of the activities conducted thereby, when such activities are significant for the management company.
- 1.4. The updated remuneration policy, which includes at least a description of how the remuneration and benefits are calculated, the identities of the persons responsible for awarding the remuneration and benefits, including the composition of the remuneration committee, if that committee exists.

**2. Information on the depositary**

- 2.1. Identification details of the depositary:
  - a) company's name and legal form;
  - b) registered office, and head office thereof if different from the registered office, and the premises of the branch where the deposit activity is carried out, if applicable, telephone, fax, webpage;
- 2.2. Any other activity the depositary is engaged in, in addition to the deposit activity.
- 2.3. If there are sub-depositaries to which the depositary has transferred one or more of its responsibilities, then the prospectus shall comprise the following information thereon:
  - a) sub-depositary's name;
  - b) registered office, and head office thereof if different from the registered office, and the premises of the branch where the deposit activity is carried out, if applicable, telephone, fax, webpage;
  - c) delegated activities.
  - (d) a description of the safe custody functions delegated by the depositary and any conflicts of interest that may arise following the delegation.
- 2.4 Description of conflicts of interest that may arise within the current activity;
- 2.5. Provisions on providing investors, at their request, with up-to-date information regarding points 2.3 and 2.4.

**3. Information on the open-end fund**

- 3.1. Fund's identity:
  - a) name;
  - b) establishment date;
  - c) validity;
  - d) specification of the stock exchange or market on which units are admitted to trading (as the case may be).
- 3.2. Description of the fund's objectives, including:

- a) financial objectives, such as capital increase, obtaining revenues, etc.;
  - b) investment policy, if specialised by geographical areas or industry sectors and any limitations of such policy;
  - c) main categories of financial instruments to invest in;
  - d) Description of any technical tools that could be used in portfolio management, such as risk insurance techniques or loan options that can be used in the management of the fund;
  - e) the risk factors resulting from the investment policy of the open-end fund.
  - f) description of the data stipulated in art. 14 of Regulation (EU) No. 2365/2015, as applicable.
- 3.3. A description of the characteristics of a fund unit in a open-end fund:
- a) nature of the rights conferred by a fund unit;
  - b) means of recording the fund unit - dematerialised;
  - c) characteristics of the fund unit, specification of the potential currency of denomination;
  - d) moment when a person that purchased units becomes an investor of the fund;
  - e) data to distribute periodic reports.
- 3.4. Information on the issuance and repurchase of fund units in a open-end fund:
- a) the procedures of how to subscribe fund units;
  - b) the procedures of how to repurchase fund units;
  - c) the circumstances in which the issuance and repurchase of fund units may be suspended by ASF;
  - d) if the fund has a limited duration, the deadline for the purchase or repurchase of fund units;
  - e) the name, address, telephone and fax of fund units' distributors, if applicable.
- 3.5. Asset valuation rules for an open-end investment fund (to be filled in with reference to the fund Rules detailing the fund's asset valuation rules)
- 3.6. Commissions and other expenses:
- a) commissions incurred by investors:
    - purchase commissions (if applicable), describing the conditions in which they are paid and the value thereof;
    - repurchase commissions (if applicable), describing the conditions in which they are paid and the value thereof;
  - b) the commissions due to the management company, the depositary, other commissions and expenses incurred by the fund or the fund unit holders, payment modality, value and calculation thereof.
- 3.6.1 Detailed information on the updated remuneration policy, including but not limited to a description of the method of calculating remuneration and benefits, the identity of the persons responsible for the award of remuneration and benefits, including the composition of the remuneration committee, in the case where this committee exists.
- 3.7. Merger and liquidation of an open-end fund: the circumstances in which a open-end fund may merge with another or may be liquidated, and the procedure of conducting such operations, specifying the rights devolving upon the fund unit holders.
- 3.8. The tax regime applicable to the Fund:
- a) the taxes borne by the investor;
  - b) details of how to withhold or pay taxes.
- 3.9. The fund's auditor.
- 3.10. If the prospectuses of the authorised open-end funds are completed with data regarding the fund's previous performances, it shall be stated that previous performances are not a guarantee of future accomplishments.
- 3.11. Indication that the fund's rules form an integral part of the prospectus and are annexed thereto.

#### **4. Data for distribution and preparation of the accounting statements**

4.1 The identity of the financial auditor responsible for verifying the accounting information provided in Article 94 of GEO no. 32/2012.

#### **5. Description of the rules for determining and distributing revenues**

#### **6. Consultants and other juridical persons**

- 6.1. Information on the consultants' names or name and type of juridical persons offering contract-based consultancy and paid from the assets of the open-end fund.
- 6.2. Provisions of the contract concluded between the consultants and the investment management company, except those related to remuneration, which may be relevant for investors.
- 6.3. Other significant provisions.

7. Information on how payments to investors are performed, how the fund units are repurchased and how the information on such open-end fund is published.

Such information shall be offered, in all cases, in the home Member State of the open-end fund. When the fund units of a open-end fund are distributed to another Member State, then the issuance prospectus shall include such information on how payments to investors are performed, how the fund units are repurchased and how the information specific for such state is distributed.

8. Specification of the activities mentioned under Art. 6 of GEO No. 32/2012 delegated to third parties.

If the investment management activity is delegated, then the name of the investment management company (IMC), the registered office and the head office if different from the registered office, members of the board of administration/supervisory board and directors/members of the investment management company's (IMC) executive board to which the investment management activity was delegated shall be mentioned.

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**MINIMUM FORM AND CONTENT**  
**of the issuance prospectus of the open-end funds comprising more investment compartments**

**1. Information on the open-end fund's management company**

- 1.1. Identification details of the investment management company:
  - a) company's name and legal form;
  - b) no. and date of registration with the National Trade Register Office;
  - c) registered office of the company, and head office thereof if different from the registered office, telephone, fax, webpage;
  - d) company's secondary offices;
  - e) sole registration code;
  - f) duration (if limited);
  - g) names of undertakings for collective investment managed by the investment management company and whether it manages individual investment portfolios, including pension portfolios and non-core activities;
  - h) number and date of the operation authorisation issued by ASF;
- 1.2. The share capital subscribed and paid in by the investment management company.
- 1.3. Names of the persons members of the board of administration/supervisory board of the investment management company, of the directors/members of the executive board, of the persons replacing the latter and the professional experience of the members thereof, and the description of the activities conducted thereby, when such activities are significant for the management company.
- 1.4. The updated remuneration policy, which includes at least a description of how the remuneration and benefits are calculated, the identities of the persons responsible for awarding the remuneration and benefits, including the composition of the remuneration committee, if that committee exists [\[2\]](#).

**2. Information on the depositary**

- 2.1. Depositary's identification details:
  - a) company's name and legal form;
  - b) registered office, and head office thereof if different from the registered office, and the premises of the branch where the deposit activity is carried out, if applicable, telephone, fax, webpage.
- 2.2. Any other activity the depositary is engaged in, in addition to the deposit activity.
- 2.3. If there are sub-depositaries to which the depositary has transferred one or more of its responsibilities, then the prospectus shall comprise the following information thereon:
  - a) sub-depositary's name;
  - b) registered office, and head office thereof if different from the registered office, and the premises of the branch where the deposit activity is carried out, if applicable, telephone, fax, webpage;
  - c) delegated activities.
  - d) a description of the safe custody functions delegated by the depositary and any conflicts of interest that may arise following the delegation.

[\[2\]](#) In the application of art. 69 of Directive 65/2009 / EU.

- 2.4 Description of conflicts of interest that may arise within the current activity;
- 2.5. Provisions on providing investors, at their request, with up-to-date information regarding points 2.3 and 2.4.

**3. General information on the open-end fund**

- 3.1. Persons in charge of analysing investment opportunities.
- 3.2. Information on the issuance, repurchase and conversion of fund units in a open-end fund:
  - a) the procedures of how to subscribe fund units;

- b) the procedures of how to repurchase fund units;
  - c) the procedures of how to convert fund units;
  - d) the circumstances in which the issuance and repurchase of fund units may be suspended by ASF;
  - e) moment when a person that purchased units becomes an investor of the fund;
  - f) the name, address, telephone and fax of fund units' distributors, if applicable.
- 3.3. Asset valuation rules for an open-end investment fund (to be filled in with reference to the fund Rules detailing the fund's asset valuation rules of each sub-fund)
- 3.4. The commissions due to the management company, the depositary, other commissions and expenses incurred by the fund or the fund unit holders, payment modality, value and calculation thereof.
- 3.4.1. Detailed information on the updated remuneration policy, including, but not limited to, a description of how the remuneration and benefits are calculated, the identity of the persons responsible for awarding the remuneration and benefits, including the composition of the remuneration committee, in the case where this committee exists.
- 3.5. Merger and liquidation of a open-end fund/investment compartment: the circumstances in which a open-end fund/investment compartment may merge with another or may be liquidated, and the procedure of conducting such operations, specifying the rights devolving upon the fund unit holders.
- 3.6. Fiscal regime applicable to the fund:
- a) taxes charged from the investor;
  - b) details on tax withholding or payment.
- 3.7. The fund's auditor.
- 3.8. Indication that the Fund's rules form an integral part of the prospectus and are annexed thereto.

