

**Norma 4/26-ian-2016 NORM no. 4 of 26 January 2016 on the administration of the Resolution Fund for Insurers
(traducere)**

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**Norma 4/26-ian-2016 (traducere) NORM no. 4 of 26 January 2016 on the administration of the
Resolution Fund for Insurers (traducere)**

Data act: 26-ian-2016

Emitent: Autoritatea de Supraveghere Financiara

In accordance with the provisions of Article 1(2), Article 2(1)(b) and (d), Article 3(1)(b), Article 6(2) and Article 14 of the Government Emergency Ordinance no. 93/2012 on the establishment, organization and functioning of the Financial Supervisory Authority, approved with amendments and completions by Law no. 113/2013, as subsequently amended and supplemented,

pursuant to the provisions of Article 143 of Law no. 246/2015 on the recovery and resolution of insurers, following the deliberations of the Board of the Financial Supervisory Authority at the meeting of 22 January 2016,

The Financial Supervisory Authority issues the following rule:

CHAPTER I: Establishment, destination and representation of the Resolution Fund for Insurers

Article 1

(1) This rule regulates the conditions regarding the establishment, administration and use of the Resolution Fund for Insurers, hereinafter referred to as the Resolution Fund, for the purpose of the effective application of resolution tools and powers by the Financial Supervisory Authority, hereinafter

referred to as the FSA, in its capacity as resolution authority.

(2)The use of the financial resources of the Resolution Fund shall be ordered by the FSA by decision, as the resolution authority, and shall be used according to the objectives established by this decision and according to the principles of resolution provided for in Article 44 of Law no. 246/2015 on the recovery and resolution of insurers, hereinafter referred to as Law no. 246/2015. The Insured Guarantee Fund, hereinafter referred to as the Guarantee Fund, ensures the implementation of the measures ordered.

(3)The establishment of the Resolution Fund envisages the implementation of resolution measures, to ensure the continuity of their critical financial and economic functions and to prevent contagion, by avoiding significant negative effects on the stability of the insurance market.

Article 2

(1)The Resolution Fund is managed by the Guarantee Fund.

(2)In order to exercise the duties of administration of the Resolution Fund, the Guarantee Fund establishes within its organizational structure, under the direct subordination of the executive management, a specialized department that mainly includes risk management specialists, claims specialists, financial analysts and legal advisors.

(3)The composition of the specialized department referred to in paragraph (2) shall be established taking into account the functions incumbent on it as administrator of the Resolution Fund, as well as the extent of the activities carried out in order to achieve the resolution objectives established by the decision of the FSA, in its capacity as resolution authority.

Article 3

(1)(the text of Article 3(1) of Chapter I was repealed on 30 May 2017 by Article I(2) of Rule 17/2017)

(2)The executive management of the Guarantee Fund shall submit the organisational structure for approval to the Board of Directors of the Guarantee Fund, in compliance with the provisions of Article 2(2) and (3). The Board of Directors of the Guarantee Fund submits the approved organizational structure for approval to the Board of Directors of the A.S.F.

Article 4

The representation of the interests and rights of the Resolution Fund before public authorities, courts, judicial bodies and/or any other natural and/or legal persons, as the case may be, is made by the Guarantee Fund.

Article 5

In order to ensure the protection of insurance creditors, the insurers defined in Article 1(2)(3) of Law no. 237/2015 on the authorization and supervision of the insurance and reinsurance activity, hereinafter referred to as Law no. 237/2015, and authorized by the FSA according to the same law, owe contributions for the purpose of establishing and maintaining the Resolution Fund.

Article 6

The resolution fund shall consist of the financial sources provided for in Article 144 of Law no. 246/2015.

Article 7

(1) The calculation of the contribution to the Resolution Fund is carried out by insurers separately on the two categories of insurance, respectively general insurance and life insurance, based on their monthly accounting records, applying a percentage rate related to the gross premiums collected from the direct insurance activity, established according to Article 152 paragraph (2) and (3) of Law no. 246/2015.

(2) The gross premiums collected indicator has the meaning provided in the Regulation of the Financial Supervisory Authority no. 16/2014 on the revenues of the Financial Supervisory Authority, with subsequent amendments and completions.

(3) In the insurers' accounts, the contribution due to the Resolution Fund is reflected in the debit of account 643 "Expenses with special funds related to the insurance activity", respectively of account 6431/separate analytical "Expenses related to the contribution to the Resolution Fund - for life insurance" and of account 6432/separate analytical account "Expenses related to the contribution to the Resolution Fund - for non-life insurance", by crediting account 443 "Special funds on insurance activity", respectively for life insurance account 4431 / separate analytical "Contribution to the Resolution Fund" and for non-life insurance account 4432 / separate analytical account "Contribution to the Resolution Fund".

(4) The insurers are obliged to prepare and submit monthly to the Guarantee Fund as administrator of the Resolution Fund, until the last working day of the current month for the previous month, the reports on the constitution and transfer of the contribution due, according to Annex no. 1. The reports on the manner of setting up and transferring the contribution due to the Insured Guarantee Fund shall be made separately on the two insurance categories.

