

**REGULATION No. 13/2017**

**amending and supplementing the Regulation of the Financial Supervisory Authority no. 10/2015 on Alternative Investment Fund Management**

In accordance with the provisions of Art. 1 par. (2), Art. 2 (1) a) and d), Art. 6 par. (3) and Art. 7 par. (2) and Art. 28 of the Government Emergency Ordinance no. 93/2012 on the establishment, organization and operation of the Financial Supervisory Authority, approved with amendments and completions by Law no. 113/2013, as subsequently amended and supplemented,

given the provisions of the Regulation of the Financial Supervisory Authority no. 10/2015 on Alternative Investment Fund Management, as subsequently amended and supplemented,

given the provisions of Law no. 74/2015 on Alternative Investment Fund Managers, as subsequently amended and supplemented,

according to deliberations of the Financial Supervisory Authority's Board in the meeting of November 28, 2017,

The Financial Supervisory Authority issues this regulation.:

**Art. I.** –The Regulation of the Financial Supervisory Authority no. 10/2015 on Alternative Investment Fund Management, published in the Official Gazette of Romania, Part I, no. 562 of July 28, 2015, as amended and supplemented, shall be amended and supplemented as follows:

**1. In Article 8 par. (5), letter (a) shall be amended to read as follows:**

„a) have completed a specialization course organized by specialized institutions of the nature of professional or national training organizations, attesting to the acquisition of knowledge in the field of investment management or risk management and enabling them to fulfill the responsibilities related to the position held;”

**2. In Article 13 par. (10), letter (f) shall be amended to read as follows:**

„f) proof of obtaining the certification provided for in art. 8 par. (5) letter a);”

**3. In Article 13, after par. (12), eight new paragraphs shall be inserted, paragraphs (13) - (20) with the following content:**

„(13) In the event that the AIFM is also authorized as a IMC and the risk management department consists of several persons, the eligibility and registration requirements in the ASF Register provided for in this Regulation for the person in charge of risk management shall only be applicable to the persons who will exclusively hold that quality in the AIFM.

(14) Withdrawal of the authorization of the Compliance Officer of the AIFM shall be carried out in accordance with the withdrawal of the authorization of the representative of the internal control department of the IMC provided by the Regulation of the Financial Supervisory Authority no. 14/2015 on the assessment and approval of the members of the management structure and of persons holding key functions in the entities regulated by the Financial Supervisory Authority and art. 39 of the Regulation of the Financial Supervisory Authority 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, as subsequently amended.

(15) The withdrawal of the authorization of the person in charge of the risk management is carried out in accordance with the provisions of the Regulation of the Financial Supervisory Authority no. 14/2015.

(16) The AIFM has the obligation to request ASF to withdraw the authorization of the person in charge of the risk management at the latest on the cessation or change of employment relationship.

(17) In the event that the AIFM does not fulfill its obligation under par. (16), the person in charge of the risk management is entitled to request the withdrawal of his authorization, and all the related fees and commissions shall be borne by the AIFM.

(18) The withdrawal upon request of the authorization of the person in charge of the risk management is decided by ASF within 30 days from the filing date of the application, accompanied by an explanation of the reasons which led to this request, the supporting documents regarding the date of cessation or change of the employment relationship and the proof of payment in the account of ASF of the fees established according to the regulations in force.

(19) In the event that the AIFM no longer has a person authorized as compliance officer or, in the case of his temporary unavailability in accordance with the provisions of this Regulation, one of the members of the compliance department of the AIFM will temporarily take over the duties of the authorized person. If the department is made up of one member, one of the managers/members of the AIFM will provisionally serve as compliance officer for a maximum of 3 months in a calendar year. The person who provisionally serves as compliance officer shall be notified to ASF.

(20) In the event that the AIFM no longer has a person authorized as a risk manager or, in the case of his temporary unavailability in accordance with the provisions of this regulation, one of the managers/members of the AIFM will provisionally serve as risk manager for a maximum of 3 months in a calendar year. The manager of the AIFM who is responsible for the coordination and supervision of the portfolio management position within the AIFM cannot temporarily assume the functions of the risk management position. The person who provisionally serves this position shall be notified to A.S.F.”

**4. In Article 17, par. 8 shall be amended and shall have the following content:**

„(8) In applying the provisions of art. 18 par. (1) and (8) and in compliance with the provisions of art. 7 par. (2) letter e) and art. 19 para. (1) of Law no. 74/2015, the AIFM authorized / registered by / with ASF shall notify ASF on the moment of filing the application for authorization and subsequently whenever changes occur, on the way in which the valuation position is assured. The notification shall also contain information and data attesting to the fulfillment by the internal valuator or, as the case may be, by the external valuator of the conditions provided in art. 18 par. (8) letter a) and those stipulated in art. 18 par. (9) of the Law no. 74/2015, in the case of the external valutors, respectively those stipulated in art. 18 par. (8) letter b) of the same law, in the case of the internal valutors, as well as the provisions of art. 67-74 of Regulation (EU) No. 231/2013. The position valuating the AIF’s assets is the one that calculates the net asset value per share according to the valuation methods established by the national law.”

**5. In Article 19, paragraph 1 shall be repealed.**

**6. In Article 44, paragraph (1<sup>1</sup>) shall be repealed.**

**Art. II.** - (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 the website of the Financial Supervisory Authority and shall enter into force on the date of its publication in the Official Gazette of Romania, Part I.

(2) The document provided for in art. 1 point 2 shall be submitted by the persons who have requested authorization as a risk manager within an AIFM until the entry into force of this Regulation, not later than June 1<sup>st</sup>, 2018.

**Chairman of the Financial Supervisory Authority,  
Leonardo BADEA**