

Rule No. 25/2022
on the authorisation of insurance and reinsurance
undertakings and the conduct of insurance and
reinsurance activities

In accordance with the provisions of Art. 2 para. (1) letter b), Art. 3 para. (1) letter b) and Art. 6 para. (2) 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, pursuant to the provisions of Art. 6 para. (1), Art. 7 para. (1) and (3), Art. 8 para. (3), para. (9) - (11), Art. 13 para. (3), Art. 20 para. (1), Art. 24, Art. 21 para. (5¹), Art. 34 para. (3), Art. 38, Art. 99, Art. 100, Art. 101, Art. 173 para. (1) letters (b), (d), (m), (n), (p) and (t) and Art. 179 para. (4) of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, as subsequently amended and supplemented, Art. 1 para. (2), Art. 6 para. (2) letters (t) and (v), Art. 6 para. (4) and (5), Art. 7, Art. 11 para. (4), Art. 14 para. (7) - (9), Art. 22, Art. 23, Art. 24 para. (10), Art. 25 - 28, Art. 31 para. (2) and (5) of Law No. 71/2019 on mutual insurance undertakings and for amending and supplementing certain normative acts, Art. 26 para. (1) of Law No. 246/2015 on the recovery and resolution of insurers, as amended following the deliberations of the Council of the Financial Supervisory Authority during its meeting on 21 September 2022,

The Financial Supervisory Authority issues the following rule:

CHAPTER I. Common provisions for public limited-liability
companies and mutual insurance undertakings

Art. 1. Scope and definitions

(1) This rule regulates:

- a) the conditions and documentation on the basis of which the Financial Supervisory Authority, hereinafter referred to as ASF, grants operating licences to insurance and reinsurance companies set up in the legal forms referred to in Art. 1 para. (2) item 56 of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activity, as amended;
- b) the process by which ASF deals with applications submitted by applicants or companies;

- c) increase and reduction of share capital;
 - d) expansion of activity;
 - e) withdrawal of operating licences;
 - f) portfolio transfer, merger or winding-up of companies;
 - g) dissolution and voluntary liquidation of companies;
 - h) specific provisions for companies subject to the national supervisory regime under Law No. 237/2015;
 - i) specific provisions applicable to mutual undertakings established under Law No. 71/2019;
 - j) specific provisions for companies in difficulty;
 - k) the issuance of decisions by ASF and their publication regime;
 - l) other elements relating to the conduct of the business of the companies referred to in item (a).
- (2) The provisions of this Chapter shall apply to the following categories of companies:
- a) joint stock companies subject to the Solvency II supervisory regime under Law No. 237/2015;
 - b) joint stock companies subject to the national supervisory regime under Law No. 237/2015;
 - c) mutual insurance companies subject to the Solvency II supervisory regime under Law No. 237/2015;
 - d) mutual insurance companies subject to the national supervisory regime provided for by Law No. 237/2015;
 - e) European companies subject to the Solvency II supervisory regime under Law No. 237/2015;
 - f) European cooperative societies subject to the Solvency II supervisory regime under Law No. 237/2015.
- (3) The provisions of Chapter II Section 1 shall apply to the following categories of companies:
- a) joint stock companies subject to the Solvency II supervisory regime under Law No. 237/2015;
 - b) European companies subject to the Solvency II supervisory regime under Law No. 237/2015.
- (4) The provisions of Chapter II, Section 2 shall apply to insurers that are joint stock companies subject to the national supervisory regime under Law No. 237/2015.
- (5) The provisions of Chapter III Section 1 shall apply to the following categories of companies:
- a) Mutual insurance companies subject to the Solvency II supervisory regime provided for by Law No. 237/2015;
 - b) European cooperative societies subject to the Solvency II supervisory regime under Law No. 237/2015.

(6) The provisions of Chapter III Section 2 shall apply to mutual insurance companies subject to the national supervisory regime provided for by Law No. 237/2015.

(7) The provisions of Chapter IV shall apply to the companies referred to in para. (2) to (6), with the exception of the provisions of Art. 23 para. (5) to (7), which shall apply only to mutual associations.

(8) The normative acts relevant to this rule are the following:

1. *Directive 2009/138/EC* - Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and conduct of the business of Insurance and Reinsurance (Solvency II)
2. *Law No. 31/1990* - Company Law No. 31/1990, republished, as amended and supplemented;
3. *Law No. 503/2004* - Law No. 503/2004 on financial recovery, bankruptcy, dissolution and voluntary winding-up in insurance activity, republished, as amended;
4. *Law No. 237/2015* - Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activity, as amended and supplemented;
5. *Law No. 246/2015* - Law No. 246/2015 on the recovery and resolution of insurers, as amended;
6. *Law No. 132/2017* - Law No. 132/2017 on compulsory motor third party liability insurance for damage caused to third parties by vehicle and tram accidents, as amended and supplemented;
7. *Law No. 236/2018* - Law No. 236/2018 on insurance distribution, as amended and supplemented;
8. *Law No. 71/2019* - Law No. 71/2019 on mutual insurance companies and for amending and supplementing some normative acts;
9. *Rule No. 28/2015* - ASF Rule No. 28/2015 on the operation of supervised insurers under the national regime, as amended;
10. *Rule No. 4/2018* - ASF Rule No. 4/2018 on the management of operational risks generated by IT systems used by entities authorised/approved/registered, regulated and/or supervised by the Financial Supervisory Authority, as amended and supplemented;
11. *Regulation No. 3/2016* - ASF Regulation No. 3/2016 on the applicable criteria and procedure for the prudential assessment of acquisitions and increases of shareholdings in entities regulated by the Financial Supervisory Authority, as amended and supplemented;
12. *Regulation No. 1/2019* - ASF Regulation No. 1/2019 on the assessment and approval of members of the management structure and persons holding key positions in entities regulated by the Financial Supervisory Authority, as amended and supplemented.

(9) Terms and expressions used in this standard have the following meanings:

1. *MTPL insurance* - insurance from section A class 10 of Annex No. 1 of Law No. 237/2015, motor third party liability insurance for the use of land motor vehicles, excluding carrier's liability;
2. *LEI code* - the legal entity identifier code, which is a 20-character alphanumeric code, based on the ISO 17442 standard, assigned to companies by a local operational unit accredited by the Regulatory and Supervisory Committee, the method of obtaining it being published on the ASF website;
3. *documentation* - documents, layouts, data and other information, if not expressly mentioned;
4. *settlement process* - the analysis by ASF of applications and related documentation submitted by applicants or companies with a view to obtaining an approval, finalized by issuing decisions on the approval of the application or reasoned decisions on its rejection;
5. *joint stock company* - a company incorporated under Law No. 31/1990 or under Council Regulation (EC) No. 2157/2001 of 8 October 2001 on the Statute for a European company (SE);
6. *mutual insurance company* - a company set up in accordance with Law No. 71/2019 or in accordance with Council Regulation (EC) No. 1435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE);
7. *applicant* - natural or legal person applying to ASF for an operating authorisation for a company, by submitting to ASF, directly or through legal representatives, the application for authorisation and the related documentation.

(10) The terms, expressions and acronyms in this standard, with the exception of those in para.

(9) have the meanings set out:

- a) Art. 1 para. (2) of Law No. 237/2015;
- b) Art. 2 and Art. 19 para. (2) of Law No. 71/2019;
- c) in Art. 3 para. (1) of Law No. 236/2018;
- d) in Art. 2 para. (2) of Regulation No. 1/2019;
- e) in the legal provisions defined in Art. 1 para. (2) item 37 of Law No. 237/2015 and Art. 3 para. (1) item 19 of Law No. 236/2018.

Art. 2. General provisions

(1) The incorporation of joint-stock companies and mutual insurance companies, Romanian legal entities, is carried out only on the basis of the approval issued by ASF.

(2) The insurance and reinsurance activity carried out on the Romanian territory by Romanian legal entities is carried out only on the basis of the operating authorization issued by ASF.

(3) Prior to the date of submission of the application with the related documentation for the start of the settlement process, applicants or companies may request ASF to hold meetings in person or by electronic means in order to clarify certain elements related to the proposed settlement process, in particular if it is expected to be highly complex.

(4) The documentation submitted to ASF by applicants and companies, for the settlement processes and during the companies' activity, has the following characteristics:

- a) is written in Romanian;
- b) official documents issued in Romanian shall be submitted in the original, in a certified copy or in a copy certified under signature in handwritten form for conformity with the original, if they are not issued in electronic format;
- c) official documents issued in another language shall be sent in the original or in a certified copy, accompanied by a notarised translation and apostilled;
- d) non-official documents issued in another language are accompanied by a certified translation by an authorised translator;
- e) may be submitted electronically under a qualified electronic signature, except in the cases referred to in items (b) and (c);
- f) include the affidavit provided for in para. (5).

(5) Applicants or companies shall submit to ASF, in original, the affidavit, in the format set out in Annex No. 1, applying the provisions of Art. 326 of Law No. 286/2009 on the Criminal Code, as amended and supplemented, regarding the fact that the documentation submitted electronically and/or on paper is complete and true.

(6) If the documentation submitted by applicants and companies to initiate the settlement process is not complete, ASF shall request its completion or request additional documentation relevant to the assessment and, where appropriate, shall organise meetings with applicants or companies.

(7) The time limit for the submission of the documentation referred to in para. (6) shall be indicated by ASF and may not exceed 30 days, and the deadline for completing the settlement process may not exceed 6 months from the date of submission of the application accompanied by the documentation specified in this rule for the operation for which settlement is requested.

(8) In cases where applicants or companies withdraw their applications in writing, the documentation submitted and the fees paid will not be refunded.

(9) In decisions granting operating authorisations under Art. 23 para. (1) letter a) shall specify the insurance category, classes and risks included therein set out in Annex No. 1 of Law No. 237/2015 for which companies are authorised to operate.

(10) In the case of insurers, ASF shall mention the reinsurance activity in the operating licence only if it is mentioned in the application for authorisation.

(11) Companies shall send copies of the documents issued by the Trade Register Office to ASF only if the decisions issued by ASF specify this obligation.

(12) ASF shall reject, by means of a reasoned decision, the applications submitted by applicants or companies if the conditions provided for in Articles 20 - 22 of Law No. 237/2015 or in Art. 23 of Law No. 71/2019, as the case may be, those provided for in this rule are not met or if the documentation is not completed within the deadline provided for in para. (7) within the maximum time-limit of 6 months.

(13) In the case of a rejection decision under para. (12), the documentation submitted and the fees paid shall not be refunded.

(14) The highest-ranking parent companies referred to in Art. 134 of Law No. 237/2015 and the mixed insurance holding companies defined in Art. 1 para. (2) item 23 of the same law are required to have a LEI code; exempted from this obligation are entities from third countries and non-regulated entities that are part of a group, within the meaning of Art. 1 para. (2) item 20 of Law No. 237/2015.

CHAPTER II. Provisions applicable to public limited-liability companies

SECTION 1. Public limited liability companies subject to the Solvency II supervisory regime

SUBSECTION 1.1. Authorisation process and conduct of business

Art. 3. The authorisation process

(1) The process of company authorisation by ASF comprises two stages:

a) issuing decisions granting approval for their establishment in accordance with Law No. 31/1990 and registration at the Trade Register Office or issuing reasoned decisions rejecting applications for approval;

b) issuing decisions of:

(i) granting of operating authorisation and approval of significant shareholders;

(ii) approval of the persons appointed in the management;

c) issuing reasoned decisions on:

(i) rejection of applications for operating licences and rejection of significant shareholders;

(ii) rejection of the persons designated in the management.