(5) In case of submission of a corrective situation, it will be done in the form provided by Annex no. 2;

the allowed number of corrective statements and the maximum deadline for their submission are those provided for in the Regulation of the Financial Supervisory Authority no. 16/2014, with subsequent amendments and completions.

(6)The data and/or information contained in the monthly reports shall be established according to the provisions of paragraph (2). Along with the submission of the reports, the insurers must also attach a declaration on their own responsibility, signed by their legal representative, under the sanctions provided by Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented, certifying that the data and/or information transmitted are true, correct and complete.

(7)In case of deficit of the Resolution Fund, in order to cover the obligations generated by the application of the provisions of Article 146 of Law no. 246/2015, the percentage rate of contributions may be increased, during the year, without exceeding the limit provided by Article 152 paragraph (2) of Law no. 246/2015. In this regard, the executive management of the Guarantee Fund, based on the impact analysis, makes proposals to the Board of Directors of the Guarantee Fund. The proposal endorsed by the Board of Directors of the Guarantee Fund, together with a substantiation note, is submitted for approval to the Board of Directors of the A.S.F.

Article 8

The bridge institution will pay a contribution to the account of the Guarantee Fund, as administrator of the Resolution Fund.

Article 9

The contributions due and transferred by insurers to the account of the Guarantee Fund, as administrator of the Resolution Fund, are not refunded, including in the event of voluntary liquidation or dissolution of an insurer.

Article 10

For the non-payment of the contributions due to the Resolution Fund on time, the insurers are obliged to pay interest and/or late payment penalties, calculated in accordance with the applicable regulations for the collection of tax claims. Interest and penalties will be transferred to the account of the Guarantee Fund, as administrator of the Resolution Fund. In the event that the payment order transfers a cumulative amount composed of the contribution due and interest and late payment penalties, the explanations will highlight the two amounts separately.

Article 11

Insurers may carry out regularization and/or compensation operations of the amounts transferred to the Resolution Fund.

Article 12

The resources of the Resolution Fund shall be used to finance the needs related to the application of resolution tools, in compliance with the principles provided for in Article 44 of Law no. 246/2015.

Article 13

Amounts related to covering the needs related to the application of resolution tools, including those obtained by the Guarantee Fund, as administrator of the Resolution Fund, from loans or bond loans through the issuance of securities and other forms of financial support from institutions, financial institutions or other third parties, shall be highlighted as a claim of the Resolution Fund on the insurer subject to resolution or on the bridge institution.

Article 14

The Guarantee Fund, as administrator of the Resolution Fund, may open accounts with credit institutions.

Article 15

(1) The available financial resources of the Resolution Fund may be invested by the Guarantee Fund in the following financial instruments:

- a) government-backed securities or municipal bonds that are rated by at least one of the rating agencies registered or certified in accordance with Regulation (EC) No 1.060/2009 of the European Parliament and of the Council, which are admitted to trading and which are traded on a regulated market in Romania;
- b) term deposits, certificates of deposit and credit institutions;
- c) government bonds issued by the Member States of the European Union, securities issued by their central banks and securities issued by the Treasury of the United States of America.

(2) When determining the financial instruments and their issuers, in accordance with the provisions of paragraph (1), the aim shall be to minimise the risks, ensure the efficiency and liquidity of the respective investments. The strategy for the investment of the Resolution Fund shall be established annually or more frequently, if necessary, by the Board of Directors of the Guarantee Fund, at the proposal of the executive management of the Guarantee Fund, based on the analysis carried out by the specialized structure.

(3)The VAT regime applicable to the sale of the bridge institution and to the sale of shares held by the Guarantee Fund to the bridge institution, if applicable, is regulated by the tax legislation on insurance operations.

Article 16

(1)The Board of Directors of the Guarantee Fund adopts the necessary decisions for the implementation of the FSA decision establishing the manner of using the resources of the Resolution Fund for insurers.

(2)The FSA shall establish the manner in which the resources of the Resolution Fund shall be used, and may be consulted in this regard with the Guarantee Fund.

Article 17

The use of the financial resources of the Resolution Fund may be made only in compliance with the general principles governing the application of resolution measures regulated by Law no. 246/2015 and in compliance with the legal framework on state aid.

Article 17¹

The Guarantee Fund submits the following reports quarterly to the FSA:

- a)the situation of the contributions due and transferred to the Resolution Fund by the insurers, separately for non-life insurance and life insurance, in the form provided in Annex no. 3, within 45 days from the end of the quarter for which the reporting is made;
- b)the statement of the financial resources of the Resolution Fund, in the form provided in Annex no. 4, by the end of the month following the quarter for which the report is made.

CHAPTER II: Use of the resources of the Resolution Fund and recovery of its expenses

Article 18

(1)The guarantee fund must have adequate systems and procedures in place for the selection and implementation of resolution measures and for monitoring the related risks in order to avoid the bankruptcy of an insurer, in accordance with the resolution plan drawn up by the FSA, as the resolution authority.

(2)The Guarantee Fund shall consult with the FSA, as the resolution authority, on the resolution measures and conditions imposed on the insurer subject to resolution.

