

The Parliament of Romania - Law no. 243/2019 of December 20th, 2019

Law no. 243/2019

on the regulation of alternative investment funds and
for the amendment and completion of certain legislative acts

In force since January 24th, 2020

Published in the Official Gazette, Part I no. 1035 of December 24th, 2019.

Applicable at August 03rd, 2020.

The Parliament of Romania adopts the present law.

TITLE I

Organisation and operation of Alternative Investment Funds

CHAPTER I

General Provisions

Art. 1. - (1) This Law regulates the establishment and operation in Romania of alternative investment funds, collective investment undertakings, other than collective investment undertakings in transferable securities, hereinafter referred to as UCITS (Ro. O.P.C.V.M.), governed by the Emergency Government Ordinance no. 32/2012 on collective investment undertakings in securities and investment management companies, as well as for the amendment and completion of Law no. 297/2004 on the capital market, approved with amendments and additions by Law no. 10/2015, with subsequent amendments and additions, hereinafter referred to as the Emergency Government Ordinance no. 32/2012.

(2) The Alternative Investment Funds referred to in Paragraph (1), hereinafter referred to as AIF (Ro. F.I.A.), are those entities established in Romania either on a contractual basis in accordance with the provisions of Law no. 287/2009 on the Civil Code, republished, as amended, hereinafter referred to as the Civil Code, applicable to simple companies without legal personality, either by Articles of Incorporation in accordance with the provisions of the Companies Act no. 31/1990, republished, with subsequent amendments and additions, hereinafter referred to as Law no. 31/1990, as defined in Article 3 Item 20 of Law no. 74/2015 on alternative investment fund managers, with subsequent amendments and additions, hereinafter referred to as Law no. 74/2015.

(3) The alternative investment funds shall attract funds from investors with a view to investing them in accordance with the incorporation documents and the applicable legal framework, in their sole interest.

Art. 2. - For the purposes of this Law, the following terms and phrases have the following meanings:

a) Articles of Incorporation - single entry as defined in Article 5 Para. (3) of Law no. 31/1990, republished, subsequent amendments and additions;

b) real estate asset - an existing construction, the completion of which is certified on the basis of a receipt record of the works or a land;

c) A.I.F.M. (Ro. A.F.I.A.) - alternative investment fund manager as defined in Article 3 Item 2 of Law no. 74/2015, subsequent amendments and additions;

d) external A.I.F.M. - alternative investment fund manager as defined in Art. 3 Item 3 of Law no. 74/2015, with subsequent amendments and additions;

e) RNB (Ro. B.N.R.) – The Romanian National Bank;

f) Open –ended A.I.F. - F.I.A. as defined in Art. 1 Para. (2) of the Delegated Regulation (EU) no. 694/2014 of the Comission dated 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining the types of alternative investment fund managers, hereinafter referred to as Regulation (EU) No 694/2014;

g) Closed- ended A.I.F. - F.I.A. as defined in Art. 1 Para. (3) of Regulation (EU) no. 694/2014;

h) A.I.F. for professional investors – A.I.F. which may raise financial resources exclusively from professional investors or retail investors which request to be treated as professional investors;

i) A.I.F. for retail investors – A.I.F. which may raise resources from retail and/or professional investors;

j) group - the group defined in Article 2 Para. (1) Item (12) of Law no. 24/2017 on issuers of financial instruments and market operations, hereinafter referred to as Law no. 24/2017;

k) credit institution – credit institution as defined in Art. 4 Para. (1) Item 1 of Regulation 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;

l) financial instruments – financial instruments as defined in Art. 2 Para. (1) Item 17 of law no. 24/2017;

m) professional investor - an investor considered to be a professional client or may, on request, be considered to be a professional client within the meaning of the definitions set out in Annex no. 2 of Law no. 126/2018 on markets of financial instruments;

n) retail investor – a non-professional investor;

o) real estate investment - investment in real estate assets, in shares of real estate profile companies not admitted to trading on a trading venue, respectively, equity interest of real estate profile companies whose financial statements are audited at least on an annual basis and which evaluate their assets at least annually, as well as loans granted to a S.A./S.R.L. with a real estate profile, under the conditions provided in Article 40 Para. (9);

p) trading venue - a trading venue defined in accordance with Article 2 Para. (1) Item 22 of Law no. 24/2017;

q) Management Company (Ro. S.A.I.) - UCITS Management Company as defined in Article 4 Para. (1) of EGO no. 32/2012;

r) Member State – a state as defined according to Art. 3 Item 38 of Law no. 74/2015, with subsequent amendments and completions;

s) public subscription - public subscription as provided for in Chapter II of Title II of Law no. 31/1990, republished, as amended and supplemented;

t) participation titles – participation titles as defined in Article 3 Item 45 of Law no. 74/2015, with subsequent amendments and completions;

u) N.A.V (Ro. V.A.N.) – Net Asset Value;

v) U.N.A.V. (Ro. V.U.A.N.) – Unitary Net Asset Value.

Art. 3. - The Financial Supervisory Authority, hereinafter referred to as A.S.F., shall be the competent authority to apply the provisions of this Law by exercising the powers laid down in EGO no. 93/2012 on the establishment, organization and operation of the Financial Supervisory Authority, approved with amendments and additions by Law no. 113/2013, as amended and supplemented, hereinafter referred to as EGO no. 93/2012.

CHAPTER II

Authorization and operation of Alternative Investment Funds

SECTION 1

General Conditions

Art. 4. - (1) A.I.F. is authorized after A.S.F. has previously authorised/registered the A.I.F.M. or has agreed to the request of an A.I.F.M. from a Member State to manage the assets of that A.I.F., has authorised the rules of the fund or, where appropriate, the Articles of Incorporation of the investment firm and the choice of depositary.

(2) The management of the assets of a A.I.F. by an external A.I.F.M. is carried out on the basis of a written contract.

(3) The safe-keeping of an A.I.F. assets is carried out by a depositary registered in A.S.F.Public Register which complies with the provisions of Law no. 74/2015, with subsequent amendments and additions, of the Delegated Regulation (EU) no. 231/2013 of the Commission of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision, hereinafter referred to as Regulation (EU) no. 231/2013, as well as the requirements for safe keeping the assets of the A.I.F. established by Law no. 74/2015, with subsequent amendments and additions, and the aforementioned European Regulation.

(4) A.S.F. decides to issue or withdraw an authorization for a A.I.F.. within 60 days from the registration of the application and the complete documents required by the A.S.F. regulations submitted by the A.I.F.M..

24/01/2020 – Exemption by Law 243/2019.

(5) Any request from A.S.F. for additional information or for modification of the originally submitted documents interrupts the term provided in Paragraph (4), which shall resume from the date of submission of the respective additional information or of the amendment made at the request of A.S.F., submission which may not be made later than 60 days from the date of A.S.F. request, under the sanction of the rejection of the original application.

(6) Where an application is rejected, A.S.F. shall give a reasoned decision, against which a complaint may be lodged within a maximum of 30 days from the date of its communication to the applicant.

(7) In the event that it finds that the A.I.F. no longer meets the legal conditions of operation, A.S.F. will impose A.I.F.M., depending on the gravity of the act, the sanctions and/or administrative measures provided for in Article 74.

(8) A.S.F. may withdraw the operation authorization for an A.I.F.. at the request of the self-managed A.I.F.. or of the external A.I.F.M. that manages the assets of the respective A.I.F., in accordance with the provisions set out in Paragraph (4).

(9) The authorization, conversion of participation titles, transformation of an A.I.F.. into UCITS merger, division and withdrawal of the operating authorization of an A.I.F. are subject to the approval of A.S.F.

(10) Signing the adhesion regarding the subscription of A.I.F.. participation titles by an investor automatically draws his consent to the content. of the rules or Articles of Incorporation of the A.I.F., as the case may be. All A.I.F. investors receive equal treatment in relation to the A.I.F., unless the. Rules or Articles of Incorporation of the A.I.F. provides otherwise, by creating different classes of participation titles.A.I.F.M. and the A.I.F.depositary, as well as third partyi entities to which activities are delegated by the A.I.F.M.or A.I.F. depositary, act exclusively in the interests and benefit of A.I.F. investors.

(11) A.I.F.M. establishes the subscription and the redemption policy of the A.I.F. participation titles and, depending on the liquidity profile, the eligible assets for the investment, the necessary period for the voluntary liquidation of the assets and the investment portfolio of the A.I.F., in accordance with the provisions of the Rules or the Articles of Incorporation of the A.I.F., taking into account the provisions of Article 47 Para. (1) Letter (a) of Regulation (EU) no. 231/2013;

(12) By derogation from the provisions of Article 2 Para. (2) of Law no. 74/2015,with subsequent amendments and additions, the assets of a A.I.F. for retail investors shall be managed by an A.I.F.M. authorised by the A.S.F. or another competent authority of a Member State or of a Third State or by an A. I.F.M. which also holds a UCITS authorization.

Art. 5. - (1) In exceptional circumstances and only to protect the interest of the holders of the participation titles , the self-managed A.I.F. or the A.I.F.M. acting on behalf of a A.I.F. may temporarily limit or suspend the issuance and/or redemption of participation titles , in compliance with the provisions of the F.I.A.C. Rules or the Articles of Incorporation of F.I.A. S. The Rules of the Fund or the Articles of

Incorporation provide for a presentation of exceptional circumstances which may lead to the temporary suspension of the issuance and/or redemption of participation titles, as well as a mention that the temporary suspension of the issuance and/or redemption of participation titles may also occur in other exceptional circumstances that may arise during the period of operation of the A.I.F. and which could not have been reasonably anticipated at the time of the formation of the F.I.A., to which is added a list of the valuation rules and investment policies used in the management of the F.I.A.

(2) The A.I.F.M. or A.I.F. self-managed suspension decision will specify the period, conditions and reason/s for the suspension. The Rules of the fund or the Articles of Incorporation explicitly provide for the possibility of extending the initial period of suspension. The suspension may be extended if the conditions and reasons for the suspension are maintained.

(3) In the cases referred to in Paragraph (1), the self-administered A.F.I.A. or F.I.A. shall communicate its decision to the investors, the A.S.F. and the competent authorities of the Member States in which they distribute their participation titles, within one working day at the latest,

(4) For the protection of the public interest and investors, A.S.F. may temporarily decide to suspend or limit the issuance and/or redemption of the participation titles of an A.I.F., authorized by it. A.S.F. may issue regulations on the circumstances and conditions under which it decides to temporarily suspend or limit the issuance and/or redemption of the participation titles of an A.I.F. authorized by it.

(5) The act of suspension issued by A.S.F. specifies the period, conditions and the reason/reasons for the suspension. A.S.F. may decide to extend the suspension if the conditions and reasons for the suspension are maintained.

SECTION 2

Authorization and operation of Contractual F.I.A

SUBSECTION 2.1

General Provisions

Art. 6. - (1) Contractual A.I.F., hereinafter referred to as F.I.A.C., are the entities without legal personality, established on a contractual basis in the form of simple companies without legal personality, in accordance with the provisions of art. 1.888 Letter a) and of art. 1.892 Para. (1) of the Civil Code.

(2) The fund units highlight the capital holding of the investor in the F.I.A.C. assets, their acquisition representing the way of investing in the respective fund. Holders of fund units benefit from rights and obligations only within the value limits and the proportion of F.I.A.C. assets held.

(3) The initiative to set up a F.I.A.C. belongs to:

a) A.I.F.M. authorized by/registered to A.S.F., as appropriate;

b) A.I.F.M. established in other Member States authorized under legislation issued pursuant to Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on alternative investment fund managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) no. 1.060/2009 and (EU) no. 1.095/2010, hereinafter referred to as Directive no. 61/2011/EU, and which complies with the notification procedure provided in art. 34 of Law no. 74/2015, with subsequent amendments and completions;

c) A.I.F.M. . from third countries for which Romania is designated reference Member State according to the provisions of Law no. 74/2015, with subsequent amendments and completions, and of the Commission Implementing Regulation (EU) no. 448/2013 of 15 May 2013 establishing a procedure for determining the Member State of reference of a non-EU AIFM pursuant to Directive 2011/61/EU of the European Parliament and of the Council (4) Offering fund units of an F.I.A.C. can be made only after its authorization by A.S.F and registration in the Public Register of A.S.F, in compliance with the provisions of this law, of A.S.F. regulations issued in its application and under the conditions mentioned in the offer document and fund rules.

(5) An F.I.A.C. may issue several classes of fund units in compliance with the regulations issued by A.S.F. and the provisions set out in the fund rules and the F.I.A.C offering document.

(6) A.I.F.M. legally represents F.I.A.C., whose assets it manages, in relation to third parties and may take legal action or enter into legal relationships in order to protect the interests of the holders of F.I.A.C. fund units.

(7) A.I.F.M.managing F.I.A.C. assets shall be liable separately or jointly with the F.I.A.C. depositary, as the case may be, to F.I.A.C. investors or other third parties for any infringement of this law, of A.S.F. regulations or for any attributable misconduct regarding the management of F.I.A.C. assets.

(8) An A.I.F.M., on behalf of a F.I.A.C., may hold the status of associate in a limited liability company or shareholder in a joint stock company, in compliance with the provisions of this law, without being considered as belonging to the patrimony of A.I.F.M. and may not be subject to any claim either from the creditors of A.I.F.M. or, in the event of the bankruptcy or administrative liquidation, of the respective A.F.I.A.

Art. 7. - (1) In order to authorize an F.I.A.C., A.I.F.M.submits to A.S.F. an application, accompanied by the documents provided in the regulations issued by A.S.F..

(2) The F.I.A.C. offering document, as well as any subsequent amendments thereto, shall be notified to A.S.F., in accordance with the provisions of this law and the A.S.F. regulations. The offer document shall have the presentation format and the minimum content established by the regulations issued by A.S.F. or by the Commission Delegated Regulation (EU) 2019/980 of 14 March 2019 supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and

approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004 hereinafter referred to as Regulation no. 2019/980, as the case may be.

(3) The fund's rules, as well as any subsequent amendments thereto, shall be approved by A.S.F., in accordance with the provisions of this law and the A.S.F. regulations.