(2) In order to start the authorisation process of companies and during this process, the provisions of Art. 2 para. (3), (6) and (7).

(3) In order to obtain the necessary approval for the incorporation of companies under Law No. 31/1990 and their registration at the Trade Register Office, applicants shall submit to ASF the application and documentation set out in Annex No. 2 section A subsections A1 - A9, in compliance with the provisions of this article, of Articles 20 and 21 of Law No. 237/2015 and, if applicable, of Law No. 132/2017 and the ASF regulations issued in application thereof.

(4) Applicants shall submit as part of the documentation a business plan that includes the elements set out in Art. 22 of Law No. 237/2015, with the following conditions being met:

a) is drawn up for a period of 5 years for the classes and risks mentioned in the application for authorisation;

b) contains financial projections based on optimistic, realistic and pessimistic scenarios;

c) is signed by the direct significant shareholders and the persons designated as members of the management.

(5) The quantitative information in the business plan referred to in para. (4) shall be sent in the formats set out in Annex No. 2, Section A, Subsection A9.

(6) The share capital shall be constituted in compliance with the provisions of Art. 29 para. (2) of Regulation No. 3/2016.

(7) The subscribed and paid-up share capital shall be deposited in full as a cash contribution and shall represent at least 80% of the amounts referred to in Art. 95 para. (1) letter d) of Law No. 237/2015, with subsequent compliance with the requirements for own funds, SCR and MCR, according to the business plan.

(8) In the authorization process, ASF may request, in writing, in compliance with the provisions of Art. 12 of Law No. 237/2015, additional documents and information, if those submitted are not sufficient or relevant for the assessment or if the documentation shows other deficiencies, from natural or legal persons who have direct or indirect links with the applicants or from other authorities in Romania or abroad.

(9) Following the analysis of the documentation referred to in para. (3) and (8) and in Art. 2 para. (6), ASF shall issue decisions granting the opinion or reasoned decisions rejecting the applications for granting the opinion.

(10) The decision to grant an opinion does not oblige ASF to issue decisions granting operating authorisation.

(11) The decision to grant the opinion referred to in para. (1) letter a) issued by ASF allows the applicants to register at the Trade Register Office:

a) Joint stock companies with *NACE Rev. 2* code - 6511 - *Life insurance*, 6512 – *Non-life insurance* and/or 6520 - *Reinsurance*, including in the name one of the terms referred to in Art. 20 para. (2) of Law No. 237/2015;

b) the persons appointed to the management of the companies assessed in accordance with the provisions of Regulation No. 1/2019 applicable in this case;

c) Significant shareholders assessed in accordance with Regulation No. 3/2016.

(12) To obtain the operating authorisation, after registration of the entries at the Trade Register Office, according to Law No. 31/1990 and para. (11), applicants shall submit to ASF the application and the documentation provided for in Annex No. 2 section A subsections A11 and A12.

(13) Where the documents on the basis of which the opinion was given pursuant to para. (1) letter a) registers changes, ASF shall assess those changes and issue an approval decision or a reasoned decision rejecting the application referred to in para. (12).

(14) If, between the two stages of the settlement process provided for in para. (1), the persons registered with the Trade Register Office no longer comply with the provisions of Regulation No. 1/2019 or Regulation No. 3/2016, the companies shall submit to ASF the necessary documentation for the approval of the newly appointed persons as members of the management or new significant shareholders, in accordance with the said regulations, and after the approval, they shall register those persons with the Trade Register Office.

(15) Persons registered with the Trade Register Office as members of the management shall submit to ASF the affidavit referred to in Art. 2 para. (5) in which they undertake the business plan approved by ASF in the first stage of the authorization process.

(16) Companies shall send the LEI code to ASF within 30 working days of receiving the operating authorisations.

(17) If ASF rejects applications for operating authorisation, according to Art. 2 para. (12), the provisions of Art. 20 para. (13) and Art. 24 of Law No. 237/2015 will be taken into account.

(18) The members of the management may exercise their powers only after obtaining the ASF approval

(19) The members of the executive management exclusively hold this position within the companies, without being able to hold this position in another legal entity, Romanian or foreign, for the entire period of their mandate, in compliance with the provisions of Law No. 31/1990.

Art. 4. General provisions relating to the conduct of business

(1) For the conduct of business, companies shall comply with the provisions of Law No. 237/2015 et seq:

a) the provisions of European regulations issued in application of the provisions of Directive 2009/138/EC and implicitly in application of the provisions of Law No. 237/2015 transposing the said Directive;

b) the provisions of ASF regulations issued in application of Law No. 237/2015;

c) the provisions of this rule.

(2) During the first 3 years of operation, companies update annually the 3-year business plan for general insurance and the 5-year business plan for life insurance and carry out an analysis of the *actual vs. estimated* with reference to the previous year; the analyses are submitted to ASF as part of the annual reports.

(3) Companies shall include in their written policies on the governance system provisions for the application of Law No. 129/2019 on preventing and combating money laundering and terrorist financing, as well as for amending and supplementing certain regulatory acts, as amended and supplemented, and of Government Emergency Ordinance no. 202/2008 on the implementation of international sanctions, approved with amendments by Law No. 217/2009, as amended and supplemented.

(4) Where companies change their name, change their head office or change their registered office:

- a) provide contractors and/or beneficiaries with new contact details;
- b) notify ASF of their new contact details and that they have informed the contractors and/or beneficiaries thereof.

(5) In order to ensure continuity in the performance of key and critical functions, companies shall develop procedures for assigning these functions to other persons or organisational structures where:

- a) the persons in charge no longer meet the requirements of professional competence and moral probity as laid down by law;
- b) the persons holding the powers are no longer part of the organisational structure;
- c) the organisational structure changes.

(6) Companies shall ensure that the duties of key functions and other functions critical to the whole business are not performed by persons located at the head office of branches in third countries.

Art. 5. Increase and reduction of share capital

(1) Without prejudice to the provisions of Regulation No. 3/2016, companies shall apply to ASF for approval of an increase in share capital, in compliance with the relevant provisions of Law No. 31/1990 and of this Article, by submitting an application accompanied by the documentation set out in Annex No. 3.

(2) In the process of approving the increase of share capital, the provisions of Art. 2 para. (3), (6) and the provisions relating to the submission of documentation in Art. 2 para. (7).

(3) ASF approves the share capital increase on the basis of the decision of the statutory body competent to approve the operation, the amount by which the share capital is increased, the level of the share capital and the ownership structure and if one of the following conditions is met:

- a) the provisions of Art. 29 para. (2) of Regulation No. 3/2016;
- b) where the increase is made other than by transfer through credit or financial institutions:

(i) the provisions of Art. 29 para. (2) letters (b) and (c) of Regulation No. 3/2016, the obligation to provide information is incumbent on companies;

(ii) a financial auditor's report on the operation is submitted.

(4) Companies shall apply to ASF for approval to reduce the share capital, except for the situation provided for in Art. 153²⁴ of Law No. 31/1990.

(5) In the process of approving the reduction of share capital, the provisions of Art. 2 para. (3), (6) and the provisions relating to the submission of documentation in Art. 2 para. (7).

(6) Companies shall apply to ASF the approval for the reduction of the share capital, in compliance with the relevant provisions of Law No. 31/1990 and of this article, by submitting an application accompanied by the documentation set out in Annex No. 4.

(7) ASF approves the reduction of the share capital on the basis of the decision of the statutory body competent to approve the operation, the amount by which it is reduced, the level of the share capital and the shareholder structure, and the operation does not lead to a reduction in the level of eligible own funds below the SCR and MCR.

(8) In the case of a reduction of share capital carried out in accordance with the provisions of Art. 153²⁴ of Law No. 31/1990, companies shall notify ASF of this operation within two working days from the date of adoption of the resolution in the extraordinary general meeting of shareholders and shall send ASF the certificate of registration of entries in the trade register within 5 working days from the registration.

(9) Within 3 months from the receipt of the application and the related documentation, ASF shall approve by decision or reject by reasoned decision the increase of share capital or the reduction of share capital; in documented cases, the deadline may be extended, in compliance with the provisions of Art. 2 para. (7).

Art. 6. Extension of activity

(1) Companies shall apply ASF for approval to expand their business:

a) by submitting to ASF an application accompanied by the documentation provided for in Annex No. 5 for the inclusion in the operating licence of other classes and risks;

b) by submitting to ASF an application accompanied by the documentation provided for in Annex No. 6 for carrying out activities in third countries pursuant to Art. 25 para. (7) of Law No. 237/2015.

(2) In the process of approving the extension of the activity under para. (1) the provisions of Art. 2 para. (3) and (6) as well as the provisions relating to the time limit for the submission of documentation referred to in Art. 2 para. (7).

(3) ASF approves the extension of the operating authorisations provided for in para. (1) letter a) if the companies comply with the conditions of Art. 21 para. (3) - (5) of Law No. 237/2015 and pay the fee provided for in the regulations on ASF revenues.

(4) ASF approves the activity in third countries referred to in para. (1) letter b) if the following conditions are met:

- a) the competent statutory body of the companies approves the operation;
- b) companies establish policies and procedures for the business conducted through branches;
- c) companies appoint representatives who are empowered to represent and engage them in dealings with third parties, competent authorities and other authorities in the respective States;
- d) companies fulfil the conditions for obtaining the necessary authorisations under the legislation of the respective states;
- e) the activity of branches does not result in eligible own funds being below the SCR and MCR;
- f) the provisions of the legislation of third countries do not restrict the ability of ASF to exercise the supervisory process;
- g) pay the fee provided for by the regulations on ASF's revenue

(5) Within 3 months from the receipt of the application and the related documentation, ASF shall approve by decision or reject by reasoned decision the extension of the activity, applied for by the companies according to para. (1); in documented cases, the deadline may be extended, subject to the provisions of Art. 2 para. (7).

(6) Companies operating in third countries assume risks and liabilities only in the third countries where the branches are located.

Art. 7. Right of establishment and freedom to provide services

(1) Insurers intending to conduct business on the basis of the right of establishment and the freedom to provide services shall submit to ASF the documentation referred to in Art. 111 para. (1) and Art. 113 para. (1) of Law No. 237/2015.

(2) Insurers shall include in their policies provisions relating to activities carried out under the right of establishment and the freedom to provide services, appropriate to the nature, extent and complexity of those activities.

(3) Where insurers establish branches in Member States for the conduct of direct insurance business, they shall appoint representatives in accordance with Art. 111 para. (1) letter c) of Law No. 237/2015, which they assess in accordance with the provisions of Regulation No. 1/2019 on key functions and notify to ASF.

(4) Branches established by insurers in other Member States may use the insurers' LEI code, unless otherwise provided for by the legislation of those Member States.

(5) ASF may prohibit insurers from carrying on business under the right of establishment and freedom to provide services if it finds, during the supervisory process,

that the legal provisions and dispositions on the protection of the general interest of the Member States in which they operate are no longer complied with.

(6) If the Member States in which insurers operate under the right of establishment and the freedom to provide services withdraw from the European Union, those insurers shall choose one of the following actions:

- a) transfer the entire portfolio to insurers in those states;
- b) apply for permission from supervisors in countries withdrawing from the European Union to continue their activity, under the conditions of local legislation, and apply to ASF for approval to operate in third countries in accordance with Art. 6 para. (1) letter b).

