



AUTORITATEA
DE SUPRAVEGHERE
FINANCIARĂ

BRIEF DIRECTIONS FOR THE CONSUMERS FROM ABROAD

ASTRA SITUATION

The Financial Supervisory Authority (ASF) has disposed through the Decision no. 2034/27.08.2015 the withdrawal of the authorization and the opening of the winding-up proceedings for the undertaking Asigurare–Reasigurare ASTRA S.A., following the ascertainment of the insurer’s insolvency.

WHAT KIND OF PROTECTION FOR CONSUMER IS AVAILABLE IN THIS SITUATION?

The Policyholders Guarantee Fund (FGA), as insurance guarantee scheme aims to protect the insurance creditors against the consequences of insolvency of an insurer in winding-up proceedings. The main destination of the amounts available for FGA is the payment to the insurance creditors of the indemnities/compensations resulting from the voluntary and compulsory insurance contracts concluded according to the law and of the premiums due by the insurer for the period in which the risk was not covered by it, as a result of the termination of the insurance contracts, complying with the guarantee threshold provided by the law (450,000 lei/ insurance creditor).

WHO IS AN INSURANCE CREDITOR?

- insured person – the person who has concluded an insurance contract,
- insurance beneficiary – third person benefiting from the effects of the law or of the insurance contract and to whom the insurer is expected to pay the due amounts as a result of the occurrence of the insured risk, as provides the insurance contract,
- injured party (in the case of liability insurance) – the person entitled to receive compensations for the loss suffered due to the occurrence of a risk covered by a liability insurance contract.

WHY SHOULD I ADDRESS FGA?

The insurance creditors may request payments, according to the Law no. 213/2015, such as:

1. the amounts due to the insurance creditors to be paid by FGA for the unexpired period of the contract relating to voluntary insurance, in the event of termination of the insurance contract,
2. the compensations/indemnities due to insurance creditors resulting from voluntary and compulsory insurance contracts concluded with ASTRA.

In the event of damages occurred prior to the ASF decision and for which it was opened a claim file to the insurer, but also in the situation of the occurrence in the future of insured risks within the validity period of the insurance contract, the insureds/insurance beneficiaries/ injured persons may contact FGA..

WHEN SHOULD I ADDRESS FGA?

From the moment the ASF Decision no. 2034/27.08.2015 regarding ASTRA has been published in the Romanian Official Journal no. 657/08.31.2015, but no later than 90 days from the date the final decision for winding-up proceedings remains final and binding. The persons entitled to compensation from FGA may also address FGA later in case the right was constituted after the decision for opening the winding-up proceedings remained final and binding.

FOR HOW LONG ARE THE INSURANCE CONTRACTS VALID?

The insurance contracts concluded with ASTRA are valid until the date when one of the following situations occurs:

- the expiry date of the contract,
- the date of denouncing the insurance contract.

TO WHOM SHOULD I ADDRESS IN CASE OF LOSSES?

According to the Law no. 213/2015, art. 12 para. 1 and 2, FGA shall proceed to open the claim files, the technical ascertainment of the damages, the investigation of the claim files, as well as their technical endorsement.

FGA shall provide the template for the application form to be filled-in and shall inform you as regards the justifying documents that shall accompany this application. The information shall be available on the FGA and ASF websites.

FGA ROLE

In order to pay the due amounts to the insurance creditors, FGA shall take the following measures:

- shall publish on its website the information regarding the necessary steps in order to obtain compensations/indemnities from FGA;
- shall take over from ASTRA the records of the insurance contracts in force at the closing date of the financial recovery proceedings, the complete evidence of the claim files, as well as the accounting and technical-operational records relating to such contracts;
- shall publish the list of the potential insurance creditors, according to the records taken over from ASTRA;
- shall receive requests for opening claim files, shall take all the measures for the technical ascertainment of the damages and the technical endorsement of the claim files;
- shall verify the claim files and the insurance claims registered in its records, taking into account the applicable rules and conditions provided for in the general and specific clauses of the insurance contracts concluded with ASTRA;
- shall draft the lists of insurance creditors to which certain, eligible and liquid claims are to be paid from its availabilities;
- after the approval by the special commission of such lists, the indemnities/compensations payment to insurance creditors shall be made, according to the legislation. The amounts accepted to payment shall be paid by FGA after the decision for opening the winding-up proceedings remains final and binding.