#### **4. Specific information on each sub-fund**

- 4.1. Sub-fund's identity:
- a) name;
  - b) establishment date;
  - c) validity;
  - d) specification of the stock exchange or market on which the fund units of each sub-fund are admitted to trading (as the case may be).
- 4.2. Description of the sub-fund's objectives, including:
- a) financial objectives, such as capital increase, obtaining revenues, etc.;
  - b) investment policy, if specialised by geographical areas or industry sectors and any limitations of such policy;
  - c) main categories of financial instruments to invest in;
  - d) a description of any technical instruments that could be used in portfolio management, such as risk insurance techniques or loan options that may be used in the management of the sub-fund;
- e) the risk factors deriving from the investment policy of the sub-fund.
- f) description of the data stipulated in art. 14 of Regulation (EU) No. 2365/2015, as applicable.
- 4.3. A description of the characteristics of a fund unit in each sub-fund:
- a) nature of the rights conferred by a fund unit;
  - b) means of recording the fund unit - dematerialised;
  - c) characteristics of the fund unit, specification of the potential currency of denomination;
  - d) if the sub-fund has a limited duration, the deadline to purchase, repurchase or convert fund units;
  - e) initial value of a fund unit.
- 4.4. Commissions incurred by investors of a sub-fund:
- a) purchase commissions (if applicable), describing the conditions in which they are paid and the value thereof;
  - b) repurchase commissions (if applicable), describing the conditions in which they are paid and the value thereof;
  - c) conversion commissions (if applicable), describing the conditions in which they are paid and the value thereof.
- 4.5. If the prospectuses of the authorised open-end funds are completed with data regarding the sub-fund's



previous performances, it shall be stated that previous performances are not a guarantee of future accomplishments.

- 4.6. If applicable, the classes of fund units issued and the characteristics of each class shall be mentioned for each sub-fund: structure of commissions, the minimum amount provided for the initial investment, the currency of the net asset value, the categories of eligible investors, etc.

## **5. Data for distribution and preparation of the accounting statements**

5.1 The identity of the financial auditor responsible for verifying the accounting information of the sub-fund referred to in Article 94 of GEO no. 32/2012.

## **6. Description of the rules for determining and distributing revenues**

## **7. Consultants and other juridical persons**

- 7.1. Information on the consultants' names or name and type of the juridical persons offering contract-based consultancy and paid from the assets of the open-end fund.
- 7.2. Provisions of the contract concluded between the consultants and the investment management company, except those related to remuneration, which may be relevant for investors.
- 7.3. Other significant provisions.

## **8. Information on how payments to investors are performed, how the fund units are repurchased and how the information on such open-end fund is published.**

Such information shall be offered, in all cases, in the home Member State of the open-end fund. When the fund units of a open-end fund are distributed to another Member State, then the issuance prospectus shall include such information on how payments to investors are performed, how the fund units are repurchased and how the information specific for such state is distributed.

## **9. Specification of the activities mentioned under Art. 6 of GEO No. 32/2012 delegated to third parties.**

If the investment management activity is delegated, then the name of the investment management company (IMC), the registered office and the head office if different from the registered office, members of the board of administration/supervisory board and directors/members of the investment management company's (IMC) executive board to which the investment management activity was delegated shall be mentioned.

## MINIMUM FORM AND CONTENTS

### of the issuance prospectus of investment companies

#### **1. Information on the company that manages the investment company (if applicable)**

- 1.1. Identification details of the investment management company:
  - a) company's name and legal form;
  - b) no. and date of registration with the National Trade Register Office;
  - c) registered office of the company, and head office thereof if different from the registered office, telephone, fax, webpage;
  - d) company's secondary offices;
  - e) sole registration code;
  - f) duration (if limited);
  - g) names of undertakings for collective investment managed by the investment management company and whether it manages individual investment portfolios, including pension portfolios and non-core activities;
  - h) number and date of the operation authorisation issued by ASF;
  - i) number and date of registration in ASF's Registry.
- 1.2. The share capital subscribed and paid in by the investment management company.
- 1.3. Names of the persons members of the board of administration/supervisory board of the investment management company, of the directors/members of the executive board, of the persons replacing the latter and the professional experience of the members thereof, and the description of the activities conducted thereby, when such activities are significant for the management company.

#### **2. Information on the depositary**

- 2.1. Depositary's identification details:
  - a) company's name and legal form;
  - b) registered office, and head office thereof if different from the registered office, and the premises of the branch where the deposit activity is carried out, if applicable, telephone, fax, webpage.
- 2.2. Any other activity the depositary is engaged in, in addition to the deposit activity.
- 2.3. If there are sub-depositaries to which the depositary has transferred one or more of its responsibilities, then the prospectus shall comprise the following information thereon:
  - a) sub-depositary's name;
  - b) registered office, and head office thereof if different from the registered office, and the premises of the branch where the deposit activity is carried out, if applicable, telephone, fax, webpage;
- c) delegated activities.
- d) a description of the safe custody functions delegated by the depositary and any conflicts of interest that may arise following the delegation.
- 2.4 Description of conflicts of interest that may arise within the current activity;
- 2.5. Provisions on providing investors, at their request, with up-to-date information regarding points 2.3 and 2.4.

#### **3. Information on the investment company**

- 3.1. Identity of the investment company
  - a) surname and first name, place and date of birth, domicile and citizenship of the natural person founding members, name, registered office, fiscal code, registration number with the Registry of Commerce and nationality of the juridical person founding members;
  - b) form, name, registered office and head office if different from the registered office, company's logo, if applicable, and the premises of the subsidiaries, if applicable, telephone, fax, webpage;
  - c) date of establishment and duration of the company;
  - d) company's object of activity;

- e) subscribed and paid in share capital (after initial subscription);
- f) number and date of the operation authorisation issued by ASF;
- g) number and date of registration in ASF's Registry.

3.2. Management of the investment company:

- a) surname and first name, place and date of birth, domicile and citizenship of the administrators, guarantee that they have to submit, the powers conferred upon them and whether they exercise such rights jointly or severally; the special representation and administration rights granted to some of them; professional experience;
- b) surname and first name, place and date of birth, domicile and citizenship of the directories/members of the executive board and replacements thereof, and of the representatives of the company's internal control compartment (if the company is self-managed), professional experience;
- c) persons in charge of analysing investment opportunities, if different from the administrators of the investment company (if the company is self-managed), professional experience;
- d) clauses regarding the company's management, administration, control and operation;
- e) details on the main activities conducted by the members of the board of administration/supervisory board and directors/members of the executive board of the investment company outside the company, if said activities are relevant for the investment company.

3.3. A description of the investment company's objectives, including:

- a) financial objectives, such as capital increase, obtaining revenues, etc.;
- b) investment policy, if specialised by geographical areas or industry sectors and any limitations of such policy;
- c) main categories of financial instruments to invest in;
- d) description of any technical instruments that may be used in managing the portfolio, such as hedging techniques;
- e) minimum recommended duration for investments, depending on the nature of the investment company;
- f) the risk factors resulting from the investment policy of the investment company.
- g) description of the data stipulated in art. 14 of Regulation (EU) No. 2365/2015, as applicable.

3.4. A description of the characteristics of the shares of the investment company:

- a) nature of the rights conferred by a share;
- b) characteristics of the shares, specification of the potential currency of denomination;
- c) moment when a person that purchased units becomes an investor of the investment company;
- d) data to distribute periodic reports.

3.5. Information on the issuance, sale, repurchase and cancellation of the shares of an investment company and admission to trading on a regulated market:

- a) the procedures of how to subscribe fund units;
- b) the procedures of how to repurchase fund units;
- c) the circumstances in which the issuance and repurchase of fund units may be suspended by ASF;
- d) if the investment company has a limited duration, the deadline for the purchase or repurchase of shares;
- e) the regulated market on which the shares are admitted to trading or they are traded.

3.6. Methods to determine the net asset value of an investment company:

- a) method of calculating the net asset value;
- b) frequency of calculating the net asset value;
- c) means, places and frequency of publishing the net asset value;
- d) initial value of one share.

3.7. Commissions and other expenses:

- a) commissions incurred by shareholders - purchase commissions (if applicable), repurchase commissions (if applicable);
- b) the expenses due to the investment company, if applicable, and the level or method of determining the commission due to it for management services;
- c) commissions and other expenses borne by the investment company.

