Translation from Romanian

Romanian Parliament - Law No. 237/2015 of 19 October 2015

Law No. 237/2015 on the authorization and supervision of the insurance and reinsurance activity

In force as of 1st January 2016

The consolidated text as of 11 March 2025 is based on the publication in the Official Journal, Part I No. 800 of 28 October 2015 and includes the amendments made by the following legal acts: GEO 54/2016; Law 236/2018; GEO 111/2020; Law 158/2020; Law 209/2022; Law 17/2024; Last amended on 15 February 2024.

The Romanian Parliament adopts this law.

PART I
Solvency II Supervisory Regime

TITLE I
Insurers and reinsurers

CHAPTER I
Subject matter and scope

Article 1 - General provisions

(**1)** This Law regulates:

a) the authorization and operation of insurance and reinsurance undertakings having their head office on the territory of Romania, hereinafter referred to as undertakings;

b) supervision of the business conduct of the insurance undertakings referred to in sub-paragraph) a) in Romania, in the other Member States and in third countries;

c) the manner in which insurers from third countries may conduct business in Romania through branches, authorized and supervised by the Financial Supervisory Authority, hereinafter referred to as A.S.F. (en: *FSA)*;

(c[1]) the special financial recovery procedure applicable to insurance undertakings and the measures that A.S.F. may order within its framework;

c[2]) the legal regime of insurance undertakings whose operating license is withdrawn and the supervision exercised by A.S.F. over them;

c[3]) provisions for the winding-up and liquidation of insurance undertakings, including those referred to in sub-par.(c[2]), except reinsurers;

d) supervision of insurance and reinsurance groups;

e) the tasks of A.S.F. as the competent authority for the regulation, authorization and supervision of insurance undertakings, its relationship with supervisors of Member States or third countries, with the European Insurance and Occupational Pensions Authority, hereinafter referred to as EIOPA, in accordance with Regulation (EU) No 1.094/2010 of the European Parliament

and of the Council of November 24, 2010 establishing a European Supervisory Authority (European Insurance and Occupational Pensions Authority), amending Decision No. s 716/2009/EC and repealing Commission Decision 2009/79/EC, as amended and supplemented, with the European Commission and other authorities, institutions or bodies.

(2) For the purposes of this Law, the following terms and expressions shall have the following meanings:

1. significant shareholder - any person who, directly and alone or through or in conjunction with other natural or legal persons, has a qualifying holding;

2. insurance activity - the activity exercised in or from Romania, which means, in particular, offering, distributing, negotiating, concluding insurance and reinsurance contracts, collecting premiums, settling claims, regress and recovery activity, as well as the investment or use of own funds and funds attracted through the activity carried out;

2^1. interim administrator - a natural or legal person, including the Policyholders Guarantee Fund, established in accordance with Law no. 213/2015 on the Policyholders Guarantee Fund, as amended and supplemented, appointed by decision of A.S.F. to ensure the administration and management of the insurance undertaking for which A.S.F. orders the dissolution and liquidation or for which it files the application for opening bankruptcy proceedings;

2^2. special administrator - a natural or legal person, including the Policyholders Guarantee Fund, appointed by decision of A.S.F. to ensure the administration and management of the insurance undertaking under special financial recovery procedure according to the provisions of this law, with due observance of the provisions of Article 19;

2^3. temporary administrator - a natural or legal person, including the Policyholders Guarantee Fund, appointed by decision of A.S.F. to work temporarily with the management of an insurance undertaking or to exercise temporarily management and administration powers of the insurance undertaking, in order to remedy the financial situation, ensure the quality of the governance system and/or ensure a fair and prudent management of the insurance undertakings' activity, with due observance of the provisions of Article 19;

3. insurer - a direct life insurance or direct non-life insurance undertaking which is authorized to carry on business in accordance with the provisions of this Part or Part II, as the case may be;

4. composite insurer - an insurer which, on 1 January 2007, as well as on the date of entry into force of this Law, was authorized to underwrite direct non-life and direct life insurance simultaneously;

5. captive insurer - an insurer owned either by a financial undertaking, other than an insurer, a reinsurer or a group of insurance undertakings as defined in point 20, or by a non-financial insource undertaking, the business of which is to insure exclusively the risks of the entity to which it belongs or of one or more entities of the group of which it is a member;

6. mixed insurer - an insurer which simultaneously underwrites insurance and reinsurance and is authorized to operate in accordance with the provisions of this Part or Part II, as the case may be;

7. beneficiary - the natural or legal person insured or designated by the policyholder or the injured third party, who receives the indemnity or benefits provided for in the insurance contract;

8. national motor bureau - the organization defined in Article 2, point 8 of Law no. 132/2017 on compulsory motor third-party liability insurance for damage caused to third parties by vehicle and tram accidents, in Romania being the Bureau of Motor Insurers in Romania, hereinafter referred to as BAAR, defined in Article 2, point 9 of the same law;

9. the college of supervisors - a permanent but flexible structure for cooperation, coordination and facilitation of the decision-making process related to the supervision of a group, composed of the coordinating supervisor, the supervisors of all subsidiaries having their head office in the Member States, the EIOPA representative and, where appropriate, the supervisors of the Member States in which significant branches and affiliated entities are active;

10. management - the management, administration or control body of insurance undertakings, with the particularities of the unitary or dualistic system, according to the Undertakings Law no. 31/1990, republished, as subsequently amended and supplemented;

11. contractor - a natural or legal person who has an insurance contract with an insurer;

12. qualified central counterparty - a counterparty authorized or recognized in accordance with Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories;

13. diversification effects - a reduction in the risk exposure of the company or group, in the case of a diversified activity, by offsetting an adverse effect of one risk by the less adverse effect of another risk, where the risks are not fully correlated;

14. outsourcing - a written agreement, in whatever form, between the undertaking and a service provider to perform a service, activity or process, directly or by subcontracting, for the benefit of the insurance undertaking, which would otherwise have been performed by the insurance undertaking according to its objects of activity;

15. subsidiary - a company controlled by a parent company, including undertakings controlled by the ultimate parent company;

16. national protection fund - the body referred to in Article 10 para. (1) of Directive 2009/103/EC of the European Parliament and of the Council of September 16, 2009 relating to insurance against civil liability in respect of the use of motor vehicles and the enforcement of the obligation to insure against such liability, in Romania this is BAAR;

17. function - internal capacity of the insurance undertaking to perform concrete tasks within the established system of governance;

18. critical functions - functions identified by the insurance undertaking on the basis of adopted policies and procedures and taking into account the nature, scale and complexity of the business and organizational structure;

19. granularity - the degree of detail that characterizes a data set;

20. group - an association of entities in one of the following situations:

(a) consists of a holding company, its subsidiaries and the entities in which they hold participations or entities linked by a controlling relationship by virtue of a management contract, provisions in the instruments of incorporation or the presence of a majority of the same persons in the management;

(b) is based on strong and durable financial relationships, whether established by contract or not, and may include mutual or mutual-type insurance undertakings, provided that one of the entities centrally coordinates the other entities and exercises effective and dominant influence over their decision-making, including financial decisions, and that the establishment and termination of those relationships is approved by the coordinating supervisor, if the coordinating entity is considered as the parent and the other entities are considered as subsidiaries of the coordinating entity;

21. insurance holding company - means a parent insurance undertaking, other than a mixed financial holding company, which acquires and holds majority or sole participation in subsidiaries representing insurers or reinsurers from Member States or third countries, at least one of which is an insurer or reinsurer from a Member State;

22. mixed financial holding company - mixed financial holding within the meaning of Article 2 para. (1) point 16 of Government Emergency Ordinance No. 98/2006 on the supplementary supervision of credit institutions, insurance and/or reinsurance undertakings, financial investment service undertakings and investment management undertakings in a financial conglomerate, approved with amendments and additions by Law No. 152/2007, as amended and supplemented;

23. mixed-activity insurance holding company - a parent insurance undertaking, other than an insurer or a reinsurer from Member States or third countries, which is not an insurance holding company or a mixed financial holding company, at least one of whose subsidiaries is an insurer or reinsurer;

24. external credit assessment institution - a credit rating agency registered or certified in accordance with Regulation (EC) No 1.060/2009 of the European Parliament and of the Council of September 16, 2009 on credit rating agencies or a central bank issuing credit ratings exempted from the application of that Regulation;

25. close links - the situation in which two or more natural or legal persons are linked by participation or control, or the situation in which two or more natural or legal persons are permanently linked by control to one and the same person;

26. representative - the person in the Member State in which the undertakings establish a branch who is competent to represent and bind them in relations with third parties, the competent authorities and other institutions of that Member State;

27. risk measure - a mathematical function that assigns a monetary value to a forecast of a given probability distribution, monotonically increasing with the level of risk exposure underlying that forecast;

28. method No 1 - the accounting consolidation method whereby solvency is calculated at group level, considered as the default method;

29. method No 2 - the deduction and aggregation method, which calculates solvency at group level, considered as an alternative method;

30. participation - direct ownership or control of at least 20% of the voting rights or capital of a company;

31. qualifying holding - a direct or indirect holding in the voting rights or capital of a company which represents 10% or more of the voting rights or capital of the undertaking or which makes it possible to exercise a significant influence over the management of the company;

32. persons acting in concert - potential acquirers who submit a proposed acquisition to A.S.F. according to a joint agreement, implicit or explicit, regardless of whether it is concluded in written, verbal or manifest only in fact or whether or not the persons are related to each other in any other way;

33. persons who effectively run the insurance undertaking - members of the management and persons who have a significant impact on the decision-making process and are responsible for the implementation of adopted strategies and policies;

34. regulated market in a Member State - a multilateral system administered by a market operator and governed by non-discretionary rules, in which third parties with an interest in buying or selling financial instruments admitted to trading are brought together; that system is authorized to operate on a regulated basis by the competent authority of a Member State, in accordance with the regulations issued by that Member State;

35. regulated market in a third country - a financial market recognized by the home Member State of the insurer, which complies with the requirements of point 31 and where the financial instruments traded are of a quality comparable to that of instruments traded on regulated markets in that Member State;

35^{1}. measure plan - a plan drawn up by the insurance undertaking within the framework of the special financial recovery procedure describing the measures that the company proposes to implement in order to remove the conditions that led to the opening of the procedure and to restore the financial capacity;

35^{2}. emedial prevention plan - a plan drawn up and updated by the undertaking describing the actions and mechanisms it implements in the event of a deterioration in its financial capacity or system of governance, with a view to remedying it;

36. potential acquirer - a natural or legal person acting alone or in concert who proposes:

a) to acquire, directly or indirectly, a qualifying holding in a company;

b) directly or indirectly increase their voting rights or capital held in a company so that:

(i) the holding reaches or exceeds 20%, 33% or 50% of the voting rights or of the share capital;

(ii) the undertaking becomes its subsidiary;

37. legal provisions:

a) this law and the regulations issued by A.S.F. in its application;

(b) delegated acts or regulations, regulatory technical standards, implementing technical standards, implementing acts, and other acts issued by the European Commission or by the Council and the European Parliament and directly applicable in the Member States;

38. documentation principle - the principle according to which the processes carried out by the undertakings, including the decision-making process, and the supervisory process carried out by A.S.F. are based on supporting documents;

39. proportionality principle - a principle that takes into account the nature, scale and complexity of the risks inherent in the business of undertakings;

40. expert judgement principle - the principle according to which opinions are formed and decisions are taken on the basis of a set of criteria and one's own experience of the undertakings' business, such as policies, risk culture, prudential concerns;

40^{1}. special financial recovery procedure - an administrative procedure comprising all the administrative financial recovery procedures and measures ordered by A.S.F. in order to restore the financial situation of an undertaking, with the aim of preventing insolvency and avoiding its entry into bankruptcy proceedings, as well as protecting the rights and legitimate interests of insurance creditors, as defined by Law no. 213/2015, as amended and supplemented;

41. proposed acquisition - the documentation submitted to A.S.F. by a potential acquirer regarding the direct or indirect acquisition or increase of voting rights in an undertaking or the increase of the contribution to its share capital;

42. probability distribution forecast - a mathematical function that assigns a probability of realization to an integral set of mutually exclusive future events;

43. supervisory process - a continuous, flexible and iterative process in which prospective supervision of undertakings is based on:

a) risks;

(b) at least the following principles:

(i) proportionality;

(ii) expert judgement;

(iii) documentation;

44. reinsurance - an operation consisting of one of the following:

(a) taking-over ceded risks by an insurer or reinsurer from Member States or third countries;

(b) cover by a reinsurer of an institution falling within the scope of Directive (EU) 2016/2.341 of the European Parliament and of the Council of December 14, 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs);

45. reinsurer - a reinsurance undertaking which is authorized to operate in accordance with Title I Chapter III;

46. captive reinsurer - a reinsurer owned either by a financial company, other than an insurer, a reinsurer or a group of insurance undertakings within the meaning of point 20, or by a non-financial company, the business of which is reinsurance covering exclusively the risks of the entity to which it belongs or of the entities of the group of which it is a member;

47. claims representative - the establishment designated in each Member State by the insurers authorized to underwrite class 10 risks listed in section A of Annex 1, excluding carrier's liability, in respect of the administration and settlement of claims arising out of any motor vehicle accident;

48. concentration risk - the totality of risk exposures that may give rise to a loss that affects the solvency or financial position of the undertaking;

49. risk-based decision - the risk of incurring losses or adverse change in the financial situation due to strategic decisions made by management;

50. credit risk - the risk of losses or adverse change in financial condition due to fluctuations in the credit of issuers of securities, other counterparties and debtors to which undertakings are exposed; includes counterparty risk, credit spread risk and market risk concentration risk;