(7) The portfolio transfer provided for in para. (6) letter (a) shall be carried out in compliance with Art. 38 of Law No. 237/2015 and with the legislation of the States to which the portfolio is transferred, until the date on which the Member States withdrawing from the European Union no longer apply European Union law and European Union Law no longer applies to them.

Art. 8. Portfolio transfer

(1) Companies shall apply to ASF within a maximum of 90 working days from the reference date referred to in the agreement referred to in para. (4), the approval of the portfolio transfer by means of the application set out in Annex No. 7, accompanied by the documentation set out in Annex No. 8 section A and under the conditions of Art. 38 of Law No. 237/2015.

(2) As part of the portfolio transfer approval process in accordance with para. (1) the provisions of Art. 2 para. (3), (6) and the provisions relating to the submission of documentation in Art. 2 para. (7).

(3) In the first stage of the process of processing applications for portfolio transfer approval, ASF shall examine the portfolio transfer drafts that include the documentation referred to in para. (1).

(4) The draft portfolio transfer agreement included in the documentation referred to in para. (1) shall at least provide for:

- a) company identification data;
- b) the elements envisaged for the transfer, including the structure of the portfolio expected to be transferred, in the format set out in Annex 8, Section C;
- c) setting the reference date;
- d) the estimated timeframe for the portfolio transfer, specifying the reference date and the estimated completion date of the draft;
- e) the rights and obligations incumbent on the companies by virtue of the agreement;
- f) the fact that the general conditions of the contracts are maintained;
- g) the transfer of rights and obligations arising from insurance contracts underwritten by transferor companies;

h) clauses relating to the termination of the liability of transferor companies and the commencement of the liability of transferee companies.

(5) The draft agreement referred to in para. (4):

a) is signed by the members of the management of the companies involved in the portfolio transfer;

b) is verified and signed by the persons holding the actuarial function.

(6) ASF approves the portfolio transfer draft if the transferee companies in Romania or in other Member States meet the following conditions:

a) are authorised to carry on the risks or classes of insurance corresponding to the contracts being transferred;

b) hold own funds eligible for SCR cover before and after the portfolio takeover;

c) after taking over the portfolio, have assets covering gross technical reserves;

d) the portfolio transfer fee provided for in the regulations on ASF revenue is paid.

(7) If the portfolio to be transferred includes classes or risks for which the transferee companies having their registered office in Romania do not have authorisation, they shall apply to ASF for approval to extend their operating authorisations to those classes and risks, in accordance with Art. 6, prior to submitting the application referred to in para. (1).

(8) Transferor companies shall be required to record separately the subscriptions relating to the portfolio to be transferred made after the reference date specified in the draft agreement referred to in para. (4) and until the date of signing of the handover and takeover report.

(9) ASF shall request from the supervisors of the entities to which the portfolio is transferred either certification that those entities hold eligible own funds to cover the SCR after the portfolio is taken over or consent to the portfolio transfer.

(10) In the case of a portfolio transfer to transferee companies established in another Member State, including contracts concluded in the territory of other Member States under the right of establishment and the freedom to provide services, ASF shall seek the agreement of the supervisors of those Member States.

(11) Following analysis of the documentation referred to in para. (1) and Art. 2 para. (6), ASF shall issue approval decisions or reasoned decisions rejecting portfolio transfer drafts.

(12) The portfolio transfer shall be deemed to have been completed on the date of signature by the transferor and transferee companies of the handover and takeover deed of the portfolio transferred.

(13) The handover transfer protocol of the transferred portfolio shall be sent to ASF within 5 working days from the date of its signature and shall include at least the following:

a) the structure of the transferred portfolio, in the form set out in Annex No. 8, Section C;

b) the statement of gross technical provisions relating to the portfolio transferred and the assets covering them;

c) other rights and obligations arising from the portfolio transfer.

(14) In the second stage of the process of processing applications for portfolio transfer approval, ASF shall analyse the documentation submitted in accordance with para. (13) in order to assess the implementation of the approved draft and shall issue decisions approving or rejecting the respective applications; rejection decisions shall also be issued if the deadline referred to in para. (13) is not met.

(15) Transferor and transferee companies shall fill in the special asset register with the corresponding changes following the transfer of the portfolio.

(16) After the approval of the portfolio transfer by ASF, the transferee companies shall send to the contractors the notification referred to in Art. 38 para. (5) of Law No. 237/2015 which includes at least the name and contact details and, if the portfolio includes MTPL insurance contracts, details of the claims representatives.

(17) The provisions of this article shall also apply to third-country insurers authorised by ASF to carry out activities through branches pursuant to Art. 115 of Law No. 237/2015.

Art. 9. Merger and winding-up

(1) The merger and winding-up shall be carried out in accordance with the provisions of Title VI, Chapter II and III of Law No. 31/1990, Art. 23 para. (1) letter b) of Law No. 207/2015 on the Fiscal Procedure Code, as amended and supplemented, and this article.

(2) For the purpose of approving the merger or winding-up, the provisions of Art. 2 para. (3) and (6), as well as the provisions on the deadline for submission of documentation referred to in Art. 2 para. (7).

(3) The process of approval of mergers or winding-ups of companies by ASF, involving the creation of new companies, comprises two stages:

a) approval within 6 months of the draft terms of merger or winding-up on the basis of the documentation referred to in para. (6) and the documentation referred to in Art. 3 para. (3) relating to the formation of new companies, which stage shall be completed by issuing approval decisions or reasoned decisions rejecting the draft terms of merger or winding-up;

b) approval of the merger or winding-up on the basis of the documentation from the Trade Register Office referred to in para. (13), on the basis of the documentation obtained by the newly incorporated companies from the Trade Register Office under the conditions laid down in Art. 3 para. (11) and the documentation referred to in Art. 3 para. (12), which stage shall be completed by issuing decisions approving the merger or winding-up at the same time as the operating licences are issued to the newly incorporated companies or by issuing reasoned decisions rejecting the merger or winding-up.

(4) If the documentation submitted for the approval of the merger or winding-up shows that companies with registered offices in other Member States are to be set up, ASF shall inform

supervisors of the respective states about this fact and cooperate with them, in accordance with Art. 12 of Law No. 237/2015.

(5) The process of approval of mergers by ASF, which does not involve the creation of new companies, comprises two stages:

a) approval within 6 months of the draft terms of merger on the basis of the documentation referred to in para. (6) and issuing approval decisions or reasoned decisions rejecting the draft terms of merger;

b) approval of the merger on the basis of the documentation referred to in para. (13) and issuing approval decisions or reasoned decisions rejecting the merger.

(6) At the first stage of the merger or winding-up approval process, companies shall apply to ASF for approval of the merger or winding-up by means of the application set out in Annex No. 7, accompanied by the relevant documentation set out in Annex No. 9 section A and, if applicable, the documentation set out in Art. 3 para. (4).

(7) In order for the merger or winding-up to be approved, the following conditions shall also be met:

a) companies resulting from merger or winding-up processes comply with the legal provisions relating to technical reserves, including the assets covering them, own funds, SCR and MCR.

b) the companies involved in the merger or winding-up processes do not owe any debts to ASF arising from fees and contributions due according to the regulations on ASF revenues, to the Policyholders' Guarantee Fund set up according to *Law No. 213/2015 on the Policyholders' Guarantee Fund*, as subsequently amended, and to the Romanian Motor Insurers' Bureau, where applicable;

c) the merger or winding-up tax provided for in the regulations on the ASF revenues is paid.

(8) If, according to the merger or winding-up drafts, changes in the management are to be registered, the companies shall apply to ASF for approval of these changes in accordance with the provisions of Regulation No. 1/2019.

(9) If, according to the merger or winding-up drafts, there are to be changes in the shareholding structure, the companies shall apply to ASF for approval of those changes in accordance with the provisions of Regulation No. 3/2016.

(10) Where the merger or winding-up involves a portfolio transfer, companies:

a) shall apply for the approval of the portfolio transfer from ASF, according to Art. 8;

b) after approval of the portfolio transfer by ASF, apply to ASF for approval of the merger or winding-up under the conditions of this Article.

(11) Where mergers and winding-ups involve the extension of operating authorisation to other classes and risks, companies:

a) shall apply for approval from ASF for the extension of the operating authorisation to other classes and risks, in accordance with Art. 6;

b) after approval of the extension of the operating licence by ASF, apply to ASF for approval of the merger or winding-up under the conditions of this Article.

(12) Following the issuance by ASF of decisions approving merger or winding-up drafts pursuant to para. (3) letter (a), the resulting companies shall complete the necessary formalities for the registration of the appropriate entries in the Trade Register Office on the basis of the said decision.

(13) Within 5 working days of the completion of the formalities for registration of the merger or winding-up at the Trade Register Office, but not later than 4 months after the issue by ASF of the decision approving the merger or winding-up drafts according to para. (3) letter a) or para. (5) letter a), companies shall submit to ASF copies of the documents issued by the Trade Register Office.

(14) If, between the two stages referred to in para. (3) or (5), the documentation on the basis of which the approval decision was issued pursuant to letter. a) of the said paragraphs changes, ASF shall reassess the new documentation and issue a new decision approving the merger or winding-up drafts, and the companies shall apply the provisions of para. (12) and (13).

(15) By way of exception to para. (14), if the amendments referred to in the said paragraph are contrary to the legal provisions applicable to the merger or winding-up, including this rule, ASF shall issue the reasoned decision rejecting the merger or winding-up drafts previously issued.

(16) At the second stage of the merger or winding-up approval process, upon receipt of the documentation referred to in para. (13) and, where appropriate, after consideration of the modifications provided for in para. (14), ASF shall issue either decisions approving the merger or winding-up or reasoned decisions rejecting the merger or winding-up in accordance with para. (3) letter (b) or (5) letter (b).

(17) ASF withdraws the operating authorisations of companies that cease to exist following a merger or winding-up.

Art. 10. Winding-up and voluntary liquidation

(1) Companies shall apply to ASF for approval to enter into dissolution and voluntary liquidation, including for the liquidators appointed to carry out the liquidation procedures according to the provisions of Law No. 503/2004, by means of an application accompanied by the documentation provided for in Annex No. 10.

(2) In the process of approval of voluntary dissolution and liquidation, the provisions of Art. 2 para. (3), (6) and (7) shall apply.

(3) The affidavit provided for in Annex No. 10, Section C, item 3, shall be accompanied by the curriculum vitae of the persons it lists, signed and dated, and proof of the existence of a legal relationship for each compatible insolvency practitioner.

(4) ASF may request additional relevant documents or the documentation set out in Annex No. 10 for the assessment of the proposed draft for the conduct of the voluntary winding-up and liquidation operation and of the capacity of the appointed liquidator to carry out the operation.

(5) ASF shall issue a decision rejecting the application for the approval of the appointed liquidators if, following the assessment carried out, it has reasonable grounds to consider that they do not have the capacity to carry out the operation in question in relation to the nature, scale and complexity of the companies' business.

(6) If, as a result of the assessment carried out, ASF has reasonable grounds to consider that the interests of the contractors and beneficiaries are prejudiced, it shall reject the application for approval of voluntary winding up and liquidation.

