

**Norma 6/26-ian-2016 NORM no. 6 of 26 January 2016 on the process of evaluation and resolution decisions
(traducere)**

Norma 6/26-ian-2016 din 2016.02.03

Status: Acte în vigoare

Versiune de la: 3 Februarie 2016

Intră în vigoare:

3 Februarie 2016 An

**Norma 6/26-ian-2016 (traducere) NORM no. 6 of 26 January 2016 on the process of evaluation and
resolution decisions (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 160 letter d) 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: Subject-matter, scope and definitions

Article 1

(1) This rule establishes:

a) the conditions that the financial auditor must meet if he carries out the valuation of an insurer, as provided for in Article 55, Article 57-62, as well as Article 131 of Law no. 246/2015 on the recovery

and resolution of insurers, hereinafter referred to as Law no. 246/2015;

b) the aspects to be taken into account by the financial auditor referred to in Article 55 of Law no. 246/2015, if it carries out an independent assessment of an insurer.

(2) For the purposes of this rule, the terms and expressions have the meaning provided in Law no. 246/2015 and in Law no. 237/2015 on the authorization and supervision of the insurance and reinsurance activity, hereinafter referred to as Law no. 237/2015, if they are not provided for in Law no. 246/2015.

Article 2

If a financial auditor carries out the valuation of an insurer, in accordance with the provisions of Article 55, Article 57-62 or Article 131 of Law no. 246/2015, this will be carried out on the basis of a decision issued by the Financial Supervisory Authority, hereinafter referred to as A.S.F., for the insurer in question.

CHAPTER II: Specific conditions to be met by the financial auditor

Article 3

Where a financial auditor carries out the assessment referred to in Article 2, he or she shall cumulatively meet the following conditions:

- a) to be a legal person;
- b) to hold the maximum grade "A" obtained at the last evaluation carried out by the C.A.F.R.;
- c) the activity carried out in the field of financial auditing and the responsibilities exercised within it to certify that it has a good local or international professional reputation;
- d) to have international experience in terms of the audit mission that he/she will carry out, respectively to have participated in the last 5 years in audit actions such as asset quality assessment or valuation of assets and liabilities of companies in the financial-banking field or in valuation actions for the purpose of resolving a company in the financial-banking field;
- e) not to be the statutory auditor of the insurer at the time of selection and during the evaluation;
- f) not to be the special administrator, temporary administrator or resolution administrator of the insurer;
- g) not to have carried out statutory audit missions at the insurer in question in the last 5 years prior to the evaluation;
- h) not to have been disciplined by a decision that has become final in the last 3 years by the competent authorities supervising their activity;
- i) not to have been sanctioned by the Romanian or foreign authorities in the financial field with the

prohibition to carry out activities in the financial-banking system or with the temporary prohibition to carry out such activities;

j)to have concluded a professional civil liability insurance contract, in accordance with the rules on professional liability insurance issued by the Chamber of Financial Auditors of Romania (C.A.F.R.), A.S.F. does not assume responsibility for the compliance of the professional civil liability insurance contract with the rules on professional liability insurance issued by C.A.F.R.;

k)not to be in a situation of incompatibility or conflict of interest provided by the legislation in force;

l)to have at least 5 employees, active members of the C.A.F.R.;

m)have at least one actuary in the audit team.

CHAPTER III: Obligations of the financial auditor

Article 4

(1)The valuation provided for in Article 2 shall include all assets, obligations, including technical reserves, as well as the equity of the insurer being assessed.

(2)The financial auditor shall assess the assets and obligations referred to in paragraph (1) both in accordance with the accounting regulations in force and with the standards provided by Law no. 237/2015.

(3)The financial auditor shall draw up an adjusted balance sheet, after the corrections resulting from the evaluation provided for in paragraph (2), having two sections, as follows:

a)valuation of assets and obligations according to the accounting regulations in force;

b)valuation of assets and obligations according to the standards provided by Law no. 237/2015.

Article 5

At the beginning of the evaluation, the financial auditor develops a work plan that includes the following main elements: scope, objectives, limitations, assumptions, description of the methods and tools used in the activity and description of the organization of the activity. The work plan will be submitted to the FSA within 14 days from the date of the start of the insurer's evaluation process.

Article 6

(1)During the evaluation, the financial auditor has the obligation to submit twice a month to the FSA a report on the progress made and to participate, when requested, in monthly meetings with the FSA and in teleconferences organized by it.

(2)During the evaluation period, at any time, the financial auditor may draw up a supplementary report

if he/she considers that the FSA needs to be informed about facts and issues that are or may be urgent, of special interest, or important for the successful completion of the audit mission.

Article 7

(1) The financial auditor must prepare and submit, in Romanian, to the FSA the final report on the results of the evaluation process.

(2) The final report referred to in paragraph 1 on the results of the evaluation process shall detail and include at least the following elements:

- a) introduction and context;
- b) scope, objective and purpose of the evaluation;
- c) main limitations of the assessment;
- d) methodologies and assumptions used. The financial auditor will identify and explain any significant deviation from the assumptions used by the insurer for the preparation of the financial statements or for the calculation of the solvency requirements;
- e) an overview of the assessment;
- f) the information provided for in Article 60 of Law no. 246/2015;
- g) the information provided for in Article 61 of Law no. 246/2015, if applicable;
- h) the information provided for in Article 62 of Law no. 246/2015;
- i) the findings of the assessment referred to in Article 4(2);
- j) the adjusted balance sheet, after the corrections resulting from the valuations, prepared in accordance with the accounting regulations in force;
- k) the adjusted balance sheet, after the corrections resulting from the evaluations, drawn up in accordance with the standards provided by Law no. 237/2015;
- l) the situation of the contracts regarding assignments in reinsurance if the insurer would be liquidated according to the usual insolvency procedures, as well as if the insurer would be subject to a resolution measure;
- m) the analysis carried out for each of the purposes of the evaluation provided for in Article 58 of Law no. 246/2015;
- n) a detailed analysis of the estimated amounts necessary to finance the application of resolution tools, compared to the costs involved in the insurer's bankruptcy;
- o) any other information provided by the legislation in force or requested by A.S.F.

Article 8

The FSA may request from the financial auditor details, clarifications or explanations regarding the

audit activity carried out, as well as the documents prepared by the latter if the clarifications are considered insufficient.

CHAPTER IV: Obligations of the insurer

Article 9

Before the start of the valuation process, the insurer is obliged to ensure that the financial auditor complies with the conditions set out in Article 3.

Article 10

The insurer is obliged to support the financial auditor in achieving the objectives and achieving the purposes of the valuation by providing him with all the information and documents requested, within the deadline and formats requested by the auditor.

CHAPTER V: Final provisions

Article 11

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

Published in the Official Gazette number 79 of February 3, 2016