51. liquidity risk - the risk that investments and other assets will not be realized in order to settle financial obligations as they fall due;

52. market risk - the risk of incurring losses or of adverse change in the financial capacity, resulting, directly or indirectly, from fluctuations in the level and volatility of market prices of assets, liabilities and financial instruments;

53. underwriting risk - the risk of incurring losses or of an adverse change in the value of liabilities due to the adoption of inappropriate assumptions in the pricing or reserving process;

54. operational risk - the risk of incurring losses due to inadequate internal processes or malfunctions, own staff or systems, or external events;

55. major risks mean:

a) risks classified in classes 4, 5, 6, 7, 11 and 12 of Annex No 1, Section A;

(b) risks classified in classes 14 and 15 of Annex No 1, Section A, where the contractor is engaged professionally in an industrial or commercial activity or in one of the liberal professions and the risk relates to such activity;

c) risks classified in classes 3, 8, 9, 10, 13 and 16 of Annex No 1, Section A, in so far as the ontractor exceeds at least two of the following limits: a total balance of the equivalent into Lei of EUR 6,200,000, a net turnover of the equivalent into Lei of Euros 12,800,000, as defined in national law, or an average number of 250 employees during the financial year; where the policyholder is part of a group which submits consolidated financial statements in accordance with applicable law, the limits shall be considered on the basis of the consolidated financial statements;

(d) risks classified in classes 3, 8, 9, 10, 13 and 16 of section A of Annex 1 insured by professional associations, joint enterprises and temporary joint ventures;

56. insurance undertaking - one of the entities defined in items 3-6, 45 and 46;

57. affiliated company - a subsidiary or other company in which an interest is held, or an entity related to another entity by one of the relationships defined in item 61;

58. third country company - insurer or reinsurer which, if it had its head office in Romania, would need an operating license issued under the conditions set out in Chapter III;

59. financial company - one of the following entities:

a) credit institution, financial institution or ancillary banking services undertaking within the meaning of the national legislation in force;

b) insurer, reinsurer or insurance holding as defined in point 21;

c) investment firm or financial institution within the meaning of the national legislation in force;

d) mixed financial holding within the meaning of the national legislation in force;

60. parent- company- an entity that controls one or more subsidiaries;

61. insurance holding company - an entity that is a parent company or shareholder or has any of the following relationships with another entity:

(a) unitary management of the entity concerned and other entities as a result of a contract entered into with those entities or by virtue of provisions in the constituent instruments or statutes of the entities;

(b) a majority of the same persons being at the head of the entity concerned and of the entities referred to in point (a) during the financial year and until the consolidated financial statements are drawn up;

62. Member State of the commitment - the Member State in which the habitual residence of the natural person policy holder or the business establishment of the legal person policy holder, which is the subject of the insurance contract, is situated;

63. home Member State - the Member State in which the head office of:

a) the insurer covering the risk, in the case of non-life insurance;

b) the insurer who underwrites the commitment, in the case of life insurance;

c) the reinsurer;

64. host Member State - the Member State, other than the home Member State, in which an undertaking has a branch or provides services; in the case of non-life insurance it is the Member State in which the risk is situated and in the case of life insurance it is the Member State of the commitment, if the risk and the commitment are covered by an insurance undertaking or a branch situated in another Member State;

65. Member State where the risk is situated - the Member State where:

a) the property is situated, either the buildings and the goods contained therein, if covered by the same insurance contract, or the buildings only;

b) registration has been carried out, in the case of insurance of vehicles of all types;

c) the insurance contract is concluded for a maximum period of 4 months for risks related to travel or vacation, regardless of the class of insurance;

d) the habitual residence of the natural person contractor or an operational establishment of the legal person contractor is located, in situations other than those described in sub-paras.) a)-c);

66. branch - an agency or representative office of an undertaking, without legal personality, located in a Member State other than the home Member State;

67. coordinating supervisor - the supervisory authority responsible for group supervision, appointed under the conditions referred to in Article 16 para. (1);

68. supervisors - the authorities in the Member States empowered by law, regulation or administrative provision to supervise insurance undertakings in those Member States;

69. risk minimization techniques - techniques of transferring all or part of the risk to a third party;

70. evaluation period - the period of 60 business days during which A.S.F. evaluates a proposed acquisition, starting from the date on which A.S.F. sends the potential acquirer the acknowledgment of receipt of the complete documentation;

71. intra-group transaction - a transaction carried out by a group insurance undertaking with other entities within that group or with natural or legal persons closely linked to group entities, on which the undertaking relies, directly or indirectly, in order to meet its obligations, regardless of their nature;

72. operational establishment- the head office of an undertaking or its branches;

73. special-purpose vehicle - a registered or unregistered entity, other than an undertaking within the meaning of this Law, which:

(a) assumes risks transferred from an insurer or reinsurer under a reinsurance contract;

(b) fully fund their exposure to the risks assumed, by issuing financial instruments or by other funding arrangements, the reimbursement claims of investors in those instruments or arrangements being paid only after the obligations arising under the reinsurance contract have been met.

(3) The insurance undertaking referred to in para. (2) item 56 has one of the following legal forms:

a) joint-stock company - S.A., established in accordance with Law no. 31/1990, republished, as subsequently amended and supplemented;

b) European Company - SE, set up in accordance with Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company (SE);

(c) European Cooperative Society - SCE, established in accordance with Council Regulation (EC) No 1.435/2003 of 22 July 2003 on the Statute for a European Cooperative Society (SCE).

(4) By way of exception from the provisions of para. (3), insurers may opt for the legal form of mutual insurance company - M.M.A. (*ro: SMA*), established in

accordance with Law no. 71/2019 on mutual insurance undertakings and for amending and supplementing some normative acts.

Article 2 - Scope (**1).** The provisions of this Part shall be applied in accordance with the principle of proportionality:

a) by insurers applying for an operating licence in accordance with Chapter III and be supervised in accordance with this Part;

(b) by insurers applying for an operating licence in accordance with Part II and is basedon the business plan submitted that at least one of the amounts referred to in para. (2) is expected to be exceeded within the next 5 years or is in one of the situations referred to in para. (2) (f) to (h);

c) to insurers established on the territory of Romania which fulfil the conditions referred to in par. (2) and (4);

d) insurers authorized in Romania and applying to be supervised under this Part, even if they do not fulfil any of the conditions referred to in par. (2) and (4) or are in the situations referred to in par. (3) and Article 3;

e) reinsurers.

(2) Notwithstanding the provisions of Articles 4 and 5, the provisions of this Part shall apply to insurers who satisfy at least one of the following conditions:

a) the volume of gross written premiums, hereinafter referred to as GWP (*ro: PBS*), annually exceeds the equivalent in Lei of Euros 5,000,000;

b) the total gross technical provisions exceed the equivalent in Lei of Euros 25,000,000;

c) where the insurer belongs to a group, the total gross technical provisions of the group, before deduction of the amounts under reinsurance contracts and special -purpose vehicles, exceed the equivalent in Lei of Euros 25,000,000;

d) the GWP volume of reinsurance inwards reinsurance exceeds the RON equivalent of at least one of the following sums:

(i) Euros 500,000;

(ii) 10% of the total volume of GWP;

(e) the volume of gross technical provisions arising out of reinsurance received exceeds the equivalent in RON of at least one of the following:

(i) EUR 2 ,500 ,000;

(ii) 10% of its total gross technical provisions;

f) provide assistance to persons in need during travel or absence from home or usual residence;

g) carry out activities on the basis of the right of establishment or the freedom to provide services;

h) underwrite liability, credit and suretyship risks.

(3) The provisions of this Part shall not apply to insurers who do not fulfil any of the conditions referred to in para. (2) sub-pars. (a) to (g) and underwrite the liability risk only as an ancillary risk under Article 20 (2) (a) to (g). (11).

(4) If an insurer does not fulfil the provisions of para. (2) on the date of the entry into force of this Law, but exceeds one of the amounts referred to in para. (2) for a period of 3 consecutive years, the provisions of this Part shall apply to it from the fourth year.

(5) The activity referred to in para. (2) sub-par. f) consists in the immediate assistance of the beneficiary of an assistance contract who is in difficulty as a result of an unforeseen event, in the cases and under the conditions specified in the contract; such assistance shall consist either in the payment of an indemnity or in the provision of services in kind which may be provided by the staff and equipment of the provider, but shall not include checking and repair, maintenance, after-sales services or the mere indication or provision of help as an intermediary.

(6) In respect of life insurance, the provisions of this Part shall apply:

a) the following activities, carried out on a contractual basis:

(i) term life assurance, death insurance, life insurance with return of premiums, endowment insurance, marriage insurance, birth insurance;

(ii) annuities;

(iii) supplementary insurance, personal injury insurance, including work incapacity, death caused by accidents and invalidity caused by accidents or sickness;

b) the following operations carried out on a contractual basis and supervised by A.S.F:

(i) associations of persons for the purpose of capitalizing their contributions and subsequently distributing the assets thus accumulated to the heirs or beneficiaries of a deceased person, known as tontine funds;

(ii) actuarially determined funding arrangements whereby, in return for a single or periodic payment determined in advance, commitments of specified duration and amount are met;

(iii) the administration of collective pension funds, including the management of investments and assets representing the reserves of bodies which make payments in the event of death or survival or in the event of discontinuance or curtailment of activity;

(iv) the operations referred to in point (iii) where they are accompanied by insurance covering either conservation of capital or payment of a minimum rate of interest;

(c) operations relating to the length of human life as defined or provided for by social insurance legislation, if they are carried out or administered by insurers at their own risk.

(7) For undertakings authorized before 1 January 2016, the quantitative data referred to in para. (2) shall be those reported and audited for the financial year ended as at 31 December 2014.

(8) In respect of non-life insurance, the provisions of this Part shall apply to the classes set out in Sections A and B of Annex No. 1.

Article 3 - Exclusions from application. The provisions of this Part shall cease to apply to insurers who meet all of the following conditions:

(a) none of the amounts referred to in Article 2 para. (2) has been exceeded for 3 consecutive years;

(b) none of the amounts set out in Article 2 para. (2) is expected to be exceeded within the next 5 years.

Article 4 - Exclusions from application - non-life insurance. (**1)** The provisions of this Part shall not apply to:

a) capitalization operations;

(b) the operations of savings and mutual aid institutions, the benefits of which vary according to the resources available and for which a flat-rate contribution of members is fixed;

(c) operations carried out by organizations without legal personality for the purpose of mutual insurance of their members which do not involve the payment of premiums and do not require the constitution of technical provisions;

(d) export credit insurance on behalf of or guaranteed or underwritten by the State.

(2) The provisions of this Part shall not apply to an assistance activity that meets all of the following conditions:

(a) assistance is provided in the event of an accident or breakdown of road vehicles when these occur in the territory of the Member State of the service provider;

b) liability for assistance is limited to the following operations:

(i) on-site troubleshooting, for which the service provider uses, in most cases, its own personnel and equipment;

(ii) the transportation of the vehicle to the nearest or the most appropriate facility for its repair and the accompaniment, if necessary, by the same means of assistance, of the driver and passengers to the nearest place from where they can continue their journey by other means of transport;

(iii) the carriage of the vehicle, driver and passengers to the point of departure, to their domicile or to their initial destination within the same Member State;

(c) the assistance is not provided by an insurance undertaking subject to the provisions of this Part.

(3) In the cases referred to in para. (2) sub-par. (b) items (i) and (ii), the condition referred to in para. (2) sub-par. (a) shall not apply if:

a) the beneficiary is a member of the service provider;

b) the service provider has a reciprocity agreement with a similar entity in another Member State;

c) breakdown or transportation of the vehicle shall be carried out on simple presentation of the membership card, without payment of any additional premium.

(4) The provisions of this Part shall not apply to mutual associations carrying on non-life insurance business directly which conclude an agreement with other mutual associations under which they reinsure the whole of the insurance policies or assume the obligations arising out of those policies; in such case, this Part shall apply to the mutual associations which reinsure the policies or assume the obligations arising out of those policies.

Article 5 - Exclusions from application - life insurance (**1)** The provisions of this Part shall not apply to:

(a) the operations of savings and mutual-aid institutions, the benefits of which vary according to the resources available and for which the contribution of members is fixed at a flat rate;

(b) the operations carried out by organizations other than the undertakings or firms referred to in Article 2 which, through the specific activities they perform, constitute certain funds for employed or self-employed persons belonging to an entity or group of entities or to a trade or profession in the event of death or survival or in the event of discontinuance or curtailment of activity, irrespective of whether the commitments arising out of such operations are fully covered on a continuing basis by mathematical provisions.

(2) The provisions of this Part shall not apply to organizations which undertake to provide death benefits only in the event of death, which do not exceed the average funeral costs for a single death or are provided in kind.

CHAPTER II

General provisions on the supervisory process, powers and duties of A.S.F.

SECTION 1

General principles on the supervisory process

Article 6 - General provisions. (**1)** A.S.F., in the process of supervision, has the powers to ensure the protection of policyholders and beneficiaries, mainly, and to contribute to maintaining the stability of the insurance market, in accordance with the regulatory acts applicable to the insurance field; A.S.F. has all the resources and expertise necessary to exercise these powers.

(2) The supervisory process carried out by A.S.F. is a prospective, risk-based one, and is carried out by constantly checking the activity of insurance undertakings and their compliance with the legal provisions.

(3) Notwithstanding the provisions of para. (1), A.S.F. shall take into account, as appropriate, the potential impact of the decisions adopted on the stability of financial systems in the Member States, in particular in emergency situations, in the light of available information.