(7) Companies under voluntary winding-up and liquidation are exempted from application:

a) the provisions of the Financial Supervisory Authority's Rule No. 19/2015 on the application of International Financial Reporting Standards by insurance, insurance-reinsurance and reinsurance companies, as amended;

b) Art. 3¹ of the Financial Supervision Authority's Rule No. 21/2016 on reporting on insurance and/or reinsurance activity, as amended;

c) certain requirements in the regulations issued by ASF, determined on a case-by-case basis by ASF and communicated to the respective companies, which are determined according to the nature, scale and complexity of the business and in accordance with the principle of qualified judgment and documentation.

(8) Once the dissolution and voluntary liquidation process has been completed, the appointed liquidators apply to ASF to withdraw the companies' operating authorisations.

SUBSECTION 1.2 Companies in difficulty

Art. 11. Recovery plan and short-term financing plan

(1) For the purposes of this Art. and Art. 12, "*plan*" means both the recovery plan and the short-term financing plan referred to in Art. 99 para. (2), Art. 100 para. (2) and Art. 102 of Law No. 237/2015.

(2) In application of Art. 102 letter c) and d) of Law No. 237/2015, companies shall carry out the forecast balance sheet and estimates over several time horizons, as requested by ASF, so that ASF can assess whether it is reasonably likely that companies will no longer be in non-compliance with the SCR and/or MCR both immediately after the implementation of the plan and subsequently.

(3) In preparing the forecast balance sheet and estimates, companies shall take into account the effect of the measures set out in the plan and use realistic assumptions about economic conditions and any expected adverse events that may materially affect their business and financial position, taking into account their risk profile and business strategy.

(4) Companies shall include in the plan the measures to be implemented in order to restore compliance with capital requirements and the deadlines for the implementation of each measure; companies shall also describe the measures already implemented in order to restore compliance with capital requirements and provide, where appropriate, other information they consider relevant.

(5) Companies shall document management approval of the plan and any commitments made by third parties to restore compliance with capital requirements.

(6) ASF may determine the granularity of the plan, based on the principle of proportionality and the principle of qualified judgment.

(7) If the situation of non-compliance with the SCR and/or MCR is established by ASF, it shall issue a reasoned decision to this effect, and the date of establishment of the situation, referred to in Art. 99 para. (2) and Art. 100 para. (2) of Law No. 237/2015, is the date of communication to the company of that decision.

Art. 12. Analysis of the plan

(1) ASF analyses the plan submitted by the companies, with the appropriate application of the principles of proportionality, qualified reasoning and documentation, and may request from them information and documents relevant to the analysis process.

(2) ASF shall reject the plan, by means of a reasoned decision, if it considers that there is no reasonable prospect that its implementation will result in a sustainable restoration of compliance with capital requirements or if the estimates, information and/or measures presented are unrealistic, incomplete or insufficiently documented and the plan is therefore inadequate.

(3) In the situation referred to in para. (2) concerning the short-term financing plan in case of non-compliance with the MCR, the provisions of Art. 110 para. (2) of Law No. 237/2015 shall apply.

Art. 13. Surveillance measures

(1) In application of the provisions of Art. 8 para. (3), Art. 34 para. (3) and Art. 101 of Law No. 237/2015 and Art. 26 para. (1) of Law No. 246/2015, the measures that may be ordered by ASF to companies subject to the Solvency II supervisory regime include:

- a) changes made by companies to their governance system and in their risk profile;
- b) convening of a general meeting of shareholders to increase the share capital of the company and the increase thus approved;

- c) verification, inventorying and/or processing of claim files by companies in order to assess the actual damage and establish payment obligations towards beneficiaries;
- d) companies' inventories of their assets;
- e) the transfer by companies of all or part of the portfolio of insurance contracts in force, in compliance with the legal provisions in force and, where applicable, the provisions of ASF contained in the decisions ordering this measure;
- f) temporary prohibition on companies making certain investments;
- g) imposing additional reporting requirements on companies in terms of granularity of information and/or frequency;
- h) the obtaining by companies of loans and/or the conversion into shares of loans, as required by law, in order to restore their financial situation;
- i) reduction of expenses by companies, including by resizing the staffing scheme and the territorial network, deferring the payment of variable remuneration due under the remuneration policy and/or limiting the level of such subsequent variable remuneration;
- j) temporary prohibition of renewal by companies of insurance contracts that have expired or, where appropriate, only of certain types of insurance contracts expressly established by decisions ordering this measure, under the terms of Art. 163 of Law No. 237/2015;
- k) prohibition of the conclusion by companies of new insurance contracts or the underwriting of new risks, related to one or more classes of insurance, for the period expressly established by the decisions ordering this measure, with the application of the principles of proportionality and documentation, in order to mitigate at least the concentration, operational, underwriting or liquidity risk, in accordance with Art. 163 of Law No. 237/2015;
- l) negotiation by companies of new debt maturities, allowing for their collection as soon as possible, and/or of debts, with some or all creditors, allowing for their payment in a timeframe correlated with the collection of debts;
- m) prohibition of the granting by companies of loans to related entities and/or emergency recovery of such loans granted and/or prohibition of the participation of companies in the capital increase of such entities;
- n) changes by companies in the composition and/or structure of assets in order to reduce at least market and credit risks;
- o) modification, replacement or supplementation by companies of the risk minimisation techniques used;
- p) limiting or prohibiting, as appropriate, transfers and transactions of assets by companies with affiliated entities and/or entities outside the group;
- q) any other prudential measures necessary to restore the financial situation of companies in order to protect the rights and legitimate interests of contractors and beneficiaries.

(2) The activity of inspecting, inventorying and processing the files, provided for in para. (1) letter c), shall be carried out as a matter of urgency, without exceeding a period of 30 days from the date of communication of the ASF decisions ordering this measure; ASF may extend the implementation period according to the principle of qualified judgment.

Art. 14. Deadlines for the implementation of measures and other provisions

(1) Where ASF requires companies to consider certain decisions for adoption by general meetings of shareholders, the management of the companies shall send for publication or send the notice of meeting, in accordance with the legal provisions, within a maximum of 5 days from the date of the communication of ASF's decisions ordering such action; the companies shall notify ASF on the resolution adopted by the shareholders within 2 working days from the date of the general meeting.

(2) The companies shall comply with the deadlines for the implementation of the measures ordered by ASF, established in the decision by which the authority orders the measures depending on the nature, scope and complexity of the companies' activity and related risks and the state of deterioration of the financial situation; ASF may extend the deadlines for the implementation of the measures according to the principle of qualified reasoning.

(3) Companies shall allow ASF access to all their documents, registers, technical-operational and accounting records, including in electronic format, and shall provide, upon request, all information necessary for the exercise of the authority's powers and duties.

SECTION 2. Joint stock companies subject to the national supervisory regime

Art. 15. General provisions

(1) Joint stock companies subject to the national supervisory regime are authorised to operate and conduct business under Part II of Law No. 237/2015 and in accordance with this section.

(2) The legal provisions of the Solvency II regime relating to the governance system, with the exception of those relating to the ORSA, shall apply to companies, taking into account the principle of proportionality.

(3) In the Articles of Section 1, which are also applicable to companies covered by this Section, solvency ratios shall have the following meaning:

- a) own funds - available solvency margin;
- b) SCR - minimum solvency margin;
- c) MCR - safety fund.

(4) The documentation set out in the Annexes shall be filled in and drawn up in accordance with the legal provisions applicable to the national supervisory regime.

(5) The subscribed and paid-up share capital shall be deposited in full as a cash contribution and shall represent at least 80% of the safety fund provided for in Art. 37 of Rule No. 28/2015.

(6) Companies are prohibited from underwriting catastrophe risks.

Art. 16. Authorisation process

(1) The process of authorization of companies by ASF is carried out in compliance with the provisions of Articles 20 and 21 of Law No. 237/2015, Art. 2 para. (3), (6) and (7), Art. 3 except para. (5) - (7) and of this article, and in order to obtain the operating authorisation, applicants shall submit to ASF the application and documentation provided for in Annex No. 2 section A, except for the models in subsection A9.

(2) As part of the authorisation process, the business plan referred to in Art. 21 para. (1) letter (c) of Law No. 237/2015 shall be drawn up as follows:

a) includes the items referred to in Art. 22 para. (1) letters (a) to (c), (f), (g) and para. (2) (d) and (e) of Law No. 237/2015;

b) submits an estimate of financial resources;

c) includes a forecast balance sheet;

d) submits an estimate of the minimum solvency margin and the methods used to calculate it;

e) includes the elements of the minimum safety fund, in accordance with the provisions of Art. 37 para. (2) of Rule No 28/2015;

f) is signed by the direct significant shareholders and the persons registered with the Trade Register Office as members of the management.

(3) The financial resources referred to in para. (2) letter (b) shall be those required to establish technical reserves and the solvency margin and shall be estimated in proportion to the nature, scale and complexity of the proposed activity.

(4) The quantitative information in the business plan referred to in para. (2) shall be calculated in accordance with Section A, Subsection A10 of Annex No. 2.

Art. 17. General provisions relating to the conduct of business

(1) In the course of their business, companies shall properly apply the provisions of Art. 4 to 6 and comply with the following requirements:

a) management of accounting and operational records, allowing the preparation of reports required by ASF;

- b) supervising the work of their own staff, intermediaries and registered ancillary insurance intermediaries with whom they collaborate, including by setting up anti-fraud procedures, so that business is not affected;
 - c) submission to ASF of the income and expenditure budget, each year, within 10 calendar days from the date of approval, including its rectifications;
 - d) reporting on reinsurance activity and reinsurance programmes;
 - e) establishing procedures, setting up and implementing training measures for its own staff to comply with legislation on combating terrorism and preventing money laundering through insurance activity;
 - f) the preparation and presentation of individual and, where applicable, consolidated financial statements in accordance with the applicable accounting regulations issued by ASF;
 - g) the transmission of other reports, statements, analyses or financial reports, at ASF's request;
 - h) maintaining a special register of assets eligible to cover technical provisions in accordance with the provisions of *the Financial Supervisory Authority's Rule No. 38/2015 on technical provisions established for insurance activity, the method of their calculation for the purposes of drawing up the annual financial statements and the special register of assets covering them*;
 - i) setting up procedures for the settlement of claims, including their approval, establishment and settlement, in accordance with ASF regulations;
 - j) establishing procedures for receiving and dealing with complaints, including by amicable means, opening and maintaining the register of complaints and referrals, forwarding reports to ASF in accordance with the specific rules;
 - k) ensuring the audit of the annual and consolidated financial statements in accordance with the specific rules;
 - l) publication of an annual report.
- (2) The report referred to in para. (1) letter (l) shall contain information on at least the following:
- a) the work carried out and the quantitative results obtained;
 - b) governance system;
 - c) risk profile;
 - d) capital management;
 - e) significant changes during the previous financial year in the items referred to in items (a) to (d).
- (3) Companies carrying on life and non-life insurance business simultaneously shall comply with the following requirements:
- a) organising and keeping separate accounts for the two categories of insurance business;
 - b) separate recording of the available solvency margin elements calculated for each of the activities, which cannot be transferred from one activity to another;

c) separate recording, according to nature, of the items referred to in para. (4).

(4) Items recorded separately in accordance with para. (3) letter (c) are as follows:

a) revenues, in particular premiums received, payments from reinsurers and investment income;

b) expenses, in particular those relating to the payment of damages;

c) additional amounts for technical reserves;

d) reinsurance premiums;

e) operational expenditure for each activity.