Art. 8. - (1) The F.I.A.C.offering document and the fund rules set out at least the following:

- a) the entities responsible for the management and safe-keeping of F.I.A.C. assets;
- b) in the case of an open-ended F.I.A.C., the exact dates or time periods at which the fund units may be redeemed from the asset at the initiative of any investor prior to the liquidation phase of the F.I.A.C., directly or indirectly, in accordance with the procedures and redemption frequency established in the F.I.A.C. rules. An open-type F.I.A.C. redeems its fund units at least annually;
- c) in the case of a closed-ended F.I.A.C., the duration of the fund, the date of liquidation of the fund, the fact that the fund units cannot be redeemed by investors before the start of the liquidation phase of the fund, directly or indirectly, from F.I.A.C. assets;
- d) the list of the fees paid from the F.I.A.C. assets, the calculation method, as well as their maximum level; are considered fees that can be paid from the F.I.A.C. assets, without being limited to them, the administration, performance, storage, redemption fees, if applicable, for the conversion of fund units or fund unit classes;
- e) list of expenses paid from F.I.A.C. assets;
- f) the rights and obligations of the investors;
- g) the investment limits;
- h) the method of calculating the net asset, the unit value of the net asset, as well as the subscription price and the redemption price of the F.I.A.C. fund units;
- i) the evaluation methods used, according to A.S.F. regulations;
- j) the investment strategy/policy applied in the management of F.I.A.C., the investment objective, the risks associated thereof, the recommended investment horizon, the categories of eligible assets, the techniques/tools used in portfolio management, the risk management mechanisms.

(2) The fund rules and the offering document of the closed-ended (ca sa fie conform definitiei) F.I.A.C. may also provide for the conduct of subsequent offers of fund units. Subsequent periods of the offer may not coincide with the periods during which F.I.A.C. investors may submit redemption requests.

(3) The fund rules and the offering document of the F.I.A.C. may provide for the possibility of distributing to investors, on certain dates or during a calendar period, the gain accumulated in a certain period established in the F.I.A.C. documents.

(4) The offering document warns potential investors, through a standard formula, printed on its cover, that:

- a) investments in F.I.A.C. are not bank deposits, and banks, if they hold the status of shareholder of an A.I.F.M., do not offer any guarantee to the investor regarding the recovery of the invested amounts;
- b) F.I.A.C. authorization does not imply in any way the approval or evaluation by A.S.F. of the quality of the investment in the respective fund units;
- c) investments in F.I.A.C. involve not only specific advantages/benefits, but also risks associated with the accomplishment/non-accomplishment of the investment strategy/policy and investment objective of F.I.A.C., including the risk of losses for investors, the value of the investment usually being proportional to the risk assumed.

(5) Each investor in fund units must sign a statement that he has received, read and understood the provisions of the offering document.

(6) The offering document of the F.I.A.C. contains a list of fees charged directly to investors or paid from the fund's assets. In determining the type and value of the fees the A.I.F.M. managing the F.I.A.C. shall take into account the characteristics of the F.I.A.C., the investment strategy and the active or passive investment portfolio management policy, so as not to prejudice in any way the interests of the holders of participation titles by the calculation method or application period of the fees imposed on them.

(7) In applying the provisions of Para. (6), A.S.F. may request to A.I.F.M. managing the F.I.A.C. to review its fees policy in the event it finds that the interests of the holders of participation titles are prejudiced.

(8) The F.I.A.C. Rules also include the conditions under which A.I.F.M. may temporarily limit or suspend the issuance and redemption of fund units, the conditions for the voluntary liquidation and orderly sale of F.I.A.C. assets at the end of its duration, if any, as well as any other mechanism for managing the fund's liquidity in extreme market situations, with increased volatility of financial markets, difficulties in valuing and fair capitalization of assets and/or a systemic imbalance between the demand and supply of financial instruments and other assets in the F.I.A.C. portfolio.

Art. 9. - (1) The issuance and redemption of fund units are made in accordance with the offering document notified to A.S.F. and with the F.I.A.C. rules authorized by A.S.F..

(2) Subsequent amendments to the F.I.A.C. offering document are made on the basis of an Addendum to the offering document, are communicated to investors after their notification to A.S.F. within a maximum of 10 working days from their execution and enter into force on the date of their communication to the investors.

(3) In the case of F.I.A.C. for retail investors, the offering document shall be published on the A.I.F.M. website. Any change in the offering document of a F.I.A.C. for retail investors shall be published on the website of the A.I.F.M. managing the respective F.I.A.C. together with a note informing investors of the base and details of the changes to the offering document, once it is notified to A.S.F..

(4) In the case of F.I.A.C. for professional investors, subsequent amendments to the offering document shall be made available to investors through the communication channels established by the company contract and are also notified to A.S.F..

(5) Within a maximum of 30 days from the date of receipt of the updated offering document mentioned in Para. (2), (3) or (4), A.S.F. will be able to communicate to A.I.F.M. any observations on the form and

content of the respective document. In exceptional cases, A.S.F. may extend the period from 30 to a maximum of 45 days, if its comments on the offering document are significant.

Art. 10. - The value of the total assets and the net assets, the issuance price and the redemption price can be expressed in RON or in freely convertible currencies, in compliance with Regulation (EU) no. 231/2013 and the regulations issued by A.S.F.. The currency used for the denomination is specified in the fund rules.

Art. 11. - (1) A.I.F.M. submits to the A.S.F. authorization the amendments made to the F.I.A.C. Rules, in accordance with the A.S.F. regulations, before the entry into force of these amendments, with a presentation of a substantiation thereof.

(2) In order to inform the investors about the significant changes in the F.I.A.C. rules mentioned in Para. (1), A.I.F.M. publishes on its website or through the communication channels established by the company contract an information note related thereto, within a maximum of two working days from the date of their authorization or notification to the A.S.F., as the case may be.

(3) The provisions of Para. (2) shall also apply in the case of changes to the offering document of the F.I.A.C notified to the A.S.F....

(4) If the investors do not agree with the changes mentioned in Para. (2) that have occurred in the F.I.A.C. rules and/or in the F.I.A.C. offering document made at the initiative of A.I.F.M., A.I.F.M. has the obligation to honor the full redemption requests of the investors submitted within a maximum of 15 days from the date of information provided in Para. (2), without charging fees to investors who choose to withdraw from F.I.A.C..

(5) A.I.F.M. has the obligation to send to A.S.F., within two working days from publication, the proof of publication of the information note.

(6) The amendments provided in Para. (3) made in the documents considered at the time of F.I.A.C. authorization shall be notified to A.S.F. within two working days from the date of their application.

(7) Withdrawal of the operating license of a F.I.A.C. at the express request of A.I.F.M. that manages the assets of the F.I.A.C. is made in accordance with the regulations issued by A.S.F..

(8) Withdrawal of the operating permit of a F.I.A.C. depository at its express request is made in accordance with the regulations issued by A.S.F.

SUBSECTION 2.2

F.I.A.C. with investment compartments

Art. 12. - (1) An F.I.A.C. may consist of several investment compartments, hereinafter referred to as sub-funds, having the characteristics provided by the A.S.F. regulations and which, in turn, may issue several classes of fund units.

(2) In the case of F.I.A.C. for retail investors, in order to comply with the investment limits provided in Art. 35, each sub-fund will be considered a separate F.I.A.C..

(3) In order to grant, by A.S.F., the authorization of an F.I.A.C. consisting of several investment compartments, A.I.F.M. submits to A.S.F. an application, accompanied by the documents mentioned in Art. 7, as well as the model of the conversion forms of the fund units related to the F.I.A.C. compartments.

(4) In addition to the information provided in Art. 8 Para. (1), the F.I.A.C. rules shall also include the conditions under which A.I.F.M. may temporarily suspend the conversion of fund units.

(5) A newly established sub-fund is subject to A.S.F. authorization. The application for authorization of the rules applies to each new sub-fund or class of newly established fund units and is accompanied by the documents provided in the regulations issued by A.S.F. Assets representing investments of a sub-fund will not be considered investments of any other sub-fund and may not be the subject of any claim by creditors of any other sub-fund.

SUBSECTION 2.3

Master- or Feeder- F.I.A.C.

Art. 13. - Feeder-F.I.A.C., respectively master F.I.A.C. provided in Art. 3 Items 23 and 24 of Law no. 74/2015, with subsequent amendments and completions, are organized and operate according to the conditions applicable to master feeder-type O.P.C.V.M provided in Art. 125-147 of the Emergency Government Ordinance no. 32/2012, as well as in accordance with A.S.F. Regulations.

SUBSECTION 2.4

F.I.A.C. admitted to trading

Art. 14. - (1) In the case of F.I.A.C. whose fund units are intended to be admitted to trading within a trading venue in Romania, the steps for admission to trading are made by the A.I.F.M. which has the initiative to establish the respective F.I.A.C..

(2) In the case of F.I.A.C. mentioned in Para. (1), the admission and withdrawal from trading is carried out in compliance with the legal provisions in force and the own regulations of the market operators who manage the respective trading venue.

Art. 15. - Following the admission to trading of a F.I.A.C., A.I.F.M. that manages it has, in addition to the obligation to comply with this law, the obligation to comply with the legal provisions in force applicable to issuers of financial instruments admitted to trading within a trading venue and its own regulations issued by market operators which manages the respective trading venue, regarding the information, transparency and reporting obligations, applicable to securities issuers.

Art. 16. - The issuance price of the fund unit issued by F.I.A.C. admitted to trading will be established by the A.I.F.M. taking into account the minimum tick size, the size of trading blocks and liquidity bands established by the regulations of the trading venue market operator for the market/segment corresponding to the place of trading in which it is admitted to trading.

SECTION 3

Authorization and Operation of AIF set up as Investment Companies

Art. 17. - (1) The provisions of this section are applicable to the A.I.F., with legal personality, constituted by a constitutive act in the legal form of joint stock companies in accordance with the provisions of Law no. 31/1990, republished, with subsequent amendments and completions, hereinafter referred to as A.I.F. of the type of investment companies – F.I.A.S..

(2) F.I.A.S. issue registered shares and the subscribed share capital is paid in full on the date of incorporation.

24.01.2020 – Derogation by Law no. 243/2019.

Art. 18. - (1) An F.I.A.S. may be managed by an A.I.F.M. authorized or registered by A.S.F., by an A.I.F.M. notified to A.S.F. established in another Member State, by an A.I.F.M. established in a third country, in compliance with the provisions of Art. 39 and 45 of Law no. 74/2015, with subsequent amendments and completions, or by a Management Board and Directors/Supervisory Board and Directorship, in which case F.I.A.S. is internally managed or self-managed .

(2) Self-managed F.I.A.S. that raise capital, including from retail investors, are authorized in accordance with the provisions of Chapter II of Law no. 74/2015, with subsequent amendments and completions.

Art. 19. - An self managed F.I.A.S., Romanian legal entity, is authorized or registered by A.S.F. as an A.I.F.M., under the conditions established in Art. 2 Para. (3) or Art. 5, as the case may be, of Law no. 74/2015, with subsequent amendments and completions.

Art. 20. - (1) An F.I.A.S. managed externally by an A.I.F.M.. authorized or registered by A.S.F., by an A.I.F.M. established in another Member State or by an A.I.F.M. established in a third country, as the case may be, is authorized if it meets the conditions set out in this law, and those in the regulations issued by A.S.F..

(2) The prospectus or the offering document, as the case may be, and the Articles of Incorporation of F.I.A.S. include provisions regarding the classification of the F.I.A.S. as an open ended or closed-ended F.I.A., with the corresponding application of the provisions of Art. 8 Para. (1) Lett. b) or c).

Art. 21. - (1) The documents attached to the application for the F.I.A.S. authorization of an F.I.A.S. managed by an A.I.F.M. are established in the regulations issued by A.S.F..

(2) The financial auditors of F.I.A.S. are registered in the Public Register of A.S.F. after their approval by the authority, in accordance with the regulations of A.S.F..

(3) The financial auditors of F.I.A.S. shall immediately inform F.I.A.S. of any irregularities identified as a result of the fulfillment of the contractual obligations, in accordance with the regulations issued by A.S.F. regarding the financial audit activity.

(4) The financial auditors of F.I.A.S. report to A.S.F. in electronic format or on paper , within 10 days from the date of finding, in the course of the specific activity, information regarding any act, measure or decision of the members of the Management Board /Supervisory Board, Directors/ Members of the Directorship or to the employees of F.I.A.S. in connection with the management of F.I.A.S. assets liable to:

a) constitute a deviation from the present law, Law no. 31/1990, republished, with subsequent amendments and completions, A.S.F. regulations or Regulation (EU) no. 231/2013, which could negatively affect the financial situation, profit or assets of F.I.A.S.;

b) jeopardize the proper functioning of F.I.A.S. or the stability of financial markets;

b) determine the issuance of opinions with reservations or the refusal to certify/audit the financial statements of F.I.A.S..

(5) The provisions of Para.(2)- (4) shall apply accordingly to the financial auditors of F.I.A.C..

(6) The offering document of F.I.A.S. that raise capital exclusively from professional investors based on private placement is notified to A.S.F. at the time of submitting the application for authorization of the respective F.I.A.S..

(7) The F.I.A.S. prospectus that raises capital, including from retail investors, is approved by A.S.F. when submitting the application for the respective F.I.A.S. authorization, in compliance with the provisions of Regulation (EU) 2017/1.129 of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC /

Art. 22. - (1) The F.I.A.S. prospectus that raises capital, including from retail investors, is drawn up in accordance with the legal provisions applicable to issuers of securities and with A.S.F. regulations issued in their application and in compliance with the provisions of Regulation no. 2019/980.

(2) The offering document of F.I.A.S. that raises capital exclusively from professional investors based on private placement is drawn up in accordance with the regulations issued by A.S.F..

Art. 23. - (1) By exception from the provisions of Art. 4 Para. (4), A.S.F. grants the authorization of a F.I.A.S. managed by an A.F.I.A., within 3 months from the date of receipt of the complete documentation provided by the applicable regulations. In well-justified cases, this period may be extended by a maximum of 3 months, depending on the specific circumstances of the case and after A.S.F. has notified F.I.A.S. of this extension.

(2) Granting authorization to a F.I.A.S. may be refused in the situation where A.S.F. considers that prudential management cannot be ensured, although the conditions provided by this law and the A.S.F. regulations are met.

Art. 24. - The withdrawal of the authorization at the express request of the F.I.A.S. is carried out under the conditions provided in Art. 4 Para. (4) and in the regulations issued by the A.S.F..

Art. 25. - (1) The provisions of Chap. II and III of Law no. 74/2015, with subsequent amendments and completions, apply accordingly also to self-managed F.I.A.S, according to the provisions of this law and A.S.F. regulations.

(2) The provisions of Art. 8 Para. (6) and (7) and of Art. 12-16 apply accordingly also to F.I.A.S..