(4) A.S.F. shall take into account the possible pro-cyclical effects of the decisions taken, in particular in times of exceptional disturbances on financial markets.

(5) As part of the supervisory process, A.S.F. verifies the periodic reports and additional information submitted by the insurance undertakings and carries out on-site inspections.

(6) A.S.F. has a mandate at the European Union level and, in the exercise of its powers, ensures the convergence of supervisory practices and tools in the application of the law, regulations adopted in the insurance field at national level and at the level of Member States.

(7) The information requested by A.S.F. from insurance undertakings or branches operating on the territory of Romania shall be submitted in Romanian.

(8) At the request of A.S.F., insurers intending to conduct business in Romania on the basis of the right of establishment or the freedom to provide services shall submit the terms and conditions of insurance policies and other documents in order to verify compliance with the provisions of national legislation regarding the insurance contract.

Article 7 - Scope of supervision (**1)** A.S.F. supervises the activity carried out by insurance undertakings on the territory of Romania and on the territory of the other Member States on the basis of the right of establishment and the freedom to provide services, by verifying their solvency, the way of setting up technical provisions, assets and eligible own funds.

(2) In the case of insurers authorized to practice class 18 insurance referred to in Annex no. 1, Section A, A.S.F. shall verify the technical resources available to the insurer to fulfil its obligations.

(3) A.S.F. shall determine the level of compliance with prudential principles by insurance undertakings that undertake or underwrite risks in another Member State.

(4) A.S.F. shall inform the supervisor of the home Member State of a company that its activity on the territory of Romania is likely to affect its financial stability, if Romania is:

a) Member State of the commitment;

(b) the Member State in which the risk is situated;

c) host Member State for a reinsurer.

SECTION 2

Duties and powers of A.S.F.

Article 8 - General provisions (**1)** A.S.F. shall exercise its powers responsibly, transparently, in compliance with the provisions of Article 19.

(2) A.S.F. shall publish and update on its website at least the following information:

a) the texts of the normative acts applicable to the insurance field and the links to the legal provisions defined in accordance with Article 1 para. (2) point 37 sub-para. b);

(b) the criteria, methods and tools referred to in para. (5), used in the supervisory process described in Chapter IV Section 3;

c) aggregate statistical data on the main issues related to the general prudential framework;

(d) the manner in which the options provided for in this Part are exercised;

e) the objectives pursued in the supervision process, its main functions and activities

(3) A.S.F. adopts preventive and corrective measures, of administrative or financial nature, or other measures provided for by the legal provisions applied to undertakings and their management, in order to ensure their compliance with the legal provisions, both in Romania and in the Member States in which they operate.

(4) In addition to the information referred to in Article 37, A.S.F. shall have the power to request undertakings, in accordance with the principle of proportionality, all documents and information necessary for the conduct of the supervisory process, including the minutes of the meetings of the management and of the committees established, and to conduct inspections at their premises.

(5) Within the supervisory process, if necessary, A.S.F. may develop quantitative tools in order to be able to assess the ability of undertakings to cope with future events or changes in economic conditions that could have adverse effects on the overall financial situation; A.S.F. shall also require undertakings to perform the necessary tests to achieve this purpose.

(6) A.S.F. shall exercise the powers provided for in par. (3) - (5) also in the case of activities outsourced by undertakings.

(7) A.S.F. shall consult the representatives of the professional associations representative for the insurance market on the draft normative acts applicable to the insurance sector.

(8) A.S.F. approves the persons who are part of the management of undertakings and significant shareholders or withdraws the granted approvals.

(9) A.S.F. approves the portfolio transfer, approves the division or merger of undertakings and publishes the approval decision in accordance with the publication regime established by its own regulations.

(10) A.S.F. approves, at the request of the undertakings, the limitation, suspension or termination of activity, after verifying their financial situation, and publishes the respective decisions, according to the publication regime established by its own regulations.

(11) A.S.F. shall apply the measures provided for by the national legislation on financial recovery, reorganization and bankruptcy of the undertakings defined in this law, subsidiaries of undertakings from third states and branches of insurers from third states, with head office in Romania.

(12) A.S.F. shall respond to petitions concerning the activity of undertakings received from policyholders, aggrieved parties or their representatives.

(13) A.S.F. shall maintain and update the Register of Insurance Undertakings, the form and content of which shall be established by its own regulations.

(14) A.S.F. shall establish and update by its own regulations the terms, conditions of payment and level of fees for authorization, operation, approval of changes to the conditions of authorization, portfolio transfer, merger, division, extension of authorization to other classes of insurance or other risks, issuance of a duplicate authorization, practice of class 10 of Annex no. 1, Section A, approval of the internal model in whole or in part, approval of the use of specific parameters, provision of information and opinions to third parties, except policyholders, policyholders and public institutions or authorities, and other statutory fees.

(15) A.S.F.'s budget shall include:

(a) the fees referred to in par. (14), interest and penalties related thereto;

(b) amounts derived from fines;

c) income from donations, publications and other legal sources.

(16) In exercising its powers, A.S.F. shall issue individual acts or, if necessary, shall refer the matter to the courts.

(17) A.S.F. publishes annually an informative report on the insurance market.

(18) A.S.F. has the powers and exercises the duties of supervision of undertakings with regard to their compliance with the legal provisions defined in Article 1 para. (2) item 37.

(19) A.S.F. has the power to supervise the compliance by undertakings with the applicable provisions of Regulation (EU) No 2088/2019 of the European Parliament and of the Council of 27 November 2019 on sustainability disclosures in the financial services sector, as amended and supplemented, and of Regulation (EU) No 852/2020 of the European Parliament and of the Council of 18 June 2020 establishing a framework to facilitate sustainable investments and amending Regulation (EU) 2019/2.088 and other European regulations on sustainability in the financial services sector.

(20) The regime of publication of individual administrative acts issued by A.S.F. in accordance with the legal provisions shall be established by A.S.F.'s own regulations.

Article 9 - Supervision of branch offices (**1)** Where a company authorized in Romania carries on business in another Member State through a branch, A.S.F.:

(a) notify the supervisor of the host Member State of the intention to carry out an on-site inspection at the branch's head office directly, through intermediaries or together with that supervisor;

b) request the assistance of EIOPA if the supervisor of the host Member State prohibits A.S.F. from exercising its right to carry out the control referred to in point a) or if it is unable to participate in the control.

(2) Where a company authorized in another Member State carries on business in Romania through a branch office, A.S.F. may participate in the on-site control of that branch initiated by the home supervisor or may request the assistance of EIOPA.

SECTION 3

Cooperation with EIOPA, the European Commission and other authorities

Article10 - General provisions (**1)** In order to facilitate the supervision of insurance and reinsurance activities, A.S.F. shall inform the European Commission of any major difficulties with the application of European legislation and cooperate with it and with the supervisors of the other Member States and the European Commission, together with which it shall determine appropriate solutions regarding major difficulties with the application of European legislation.

(2) A.S.F. shall inform the supervisors of the Member States and the European Commission of:

a) the authorities and entities empowered to issue the documents referred to in Article 27 para. (5);

b) the fact that it is the only authority that receives the documents referred to in Article 27 para. (6), attached to a request for authorization or endorsement.

(3) A.S.F. shall inform the European Commission, EIOPA and Member States' supervisors of:

a) the authorizations granted to direct and indirect subsidiaries belonging to insurance undertakings from third countries and the structure of the group of which they are part;

b) acquisitions of insurance undertakings in third countries, whereby Romanian undertakings become subsidiaries of those undertakings.

(4) A.S.F. informs the European Commission and EIOPA about the difficulties encountered by Romanian undertakings in the process of obtaining the operating licence or to carry on business in the territory of a third state.

(5) A.S.F. shall communicate to the supervisors of the other Member States and to the European Commission the list of entities that may receive information in accordance with the provisions of Article 12 paras. (5) and (8) to (10), and in the case referred to in Article 12 para. (7) sub-par. c), and information on their clear responsibilities.

(6) A.S.F. may submit information, including in emergency situations, to the monetary authorities within the European System of Central Banks, the European Central Bank and other bodies with similar functions empowered to formulate monetary policy, to establish liquidity reserves, to oversee the payment, clearing and securities settlement systems and the National Bank of Romania, in accordance with the legal provisions, if the information is relevant for the exercise of their duties.

(7) If A.S.F. receives information from the bodies and authorities referred to in para. (6), they are subject to the provisions of Article 19.

(8) A.S.F. shall cooperate closely with the European Commission with a view to examining the difficulties encountered in the application of Article 125.

(9) A.S.F. shall submit to the European Commission and EIOPA the number and type of situations in which it has refused to submit the information referred to in Article 112 and Article 113 paras. (2) - (4) and (6) and has adopted the measures referred to in Article 14 para. (7) sub-paras. a) and b), in the case of insurers.

(10) In order to evaluate a proposed acquisition, A.S.F. shall consult with other supervisors, if the potential acquirer is:

(a) a company, credit institution, investment firm or insurance undertaking for collective investment in transferable securities which has received authorization in another Member State or from another authority;

(b) the parent company of an entity referred to in point (a);

c) a natural or legal person who has control over an entity referred to in point a).

(11) A.S.F. shall request other supervisory authorities for information relevant for the assessment of a proposed acquisition.

(12) A.S.F. shall provide other supervisory authorities, at their request or on its own initiative, with relevant information, including opinions or reservations regarding the assessment of a proposed acquisition.

(13) The notifications provided for in Article (9) and (10), Article 13 para. (8) and Article 14 para. (14):

a) are sufficiently detailed to be adequately assessed;

b) are without prejudice to the mandate and supervisory powers of A.S.F. provided for by this law, both as home and host supervisors.

Article11. - Cooperation with EIOPA (**1)** A.S.F. shallsubmit annually to EIOPA the following information:

(a) the average Solvency Capital Requirement for each company;

(b) the Solvency Capital Requirement as a percentage of the Solvency Capital Requirement, broken down as follows:

(i) total insurance undertakings;

(ii) non-life insurers;

(iii) life insurers;

(iv) mixed insurers;

(v) reinsurers;

c) the capital add-on to the Solvency Capital Requirement in accordance with the provisions of Article 35 para. (1), sub-paras. (a) to (d), broken down by the categories referred to in point (b);

d) the number of insurance undertakings and groups subject to the provisions of Article 37 paras. (9) to (13) and the share of the Solvency Capital Requirement, calculated in accordance with Articles 72 to 94, hereinafter referred to as SCR, of the Minimum Capital Requirement, calculated in accordance with Articles 95 and 96, hereinafter referred to as MCR, of the premiums, technical provisions and their assets in the total of these items at market level.

(2) A.S.F. shall participate in the activities organized by EIOPA, shall perform its duties as a member of EIOPA and shall communicate to EIOPA the manner of application of the provisions of the guidelines issued by EIOPA.

(3) Where A.S.F. disagrees with the decision taken by a coordinating supervisor on the equivalence of the authorization and supervisory regime in a third state, it may request the assistance of the EIOPA within 3 months of receipt of the notification from the coordinating supervisor.

(4) A.S.F. shall cooperate with EIOPA and shall provide it without delay with the information requested by it.

(5) Within the college of supervisors, A.S.F. may request the assistance of the EIOPA, except in emergency situations, if there are diverging opinions on the following:

a) the approval of the recovery plan and the extension of the recovery period in accordance with the provisions of Article 17 paras. (8) and (9);

b) approval of the measures proposed in accordance with Article 17 para. (10).

(6) A.S.F. may also request the assistance of EIOPA in the cases referred to in Article 13 para. (2) and Article 14 para. (6) and (7).

(7) A.S.F. may request EIOPA to declare the existence of unfavourable situations referred to in Article 99 para. (4), if the undertakings concerned are seriously affected by the following:

a) an unforeseen, sudden and abrupt decline in financial markets;

b) maintaining a low interest rate over a certain period;

c) the occurrence of a major disaster.

(8) At the request of EIOPA, A.S.F. shall provide EIOPA with information on the receipt of applications for approval of the use of an internal model or of the modification of an internal model; A.S.F. may request EIOPA for technical assistance in the approval process of such applications.

(9) A.S.F. shall notify EIOPA in the cases referred to in Article 13 para. (8) and Article (14) and may request its assistance in the cases referred to in Article 13 para. (8) sub-paragraph) b) and Article 14 para. (14) when A.S.F. and the other supervisors do not reach a solution by mutual agreement.

(10) A.S.F. may request the assistance of EIOPA in the event that it receives from a supervisor of a home Member State a notification similar to the one referred to in Article 13, para. (8) sub-paragraph) b) or from a supervisor of a host Member State a notification similar to the one referred to in Article 14 para. (14), only where A.S.F. and the other supervisors fail to reach a mutually agreed solution.

(11) Where it considers that the interests of policyholders are affected, A.S.F. may request EIOPA to set up and coordinate a collaboration platform with the aim of facilitating the exchange of information and cooperation between the relevant supervisors when undertakings carry out or intend to carry out activities under the right of establishment or the freedom to provide services, in Romania and in the other Member States, and when:

a) the activities are relevant to the market in the host Member State, including Romania;

b) the home Member State supervisors, including A.S.F., shall submit the notifications in accordance with Article 13 para. (8) sub-paragraph) b);

c) EIOPA assistance is requested in accordance with paras. (9) and (10).

(12) The provisions of para. (11) shall be without prejudice to the right of A.S.F. provided for in Article 12 para. (1).

(13) A.S.F. shall submit to EIOPA, within a reasonable time or within the time specified by EIOPA, all the information requested by EIOPA, necessary for the proper functioning of the platform referred to in para. (11).

