

**Regulation No 11/2022 amending and supplementing the
Financial Supervisory Authority Regulation No 4/2021
on the control activity carried out by the Financial Supervisory Authority**

In force from 30 May 2022

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Form applicable on 14 June 2022

Pursuant to the provisions of Art.1 para. (2), Art. 2 para. (1), Art. 3, 6 and Art. 21² para. (8) of Government Emergency Ordinance No. 93/2012 on the establishment, organization and functioning of the Financial Supervisory Authority, approved with amendments and additions by Law No. 113/2013, as amended, following the deliberations of the Council of the Financial Supervisory Authority at its meeting of 18.05.2022,

The Financial Supervisory Authority issues this Regulation.

Art. I. - The Regulation of the Financial Supervisory Authority No 4/2021 on the control activity carried out by the Financial Supervisory Authority, published in the Official Gazette of Romania, Part I, No 106 of 1 February 2021, with subsequent amendments and additions, is amended and supplemented as follows:

1. In Article 2(2), point 3 is deleted.

2. In Article 2(2), point 4 is amended to read as follows:

"4. unannounced inspection - a type of inspection consisting of the verification, at the premises of the entity or remotely, of certain activities/operations/processes and internal mechanisms relating to a specific period of time and/or the fulfilment of one or more obligations, in accordance with the legislation applicable to the financial supervision sector and which is not notified in advance to the entity being inspected;"

3. In Article 2(2), point 15 is deleted.

4. In Article 9(2), point (d) is amended to read as follows:

"(d) the period of scrutiny, i.e. the date of commencement and the date of completion of the scrutiny;"

5. In Article 18, the introductory part of paragraph (1) is amended to read as follows:

"Art. 18 - (1) By exception to the provisions of Article 14 para. (1), the stage of carrying out the periodic or unannounced inspection at the premises of the entity may also be carried out remotely:".

6. In Article 18, paragraph (3) is amended to read as follows:

"(3) Where the periodic or unannounced inspection takes place at a distance, the provisions of this Regulation concerning the content of the inspection decision, the provisions concerning the documents drawn up during the inspection, i.e. the notification, the report on the collection of documents, the inspection report, as well as the rights and obligations of the inspected entity and of the inspection team shall apply accordingly."

7. Article 19 is amended and shall read as follows:

"Article 19 - The inspection team shall transmit by electronic means of communication to the inspected entity the inspection decision and the request for the documents and information it considers necessary for carrying out the periodic or unannounced remote inspection, and the inspected entity shall acknowledge receipt and record them in its records."

8. Article 21 para.(1) is amended as follows:

"Article 21 - (1) The inspection team shall bring to the attention of the inspected entity during the inspection action, as well as at its conclusion, in a concluding meeting, the preliminary issues identified and, respectively, retained, resulting from the documents examined and from the discussions/interviews with the persons who provided information relevant to the issues analysed, in accordance with the inspection topic."

9. Article 22 para.(1) is amended to read as follows:

"(1) The control team coordinator shall forward to the controlled entity the control report, drawn up and signed in accordance with Article 21 para. (2), in electronic form or by any other means of communication that can be proved subsequently, and shall ask the representatives of the auditee to forward, where appropriate, any objections to the deductions therefrom."

10. In Article 22, a new paragraph 11 is inserted after paragraph 1 as follows:

"(11) The inspection report referred to in paragraph 1 shall contain the following paragraph. (1) shall be forwarded to the auditee:

- (a) within a maximum of 10 working days of the completion of the periodic inspection;
- b) within a maximum of 2 working days from the end of the unannounced inspection."

11. In Article 22, paragraph (3) is amended to read as follows:

"(3) The auditee shall, if appropriate, submit in writing the objections to the findings of the inspection team mentioned in the inspection report within:

- (a) a maximum of 7 working days from the date of receipt of the inspection report, in the case of periodic inspections;
- b) a maximum of 2 working days from the date of receipt of the inspection report in the case of unannounced inspections."

12. Article 23 is repealed.

13. Article 24(1) is amended as follows:

"Art. 24 -(1) The audited entity may submit to the A.S.F.'s registry, physically or by means of electronic correspondence under qualified electronic signature of the entity's legal representative, the objections to the findings recorded in the inspection report communicated pursuant to Art. (11), within the time limits laid down in Article 22 (11). (3), and communicate them also in electronic format, with the qualified electronic signature of the legal representative of the audited entity, to the control team coordinator, in order to facilitate their processing."

14. Article 24 -(2) is deleted.

15. In Article 25, paragraph (1) is amended to read as follows:

"(1) The management of the specialised organisational structure to which the inspection team belongs shall submit for inclusion on the agenda of the meeting of the A.S.F. Council a note on the conclusions and proposals on the aspects found as a result of the inspection, accompanied by the inspection report and the objections of the inspected entity, if they have been submitted."

Art. Periodic or unannounced control actions in progress on the date of entry into force of this Regulation shall continue in accordance with the regulations in force on the date of their commencement.

Art. This Regulation shall be published in the Official Gazette of Romania, Part I, and shall enter into force on the date of publication.

The President of the Financial Supervisory Authority,

Nicu Marcu

Bucharest, 18 May 2022.

No. 11.