Art. 26. - (1) In the case of F.I.A.S. established by public subscription, the granting by A.S.F. of the authorization mentioned in Art. 23 is made after the completion of the public subscription of shares carried out on the basis of a e prospectus authorized by A.S.F. according to Art. 27.

(2) In addition to the documents provided in Art. 21 Para. (1), F.I.A.S. established by public subscription submits to A.S.F., attached to the application for authorization also the results of the public subscription, reason why, within maximum 15 days from the closing date of the public subscription, the founding members convene the constituent assembly in accordance with Law no. 31/1990, republished, with subsequent amendments and completions, and shall endeavour for the authorization by A.S.F. of the company.

Art. 27. - (1) The prospectus of F.I.A.S. established by public subscription subject to A.S.F. approval has the content provided in Regulation no. 2019/980 and also includes the Articles of Incorporation of F.I.A.S..

(2) The public subscription period is specified in the prospectus, but may not exceed 12 months.

(3) The updating of the prospectus in case of modification of the terms of the offer or occurrence of any new event or modification of the initial information presented in the prospectus, likely to affect the investment decision, during the public subscription process, is performed in accordance with applicable legal provisions of the regulations issued by A.S.F. and in compliance with the provisions of Regulation no. 2019/980.

(4) Subsequent to the authorization of the prospectus of F.I.A.S. established by public subscription, it is submitted to the trade register office in the county where the registered office is declared, in order to publish it in accordance with the provisions of Law no. 31/1990, republished, with subsequent amendments and completions.

Art. 28. - (1) F.I.A.S. established by public subscription are obliged to apply for admission to trading within a trading venue within 90 working days from the date of granting the authorization from A.S.F.

(2) Within the term provided by the regulations of the trading venue market operator for the approval of the application for admission to trading, but not later than 12 months from the date of granting the authorization from A.S.F. according to the term provided in Art. 27 Para. (2), A.I.F.M. . appointed as the manager of F.I.A.S. or self managed F.I.A.S., as the case may be, established by public subscription, may raise capital from investors on the basis of a firm commitment to be admitted to trading within a trading venue.

(3) If the request of A.I.F.M./F.I.A.S. self managed , established by public subscription is rejected by the market operator of the trading venue mentioned in Para. (2), the authorization granted by A.S.F. for F.I.A.S. is considered null and void, and A.I.F.M. /F.I.A.S. self managed has the obligation to return in full the amounts of money raised from investors within 30 days from the issuance of the decision of the trading venue market operator.

(4) In the case of a F.I.A.S. established by public subscription, after the admission of its shares within a trading venue, the shares may be redeemed in compliance with the legal provisions in force applicable to issuers of securities, as well as the own regulations of the market operator of that trading venue.

(5) The provisions of this article also apply to F.I.A.S. that raise capital from at least 150 retail investors.

Art. 29. - (1) The general meeting of shareholders, hereinafter referred to as the GMS, of F.I.A.S., is held according to the provisions of Law no. 31/1990, republished, with subsequent amendments and completions, and to its Articles of Incorporation.

(2) F.I.A.S. makes capital returns proportional to the shares of investors' contributions in order to reduce the share capital of F.I.A.S., only once during a financial year, with the approval of the Extraordinary General Meeting of Shareholders, hereinafter referred to as the EGMS, of F.I.A.S., in accordance with the provisions of Law no. 31/1990, republished, with subsequent amendments and completions.

24.01.2020 –Derogation by Law 243/2019.

(3) By derogation from the provisions of Para. (2), F.I.A.S. may make additional capital returns, proportional to the investors' contributions, in order to reduce the share capital of F.I.A.S., in compliance with the following cumulative requirements:

a) the capital return is approved by the EGMS of the F.I.A.S., carried out according to the provisions of Law no. 31/1990, republished, with subsequent amendments and completions;

b) the return of capital to shareholders is made exclusively from F.I.A.S.'s own sources;

c) F.I.A.S. has recorded profit in the last 3 previous financial years, in accordance with the annual financial statements of F.I.A.S., audited according to the law.

(4) F.I.A.S. performs redemption operations of its own shares, in order to reduce the share capital, in compliance with the conditions provided in Pars. (3) Lett. a) and b), the payment of the shares thus acquired will be made only from F.I.A.S.'s own sources.

Art. 30. - (1) In the case of F.I.A.S. whose shares are admitted to trading on a trading venue or are traded on a stock exchange in a third country, in addition to the provisions of Art. 29 Para. (1), the GMS takes place in compliance with the national legislation applicable to securities issuers.

(2) F.I.A.S. from Para. (1) may redeem their own shares by decision of A.I.F.M. that manages the assets of the F.I.A.S. or by the decision of the GMS of the self-managed F.I.A.S., with the approval of A.S.F. and in accordance with the applicable legal provisions.

(3) The acquired shares under the conditions of Para. (2) may be used, on the basis of the decision of A.I.F.M. or the GMS, as the case may be, for the purpose of reducing the share capital, stabilizing the share price on the capital market or remunerating identified personnel defined in A.S.F. Regulations implementing ESMA guidelines on the solid remuneration policy in accordance with Directive no. 61/2011/EU (A.I.F.M.D.)

CHAPTER III

F.I.A. for Retail Investors

SECTION 1

General Provisions

Art. 31. - A.I.F. for retail investors, hereinafter referred to as F.I.A.I.R., constituted either as contractual A.I.F. or investment company type A.I.F., qualify as:

a) Diversified F.I.A.;

b) F.I.A. specialized în:

(i) equity investment;

(ii) investments in bonds;

(iii) investments in UCITS participation titles and/or A.I.F. for retail investors;

(iv) real estate investments;

(v) government securities issued by the Ministry of Public Finance, established exclusively as a F.I.A.C.;

c) long-term A.I.F., governed by Regulation (EU) 2015/760 of the European Parliament and of the Council of 29 April 2015 on European long-term investment funds, hereinafter referred to as Regulation (EU) no. 760/2015;

d) monetary A.I.F..

Art. 32. - (1) The initial value of a fund unit for a contractual type F.I.A.I.R. is of minimum 5 RON or the equivalent of this amount in other currencies.

(2) F.I.A.I.R. cannot be transformed into a A.I.F. category for professional investors.

(3) F.I.A.I.R. included in a category provided in Art. 31 may request A.S.F. granting the authorization in order to be included in another category provided in the same article, with the corresponding modification of the incorporation documents as a result of the modification of the investment policy and in compliance with the legal regime related to the new category.

Art. 33. - (1) A F.I.A.I.R. cannot carry out short selling, defined according to the provisions 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, except for risk coverage purposes, respectively hedging.

(2) A F.I.A.I.R. cannot invest in financial instruments issued by A.I.F.M. managing it.

(3) In addition to the provisions of Art. 35 Para. (1) Lett. d) Item (ii), a F.I.A.I.R. invests exclusively in UCITS and A.I.F. which ensure through the incorporation documents or other relevant documents the individual segregation of the held assets or their segregation in omnibus accounts, which are reconciled by the UCITS /A.I.F. depository with at least one periodicity similar to the subscription or redemption frequency offered to the investors of the respective O.P.C.V.M /F.I.A.. An omnibus account, which may include assets of several clients of the UCITS /A.I.F. depositors, may not contain the own assets of the UCITS /A.I.F. depository or of the delegated third party entity.

Art. 34. - (1) A F.I.A.I.R. may exceed the limits on investments in financial instruments that are included in its assets in the event of exercising their related subscription rights provided that the overrun does not extend over a period of more than 90 days.

(2) In addition to the exception provided in Para. (1), F.I.A.I.R. may derogate/ may be exempted from the compliance with the investment limits applicable for a maximum period of 6 months from the date of the first issuance of participation titles of F.I.A.I.R., ensuring the supervision of compliance with the risk dispersion principle and only with inclusion within the prospectus or offering document, as the case may be, of the cases considered exceptional.

SECTION 2
Allowed Investments

Art. 35. - (1) Investments of a F.I.A.I.R. may be made exclusively in one or more of the following assets:

- a) securities and money market instruments registered or traded in a trading venue, in Romania or in a Member State;
- b) securities and money market instruments admitted to a third-country official stock exchange listing, which operates regularly and is recognized and open to the public, provided that the choice of stock exchange be approved by A.S.F., in accordance with the eligibility requirements of the regulations issued by A.S.F., and should be provided in the fund rules or in the Articles of Incorporation of the investment company, approved by A.S.F.;
- c) newly issued securities, which are the subject of a public offering for admission to trading, with cumulative compliance with the following conditions:
 - (i) the documents of issuance should include a firm commitment according to which admission to trading on a trading venue or trading on a third-country stock exchange will be required and that operates regularly and is recognized and open to the public, provided that the choice of trading venue or the stock exchange be approved by A.S.F. or should be provided in the fund Rules or in the Articles of Incorporation of the investment company, approved by A.S.F.;
 - (ii) this admission must be ensured within a maximum of one year from the issuance;
- d) participation titles of UCITS or A.I.F. established or not in Member States, with the cumulative fulfillment of the following conditions:
 - (i) A.I.F. are authorized or registered;
 - (ii) the activities of A.I.F. are subject to periodic reports, which allow a valuation of the asset and liability, income and operations during the reporting period, in accordance with the redemption rate offered to investors, as appropriate;
 - (iii) the A.I.F. profile is included in the liquidity profile of A.I.F. established by A.I.F.M. according to Art. 4 Para. (11);
- e) deposits with credit institutions, which are repayable on demand or have the right to be withdrawn, with a maturity not exceeding 12 months, provided that the credit institution has its registered office in Romania, in a Member State or in a third country, in the latter case provided that the credit institution is subject to prudential rules equivalent to those issued by the European Union;
- f) derivative financial instruments, with final settlement in cash or in the underlying share of the instrument, traded within a trading venue or on a stock exchange from a third country within the meaning of letter. a) and b), and/or over-the-counter derivatives instruments operations, with the cumulative fulfillment of the following conditions:
 - (i) the underlying asset consists in the instruments provided for in this Article, as well as financial indices, interest rates, precious metals, energy products and the exchange rate, in which A.I.F. may invest, in accordance with its investment objectives, as set out in the fund rules or the Articles of Incorporation of the investment company;
 - (ii) the counterparties, in the negotiation carried out outside the regulated markets, are entities, subject to prudential supervision, which belong to the categories approved by A.S.F.;

(iii) over-the-counter derivatives instruments operations are subject to daily and verifiable valuation and may, at the initiative of the external A.I.F.M. or the self-managed A.I.F., be sold, liquidated or closed by an offsetting daily, at their fair value, by a reverse transaction;

g) money market instruments, other than those traded on a trading venue, that are liquid and have a value that can be accurately determined at any time, except for commercial papers, provided that the issuer or the issuer be subject to regulations related to the protection of investors and their savings, and the instruments:

(i) be issued or guaranteed by an administrative authority, central, local or regional, a central bank of a Member State, the European Central Bank, the European Union or the European Investment Bank, a third country or, in the case of Federal States by one of the members of the federation or by an international public body, of which one or more Member States are members; or

(ii) be issued by a body whose securities are traded on regulated markets, referred to in Letter a) and b); or

(iii) be issued or guaranteed by an entity, subject to prudential supervision, according to the criteria defined by the European legislation, or by an entity that is subject to and complies with prudential rules, rules validated by A.S.F. as equivalent to those provided by the European legislation; or

(iv) be issued by other entities belonging to the categories approved by A.S.F., provided that investments in such instruments be subject to investor protection equivalent to that provided for in items (i), (ii) and (iii), and that the issuer be a company whose capital and reserves amount to at least the equivalent in RON of 10,000,000 Euro, which presents and publishes its annual financial statements, according to the applicable European legislation, or an entity that, within a group of companies that contain one or more listed companies, has the role of financing the group or is an entity dedicated to the financing of securitisation vehicles that benefit from a bank financing line;

h) shares of limited liability companies, regulated by Law no. 31/1990, republished, subsequent amendments and completions, whose annual financial statements are audited according to the law;

i) securities defined in Art. 3 Para. (1) Item 26 of the Emergency Government Ordinance no. 32/2012 which are not admitted to trading on a trading venue or are not traded on a stock exchange in a third country;

j) currency, purchased on the domestic market, freely convertible, according to B.N.R. criteria;

k) Government securities;

l) real estate assets, in compliance with A.S.F. regulations and the provisions assumed in the F.I.A.I.R. documents;

m) greenhouse gas emission certificates, as defined in Art. 3 Letter b) of the Government Decision no. 780/2006 on establishing the trading scheme for greenhouse gas emission certificates, subsequently amended and supplemented;

n) movable and immovable property strictly necessary for the activity of a A.I.F. set up as an investment company; the provisions of this letter do not apply to F.I.A. established as an investment fund without legal personality.

(2) F.I.A.I.R. investments will be made in compliance with the following limits, except for those types of F.I.A.I.R. for which this law distinguishes otherwise:

a) may not hold more than 10% of the assets in securities and money market instruments issued by the same issuer, except for securities or money market instruments issued or guaranteed by a Member

State, the local public authorities of the Member State, a third country or international public bodies of which one or more Member States are members. The limit of 10% may be increased up to a maximum of 40%, provided that the total value of the securities held by F.I.A.I.R. in each of the issuers in which it holds holdings of up to 40% should not in any case exceed 80% of the value of its assets;

b) may not hold more than 50% of the assets in securities and money market instruments issued by entities belonging to the same group defined in Art. 2 Letter j), and in the case of the group to which the A.F.I.A. managing the F.I.A. belongs, this limit is 40%;

c) the exposure to counterparty risk in a over-the- counter derivatives instruments may not exceed 20% of its assets, regardless of the transaction counterparty;

d) the global exposure to derivatives instruments may not exceed the total value of its assets;

e) the value of current accounts and cash to be within a maximum of 20% of its assets; the limit may be exceeded up to a maximum of 50%, provided that the amounts in question come from the issuance of participation titles, from maturing investments or the sale of financial instruments from the portfolio, and that the excess does not exceed 90 days;

f) cannot set up and hold bank deposits made with the same bank representing more than 30% of its assets;

g) may not hold more than 20% of its assets in shares not admitted to trading on a trading venue or on a stock exchange in a third country, issued by a single A.I.F. for retail investors;

h) may not hold more than 10% of its assets in participation titles not admitted to trading on a trading venue or on a stock exchange in a third country, issued by a single A.I.F. for professional investors;

i) may not hold more than 50% of its assets in participation titles not admitted to trading on a trading venue or on a stock exchange in a third country, issued by other open-ended A.I.F.. In case that A.I.F.M. managing the A.I.F. is part of the group, the holding limit is 40% of its assets;

j) may not hold more than 40% of its assets in participation titles issued by a single UCITS authorized by A.S.F. or by a national competent authority of another Member State, as well as in participation titles issued by a single collective investment undertaking admitted to trading on a trading venue in Romania, another Member State or on a stock exchange in a third country;

k) may not grant loans of financial instruments representing more than 20% of its assets, the loan period may not exceed 12 calendar months, in accordance with the regulations issued by A.S.F. on margin transactions and loan operations; the limit of 20% of its assets may be increased up to 30%, with the approval of A.S.F., under the conditions established by A.S.F. Regulations;

l) may not grant cash loans, may not participate in/subscribe to syndicated loans, may not guarantee cash loans in favor of a third party, except for entities in the group to which F.I.A.I.R. belongs as an investment company within 10% of its assets and may not acquire directly, in whole or in part, loan portfolios issued by other financial or non-financial institutions, except for investment placements in financial instruments issued by internationally recognized financial institutions, credit institutions or non-banking financial institutions authorized by B.N.R. or other central banks from a Member State or from third countries;

24.01.2020 –Derogation by Law 243/2019.

m) may not hold more than 40% of the value of its assets in securities, money market instruments not admitted to trading on a trading venue or on a stock exchange in a third country, except for government securities and bonds issued by the Ministry of Public Finance, as well as the holdings acquired by the respective F.I.A.I.R. by law, in case of which the holding limit is not established;

n) may not hold more than 20% of the value of its assets in shares issued by limited liability companies, regulated by Law no. 31/1990, republished, with subsequent amendments and completions; the provisions of this letter do not apply to F.I.A.I.R. specialized in real estate investments;

o) may not hold more than 10% of the value of its assets in greenhouse gas emission certificates, as defined in Art. 3 Letter b) of the Government Decision no. 780/2006, subsequent amendments and completions.