(14) The establishment by EIOPA of a platform under the conditions and for the purposes set out in para. (11) shall be without prejudice to the mandate and supervisory powers of A.S.F. provided for by this law, both as home and host supervisor.

Article 12 - Cooperation with other authorities, bodies and persons (**1)** A.S.F. may exchange information with the relevant supervisors of the other Member States, subject to the provisions of Article 19, and may establish a platform in

agreement with them for the purpose set out in Article 11 para. (11), without prejudice to the mandate and supervisory powers of A.S.F. provided for by this law, both as home and host supervisors.

(2) A.S.F. shall conclude cooperation agreements on the exchange of information with supervisors or competent authorities and bodies of third countries, similar to those defined in para. (5), stipulating the guarantee of professional secrecy, at least under the conditions laid down in Article 19, and the use of information solely for the purposes of supervision.

(3) Where the exchange of information referred to in para. (2) relates to information received from a supervisor or an authority of a Member State, A.S.F. shall submit that information to other entities only with the consent of the issuer and, where applicable, solely for the purpose for which the issuer gives its consent.

(4) The information received by A.S.F. according to para. (1) shall be used only for the following purposes:

(a) verify compliance with the licensing conditions and facilitate the supervision of the activity conducted by insurance undertakings, in particular with regard to technical provisions, SCR, MCR and system of governance;

b) application of sanctions;

c) in administrative actions against a decision of A.S.F., as well as in legal actions under the provisions of this Part.

(5) A.S.F. may cooperate with other authorities, persons or bodies in Romania, for the exercise of its duties, by:

a) exchange of information with:

(i) the National Bank of Romania;

(ii) bodies and entities involved in the bankruptcy and liquidation of insurance undertakings or other bodies involved in the liquidation of insurance undertakings or other bodies involved in the winding-up of insurance undertakings or other bodies involved in similar procedures and the authorities overseeing them;

(iii) persons responsible for the statutory audit of insurance undertakings and financial institutions and the authorities which supervise them;

(iv) independent actuaries, members of the Romanian Actuarial Association, and with that association;

(v) the national and other Member States' authorities or bodies responsible for the supervision of credit and financial institutions referred to in Article 2 para. (1) items 1 and 2 of Directive (EU) 2015/849 of the European Parliament and of the Council on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC in order to ensure compliance with that Directive;

(b) forwarding information to the winding-up administration bodies or the FPVS.

(6) A.S.F. may exchange information with authorities, including those supervising credit and financial institutions, with bodies or persons from other Member States and from third countries, which have similar tasks to those referred to in para. (5).

(7) A.S.F. shall perform the exchange of information referred to in pars. (5) and (6), subject to the following conditions:

a) is used solely for the purpose of carrying out the tasks referred to in paras. (5) and (6);

b) the information is subject to the provisions of Article 19;

(c) if it originates from another Member State, including in the situations referred to in Article 9, it may be disclosed only with the consent of the supplying authority and solely for the purposes for which that authority gave its consent.

(8) In order to maintain the stability and integrity of the financial system, A.S.F. shall exchange information with the National Bank of Romania, as well as with other authorities or bodies responsible for identifying and investigating situations of violation of the provisions of the legislation applicable to legal entities subject to registration in the trade register; the information shall be used only for the purpose of such identification and with the fulfilment of the conditions set out in para. (7).

(9) Where the authorities and bodies referred to in para. (8) carry out their tasks through specialists who are not employed in the public sector, the exchange of information shall be carried out under the conditions set out in para. (7).

(10) Where the information to be disclosed originates from an authority of another Member State, the authorities and bodies referred to in para. (8) shall inform it of the identity and responsibilities of the persons to whom they are disclosing the information.

(11) A.S.F. shall draw up the list of insurance undertakings falling under Article 167 paras. (1) and (2) and shall forward it to the supervisors of the other Member States.

(12) A.S.F. shall cooperate with supervisors from other Member States and shall communicate to them the information necessary to implement the provisions of Article 125.

(13) A.S.F. shall submit to the supervisors of the other Member States the morbidity tables and the relevant statistical data referred to in Article 128.

(14) A.S.F. shall cooperate with the authorities designated under the European regulations on sustainability in the financial services sector, by communicating, without undue delay, or requesting information necessary to verify the compliance of the insurance undertakings with the provisions of those regulations.

Article 13 - Powers of A.S.F. as home supervisor **(1)** If insurance undertakings do not comply with the requirements on technical provisions set out in Article 53, as well as with the provisions on SCR and MCR set out in Articles 72 and 95, A.S.F. shall notify the supervisors of the host Member States and may prohibit, by decision, the insurance undertakings concerned from

freely disposing of assets until compliance with the requirements relating to the observance of technical provisions, SCR and MCR is restored; A.S.F. shall indicate the assets to be subject to this measure; insurance undertakings may lodge a complaint with the Bucharest Court of Appeal, Administrative and Tax Litigation Section.

(2) The re-establishment of compliance with the requirements regarding the observance of technical provisions, SCR and MCR shall be established by A.S.F. by a decision, which shall be immediately communicated to the insurance undertakings concerned, and the prohibition to dispose freely of assets shall cease from the date of communication of this decision.

(3) If a company authorized by A.S.F. carries on business on the territory of another Member State, through a branch or under the freedom to provide services, and A.S.F. is informed by the supervisor of that Member State that it does not comply with the legal provisions of that State and does not take the required remedial measures, A.S.F. shall require the company to take the appropriate measures; A.S.F. shall also inform the supervisor of the host Member State of the measures imposed.

(4) A.S.F. shall submit to EIOPA the names of the insurance undertakings to which it has granted or withdrawn the operating licence.

(5) A.S.F. shall inform the supervisors of the other Member States of the withdrawal of the authorization of insurance undertakings carrying on activity on their territory and shall, in cooperation with them, take the necessary measures to protect the interests of the contracting parties, in particular by limiting the rights of insurance undertakings to dispose freely of assets in the cases and under the conditions provided for in para. (1).

(6) Following requests from the supervisors of the host Member States, A.S.F. shall submit to them, in aggregated form, the information received from the insurers in accordance with Article 112, paras. (7) and (8), Article113 par. (7) and Article114 para. (5).

(7) Where insurance undertakings outsource functions or activities to suppliers established in another Member State:

a) A.S.F. informs the supervisory authority of the supplier or, if the supplier is not supervised, informs the supervisor of the Member State concerned of the intention to carry out a control on the premises of the supplier or asks that supervisor to carry out the control on its behalf;

b) A.S.F. shall request the assistance of EIOPA if the supervisor of the host Member State prohibits A.S.F. from exercising the right to carry out the control referred to in sub-par. a) or if it is unable to participate in the control in question.

(8) A.S.F. shall notify the supervisors of the host Member States:

a) if, in the case of the authorization of a company, it appears from the business plan received that part of the activity is to be pursued on the basis of the right of establishment or the freedom to provide services and that part of the activity is likely to be relevant to the market in the Member States concerned;

b) where it finds that undertakings operating under the right of establishment or the freedom to provide services are experiencing deterioration in their

financial capacity or where it finds other emerging risks with cross-border effect arising from those insurance undertakings.

Article 14 - Powers of A.S.F. as host Member State supervisor (**1)** A.S.F. shall consult the supervisors of the Member States before granting the operating licence to a company which is:

(a) a subsidiary of a company authorized in that Member State;

(b) a subsidiary of a parent company of a company of that Member State;

(c) a company controlled by the same natural or legal person controlling another company authorized in that Member State.

(2) A.S.F. shall consult the competent authorities of other Member States before granting the operating licence to a company which is:

(a) a subsidiary of a credit institution or investment firm authorized in that Member State;

(b) a subsidiary of a parent insurance undertaking of a credit institution or investment firm authorized in that Member State;

(c) a company controlled by the same natural or legal person controlling a credit institution or investment firm authorized in that Member State.

(3) A.S.F. shall consult the authorities referred to in paras. (1) and (2) for the purposes of the assessment:

a) the quality of the shareholders of insurance undertakings applying for authorization or authorized in Romania;

b) professional competence and the fit and proper requirements of:

(i) persons who effectively run the insurance undertakings applying for authorization or already authorized in Romania;

(ii) key persons in other entities belonging to the same group.

(4) A.S.F. shall submit information to the supervisors or competent authorities of other Member States, which they request in order to grant an operating licence or to monitor the ongoing compliance with the conditions of authorization.

(5) A.S.F. shall, by decision, prohibit insurance undertakings from freely disposing of assets located on the territory of Romania, as notified by the supervisors of the home Member States that the insurance undertakings in question have violated the provisions on technical provisions, SCR and MCR or that their authorization has been withdrawn. The assets subject to this measure shall be indicated by the home supervisor. Insurance undertakings may lodge a complaint with the Bucharest Court of Appeal, Administrative and Tax Disputes Division. On the date on which A.S.F. receives notification from the home supervisor of the restoration of compliance with the requirements relating to the observance of technical provisions, SCR and MCR, the decision prohibiting the free disposal of assets shall automatically cease and A.S.F. shall immediately notify the undertakings concerned thereof.

(6) Where A.S.F. finds that a company from another Member State carrying on business in Romania, through a branch office or under the freedom to provide services, does not comply with the legal provisions, it shall require it to

remedy the deficiencies, failing which it shall inform the supervisor of the home Member State.

(7) If the measures taken by the supervisor of the home Member State prove ineffective or if no measures are taken, and the undertaking referred to in para. (6) continues to infringe the legal provisions, A.S.F., after informing the supervisor of the home Member State, may impose:

a) preventive, corrective or sanctioning measures;

b) the prohibition to underwrite new insurance and reinsurance contracts on the Romanian territory as from the date stipulated in the individual act issued by A.S.F.;

c) administrative measures on properties or operational facilities held on the territory of Romania, in accordance with national legislation.

(8) Measures adopted under para. (7) shall be duly reasoned and communicated to the undertaking concerned.

(9) With a view to exercising the powers referred to in paras. (6) - (8), A.S.F. shall request the undertaking referred to in para. (6) to submit documents and information on the activity carried out by it.

(10) Insurers operating on the territory of Romania may promote their products and services offered through all channels of communication, in compliance with national legislation on the form and content of advertising media.

(11) If A.S.F. is notified of the withdrawal of the operating licence of undertakings from other Member States operating on the territory of Romania, it shall take the necessary measures to ensure that these undertakings do not underwrite new contracts.

(12) A.S.F. may request from the supervisors of the home Member States the information referred to in Article 112 paras. (7) and (8), Article 113 para. (7) and Article 114 para. (5), in aggregated form, on the activity carried out on the territory of Romania on the basis of the right of establishment and the freedom to provide services by insurers authorized in the respective Member States.

(13) A.S.F. shall treat as a branch the permanent presence of undertakings from the other Member States, which consists of a representative office run by its own staff or a representative.

(14) A.S.F. shall notify the supervisors of the home Member States if there are significant and compelling reasons proving that the interests of the policyholders are affected by undertakings carrying on business in Romania on the basis of the right of establishment or the freedom to provide services.

SECTION 4

Participation of A.S.F. in colleges of supervisors

Article 15 - General provisions (**1)** The College of Supervisors shall be established and operate on the basis of a coordination agreement drawn up in accordance with Article 16 para. (2) sub-par. i), which shall include, on a mandatory basis, procedures at least for the items set out in sub-pars. a) to d) and, optionally, for those set out in sub-pars. e) and f):

a) the decision-making process regarding the appointment of the coordinating supervisor in situations similar to those referred to in Article 16 para. (1);

b) the decision-making process on the group's internal model, in accordance with the applicable provisions set out in Article 16;

(c) the decision-making process on the group's Solvency Capital Requirement imposed on the group under Article 152;

(d) mutual consultation on group solvency supervision at group level in accordance with Article 137(1). (2);

e) mutual consultation in the applicable situations referred to in Articles 16-18;

f) cooperation with other supervisors.

(2) The coordination agreement referred to in para. (1) may include additional tasks for the members of the college of supervisors, if this is necessary to achieve an effective group supervision process and does not affect the exercise of the individual supervisory tasks of the members of the college of supervisors.

(3) By way of exception from situations similar to those referred to in Article 16 para. (1), within the college of supervisors, at the request of A.S.F. or of another member, a decision to appoint another coordinating supervisor may be adopted jointly, at most once a year, if the application of the criteria in question is no longer appropriate, taking into account the following:

a) group structure;

b) the significance of the activity of the insurance undertakings belonging to the group.

(4) A.S.F. and the other supervisors shall designate the coordinating supervisor no later than 3 months after the request referred to in para. (3), which shall be considered as a conciliation period, after consultation of the group concerned; where A.S.F. or another supervisor requests the assistance of EIOPA, the decision of designation shall be adopted in accordance with the views expressed by EIOPA and shall be considered final.

(5) The decisions adopted by A.S.F. within the college of supervisors shall be reasoned and in accordance with the decisions issued by EIOPA; they shall be communicated to the college of supervisors and the insurance undertakings concerned.

(6) A.S.F. shall call an emergency meeting of the college of supervisors when it:

a) finds a material breach of the SCR or the MCR by a company;

(b) finds a significant breach of the SCR at group level, irrespective of the calculation method chosen, in accordance with Articles 149-152;

c) an exceptional situation arises.

(7) A.S.F. may carry out specific activities within the college of supervisors together with a limited number of members.