- 3.7.1 Detailed information on the updated remuneration policy, including but not limited to a description of how the remuneration and benefits are calculated, the identity of the persons responsible for the award of the remuneration and benefits.
- 3.8. Division, merger and liquidation of an investment company: the circumstances in which an investment company may merge with another or may be divided or liquidated, and the procedure of conducting such operations, specifying the rights devolving upon the shareholders.
- 3.9. Fiscal regime:
- a) taxes charged from the investor;
  - b) details on tax withholding or payment.
- 3.10. The fund's auditor.
- 3.11. The group to which belongs the investment company or the investment management company thereof (if applicable), as such was defined in Art. 2 Para (1), Item 9 of Law No. 297/2004 and the juridical persons part of such group
- 3.12. If the prospectuses of the authorised investment companies are completed with data regarding the investment company's previous performances, it shall be stated that previous performances are not a guarantee of future accomplishments.

#### **4. Data for distribution and preparation of the accounting statements**

#### **5. Description of the rules for determining and distributing revenues**

#### **6. Consultants and other juridical persons**

- 6.1. Information on the consultants' names or name and type of the juridical persons offering contract-based consultancy and paid from the assets of the investment company.
- 6.2. Provisions of the contract concluded between the consultants and the investment management company, except those related to remuneration, which may be relevant for investors.
- 6.3. Other significant provisions.

#### **7. Information on how payments to investors are performed, how the shares are repurchased and how the information on such investment company is published.**

**Such information shall be offered, in all cases, in the home Member State of the investment company. When the shares of an investment company are distributed to another Member State, then the issuance prospectus shall include such information on how payments to investors are performed, how the shares are repurchased and how the information specific for such state is distributed.**

#### **8. Specification of the activities mentioned under Art. 6 of GEO No. 32/2012 delegated to third parties.**

**If the investment management activity is delegated, then the name of the investment management company (IMC), the registered office and the head office if different from the registered office, members of the board of administration/supervisory board and directors/members of the investment management company's (IMC) executive board to which the investment management activity was delegated shall be mentioned.**

#### **9. Miscellaneous**

- 9.1. The prospectus shall read in a visible place, in print:
- a) the date when the prospectus was authorised;
  - b) the place where relevant information may be obtained from such as: the prospectus and the periodic reports, the deed of constitution, if not attached to the prospectus.
- 9.2. The investor profile that the investment company targets.

#### **10. The national daily newspaper where the notices regarding the change of the issuance prospectus and other information on the investment company shall be published.**

#### **11. The webpage and email of the investment company.**

UCITS reports.  
Statement of assets and liabilities

Item name	Start of the reporting period				End of the reporting period				Differences (RON)
	% of net asset	% of total asset	foreign	RON	% of net asset	% of total asset	foreign	RON	
<b>I. Total assets</b>									
<b>1. Transferable securities and money market instruments</b> of which: 1.1. transferable securities and money market instruments admitted or traded on a regulated market or an alternative trading system in Romania, of which: shares, other similar transferable securities assimilated to them (mentioning each category), bonds (by issuer category), other debt securities (by type and by category of issuer), other transferable securities, money market instruments (by category); 1.2. transferable securities and money market instruments admitted to or traded on a regulated market or an alternative trading system in a Member State, of which: shares, other similar transferable securities assimilated to them (mentioning each									

category), bonds (by issuer category), other debt securities (by type and by category of issuer), other transferable securities, money market instruments (by category); 1.3. transferable securities and money market instruments admitted to official listing on a third-country exchange or traded on another regulated market or alternative trading system from a third State which operates on a regular basis and is recognized and open to the public, approved by ASF , of which: shares, other similar transferable securities assimilated to them (mentioning each category), bonds (by issuer category), other debt securities (by type and by category of issuer), other transferable securities, money market instruments (by category); 2. newly issued transferable securities. 3. other transferable securities and money market instruments referred to in art. 83 paragraph (1) letter a ) of the GEO . no. 32 / 2012 of which: transferable securities (by category and by type of issuer) and money market instruments (by category). 4. Structured products admitted or									
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<p>traded on a regulated market or an alternative trading system of which:</p> <p>4.1 Structured products admitted or traded on a regulated market or an alternative trading system in Romania</p> <p>4.2 Structured products admitted or traded on a regulated market or an alternative trading system in a Member State</p> <p>4.3 Structured products admitted or traded on a regulated market or an alternative trading system from a third State</p> <p>5. Bank deposits of which:</p> <p>5.1 bank deposits with credit institutions in Romania;</p> <p>5.2 bank deposits with credit institutions in a Member State;</p> <p>5.3 bank deposits with credit institutions in a third State.</p> <p>6. Derivative financial instruments traded on a regulated market:</p> <p>6.1 derivatives traded on a regulated market in Romania, by category;</p> <p>6.2 derivatives traded on a regulated market in a Member State, by category;</p> <p>6.3 derivatives traded on a regulated market in a third State, by category;</p> <p>6.4 derivatives traded outside regulated markets, by instrument</p>									
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category. 7. Current accounts and cash. 8. Money market instruments, other than those traded on a regulated market, according to art. 82 letter g ) of the GEO . no. 32/2012 – Securities repos 9. Units of NON-UCITS ./ UCITS . 10. Dividends or other receivables 11. Support titles for reporting operations 12. Other assets (amounts in transit, amounts to distributors, amounts to SSIFs, etc.).									
<b>II Total obligations</b>									
1. Expenses for the payment of fees due to the IMC. 2. Expenses for the payment of commissions due to the depositary 3. Expenses on commissions due to intermediaries 4. Expenses with turnover commissions and other banking services 5. Interest expenses 6. Issuance expenses 7. Expenses for the payment of commissions / fees due to ASF . 8. Expenses on financial audit 9. Other approved expenditures 10. Repurchase payable									
<b>III Net Asset Value (I-II)</b>									



**Statement of net asset value per share**

<i>Item name</i>	<b>Current period</b>	<b>Corresponding period of the previous year</b>	<b>Differences</b>
<b>Net Asset Value (of which broken down by classes of fund units)</b>			
<b>Number of fund units / current shares (broken down by fund units)</b>			
<b>Net asset value per unit (broken down by fund unit classes)</b>			
<b>Distribution coefficient for the fund unit class (if applicable)</b>			

**DETAILED STATEMENT OF INVESTMENTS ON ...**

**I. Transferable securities admitted or traded on a regulated market or on an alternative trading system in Romania**

**1. Shares traded during the last 30 trading days (working days)**

<b>Issuer</b>	<b>Share symbol</b>	<b>ISIN code</b>	<b>The date of the last trading session</b>	<b>No. of shares held</b>	<b>Nominal value</b>	<b>Value per share</b>	<b>Total value</b>	<b>Weight in the share capital of the issuer</b>	<b>Weight in the total asset of UCITS .</b>
					lei	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**2. Shares not traded during the last 30 trading days (working days)**

<b>Issuer</b>	<b>Share symbol</b>	<b>ISIN code</b>	<b>Date of the last trading session</b>	<b>No. of shares held</b>	<b>Nominal value</b>	<b>Value per share</b>	<b>Total value</b>	<b>Weight in the share capital of the issuer</b>	<b>Weight in the total asset of UCITS .</b>
					lei	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

Where the valuation is based on valuation methods consistent with the International Valuation Standards (in line with the fair value principle), the valuation methods used shall be described.