Article 19

The financial resources of the Resolution Fund shall be used in accordance with the provisions of Articles 145 and 146 of Law no. 246/2015.

Article 20

Any provisions of the FSA, as resolution authority, regarding the use of the resources of the Resolution Fund, in order to finance the resolution measures, are subject to strict conditions for minimizing the risk of moral hazard and take into account the following:

- a) the need to maintain financial stability and the choice of the most appropriate resolution action, likely to meet the objectives of the resolution to the highest degree;
- b) the private sources of financing have been exhausted or have not achieved their intended purpose in terms of restoring the financial situation of the insurer;
- c) the application of the principles of resolution provided for in Article 44 of Law no. 246/2015;
- d) compliance with the legal framework on state aid, defined according to Article 2 point 8 of Law no. 246/2015.

Article 21

In application of the provisions of Article 20, the use of the financial resources of the Resolution Fund shall be made with celerity and transparency, in order to ensure the continuity of the critical functions of the insurer in resolution.

Article 22

The resources of the Resolution Fund cannot be used directly to absorb an insurer's losses.

Article 23

(1) The Guarantee Fund, in its capacity as administrator of the Resolution Fund, is entitled to recover any amounts incurred from the availabilities of the Resolution Fund, in application of the resolution measures, as well as related interest and/or penalties, according to Article 72 of Law no. 246/2015.

(2) In application of paragraph (1), the FSA, as the resolution authority, shall establish through the resolution plan the concrete ways of recovering the amounts due to the Resolution Fund, if its financial resources have been used.

Article 24

A.S.F., as the resolution authority, will order, in the event of the existence of valid reinsurance contracts, that the payment of the reinsurance premiums will be borne from the financial resources of the Resolution Fund, and in case of activation of the reinsurance clauses, the amounts due to the insurer

subject to resolution will return to the Resolution Fund, as the case may be.

CHAPTER III: Functions of the Guarantee Fund, as administrator of the Resolution Fund for Insurers

SECTION 1: Guarantee fund as temporary administrator

Article 25

(1) This chapter establishes the framework for the designation of the Guarantee Fund as temporary administrator, in application of the provisions of Article 30 of Law no. 246/2015.

(2) The FSA, in its capacity as competent authority, may designate, by reasoned decision, the Guarantee Fund as temporary administrator. The guarantee fund, as temporary administrator, carries out its activity under the conditions of Articles 30-38 of Law no. 246/2015.

(3) The guarantee fund, as a temporary administrator, is appointed either to temporarily cooperate with the insurer's management body or to temporarily replace the insurer's management body. The decision of the FSA for the designation of the Guarantee Fund as temporary administrator will specify whether its mission is to supervise and cooperate with the insurer's management body or whether it has been appointed to temporarily replace the insurer's management body.

(4) The decision referred to in paragraph 2 shall contain the following data:

- a) the provisions on the applicable legal framework;
- b) nomination of the Guarantee Fund as temporary administrator;
- c) the purpose/mission for which it was designated;
- d) the duties and competences of the temporary administrator, specifying in this regard the limits of the mandate;
- e) the requirements for the insurer's management body to consult with the temporary administrator or, where appropriate, to take certain decisions or take certain actions, with the prior consent of the temporary administrator;
- f) the period of exercise of the mandate of temporary administrator by the Guarantee Fund, according to the provisions of Article 36 of Law no. 246/2015;
- g) other information deemed necessary to ensure the fulfilment of the mandate of the Insured Guarantee Fund, as temporary administrator.

(5) In application of the provisions of paragraph (4) letter d), the powers established by the decision appointing the Guarantee Fund as temporary administrator may include some or all of the powers of the insurer's management body, under the conditions of Article 31(2) of Law no. 246/2015, including

the competence to exercise some or all of the administrative functions of the insurer's management body.

Article 26

(1) The decision of the FSA appointing the Guarantee Fund as temporary administrator is published in the Official Gazette of Romania, Part I.

(2) The provisions of paragraph (1) are applicable only in the situation in which the Guarantee Fund is appointed as a temporary administrator, in order to temporarily replace the management body of the insurer, according to Article 30 paragraph (4) of Law no. 246/2015.

Article 27

(1) The competences of the Guarantee Fund as a temporary administrator are established by decision of the FSA, as the competent authority, at the time of its appointment.

(2) The FSA establishes, by the decision to designate the Insured Guarantee Fund, as temporary administrator, the acts and measures that are subject to its prior approval.

Article 28

(1) The decision of the A.S.F. appointing the temporary administrator, including the Guarantee Fund, constitutes an enforceable title, according to Article 140 paragraph (1) of Law no. 246/2015.

(2) Against the decision of the A.S.F. to appoint the temporary administrator, the insurer or any person affected by the decision may appeal to the Administrative and Fiscal Litigation Section of the Bucharest Court of Appeal, within 10 days from the date of communication, under penalty of forfeiture, according to Article 138 (1) and Article 139 paragraph (1) of Law no. 246/2015.

Article 29

The mission of the Guarantee Fund, designated as temporary administrator, in order to implement the measures ordered by the A.S.F. decision appointing the temporary administrator, is to take all the necessary steps to restore the financial situation of the insurer.