(5) As regards voluntary insurance, companies draw up:

a) the conditions of insurance, in compliance with the legal provisions relating to the insurance contract;

b) insurance clauses, which may modify the conditions of insurance, depending on the own choice or the contractor's choice;

c) the criteria for setting insurance premiums;

d) policies and procedures for the establishment and settlement of claims, in strict accordance with the provisions contained in the insurance conditions and contractual clauses;

e) policies on the establishment and maintenance of technical reserves, according to the operational record-keeping system, in compliance with the ASF regulations.

(6) Companies shall communicate to policyholders or potential policyholders, before signing the insurance contract, the information provided for in Articles 107 - 109 of Law No. 237/2015 and in the legal provisions defined in Art. 3 para. (1) item 19 of Law No. 236/2018.

(7) When companies assume payment obligations in another currency, they carry out insurance and reinsurance operations in that currency.

Art. 18. Specific operations

(1) Companies shall apply to ASF for approval for the following specific operations:

a) portfolio transfer;

b) merger or winding-up;

c) dissolution and voluntary liquidation.

(2) Companies shall apply to ASF for approval of the portfolio transfer by means of the application set out in Annex No. 7, accompanied by the documentation set out in Annex No. 8, section B, and shall comply with the provisions of Art. 8, with the exception of para. (6) letters (b) and (c).

(3) For the approval of the portfolio transfer, the transferee companies shall also fulfil the following conditions:

a) have an available solvency margin at least equal to the minimum solvency margin calculated in accordance with the provisions of Rule No. 28/2015, both before and after the portfolio is taken over;

b) have, after taking over the portfolio, sufficient gross technical reserves and eligible assets to cover those reserves, in accordance with the structure laid down in the legislation in force.

(4) If the portfolio transfer involves the extension of the operating authorisation to other classes and risks, companies shall, prior to the submission of the application for approval of the transfer, apply to ASF for approval of the extension of the operating authorisation in accordance with Art. 6 para. (1) letter a).

(5) The transferee companies shall apply to ASF to be supervised in accordance with Part I of Law No. 237/2015 if they:

- a) take over a portfolio that includes liabilities and risks located in other Member States;
- b) take over a portfolio which includes the activities and risks referred to in Art. 2 para. (2) letter (f) - h) of Law No. 237/2015;
- c) following the takeover of the portfolio, they end up exceeding the amounts laid down in Art. 2 para. (2) letter a) - e) of Law No. 237/2015.

(6) In the case of an application referred to in para. (5), the portfolio transfer shall be carried out only under the conditions laid down in Art. 8.

(7) Companies shall apply to ASF the approval of the draft terms of merger or winding-up by means of the application set out in Annex No. 7, accompanied by the documentation set out in Annex No. 9, section B, and shall comply with the provisions of Art. 9, with the exception of para. (6).

(8) ASF approves the merger or winding-up of companies if at least the following conditions are cumulatively met:

- a) the resulting companies have an available solvency margin corresponding to the business activity at least equal to the minimum solvency margin calculated in accordance with the provisions of Rule No. 28/2015;
- b) the resulting companies have the liquidity indicator required by Rule No. 28/2015;
- c) companies comply with the minimum share capital requirement laid down in Art. 15 para. (5), including where they are newly incorporated.

(9) Where the merger or winding-up process involves a portfolio transfer, companies:

- a) shall apply for approval from ASF for the portfolio transfer under the conditions of Art. 8;
- b) after the approval of the portfolio transfer pursuant to letter a), shall apply to ASF the approval of the merger or winding-up pursuant to para. (7) and (8).

(10) Where the merger or winding-up process involves the extension of the operating authorisation to other classes and risks, companies:

- a) shall apply for approval from ASF for the extension of the authorisation under the conditions of Art. 6;
- b) after approval of the extension of the authorisation pursuant to letter a), shall apply to ASF for the approval of the merger or winding-up under the conditions of para. (7) and (8).

(11) If the merger is with companies subject to the Solvency II supervisory regime, the provisions of Art. 9 on merger shall apply and the resulting companies shall be subject to the Solvency II supervisory regime.

(12) Companies shall comply with the provisions of Art. 10 in the event of voluntary liquidation and dissolution.

CHAPTER III. Provisions applicable to mutual insurance undertakings

SECTION 1. Mutual insurance undertakings subject to the Solvency II supervisory regime

Art. 19. Authorisation process

(1) The process of company authorisation by ASF comprises two stages:

a) issuing decisions granting approval for their establishment in accordance with Law No. 71/2019 and registration with the Trade Register Office or issuing reasoned decisions rejecting applications for approval;

b) issuing decisions granting operating authorisation or reasoned decisions rejecting applications for operating authorisation.

(2) The following provisions shall be respected in the process of company licensing:

a) Art. 23 of Law No. 71/2019;

b) Art. 3 para. (2), para. (4) letter (a) and (b), para. (5), para. (6), para. (8) to (10) and para. (15) - (19);

c) this Article.

(3) In order to obtain the necessary approval for the incorporation of companies in accordance with Law No. 71/2019 and their registration at the Trade Register Office, applicants shall submit to ASF the application provided for in Annex No. 2 section A subsection A1 and the documentation provided for in Annex No. 2 section B subsections B1 - B3, in compliance with the provisions of para. (2), of Art. 20 and 21 of Law No. 237/2015 and, if applicable, of Law No. 132/2017 and the rules issued in application thereof.

(4) Applicants submit as part of the documentation a business plan which includes the elements set out in Art. 22 of Law No. 237/2015 and is signed by the founding members.

(5) The documentation submitted in accordance with para. (3) shall include the Articles of Incorporation which may provide, in addition to the items listed in Art. 6 para. (2) of Law No. 71/2019:

a) a grace period of a maximum of 5 days from the date of termination of the insurance contract during which membership is maintained until renewal or conclusion of a new contract;

b) reduction of the compensation or indemnities due to members for claims reported during the period when solvency requirements are not met as required by law or in other clearly defined situations where insurance contracts do not cover the risks

provided for in section A, items 10 to 13 and 15 of Annex No. 1 to Law No. 237/2015, in which case the insurance contracts include clauses relating to these reductions;

c) the obligation for members who have the right to repayment of contributions to the initial fund to transfer to mutual undertakings the legal act transferring that right to other members in accordance with Art. 14 para. (8) of Law No. 71/2019;

d) the conditions under which the reductions referred to in letter (b) may be applied;

e) the method of calculating the reductions referred to in letter (b).

(6) The initial fund referred to in the articles of incorporation under Art. 6 para. (2) letter j) of Law No. 71/2019 is established in compliance with the provisions of Art. 29 para. (2) of Regulation No. 3/2016.

(7) Following analysis of the documentation referred to in para. (3), Art. 2 para. (6) and Art. 3 para. (8), ASF shall issue decisions granting the opinion or reasoned decisions rejecting the applications for granting the opinion.

(8) The decision to grant the opinion referred to in para. (1) letter a) issued by ASF allows the applicants to register at the Trade Register Office:

a) mutual insurance undertakings *with NACE Rev. 2 code 6511 - Life insurance activities, 6512 - Non-life insurance (except life insurance)*, including in their name one of the terms referred to in Article 20 para. (2) of Law No. 237/2015;

b) persons appointed to the management of the companies, approved by ASF by decision following the assessment in accordance with the provisions of Regulation No. 1/2019 applicable in this case;

c) founding members referred to in Art. 23 para. (2) of Law No. 71/2019, assessed in accordance with the provisions of Art. 29 of Regulation No. 3/2016 applicable in this case and following the analysis of the information set out in Annex No. 2 section B subsection B2.

(9) The application filed by the applicants at the Trade Register Office, according to Art. 7 para. (4) of Law No. 71/2019, contains the application to be registered in the Trade Register:

a) the amount of the initial fund paid in;

b) the particulars in the Articles of Incorporation referred to in Art. 6 para. (2) letters (a) - (d), (k) and (n) of Law No. 71/2019.

(10) After registration of the entries at the Trade Register Office, according to Law No. 71/2019 and para. (8) and (9), the applicants shall submit to ASF the application and documentation provided for in Annex No. 2 section A subsections A11 and A12.

(11) Where the documents on the basis of which the opinion was given pursuant to para. (1) letter (a) registers changes, ASF will assess those changes and, if necessary, revoke the decision granting the opinion and issue a decision rejecting the application referred to in para. (10).

(12) If, between the two stages of the settlement process provided for in para. (1), the persons registered at the Trade Register Office no longer comply with the provisions of Regulation No. 1/2019 or Art. 29 of Regulation No. 3/2016 applicable in this case, companies shall submit the necessary documentation for the approval of the newly designated persons as

members of the management or new founding members, in accordance with the said regulations, and after approval, register those persons with the Trade Register Office.

(13) Following analysis of the documentation referred to in para. (10), Art. 2 para. (6) and Art. 3 para. (8), ASF shall issue a decision granting the operating authorisation or a reasoned decision rejecting the applications for granting the operating authorisation.

Art. 20. General provisions relating to the conduct of business

(1) For the conduct of business, companies shall comply with the provisions of Law No. 237/2015, Law No. 71/2019 and the following:

- a) the provisions of European regulations issued in application of the provisions of Directive 2009/138/EC and implicitly in application of the provisions of Law No. 237/2015;
- b) the provisions of ASF regulations issued in application of Law No. 237/2015;
- c) the provisions of Art. 4 para. (2) - (5);
- d) the provisions of para. (2) - (15).

(2) Mutual undertakings shall register with the Trade Register Office the particulars of:

- a) refunds from the initial fund made under Art. 14 para. (6) of Law No. 71/2019, on the basis of the ASF decision approving the refund operation pursuant to Art. 14 para. (7) of the same law and the documents certifying the amount of the refund made;
- b) members who are entitled to a refund of the contribution to the initial fund, stating the amount still to be refunded, on the basis of the legal act attesting the acquisition of the right to refund under Art. 14 of Law No. 71/2019.

(3) In order to apply the provisions of Art. 6 para. (2) letter t) of Law No. 71/2019, companies shall publish on their website, in a section dedicated to members, in compliance with Art. 301 of Commission Delegated Regulation (EU) 2015/35 of 10 October 2014 supplementing Directive 2009/138/EC of the European Parliament and of the Council on the taking-up and conduct of the business of Insurance and Reinsurance, as amended, at least the following information:

- a) number of members;
- b) the situation of the free reserve fund;
- c) the level of own funds eligible to cover the MCR;
- d) the claims situation;
- e) the situation of the loans referred to in Art. 17 para. (2) of Law No. 71/2019 and the use of the resources referred to in Art. 17 para. (3) of the same law.

(4) The General Meeting of Members may approve the reductions provided for in Art. 19 para. (5) letter (b) by a majority of at least two-thirds of the voting rights of the members present in person or represented.

(5) Pursuant to Art. 27 para. (1) of Law No. 71/2019, companies apply to ASF for approval of the change of legal form and submit documents attesting that the requirements of para. (2) - (7) of the said article and the requirements of Art. 29 of Regulation No. 3/2016.

(6) For the purpose of approving the change of legal form, in accordance with para. (5), the provisions of Art. 2 para. (3), (6) and (7) shall apply.

(7) On the basis of the ASF decision approving the change of legal form, according to para. (5) and (6), the companies shall register the respective change at the Trade Register Office.