(3) In case of exceeding the limits mentioned in Para. (2), exclusively in situations independent of its will, the A.I.F.M. that manages the respective F.I.A.I.R. has the obligation to re-comply with the legal requirements within 30 days from the date of exceeding the respective limit, except for the A.I.F. established on the basis of a normative act and whose investment portfolio assigned on its basis does not reasonably allow the classification within 30 days. A.F.I.A. has the obligation to inform, within two working days, if the prospectus or the offering document, as the case may be, or the Articles of Incorporation of F.I.A.I.R. does not provide a shorter period, the depositary of F.I.A.I.R. and A.S.F. regarding the exceeding of the limits established in Para. (2), within a document that includes the justification of the causes that led to this situation, as well as of a plan of measures for re-compliance with the legal requirements within 30 days from the date of the deviation. The exercise of the right of preference related to some existing holdings, acquired by a A.I.F.. from the Romanian state on the basis of other regulations, does not attract the exceeding of the limits mentioned in Para. (2).

SECTION 3

F.I.A.I.R. Asset Calculation and valuation Rules

Art. 36. - The calculation of the Net Assest Value (Ro. V.A.N.) and of the Unit Value of the net Assets (Ro, V.U.A.N.) of a F.I.A.I.R. performed by A.F.I.A. and certified by the depositary is performed according to Regulation (EU) no. 231/2013 and the A.S.F. Regulations, at least monthly, for the last calendar day of the month. If the F.I.A.I.R. participation titles can be subscribed or redeemed from the asset, at the investor's initiative, with a higher frequency than the monthly one, then A.F.I.A. calculates the V.A.N. and V.U.A.N. of the respective F.I.A.I.R., certified by the F.I.A.I.R. depositary, with the respective frequency.

Art. 37. - The assets from the portfolio of a F.I.A.I.R. are valued in accordance with the provisions of Art. 18 of Law no. 74/2015, subsequent amendments and completions, and with those of the A.S.F. regulations.

SECTION 4

Transparency, Information and Reporting Obligations

Art. 38. - (1) A.I.F.M. managing a F.I.A.I.R. or, as the case may be, the Management Board Directorship of the self managed F.I.A.I.R. elaborates and submits to A.S.F. monthly reports on V.A.N. and V.U.A.N. calculated by the manager and certified by the depositary, as well as the detailed investment statement at the reporting date, drafted according to A.S.F. regulations, within a maximum of 15 days from the end of the reporting period. If the calculation of V.A.N. and V.U.A.N. is performed with a higher frequency than the monthly one, then the report on this information together with the detailed statement of investments

will be submitted to A.S.F. within maximum 5 days from the end of the reporting period. If the last reporting day is not a working day, then the documents are submitted on the next working day after this date.

(2) V.A.N. and V.U.A.N. provided in Para. (1) are also permanently available to investors by publication on its own website and/or by consultation at the registered office/secondary offices of the self-managed A.I.F.M./A.I.F. The publication of the new values of V.A.N. and V.U.A.N. is made within the terms provided in Para. (1), as appropriate.

(3) A.I.F.M. managing a F.I.A.I.R., respectively the Management Board /Directorship of a self-managed F.I.A.I.R. draws up, transmits to A.S.F. and makes available to investors by publishing on its website and/or by consulting the registered office/secondary offices the offering document and the rules of the fund or the Articles of Incorporation of F.I.A.I.R., as the case may be, as well as half-yearly and annual reports on the situation of assets and liabilities, including the detailed statement of investments at the reporting date, having the content and form provided by Law no. 74/2015, with subsequent amendments and completions, Regulation (EU) no. 231/2013 and A.S.F. Regulations. The half-yearly and annual reports are submitted to A.S.F. and are made available to investors within the deadlines provided by the regulations issued by A.S.F. regarding the submission of the annual financial statements and half-yearly accounting reports.

(4) The monthly, half-yearly and annual reports will also contain explanations on the valuation methods used for those financial instruments for which valuation methods have been chosen in accordance with the International Valuation Standards (according to the fair value principle), leverage level and calculated F.I.A.I.R. exposure value, according to the provisions of Regulation (EU) no. 231/2013.

(5) After being admitted to trading on a trading venue, F.I.A.I.R. will comply with the reporting requirements established in accordance with the legal provisions applicable to issuers of securities.

(6) A.I.F.M. managing a F.I.A.I.R., respectively the Management Board /Directorship of a self-managed F.I.A.I.R. shall immediately inform A.S.F. of any breach of the investment policy or of the rules/Articles of Incorporation of the F.I.A.I.R., within two working days of the breach, if the rules or Articles of Incorporation of the F.I.A.I.R. do not provide for a shorter period.

SECTION 5

Specific Requirements applicable to different types of F.I.A. for Retail Investors

SUBSECTION 5.1

Diversified F.I.A.I.R.

Art. 39. - A diversified F.I.A.I.R. provided in Art. 31 Letter a) may invest only in the categories of assets according to the provisions of Art. 35.

SUBSECTION 5.2
Specialized F.I.A.I.R.

Art. 40. - (1) A specialized F.I.A.I.R. provided thereto in Art. 31 Letter b) holds assets or a total exposure of at least 75% of the V.A.N. only in the asset class corresponding to its specialization.

24.01.2020 – Exemption by Law 243/2019.

(2) In order to ensure liquidity, a F.I.A.I.R. mentioned in Para. (1) may invest up to 25% of its assets only in deposits set up in accordance with the provisions of Art. 35 Para. (1) Letter e), in money market instruments provided in Art. 35 Para. (1) Letter a), b) and g) and in O.P.C.V.M which permanently hold in their investment portfolio over 50% of the assets placed in government securities and securities traded on a trading venue or are traded on a stock exchange in a third country, in units issued by money-market F.I.A./O.P.C.V.M. authorized in a Member State, in derivative financial instruments used exclusively for hedging purposes defined in accordance with A.S.F. regulations, in repo or reverse repo operations, and may hold current accounts and cash in RON and foreign currency, in compliance with the types of assets eligible for a F.I.A.I.R. established according to the provisions of Art. 35 Para. (1).

(3) A specialized F.I.A.I.R. may not hold more than 40% of its assets in transferable securities and/or money market instruments issued by entities belonging to the same group defined in Art. 2 Letter j). In the case of the group to which A.F.I.A managing the respective F.I.A. belongs, this limit is of 30%.

(4) If the weight of government securities and shares admitted to trading on a trading venue or which are traded on a third-country stock exchange falls below 50% of the assets of the O.P.C.V.M. in the specialized F.I.A.I.R. portfolio for a period longer than 10 working days, A.F.I.A. managing the specialized F.I.A. has the obligation to liquidate in full the respective holding in the O.P.C.V.M. within two working days from the date of the decrease below the limit of 50%.

(5) F.I.A.I.R. specialized in real estate investments can be constituted as F.I.A.C. or as a F.I.A.S., with application of the corresponding provisions of Art. 62-64.

(6) A.F.I.A. that manages a F.I.A.I.R. provided thereto in Para. (5) complies with the following obligations:

a) F.I.A.I.R. is managed by an A.F.I.A. authorized/registered by A.S.F. or authorized by another competent authority in another Member State;

b) A.F.I.A. that manages F.I.A.I.R.'s assets permanently complies with the own funds requirement, as defined in Art. 3 point 26 of Law no. 74/2015, with subsequent amendments and completions, amounting to at least the equivalent in RON of of 5 million Euro, if the F.I.A.I.R. assets exceed the equivalent in RON of the amount of 100 million Euro (with or without the application of the leverage effect);

c) the initial amount invested by a retail investor is the equivalent in RON of the minimum amount of 10,000 Euro, calculated at B.N.R. exchange rate from the date of subscription;

d) F.I.A.I.R. uses derivative financial instruments exclusively for hedging purposes, in accordance with A.S.F. regulations and the guidelines issued by ESMA;

e) the prospectus or the offering document, as the case may be, and the Rules/Articles of Incorporation of F.I.A.I.R. include a description of all risks specific to real estate investments, as well as of A.F.I.A.'s policy

to prevent and manage conflicts of interest; In order to prevent conflicts of interest, A.F.I.A. does not invest in real estate assets in which the senior management, the employees of the A.F.I.A. or their relatives and relatives up to the second degree have a patrimonial interest;

f) F.I.A.I.R.s are established as closed-type F.I.A.s.

(7) F.I.A.I.R. specialized in real estate investments cannot hold more than 33% of the value of its assets in a single real estate investment. For the purpose of calculating this limit, properties that have an interconnected economic destination are considered a single real estate investment.

(8) F.I.A.I.R. specialized in real estate investments may not invest, directly or indirectly, by purchasing financial instruments or shares, more than 33% of the value of its assets in real estate assets that do not have a degree of occupancy of real estate of at least 50% at the time of investment or in real estate assets owned by entities belonging to the same group defined in Art. 2 Letter j), if F.I.A.I.R. belongs to this group. If the assets are mortgaged in favor of third parties, the withdrawal of the mortgage must be made within 6 months from the date of the investment.

(9) By exception from the provisions of Para. (1) and Art. 35 Para. (2) Letter l), a F.I.A.I.R. specialized in real estate investments may grant cash loans to a SA/SRL with real estate profile within the limit of 25% of the total asset value of F.I.A.I.R., provided that F.I.A.I.R. should hold at least 95% of the share capital of the respective company. Cumulatively, the cash loans from the F.I.A.I.R. asset specialized in real estate investments do not exceed 70% of the total F.I.A.I.R. assets. The destination of these loans is exclusively for the release of burdens of the real estate assets of SA/SRL towards third parties.

(10) F.I.A.I.R. specialized in real estate investments may not invest directly in non-performing assets or portfolios of non-performing assets held by third parties other than credit institutions or non-banking financial institutions; for the purposes of this Paragraph, non-performing assets are those outstanding debts to the creditor that exceed 90 days from the maturity date established by the contract concluded between its parties.

(11) F.I.A.I.R. specializing in bond investments may not hold more than 10% of its assets in securities and/or money market instruments issued by the same issuer, except for securities or money market instruments issued or guaranteed by a Member State, by the local public authorities of the Member State, by a third country or by international public bodies to which one or more Member States belong.

Art. 41. - (1) Failure to comply with the percentage provided in Art. 40 Para. (1) for a maximum period of 30 days does not constitute a reason to change the category in which a F.I.A.I.R. is included, if the following cumulative conditions are met:

a) this possibility is provided in the prospectus or, as the case may be, in the Articles of Incorporation of F.I.A.I.R.;

b) the documents expressly provide for the assets and investment limits applicable in the given situation;

c) the investment policy will be structured in such a way as not to induce an additional risk compared to the category in which the F.I.A.I.R. falls;

d) the situation is due to the conjuncture of the financial markets or other conditions outside the control of A.F.I.A. or the process of issuance and redemption of participation titles;

e) A.S.F. was informed regarding the conjuncture provided at Letter d).

(2) Failure to comply with the investment policy related to a specific category of F.I.A. after the term mentioned in Para. (1) leads to the obligation to submit to A.S.F., within a maximum of another 30 days from the expiration of the term mentioned in Para. (1), of the complete documentation related to the authorization of changes of the F.I.A.I.R. documents, in order to be included in another category, as well as of an investor information note regarding these changes.

(3) If the investors do not agree with the changes, A.F.I.A. has the obligation to honor the redemption requests submitted within a period of maximum 15 working days from the date of publication of the information note provided in Para. (2) on A.F.I.A. website, at no additional cost to investors.

Subsection 5.3 The Long-Term F.I.A.I.R.

Art. 42. - (1) The long-term F.I.A.I.R., hereinafter referred to as ELTIF, established as a contractual type F.I.A. or as an investment company type F.I.A., operates under the authorization of A.S.F. and in accordance with the provisions of Regulation (EU) no. 760/2015.

(2) The administration of ELTIF is performed, in accordance with the provisions of Art. 5 Para. (2) of Regulation (EU) no. 760/2015, exclusively by A.F.I.A. authorized by A.S.F. or by similar competent authorities from other Member States.

(3) In order to be distributed in other Member States, the ELTIF provided for in this law shall use in their name the acronym ELTIF, according to Art. 4 of Regulation (EU) no. 760/2015.

Art. 43. - (1) By exception from the provisions of Art. 4 Para. (4), in the case of contractual type ELTIF, the term for solving the authorization request is the one provided in Art. 5 Para. (3) of Regulation (EU) no. 760/2015.

(2) The process of authorization and approval of the manager of an ELTIF provided in Art. 5 Para. (1) and (2) of Regulation (EU) no. 760/2015 is carried out in compliance with the provisions of Art. 7 and Art. 19-23 regarding the authorization of F.I.A.C., respectively F.I.A.S., with the mention that the documents submitted for authorization are those provided by the same regulation.