**3. Shares not traded in the last 30 trading days (working days) for which the financial statements are not obtained within 90 days from the submission terms provided by law**

Issuer	Share symbol	ISIN code	The date of the last trading session	No. of shares held	Nominal value	Value per share	Total value	Weight in the share capital of the issuer	Weight in the total asset of UCITS .
					lei	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**4. Pre-emptive rights / allotment rights**

Issuer	Type of right	Symbol	ISIN code	Date of last trading session in which it was traded	No. of shares held	Value per right	Total value	Weight in the total asset of UCITS
						lei	lei	%
<b>TOTAL</b>							<b>0.00</b>	<b>0,000</b>

**5. Bonds admitted to trading issued or secured by authorities of the local public administration/corporate bond**

Issuer	Bond symbol	ISIN code	Date of last trading	No. of bonds held	Purchase date	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Market price	Total value	Weight in total bonds	Weight in total asset
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			session												issued	of UCITS .
								%	lei	lei	lei	lei	lei	lei	%	%
<b>TOTAL</b>															<b>0.00</b>	<b>0,000</b>

- “date of last trading session ” and “market price ” shall be filled in if the bonds are valuated at market price;
- “initial value” shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

#### 6. Bonds admitted to trading issued or secured by central public administration authorities

Series	ISIN code	Date of last trading session	No. of bonds held	Purchase date	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Market price	Total value	Weight in total bonds issued	Weight in total asset of UCITS .
							%	lei	lei	lei	lei	lei	lei	%	%
<b>TOTAL</b>													<b>0.00</b>		<b>0,000</b>

- - “date of last trading session ” and “market price ” shall be filled in if the bonds are valuated at market price;
- “initial value” shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

#### 7. Other transferable securities admitted to trading on a regulated market or on an alternative trading system

Issuer	Type of transferable security	Symbol	ISIN code	Date of last trading session	No. of transferable securities	Market price	Total value	Weight in total asset of UCITS .
						lei	lei	%
<b>TOTAL</b>							<b>0.00</b>	<b>0,000</b>

**8. Structured products admitted or traded on a regulated market or an alternative trading system in Romania**

Issuer	Symbol	ISIN code	Unit value	No. of units traded	Total value	Weight in total asset of UCITS .
			lei		lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

**9. Shares suspended from trading in the last 30 trading days (working days) on a regulated market in Romania**

Issuer	Share symbol	ISIN code	Date of last trading session	No. of shares held	Nominal value	Value per share	Total value	Weight in the share capital of the issuer	Weight in the total asset of UCITS .
					lei	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**10. Amounts under settlement for transferable securities admitted or traded on a regulated market or an alternative trading system in Romania**

Issuer	Type of transferable security	Symbol	ISIN code	Unit value	No. of units traded	Total value	Weight in the share capital of the issuer/total	Weight in total asset of UCITS .
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							bonds of an issuer	
				lei		lei	%	%
<b>TOTAL</b>						<b>0.00</b>		<b>0,000</b>

## II. Transferable securities admitted or traded on a regulated market or on an alternative trading system in another Member State

### 1. Shares traded in the last 30 trading days (working days)

Issuer	ISIN code	Date of last trading session	No. of shares held	Nominal value*	Value per share	NBR exchange rate... /RON	Total value	Weight in the share capital of the issuer	Weight in total asset of UCITS.
				Foreign currency	Foreign currency	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

\* if applicable

### 2. Shares not traded during the last 30 trading days (working days)

Issuer	ISIN code	Date of last trading session	No. of shares held	Nominal value	Value per share	Total value	Weight in the share capital of the issuer	Weight in the total asset of UCITS .
				lei	lei	lei	%	%
<b>TOTAL</b>						<b>0.00</b>		<b>0,000</b>

Where the valuation is based on valuation methods consistent with the International Valuation Standards (in line with the fair value principle), explanations of the valuation methods used shall be given.

### 3. Bonds admitted to trading issued or secured by local public administration authorities, corporate bonds

Issuer	ISIN code	Date of last trading session	No. of bonds held	Date of purchase	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Market price	NBR exchange rate.../RON	Total value	Weight in total issuance bonds	Weight in total asset of UCITS .
							%	Foreign currency	Foreign currency	Foreign currency	Foreign currency	Foreign currency	lei	lei	%	%
<b>TOTAL</b>														<b>0.00</b>		<b>0,000</b>

- date of last trading session” and “market price” shall be filled in if the bonds are valued at market price;
- “initial value” shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

### 4. Bonds admitted to trading issued or secured by central public administration authorities

Issuer	ISIN code	Date of last trading session	No. of bonds held	Date of purchase	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Market price	NBR exchange rate.../RON	Total value	Weight in total issuance bonds	Weight in total asset of UCITS .
							%	Foreign currency	Foreign currency	Foreign currency	Foreign currency	Foreign currency	lei	lei	%	%
<b>TOTAL</b>														<b>0.00</b>		<b>0,000</b>

- "date of last trading session" and "market price" shall be filled in if the bonds are valued at market price;
- "initial value" shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

#### 5. Other securities admitted to trading on a regulated market or on an alternative trading system in another Member State

Issuer	Type of transferable security	Symbol	ISIN code	Date of last trading session	No. of transferable securities	Market price	Total value	Weight in total asset of UCITS .
						lei	lei	%
<b>TOTAL</b>							<b>0.00</b>	<b>0,000</b>

- bonds admitted to trading, corporate/issued by the central public administration shall be reported similarly to bonds admitted to trading issued or secured by the local public administration authorities;
- in case of items denominated in foreign currency, the valuation shall be conducted in the IMCd currency and the total value shall be determined by converting the total value in foreign currency into RON.

#### 6. Structured products admitted or traded on a regulated market or an alternative trading system in another Member State

Issuer	Symbol	ISIN code	Unit value	No. of units traded	Total value	Weight in total asset of UCITS .
			lei		lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

#### 7. Shares suspended from trading in the last 30 trading days (working days) on a regulated market in another Member State

Issuer	Share symbol	ISIN code	Date of last trading session	No. of shares held	Nominal value	Value per share	Total value	Weight in the share capital of the issuer	Weight in the total asset of UCITS .
					lei	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**8. Amounts under settlement for transferable securities admitted to or traded on a regulated market in another Member State**

Issuer	Type of transferable security	Symbol	ISIN code	Unit value	No. of units traded	NBR exchange rate	Total value	Weight in the share capital of the issuer/total bonds of an issuer	Weight in total asset of UCITS .
				Foreign currency			lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**III. Transferable securities admitted or traded on a regulated market in a third State**

**1. Shares traded in the last 30 trading days (working days)**

Issuer	ISIN code	Date of last trading session	No. of shares held	Value nominal *	Value per share	NBR exchange rate... /RON	Total value	Weight in the share capital of the issuer	Weight in the total asset of UCITS .
				foreign currency	foreign currency	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>



\* if applicable

## 2. Bonds admitted to trading issued or guaranteed by local government authorities, corporate bonds

Issuer	ISIN code	Date of the last trading session	No. of bonds held	Date of purchase	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Market price	NBR exchange rate.../RON	Total value	Weight in total issuance bonds	Weight in total asset of UCITS.
							%	foreign currency	foreign currency	foreign currency	foreign currency	foreign currency	lei	lei	%	%
<b>TOTAL</b>														<b>0.00</b>		<b>0,000</b>

- "date of last trading session" and "market price" shall be filled in if the bonds are valued at market price;
- "initial value" shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

## 3. Bonds admitted to trading issued or secured by central public administration authorities

Issuer	ISIN code	Date of last trading session	No. of bonds held	Date of purchase	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Market price	NBR exchange rate.../RON	Total value	Weight in total issuance bonds	Weight in total asset of UCITS .
							%	foreign currency	foreign currency	foreign currency	foreign currency	foreign currency	lei	lei	%	%

<b>TOTAL</b>													<b>0.00</b>		<b>0,000</b>
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- “date of last trading session ” and “market price ” shall be filled in if the bonds are valued at market price;
- “initial value” shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

#### 4. Other transferable securities admitted to trading on a regulated market in a third State

Issuer	Type of transferable security	Symbol	ISIN code	Date of last trading session	No. of transferable securities	Market price	Total value	Weight in total asset of UCITS.
						lei	lei	%
<b>TOTAL</b>							<b>0.00</b>	<b>0,000</b>

- bonds admitted to trading, corporate/issued by the central public administration shall be reported similarly to bonds admitted to trading issued or secured by the local public administration authorities;
- in case of items denominated in foreign currency, the valuation shall be conducted in the said currency and the total value shall be determined by converting the total value in foreign currency into RON.