Article 16 - Tasks and powers of A.S.F. as coordinating supervisor (**1)** A.S.F. may be appointed as coordinating supervisor, responsible for coordinating and exercising supervision at group level, in the following situations:

a) all group member insurance undertakings are supervised by A.S.F.;

b) the group coordinating company is authorized by A.S.F.;

c) the group is not coordinated by an insurer or reinsurer; and:

(i) the company whose parent company is an insurance holding or a mixed financial holding is authorized by A.S.F.;

(ii) at least two insurance undertakings having their head office in Member States have as their parent company the same insurance holding or a mixed financial holding having its head office in Romania, and one of these undertakings is authorized by A.S.F.;

(iii) is run by at least two insurance holding companies or mixed financial holding companies, one having its head office and holding a company in Romania and the other having its head office and holding a company in another Member State, and the company with the highest balance sheet total is supervised by A.S.F.;

(iv) at least two insurance undertakings having their head office in Member States have as their parent the same insurance holding or the same mixed financial holding having their head office in another Member State and the company with the largest balance sheet total is authorized by A.S.F.;

(v) it does not have a parent company or the situations set out in items (i)-(iv) are not applicable, and the company with the highest total balance sheet value is authorized by A.S.F.

(2) A.S.F., as coordinating supervisor, has the following duties and powers:

a) coordinate the collection and submission of information relevant for both ongoing supervision and emergency situations;

(b) carry out the group supervision and assess its financial statement;

(c) assess the group's compliance with the provisions laid down in Title II, Chapter II and Articles 157 and 158;

(d) assess the system of governance of the group in accordance with Article 159 and the compliance of the members of the management of the participating undertaking or the persons who effectively direct the insurance holding or the mixed financial holding with the requirements of professional competence and fit and proper ones set out in Article 27;

(e) organize, at least annually, meetings of the college of supervisors to plan and coordinate both on-going and emergency supervisory work, taking into account the principle of proportionality with regard to the risks inherent in the business of all group entities;

f) adopt measures and decisions in accordance with the legal provisions;

g) coordinate the validation process of the internal model at group level referred to in Article 151;

h) coordinate the approval process for the application of the regime provided for in Article 155;

i) draw up, together with the members of the College of Supervisors, arrangements for the coordination of its work;

j) request the assistance of EIOPA in case of diverging views on the activity coordination agreement and take the final decision in accordance with the

EIOPA decision, which it shall communicate to the other members of the college of supervisors;

k) submit to EIOPA significant information on the operation of the college of supervisors;

l) other duties provided by law.

(3) Where a decision is taken within the college of supervisors in accordance with Article 15 para. (3), A.S.F. shall forward the joint decision to the group, duly reasoned.

(4) A.S.F. shall submit to the group and to the college of supervisors the decision adopted in accordance with Article 15 para. (3), taking into account the opinion issued by EIOPA, if its assistance is requested.

(5) A.S.F. shall continue to exercise its duties as coordinating supervisor until the adoption of the joint decision referred to in Article 15 para. (3).

(6) A.S.F. shall coordinate the college of supervisors, ensuring cooperation, exchange of information and consultation between the members of the college, in accordance with Title II, in order to ensure convergence of decisions and activities.

(7) Where a parent company within the group has its head office in another Member State, A.S.F. may request from its supervisor the information necessary for the exercise of supervisory coordination; where the information referred to in Article 18 paras. (8) and (9) have already been communicated to another supervisor, the request shall be addressed to the latter.

(8) A.S.F., in accordance with the principle of proportionality, may limit the reporting at group level with a frequency of less than one year or may exempt group undertakings from reporting all indicators, if they benefit from the limitations referred to in Article 37 paras. (9) and (12).

(9) Where A.S.F. receives a request from a company and its affiliated entities or from the affiliated entities of an insurance holding or a mixed financial holding to approve the calculation of the aggregated group-wide SCR and the SCR of the insurance undertakings in the group based on the group internal model, A.S.F. shall communicate this to the college of supervisors, which shall decide whether to approve or reject the request, setting, where applicable, the terms and conditions for the approval.

(10) A.S.F. shall inform the members of the college, including EIOPA, of the receipt of the request referred to in para. (9) and shall forward the request and the complete related documentation to the other members without delay; with a view to the adoption of a decision in accordance with para. (9), A.S.F. may request technical assistance from EIOPA.

(11) A.S.F. shall analyse, together with the other members of the college of supervisors, the documentation submitted in accordance with para. (10), in order to adopt a joint decision on the approval or rejection of the internal model, within 6 months from the date of submission of the complete documentation, which shall be considered as the conciliation period.

(12) A.S.F. shall adopt its own decision on the approval or rejection of the internal group model, which it shall communicate to the applicant and to the

other members of the college of supervisors, stating its reasons, taking into account:

(a) the views and reservations expressed by the other members of the college of supervisors, if a joint decision within the college of supervisors is not taken within 6 months of receipt of the complete documentation;

b) the decision forwarded by EIOPA when the assistance was requested.

(13) If, within the period referred to in para. (11), the assistance of EIOPA has been requested by the members of the college of supervisors, A.S.F. shall adopt the decision on the approval or rejection of the internal model in accordance with the decision of EIOPA or, in the absence of a decision of EIOPA, shall adopt its own decision, which shall be final.

(14) A.S.F. shall forward the reasons for the proposal of the measures referred to in Article 151 paras. (3) and (4) both to the undertaking and to the college of supervisors.

(15) The assistance of EIOPA referred to in para. (12) may no longer be requested after the expiry of the 6-month period or after the adoption of a joint decision within the college of supervisors.

(16) A.S.F. shall postpone the adoption of a decision until it has received the EIOPA's point of view, requested in accordance with para. (12) sub-paragraph b), which it shall take into account when adopting its own decision, which it shall substantiate and forward to the applicant and the supervisory authority concerned, and which shall be considered final.

(17) Before deciding on the situations referred to in Article 133 para. (3) sub-par. (6), A.S.F. shall consult the members of the college of supervisors.

(18) Without prejudice to Article 154 para. (2), A.S.F. shall verify, at least annually, on its own initiative or at the request of the direct supervisor of the subsidiary, how the parent company complies at all times with the conditions laid down in Article 154 para. (1) sub-paras. b) - d).

(19) A.S.F. shall inform the direct supervisor of the branch, after consulting the college of supervisors, of the ineffectiveness or non-implementation within the set period of the plans referred to in Article 154 paras. (2) and (3) and the fact that the conditions laid down in Article 154, para. (1) sub-paras. b)-d) are no longer complied with.

(20) If, after consulting the college of supervisors, A.S.F. decides to exclude a subsidiary from group supervision, it shall immediately notify its direct supervisor and the parent company of that subsidiary.

(21) A.S.F. shall consult with the group and the college of supervisors to:

a) identify the types of risks which the coordinating firms shall include in the report referred to in Article 157 para. (2) and impose appropriate tolerance thresholds based on SCRs, technical provisions or both;

b) issue opinions on the types of risks, taking into account the structure of the group and the risk management system;

c) identify the types of intra-group transactions that insurance undertakings are required to include in the report referred to in Article 158 para. (2).

(22) In the process of analysing risk concentration and intra-group transactions, A.S.F. shall in particular monitor the risk of contagion within the group, the risk of conflicts of interest and the volume of risks.

(23) In deciding on the approval referred to in Article 159 para. (5), A.S.F. shall consult with the college of supervisors and duly take into account the views and reservations expressed by its members.

(24) A.S.F. shall consult the college of supervisors and duly take into account the views or reservations expressed by them when considering the request of the holding company, insurance holding company or mixed financial holding company for approval of the publication of a single report, in accordance with the provisions of Article 160.

(25) Where a group is composed of insurance holdings or mixed financial holdings having their head office in Romania, A.S.F. shall impose recovery measures if they:

(a) do not comply with the requirements referred to in Title II, Chapter II and III;

(b) comply with the requirements referred to in point (a), but their solvency is jeopardized;

c) are affected in their financialcapacity by intra-group transactions or risk concentrations.

(26) A.S.F. shall inform the supervisors of the insurance undertakings, insurance holding companies or mixed financial holding companies in the Member States within the territory of which they have their head office that the requirements referred to in para. (25) are not complied with.

(27) Where the insurance holding company or mixed financial holding company does not have its head office in Romania, A.S.F. shall forward information on the non-compliance with the requirements referred to in par. (25) to the other supervisors of the college, so that they may take the necessary measures.

(28) Notwithstanding para. (29), A.S.F. shall decide on remedial measures imposed on insurance holding companies or mixed financial holding companies and, where appropriate, coordinate the adoption of such measures within the college of supervisors.

(29) A.S.F. shall impose sanctions on insurance holdings companies or mixed financial holding companies and persons who effectively run those holdings that violate the legal provisions.

(30) In consultation with the college of supervisors and EIOPA, in compliance with the legal provisions and without prejudice to other decisions previously adopted at European level with regard to third countries, unless the third country regime or the regime provided for in Chapter V, A.S.F. shall verify the following:

(a) the equivalence of the solvency regime prescribed by the third country in which subsidiaries of a holding company are situated, either on their own initiative or at the request of the holding company, when calculating, using method 2 as provided for in Article 150, the aggregated SCR at the level of the group;

(b) the equivalence of the supervisory regime applied by the third country in which the parent company is situated, on its own initiative or at the request of the parent company or of the group undertakings established in the Member States.

(31) In the absence of delegated acts issued by the European Commission on the equivalence of the supervisory regime in third countries, the provisions of Article 162 shall apply.

(32) If the supervisory regime in a third country is declared temporarily equivalent by a delegated act issued by the European Commission, A.S.F. shall rely on the supervision carried out by the supervisor of the third country in question, unless the total balance sheet value of the group company, with head office in Romania, is higher than that of the parent company in the third country, in which case A.S.F. shall take over the duties of coordinating supervisor.

(33) Where the parent company referred to in para. (30) sub-para. b) is a subsidiary of a company, an insurance holding or a mixed financial holding company in a third country, A.S.F. shall verify, within the college of supervisors, the equivalence of the supervisory regime at the level of the highest-ranking parent company, and in the absence of a decision on such equivalence, shall verify the equivalence of the supervisory regime in the third country where a lower-ranking parent company is located and shall apply the provisions of para. (34).

(34) If the supervisory regime in a third country is not declared equivalent, including temporarily, or if A.S.F. decides not to rely on the supervision carried out by the supervisor of the third country in the situation referred to in para. (32), A.S.F. shall determine the appropriate methods to achieve the supervisory objectives after consulting the members of the college of supervisors; A.S.F. may require the establishment of an insurance holding company or a mixed financial holding company having its head office in a Member State and may apply to the group insurance undertakings coordinated by that holding company the supervisory principles and methods which it applies to groups having their parent company in the territory of the Member States, notifying those methods to the other authorities and to the European Commission.

(35) Where the supervisory regime in the third country is declared equivalent by a delegated act issued by the European Commission, A.S.F. shall rely on the group supervision carried out by the authority of the third country, cooperation with that authority being carried out in a similar manner to that provided for in this Section and Article 19.

(36) A.S.F. shall consult with the supervisory authorities concerned and decide not to supervise the risk concentration referred to in Article 157 or the intra-group transactions referred to in Article 158 at the level of a holding company, an insurance holding company or a mixed financial holding company established in the Member States, in the cases referred to in Article 133 para. (3) sub-paras. (a) and (b), where it/they is/are:

(a) a subsidiary of a regulated entity or a mixed financial holding company;

b) regulated entity or mixed financial holding which is additionally supervised in accordance with the Government Emergency Ordinance no. 98/2006, approved with amendments and additions by Law no. 152/2007, as subsequently amended and supplemented.

(37) Where a mixed financial holding is subject to provisions equivalent to this Law and to the Government Emergency Ordinance no. 98/2006, approved with amendments and additions by Law no. 152/2007, with subsequent amendments and additions, in particular as regards risk-based supervision, A.S.F., after consulting the National Bank of Romania, may apply to the mixed financial holding company only the provisions set out in the same emergency ordinance.

(38) Where a mixed financial holding company is subject to provisions equivalent to the provisions of this Law and of Government Emergency Ordinance No. 99/2006 on credit institutions and capital adequacy, approved with amendments and additions by Law No. 227/2007, as amended and supplemented, in particular as regards risk-based supervision, A.S.F., in agreement with the National Bank of Romania, may apply only the equivalent provisions of the legislation of the most important sector, determined in accordance with Article 3 para. (2) of Government Emergency Ordinance no. 98/2006, approved with amendments and additions by Law no. 152/2007, as subsequently amended and supplemented.

(39) A.S.F. shall inform the EIOPA and the European Banking Authority of the decisions taken pursuant to paras. (37) and (38).

(40) A.S.F.submits to EIOPA and to the supervisory authorities concerned information on groups, in accordance with Article 18 paras. (8) and (9), Article 25 para. (3) and Article 39 paras. (1) to (3), in particular information on their legal and organizational structure and system of governance.

(41) During the period referred to in Article 17 para. (21), in case of divergent views, A.S.F. or another Member State of the college of supervisors may consult EIOPA, in which case the college of supervisors shall await EIOPA's decision for one month, A.S.F. and the other supervisors shall take EIOPA's decision into account when adopting the joint decision accompanied by the full reasoning and, where appropriate, further explanations if that decision deviates significantly from EIOPA's decision.

(42) The joint decision referred to in para. (41) shall be final and shall be applied by all the authorities concerned; if no joint decision has been adopted within the period provided for in Article 17 para. (21) or in the absence of a decision by EIOPA, A.S.F. shall adopt its own decision, which shall be final.

(43) When taking its own decision, A.S.F. shall duly take into account the views or reservations of the other supervisors and, where appropriate, the opinion of EIOPA; this shall be the final decision and shall be applied by all the authorities concerned, to which A.S.F. shall also communicate the full reasons for its decision and, where appropriate, further explanations if that decision deviates significantly from the reservations expressed by them and from the views of EIOPA.