SUBSECTION 5.4 Monetary F.I.A.I.R.

Art. 44. - (1) Monetary F.I.A.I.R. or money market F.I.A.I.R., hereinafter referred to as F.I.A.P.M., are those F.I.A.I.R.s established as F.I.A.C.s or as F.I.A.S.s, which carry out their activity subject to authorization by A.S.F. and in accordance with the provisions of this law, of Regulation (EU) 2017/1131 of the European

Parliament and of the Council of 14 June 2017 on money market funds, hereinafter referred to as Regulation (EU) no. 1131/2017, and of the A.S.F. Regulations.

(2) The F.I.A.P.M. contractual assets are managed by an external A.F.I.A., previously authorized by A.S.F. according to Law no. 74/2015, as subsequently amended and supplemented, or by another national competent authority of a Member State according to Directive no. 61/2011/EU or from a third country.

(3) F.I.A.P.M. invest exclusively in the eligible assets defined in Art. 9 of Regulation (EU) no. 1.131/2017.

(4) In applying the provisions of Art. 3 of Regulation (EU) no. 1.131/2017, F.I.A.P.M. is classified in the following categories:

- a) F.I.A.P.M. with variable V.A.N.;
- b) F.I.A.P.M. with constant V.A.N. for public debt;
- c) F.I.A.P.M. with low volatility V.A.N..

(5) Depending on the category of F.I.A.P.M. established in compliance with the criteria provided by Regulation (EU) no. 1131/2017, in order to be eligible, the instruments in which F.I.A.P.M. invest must be in accordance with the provisions of Regulation (EU) no. 1131/2017 and with the rules or the Articles of Incorporation of F.I.A.P.M.

(6) F.I.A.P.M. draws up internal rules and procedures for assessing the credit risk of eligible assets for investment, as well as issuers of money market instruments, in compliance with the provisions of Regulation (EU) no. 1131/2017, the standards issued by the European Commission and the ESMA guidelines on money market funds.

(7) F.I.A.P.M. and A.F.I.A. which manages its assets complies with the provisions of Law no. 74/2015, with subsequent amendments and completions, of Regulation (EU) no. 231/2013 and A.S.F. Regulations, unless Regulation (EU) no. 1131/2017 provides otherwise.

(8) By exception from the provisions of Art. 4 Para. (4), in the case of F.I.A.P.M., the authorization procedure is the one provided in Art. 5 of Regulation (EU) no. 1131/2017.

(9) A.S.F. submits to ESMA the list of F.I.A.P.M. authorized in Romania, in accordance with the frequency requirements established in the delegated acts of the European Commission and in the guidelines issued by ESMA regarding the money market funds.

(10) A.F.I.A. may opt for a managed F.I.A.P.M. to be distributed exclusively to professional investors, in compliance with the provisions of A.S.F. Regulations and the provisions provided in the respective F.I.A.P.M. documents, in accordance with the provisions of Art. 46 Letter g).

Art. 45. - (1) F.I.A.P.M. is prohibited:

- a) to carry out an activity or to make investments in the types of assets provided in Art. 9 Para. (2) of Regulation (EU) no. 1131/2017;
- b) use the term monetary F.I.A., money market F.I.A. or any other name that could mislead investors as to the fact that the respective F.I.A. is authorized in accordance with the provisions of Regulation (EU) no. 1131/2017.

(2) In applying the provisions of Art. 6 of Regulation (EU) no. 1131/2017, a F.I.A. does not present characteristics similar to those provided in Art. 1 Para. (1) of that Regulation unless it is authorized in accordance with the provisions of this Regulation.

CHAPTER IV **F.I.A. for professional investors**

SECTION 1 **General Provisions**

Art. 46. - F.I.A.s for professional investors, hereinafter referred to as F.I.A.I.P., are represented by the following categories:

- a) F.I.A. privately owned;
- b) F.I.A. speculative;
- c) F.I.A. specialized in investments in goods and commodities;
- d) F.I.A. specialized in real estate investments;
- e) venture capital F.I.A., regulated by Regulation (EU) no. 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds, hereinafter referred to as Regulation (EU) no. 345/2013;
- f) F.I.A. for social entrepreneurship, regulated by Regulation (EU) no. 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds, hereinafter referred to as Regulation (EU) no. 346/2013;
- g) F.I.A. established in Art. 31 Lett. b) -d), without using phrases that refer to the fact that the F.I.A is intended for retail investors.

Art. 47. - (1) F.I.A.I.P., after its establishment, may apply for admission to trading on a trading venue or on a stock exchange in a third country, provided that it cumulatively meets the following requirements:

- a) modifies its incorporation documents so as to fall into one of the categories of F.I.A.I.R. defined in Art. 31 Lett. b), provided that its investment policy fully comply with the investment requirements allowed for F.I.A.I.R. established by this law and by the regulations issued by A.S.F. in its application;
- b) meets the eligibility requirements set by the market operator or system operator to be admitted to trading on a trading venue or traded on a stock exchange in a third country and complies with the provisions of the legislation specific to issuers of securities and market operations;
- c) the shareholders' agreement was obtained prior to the transmission for authorization to A.S.F. of the amended incorporation documents in order to be included in the new category of F.I.A., in accordance with the provisions of Para. (2), in the case of investment company type F.I.A.I.P..

(2) The changes to the documents submitted at the moment of the authorization of a F.I.A.I.P., in the situation provided in Para. (1) Lett. a), are sent in advance to A.S.F. for authorization, 20 working days

before their application. A.S.F. may decide in exceptional situations to extend the term by 10 working days.

(3) The term provided in Para. (2) shall be calculated from the date of registration by A.F.I.A. of the last letter/ document submitted to A.S.F. related to the respective changes in the F.I.A. documents.

(4) In the situation provided in Para. (2), A.S.F. may prohibit the implementation of those changes that do not comply with the legal provisions in force or may order additional amendments to the respective documents.

(5) In order to inform the investors on the changes, A.F.I.A. shall submit an information note regarding the respective changes within a maximum of two working days from the expiration of the term provided in Para. (2), if no comments were received from A.S.F..

(6) If the investors do not agree with the significant changes of the F.I.A.I.P. contractual documents, defined according to A.S.F. Regulations, whose fund units are not traded within a trading venue, made at the initiative of A.F.I.A, then A.F.I.A has the obligation to honor the requests for full redemption submitted within a maximum of 15 days from the date of transmission of the information note provided in Para. (5), without additional costs for investors.

(7) The participation titles of F.I.A.I.P. can be assigned within the process of voluntary liquidation of F.I.A.I.P., if the rules or the Articles of Incorporation of F.I.A.I.P., as the case may be, as well as the voluntary liquidation plan of F.I.A.I.P. expressly allow this operation. The assignment is made at the registered office/headquarters of A.F.I.A. that manages the respective F.I.A.I.P. and registered in the records of A.F.I.A., in compliance with the applicable legislation in force and by mentioning this fact in the documents of incorporation of F.I.A.I.P..

(8) Holders of F.I.A.I.P. participation titles may alienate all or part of their holdings to other investors or other persons who agree with the F.I.A.I.P.'s investment policy and acquire it.

(9) The transfer of participation titles is made on the basis of a tripartite assignment contract, respectively concluded between the assigning investor, assignee and A.F.I.A. . Through the assignment contract, the assigning investor declares and assumes that he has received, read, understood and shall assume the content of the constitutive documents of F.I.A.I.P.. The identification elements of the assignee entered in the assignment contract will be the same as those entered in the subscription form. The number of the assignment contract will be assigned by A.F.I.A. and the date of the contract will be the one on which the contract is signed by A.F.I.A..

(10) Within a maximum of 48 hours from the conclusion of the assignment contract, A.F.I.A. will register in the F.I.A.I.P. records the transfer of ownership over the participation titles that are the subject of the assignment, by deleting the assigned participations from the assigning investor's account and registering them in the assigning investor's account.

(11) The registration of the transfer in A.F.I.A. records has a constituent effect for the property right.

(12) Failure to comply with the provisions of this article regarding the manner of transfer by assignment of the participation titles of F.I.A.I.P. entails the nullity of the transfer of the ownership right related to this operation.

SECTION 2 Allowed Investments

Art. 48. - (1) F.I.A.I.P.s may invest in all types of assets in which F.I.A.I.R.s may invest and, in addition, in F.I.A. established in other Member States or in third countries, regardless of the legal form of their organization, as well as in any movable and immovable property whose value can be determined at any time, correctly, according to the provisions of their incorporation documents.

(2) F.I.A.I.P. have no restrictions regarding the investment limits, except for those established by this law, according to the category to which each F.I.A.I.P. belongs, the investments being made in accordance with the incorporation documents or the constituent documents of F.I.A.I.P..

SECTION 3 F.I.A.I.P. asset calculation and valuation rules

Art. 49. - The calculation of the V.A.N. and V.U.A.N. of a F.I.A.I.P. performed by A.F.I.A. and certified by the depositary is performed according to Regulation (EU) no. 231/2013 and A.S.F. Regulations, at least quarterly, for the last calendar day of the third month of the quarter. If the F.I.A.I.P. participation titles can be subscribed or redeemed from the asset, at the investor's initiative, with a higher frequency than the quarterly one, then A.F.I.A. calculates the V.A.N. and V.U.A.N. of the respective F.I.A.I.P., certified by the F.I.A.I.P. depositary, with the respective frequency.

Art. 50. - The assets from the portfolio of a F.I.A.I.P. are valued in accordance with the provisions of Art. 18 of Law no. 74/2015, subsequent amendments and completions, of Regulation (EU) no. 231/2013 and those of A.S.F. Regulations, the frequency of asset valuation being established taking into account the provisions of Art. 74 of the aforementioned regulation.

SECTION 4 Transparency, information and reporting Obligations

Art. 51. - (1) A.F.I.A. managing a F.I.A.I.P. or, as the case may be, the Board of Directors/Directorship of the internally managed F.I.A.I.P. prepares and submits to A.S.F. quarterly reports on V.A.N. and V.U.A.N. calculated by the manager and certified by the depositary, as well as the detailed investment situation at the reporting date, prepared according to A.S.F. regulations, within a maximum of 15 days from the end of the reporting period. If the calculation of V.A.N. and V.U.A.N. is performed with a higher frequency than the quarterly one, then the report on this information together with the detailed statement of investments will be sent to A.S.F. within 5 days from the end of the reporting period. If the last reporting day is not a working day, then the documents are sent on the next working day following that date.

(2) V.A.N. and V.U.A.N. provided in Art. 49 Para. (1) may also be available by consultation at the registered office/secondary offices of A.F.I.A./self-administered F.I.A. and accessible to investors through its own website and may be sent to investors by e-mail, regularly, according to the incorporation documents. The publication of the new values of V.A.N. and V.U.A.N. is made within the term provided in Para. (1).

(3) A.F.I.A./ self-managed F.I.A distributes F.I.A.I.P. exclusively to professional investors, except for privately owned F.I.A.I.P.s, whose shares can also be distributed to retail investors, in compliance with the conditions established by Art. 56 Para. (4).

(4) The provisions of Art. 34 shall apply accordingly to F.I.A.I.P..

Art. 52. - (1) A.F.I.A. that manages a contractual type F.I.A.I.P., respectively the Board of Directors/Directorship of a self-managed type of investment company F.I.A.I.P. prepares, submits to A.S.F. and makes available to investors the prospectus or offering document, as the case may be, and the fund Rules/Articles of Incorporation, as appropriate, updated, as well as annual reports on the situation of assets and liabilities, including the detailed statement of investments related to the reporting periods, having the content and form provided in Art. 21-23 of Law no. 74/2015, subsequent amendments and completions, Art. 103-111 of Regulation (EU) no. 231/2013 and in A.S.F. Regulations.

(2) The provisions of Art. 38 Para. (4) shall apply accordingly.

(3) The dissemination to the public of any document or marketing communication by F.I.A.I.P. is accompanied by a written warning that investments in equity securities issued by these entities are intended exclusively for professional investors who have an advanced degree of knowledge in the financial field. The incorporation documents will duly contain the warnings mentioned in Art. 8 Para. (4).

SECTION 5

Specific Requirements applicable to different Types of F.I.A. for professional Investors

SUBSECTION 5.1

Private Equity F.I.A.

Art. 53. - (1) Private equity F.I.A., hereinafter referred to as F.I.A.C.P., are those F.I.A.I.P.s authorized by A.S.F. and set up as contractual F.I.A. or as investment company F.I.A. whose object of activity is to invest in high risk assets.

(2) Under the provisions of Para. (1), in the case of investment companies type F.I.A.C.P., the high risk asset represents the direct or indirect contribution/participation of F.I.A. to the establishment of a company regulated by Law no. 31/1990, republished, subsequent amendments and completions, its development or its admission within a trading venue in Romania, by participating in the share capital of the respective company.

(3) The nominal value of the share issued by F.I.A.C.P. of the type of companies is of minimum 10,000 RON.

(4) Under the provisions of Para. (1), in the case of a contractual F.I.A.C.P., the risky asset represents the eligible assets for investment, defined in the fund rules.

(5) The initial value of the fund unit issued by F.I.A.C.P. of contractual type is of minimum 10,000 RON.

(6) F.I.A.C.P. use in their name the phrase private equity alternative investment company or private equity alternative investment fund , as the case may be.

Art. 54. - (1) The subscribed share capital of investment company type F.I.A.C.P. cannot be less than the equivalent value in RON of 1,000,000 Euro, amount that must be paid in maximum 12 months from the establishment of the respective F.I.A.C.P. By exception from the provisions of Art. 17 Para. (2), the share capital paid upon incorporation may not be less than 30% of the subscribed one.

(2) At least 50% of the value of the subscribed share capital of investment company type F.I.A.C.P. is represented by cash contribution, the contribution in kind can be represented by tangible assets, except for the lands.

(3) The valuation of F.I.A.C.P. assets is performed by using the valuation methods according to the fair value principle established in the Articles of Incorporation, in compliance with the provisions of Regulation (EU) no. 231/2013, and is performed at least annually, as well as when transactions with F.I.A.C.P. assets are registered, but also prior to fulfilling each redemption request made by investors from F.I.A.C.P. assets.

Art. 55. - (1) Tangible assets of real estate type are valued by an independent evaluator and the respective real estate assets cannot be purchased or sold without having been valued beforehand, unless the operation in question takes place within 6 months from the date of a previous valuation, and during this interval no event occurred that would cause a significant change in the value of the respective property.