#### 5. Structured products admitted or traded on a regulated market or an alternative trading system in a third State

Issuer	Symbol	ISIN code	Unit value	No. of units traded	Total value	Weight in total asset of UCITS .
			lei		lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

**6. Suspended transactions in the last 30 trading days (working days) on a regulated market in another third State**

Issuer	Share symbol	ISIN code	Date of last trading session	No. of shares held	Nominal value	Value per share	Total value	Weight in the share capital of the issuer	Weight in the total asset of UCITS .
					lei	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**7. Amounts under settlement for transferable securities admitted or traded on a regulated market from a third State**

Issuer	Type of transferable security	Symbol	ISIN code	Unit value	No. of units traded	NBR exchange rate	Total value	Weight in the share capital of the issuer/total bonds of an issuer	Weight in total asset of UCITS .
				foreign currency			lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

**IV . Money market instruments admitted or traded on a regulated market in Romania**

Issuer	Instrument series/symbol /ISIN code	Date of last trading session	No. of instruments held	Purchase date	Maturity date	Initial value	Daily increase	Cumulative interest	Cumulative discount /premium	Market price	Total value	Weight in total money market instruments of an issuer	Weight in total asset of UCITS .

						lei	lei	lei	lei	lei	lei	%	%
<b>TOTAL</b>											<b>0.00</b>		<b>0,000</b>

**Amounts under settlement for money market instruments admitted or traded on a regulated market in Romania**

Issuer	Instrument series/symbol / ISIN code	Unit value	No. of instruments traded	Total value	Weight in total money market instruments of an issuer	Weight in total asset of UCITS .
		lei		lei	%	%
<b>TOTAL</b>				<b>0.00</b>		<b>0,000</b>

**V. Money market instruments admitted or traded on a regulated market from a third Member State**

Issuer	ISIN code	Date of last trading session	No. of instruments held	Purchase date	Maturity date	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium (a)	Market price	NBR exchange rate... /RON	Total value	Weight in total money market instruments of an issuer	Weight in total asset of UCITS .
						foreign currency	foreign currency	foreign currency	foreign currency	foreign currency	lei	lei	%	%
<b>TOTAL</b>												<b>0.00</b>		<b>0,000</b>

- - “date of last trading session ” and “market price ” shall be filled in if the instruments are valued at market price;

- - “initial value” shall mean the residual nominal value, if the instruments have been purchased at nominal value, or the net purchase price if the instruments have been purchased at discount/by premium;

-If the instruments have been purchased by premium, then it shall be recorded with negative value;

**Amounts under settlement for money market instruments admitted or traded on a regulated market in a third Member State**

Issuer	ISIN code	Unit value	No. of instruments traded	NBR exchange rate	Total value	Weight in total money market instruments of an issuer	Weight in total asset of UCITS .
		foreign currency			lei	%	%
<b>TOTAL</b>					<b>0.00</b>		<b>0,000</b>

#### VI. Money market instruments admitted or traded on a regulated market in a third State

Issuer	ISIN code	Date of last trading session	No. of instruments held	Purchase date	Maturity date	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium (a)	Market price	NBR exchange rate... /RON	Total value	Weight in total money market instruments of an issuer	Weight in total asset of UCITS .
						foreign currency	foreign currency	foreign currency	foreign currency	foreign currency	lei	lei	%	%
<b>TOTAL</b>												<b>0.00</b>		<b>0,000</b>

- - “date of last trading session ” and “market price ” shall be filled in if the instruments are valuated at market price;

- - “initial value” shall mean the residual nominal value, if the instruments have been purchased at nominal value, or the net purchase price if the instruments have been purchased at discount/by premium;

-If the instruments have been purchased by premium, then it shall be recorded with negative value;

#### Amounts under settlement for money market instruments admitted or traded on a regulated market in a third State

Issuer	ISIN code	Unit value	No. of instruments traded	NBR exchange rate	Total value	Weight in total money market instruments of an issuer	Weight in total asset of UCITS .
		foreign currency			lei	%	%

<b>TOTAL</b>					<b>0.00</b>		<b>0,000</b>

## VII. Newly issued transferable securities

### 1. Newly issued shares

Issuer	No. of shares held	Nominal value	Value per share	Total value	Weight in share capital of issuer	Weight in total asset of UCITS .
		lei	lei	lei	%	%
<b>TOTAL</b>				<b>0.00</b>		<b>0,000</b>

### 2. Newly issued bonds

Issuer	No. of bonds held	Purchase date	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Total value	Weight in total bonds of an issuer	Weight in total assets of UCITS .
					%	lei	lei	lei	lei	lei	%	%
<b>TOTAL</b>										<b>0.00</b>		<b>0,000</b>

- "initial value" shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;

- if the bonds have been purchased by premium, then it shall be recorded with negative value.

### 3. Pre-emptive rights (after registration with the central depository, prior to admission to trading)

Share issuer	Share symbol (ISIN Code )	No. of pre-emptive rights	Theoretical value of pre-emptive right	Total value	Weight in total asset of UCITS .
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			lei	lei	%
<b>TOTAL</b>				<b>0.00</b>	<b>0,000</b>

## VIII. Other transferable securities and money market instruments provided under Art. 83 Para (1) Letter a) of GEO No. 32/2012

### VIII.1 Other transferable securities provided under Art. 83 Para (1) Letter a) of GEO No. 32/2012

#### 1. Shares not admitted to trading

Issuer	No. of shares held	Nominal value	Value per share	Total value	Weight in share capital of issuer	Weight in total asset of UCITS.
		lei	lei	lei	%	%
<b>TOTAL</b>				<b>0.00</b>		<b>0,000</b>

If the valuation is based on valuation methods compliant with the International Valuation Standards (fair value principle), the valuation methods used shall be described.

#### 2. Shares traded in systems other than regulated markets

Issuer	Date of last trading session	No. of shares held	Nominal value	Market price	Total value	Weight in share capital of issuer	Weight in total asset of UCITS.
			lei	lei	lei	%	%
<b>TOTAL</b>					<b>0.00</b>	<b>0.00</b>	<b>0,000</b>

#### 3. Shares not admitted to trading valued at zero value (missing revised financial statements at the Registry of Commerce)

Issuer	No. of shares held	Nominal value	Value per share	Total value	Weight in share capital of issuer	Weight in total asset of UCITS.
		lei	lei	lei	%	%

<b>TOTAL</b>				<b>0.00</b>		<b>0,000</b>

#### 4. Bonds not admitted to trading

Issuer	No. of bonds held	Purchase date	Coupon date	Coupon maturity	Rate of coupon	Initial value	Daily increase	Cumulative interest	Cumulative discount/premium	Total value	Weight in total bonds of an issuer	Weight in total asset of UCITS .
					%	lei	lei	lei	lei	lei	%	%
<b>TOTAL</b>										<b>0.00</b>		<b>0,000</b>

- "initial value" shall mean the residual nominal value, if the bonds have been purchased at nominal value, or the net purchase price if the bonds have been purchased at discount/by premium;
- if the bonds have been purchased by premium, then it shall be recorded with negative value.

#### 5. Amounts under settlement for shares traded in systems other than regulated markets

Issuer	Unit value	No. of traded shares	Total value	Weight in share capital of issuer	Weight in total asset of UCITS
	lei		lei	%	%
<b>TOTAL</b>			<b>0.00</b>		<b>0,000</b>

### VIII.2 . Other money market instruments referred to in art. Article 83 (1) a) of the GEO . no. 32/2012

#### 1. Bills of exchange

Issuer	Purchase date	Maturity date	Initial value	Daily increase	Cumulative interest	Total value	Weight in total asset of UCITS .
			lei	lei	lei	lei	%



<b>TOTAL</b>						<b>0.00</b>	<b>0,000</b>

**IX . Available in current and cash accounts**

**1. Available in current accounts and cash in RON**

Bank name	Current value	Weight in total asset of UCITS .
	Lei / Foreign currency	%
<b>TOTAL</b>	<b>0.00</b>	<b>0,000</b>

**2. Available in current accounts and cash denominated in .....**

Bank name	Current value	NBR exchange rate	Current value lei	Weight in total asset of UCITS .
	foreign currency			%
<b>TOTAL</b>			<b>0,000</b>	<b>0,000</b>

**X. Bank deposits by distinct categories: established in credit institutions in Romania / from another Member State / from a third State**

**1. Bank deposits denominated in RON**

Bank name	Date of establishment	Maturity date	The interest rate	Initial value	Daily increase	Cumulative interest	Total value	Weight in total asset of UCITS.
			%	lei	lei	lei	lei	%
<b>TOTAL</b>							<b>0.00</b>	<b>0,000</b>

**2. Bank deposits denominated in foreign currency**

Bank name	Date of establishment	Maturity date	The interest rate	Initial value	Daily increase	Cumulative interest	NBR exchange	Total value	Weight in the total asset of
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							rate... /RON		UCITS .
			%	foreign currency	foreign currency	foreign currency	lei	lei	%
<b>TOTAL</b>								<b>0.00</b>	<b>0,000</b>

**XI . Derivatives traded on a regulated market - by distinct categories: on a regulated market in Romania / from another Member State / from a third State**

**1. Futures contracts**

Contract	No. of contracts	Contract type	Maturity	Average sales / purchase price	Quotation	Margin value	Profit / Loss	Total value	Weight in total asset of UCITS .
				lei	lei	lei	lei	lei	%
<b>TOTAL</b>								<b>0.00</b>	<b>0,000</b>

**2. Options**

Contract	Date of last trading session	No. of contracts	Option type	Contract type	Maturity	Strike price	Premium paid	Closing premium value	Total value	Weight in total asset of UCITS.
						lei	lei	lei	lei	%
<b>TOTAL</b>									<b>0.00</b>	<b>0,000</b>

**3. Amounts under settlement for derivative financial instruments traded on a regulated market**

Contract	Unit value	No. of traded contracts	Total value	Weight in total asset of UCITS
	lei		lei	%
<b>TOTAL</b>			<b>0.00</b>	<b>0.00</b>