Article 30

(1) The guarantee fund, designated as temporary administrator, fulfills its duties and competences ordered by the FSA, according to the designation decision.

(2) In application of the provisions of paragraph (1), the Director General of the Guarantee Fund shall draw up a substantiation note, taking into account the volume of activities currently carried out, and

shall propose for approval to the Board of Directors of the Guarantee Fund the appointment by decision of an employee or a member of the Board of Directors of the Guarantee Fund, with at least 5 years' experience in the field of insurance/in the financial field/in the supervisory institutions of the in management positions, as a representative of the Guarantee Fund as a temporary administrator, as well as, where appropriate, specialists of the Guarantee Fund. By the same decision, a substitute for the representative of the Guarantee Fund will also be appointed, as temporary administrator, for situations in which he is temporarily or permanently unable to exercise his mandate.

(3)The persons named in paragraph (2) shall carry out the legal duties, as established by the decision of the FSA by which the Guarantee Fund was appointed as temporary administrator.

(4)The Director General of the Guarantee Fund shall issue the decision to appoint the representative of the Guarantee Fund and of the specialists within it, which shall include data on the name of the representative and of the designated Guarantee Fund specialists, the functions exercised by them, as well as the conditions and limits of the performance of the duties related to the temporary administrator, in compliance with the provisions, terms and conditions provided in the decision of the FSA appointing the Guarantee Fund, as temporary administrator.

(5)After issuing the decision of the Director General of the Guarantee Fund to appoint the representative and his specialists, the Guarantee Fund shall take the necessary steps to insure them for professional liability, by subscribing to a valid insurance policy. The minimum insurance ceiling shall be established by decision of the Board of Directors of the Guarantee Fund, and the insurance premium shall be borne from the fee provided for in Article 31.

Article 31

The fee due to the Guarantee Fund, as temporary administrator, is established by the FSA through the appointment decision having as a reference point the remuneration of the insurer's management and is paid from the assets of the insurer under temporary administration. The fee is charged by the Insured Guarantee Fund, according to Article 5(1)(e) of Law no. 213/2015 on the Insured Guarantee Fund in conjunction with Article 2 point 3 and Article 30 paragraph (1) and (2) of Law no. 246/2015.

Article 32

(1)The guarantee fund, as temporary administrator, disposes, as the case may be, of part or all of the powers of the insurer's management body, in accordance with the decision of the FSA appointing it, powers that are exercised under the control of the FSA, in its capacity as competent authority.

(2)During the administration period, the temporary administrator, as the case may be, may fully take

over the administration and management duties of the insurer.

(3)The temporary administrator may, in any case, convene the general meeting of shareholders and establish its agenda, only with the prior approval of the FSA, according to the provisions of Article 34 paragraph (2) of Law no. 246/2015.

Article 33

(1)The guarantee fund, as temporary administrator, has the following attributions and competences, in order to maintain or restore the financial situation of the insurer, as the case may be:

- a)carrying out the measures and/or provisions of the FSA, in its capacity as competent authority, within the terms and under the conditions provided for in the appointment decision;
- b)after its appointment, analyzing the insurer's activity and drawing up a detailed report on its economic and financial situation; the report drawn up will also specify the measures to be taken by the Guarantee Fund, as temporary administrator, as well as the real possibilities of restoring the financial situation of the insurer or, as the case may be, the reasons that prevent the achievement of the purpose for which this measure was ordered;
- c)preparation of periodic reports as established by the decision of the FSA, in its capacity as resolution authority;
- d)carrying out the steps established by its mandate for the restoration of the sound and prudent management of the insurer's activity;
- e)the management of the insurer's activity, within the limits and conditions established by the mandate given by the A.S.F.;
- f)convening the general meeting of shareholders, with the prior approval of the A.S.F.;
- g)fulfillment of any other provisions of the FSA, in its capacity as resolution authority, necessary to ensure the defense of the rights and legitimate interests of the insured.

(2)The report referred to in paragraph (1)(b) shall be drawn up and submitted within no more than 50 working days from the date of designation of the Guarantee Fund as temporary administrator. At the request of the temporary administrator and for good reasons, the duration provided for the preparation and transmission of the report to the FSA may be extended, only once, by a maximum of 30 working days.

(3)The periodic reports provided for in paragraph (1)(c) shall include an analysis of the evolution of the application of the measures established by the A.S.F. decision.

(4)The reports referred to in paragraph (1)(b) and (c) shall be submitted by the representative of the

Guarantee Fund and shall be submitted for approval to its Board of Directors. After their approval by the Board of Directors of the Guarantee Fund, they are submitted for approval to the FSA Council, which may adopt measures accordingly.

Article 34

The acts undertaken by the Guarantee Fund, as temporary administrator, are subject to the prior approval of the FSA, as the competent authority, except for the acts concerning the current activity of the insurer, in compliance with the provisions of Article 33(1).

Article 35

(1) If the FSA, in its capacity as resolution authority, considers that the measures contained in the reports referred to in Article 33(1)(b) and (c) to be taken by the Guarantee Fund, in its capacity as temporary administrator, are incomplete, it may make specific recommendations or take any other measure it deems necessary and appropriate, taking into account the severity of the deficiencies. The FSA will issue a decision in this regard which it will communicate, in due course, to the Guarantee Fund.