(8) The application for approval of the operation to repay contributions to the initial fund, as provided for in Art. 14 para. (7) of Law No. 71/2019 shall be accompanied by the decision of the competent statutory body approving the operation and by documentation attesting that the requirements of Art. 14 para. (4), (6) and (7) of the same law.

(9) Companies shall apply the provisions of Art. 160, Art.160¹, Art. 163 para. (3), Art. 177 - 182, Art. 184 - 186 of the Law No. 31/1990 on financial audit, the obligation to keep records and the submission of annual statements.

(10) Before insurance contracts are concluded, in addition to the items referred to in Art. (11) para. (4) of Law No. 71/2019, mutual undertakings shall also inform persons intending to become members of the relevant clauses of the contract referred to in Art. 24 para. (12) of the same law and, where applicable, of the discounts provided for in Art. 19 para. (6) letter (b).

(11) The provisions of para. (10) shall also be duly applicable in the situation referred to in Art. 18 para. (4) of Law No. 71/2019.

(12) Companies shall apply to ASF for approval for portfolio transfer under the conditions laid down in Art. 8 and for merger or winding-up under the conditions laid down in Art. 9.

(13) In the cases referred to in Art. 9 para. (3) of Law No. 71/2019, applications for dissolution shall be filed with the court in whose district the companies have their registered office, with registration at the Trade Register Office and publication in accordance with Art. 237 para. (5) of Law No. 31/1990.

(14) In situations where companies are in difficulty, the provisions of Articles 11 to 14 shall apply accordingly.

(15) In addition to the provisions of Art. 13 para. (1), the measures ordered by ASF to companies may also include the following:

a) temporary suspension of interest payments on contributions to the initial fund of companies;

b) obtaining additional contributions from their members as provided for in their insurance contracts and Articles of Incorporation;

c) amending the Articles of Incorporation of companies as regards the way in which additional contributions and their maximum amounts are determined.

SECTION 2. Mutual insurance undertakings subject to the national supervisory regime

Art. 21. General provisions

(1) The companies covered by this section shall obtain their operating licence and conduct insurance business by duly applying the provisions of Law No. 237/2015 and Law No. 71/2019, including the provisions of the regulations issued by ASF in application of the said laws.

(2) In all regulatory acts applicable to undertakings covered by this Section, solvency ratios shall have the following meaning:

- a) own funds - available solvency margin;
- b) SCR - minimum solvency margin;
- c) MCR - safety fund.

(3) Companies shall, applying the principle of proportionality, comply with the legal provisions on qualitative requirements relating to the governance system, with the exception of those relating to the ORSA.

(4) The documentation set out in the Annexes shall be completed and drawn up in accordance with the legal provisions applicable to the national supervisory regime.

(5) Companies are prohibited from underwriting catastrophe risks.

Art. 22. Authorisation process and conduct of business

(1) The process of authorisation of companies by ASF shall be carried out in compliance with the provisions of Articles 16 and 19, with the exception of Art. 19 para. (5), as well as Art. 23 of Law No. 71/2019.

(2) In the course of business, companies shall comply with the provisions of Art. 20 para. (2) - (13).

(3) Companies shall duly comply with the provisions of Art. 18 if they apply for ASF approval for the following specific operations:

- a) portfolio transfer;
- b) merger or winding-up.

(4) In the event of dissolution, companies shall comply with the provisions of Art. 20 para. (13).

CHAPTER IV. Final provisions

Art. 23. Final provisions

(1) ASF shall issue decisions, as appropriate, in accordance with the provisions of this rule, as follows:

a) for the granting of operating authorisations pursuant to Art. 20 para. (1) of Law No. 237/2015 for joint stock companies and Art. 23 para. (1) of Law No. 71/2019 for mutual undertakings;

- b) rejecting the application for operating authorisations;
- c) granting approval for the establishment of companies;
- d) rejecting the application for approval of the establishment of companies;
- e) approving the change of legal form;
- f) rejecting the application for change of legal form;
- g) for the granting of the opinion of entry into voluntary liquidation and winding-up;
- h) rejecting the application for an opinion of voluntary liquidation and winding-up;
- i) for the approval of the appointed liquidators;
- j) rejecting the application for the opinion of the appointed liquidators;
- k) approving the recovery plan or financing plan;
- l) amending the recovery plan or financing plan;
- m) rejecting the recovery plan or financing plan;
- n) approving the extension of operating authorisations;
- o) rejecting applications for approval of extensions of operating authorisations;
- p) for the withdrawal of operating licences;
- q) approving the increase or reduction of share capital;
- r) rejecting the application for approval of an increase or reduction of share capital;
- s) approving the portfolio transfer, merger or winding-up;
- t) rejecting the application for approval of the portfolio transfer, merger or winding-up;
- u) other decisions issued in accordance with the provisions of this rule, if any.

(2) The ASF decisions referred to in para. (1) letters a), g), i), n), p), s) and t) and those for the application of the provisions of Art. 163 para. (3) and (5) of Law No. 237/2015 shall be published in the Official Journal of Romania, Part I.

(3) Correspondence between companies and ASF, reports, information, documents and applications shall be signed in handwritten form or with a qualified electronic signature only by members of the management.

- (4) Companies include in all documents issued, including correspondence with third parties:
- a) the phrase Company authorised by the Financial Supervisory Authority;
 - b) the code assigned in the register of companies provided for in Art. 8 para. (13) of Law No. 237/2015;
 - c) the unique registration code;
 - d) the LEI code.

(5) Meaning of terms under Art. 19 para. (2) of Law No. 71/2019 is the same in all provisions of Law No. 31/1990 and other regulations applicable to mutual undertakings under Law No. 71/2019 and this rule.

(6) In the situations referred to in Art. 8 para. (1) of Law No. 71/2019, the application of these provisions shall be carried out in compliance with the provisions of Government Emergency Ordinance no.

116/2009 for the establishment of some measures concerning the activity of registration in the trade register, approved with amendments and additions by Law No. 84/2010, as amended.

(7) The declared office referred to in Art. 7 para. (4) letter c) of Law No. 71/2019 is the registered office.

(8) In application of Law No. 237/2015, the provisions of Decision EIOPA-BoS-21-234 of the EIOPA Board of Supervisors on cooperation between the supervisors of the Member States of the European Economic Area on the application of Directive 2009/138/EC and the Annex to that Decision, EIOPA-BoS-21-235, are complied with.

(9) ASF may request companies to submit the information necessary to comply with the obligations to cooperate with the authorities of the other Member States laid down in the EIOPA Decision and its Annex referred to in para. (8).

(10) Within 30 working days from the date of the decision of ASF to withdraw the operating authorisations, companies shall remove from the name the phrase referred to in Art. 20 para. (2) of Law No. 237/2015 and Art. 5 para. (1) of Law No. 71/2019, and from the object of activity, the activities referred to in Art. 21 para. (1) letters (a) and (b) of Law No. 237/2015.

(11) The following annexes form an integral part of this standard:

- a) Annex No. 1. Affidavit form;
- b) Annex No. 2. Application for authorisation;
- c) Annex No. 3. Documentation on the increase of share capital;
- d) Annex No. 4. Documentation on the reduction of share capital;
- e) Annex No. 5. Documentation on the extension of the authorisation to other classes and risks;
- f) Annex No. 6. Documentation on the extension of the activity in third countries;
- g) Annex No. 7. Application for the approval of portfolio transfer, merger and winding-up;
- h) Annex No. 8. Documentation for the approval of the portfolio transfer draft;
- i) Annex No. 9. Documentation for the approval of the merger or winding-up;
- j) Annex No. 10. Documentation on the approval of voluntary winding up and liquidation.

(12) Failure to comply with the provisions of this rule shall be sanctioned by ASF according to the provisions of Art. 163 of Law No. 237/2015 or Art. 29 of Law No. 71/2019, as the case may be.

(13) The fees provided for in this rule shall be established by regulations issued by ASF.

Art. 24. Repeals, entry into force and legislative adaptation

(1) This rule shall be published in the Official Journal of Romania, Part I, and shall enter into force on the date of publication.

(2) On the date of entry into force of this rule the following will be repealed:

a) The Financial Supervision Authority Rule No. 20/2016 on the authorisation and supervision of insurance and reinsurance companies, published in the Official Journal of Romania, Part I, No 271 of 11 April 2016, as amended;



b) art. 1 para. (1) letters (a) - (c), Art. 2 para. (1) items 2 - 7 and Art. 3 - 21 of the Regulation of the Financial Supervisory Authority No. 28/2015 on the operation of supervised insurers under the national regime, published in the Official Journal of Romania, Part I, No. 978 of 30 December 2015, as subsequently amended and supplemented.

(3) Whenever reference is made in legislation to the provisions repealed under para. (2), reference shall be deemed to be made to the provisions of this Regulation.

(4) Applications submitted to ASF and not settled by the date of entry into force of this rule shall be settled by ASF according to the provisions in force at the date of their submission.

President of the Financial Supervisory Authority
Nicu MARCU

Bucharest, 22 September 2022
No. 25

ANNEX NO. 1. Affidavit form¹

A. Applicants²

Identification data of the applicant legal entity	full name
	LEI code
	the number in the trade register
	the number in the Companies Register
	the empowerment document
Identification data of the applicant natural person	name and surname
	personal identification data
	the empowerment document
Email address to which the documentation was sent	
Date of submission of documentation by email	
Documentation opis sent by email	
Platform on which the documentation was uploaded	
Date of uploading the documentation to the platform	
Opis of documentation uploaded to the platform	
Documents sent to the Financial Supervisory Authority (ASF) by other means	
Output number of documents sent by other means /Identification details of documents sent by other means	
AFFIDAVIT	
<p>The undersigned _____,</p> <p>in my capacity as _____</p> <p>hereby declare on my own responsibility that all the documentation mentioned in the opis has been sent to ASF by the means mentioned above and that it is in conformity with reality.</p> <p>Being aware that false statements are punishable under Art. 326 of Law No. 286/2009 on the Criminal Code, as amended, I support the above statement.</p>	
Signature	
Date	

¹only the relevant fields will be filled in

² in the case of persons from other jurisdictions, the information equivalent to that requested shall be filled in; the identification data shall be used by ASF in compliance with the provisions of Law No. 190/2018 on measures implementing Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

B. Companies³

Company identification details	full name
	LEI code
	the number in the trade register
	the number in the Companies Register
Legal representative	name and surname
	personal identification data
	capacity in the company
Email address to which the documentation was sent	
Date of submission of documentation by email	
Documentation opis sent by email	
Platform on which the documentation was uploaded	
Date of uploading the documentation to the platform	
Opis of documentation uploaded to the platform	
Documents sent to ASF by other means	
Output number of documents sent by other means /Identification of documents sent by other means	

AFFIDAVIT

The undersigned _____,
in my capacity as legal representative of _____,
I declare on my own responsibility that all the documentation mentioned in the opis has
been sent to ASF by the means mentioned above and that it is in conformity with reality.

Being aware that false statements are punishable under Art. 326 of Law No. 286/2009 on
the Criminal Code, as amended, I support the above statement.