## XII . Derivative financial instruments negotiated outside regulated markets

### 1. Forward contracts

Counterpart	Quantity	Contract type	Date of purchase	Maturity date	Strike price	NBR exchange rate .... / RON	Forward date	Profit / loss	Total value	Weight in total asset of UCITS.
					lei	lei	lei	lei	lei	%
<b>TOTAL</b>									<b>0.00</b>	<b>0,000</b>

### 2. Swap contracts

*- valuation depending on quotation:*

counterpart	Initial Capital (Notional )	Purchase date	Maturity date	Quotation date	Counterparty quote	Total value	Weight in total asset of UCITS .
					%	lei	%
<b>TOTAL</b>						<b>0.00</b>	<b>0,000</b>

*- valuation depending on the current value of payments under the contract*

counterpart	Initial Capital (Notional )	Purchase date	Maturity date	Present value of payments to be made to the fund	Present value of payments to be made by the fund	Total value	Weight in total asset of UCITS .
				lei	lei	lei	%
<b>TOTAL</b>						<b>0.00</b>	<b>0,000</b>

### 3. Contracts for difference

Contract	No. of contracts	Contract type	Average sales / purchase price	Quotation price	Profit on open positions	margin	NBR exchange rate .... / RON	Total value	Weight in total asset of UCITS .
			foreign currency	foreign currency	foreign currency	foreign currency	lei	lei	%
<b>TOTAL</b>								<b>0.00</b>	<b>0,000</b>

### 4. Other derivative contracts regarding transferable securities, foreign currency, interest rates or rates of return or other derivative instruments, financial indexes or ratios/other derivative contracts regarding commodities that must be settled in cash or may be settled in cash at one of the parties' request

Contract	No. of contracts	Contract type	Sale / purchase price	Quotation price	Total value	Weight in total asset of UCITS .
						%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

### XIII . Money market instruments, other than those traded on a regulated market, according to art. 82 letter g) of the GEO . no. 32/2012

Issuance series	Instrument type	No. of transferable securities held	Date of purchase	Maturity date	Initial value	Daily increase	Cumulative interest	Total value	Weight in total issue instruments	Weight in the total asset of UCITS .
					lei	lei	lei	lei	%	%
<b>TOTAL</b>								<b>0.00</b>		<b>0,000</b>

#### XIV . Units in UCITS . / NON-UCITS

##### 1. Units denominated in RON

Fund name	Date of last trading session	Nr. units of fund held	Fund Unit Value (NAVPS )	Market price	Total value	Weight in total units of UCITS/NON-UCITS	Weight in total asset of UCITS .
			lei	lei	lei	%	%
<b>TOTAL</b>					<b>0.00</b>		<b>0,000</b>

- - “date of last trading session ” and “market price ” shall be filled in if the instruments are valued at market price;

##### 2. Units denominated in foreign currency

Fund name	ISIN code	Date of last trading session	No. of fund units held	Fund Unit Value ( NAVPS )	Market price	NBR exchange rate RON / ....	Total value	Weight in total units of UCITS/NON-UCITS	Weight in total asset of UCITS.
				Foreign currency/NAVPS	foreign currency	lei	lei	%	%
<b>TOTAL</b>							<b>0.00</b>		<b>0,000</b>

- - “date of last trading session ” and “market price ” shall be filled in if the instruments are valued at market price;

### 3. Amounts under settlement for units denominated in RON

Fund name	Market unit value	No. of units traded	Total value	Weight in total units of UCITS/NON- UCITS	Weight in total asset of UCITS .
	lei		lei	%	%
<b>TOTAL</b>			<b>0.00</b>		<b>0,000</b>

### 4. Amounts under settlement for units denominated in foreign currency

Fund name	Market unit value	No. of units traded	NBR exchange rate	Total value	Weight in total units of UCITS/NON- UCITS	Weight in total asset of UCITS .
	foreign currency			lei	%	%
<b>TOTAL</b>				<b>0.00</b>		<b>0,000</b>

## XV . Dividends or other rights to receive

### 1. Dividends receivable

Issuer	Share symbol	Ex-dividend date	No. of shares held	Gross dividend	Amount to receive	Weight in total asset of UCITS .
				lei	lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

### 2. Shares distributed without cash consideration

Issuer	Share symbol	Ex-dividend date	No. of shares	Value per share	Total value	Weight in total asset of UCITS.
				lei	lei	%

<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

### 3. Shares distributed with cash consideration

Issuer	Share symbol	Ex-dividend date	No. of shares held	Value per share	Total value	Weight in total asset of UCITS.
				lei	lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

### 4. Amount payable for shares distributed with cash consideration

Issuer	Share symbol	Ex-dividend date	No. of shares held	Subscription price	Total value	Weight in total asset of UCITS.
				lei	lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

### 5. Pre-emptive rights (prior to admission to trading and after the trading period)

Share issuer	Share symbol	Ex-dividend date	No. of pre-emptive rights	Theoretical value of pre-emptive rights	Total value	Weight in total asset of UCITS .
				lei	lei	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>

### 6. Principal and coupons receivable denominated in lei

Issuer	ISIN code	The current value	Weight in total asset of UCITS .
		lei	%
<b>TOTAL</b>			<b>0,000</b>

**7. Principal and coupons receivable denominated in foreign currency**

Issuer	ISIN code	The current value	Exchange rate	Weight in total asset of UCITS .
		-	-	%
			-	
			-	
<b>TOTAL</b>			-	<b>0,000</b>

**8. Decrease of the share capital by reduction of the nominal value**

Issuer	Share symbol	Ex-dividend date	No. of shares	Value per share	Amount to be paid	Weight in total asset of UCITS .
				lei	%	%
<b>TOTAL</b>				<b>0.00</b>		<b>0,000</b>

**9. Reduction of share capital by reducing the number of shares**

Issuer	Share symbol	Ex-dividend date	No. of shares	Value per share	Total value	Weight in total asset of UCITS .
				lei	%	%
<b>TOTAL</b>					<b>0.00</b>	<b>0,000</b>





**Weekly report on assets and liabilities of UCITS denominated in RON between  
in the period .....**

No.	Caption	Day 1			Day 2		
		Amount invested	Present value	Weight of present value in total assets	Amount invested	Present value	Weight of present value in total assets
		RON	RON	%	RON	RON	%
1	Transferable securities and money market instruments:						
1.1	transferable securities and money market instruments admitted or traded on a regulated market from Romania: (RO):						
	- Shares (RO) of which:						
	shares traded during the last 30 trading days (working days) (RO)						
	shares non-traded during the last 30 trading days (working days) (RO)						
	shares not traded during the last 30 trading days (working days) for which the financial statements are not received within 90 days of the legal filing date (RO)						
	Pre-emptive / allotment rights (RO)						
	- other assimilated values (mentioning each category) (RO)						
	- bonds (RO) of which:						
	bonds issued by central government (RO)						
	bonds issued by local government (RO)						
	corporate bonds (RO)						
	- other debt securities (with indication by type and by category of issuer) (RO)						
	- other transferable securities, money market instruments (by category) (RO)						
1.2	Transferable securities and money market instruments admitted or traded on a regulated market in a Member State (MS)						
	- shares (MS) of which:						
	shares traded during the last 30 trading days (working days) (MS)						

	shares non-traded during the last 30 trading days (working days) (MS)						
	shares not traded during the last 30 trading days (working days) for which the financial statements are not received within 90 days of the legal deposit (MS)						
	pre-emptive/allotment rights(MS)						
	- other assimilated values (mentioning each category) (MS)						
	- bonds (MS) of which:						
	bonds issued by central government (SM)						
	bonds issued by local government (MS)						
	corporate bonds (SM)						
	- other debt securities (by type and by type of issuer) (MS)						
	- other transferable securities, money market instruments (by category) (MS)						
1.3	Transferable securities and money market instruments admitted to official listing on a third-country exchange or traded on another regulated market of a third State that operates on a regular basis and is recognized and open to the public and approved by ASF (third State)						
	- shares (third State) of which:						
	shares traded during the last 30 trading days (working days) (third State)						
	shares non-traded during the last 30 trading days (working days) (third State)						
	shares not traded during the last 30 trading days (working days) for which the financial statements are not received within 90 days of the legal deposit (third State)						
	pre-emptive/allotment rights(third State)						
	- other assimilated values (with each category) (third State)						
	- bonds (third State) of which:						
	bonds issued by central government (third State)						
	bonds issued by local government (third State)						
	corporate bonds (third State)						
	- other debt securities (by type and by type of issuer) (third State)						