(44) The views of EIOPA shall not be requested after the expiry of the period referred to in Article 17 para. (21) or after a joint decision has been adopted.

(45) A.S.F. may request, when it deems necessary, information on:

a) transactions between insurance undertakings and their parent company which is a mixed insurance holding company;

b) transactions between insurance undertakings and entities affiliated to that holding company.

(46) A.S.F. shall supervise and analyse the reporting procedures and systems referred to in Article 159 paras. (1) and (2).

(47) A.S.F. shall inform the members of the college of supervisors of the situation referred to in Article 137 para. (2) in order to adopt appropriate measures.

Article 17 - Duties and powers of A.S.F. as a member of the college of supervisors (**1)** If the coordinating supervisor does not fulfil its duties or if the other members of the college of supervisors do not cooperate adequately, A.S.F. may request the assistance of EIOPA.

(2) A.S.F. shall cooperate with the coordinating supervisor and with the other members of the college of supervisors in order to draw up the agreement on the coordination of the college's activity.

(3) A.S.F. may request the assistance of EIOPA in the event of diverging views on the agreement on the coordination of activity within the college of supervisors.

(4) A.S.F. shall systematically cooperate with the coordinating supervisor and in particular in cases where a company is in financial difficulties.

(5) Without prejudice to the provisions of Article 154 para. (2), A.S.F. may require the coordinating supervisor to verify the parent company's compliance with the requirements set out in Article 154 para. (1) sub-pars. b) - d), if it considers that those requirements are no longer met.

(6) In order to achieve the supervisory objectives, A.S.F. may request information from the coordinating company of the group to which the company excluded from group supervision belongs, in cases similar to those provided for in Article 133 para. (3) sub-paras. b) and c).

(7) At the request of the coordinating supervisor, A.S.F. shall request information from the parent undertakings and shall forward it to the coordinating supervisor.

(8) In the event of non-compliance with theSCR by a subsidiary applying a centralized risk management system, without prejudice to Article 99, A.S.F. shall, without delay, submit to the college of supervisors the recovery plan designed and presented by the subsidiary so that the subsidiary, within 6 months from the date of the deficiency, restores the level of eligible own funds or changes the risk profile in order to remedy the situation. The college of supervisors shall approve the recovery plan within a maximum of 4 months from the date on which the SCR was found to be non-compliant.

(9) If the college of supervisors fails to reach an agreement, A.S.F. shall adopt its own decision on the recovery plan referred to in para. (8), taking into account the views and reservations of the other supervisors.

(10) Where A.S.F. is notified, in accordance with Article 98, of the deterioration of the financial capacity of a subsidiary applying a centralized risk management system, it shall without delay communicate to the college of supervisors the measures it proposes for discussion in the college, except in emergency situations where A.S.F. considers that the financial capacity cannot be restored and then adopts its own decision, which shall not be discussed in the college of supervisors. If no agreement is reached within the college within one month of the date of notification of the college, A.S.F. shall adopt its own decision on the measures concerned, taking due account of the views and reservations of the other members of the college of supervisors.

(11) Without prejudice to Article 100, in the event of non-compliance with the MCR by a subsidiary applying a centralized risk management system, A.S.F. shall immediately submit to the college of supervisors the finance scheme submitted by the subsidiary, according to which, within 3 months from the date of the deficiency, the level of eligible own funds is restored or the risk profile is modified in order to remedy the situation; A.S.F. shall also inform the college of supervisors of the measures taken to enforce the MCR at the level of the subsidiary.

(12) If A.S.F. considers that the report referred to in Article 160 does not include material information on the subsidiaries it has authorized and whose financial situation requires comparison, it shall require them to publish their own report.

(13) Where the insurance undertakings belong to a group which does not include an insurance holding company or a mixed financial holding company, A.S.F. shall impose recovery measures on them in the situations referred to in Article 16 para. (25).

(14) A.S.F. shall inform the supervisors of the insurance undertakings, insurance holding companies or mixed financial holding companies in the Member States in the territory of which they have their head office that the situations referred to in Article 16 para. (25) are not complied with.

(15) If A.S.F. is informed by the coordinating supervisor that a company is in one of the situations referred to in Article 16 para. (25), A.S.F. shall take the necessary measures to remedy the situation.

(16) A.S.F. decides on the remedial measures imposed on insurance holdings or mixed financial holdings and participates in the adoption of these measures within the college of supervisors.

(17) If A.S.F. decides to apply other methods of supervision that allow for adequate supervision of the insource undertakings that are part of a group, other than those referred to in Article 162 para. (1), it shall consult the other authorities concerned and, after receiving the approval of the coordinating supervisor, notify those methods to the other authorities and to the European Commission.

(18) Where the parent company submits an application for the application of a centralized risk management system, A.S.F.:

a) analyse the application of the parent company to be subject to Article 155 paras. (1) to (3) and shall contribute to the work of the college of supervisors in accordance with the applicable provisions set out in this Section;

(b) review the adequacy of the parent company's risk management system and internal control mechanisms for the prudent management of the company;

c) verify that the parent company complies at all times with the provisions of Article 154 para. (1) sub-paras. b) and c).

(19) Where a supervisor within the college of supervisors, including A.S.F., finds that the risk profile of the company it supervises deviates significantly from the assumptions underlying the internal model, the supervisors within the college shall propose the imposition of the measures provided for in Article 155 paras. (1) to (3), with a view to adopting a joint decision and laying down the terms and conditions necessary for implementing that decision, which shall be considered final.

(20) Within one month of the proposal referred to in para. (19), A.S.F. and the other members of the college of supervisors may request the assistance of EIOPA.

(21) If a request for the application of a centralized risk management system is received by the college of supervisors together with the complete documentation, A.S.F. and the other members of the college shall work together to adopt a joint decision within 3 months, which shall be considered final.

(22) In case of adoption of the decision referred to in para. (21), A.S.F. shall forward the duly motivated decision to the applicant.

(23) Where EIOPA assistance as referred to in para. (20) and Article (5), A.S.F. shall adopt its own decision in accordance with the EIOPA decision, which shall be considered final and applied by the authorities concerned.

(24) A.S.F. may request technical assistance from the EIOPA in the situation where it is informed by a coordinating supervisor about the receipt of a request similar to the one referred to in Article 16 para. (9).

Article 18 - Cooperation and exchange of information (**1)** In order to ensure a uniform volume of information for all members of the college of supervisors and to facilitate the performance of supervisory tasks, A.S.F. shall provide relevant information as soon as it becomes available or upon request of the members of the college, such as information on the actions of the group, of other supervisors or data provided by the group.

(2) If it is A.S.F. that requests the information referred to in para. (1) and does not receive a reply within two weeks, A.S.F. may request the assistance of EIOPA.

(3) Before adopting a significant decision, the A.S.F. shall consult with the members of the college of supervisors, including where it receives information from other supervisors, where:

a) changes occur in the organizational structure, shareholding or management, for which the approval of A.S.F. is required;

(b) propose the extension of the recovery period in accordance with Article 99 para. (3);

(c) propose the application of significant sanctions or exceptional measures, such as the imposition of a Solvency Capital Requirement as provided for in Article 35 or the limitation of the use of the internal model as provided for in Chapter. V, Section 4, Subsections 4.3 and 4.4.

(4) A.S.F. may decide not to consult the members of the college of supervisors if this jeopardizes the implementation of the adopted decision or in cases of urgency and shall immediately inform them of the situation; for the situations referred to in paras. (3) b) and c), A.S.F. shall always consult the group supervisor.

(5) A.S.F. shall cooperate with the National Bank of Romania when the undertakings are directly or indirectly related to credit institutions, investment firms or have a joint holding company.

(6) The exchange of information carried out under this Article and, where applicable, under national law on financial recovery, bankruptcy, dissolution and voluntary winding up shall be subject to the provisions of Article 19.

(7) Natural and legal persons and their affiliated or participating entities shall exchange information with A.S.F. that is relevant for the achievement of the objectives of group supervision.

(8) A.S.F. shall have access to all the information it deems necessary for supervisory purposes, regardless of the nature of the entity from which it requests it, the provisions of Article 37 applying accordingly.

(9) A.S.F. may apply directly to the entities belonging to a group in order to obtain information if the respective information has already been requested from the undertakings subject to group supervision and has not been submitted within the requested deadline.

(10) A.S.F. may carry out on the Romanian territory, either by its own staff or by delegated persons, the verification of the information referred to in par. (7) - (9) at the premises of the following entities:

(a) insurance undertakings subject to group supervision;

(b) affiliated insurance undertakings of the undertakings referred to in (a);

(c) parent undertakings of insurance undertakings referred to in sub-par. (a);

d) affiliated entities of the parent company referred to in sub-par. c).

(11) Where A.S.F. deems it necessary to verify information on a group entity, whether regulated or not, established in the territory of another Member State, it shall submit to the supervisor of that Member State one of the following requests:

(a) to carry out the verification itself;

b) to allow A.S.F. to carry out the verification directly;

c) to allow A.S.F. to participate in the verification carried out by the respective supervisor.

(12) A.S.F. shall request the assistance of EIOPA if it:

a) may not take part in the verification referred to in para. (11);

(b) the supervisor of that Member State does not act on one of the requests referred to in para. (11) within two weeks.

(13) In the event of a request from a supervisor of a Member State to verify the information on a group entity, whether regulated or not, established on the territory of Romania, A.S.F., within the limits of its powers and informing the coordinating supervisor, may:

a) carry out the verification by its own staff, auditors or other experts;

b) allow the supervisor concerned to carry out the verification;

c) allow the supervisor concerned to participate in the verification carried out by A.S.F.

(14) In order to ensure the implementation of measures adopted and sanctions imposed in situations similar to those referred to in Article 16 para. (25), A.S.F. shall cooperate with the supervisors involved in the supervision of an insuranceholding company or mixed financial holding company, in particular when the head office or the main operational facility is not at the head office.

SECTION 5
Professional secrecy

Article 19 - Professional secrecy (**1)** Persons who have been or are employed by A.S.F., auditors and experts mandated by A.S.F. are bound to respect professional secrecy and may not disclose information obtained in a professional context to any natural or legal person except in a summarized or aggregated form so that insurance undertakings cannot be identified.

(2) Notwithstanding the provisions of para. (1), confidential information may be communicated, in accordance with the law, to judicial bodies during judicial proceedings, in insolvency proceedings where such undertakings are declared insolvent or in the process of liquidation.

CHAPTER III
Authorization process

Article 20 - General provisions. (**1)** A.S.F. shall authorize insurance undertakings to conduct insurance and/or reinsurance activities or to extend their activity to other classes of insurance, not covered by the initial operating license.

(2) Insurance undertakings shall have their registered office and head office in the territory of Romania and shall compulsorily include in their name, as the case may be, thetitle insurance, insurance-reinsurance or reinsurance undertaking, which may be expressed in other language customary in the insurance business.

(3) Authorization to conduct insurance activity shall be granted for one of the following:

a) life insurance activity;

b) non-life insurance activity.

(4) Authorization to conduct reinsurance activity shall be granted for one of the following activities:

a) non-life reinsurance;

b) life reinsurance;

c) mixed reinsurance, which includes both non-life and life reinsurance.

(5) By way of exception from para. (3), insurers authorized to conduct life insurance may apply for the extension of their authorization to cover the risks in classes 1 and 2 in section A of Annex No 1, and insurers authorized to conduct only those classes may apply for the extension of their authorization to conduct life insurance.

(6) The authorization obtained by insurance undertakings in accordance with para. (1), under the conditions laid down in Article 21, shall be valid in all Member States, including for the pursuit of the activity on the basis of the right of establishment or the freedom to provide services, and shall be published by A.S.F. in accordance with the publication regime laid down by its own regulations.

(7) Subject to the provisions of para. (1), authorization shall be granted for the classes referred to in Annex No 1, Sections A and C, or for certain risks in those classes, risks in one class being included in other classes only as ancillary risks, under the conditions referred to in paras. (11) and (12).

(8) In the case of non-life insurance, authorization may also be granted for the groups of classes mentioned in Annex no. 1, Section B, and if the company applies for authorization for a class of insurance and in the business, plan provided for in Article 22 includes only certain risks of that class, A.S.F. may grant authorization only for those risks.

(9) Where insurance undertakings are authorized for class 18 as referred to in Annex No 1, Section A, they may carry out the assistance activities referred to in Article 4, paras. (2) and (3), without prejudice to para. (11) of this Article.

(10) A.S.F. shall consider the application for authorization of undertakings according to:

a) the business plan provided for in Article 22;

(b) compliance with the conditions of authorization referred to in Article 21.

(11) Insurers who obtain authorization for a principal risk in a class or group of classes in accordance with Annex No 1, Sections A and B, may underwrite, without requiring authorization, risks of another class as ancillary risks, except those of classes 14, 15 and 17, subject to the following cumulative conditions:

a) are related to the principal risk;

b) the insured object is also covered against the main risk;

c) are covered by the same contract covering the main risk.

(12) Class 17 legal expenses insurance as set out in Annex No 1, Section A, may be regarded as a risk ancillary to Class 18 of that Annex, subject to the conditions set out in para. (11) and if the insurance covers disputes or risks arising out of or in connection with the use of seagoing vessels.

(13) A.S.F. shall not grant the operating licence if:

a) there are close links between the company and other natural or legal persons that hinder the effective exercise of the supervisory powers of A.S.F.;

(b) there are laws, regulations or administrative provisions, or difficulties in their enforcement, of a third country to which the persons referred to in point (a) with which the company has close links, which are likely to prevent the effective exercise of its supervisory functions.