WHAT DO I HAVE TO DO IN ORDER TO RECOVER THE INSURANCE CLAIM?

In order to recover a claim (compensation, indemnities etc.) from FGA, you shall submit, in writing, to FGA (see the explanations below):

- for compensation/indemnity: a reasoned request for payment, accompanied by the justifying documents. For further details, please follow the information available at FGA and ASF.
- to recover the premiums paid in advance proportionately with the time remaining until the expiry date of the voluntary insurance: a payment application (application form) accompanied by the justifying documents. For further details, please follow the information available at FGA and ASF.

HOW THE REQUEST TO OPEN A CLAIM FILE SHOULD BE FILLED-IN (IN CASE OF THE OCCURANCE OF THE RISK COVERED BY AN INSURANCE CONTRACT OR POLICY ISSUED BY ASTRA)?

According to the Law no. 213/2015, art. 12 para. 1 and 2, FGA shall proceed to the opening of the claim files, to the technical ascertainment of the damages, to the investigation of the claim files, as well as to their technical endorsement.

In case of an accident, first you should contact the competent public authorities empowered to issue documents certifying the insured event (police, fire brigades etc.).

Afterwards, you should complete and sign the FGA application form – Application for opening the claim file (Annex 3 of the ASF Regulation no. 16/2015 - available on www.fgaromania.ro) and submit it directly or by mail to FGA (registered letter with acknowledgment of receipt) or by e-mail (office@fgaromania.ro).

The application form shall be completed as to contain the following information: the nature of the claim, its occurrence date, the amount of the claimed compensation, whether there is any privilege or a real guarantee in respect of the claim, the assets covered by the insurance.

FOR ANY TYPE OF DAMAGE, FOR ANY TYPE OF POLICY, THE INSURED/THE INJURED PARTY SHALL SUBMIT AN APPLICATION TO FGA.

After submitting the application, FGA shall contact you to open the claim file, informing you about the time and the place where you may ascertain the damage together with FGA or FGA empowered persons.

At that moment, FGA takes all the necessary measures concerning the opening of the claim file and shall communicate in writing to the injured party the documents to be submitted for settling claims, as appropriate: the insurance policy/contract, the documentation proving the occurrence of the insured event, issued by the public competent authorities (police, fire brigades etc.), or other document proving the causes and the circumstances of the event (amicable agreement, witness statements etc.), the extent of the damage, the documents on patrimonial interest, the justifying documents regarding the amount of the claim etc..

The justifying documents, presenting the exact claimed amount and accompanying your application shall be completed in Romanian, in legal copy or as a certified translation of the documents in a language other than Romanian, if necessary.

In case of the impossibility to submit those documents in legal copy, you may submit either copies of these or a declaration on word of honor in order to support these documents (these documents shall be verified by FGA by comparing them to the records taken over from the insurer), specifying the impossibility of submitting them in their legal form.

In case of motor claims, you shall also complete the Declaration form regarding the event (Annex 4 of the ASF Regulation no. 16/2015 - available on www.fgaromania.ro) that you shall send to FGA. FGA issues a document for entering in repair of the vehicle, if the petitioners notify about the occurrence of material damages to the insured vehicle, according to the applicable legislation. The release of this document does not constitute the final technical note for ascertaining claims, nor any obligation for payment. This document is issued including in case the total loss is ascertained and the vehicle will not be repaired.

FGA investigates the claim file. This means that it assesses the damages based on the existing documents from the claim file (including the estimates of the damage performed by a service unit) and according to the legislation and to the clauses of the insurance contract. If additional documents are needed, FGA shall submit a written address to the claimant.

After analyzing and investigating the claim file, FGA shall approve, according to the legal provisions, the compensation amount.

FGA shall pay the compensation after the decision for opening the winding-up proceedings becomes final and only to the insurance creditors.

HOW SHOULD THE REQUEST FOR PAYMENT BE FILLED-IN IN CASE OF A CLAIM FILE PREVIOUSLY APPROVED FOR PAYMENT BY ASTRA OR OTHER PAYMENTS THAT ARE IN FGA ATTRIBUTIONS?

If you already have a performed loss ascertainment and a claim file already open or finalized, this file shall be transferred to FGA.