(2) The purchase of real estate assets on behalf of a F.I.A.C.P. cannot be done at a price that is more than 10% higher than the one determined by an independent evaluator.

(3) The sale of real estate assets on behalf of a F.I.A.C.P. cannot be done at a price that is more than 10% lower than the one determined by an independent evaluator.

(4) The provisions of Para. (2) and (3) do not apply in exceptional situations, which must be specified in the fund rules or in the Articles of Incorporation of F.I.A.C.P., as the case may be.

(5) In the situation of registering a purchase or sale under the conditions stipulated in Para. (2) or (3), this situation must be detailed in the annual report of the respective F.I.A.C.P., with the exact specification of the reasons for performing that transaction, the date of the transaction, the counterparty of the transaction, as well as the contract price.

Art. 56. - (1) The establishment and operation of F.I.A.C.P. is carried out in compliance with the provisions of this law and A.S.F. Regulations.

(2) In applying the provisions of Art. 51 and 52 regarding the transparency and reporting obligations of F.I.A.C.P., consideration is given to the provisions of Annex no. IV to Regulation (EU) no. 231/2013.

(3) In the course of its activity, a F.I.A.C.P. considers that its exposure, calculated according to the commitment method in accordance with Art. 8 of Regulation (EU) no. 231/2013, not to exceed three times the value of the net assets provided in Art. 111 Para. (1) of that Regulation.

(4) The participation titles issued by F.I.A.C.P. can also be distributed to retail investors, observing the following conditions:

a) F.I.A.C.P. must invest at least 50% of its assets in companies which are not admitted to trading on a trading venue or traded on a third-country stock exchange;

b) the marketing materials offered to retail investors contain clear, specific and complete information regarding the types of risks specific to the investment, as well as its temporary horizon;

c) the investment policy of F.I.A.C.P. established in the incorporation documents falls within the provisions of Art. 35, except for the investment limits established in Para. (2) Lett. n) and o) of the same article;

d) the valuation of the assets from the F.I.A.C.P. portfolio is performed in accordance with the provisions of Art. 37;

e) F.I.A.C.P. complies accordingly with the transparency rules established in Art. 36 and 38.

SUBSECTION 5.2 Speculative F.I.A.

Art. 57. - (1) Speculative F.I.A., hereinafter referred to as F.I.A.S.P.E.C., are those F.I.A.I.P.s established as contractual F.I.A. or as investment companies F.I.A authorized by A.S.F. that invest mainly in derivative financial instruments and/or that use investment strategies and operations that involve the substantial use of leverage, defined in Art. 3 Item 16 of Law no. 74/2015, with subsequent amendments and completions, in order to obtain positive returns regardless of the conditions and fluctuations of the financial markets.

(2) In order to be classified as F.I.A.S.P.E.C., the constitutive documents of F.I.A. stipulate that, in order to achieve the investment objective, the overall exposure of the respective F.I.A., calculated according to the commitment method in accordance with Art. 8 of Regulation (EU) no. 231/2013, exceeds three times the value of the net assets provided in the respective regulation, this exceeding being achieved by using some of the methods provided in Annex no. I to Regulation (EU) no. 231/2013, respectively by using one or more of the specific strategies mentioned in Annex no. IV to the same regulation, in compliance with the provisions of Art. 24 Para. (3) of Law no. 74/2015, with subsequent amendments and completions.

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(3) By exception from the provisions of Para. (2), the incorporation documents of F.I.A.S.P.E.C. may allow the decrease of its global exposure below the limit of three times the value of the net asset, but no more than 120 calendar days each year.

Art. 58. - (1) In order to acquire, by a natural person, the quality of shareholder of an investment company F.I.A.S.P.E.C. , the minimum individual investment is represented by the equivalent value in RON of the amount of 125,000 Euro, representing the minimum value of a participation title of F.I.A.S.P.E.C., established at B.N.R. exchange rate from the date of subscription.

(2) In the case of a legal person or contractual entity without legal personality, the minimum individual investment mentioned in Para. (1) is represented by the equivalent value in RON of the amount of 1,250,000 Euro, representing the minimum value of the share capital, respectively of the net assets of F.I.A.S.P.E.C., established at B.N.R. exchange rate from the date of subscription.

(3) In the case of of contractual F.I.A.S.P.E.C., the minimum individual investment of a person or entity of contractual type without legal personality is represented by the equivalent value in RON of the amount of 125,000 Euro, established at B.N.R. exchange rate from the date of subscription.

Art. 59. - (1) The offering document and the Rules/Articles of Incorporation of a F.I.A.S.P.E.C. must contain in addition to the warnings mentioned in Art. 8 Para. (4) also a warning that in general this type of F.I.A. may be performant in periods of decline or instability/volatility of financial markets.

(2) The provision of Art. 54 Para. (3), Art. 55 and Art. 56 Para. (1) and (2) applies accordingly also to F.I.A.S.P.E.C..

(3) F.I.A.S.P.E.C. subject of this law uses in their name the phrase speculative alternative investment company or speculative alternative investment fund, as the case may be.

SUBSECTION 5.3

F.I.A. specialized in Investments in Goods and Commodities

Art. 60. - (1) F.I.A. specialized in investments in goods and commodities, hereinafter referred to as F.I.A.B.M., are those F.I.A.I.P.s established in the form of contractual F.I.A. or investment company authorized by A.S.F. whose object is the direct investment in physical assets in the field of activity or economic sector provided for in the F.I.A.I.P.'s incorporation documents, including works of art, precious metals, agricultural land and forests.

(2) The initial value of the net asset, respectively of the share capital of F.I.A.B.M. cannot be less than the equivalent in RON of the amount of 1,000,000 Euro, the value of the participation title being of minimum the equivalent in RON of 10,000 Euro.

(3) The provisions of Art. 54 Para. (3) and Art. 56 Para. (1) and (2) shall apply accordingly to F.I.A.B.M.; also, the provisions of Art. 55 also applies accordingly to F.I.A.B.M., except for those F.I.A.B.M. specialized in investments in art objects.

(4) In the case of F.I.A.B.M. specialized in investments in art objects, the investments are made in those works of art provided in Law no. 227/2015 on the Fiscal Code, with subsequent amendments and completions.

(5) The provisions of Art. 61-63 applicable to F.I.A. specialized in real estate investments apply accordingly to F.I.A. specialized in investments in works of art, the references to real estate investments, real estate assets, respectively companies with real estate profile and specialised in real estate valuation being considered as references to investments in works of art, works of art, respectively economic operators certified by the Ministry of Culture specialized in trade with works of art and specialty valuation of movable property - works of art.

(6) The certification of the existence and content of the work of art can be made on the basis of the following documents:

a) the sale certificate provided in Art. 81 of the Norms on trade in movable cultural goods approved by Government Decision no. 1.420/2003, subsequent amendments and completions, accompanied by the acquisition invoice, in the situation when the work of art is acquired from an economic operator certified by the Ministry of Culture; or

b) the sale contract, in the situation in which the work of art is acquired from a collector, natural or legal person.

(7) In the course of its activity, a F.I.A.B.M. considers that its exposure, calculated according to the commitment method in accordance with the provisions of Art. 8 of Regulation (EU) no. 231/2013, should not to exceed the triple value of the net asset provided in Art. 111 Para. (1) of that Regulation.

(8) F.I.A.B.M. subject of this law uses in their name the phrase alternative investment company in goods and commodities or alternative investment fund in goods and commodities, as the case may be.

SUBSECTION 5.4

F.I.A. specialized in real estate investments

Art. 61. - (1) F.I.A. for professional investors specialized in real estate investments, hereinafter called REAL ESTATE F.I.A. (RO. F.I.A.I.M.O.B.) is authorized by A.S.F. and invests at least 75% of its assets in real estate assets, for the purposes of this law, or in assets not admitted to trading on a trading venue of companies with real estate profile, respectively equity interests of real estate companies whose financial statements are audited at least annually and that revalue the assets at least annually, as well as every time they register transactions with assets in their investment portfolio. For prudential supervision purposes, A.S.F. may require that the assets valuation process, namely the audit of the financial statements of the real estate companies where F.I.A.I.M.O.B. invests its assets, be performed with a higher frequency than on annual basis.

(2) F.I.A.I.M.O.B. cannot invest more than 50% of the value of his assets in a single real estate asset or in assets not admitted to trading on a regulated market or within an alternative trading system of a single real asset company/equity interests of a single real estate company.

(3) In view of calculating the limits provided at Para (2), the properties having an interconnected economic destination are being considered a single real estate asset. The properties having an interconnected economic destination represent properties within the same real estate project.

(4) In view of ensuring liquidity, F.I.A.I.M.O.B. may invest in the assets mentioned at Art.35 Para (1) Letter a), b), d), e) and g) and in financial derivative instruments admitted to trading on a trading venue and may hold current accounts in cash and in foreign currency, while respecting the following limits:

a) The value of the bank deposits established at the same credit institution cannot represent more than 20% of the F.I.A. assets. The value of the current accounts and the cash held in RON and foreign currency cannot exceed 10% of its assets;

b) The securities and money-market instruments market provided at Art.35 Para (1) Letter (a) and (b) issued by a single issuer, held by an F.I.A. specialized in real estate investments, cannot represent more than 10% of its assets.

(5) A.F.I.A., on behalf of F.I.A.I.M.O.B., may hold the quality of associate or single associate within a limited liability company or shareholder within a joint stock company registered at the trade office register, without being considered as belonging to A.F.I.A. patrimony and cannot be subject to any claim, be it AF.I.A. creditors' or in case of bankruptcy or administrative liquidation of the respective AF.I.A..

(6) During the carry out of its activity, F.I.A.I.M.O.B. has in view that its exposure, calculated as per the commitment method pursuant to Art.8 of (EU) Regulation no. 231/2013, should not exceed three times the value of the net asset provided at Art.111 Para (1) of the respective regulation.

(7) F.I.A.I.M.O.B. subject to this law, use in their description, the syntagma real estate alternative investment company or real estate alternative investment fund, as the case may be.

Art. 62. - The valuation of the property assets is being performed by an independent evaluator registered in the A.S.F. Public Registry, in compliance with the regulations issued by A.S.F. The Depositary certifies the means of calculation of the net asset, taking into account, in the calculation thereof, the value of the property assets from the valuation report drafted by the independent evaluator, in charge with the assessment.

Art. 63. - (1) The valuation method of the real estate assets shall be maintained by F.I.A.I.M.O.B. for a period of minimum 3 years and shall be provided in the rules or the articles of incorporation thereof, as the case may be.

(2) The revaluation of the property assets will be performed at least annually, as well as each time there are being registered transactions with assets in its investment portfolio or upon A.S.F. request and will be correlated with the issuance and redemption policy of the F.I.A.I.M.O.B. The expenses with the valuation of the real estate assets shall be borne by F.I.A..

(3) F.I.A.I.M.O.B. cannot buy or sell real estate assets unless they have been previously assessed in the conditions provided at Art.62.

(4) The acquisition or sale of real estate assets cannot be made at a price that is 10% higher, in case of acquisition, namely 10% lower, in case of sale, than that determined by an independent evaluator.

(5) The provisions of Para (4) do not apply in exceptional circumstances, which need to be specified in the rules or the articles of incorporation of F.I.A.I.M.O.B., as the case may be.

(6) The exceptional circumstances mentioned at Para (5) will be detailed in the annual report of the respective F.I.A.I.M.O.B., with the exact specification of the reasons to perform the transaction, the date of the transaction, the counterparty of the transaction, as well as the contract price.

(7) The details provided at Para (6) will be subject to an information note that will be submitted to the investors within 30 days from the date of the transaction performance at the most.

Art. 64. - (1) The certification of the existence of real estate assets, as per type of asset, is made based on the land register extract for information, not older than 30 days, as well as of the property act.

(2) F.I.A.I.M.O.B. do not invest directly in unfinished constructions that do not fall into the definition of a property assets given at Art.2 Letter b).

(3) The frequency related to the redemption of the securities issued by F.I.A.I.M.O.B. is correlated with the investment profile and the liquidity risk management policy of the investment portfolio of F.I.A.I.M.O.B. in normal or exceptional liquidity conditions, as per the provisions of Art.47 of the (EU) Regulation no. 231/2013.

SUBSECTION 5.5 Venture capital F.I.A.

Art. 65. - Venture capital F.I.A., hereinafter called F.I.A.C.R., authorized by A.S.F., established as F.I.A.C. or F.I.A.S., carry out their activity in compliance with the provisions of the (EU) Regulation no.345/2013 and the measures adopted by the European Commission.

Art. 66. - In order to be cross-border distributed in other Member States, F.I.A.C.R., subject to this law, will use in their description the acronym EuVECA, in accordance with Art.4 of (EU) Regulation no.345/2013, the cross-border notification for the distribution being performed in compliance with the Commission Implementing Regulation (EU) no. 593/2014 from June 3rd, 2014 laying down implementing technical standards with regard to the format of the notification according to Article 16(1) of Regulation (EU) No 345/2013 of the European Parliament and of the Council on European venture capital funds.

Art. 67. - (1) F.I.A.C.R. are authorised by A.S.F. in accordance with the provisions of this law.

(2) In case that the (EU) Regulation no. 345/2013 does not provide otherwise, the obligations residing in the responsibility of F.I.A.C.R. managers are the ones provided by the Law no.74/2015, with subsequent amendments and completions, and by the A.S.F. regulations applicable to F.I.A. registered at A.S.F., in consideration of the provisions of Art.2 Para (2) of the (EU) Regulation no.345/2013.

(3) During the performance of its activity, a F.I.A.C.R. has in view its exposure, calculated as per the commitment method, in accordance with Art.8 of the (EU) Regulation no. 231/2013, not to exceed three times the value of the net asset provided at Art. 111 Para (1) of the respective regulation.

SUBSECTION 5.6 F.I.A. of Social Entrepreneurship

Art. 68. - F.I.A. of social entrepreneurship, hereinafter called F.I.A.A.S. authorized by A.S.F., established as F.I.A.C. or as F.I.A.S., carries out its activity in compliance with the provisions of the (EU) Regulation no. 346/2013 and the implementation measures adopted by the European Commission.

Art. 69. - In order to be cross-border distributed in other Member States, F.I.A.A.S., subject to this law, shall use in their description the acronym EuSEF in accordance with Art. 4 of the (EU) Regulation no.

346/2013, the cross-border notification for the distribution being performed in compliance with the Commission Implementing Regulation (EU) No 594/2014 of 3 June 2014 laying down implementing technical standards with regard to the format of the notification according to Article 17(1) of Regulation (EU) No 346/2013 of the European Parliament and of the Council on European social entrepreneurship funds.