	- other securities, money market instruments (third State) (by category)						
1.4	Newly issued transferable securities, of which:						
	Shares						
	Bonds						
	Pre-emptive rights (after registration with a central depository, prior to admission to trading)						
1.5	Other transferable securities and money market instruments referred to in art. 83 (1) letter a) of GEO no.32/2012 out of which:						
	Transferable securities of which:						
	Shares not admitted to trading						
	Shares not admitted to trading valued at zero (no updated financial statements filed with the Trade Registry)						
	Shares traded in systems other than regulated markets						
	Bonds not admitted to trading issued by central government						
	Bonds not admitted to trading issued by local government						
	Corporate bonds not admitted to trading						
	Money market instruments, of which:						
	Commercial bills (promissory notes, CECs, bills of exchange)						
	Other money market instruments						
2.	Structured products admitted or traded on a regulated market, of which:						
2.1	Structured products admitted or traded on a regulated market or on an alternative trading system in Romania (RO)						
	Certificate index (RO)						
	Turbo certificates (RO)						
	Other types of structured products (RO)						
2.2	Structured products admitted or traded on a regulated market or an alternative trading system in a Member State (MS)						
	Certificate index (MS)						
	Turbo certificate (MS)						
	Other types of structured products (MS)						
2.3	Structured products admitted or traded on a regulated market or on an						

	alternative trading system from a third State (third State)						
	Certificate index (third State)						
	Turbo certificate (third State)						
	Other types of structured products (third State)						
3	Available in current accounts and cash						
4	Bank deposits of which:						
4.1	Bank deposits established with credit institutions in Romania (RO)						
4.2	Bank deposits established with credit institutions in a Member State (MS)						
4.3	Bank deposits with credit institutions in a third State (third State)						
5	Derivative financial instruments traded on a regulated market:						
5.1	Derivative financial instruments traded on a regulated market in Romania (RO), out of which:						
	Share Futures (RO)						
	Indices Futures (RO)						
	Exchange Rates Futures (RO)						
	Interest Rate Futures (RO)						
	Other types of Futures (RO)						
	Exchange Rate Options (RO)						
	Interest Rate Options (RO)						
	Other types of options (EN)						
5.2	Derivatives traded on a regulated market in a Member State (MS), out of which:						
	Share Futures (MS)						
	Indices Futures (MS)						
	Exchange Rates Futures (MS)						

	Interest Rate Futures (MS)						
	Other types of Futures (MS)						
	Exchange Rate Options (MS)						
	Interest Rate Options (MS)						
	Other types of options (MS)						
5.3	Derivatives traded on a regulated market in a third State (third State), of which:						
	Share Futures (third State)						
	Indices Futures (third State)						
	Exchange Rates Futures (third State)						
	Interest Rate Futures (third State)						
	Other types of Futures (third State)						
	Exchange Rate Options (third State)						
	Interest Rate Options (third State)						
	Other types of options (third State)						
6	Derivative financial instruments negotiated outside regulated markets, out of which:						
	Exchange rate forward contracts						
	Interest rate forward contracts						
	Other types of forward contracts						
	Exchange rate swap contracts						
	Interest rate swap contracts						
	Other types of swap contracts						
	Exchange rate Contracts for Difference (CFD)						

	Interest rates Contracts for Difference (CFD)						
	Other Contracts for Difference (CFDs)						
7	Money market instruments other than those traded on a regulated market, art. 82 letter g) of GEO no. 32/2012, of which:						
	securities issued by central government						
	certificates of deposit						
	Repurchase contracts on securities issued by central government						
	support titles for repurchase operations						
	Other types of money market instruments						
8	Units in UCITS / NON-UCITS / AIF, of which:						
	Units in UCITS / NON-UCITS / AIF admitted to trading						
	Units in UCITS / NON-UCITS / AIF not admitted to trading						
9	Dividends or other receivables						
	Dividends receivable						
	Shares distributed without cash consideration						
	Shares distributed with cash consideration						
	Payment amount for shares distributed with cash consideration						
	Amount receivable for shares of companies that have reduced their registered capital by diminishing the nominal value						
	Pre-emptive rights (prior to admission to trading and after the trading period)						
	Principal and coupons receivable						

	Other rights to collect						
10	Other assets (not limited to)						
	- Amounts in transit						
	- Amounts transferred to SSIF (financial investment services company)						
	- Amounts available to distributors						
	- Amounts to be resolved						
	- Amounts paid in advance						
	- Amounts of unlisted units						
	-Transactions / amounts under settlement, of which:						
	Amounts related to the settlement of purchase transactions						
	Amounts related to the settlement of sales transactions						
	-Amounts related to sub-unit holdings of units						
11	TOTAL ASSETS						
12	Fund's expenses:						
	- expenses with the payment of commissions due to the investment management company						
	- expenses with the payment of commissions due to the depositary						
	- expenses with the payment of commissions due to intermediaries						
	-current fees and charges due to ASF						
	- Repurchase to pay						
	- Distribution costs						
	-banking charges						
	-other approved expenses (income tax deducted at source)						
	-other expenses						
13	NET ASSETS (of which broken down by classes of fund units)						
14	Number of units / current shares, of which: (broken down by fund units)						
	- individuals						
	- legal persons						
15	Net asset value per share (NAVPS) (of which broken down by classes of						



	fund units)						
16	Number of investors, out of which:						
	- individuals						
	- legal persons						

**Evolution of net assets and NAVPS in the last 3 years**

	Year T-2	Year T-1	Year T
a) NET ASSETS			
b) NAVPS			

**Distribution coefficient for the fund unit class (if applicable)**

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**Weekly report on assets and liabilities of UCITS denominated in foreign currency  
in the period .....**

No.	Caption	Day 1				Day 2			
		Amount invested	Present value	Present value	Weight of present value in total assets	Amount invested	Present value	Present value	Weight of present value in total assets
		Foreign currency	foreign currency	RON	%	foreign currency	foreign currency	RON	%
1	Transferable securities and money market instruments:								
1.1	transferable securities and money market instruments admitted or traded on a regulated market from Romania: (RO):								
	- Shares (RO) of which:								
	shares traded during the last 30 trading days (working days) (RO)								
	shares non-traded during the last 30 trading days (working days) (RO)								
	shares not traded during the last 30 trading days (working days) for which the financial statements are not received within 90 days of the legal filing date (RO)								
	Pre-emptive / allotment rights (RO)								
	- other assimilated values (mentioning each category) (RO)								
	- bonds (RO) of which:								
	bonds issued by central government (RO)								
	bonds issued by local government (RO)								
	corporate bonds (RO)								
	- other debt securities (with indication by type and by								

	category of issuer) (RO)								
	- other transferable securities, money market instruments (by category) (RO)								
1.2	Transferable securities and money market instruments admitted or traded on a regulated market in a Member State (MS)								
	- shares (MS) of which:								
	shares traded during the last 30 trading days (working days) (MS)								
	shares non-traded during the last 30 trading days (working days) (MS)								
	shares not traded during the last 30 trading days (working days) for which the financial statements are not received within 90 days of the legal deposit (MS)								
	pre-emptive/allotment rights(MS)								
	- other assimilated values (mentioning each category) (MS)								
	- bonds (MS) of which:								
	bonds issued by central government (SM)								
	bonds issued by local government (MS)								
	corporate bonds (SM)								
	- other debt securities (by type and by type of issuer) (MS)								
	- other transferable securities, money market instruments (by category) (MS)								
1.3	Transferable securities and money market instruments admitted to official listing on a third-country exchange or traded on another regulated market of a third State that operates on a regular basis and is recognized and open to the public and approved by ASF (third State)								
	- shares, other assimilated values (mentioning each category) (third State) of which:								
	shares traded during the last 30 trading days (working days) (third State)								
	shares non-traded during the last 30 trading days								

	(working days) (third State)								
	shares not traded during the last 30 trading days (working days) for which the financial statements are not received within 90 days of the legal deposit (third State)								
	pre-emptive/allotment rights(third State)								
	- other assimilated values (with each category) (third State)								
	- bonds (third State) of which:								
	bonds issued by central government (third State)								
	bonds issued by local government (third State)								
	corporate bonds (third State)								
	- other debt securities (by type and by type of issuer) (third State)								
	- other securities, money market instruments (third State) (by category)								
1.4	Newly issued transferable securities, of which:								
	Shares								
	Bonds								
	Pre-emptive rights (after registration with a central depository, prior to admission to trading)								
1.5	Other transferable securities and money market instruments referred to in art. 83 (1) letter a) of GEO no.32/2012 out of which:								
	Transferable securities of which:								
	Shares not admitted to trading								
	Shares not admitted to trading valued at zero (no updated financial statements filed with the Trade Registry)								
	Shares traded in systems other than regulated markets								
	Bonds not admitted to trading issued by central government								