(2) The FSA may modify at any time the terms of the mandate conferred on the Guarantee Fund.

Article 36

(1) The guarantee fund, in its capacity as temporary administrator, has unrestricted access, throughout the period of the mandate granted, to all the premises and locations of the insurer and to all assets, records, accounts and other records.

(2) The temporary administrator may employ/contract persons, such as auditors, lawyers, appraisers, consultants/specialists in the field, other independent authorized experts, to support him in the performance of his duties and may delegate specific tasks in this regard in accordance with the instructions given by the Guarantee Fund and the A.S.F.

(3) Any expenses incurred by the Guarantee Fund, as temporary administrator, in order to exercise its mandate shall be paid from the resources of the Guarantee Fund.

Article 37

The A.S.F., in its capacity as competent authority, may at any time order the replacement of the temporary administrator, if it is found that his activity may lead to situations that are likely to prejudice the rights of the insurance creditors defined in Article 4(1)(b) of Law no. 213/2015.

Article 38

The termination of the quality of temporary administrator takes place in the following cases:

- a) by revoking the decision to appoint the temporary administrator by the A.S.F.;
- b) by replacing it, in accordance with Article 33 of Law no. 246/2015.

SECTION 2: Insured Guarantee Fund as Resolution Administrator

Article 39

(1) This section establishes the framework for the designation of the Insured Guarantee Fund, as resolution administrator, in application of the provisions of Article 49 of Law no. 246/2015.

(2) The FSA, in its capacity as resolution authority, may designate, by reasoned decision, the Insured Guarantee Fund as resolution administrator. The Insured Guarantee Fund, as resolution administrator, carries out its activity under the conditions of Article 49-54 of Law no. 246/2015 on the recovery and resolution of insurers.

(3) The decision referred to in paragraph 2 shall mainly contain the following data:

- a) the provisions on the applicable legal framework, including those relating to State aid;
- b) nomination of the Insured Guarantee Fund as resolution administrator;
- c) the competences in the exercise of the mandate with the specification of the attributions and the limits of their exercise;
- d) the manner of exercising the control of the FSA, in its capacity as resolution authority, over the powers of the Guarantee Fund, as resolution administrator;
- e) objectives of the resolution;
- f) the applicable resolution measures;
- g) the acts of the resolution administrator subject to the prior approval of the FSA, in its capacity as resolution authority;
- h) the reasons that may lead to the replacement of the resolution administrator, according to Article 52 of Law no. 246/2015;
- i) the period of exercise of the mandate of resolution administrator by the Insured Guarantee Fund, in compliance with the provisions of Article 54 of Law no. 246/2015;
- j) the content of the reports on the economic and financial situation of the insurer to which the resolution administrator has been appointed and the intervals for their presentation to the A.S.F., as resolution authority;
- k) the fee due to the Guarantee Fund for the exercise of the mandate of resolution administrator;
- l) other provisions in application of the resolution administrator's mandate.

(4)The decision of the FSA appointing the resolution administrator shall be published in the Official Gazette of Romania, Part I.

Article 40

(1)The decision of the Financial Supervisory Authority appointing the resolution administrator, including the Insureds' Guarantee Fund, constitutes an enforceable title, according to Article 140 paragraph (1) of Law no. 246/2015.

(2)Against the decision of the Financial Supervisory Authority to appoint the resolution administrator, the insurer or any person who considers himself harmed by the decision may appeal to the Administrative and Tax Litigation Section of the Bucharest Court of Appeal, within 10 days from the date of communication, under penalty of forfeiture, according to Article 138 (1) and Article 139 paragraph (1) of Law no. 246/2015.

Article 41

The mission of the Guarantee Fund, designated as a resolution administrator, is to take all necessary measures to achieve the resolution objectives and to implement the resolution measures, ordered by the FSA decision appointing the resolution administrator.

Article 42

(1)The Guarantee Fund, designated as the resolution administrator, fulfills its attributions and resolution powers, ordered by the FSA, in compliance with the provisions contained in the designation decision.

(2)In application of the provisions of paragraph (1), the Director General of the Guarantee Fund shall draw up a substantiation note, taking into account the volume of activities carried out on a daily basis, and shall propose for approval to the Board of Directors of the Guarantee Fund the appointment by decision of an employee or a member of the Board of Directors of the Guarantee Fund, with at least 7 years' experience in the field of insurance/in the financial field/in the supervisory institutions of the in management positions, as a representative of the Guarantee Fund as resolution administrator, as well as, where appropriate, specialists of the Guarantee Fund. By the same decision, a replacement of the representative of the Guarantee Fund will also be appointed, as resolution administrator, for situations in which he is temporarily or permanently unable to exercise his mandate.

(3)The persons nominated in paragraph (2) shall carry out the legal duties, as established by the decision of the FSA appointing the Guarantee Fund as resolution administrator.