Art. 70. - (1) F.I.A.A.S. are authorised by A.S.F. in accordance with the provisions of this law.

(2) In case that the (EU) Regulation no. 346/2013 does not provide otherwise, the obligations residing in the responsibility of F.I.A.A.S. managers are those provided by the Law no. 74/2015, with subsequent amendments and completions, and by A.S.F. regulations applicable to A.F.I.A. registered at A.S.F., in consideration of the provisions of Art. 2 Para (2) of (EU) Regulation no. 346/2013.

(3) While performing its activity, a F.I.A.A.S. has in view its exposure, calculated as per the commitment method, in compliance with Art.8 of the (EU) Regulation no.231/2013, not to exceed three times the value of the net asset provided at Art.111 Para (1) of the respective regulation.

TITLE II

F.I.A. Merger, Division and Liquidation

Art. 71. - F.I.A. mergers are performed in compliance with the provisions of Title I, Chapter IV, Section 7 of the Government Emergency Ordinance no.32/2012, applicable to O.P.C.V.M. and in compliance with the legal provisions applicable to the companies.

Art. 72. - The division and liquidation of F.I.A. are performed, depending on their legal nature, in accordance with the legal provisions applicable to the companies and with the A.S.F. Regulations.

TITLE III

Sanctions and Administrative Measures

Art. 73. - (1) The breach of the provisions of this law and the regulations adopted in the application thereof triggers the contraventional or criminal liability, under the law.

(2) The following deeds perpetrated, by A.F.I.A. managing F.I.A. regulated by this law, by self-managed F.I.A. and/or by the members of the Board of Directors or the Supervisory Board of A.F.I.A. or self-managed F.I.A., as well as by the natural persons exercising other management positions or exercising, on a professional basis, activities regulated by this law, according to the obligations residing in their responsibility, as per this law, represent contraventions:

a) the breach of the conditions on which the authorization/registration was given and the breach of operating conditions provided in Art.4, Art.6 Para (4), Art.11 Para (1), Art.12 Para (4) and Art.64 Para (3);

b) the breach of the provisions of Art.37, Art.50, Art.54 Para (3), Art.55 Para (1), Art.60 Para (5), Art.62 and Art.63 on the evaluation of F.I.A. assets;

c) the breach of the transparency and reporting requirements provided in Art. 8 Para (4), Art.9 Para (3) and (4), Art.11 Para (2) and (4), Art.38 Para (1) – (4) and (6), Art.40, Art.47 Para (4) and (5), Art.57 Para (2) and Art.59 Para (1);

d) the breach of the prudential rules provided in Art.5 Para (1) – (3), Art.8 Para (4), (6) and (8) and Art. 29;

e) the breach of the the deadlines provided in Art. 11 Para (5) and (6), Art. 28 Para. (3), Art. 34, Art. 35 Para (3), Art. 36, Art. 41 Para. (2), Art. 47 Para. (2), (4) and (5), Art. 49 and Art. 51 Para (1);

f) the breach of the obligation of O.N.R.C. registrations notification provided by the law;

g) the breach of the conditions imposed for the amendment of the documents that set the basis for granting the authorization, without notifying or request, as the case may be, the amendment of the operating permit;

h) the breach of the provisions in the funds' rules, prospectus, the offering documents, the articles of incorporation of F.I.A. authorized based on the provisions of this law, including those referring to the investment strategy, types of eligible assets, the investment limits applicable to the respective category of F.I.A.;

i) the breach of the measures established by the authorization, supervision, regulation and enforcement acts or following thereof;

j) the unauthorized use of the syntagma related to the F.I.A. categories established by this law;

k) the obstruction, without right, of exercising of the rights conferred to A.S.F. by the law, as well as the unreasoned refuse of any person to respond to the A.S.F. requirements in exercising the prerogatives assigned thereto according to the legal provisions;

l) the breach of the the regulations in force, issued by A.S.F. in the application of this law, in accordance with the conditions provided by the respective regulations;

m) the breach of the provisions of Art.14, Para (2), Art. 15, Art. 27 Para (3), Art. 30 Para (1) and Art. 38 Para (5) related to the compliance with the legal regime applicable to the securities issuers.

Art. 74. - (1) The perpetration of the contraventions provided at Art.73 Para (2) Letter a)-l) is sanctioned as follows:

a) by warning or fine from 1,000 RON to 50,000 RON, for the natural persons;

b) by warning or fine from 0.1% up to 5% of the net turnover achieved in the financial year previous to sanctioning, pursuant to the gravity of the committed act, for the legal persons.

(2) The perpetration of the contraventions provided at Art.73 Para (2) Letter m) is sanctioned in accordance with Art. 127 Para (1) Letter c) Item 2 or Item 3, as the case may be, of Law no. 24/2017.

(3) If the turnover from the financial year preceding the sanctioning is not available at the date of sanctioning, the net turnover of the financial year when the legal person has registered the turnover, year immediately prior to the reference year, is taken into account. By reference year is understood the year prior to sanctioning.

(4) By exemption from the provisions of Art.8 Para (2) of the Government Ordinance no.2/2001 on the legal regime of the contraventions, approved with amendments and completions by Law no.180/2002, ulterior amendments and completions, hereinafter called the Government Ordinance no.2/2001, the new established legal person, that haven't registered turnover in the year preceding the sanctioning, are sanctioned by fine ranging from 10,000 RON to 1,000,000 RON.

(5) According to the gravity of the act, for the perpetration of the contraventions provided in Art.73 Para (2), A.S.F. may apply complementary contraventional sanctions such as:

a) suspension of the authorization;

b) withdrawal of authorization;

c) interdiction, for a period comprised between 90 days and 5 years of the right to hold a position, perform an activity or provide a service for which an authorization by A.S.F. is required under the conditions of this law.

(6) A.S.F. is entitled to suspend the members of the Board of Directors/Supervisory Board/Directorship, the Directors, persons in charge with risks management and/or compliance officers of A.F.I.A. or require the introduction, on the GMS agenda, of the draft revocation of the members of the Board of Directors/Supervisory Board/Directorship of self-managed F.I.A. and the appointment of other persons in their place, as the case may be, when it is found that these persons bring prejudice to the F.I.A. authorized by A.S.F., by the influence exercised in the management of these entities due to holding a qualified holding within A.F.I.A, defined at Art. 3 Item 32 of Law no. 74/2015, with subsequent amendments and completions.

(7) According to the nature and gravity of the act, in case of perpetration of the contraventions provided at Art.73 Para (2), A.S.F. applies administrative measures, as such:

a) a public statement indicating the person liable for the breach and the nature of the breach of the legal provisions;

b) a decision by which the person liable for the breach is required to end the respective behaviour and refrain from repeating it;

c) other warning measures and/or for the purpose of preventing or remediation of the situation of non-compliance with the legal dispositions, as per A.S.F. Regulations.

(8) The main contraventional measures provided at Para (1) or (2) can be applied cumulatively with one or more complementary contraventional sanctions provided at Art. (5).

(9) The administrative measures provided at Para (7) may be applied along with the principal sanctions or complementary provided at Para (1), (2) and (5).

(10) In case of finding commission of two or more contraventions, it is applied the fine for the most derious contravention, by exemption to the provisions of Art.10 Para (2) of the Government Ordinance no.2/2001.

(11) A.S.F. makes public, on its own site, any administrative measure or sanction required for the failure to comply with the provisions of this law and the regulations adopted in the application thereto. The

personal information contained in the publication is maintained on the web page of A.S.F., in compliance with the legal regulations on protection of personal data, for a period established by A.S.F. Regulations, in compliance with the provisions of (EU) Regulation no. 2016/679 of the European Parliament and the Council dated April 27th, 2016 on protection of natural persons in what regards the processing of personal data and the free movement of these data and repeal of the Directive EC (the general Regulation regarding data protection) hereinafter called the (EU) Regulation no. 679/2016, as well as other legal provisions in force in the field of personal data protection.

24.01.2020 – Exemption by Law 243/2019.

(12) By exception from the provisions of Para (11), in case the publication of the identity of the legal persons or the personal data of the natural persons is being considered by A.S.F. as disproportioned, following an evaluation performed from case to case with regards the proportionality of publication of such information, or, in case the publication endangers the stability of the financial markets or an ongoing investigation, A.S.F. may adopt at least one of the following administrative measures:

a) postponement of publication of the individual enforcement act of the sanction or administrative measures until the reasons for non-publication cease;

b) the publication of the individual enforcement act of the sanction or administrative measure without indicating the identity of the legal persons or the personal data of the natural persons, by pseudonymization, provided that this publication ensure an efficient protection of the personal data in question;

c) the non-publication of the individual enforcement act of a sanction or administrative measure, in case the options provided at Letter a) and b) are considered insufficient for making sure that:

1. the stability of the financial markets is not endangered;
2. it is guaranteed the proportionality of publication of such decisions in case the respective measures are considered minor.

(13) In case of a decision of publication of a sanction or administrative measure without indicating the identity of the legal persons or the personal data of the natural persons, A.S.F. may postpone the publication of the relevant data for a reasonable period, in case it is forecasted that, during the respective period the reasons setting the basis for this publication would cease to be valid.

(14) A.S.F. informs ESMA with regards to the sanctions and administrative measures applied based on the provisions of this law, in case the reporting is a legal requirement set out by Law no.74/2015, subsequent amendments and completions.

(15) The commission of the sanctions provided at Art. 73 Para (2) is ascertained by the specialized personnel within A.S.F., empowered to exercise attributions of supervisions, investigation and control of the compliance with the legal dispositions and regulations applicable to the capital market.

(16) On receipt of the verification acts resulting from the authorization activity, supervision and control, according to which it is being ascertained the commission of one of the contraventions provided at Art. 73 Para (2), A.S.F. disposes, by issuance of individual acts, the application of the sanctions provided in this article.

(17) To the extent that this law does not dispose otherwise, to the contraventions provided by this law are being applicable the dispositions of the Government Ordinance no.2/2001.

(18) At individualizing the sanction there are being considered the provisions of Art.5 Para (6) and Art.21 Para (3) of the Government Ordinance no.2/2001, as well as the personal and real circumstances of commission of the act and the conduct of the offender, according to:

a) the gravity and duration of the breach;

b) the degree of guilt of the offender;

c) the financial capacity of the offender, as it is being indicated in the total turnover of the legal person or the annual income of the natural person responsible, as far as it can be identified, or other relevant indicators;

d) the value of the earnings obtained or losses avoided by the offender following the respective operation, the prejudices brought to other persons and, as the case may be, the damage brought to financial market operation or the economy as a whole, to the extent that they can be determined;

e) the degree of cooperation of the offender with A.S.F.;

f) the previous breaches committed by the offender;

g) the potential measures taken by the offender, ulterior to the commission of the act, for limiting the damages, for covering the prejudice or for discontinuance of commission of the act.

(19) By exemption from the provisions of Art.13 of the Government Ordinance no. 21/2001, the statute of limitations of the application of the contraventional sanction is of 6 months from the date of ascertainment of the act, but no later than 3 years from the date of commission thereof.

(20) The sanctioning administrative acts issued by A.S.F. based on this law can be challenged at Bucharest Court of Appeal, as per the dispositions of the Law on Administrative Contentious no. 554/2004, ulterior amendments and completions.

Art. 75. - The performance without authorization of any activity or operation for which this law requires authorization is crime and is sanctioned as per Art. 348 of Law no. 286/2009 from the criminal Code, ulterior amendments and completions.

Art. 76. - A.S.F. is entitled to withdraw the permit granted to the financial auditor performing audit missions to F.I.A. in case of breach of the provisions of Art. 21 Para (3) - (5), in the conditions provided by the regulations issued by A.S.F..

Art. 77. - (1) In the application of the provisions of Art. 33 of the (EU) Regulation no. 760/2015, the breach of the dispositions of this regulation, as well as other regulations issued by A.S.F. in the application thereof represents contravention, is being ascertained and sanctioned by A.S.F., in its capacity of national competent authority and draws the contraventional liability as per the provisions of Art.74.

(2) In the application of the provisions of Art. 40 and 41 of (EU) Regulation no. 1.131/2017, the breach of the dispositions of the respective regulation and the regulations adopted in the application thereof represents contravention, is being ascertained and sanctioned by A.S.F., as national competent authority and draws the contraventional liability as per Art.74.

TITLE IV

Transitional and Final Provisions

Art. 78. - (1) By exception from the provisions of Art. 17 Para (2), the obligation of full payment on subscription is not applicable to shares subscribed by the Romanian state within certain F.I.A.S set up as companies, based on other normative acts.

(2) Considering the provisions of Art. 1 Para (4) and, namely, of Art. 63 Para (1) of Law no. 74/2015, subsequent amendments and completions, in the F.I.A. category in Romania provided at Art.1 para (2) from this law are included:

a) collective investment undertakings, other than the collective investment undertakings in transferable securities, hereinafter called A.O.P.C., set up in Romania, which, prior to coming into force of the Law no.74/2015, ulterior amendments and completions, had the obligation to register to A.S.F. in accordance with the provisions of Art.114 Para (2) and Art.115 Para (1) of Law no.297/2004 on capital market, ulterior amendments and completions, including the investment companies, set up in compliance with the provisions of Law no.133/1996 for the conversion of the Private Property Funds in investment companies, ulterior amendments, hereinafter called the Law no.133/1996 and “Fondul Proprietatea” – S.A. set up in compliance with the provisions of the Law no.247/2005 on the legal and property domains reform, as well as some adjacent measures, subsequent amendments and completions, hereinafter called Law no.247/2005;

b) A.O.P.C. set up in Romania in accordance with the provisions of Art.115 Para (2) of Law no.297/2004, ulterior amendments and completions, which were not subject to application of the provisions of the respective law, not having the obligation to register to A.S.F. prior to coming to force of the Law no.74/2015, ulterior amendments and completions.

(3) The provisions of this law are being completed accordingly by the provisions of Law no.74/2015, ulterior amendments and completions and of Law no.31/1990, subsequent amendments and completions, as far as they do not conflict with the provisions of this law.

Art. 79. - (1) A.O.P.C. authorized by A.S.F. at the date of coming into force of this law and A.O.P.C. provided at Art.78 Para (2) Letter b), except for F.I.A.P.M provided at Art. 44 Para (1), are bound to, within 6 months from the date of coming into force of this law:

a) adapt their incorporation and operation documents and the activity to the provisions of this law;

b) request the authorization of the necessary amendments of the documents mentioned at Letter a) and submit the applications and the documentation in this respect.