	Bonds not admitted to trading issued by local government								
	Corporate bonds not admitted to trading								
	Money market instruments, of which:								
	Commercial bills (promissory notes, CECs, bills of exchange)								
	Other money market instruments								
2.	Structured products admitted or traded on a regulated market, of which:								
2.1	Structured products admitted or traded on a regulated market or on an alternative trading system in Romania (RO)								
	Certificate index (RO)								
	Turbo certificates (RO)								
	Other types of structured products (RO)								
2.2	Structured products admitted or traded on a regulated market or an alternative trading system in a Member State (MS)								
	Certificate index (MS)								
	Turbo certificate (MS)								
	Other types of structured products (MS)								
2.3	Structured products admitted or traded on a regulated market or on an alternative trading system from a third State (third State)								
	Certificate index (third State)								
	Turbo certificate (third State)								
	Other types of structured products (third State)								
3	Available in current accounts and cash								
4	Bank deposits of which:								
4.1	Bank deposits established with credit institutions in Romania (RO)								

4.2	Bank deposits established with credit institutions in a Member State (MS)								
4.3	Bank deposits with credit institutions in a third State (third State)								
5	Derivative financial instruments traded on a regulated market:								
5.1	Derivative financial instruments traded on a regulated market in Romania (RO), out of which:								
	Share Futures (RO)								
	Indices Futures (RO)								
	Exchange Rates Futures (RO)								
	Interest Rate Futures (RO)								
	Other types of Futures (RO)								
	Exchange Rate Options (RO)								
	Interest Rate Options (RO)								
	Other types of options (EN)								
5.2	Derivatives traded on a regulated market in a Member State (MS), out of which:								
	Share Futures (MS)								
	Indices Futures (MS)								
	Exchange Rates Futures (MS)								
	Interest Rate Futures (MS)								
	Other types of Futures (MS)								
	Exchange Rate Options (MS)								
	Interest Rate Options (MS)								
	Other types of options (MS)								

5.3	Derivatives traded on a regulated market in a third State (third State), of which:								
	Share Futures (third State)								
	Indices Futures (third State)								
	Exchange Rates Futures (third State)								
	Interest Rate Futures (third State)								
	Other types of Futures (third State)								
	Exchange Rate Options (third State)								
	Interest Rate Options (third State)								
	Other types of options (third State)								
6	Derivative financial instruments negotiated outside regulated markets, out of which:								
	Exchange rate forward contracts								
	Interest rate forward contracts								
	Other types of forward contracts								
	Exchange rate swap contracts								
	Interest rate swap contracts								
	Other types of swap contracts								
	Exchange rate Contracts for Difference (CFD)								
	Interest rates Contracts for Difference (CFD)								
	Other Contracts for Difference (CFDs)								
7	Money market instruments other than those traded on a regulated market, art. 82 letter g) of GEO no. 32/2012, of which:								
	securities issued by central government								

	certificates of deposit								
	Repurchase contracts on securities issued by central government								
	Other types of money market instruments								
8	Units in UCITS / NON-UCITS ./ AIF, of which:								
	Units in UCITS / NON-UCITS ./ AIF admitted to trading								
	Units in UCITS ./ NON-UCITS ./ AIF not admitted to trading								
9	Dividends or other receivables								
	Dividends receivable								
	Shares distributed without cash consideration								
	Shares distributed with cash consideration								
	Payment amount for shares distributed with cash consideration								
	Amount to be paid for shares of companies that have reduced their registered capital by diminishing the nominal value								
	Pre-emptive rights (prior to admission to trading and after the trading period)								
	Principal and coupons receivable								
	Other rights to collect								
10	Other assets (not limited to)								
	- Amounts in transit								
	- Amounts transferred to SSIF (Financial investment services company)								
	- Amounts available to distributors								
	- Amounts paid in advance								



	- Amounts related to unalotted units								
	-Transactions / amounts under settlement, out of which:								
	Amounts relating to the settlement of purchase transactions								
	Amounts related to the settlement of sales transactions								
	-Amounts related to sub-unit holdings of units								
11	TOTAL ASSETS								
12	Fund's expenses:								
	- expenses with the payment of commissions due to the investment management company								
	- expenses with the payment of commissions due to the depositary								
	- expenses with the payment of commissions due to intermediaries								
	-current fees and charges due to ASF .								
	- Repurchase to pay								
	- Distribution costs								
	-banking charges								
	-other approved expenditure (income tax deducted at source)								
	other expenses								
13	NET ASSETS (of which broken down by fund units)								
14	Number of units / current shares, of which held by: (broken down by fund units)								
	- individuals								
	- legal persons								
15	Net Asset Value ( NAVPS ) (of which broken down by fund unit classes)								
16	Number of investors, out of which:								
	- individuals								
	- legal persons								
17	Currency Code (ISO 4217)								
18	NBR exchange rate valid for the calculation day								

	(reported)								
19	Distribution coefficient for the fund unit class (if applicable)								

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Specific information regarding the distribution on the territory of Romania of the units issued by the UCITS from other Member States

I. Member State : Romania

II. Date of issue / latest update: 04.04.2018

III. Documents / information attached to the notification letter, which are not required by the Directive but by the national law:

a) Definition of the phrase "distribution of UCITS units" or the equivalent legal term provided for in national law or used in practice

The distribution of units means the offering for sale of units issued by a UCITS .

b) Requirements on the content, format and manner of presentation of the advertising information, including all mandatory warnings and restrictions on the use of words or phrases

Advertising information to potential or existing investors in Romania of UCITS from other Member States is carried out in compliance with the provisions of Chapter XI - Transparency and Publicity Rules of a UCITS . Section 1 -UCITS Advertising of the ASF Regulation no. 9/2014, art. 132 of the ASF Regulation. no. 9/2014 and Law no. 158/2008 on misleading advertising and comparative advertising published in the Official Gazette no. 559/July 24, 2008.

c) Details on all additional information to be provided to investors

The provision by UCITS from other Member States of information to investors in Romania will be carried out in compliance with the capital market laws as well as of Consumer Ordinance no.21 / 1992, republished, as subsequently amended and supplemented

d) Details on the exemption of certain UCITS, certain shares / units categories of UCITS or certain categories of investors from the application of the rules or requirements governing the distribution arrangements applicable in Romania

Not applicable

e) Requirements for the reporting or transmission of information to ASF, respectively the procedure for submission of up-to-date versions of the necessary documents

In addition to key investor information that must be translated in Romanian, the rest of the documents may be submitted to ASF and investors in Romanian or English.

The translation of the information and / or documents referred to above shall be done under the responsibility of the UCITS and shall faithfully reflect the content of the original information.

f) Quota / rates requirements or other amounts payable periodically to ASF or any other statutory body in Romania at the time when the UCITS from other Member States shares their units in Romania shall be subject to ASF's Regulation no. 16/2014, as amended and supplemented.

g) Requirements for the measures to be taken by the UCITS in order for the payments to the unit-holders, the redemption of units and the transmission of the information to be provided to the holders of securities in Romania.

The UCITS distributing units in Romania are required to take all necessary measures to ensure that payments to the unit-holders, redemption of units and the transmission of information are provided to holders of units in Romania. To this end, the UCITS shall display on its own website or the management company's website the details / specific procedure on how to ensure that these obligations are met.

h) requirements for the cessation of distribution of UCITS units in Romania by a UCITS situated in another Member State

The intention of UCITS in other Member States to cease distributing units in Romania must be communicated to the CNVM (National Securities Commission) and investors at least 30 days prior to the date of cessation, in order to ensure the rights of the holders of the units that they acquired on the territory of Romania, including those regarding the redemption of the units.

i) The detailed content of the information that ASF decides to include in Part B of the notification letter regulated by Art. 1 of the EU Regulation no. 584/2010

1. The distribution of units in the Romanian territory is made through:

a) financial investment services companies and investment management companies in Romania, authorized by ASF .

(b) investment firms and investment management companies authorized by the competent authorities of the

Member States following the closure of the notification procedure under the capital market laws in force,

- c) Romanian credit institutions authorized by the National Bank of Romania or credit institutions authorized by the competent authorities of the Member States, following the notification procedure according to the banking laws in force;
- d) branches of investment firms / investment management companies / credit institutions in non-member countries, following the authorization procedure according to the capital market laws and bank laws in force;
- e) other entities that may be authorised for this purpose by the ASF .

2. Payments to the unit-holders, the redemption of units and the transmission of the information to the UCITS shall be provided by the entity (s) making the distribution of the units in Romania.

3. The issue or redemption price of the units of a UCITS from another Member State will be available on the UCITS website and the distributors's website in Romania.

j) E-mail address set up to receive notifications of updates or changes to UCITS documents.: notificationUCITS@asfromania.ro.