(4) After approval by the Board of Directors of the Guarantee Fund for the Persons referred to in paragraph (2), the Director General of the Insured Guarantee Fund shall issue the decision to appoint the representative of the Insured Guarantee Fund and its specialists, if applicable, which shall include data on the name of the representative and the designated specialists, the functions exercised by them, as well as the conditions and limits for the performance of the duties related to the resolution administrator, in compliance with the provisions, terms and conditions provided in the decision of the Financial Supervisory Authority designating the Insureds' Guarantee Fund, as resolution administrator.

(5) After issuing the decision of the General Manager of the Insured Guarantee Fund to appoint its representative and specialists, the Insured Guarantee Fund takes the necessary steps to insure them for professional liability, by subscribing to a valid insurance policy. The minimum professional insurance ceiling shall be established by decision of the Board of Directors of the Insured Guarantee Fund, and the insurance premium shall be borne from the fee provided for in Article 43.

Article 43

The fee due to the Guarantee Fund as a resolution administrator is established by the FSA through the designation decision having as a reference point the remuneration held by the management of the insurer subject to resolution and is paid from the assets of the insurer subject to resolution. The fee is charged by the Guarantee Fund, according to Article 5(1)(e) of Law no. 213/2015 on the Insured Guarantee Fund in conjunction with Article 2 point 2 and Article 49 last sentence of Law no. 246/2015.

Article 44

(1) The guarantee fund, as resolution administrator, has all the powers of the shareholders and the management body of the insurer subject to resolution, powers that are exercised under the control of the FSA, in its capacity as resolution authority.

(2) During the resolution period, the resolution administrator takes over the full administration and management duties of the insurer.

(3) If the Financial Supervisory Authority has decided to suspend the voting rights of one or more significant shareholders in the insurance/reinsurance company, the shareholders whose exercise of voting rights is not suspended shall be convened for the valid meeting of the general meeting, the majority provided for by law or, as the case may be, by the articles of incorporation for the adoption of decisions being reported, in this case, to the total share capital held by the shareholders with

voting rights.

(4) In application of the provisions of paragraph (1), the Financial Supervisory Authority may decide, taking into account the concrete circumstances that determined the application of the resolution measures, to terminate the mandate of the management bodies/significant persons, as the case may be, the resolution administrator taking over the full administration and management duties of the insurer subject to resolution.

(5) The termination measure is instituted by withdrawing the approval of the significant persons/management bodies, as the case may be, by the FSA, which will update the decision to appoint the resolution administrator, in order to complete the mandate granted to him.

(6) The insured guarantee fund, in its capacity as resolution administrator who applies the resolution measures ordered by the FSA, by the appointment decision, may not be sanctioned or ordered to pay any court costs, fines, damages or any amounts, by the court or by another authority, for facts or omissions attributable to the insurer subject to resolution.

Article 45

(1) The Guarantee Fund, as a resolution administrator, has the following attributions and competences:

- a) carrying out the measures and/or provisions of the FSA, in its capacity as resolution authority, within the terms and under the conditions provided in the appointment decision;
- b) after its appointment, analyzing the activity of the insurer subject to resolution and drawing up a detailed report on its economic and financial situation, specifying including the causes that led to the application of the resolution measures and mentioning the persons guilty in this regard, as well as the existence of the premises for engaging their liability according to Article 44 letter e) of Law no. 246/2015; the report drawn up will also specify the measures to be taken by the Insured Guarantee Fund, as resolution administrator, as well as the real and operative possibilities of resolution of the insurer or, as the case may be, the reasons that prevent the purpose of the resolution procedure from being achieved;
- c) preparing periodic reports if they were established by the decision of the FSA, in its capacity as resolution authority;
- d) carrying out the necessary steps for the fulfillment of the resolution measures provided by law;
- e) managing the insurer's activity, in order to ensure the continuity of critical functions;
- f) fulfillment of any other provisions of the FSA, in its capacity as resolution authority, necessary to ensure the defense of the rights and legitimate interests of the insured.

(2)The report referred to in paragraph (1)(b) shall be drawn up and submitted within 50 working days from the date of appointment of the resolution administrator. At the request of the resolution administrator and for good reasons, the duration provided for the preparation and transmission of the report to the FSA may be extended, only once, by a maximum of 30 working days.

(3)The periodic reports referred to in paragraph (1)(c) shall include an analysis of the evolution of the application of the resolution measures established by the A.S.F. decision.

(4)The reports referred to in paragraph (1)(b) and (c) shall be submitted to the executive management of the Guarantee Fund by the representative of the Insured Guarantee Fund and shall be submitted for approval to the Board of Directors of the Insured Guarantee Fund. After their approval by the Board of Directors of the Insured Guarantee Fund, they appear before the Board of the Financial Supervisory Authority, which may adopt measures accordingly.

Article 46

(1)In order to achieve the resolution objectives, the Insured Guarantee Fund, in its capacity as resolution administrator, may take one or more of the following resolution measures, but is not limited to:

- a)the increase of the share capital of the insurer subject to resolution;
- b)changing the shareholding structure of the insurer subject to resolution;
- c)the takeover of the insurer subject to resolution by insurers with adequate financial strength.