(14) In case of an application for authorization for class 18 referred to in Annex no. 1, section A, A.S.F. may verify, on the basis of documents, the following:

a) the necessary qualified personnel;

b) provision of appropriate equipment.

(15) Insurance undertakings shall issue only registered shares, and the acts or operations by which the identity of the owners of the shares is concealed from A.S.F. shall be null and void.

(16) The use of the terms insurer, reinsurer, insurance or reinsurance by legal entities that are not authorized by A.S.F. is prohibited, unless such use is provided for by law or international agreements.

Article 21 - Conditions for granting the operating licence. (**1)** In order to obtain the operating licence, undertakings shall meet the following conditions:

a) insurers conduct only insurance business or operations directly related thereto and no other business activity except as permitted by national law;

(b) reinsurers conduct exclusively reinsurance or related reinsurance business; this requirement may include a holding function and activities related to the financial sector as defined in Article 2 para. (1) item 9 of Government Emergency Ordinance No. 98/2006, approved with amendments and additions by Law No. 152/2007, as subsequently amended and supplemented;

c) submit a business plan drawn up in accordance with Article 22;

(d) hold eligible basic own funds to cover the absolute threshold of the MCR referred to in Article 95 para. (1) sub-par. d);

e) document how they will permanently hold eligible own funds to cover SCR and MCR;

(f) document how they will comply with the system of governance requirements referred to in Chapter IV Section 2;

(g) for class 10 referred to in Annex No 1, Section A, in respect of class 10, carrier's liability only, insurers shall submit the name and address of the claims representative they are required to appoint in the territory of the other Member States and other States for which Romania is responsible;

h) submit the information necessary to demonstrate at all times that none of the situations referred to in Article 20 para. (13);

i) other conditions regulated by legal provisions.

(2) Insurance undertakings shall submit to A.S.F., for approval, the identity of the shareholders or associates, natural or legal persons, which have qualifying holdings and the amount of such holdings.

(3) Insurers who apply to A.S.F. for the extension of the authorization to a new class of insurance or to other risks in a class already authorized shall submit:

a) the business plan in accordance with Article 22;

b) proof that they hold eligible own funds to cover SCR and MCR.

(4) Where an insurer which underwrites the classes referred to in Annex no. 1 section C applies to A.S.F., in accordance with Article 20 para. (5), the extension of the authorization to the risks of classes 1 and 2 referred to in Annex no. 1, section A, shall submit:

a) proof that it holds eligible basic own funds to cover the absolute MCR threshold for life and non-life insurance activity referred to in Article 95 para. (1). sub-paragraph) d);

b) proof that the minimum financial obligations referred to in Article 49 para. (3) will be respected.

(5) The provisions of para. (4) shall also apply where an insurer underwriting the risks included in classes 1 and 2 referred to in Section A of Annex 1 applies, in accordance with Article 20 para. (5), the extension of the authorization to the classes of life insurance set out in Section C of Annex No 1.

(5^1) Insurance undertakings shall request the opinion of A.S.F. on amendments to the documents and/or conditions on the basis of which the operating licence was granted in accordance with the regulations issued by A.S.F.

(6) By way of exception from the provisions of para. (1) sub-paragraph) a), insurers may, in accordance with the specific legislation, also apply for authorization to carry on the activity of management of optional pension funds.

Article 22 - The business plan (**1)** The business plan submitted by the undertakings shall include indications and justifications regarding the following elements:

(a) the nature of the risks or commitments which the undertakings propose to cover and assume respectively;

b) guiding principles on reinsurance and retrocession;

c) the type of reinsurance contracts related to the risk portfolio;

(d) for reinsurers, the type of reinsurance contracts they propose to conclude with ceding undertakings;

(e) basic own fund items covering the absolute threshold of the MCR;

(f) estimates of the costs of setting up the administrative services and ensuring a framework conducive to the conduct of business and the financial resources to cover them;

(g) in the case of class 18 referred to in Annex No 1, Section A, the resources needed to provide the assistance.

(2) For the first 3 financial years, the business plan shall contain:

a) a forecast balance sheet and estimated SCR and MCR;

(b) the methods used to calculate the values referred to in point (a);

c) estimates of the financial resources to cover technical provisions, SCR and MCR;

d) for non-life insurance and reinsurance activity:

(i) estimates of expenditure other than that referred to in para. (1) (f), in particular current overheads and commissions;

(ii) estimates of the volume of premiums or contributions, as the case may be, and of the volume of claims;

(e) for life insurance activity, detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions.

Article 23 - Shareholders and associates with qualifying holdings (**1)** For the purposes of Article 21 para. (2), in the case of undertakings listed on the capital market, the voting rights of significant shareholders shall be assessed in accordance with the provisions of the specific Romanian legislation in the process ofassessing the acquisition project.

(2) Voting rights or shares held by investment firms or credit institutions as a result of the subscription of financial instruments and their placement under a firm commitment shall not be taken into account, subject to the following conditions:

a) not be exercised or used to interfere in the management of the company's business;

b) be disposed of within one year of the date of acquisition.

Article 24 - Rejection of the application for the granting of the operating licence (**1)** A.S.F. rejects the application for the granting of the operating licence if:

a) the conditions set out in Article 21 are not fulfilled;

b) from the information provided in accordance with Article 21 para. (2) it appears that a sound and prudent management of the company is not ensured because of the quality of the shareholders or members.

(2) A.S.F. shall substantiate the reasons for the decision to refuse to grant the operating licence, which it shall forward to the undertakings.

(3) If A.S.F. refuses to grant the operating licence or, within 6 months from the date of receipt of the application, A.S.F. does not communicate to the undertakings any decision regarding the application received, the undertakings may file a complaint with the Bucharest Court of Appeal, Administrative and Tax Litigation Section.

CHAPTER IV
Conduct of business

SECTION 1
General Provisions

Article 25 - General provisions (**1)** The management of insurance undertakings is responsible for compliance with all legal provisions in force.

(2) The management of insurance undertakings shall have the responsibilities set out in points a)-c) and, where undertakings opt for the use of an internal model, shall also have the responsibilities set out in points d)-f), as follows:

a) coordinate the process of developing written policies, approves and orders their implementation;

b) approve the solvency and financial statement report published in accordance with Section 4;

c) determine the actions and measures to be taken to streamline the work, based on the findings and recommendations of the internal audit function;

d) approve the filing at A.S.F. headquarters of the application for the use of an internal model, according to the provisions of Article 82, and the filing of subsequent applications for major amendments to the respective model;

e) have systems in place to ensure the proper and continuous functioning of the internal model;

(f) ensure that the structure and functioning of the internal model is appropriate at all times to reflect the risk profile.

(3) The undertakings shall notify A.S.F. of any changes in the documents on the basis of which the operating licence was granted, including in the situations referred to in Article 20 para. (13) sub-paragraph) a).

(4) Insurers shall open and maintain a register of petitions received.

(5) Insurance undertakings shall use the emblem, logo, acronym or other identifying elements only in official documents and contracts issued or in advertising materials used by their operating units.

(6) Insurance undertakings shall process personal data, including health data and tax identification number, of policyholders, beneficiaries or, where applicable, injured third parties solely for the purposes of carrying out insurance business in compliance with Regulation (EU) No. 679/2016 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals 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) and national legislation applicable to the field of data protection; the processing of personal data concerning health shall be carried out under the conditions set out in Article 9 of the said Regulation.

(7) Insurance undertakings shall seek the approval of A.S.F. if they intend to underwrite risks or assume commitments in third countries.

(8) A.S.F. may issue recommendations on the conduct of undertakings' activities.

(9) The refusal to apply the recommendations referred to in para. (8) shall be documented and forwarded to A.S.F. by the date stipulated in the recommendations.

SECTION 2
System of Governance

Article 26 - System of governance. (**1)** In order to ensure the sound and prudent management of the business,insurance undertakings shall establish and operate a functioning and effective system of governance so that:

a) be established in accordance with the principle of proportionality;

b) represent an appropriate transparent organizational structure in which responsibilities are clearly allocated;

c) be based on internal procedures for the efficient transmission of all information;

d) be subject to regular internal control;

e) be established in accordance with this Section;

(f) be based on critical functions, at least the actuarial, risk management, compliance and internal audit functions, which are considered key functions.

(2) Insurance undertakings shall develop and implement written policies on:

a) risk management, including the criteria for the application of the volatility adjustment in the event of applying for A.S.F. approval in accordance with the provisions of Article 166 para. (1) sub-paragraph) i);

b) internal control;

c) internal audit;

d) outsourcing, where relevant;

e) other written policies on the smooth conduct of business.

(3) The written policies referred to in para. (2) shall be reviewed at least annually, adjusted in accordance with significant changes in the governance system and shall be subject to approval by the management.

(4) Insurance undertakings shall adopt the necessary measures to ensure business continuity, as follows:

a) develop emergency plans;

b) use appropriate and proportionate systems, resources and procedures;

c) identify emerging risks that may affect their financial capacity;

(d) optimize and strengthen the governance system to ensure continued compliance with the requirements of this Section.

(5) Insurance undertakings shall submit to A.S.F. the information referred to in pars. (1) to (4), in order to enable it to assess the system of governance and to verify the extent to which the requirements referred to in this Section are complied with.

(6) A.S.F. may issue recommendations on how to comply with the requirements set out in this section and on how to implement the adopted written policies.

(7) The refusal to apply the recommendations referred to in para. (6) shall be documented and submitted to A.S.F. by the date stipulated in the recommendations.

Article 27 - Fit and proper requirements and proof of good repute. **(1)** Insurance undertakings shall ensure that the persons who effectively run the company, those who hold key positions or other critical functions fulfil at all times the following requirements related to:

a) professional competence: training, qualifications and experience compatible with the proper and prudent management of the company;

b) proper requirements: good reputation and moral integrity.

(2) Insurance undertakings shall apply to A.S.F. for the approval of the persons who are part of the management.

(3) The insurance undertakings shall notify A.S.F. about the change of the persons referred to in para. (1) and shall submit the information on the basis of

which the newly appointed persons are assessed as to their fulfilment of the fit and proper requirements.

(4) Insurance undertakings shall notify A.S.F. if the replacement of one of the persons referred to in para. (1) is carried out because the person no longer meets the fit and proper requirements.

(5) A.S.F. shall require the persons referred to in para. (1), Romanian citizens, to prove they are fit and proper and the fact that the bankruptcy of certain entities is not imputable to them, by submitting their criminal and tax records.

(6) In the case of citizens residing in the other Member States, the proof referred to in para. (5) may be one of the following documents:

a) criminal record certificate;

(b) an equivalent document issued by a competent judicial or administrative authority in the Member State or the State of provenance of the person concerned;

(c) a sworn or solemn statement made before an authority or a notary public attested by a certificate;

(d) a declaration on oath or solemn declaration made before a professional or trade association or body in the Member State concerned.

(7) The documents referred to in para. (6) shall be submitted to A.S.F. within 3 months from the date of their issuance

Article 28 - Risk management (**1)** Insurance undertakings shall establish a functional and effective risk management system as an important tool in the decision-making process, so that:

a) include reporting strategies, processes and procedures;

(b) to facilitate the ongoing identification, assessment, monitoring, management and reporting of risks or potential risks faced by undertakings and the interdependencies between them;

c) be properly integrated into the organizational structure;

d) provide well-defined standards for those who effectively lead, hold key or other critical functions.

(2) The risk management system shall consider the risks to be included in the SCR calculation, partially included or excluded risks and cover the following activities:

a) underwriting and calculation of technical provisions;

b) asset-bond management;

(c) investment strategy, in particular with regard to derivatives and similar commitments;

d) liquidity and concentration risk management;

e) operational risk management;

f) reinsurance and other risk minimization techniques.

(3) Insurance undertakings shall develop written policies that include procedures on risk management of all activities referred to in para. (2), and for investment risk shall demonstrate compliance with the prudent person principle set out in Article 97.

(4) Insurance undertakings shall establish a risk management function structured in such a way as to facilitate the functional and effective implementation of the risk management system.

(5) Where it applies the matching adjustment referred to in Article 55 paras. (2) to (6) or the volatility adjustment referred to in Article 55 paras. (8) to (16), undertakings shall establish a liquidity plan that includes projections of inflows and outflows of cash flows related to assets and liabilities to which those premiums apply.

(6) With regard to assetliability management, undertakings shall regularly assess:

a) for the extrapolation of the risk-free interest rate term structure referred to in Article 55 para. (1), the sensitivity of technical provisions and eligible own funds to the underlying assumptions;

b) where it applies the matching adjustment provided for in Article 55, paras. (2) - (6):

(i) the sensitivity of technical provisions and eligible own funds to the assumptions underlying the calculation of the matching adjustment, including the calculation of the historical credit spread referred to in Article 55(1)(a). (6)(b), and the possible effect of a forced sale of assets on eligible own funds;

(ii) the sensitivity of technical provisions and eligible own funds to changes in the structure of the allocated asset portfolio;

(iii) the impact of reducing the matching adjustment to zero;

c) where they apply the volatility adjustment provided for in Article 55 paras. (8) - (16):

(i) the sensitivity of technical provisions and eligible own funds to the assumptions underlying the calculation of the volatility adjustment and the possible effect of a forced sale of assets on eligible own funds;

(ii) the impact of reducing the volatilityadjustment to zero.

(7) Where external credit assessments are taken into account for the calculation of technical provisions and SCRs, undertakings shall assess their adequacy by using supplementary assessments whenever possible.