Signature	
Date	

³ only the relevant fields shall be filled in

ANNEX NO. 2. Application for authorisation

Section A. Joint stock companies

A1. Application for approval of the establishment

1.	Proposed name of the company
2.	Previous company name <i>(for application for authorisation by a company resulting from a winding-up, merger or portfolio transfer)</i>
3.	Proposed address of the registered office
4.	Proposed address for the head office <i>if different from the registered office</i>
5.	Contact details
6.	Activity category <i>general insurance, life insurance</i> <i>general reinsurance, life reinsurance</i>
7.	Insurance classes and risks <i>according to Annex No. 1 of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activity, as amended and supplemented</i>
	Signature
	Date

A2. Documents and general information for obtaining the opinion

1. power of attorney or legal delegation, signed by all the direct shareholders, if they appoint one or more persons to represent them in their dealings with the Financial Supervisory Authority (ASF) during the examination of the documentation, and in the case of joint stock companies established by public subscription, the minutes of the constituent meeting held under the terms of the Companies Law No. 31/1990, republished, as subsequently amended and supplemented

2. draft of Articles of Incorporation

3. documents and information on shareholders, required by ASF to assess their quality in accordance with the provisions of ASF Regulation No. 3/2016 on the applicable criteria and procedure for the prudential assessment of acquisitions and increases of shareholdings in entities regulated by the Financial Supervisory Authority, as amended and supplemented

and the list of persons acting in concert, a description of the financial commitments, the contributions of each person and other information that the shareholders consider relevant to the establishment of the concerted action

4. the statement of account concerning the payment of the amount of the share capital, issued by the credit or financial institution where the capital account is opened

5. copies of the documents proving the payment in cash by each shareholder of the contribution to the share capital, in accordance with the legal provisions, certified for conformity with the original by the natural person or by the legal representative of the shareholder legal entity

6. documents that prove:

a) in the case of companies subject to the Solvency II supervisory regime, compliance with the provisions of Art. 21 of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, as subsequently amended and supplemented;

b) in the case of companies subject to the national supervisory regime, compliance with the provisions of Art. 21 para (1) letters (a), (f) and (h) of the law referred to in letter (a) and Art. 16 of the Regulation of the Financial Supervision Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities (Regulation)

7. the documents required for the approval of members of the management by ASF, in accordance with ASF Regulation No. 1/2019 on the assessment and approval of members of the management structure and persons holding key positions in entities regulated by the Financial Supervisory Authority, as amended and supplemented

8. description of the business and insurance products

9. description of activities other than direct insurance, carried out in accordance with the legal provisions

10. the financial targets and how to meet them

11. the role played in the insurance market in Romania and the European Union

12. for MTPL insurance, documents and information in accordance with the provisions of Law No. 132/2017 on compulsory motor third party liability insurance for damage caused to third parties by vehicle and tram accidents, as amended and supplemented, and the rules issued in application thereof

13. information on the management of claims settlement in class 17 of Annex No. 1, section A of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, as amended and supplemented

14. documents for the approval of an internal model or ancillary own funds, if applicable

15. information on activity carried out under the right of establishment or the freedom to provide services, if applicable

16. a copy of the document proving the transfer of the authorisation fee in the ASF the account, according to the ASF revenues regulations.

17. the affidavit provided for in Art. (2) para (5) of the rule.

A3. Information about the parent company

1. identification data

2. certified copies of the minutes of the board meetings approving the submission to ASF of the documentation for the establishment of the branch

3. description of the activity history

4. if part of a group, information on the organisation and activity of the group

5. the motivation for the choice of Romania's jurisdiction for the establishment of the branch

6. information on all activities carried out by the group in Romania

7. information on the refusal of an application for approval for the establishment of companies in other Member States or third countries, withdrawal of approval and the reasons for refusal or withdrawal

8. information that the parent company has been investigated for fraud and misconduct by competent authorities

9. information on measures or actions by the competent authorities on:

a) parent company or group

b) persons who effectively run the company or hold key positions

c) shareholders with qualifying holdings

10. close links between the company and other natural and legal persons, including documentation that these links do not affect the ability of ASF to supervise

A4. Governance system

1. organisational structure, including reporting channels and documentation of clear segregation of duties and accountability

2. the established policy on professional competence and moral probity

3. description of possible conflicts of interest and policy to minimise them by putting in place mechanisms to protect the interest of contractors and beneficiaries

4. information on remuneration policy, including loans, credit, life insurance for the persons who effectively run the company

5. description of the policy to prevent money laundering and terrorist financing

6. description of the business continuity plan

7. early warning mechanisms and the way related information is sent

8. description of the approval process for insurance products

9. information on the distribution of insurance products

10. information on how the ORSA report is produced

A5. Risk profile

1. description of the risk management system
2. description of risk appetite
3. profit-sharing policies
4. asset management policy details - obligations
5. description of procedures on:
 - a) risk assessment and monitoring
 - b) reliability and accuracy of the information management system
 - c) the prompt reporting of risks
 - d) control system and internal audit
6. investment strategy information
7. information on strategy regarding reinsurance and other risk minimisation techniques

A6. Specific information on the organisation and duties of key and other critical functions

A7. Outsourcing

1. description of the outsourcing policy
2. description of outsourced functions and activities
3. description of the suppliers to which outsourcing is performed
4. draft outsourcing agreements specifying that ASF, external auditors, the compliance function and the internal audit function have unrestricted access to outsourcing information and to the premises of service providers for the purpose of carrying out controls or audit assignments
5. documentation of how outsourced activities are monitored and mentioning of performance indicators used
6. comprehensive assessment of cloud service providers, including the draft agreement specifying service quality levels, standards and security mechanisms

A8. Other information that the shareholders deem likely to support the viability of the draft presented

A9. Templates for quantitative data¹ submitted by companies subject to the Solvency II supervisory regime

A9.1. General insurance

S.02.01.01 - balance sheet

S.05.01.01 - premiums, claims and expenses, by line of business

- S.05.02.01 - premiums, claims and expenses, by country
- S.06.01.01 - list of assets
- S.18.01.01 - cash flow projections (best estimate - general insurance)
- S.23.01.01 - own funds
- S.25.01.01 - SCR, standard formula
- S.28.01.01 - MCR

A9.2. Life insurance

- S.02.01.01 - balance sheet
- S.05.01.01 - premiums, claims and expenses, by line of business
- S.05.02.01 - premiums, claims and expenses, by country
- S.06.01.01 - list of assets
- S.13.01.01 - cash flow projections (best estimate - life insurance)
- S.23.01.01 - own funds
- S.25.01.01 - SCR, standard formula
- S.28.01.01 - MCR

¹ use the latest version of *Commission Implementing Regulation (EU) 2015/2450 of 2 December 2015 laying down implementing technical standards with regard to the templates for the submission of information to the supervisory authorities according to Directive 2009/138/EC of the European Parliament and of the Council, as amended*

A10. Quantitative data referred to in Art. 16 of the Rule submitted by insurers subject to the national supervisory regime, calculated in accordance with the [Financial Supervision Authority's Rule No. 28/2015](#) on the operation of insurers supervised under the national regime, *as amended and supplemented*

A11. Application for authorisation

1.	Company name <i>registered with the Trade Register Office</i>
2.	Trade register number
3.	Unique registration code
4.	Legal representative and contact details
5.	Company contact details <i>including registered office</i>
6.	Head office <i>if different from the registered office</i>

7.	Category of activity <i>general insurance, life insurance, general reinsurance, life reinsurance</i>
8.	Insurance classes and risks <i>according to Annex No. 1 of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, as amended and supplemented</i>
	Signature
	Date

A12. Documents for obtaining authorisation

1. copies of the documents issued by the Trade Register Office, certifying registration as a legal person, certified as true copies by the legal representative
2. an authenticated copy of the Articles of Incorporation or an original thereof, the date of deposit of the initial reserve fund being deemed to be the date on which the Articles of Incorporation is certified as having been obtained in accordance with the law
3. a report from an ASF-approved IT auditor or certified internal resource showing that the IT system is implemented at company level in compliance with the requirements of the Financial Supervisory Authority's Rule No. 4/2018 on the management of operational risks generated by IT systems used by entities authorised/approved/registered, regulated and/or supervised by the Financial Supervisory Authority, *as amended and supplemented*, and is adequate in relation to the nature, scale and complexity of the activity estimated in the business plan
4. the affidavit provided for in Art. 2 para. (5) of the rule

Section B. Mutual insurance undertakings

B1. Documents and general information for obtaining approval for establishment

1. power of attorney or legal delegation, signed by all founding members, if they appoint one or more persons to represent them in their dealings with ASF during the settlement process
2. draft Articles of Incorporation in accordance with legal provisions
3. documents and information on founding members in accordance with Chap. II section 2 of Law No. 71/2019 on mutual insurance companies and for the amendment and completion of some normative acts
4. the statement of account relating to the payment of the initial fund in accordance with Art. 23 para. (4) and (5) of Law No. 71/2019 on mutual insurance companies and for the amendment and completion of some normative acts, issued by the credit or financial institution where the account dedicated to the initial fund is held

5. copies of the documents proving that each founding member has paid into the initial fund in cash, in accordance with the legal provisions, certified as being in conformity with the original by the natural person or the legal representative of the member legal entity
6. documents that prove:
 - a) in the case of mutual undertakings subject to the Solvency II supervisory regime, compliance with the provisions of Art. 23 para. (1) letter a) of Law No. 71/2019 on mutual insurance companies and for amending and supplementing certain normative acts
 - b) in the case of mutual undertakings subject to the national supervisory regime, compliance with the provisions of Art. 23 para. (1) letter b) of the Law No. 71/2019 on mutual insurance companies and for the amendment and completion of some normative acts and Art. 21 para. (1) letters a), f) and h) of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, *as amended and supplemented*, and Art. 16 para. (2) of the rule
7. documenting that the IT system to be used will be appropriate to the business plan
8. data and information for the approval of members whose payments into the initial fund constitute at least 10% of the total amount paid in, which is the amount specified in the articles of incorporation, irrespective of the time limit for the actual payment of any amounts remaining unpaid
9. the following documentation set out in Section A:
 - a) in subsection A2, the documentation referred to in items 6 to 17
 - b) the documentation of subsections A4 - A7
 - c) in the case of mutual insurance undertakings subject to the Solvency II supervisory regime, the quantitative data set out in Subsection A9
 - d) in the case of mutual enterprises subject to the national supervisory regime, the quantitative data referred to in subsection A10
10. the affidavit provided for in Art. 2 para. (5) of the rule.