(2)In the event of the application of resolution measures, the Guarantee Fund, as resolution administrator, must take into account the resolution objectives provided for in Article 40 of Law no. 246/2015 and to decide on those measures that allow the achievement to the highest degree of the relevant objectives for each situation.

(3)When pursuing the objectives provided by Article 40 of Law no. 246/2015, the Guarantee Fund, as the resolution administrator, seeks to minimise the cost of resolution and avoid the destruction of value, unless they do not allow the objectives of resolution to be achieved.

(4)Any measures imposed on the insurer subject to resolution by the Insured Guarantee Fund, in its capacity as resolution administrator, shall be proportionate to the seriousness and magnitude of the deficiencies and shall take into account the effect of the measures on the insurer's economic activity, its stability and its ability to contribute to the economy.

(5)Any measures imposed on the insurer subject to resolution by the Insured Guarantee Fund, in its capacity as resolution administrator, shall aim at minimising the costs of resolution and the fair treatment of creditors belonging to the same category.

(6) If the specific situation requires different treatment of creditors of the same category, it must be justified in the public interest, without being discriminatory.

Article 47

In the event that the FSA, in its capacity as resolution authority, considers that the measures contained in the reports referred to in Article 45(1)(b) and (c) to be taken by the Guarantee Fund, in its capacity as resolution administrator, are incomplete, it may make specific recommendations or take any other action it deems necessary and appropriate, taking into account the severity of the deficiencies. A.S.F. will issue a decision in this regard which it will communicate, in due time, to the Insured Guarantee Fund.

Article 48

(1) The Guarantee Fund, in its capacity as resolution administrator, has unrestricted access, throughout the duration of the mandate granted, to all premises and locations of the insurer subject to resolution and to all assets, records, accounts and other records and has control over them.

(2) The resolution administrator may engage/contract persons, such as auditors, lawyers, assessors, consultants/specialists in the field, other independent authorised experts, to support him in the performance of his duties and may delegate specific tasks in accordance with the instructions given by the Guarantee Fund, as administrator of the Resolution Fund for Insurers, and A.S.F., in its capacity as resolution authority.

(3) Any expenses incurred by the Guarantee Fund, as resolution administrator, in order to exercise its mandate and carry out resolution measures, shall be paid from the availabilities of the Resolution Fund, administered by the Guarantee Fund, and shall be fully recovered from the insurer subject to resolution.

Article 49

(1) In the exercise of its duties, the Guarantee Fund, in its capacity as resolution administrator, is required to be responsible for the manner of fulfilling the mandate received, according to the measures and provisions established by the FSA through the decision to appoint it as resolution administrator.

(2) The FSA, in its capacity as resolution authority, may at any time order the replacement of the resolution administrator during the resolution procedure, if it is found that his activity may lead to situations that are likely to prejudice the rights of insurance creditors.

Article 50

The termination of the capacity of resolution administrator takes place in the following cases:

- a) by revoking the decision to appoint the resolution administrator by the A.S.F.;
- b) by replacing it, in accordance with Article 52 of Law no. 246/2015.

SECTION 3: Insured Guarantee Fund as sole shareholder of the bridge institution

Article 51

(1) The guarantee fund may be authorized by the FSA to be the sole shareholder of a bridge institution, according to the provisions of Article 89 paragraph (2) of Law no. 246/2015, having the obligation, according to the applicable legal provisions, to ensure all the operations necessary for the establishment and functioning of the bridge institution.

(2) The decision of the FSA regarding the establishment of the bridge institution is based on the analysis of the viability of the bridge institution, taking into account the objectives provided by Article 40 paragraph (1) of Law no. 246/2015, depending on the nature and circumstances of each case.

(3) In application of the provisions of Article 106 of Law no. 246/2015, the bridge institution can be established as a joint stock company with a sole shareholder. The guarantee fund may be the sole shareholder of the bridge institution. The fulfillment of the criteria established by Article 23 of Law no. 237/2015 and the rules issued by the Financial Supervisory Authority in application of this provision, regarding shareholders, shall be presumed when the Insureds' Guarantee Fund is appointed sole shareholder of the bridge institution.

Article 52

(1) In order to obtain the establishment authorization, the Guarantee Fund will submit to the FSA, mainly, the documents requested by the FSA through the regulations issued in accordance with the provisions of Article 107 of Law no. 246/2015.

(2) A.S.F. will issue to the Guarantee Fund as sole shareholder an authorization for the establishment of the bridge institution, according to the regulations issued in accordance with the provisions of Article 107 of Law no. 246/2015.

(3) A.S.F. may establish, as the case may be, that the bridge institution concludes contracts by which it transfers a part/all of the assets, rights or obligations of the insurer subject to resolution to a third party and the conditions under which this transfer is carried out and the requirements that the third party must meet.

(4)The FSA may establish, as the case may be, the ways in which the bridge institution may obtain a capital contribution or other means of financial support, including through the Resolution Fund, in compliance with the legal framework on state aid.

Article 53

(1)After receiving the decision of the A.S.F. by which the Insureds' Guarantee Fund was designated as the sole shareholder of the bridge institution and the establishment authorization, the Fund will submit the necessary documentation for registration in the trade register, as a matter of urgency, to the trade register office. Its registration in the Trade Register shall be made within 24 hours from the submission of the documents to the Trade Register Office, according to Article 108 paragraph (1) of Law no. 246/2015.