FGA reevaluates the file within the next period and decides on the amount of the compensation. The payment is made within the legal time limit.

The steps you have to follow are:

- in order to collect from FGA the indemnities/compensations, any person invoking an insurance claim right against ASTRA must fill-in a reasoned Request for payment. (Annex 6 of the ASF Norm no. 16/2015 – www.fga-asf.ro). The request is filed in FGA attention and is submitted directly at the FGA headquarters, by mail (registered letter, with acknowledgement of delivery) or by email at: office@fgaromania.ro.
- to the Request of payment the claimant must attach legal copies of the documents justifying the amounts invoked as insurance claim rights. In case it is not possible for the justifying documents to be presented in legal copy, the claimant may submit copies of those documents or may submit a Declaration on word of honor (Annex 7 of the ASF Norm no. 16/2015 – www.fgaromania.ro) in order to support these justifying documents.
- FGA evaluates the payment requests and the documentation submitted, verifies and endorses the claim files and drafts the insurance creditors list with certain, liquid and eligible claims that are to be paid.
- their payment is made after the decision for opening the winding-up procedure against ASTRA remains final and binding, within the limits of the guarantee threshold.

The documents you submitted to FGA shall be drafted in Romanian or as certified translations of the documents drafted in another language than Romanian, if the case may be.

WHAT IS THE COMPENSATION LIMIT?

The guarantee threshold provided by the law for the payments that can be made by FGA is in amount of 450,000 lei for each insurance creditor.

WHEN DO I GET THE MONEY?

FGA is entitled to make payments from its availabilities to the ASTRA insurance creditors starting the date when the decision to open the winding-up procedure remains final and binding.

WHAT HAPPENS IF MY COMPENSATION IS HIGHER THAN THE MAXIMUM LIMIT OF COMPENSATION THAT CAN BE PAID BY FGA?

For the amounts that must be recovered and that exceed the legal compensation threshold, any person is entitled to follow the legal procedure provided by the Insolvency Law no. 85/2014, with subsequent amendments and completions.

HOW IS THE PAYMENT BEING MADE?

FGA pays the insurance claims established to be certain, liquid and eligible, within the guarantee threshold, in Romanian currency (leu). In case of the foreign currency claims, the bank commissions are beard by the insurance creditor. The payments are made through regular mail and/or through a bank authorized by NBR. Additional information shall be submitted by FGA in due time.

THE PAYMENT OF THE INDEMNITIES/COMPENSATIONS CAN ALSO BE MADE TO ANOTHER PERSON THAN THE INSURANCE CREDITOR?

Yes, the payment of the indemnities/compensations may be made to another person than the insurance creditor, as follows:

- legal heir or legatee of any kind, based on the inheritance certificate or legatee certificate;
- legal heir or legatee of any kind, appointed by proxy to represent the other legal heirs, legatees, respectively, based on the certificate of inheritance or legatee certificate;
- parent of the minor child aged up to 14 years, on the basis of the identification document of the parent and the birth certificate of the child aged up to 14 years; children 14-18 years can personally collect the compensations with the prior written consent of the parents or tutor;
- tutor or trustee for holders receiving tutorship or trusteeship based on the document establishing the tutorship or trusteeship;
- Trustee of the insurance creditor, based on authentic proxy to collect compensation/indemnity; insurance creditors, natural or legal persons, residing/ located abroad, may mandate a natural/legal person to collect compensation/indemnity from the FGA, based on a power of attorney issued under the laws of the state where it is issued. In this case, the trustee shall present the power of attorney and the certified translation by a Romanian public notary.
- In other cases, according to the contracts between the parties and the legal provisions in force.

DOES IT MATTER IF I HAVE A POLICY CONCLUDED WITH AN ASTRA BRANCH IN GERMANY/ SLOVAKIA/HUNGARY? WHAT DO I DO IN THIS CASE?

According to Law no. 213/2015, any person invoking a right to insurance claims against the insurer in winding-up procedures may file a reasoned request in this respect to the FGA. The law makes no distinction as to the residence or citizenship, as a result, consumers who have insurance policies - or are injured by a person insured by ASTRA - are entitled to be indemnified by FGA.

Note that the consumers who have concluded insurance contracts through foreign branches of ASTRA (Germany, Slovakia, Hungary), regardless of residence or nationality, are entitled to file a claim to FGA, as described above.