(2) A.O.P.C. provided in Para (1), which do not respect the obligations provided in this article, within 6 months from the date of coming into force of this law, will be withdrawn the operating permit.

(3) In the application of the provisions of Para (1), A.O.P.C. registered at A.S.F. prior to coming into force of this law, request the authorization at A.S.F. in view of assigning to one of the F.I.A. categories provided by this law, as follows:

a) A.O.P.C. that publicly raise financial resources request the assignment to one of the F.I.A. categories for retail investors;

b) A.O.P.C. that privately raise financial resources request for the assignment to one of the F.I.A. categories for professional investors or the retail investors, as the case may be. In case the investors of the respective A.O.P.C. do not fall into the category of professional investors, A.F.I.A. managing the A.O.P.C. assets:

1. requests A.S.F. that the respective A.O.P.C. be authorized as F.I.A. for retail investors; or

2. initiates the necessary arrangements, within 3 months from the date of coming into force of this law, for the liquidation of A.O.P.C., in accordance with the provisions set out by the regulations issued by A.S.F., in compliance with the A.O.P.C. prospectus.

(4) A.O.P.C. registered at A.S.F., whose participation titles are admitted to trading on a trading venue, request the assignment in the F.I.A. category for retail investors.

(5) Following the amendments of the incorporation documents of A.O.P.C. closed-end funds type registers at A.S.F. prior to coming into force of this law, in view of complying with the provisions thereof and the A.S.F. regulations related to the conversion in F.I.A.C, are not applicable the provisions of Art. 11 Para. (4) with regards the withdrawal of the investors.

(6) The authorization requests of A.O.P.C. pending at the date of entry into force of this law shall be withdrawn and completed pursuant to the provisions of this law.

Art. 80. - (1) The investment companies, hereinafter called S.I.F., established in accordance with the provisions of Law no.133/1996, ulterior amendments, as well as the investment company "Fondul Proprietatea" - S.A., established based on the Law no. 247/2005, subsequent amendments and completions, fall into the category F.I.A. for retail investors and cannot request the withdrawal from trading on the on spot regulated market managed by the Bucharest Stock Exchange – S.A., only in case A.S.F. withdraws the authorisation as F.I.A.;A.S.F..

(2) In case of issue by S.I.F. of more categories of shares, these categories of shares are being traded on distinct sections on the on spot regulated market managed by the Bucharest Stock Exchange – S.A.

(3) By exemption from the provision of Art.134 of Law no.31/1990, republished, ulterior amendments and completions, the amendments of the incorporation acts of S.I.F. in view of amending the core business as per the provisions of Law no.74/2015, ulterior amendments and completions, is being achieved without granting the shareholders the right of withdrawal from the company and are being registered at the trade register office in the county where the registered office is being recorded, based on the decision of the board of directors or A.F.I.A., if applicable, subsequent to the acquirement of the prior authorization issued by A.S.F..

Art. 81. - (1) This law comes into force in 30 days from the date of publication on the Official Gazette of Romania, Part I.

(2) Within 3 months from the entry into force of this law, A.S.F. issues regulations in the application thereof.

(3) Upon fulfilment of the term of 6 months provided at Art.79 Para (1), the following are being repealed:

- a) Law no. 133/1996 for the conversion of the Private Properties Funds in financial investment companies, published in the Official Gazette of Romania, Part. I, no.273 from November 1, 1996, ulterior amendments;
- b) Art. 114-120, Art. 122, Art. 123, Art. 272 Para (1) Letter i), Art. 286, 2861 and 2863 of Law no. 297/2004 on the capital market, published in the Official Gazette of Romania, Part I, no.571 from June 29, 2004, ulterior amendments and completions;
- c) Art. 6 Para (1), Art. 7, Art. 71, Art. 9, Art. 91, Art. 92 Para (8) - (10), Art. 12 PArA (3), (4), (41), (5) and Para (9) and Art. 201 of the title VII of the Law no. 247/2005 on the reform in the property and law domaina, as well as other adjacent measures, published in the Official Gazette of Romania, Part I, no.653 from July 22nd, 2005, ulterior amendents and completions.

(4) The personal data processing at A.S.F. level is being performed exclusively for the purpose of fulfilment of the authorization, supervision, investigation, cooperation with other public authorities and investors protection duties, in compliance with the provisions of this law, of the (EU) Regulation no.679/2016, as well as other legal provisions in force in the field of personal data protection.

(5) At the date of enforcement of this law, the provisions of title VIII "The Financial Audit" from Law no. 297/2004 on the capital market, published in the Official Gazette of Romania, Part I, no.571 from June 29, 2004, ulterior amendments and completions, is being repealed.

Art. 82. – At the date of enforcement this law, any syntagma/reference to "A.O.P.C." used in the Government emergency ordinance no. 32/2012 will be read/is considered to be as "F.I.A.".

Art. 83. - At the date of coming into force of this law, the Government emergency Ordinance no. 32/2012 on the collective investment undertakings in securities and the investment management companies, as well as for the amdendment and completion og Law no.297/2004 on the capital market, published in the Official Gazette of Romania, Part I, no.435 from June 30, 2012, approved with amendments and completions by Law no. 10/2015, subsequent amendments and completions, is being amended and completed as follows:

1. At article 4, after Paragraph (4) a new Paragraph, Paragraph (5) is introduced, with the following contents:

" (5) The provisions of title IX "The Financial Audit" of Law no. 126/2018 on the financial instruments, is being applied consistently by S.A.I. and O.P.C.V.M."

2. Article 13 is amdended and shall have the following contents:

" Art. 13. - (1) tTe provisions of Art. 34-45 and Art. 272 of Law no. 126/2018 on financial instruments markets as well as ASF regulations on the procedure rules and criteria applicable to the prudential evaluation of the acquisitions and augmentation of the stakes to a financial investment services company are applicable to the qualifying holding within a S.A.I.

(2) For the purposes of this emergency ordinance, the term «S.S.I.F.» from the contents of Art. 34-45 of Law no. 126/2018 will be read «S.A.I.», and the term «regulated entity» from the contents of Art.272 of the same law shall include "S.A.I".

3. At article 193², after letter k) a new letter is introduced, letter l), with the following content:

" I) to suspend the permit of carry out of certain activities or exercising of some positions, in case it is found or there are reasonable prerequisites of affecting the interests of the investors or the good reputation of S.A.I. in question, by continuing to carry out the respective activities or exercising the respective positions."

4. At Article 196, after Paragraph (6) are being introduced new paragraphs, paragraphs (61)-(64), with the following contents:

" (61) According to the nature and gravity of the act, in case of committing the contraventions provided at Art.195, A.S.F. may apply the administrative measures provided at Para (6), as follows:

1. a public statement where is indicated the person responsible with the breach and the nature of the breach of the legal provisions;

2. a decision by which the person liable for the breach is being requested to end the respective behaviour and refrain from repeating it;

3. other warning measures and/or for the purpose of prevention or remediation of the situations of non-compliance with the legal dispositions, as per the A.S.F. Regulations.

(62) The main contraventional sanctions can be cumulatively applied with one or more adjacent contraventional sanctions provided in this Law.

(63) The administrative measures provided at Para (61) may be distinctly applied or together with the principal or adjacent sanctions provided by this Law.

(64) In case of acknowledgment of the commission of two or more contraventions, it is applied the fine provided for the most serious contravention, by exemption from the provisions of Art.10 Para (2) of GO no. 2/2001."

5. Article 202 is repealed.

6. After Article 202 a new article is being introduced, Article 202¹, with the following contents:

" Art. 202¹. - (1) The processing of personal data at A.S.F. level is being exclusively performed for the fulfilment of the authorization, supervision, investigation, cooperation with other public authorities and investors protection duties, in compliance with the dispositions of this emergency ordinance, as well as according to the provisions of the (EU) Regulation 2016/679 of the European Parliament and the Council from April 27th, 2016 with regards the protection of the natural persons in what concerns the processing of personal data and the free movement of these data and repeal of Directive 95/46/EC (the General Regulation on data protection).

(2) Throughout this emergency ordinance, the syntagma representative of the internal control compartment will be read "compliance officer."

Art. 84. - At the date of entering into force of this law, the Law no. 74/2015 related to the managers of alternative investment funds, published in the Official Gazette of Romania, Part I, no.274 from April 23rd, 2015, ulterior amendments and completions, is being amended and completed as follows:

1. At Article 7 Paragraph (2), Letter a) is being amended and shall have the following contents:

" a) information on the members of the board of directors or the supervision board, as the case may be, as well as related to the directors or the members of the directorship, if applicable, of A.F.I.A.;"

2. At Article 10, Paragraph (1) is being amended and shall have the following contents:

" Art. 10. - (1) A.F.I.A. submit for A.S.F. authorization, prior to application, any amendments of the significant conditions setting the basis for authorization, provided at Art.7 Para (2) Letter c), d), g) and j), A.F.I.A. notifies A.S.F. in this respect, 14 days prior to the enforcement of the respective amendments."

3. At Article 21, after Paragraph (3) a new Paragraph is introduced, Paragraph (4), with the following contents:

" (4) The provisions of title IX «The financial Audit» of Law no. 126/2018 on the financial instruments markets, are applied accordingly by A.F.I.A. and F.I.A.."

4. At Article 50 Paragraph (2), after letter l) a new letter is introduced, Letter m), with the following contents:

" m) to suspend the permit carrying out of certain activities or holding some positions, in case it is found or there are reasonable prerequisites of affecting the investors rights or the good reputation of A.F.I.A. in question, by continuing to carry out the respective activities or holding the respective positions."

5. At Article 52, Paragraph (5) is amended and shall have the following contents:

" (5) A.S.F. makes public any sanction or administrative measure required for the failure to comply with the provisions of this law and the regulations adopted in the application thereof, except for the cases when such publication risks to seriously disturb the financial markets, damage the interests of the investors or bring disproportioned prejudice to the parties in question."

6. At Article 52, after Paragraph (5), four new paragraphs are introduced, the paragraphs (6)-(9), with the following contents:

" (6) According to the nature and gravity of the act, in case of committing the contraventions provided at Art. 51 or 511, A.S.F. may apply administrative measures such as:

a) a public statement where is indicated the person responsible with the breach and the nature of the breach of the legal provisions;

b) a decision by which the person liable for the breach is being requested to end the respective behaviour and refrain from repeating it;

c) other warning measures and/or for the purpose of prevention or remediation of the situations of non-compliance with the legal dispositions, as per the A.S.F. Regulations.

(7) The main contraventional sanctions can be cumulatively applied with one or more adjacent contraventional sanctions provided in this Law.

(8) The administrative measures provided at Para (6) may be distinctly applied or together with the principal or adjacent sanctions provided by this Law.

(9) In case of perpetration of two or more contraventions, the fine provided for the most serious contravention is applied, by exemption from the provisions of Art. 10 Para (2) from the Government Ordinance no. 2/2001, approved with amendments and completions by Law no.180/2002, ulterior amendments and completions.”

7. After Article 57, a new Article is introduced, Article 571, with the following contents:

" Art. 571. - (1) Reporting to A.S.F. of the breaches, potential or certain, of the provisions of this law and/or of the (EU) Regulation no.231/2013, is performed in compliance with the regulations issued by A.S.F..

(2) A.S.F. establishes independent and autonomus communication channels, which are certain and guarantee for the confidentiality, for the receipt of the reports related to the breaches of the provisions of this law, hereinafter called secure communication methods.

(3) The secure communication methods are considered independent and autonomus, given that the cumulatively meet the following criteria:

a) are separated from the general communication channels of A.S.F., here included those by which A.S.F. communicates internally and with third parties along its regular activity;

b) are conceived, established and used in such a manner that guarantees the completeness, integrity and confidentiality of the information and prevents the access of the unauthorized employees of A.S.F.;

c) enable the durable storage of information, in compliance with the regulations issued by A.S.F., in order to allow additional investigations. A.S.F. keeps the records provided by this letter in a confidential and secure database.

(4) The secured communication methods enable the reporting of the potential breaches or certain, at least in the following manners:

a) the written reporting of the breaches, in electronic form or in paper form;

b) oral reporting of the breaches by way of telephone lones, regardless if it is registered or not registered;

c) meeting with the specialized employees of A.S.F., if applicable.

(5) A.S.F. makes sure that a reporting related to a breach received by other means than the secure means of communication provided in this article is immediately submitted, without amendment, to the specialized employees of A.S.F., by using the secure communication methods.

(6) The A.S.F. management process related to the reportings submitted by the persons claiming breaches of the provisions of this law is being achieved as per the provisions of Para (2)-(5) and the regulations issued by A.S.F., by ensuring:

a) the preparation of the specific procedure for the receipt of the reportings on the breaches and for taking ulterior measures;

b) an adequate protection level of those A.F.I.A.'s employees or within F.I.A.'s depositories reporting the breaches committed within the respective entities, at least related to acts of vengeance, discrimination and other types of unjust treatment;

c) the personal data protection, both concerning the person who reports breaches to this law, as well as the suspected natural person, that would have been guilty of a breach, as per the provisions of (EU) Regulation 2016/679 of the European Parliament and the Council in April 27th, 2016 on the protection of natural persons in what regards the processing of personal data and the free movement thereof and repeal of the Directive 95/46/EC (General Regulation on data protection), hereinafter called the (EU) Regulation no. 679/2016, as well as other legal provisions in force in the personal data protection field;

d) confidentiality in what concerns the person reporting a breach, except for the case when the national legislation requires the disclosure of his identity, in the context of certain inquiries or ulterior legal proceedings.

(7) The reporting of the employees within A.F.I.A. or within the F.I.A. depositories, provided at Para (1)-(5), is not deemed breach of any restriction related to the disclosure of information imposed by contract or any other act with legal force or administrative act and does not trigger the responsibility of the person notifying in relation to that reporting."

8. After Article 63 a new article is introduced, article 63¹, with the following contents:

" Art. 63¹. - The processing of personal data at A.S.F. level is being exclusively performed for the fulfilment of authorization, supervision, investigation, cooperation with other public authorities and protection of the investors duties, in compliance with the dispositions of this law, as well as in compliance with the provisions of the (EU) Regulation no. 679/2016."

This Law has been adopted by the Parliament of Romania, in compliance with the provisions of Art.75 and Art. 76 Para (1) of the Constitution of Romania, republished.

PRESIDENT OF THE CHAMBER OF DEPUTIES
ION-MARCEL CIOLACU

PRESIDENT OF THE SENATE
TEODOR-VIOREL MELEȘCANU

Bucharest, December 20th, 2019.

No. 243.