(2)In compliance with the deadline provided by Article 108 paragraph (2) of Law no. 246/2015, the Insured Guarantee Fund shall submit to the Trade Register documents certifying the full payment of the share capital. The documents are submitted in copy and also include a statement of account regarding the full payment of the share capital.

Article 54

After the registration of the bridge institution in the Trade Register, the Insured Guarantee Fund will proceed according to the provisions of Article 109 of Law no. 246/2015.

Article 55

(1)The activity of the Guarantee Fund as the sole shareholder of the bridge institution will be clearly highlighted in its accounts.

(2)The expenses specific to the activity of the Guarantee Fund as the sole shareholder of the bridge institution shall be borne by the Resolution Fund for Insurers.

(3)The necessary financing for the bridge institution is provided by the Resolution Fund for Insurers.

Article 56

Annexes no. 1 and 2 are an integral part of this rule.

Article 57

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

The President of the Financial Supervisory Authority,

Mișu Negrițoiu

ANNEX no. 1:REPORT on the contribution due and transferred to the Resolution Fund for the month

Company Name:

Headquarters: str. no., bl., sc., ap., sector/county

Contact person

..... phone, email

- LEI -

Crt. no.	Specifications	Year-to-date cumulative total*)	Of which for the reporting month**)	Number and date of payment document***)
0	1	2	3	4
1.	Gross premiums collected from direct insurance:			
	- non-life insurance			X
	- life insurance			
2.	The percentage rate established by the Financial Supervisory Authority for:	X		X
	- non-life insurance			
	- life insurance			
3.	Contribution due to the Resolution Fund for:			X
	- non-life insurance			X
	- life insurance			X
4.	Interest and late payment penalties due			X
5.	Amount transferred - total, of which:			
6.	- related to the contribution due to the Resolution Fund:			
	- non-life insurance			
	- life insurance			
7.	- related to interest and late payment penalties due			

*) Column 2 shows the gross premiums collected, cumulated since the beginning of the year, including those related to the month for which the report is made.

***) Column 3 shows the gross premiums received for the month for which the report is made.

) Whenever transfers are made, a copy of the payment document will also be sent, with the following specifications: the total amount transferred, of which: related to the contribution due to the Fund, related to the interest and late payment penalties due, and the month for which the transfer is made.

The undersigned,, as (executive manager), knowing the provisions of Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented, I declare on my own responsibility that all information and documents are complete and in accordance with reality and that there are no other relevant facts that must be brought to the attention of the Fund.

Name and surname (in capital letters)

Signature

The company's stamp

ANNEX no. 2: CORRIGENDUM regarding the contribution due and transferred to the Resolution Fund for the month

Company Name:

Headquarters: str. no., bl., sc., ap., sector/county

Contact person

..... phone, email

- LEI -

Crt. no.	Specifications	Amount originally reported*)	Corrected amount**)	The difference +/-	Number and date of payment document***)
0	1	2	3	4 (3 - 2)	5
1.	Gross premiums collected from direct insurance:				X
	- non-life insurance				
	- life insurance				
2.	The percentage rate established by the Financial Supervisory Authority for:			X	X
	- non-life insurance				
	- life insurance				
3.	Contribution due to the Resolution Fund for:				X
	- non-life insurance				
	- life insurance				
4.	Interest and late payment penalties due				X
5.	Amount transferred - total, of which:				
6.	- related to the contribution due to the Resolution Fund for:				
	- non-life insurance				
	- life insurance				
7.	- related to interest and late payment penalties due				

*) In column 2, the initial declared value of the gross premium received, related to the month for which the rectification is made, is entered.

***) In column 3, the rectified value of the gross premium received, related to the month for which the rectification is made, is entered.

) Whenever transfers are made, a copy of the payment document will also be sent, with the following specifications: the total amount transferred, of which: related to the contribution due to the Fund, related to the interest and late payment penalties due, and the month for which the transfer is made.

The undersigned,, as (executive manager), knowing the provisions of Law no. 286/2009 on the Criminal Code, as subsequently amended and supplemented, I declare on my own responsibility that all information and documents are complete and in accordance with reality and that there are no other relevant facts that must be brought to the attention of the Fund.

Name and surname (in capital letters)

Signature

The company's stamp

ANNEX no. 3: SITUATION^{*)} of the contributions due and transferred to the Resolution Fund by the insurers^{) as of}**

(lei)

Crt. no.	Name of the insurer	Gross premiums received from direct insurance		Contribution due to the Resolution Fund		Contribution to the Resolution Fund		Interest and late payment penalties due	Interest and late payment penalties collected
		Non-life insurance	Life insurance	Non-life insurance	Life insurance	Non-life insurance	Life insurance		

*) It is reported cumulatively from the beginning of the year to the date of reporting.

**) As it results from the reports submitted, in accordance with the legal provisions.

ANNEX no. 4:

Crt. no.	Name of assets	Value of assets according to accounting records (lei)

Name:

.....

Function:

.....

Signature:

.....

Date of preparation:

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