B2. Information on the source of contributions to the initial fund²

Identification data	Natural person	name and surname
		Personal Identification Number
		the series and number of the identity card, the issuer and date of issue
		date and place of birth
		citizenship
		domicile and residence
		contact data
	Legal entity	registered name and business name
		legal form

		registered office
		head office
		unique identification code
		registration number with the Trade Register Office
		LEI code
		contact data
	Entity without legal personality	name
		legal form
		head office
		tax identification code
	contact data	
Source of funds	own financial resources and their origin, supported by documentary evidence or an affidavit, if the provision of supporting documents is not possible	
	the means and network used to transfer funds, the availability of resources or financial arrangements	
	access to capital resources and financial markets to set up the fund	
	information on the funds borrowed, the name of the person or entity granting the loan and the facilities provided, such as deadlines, terms, pledges and other guarantees	
	source of revenue used for the refund of the borrowed funds	
	the origin of the borrowed funds if the lending entity is not a financial or banking entity supervised by a competent authority	
	financial agreements with other founding members	
	information on the assets of the founding members to be sold at short notice for the purpose of contributing to the free reserve fund:	
	a) conditions of sale	

		b) price evaluation c) details of the characteristics of the sale
Information on compliance with Art. 11 para. (3) of Law No. 71/2019 on mutual insurance undertakings and for the amendment and completion of certain normative acts		

² The identification data of natural persons are used by ASF in compliance with the provisions of Law No. 190/2018 on measures implementing Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation)

B3. Other information that the founding members consider likely to support the viability of the draft presented

ANNEX NO. 3. Documentation on the increase of the share capital

1. application for approval of the increase of the share capital
2. the decision of the competent statutory body approving the operation
3. documents proving compliance with the conditions laid down in Art. 5 para. (3) and (4) of the Regulation of the Financial Supervisory Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities (*Regulation*)
4. proof of payment of the fee provided for in the regulations on ASF revenues.
5. the affidavit provided for in Art. 2 para. (5) of the rule

ANNEX NO. 4. Documentation on the reduction of share capital

1. application for approval of reduction of share capital
2. the decision of the competent statutory body approving the operation

3. the impact study, assumed by the management, documenting that the operation does not lead to a decrease in the level of eligible own funds below the SCR and MCR levels
4. proof of payment of the fee provided for in the regulations on ASF revenues.
5. the affidavit provided for in Art. 2 para. (5) of the Regulation of the Financial Supervision Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities

ANNEX NO. 5. Documentation on the extension of the authorisation to other classes and risks

1. application specifying new classes and risks
2. the decision of the competent statutory body approving the operation
3. documents proving compliance with the provisions of Art. 21 para. (3) - (5) of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, as subsequently amended and supplemented
4. proof of payment of the fee provided for in the regulations on ASF revenues.
5. the affidavit provided for in Art. 2 para. (5) of the Regulation of the Financial Supervisory Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities

ANNEX NO. 6. Documentation on the extension of activity to third countries

1. decision of the competent statutory body on:
 - a) the third country in which the branch is to be opened
 - b) the classes of insurance they intend to take out
 - c) the capital allocated to the branch at establishment
2. branch identification data
3. branch office and contact details
4. the names of the persons mandated to represent the branches, the limits of the mandate granted and the documentation attesting their compliance with the provisions of Regulation No. 1/2019 on the assessment and approval of the members of the management structure and persons holding key positions in entities regulated by the Financial Supervisory Authority, as amended and supplemented
5. presentation of the legislative and institutional framework of the third State on:
 - a) the procedure and deadlines for setting up the branch
 - b) the existence of an obligation to obtain authorisation from competent authorities
 - c) the legislation applicable to the branch, as follows:



- (i) insurance legislation
 - (ii) legislation on the prevention of money laundering and terrorist financing
 - (iii) any restrictions on the conduct of supervision by ASF, such as restricting access to information or the possibility of carrying out inspections at the branch's premises
- 6.** a business plan drawn up in accordance with the provisions of Art. 22 of Law No. 237/2015 on the authorisation and supervision of insurance and reinsurance activities, as amended, including:
- a) the business to be carried on by the branch within a period of 3 years for general insurance and 5 years for life insurance
 - b) the policies and procedures relating to business conducted through the branch
 - c) the impact of the branch's activity on the SCR, the MCR and eligible own funds
- 7.** description of distribution channels
- 8.** the affidavit provided for in Art. 2 para. (5) of the Regulation of the Financial Supervision Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities

ANNEX 7. Application for approval of portfolio transfer, merger and winding-up¹

The undersigned, as a member of the management of the company
hereby request approval for:
1. merger of
with the company
2. authorisation of the company..... <i>expected to result from the merger</i>
3. splitting of the company.....
4. authorisation of the companies

<i>expected to result from the split</i>
5. portfolio transfer from the company.....
to the company.....
Date
Signature

¹ fill in appropriately and add new fields where necessary

ANNEX NO. 8. Documentation for the approval of the portfolio transfer draft

Section A. Specific documentation for companies subject to the Solvency II supervisory regime

A1. Transferor companies

1. the decisions of the competent statutory bodies establishing the portfolio transfer
2. the draft portfolio transfer agreement
3. the structure of the portfolio by categories and classes of insurance at the reference date, as set out in the table in Section C
4. reports reflecting the situation existing at the end of the month preceding the submission of the documentation, concerning:
 - a) the amount of SCR, MCR and eligible own funds
 - b) gross technical reserves before portfolio transfer
 - c) assets covering gross technical provisions
 - d) the state of litigation, by category and class of insurance
5. affidavit of the persons responsible for the actuarial function certifying the validity of the quantitative reports
6. contribution to the Policyholder Policyholders Guarantee Fund in accordance with the legal provisions in force
7. proof of payment of the fee provided for in the regulations on ASF revenues.
8. the affidavit provided for in Art. 2 para. (5) of the Regulation of the Financial Supervision Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance business (*Regulation*)

A2. Transferee companies

1. the documents referred to in subsection A1, items 1 and 3 - 6
2. reports reflecting the post-portfolio transfer situation on:
 - a) the amount of SCR, MCR and eligible own funds
 - b) the estimated amount of gross technical provisions by class and class of insurance
 - c) the estimated value of assets covering gross technical provisions
3. the affidavit provided for in Art. 2 para. (5) of the rule

Section B. Specific documentation for companies under the national supervisory regime

B1. Transferor companies

1. the decision of the competent statutory bodies establishing the portfolio transfer
2. the draft portfolio transfer agreement
3. the structure of the portfolio by categories and classes of insurance at the reference date, as set out in the table in Section C
4. reports reflecting the situation existing at the end of the month preceding the submission of the documentation, concerning:
 - a) the amount of the available solvency margin, the minimum solvency margin and the safety fund
 - b) gross technical reserves before portfolio transfer
 - c) assets eligible to cover gross technical provisions
 - d) the state of litigation, by category and class of insurance
5. affidavit of the persons responsible for the actuarial function certifying the validity of the quantitative reports
6. the contribution to the Policyholders Guarantee Fund according to the legal provisions in force and the operating tax due according to ASF revenues regulations.
7. proof of payment of the fee provided for in the regulations on ASF revenues.
8. the affidavit provided for in Art. 2 para. (5) of the rule

B2. Transferee companies

1. the documents referred to in subsection B1. items 1 and 3 - 6
2. reports reflecting the post-portfolio transfer situation on:
 - a) the estimated available solvency margin, the minimum solvency margin and the safety fund
 - b) the estimated amount of gross technical provisions by class and class of insurance
 - c) the estimated value of assets accepted to cover gross technical provisions

3. the affidavit provided for in Art. 2 para. (5) of the rule

Section C. Structure of the portfolio to be transferred¹

Policy number	Name of contractor and beneficiary	Insurance class	Insured risks	Time of commencement of liability of the transferor company	Time of termination of liability of the transferor company	Insurance premium	Amount insured	Premium reserve
1	2	3	4	5	6	7	8	9

¹ If the currency is not RON, after columns 7 - 9, add one column for each other currency.

ANNEX NO. 9. Documentation for the approval of the merger or winding-up

Section A. Companies subject to the Solvency II supervisory regime

1. the merger or winding-up draft signed by the legal representative, in accordance with the provisions of the Company Law No. 31/1990, republished, as subsequently amended, accompanied by the opinion issued by the Competition Council, if applicable
2. decisions of the competent statutory bodies concerning merger or winding-up
3. draft Articles of Incorporation of the resulting companies or instruments amending their Articles of Incorporation
4. the balance sheet relating to the draft terms of merger or winding-up, signed by the members of the management, with the reference date of the draft terms of merger or winding-up as the reference date
5. the business plan for the companies resulting from the merger or winding-up for the next 5 years
6. reporting as at the reference date on:
 - a) contribution to the Policyholders Guarantee Fund
 - b) the gross technical provisions before merger or winding-up and an estimate of the gross technical provisions of the resulting companies, by class and class of insurance, with reference to the date of preparation of the draft
 - c) the statement of assets covering the reserves referred to in item (b)
 - d) the portfolio structure by category and class of insurance before merger or winding-up
 - e) the state of litigation by category and class of insurance before the merger or winding-up

- f) the statement of reinsurance cessions by class and class of insurance before the merger or winding-up
- g) the SCR before and after merger or winding-up for the companies involved
- h) the report of the independent external auditors on the merger or winding-up
- 7. the proof of payment of the fee provided for in the regulations on ASF revenues.
- 8. in the case of joint-stock companies, the shareholding structure and the documentation for the approval of significant shareholders, in accordance with Regulation ASF No. 3/2016 on the applicable criteria and procedure for the prudential assessment of acquisitions and increases of shareholdings in entities regulated by the Financial Supervisory Authority, as amended and supplemented
- 9. in the case of mutual insurance undertakings, the records of the members of the undertaking resulting from the merger or winding-up
- 10. the documentation required for the approval of the members of the management of the resulting companies, in accordance with ASF Regulation No. 1/2019 on the assessment and approval of members of the management structure and persons holding key positions in entities regulated by the Financial Supervisory Authority, as amended and supplemented
- 11. application for withdrawal of the operating licence of companies which are to cease trading as a result of merger or winding-up
- 12. other information relevant to the assessment of the draft terms of merger or winding-up
- 13. the affidavit provided for in Art. 2 para. (5) of the Regulation of the Financial Supervisory Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities

Section B. Companies subject to the national supervisory regime

Reporting on:

- a) the amount of the solvency margin before the merger or winding-up and its estimate after the merger or winding-up, with reference to the date on which the draft terms of merger or winding-up were drawn up
- b) the value of the assets covering the technical reserves before completion of the draft terms of merger or winding-up, their estimated value after completion, having as a reference date the date on which the draft terms were drawn up

ANNEX NO. 10. Documentation on the approval of voluntary winding-up and liquidation

Section A. Application for the granting of a voluntary winding-up and liquidation opinion and for the appointed liquidator

The undersigned,

.....

as a member of the management of the company

.....
hereby request approval for:
1. voluntary winding-up and liquidation of the company
.....
2. appointed liquidator
.....
Signature
Date

Section B. Documentation on the approval of voluntary winding-up and liquidation

- 1.** the decision of the meeting of the competent statutory body concerning the voluntary winding-up and liquidation and the appointment of the liquidator
- 2.** identification details of the appointed liquidator
- 3.** the plan for carrying out the winding-up operation, in compliance with the principle of proportionality
- 4.** the documents provided for in section C, valid at the date of registration of the company's application by ASF
- 5.** the estimated balance sheets for the period set for completion of the winding-up proceedings
- 6.** the affidavit provided for in Art. 2 para. (5) of the Regulation of the Financial Supervisory Authority No. 25/2022 on the authorisation of companies and the conduct of insurance and reinsurance activities

Section C. Documentation on the appointed liquidator

- 1.** a supporting document issued by the National Union of Insolvency Practitioners in Romania, which shows the following:
 - a) the form of practice of the profession of insolvency practitioner is registered in the records of the National Union of Insolvency Practitioners of Romania
 - b) the coordinating partners of the liquidator have not been sanctioned disciplinarily in the last 3 years
- 2.** certified copy of professional indemnity insurance policy
- 3.** affidavit on the number of persons allocated to the winding-up procedure, as follows:
 - a) Qualified and specialised insurance staff, including at least one actuary
 - b) staff with experience in claims settlement
 - c) compatible insolvency practitioners
- 4.** an affidavit of adequate logistical facilities, including a functioning website
- 5.** the tax records of practitioners, showing that there are no criminal records