(8) Where insurance undertakings use an internal model, approved in accordance with Articles 82 and 83, the risk management function shall be responsible for the following tasks related to the internal model:

a) design and implementation;

b) testing and validation;

c) documentation, including post-approval amendments;

d) reviewing the functioning and preparing the summary report;

e) informing the management about the functioning of the model, the components requiring optimization and how to remedy previously identified deficiencies.

Article 29 - Own risk and solvency assessment (**1)** Under the risk management system, insurance undertakings shall carry out an own risk and solvency assessment, hereinafter referred to as ORSA, which determines at least:

(a) the overall solvency needs, based on the specific risk profile, the approved risk tolerance limits and the strategy adopted;

(b) compliance at all times with the SCR, MCR and technical provision requirements set out in Chapter V Section 2;

c) the materiality of the deviation of the risk profile from the assumptions underlying the SCR calculation.

(2) For the purposes of para. (1) sub-par. a), insurance undertakings shall establish processes to identify and assess, using documented methods, known or potential risks, in accordance with the principle of proportionality.

(3) Insurance undertakings shall assess compliance with the SCR and MCR both if the chosen method is taken into account and if it is not taken into account, if they apply one of the following methods:

(a) the matching adjustment provided for in Article 55 paras. (2) - (6);

(b) the volatility adjustment provided for in Article 55 paras. (8) - (16);

c) transitional measures provided for in Articles 167 and 168.

(4) Where the company uses an internal model, the assessment under para. (4) shall be carried out in accordance with para. (4). (1) sub-par.(c) shall be performed together with the recalibration, which transforms the values calculated by the internal model into the risk measure, and the related SCR calibration.

(5) ORSA shall be carried out regularly, at least annually and whenever the risk profile is materially changed, and its results shall be an integral part of the business strategy and an important tool in the decision-making process.

(6) ORSA shall not be used to calculate capital requirements.

Article 30 - Internal control system (**1)** Insurance undertakings shall establish an internal control system that includes:

a) general control framework;

b) the compliance function;

c) administrative and accounting procedures;

d) reporting procedures at all levels.

(2) The responsibilities of the compliance function referred to in para. (1) sub-par b) include:

a) advising management on how to apply the legal provisions;

b) identify and assess the risk of non-compliance;

c) assessing the impact that changes in the legislative framework may have on the activity.

Article 31 - Internal audit. Insurance undertakings shall establish an internal audit function, objective and independent from the operational functions, with the following responsibilities:

a) assessing the adequacy and functionality of the internal control system and other elements of the system of governance;

b) forwarding findings and recommendations to management;

c) monitoring the implementation of the actions set by the management following the findings and recommendations submitted.

Article 32 - The actuarial function (**1)** Insurance undertakings shall establish a proper actuarial function with the following responsibilities:

a) coordinating the process of calculation of technical provisions by:

(i) the use of appropriate methodologies, models and assumptions;

(ii) assessing the adequacy of the data used in terms of quantity and quality;

(iii) the supervision of the calculation of technical provisions in accordance with Article 59 para. (2);

b) comparing the results of the best estimate with previous results;

(c) inform management of the accuracy and adequacy of the calculation of technical provisions;

d) expressing a view on the general underwriting policy and the adequacy of reinsurance contracts;

e) the effective implementation of the risk management system described in Article 28, in particular by contributing to the risk modelling underlying the calculation of SCR, MCR and ORSA.

(2) The duties of the actuarial function shall be performed by persons with sufficient knowledge of actuarial mathematics, financial mathematics and relevant experience, both in relation to professional and other applicable standards.

Article 33 - Outsourcing (**1)** When outsourcing activities or functions, insurance undertakings remain responsible for compliance with legal provisions.

(2) Outsourcing of critical or significant operational functions or activities shall be carried out in such a way that it does not result in:

a) significant deterioration in the quality of the system of governance;

b) significant increase in operational risk;

c) failure of A.S.F. to monitor how undertakings comply with their obligations;

d) discontinuities in the provision of quality services to policyholders.

(3) Insurance undertakings shall notify A.S.F. of the intention to outsource critical or significant functions or activities and the significant developments of those functions or activities.

SECTION 3

Supervisory process

Article 34 - Principles (**1)** A.S.F. shall analyse and assess on an ongoing basis the written policies, processes and reporting procedures established by the undertakings in accordance with the legal provisions.

(2) A.S.F. shall analyse and assess how undertakings comply with the requirements relating to the following:

a) system of governance;

b) how the ORSA is carried out and how its results are used;

(c) the ability of insurance undertakings to assess risks in relation to the environment in which they operate;

d) known or potential risks;

(e) the technical provisions provided for in Chapter V, Section 2;

f) SCR and MCR;

g) investments, in accordance with Article 97;

h) the quality and quantity of own funds provided for in Chapter V Section 3;

(i) the internal model provided for in Chapter V section 4 subsection 4.3;

j) the manner in which non-life insurance and life insurance activities are managed separately, in accordance with Article 49;

k) other elements established by legal provisions.

(3) In the process of supervision, A.S.F. shall require insurance undertakings to remedy the financial capacity if it finds that it has deteriorated and to take the necessary measures to remedy other identified deficiencies; for the purpose of ascertaining and monitoring the evolution of the financial capacity, A.S.F. may also use the information requested from external experts in accordance with Article 37 para. (5) and may issue regulations by which it develops tools for identifying deterioration in the financial capacity and monitoring how the deterioration is remedied.

(4) A.S.F. shall assess the adequacy of the methods and practices developed by insurance undertakings to identify potential events or changes in economic conditions with adverse effects on their overall financial capacity; A.S.F. shall also assess the ability of undertakings to cope with such events or changes.

(5) A.S.F. shall determine the frequency and granularity of the reviews and assessments referred to in par. (1), (2) and (4), taking into account the principle of proportionality.

Article 35 - Solvency capital add-on (**1)** Following the conclusions of the supervisory review, A.S.F. may impose and establish, by reasoned decision, a solvency capital add-on only in the following situations:

a) the risk profile deviates significantly from the assumptions underlying the SCR calculated with the standard formula in accordance with Chapter V, section 4, subsection 4.2, and the use of an internal model, in whole or in part, imposed by A.S.F. in accordance with Article 87, is considered inappropriate or has proved ineffective;

b) during the period in which insurance undertakings develop an internal model, imposed by A.S.F. in accordance with Article 87;

c) the risk profile deviates significantly from the assumptions underlying the internally modelled SCRs calculated in accordance with Chapter V, Section 4, Subsection 4.3, because certain quantifiable risks are not sufficiently captured and the internal model cannot be adapted, within an acceptable timeframe, to adequately reflect the risk profile;

(d) the system of governance deviates materially from the requirements set out in Chapter IV Section 2, which prevents the company from adequately identifying, measuring, monitoring, managing and reporting actual and potential risks, and the application of other measures cannot sufficiently remedy the deficiencies within an acceptable period of time;

(e) undertakings shall apply the matching adjustment provided for in Article 55 paras. (2) to (6), the volatility adjustment provided for in Article 55 paras. (8)

to (16) or the transitional measures provided for in Articles 167 and 168 and the risk profile deviates significantly from their underlying assumptions.

(2) The Solvency Capital add-on shall be calculated as follows:

a) insurance undertakings to comply with the provisions of Article 72 paras. (2) to (4), in the cases referred to in para. (1) sub-paras. a) - c);

b) be proportionate to the significant risks posed by the deficiencies identified, in the case referred to in para. (1) (d);

(c) be proportionate to the significant risks generated by the deviations in the case referred to in para. (1) (e).

(3) In the cases referred to in para. (1) sub-par. c) and d), A.S.F. shall monitor how the insurance undertakings remedy the deficiencies that led to the imposition of the Solvency Capital Requirement.

(4) Where A.S.F. imposes a solvency capital add-on in accordance with par. (1), it shall verify at least on an annual basis whether the insurance undertakings have remedied the deficiencies identified and take the necessary measures to eliminate it, where appropriate.

(5) The SCR which includes the Solvency Capital Requirement imposed in accordance with paras. (1) and (2) replaces the inadequate SCR.

(6) Notwithstanding para. (5), the capital add-on to the Solvency Capital Requirement imposed in the case referred to in para. (1) point (d) shall not be included in the SCR for the purpose of calculating the risk margin referred to in Article 54 para. (6).

Article 36 - Outsourced functions and activities. Insurance undertakings that outsource functions or activities in accordance with the provisions of Article 33 shall impose the following conditions on the service provider:

a) cooperate with A.S.F.;

b) allow insurance undertakings, their auditors and A.S.F. effective access to data on the outsourced function or activity;

c) allow A.S.F. access to the premises where it operates;

d) create conditions for A.S.F. to exercise its duties.

Article 37 - Information submitted to A.S.F. in the framework of the supervision process (**1)** Insurance undertakings shall submit to A.S.F. the information necessary for the conduct of the supervision process described in this section, on the basis of which it performs the following activities:

(a) assessment:

(i) the system of governance in place;

(ii) the activities carried out;

(iii) the valuation principles applied with regard to solvency;

(iv) risks and the risk management system;

(v) capital structure, capital requirements and capital management;

b) taking appropriate decisions as a result of the supervisory process.

(2) Insurance undertakings shall submit annually to A.S.F. the assessments referred to in Article 28 para. (6), including an ORSA report.

(3) If the reduction to zero of the matching adjustment or volatility adjustment leads to non-compliance with the SCR, insurance undertakings shall submit to

A.S.F. the analysis of the measures taken to restore the level of eligible own funds to cover the SCR or to reduce the risk profile so as to ensure compliance with the SCR.

(4) A.S.F. shall determine the nature, granularity and format of the information referred to in para. (1), which undertakings shall submit:

a) at predefined time intervals;

b) in case of predefined events;

c) during the performance by A.S.F. of assessments on the insurance undertakings financial capacity.

(5) A.S.F. shall request information on contracts concluded with intermediaries or third parties; A.S.F. shall also request external experts, such as auditors or actuaries, to provide information necessary for the supervisory process; the provision of information shall not constitute a breach of professional secrecy imposed by contractual clauses or by national law and shall not entail the liability of audit firms or members of the audit team.

(6) The information referred to in paras. (1) to (5) shall include the following:

a) quantitative and qualitative elements;

b) historical, current or prospective elements;

c) data from internal or external sources;

d) an appropriate combination of the elements and data referred to in points a)-c).

(7) The information referred to in paras. (1) - (5):

(a) reflect the principle of proportionality applied to the activity carried out, in particular the risks inherent to it;

b) are complete in all material respects, comparable and consistent over time;

c) are submitted in an accessible format;

d) are understandable and relevant.

(8) In order to comply with the requirements, set out in paras. (1) and (4) to (7), insurance undertakings shall establish written policies, systems and structures that ensure at all times that the information submitted to A.S.F. is of an adequate nature.

(9) Notwithstanding the provisions of Article 96, if thetimeframe at which the information issubmitted is less than one year, A.S.F. may limit the granularity of the information, if:

a) the process of submitting the information is onerous, under the conditions referred to in para. (13);

b) that information is included in the annual reporting.

(10) A.S.F. may limit the submission of information or exempt undertakings from submitting all reporting indicators if:

a) the process ofsubmitting the information is onerous under the conditions referred to in para. (13);

(b) the submission of that information does not reduce the effectiveness of the supervisory process;

(c) the exemption does not affect the stability of financial systems at the level of Member States;

d) they maysubmit that information ad hoc.

(11) The provisions referred to in paras. (9) and (10) shall not apply to insurance undertakings belonging to a group unless they demonstrate that the provision of information at intervals of less than one year is inappropriate having regard to the principle of proportionality applied to the risks of the group's business.

(12) The limitations and exemptions referred to in paras. (9) and (10) shall be granted, in ascending order, to undertakings representing up to 20% of the market share of the non-life insurance market, calculated on the basis of GWP, and up to 20% of the market share of the life insurance market, calculated on the basis of gross technical provisions.

(13) A.S.F. shall assess whether the process of submitting the information is burdensome in relation to the principle of proportionality, taking into account the following:

a) the volume of premiums, technical provisions and assets;

b) the volatility of claims and benefits covered by the company;

(c) market risk generated by the investment;

d) the level of risk concentration;

e) the total number of classes of life and non-life insurance authorized;

f) the possible effects of asset management on financial capacity;

g) the items referred to in para. (8);

h) the adequacy of the system of governance;

i) the level of own funds covering SCR and MCR;

j) the fact that they are captive undertakings;

k) other aspects provided for by legal provisions.

Article 38 - Transfer of portfolio (**1)** A.S.F. approves the transfer of all or part of the portfolio of contracts of insurance undertakings, including those concluded on the basis of the right of establishment or the freedom to provide services, to transferee insurance undertakings having their head office in Romania only if, after taking over the portfolio, they hold own funds eligible to cover the SCR.

(2) A.S.F. shall approve the transfer in whole or in part of the portfolio of contracts of insurance undertakings, including those concluded on the basis of the right of establishment or the freedom to provide services, to transferee insurance undertakings established in other Member States.

(3) The portfolio transfer referred to in para. (2) shall be approved by A.S.F. only if:

(a) the supervisor of the Member State of the divesting undertakings certifies that the divesting undertakings, after the takeover of the portfolio, hold own funds eligible to cover the SCR;

(b) the supervisors of the Member States of the branches of the transferring insurance undertakings or of the Member States where the insurance

undertakings operate under the freedom to provide services give their consent to the transfer.

(4) At the request of a supervisor of a Member State, in the case of a transfer of all or part of the portfolio of contracts, including those concluded under the right of establishment or the freedom to provide services, of a transferor company having its head office in the Member State, respectively, A.S.F., within 3 months:

a) where the transferee company is established on the territory of Romania, certify that the transferee company, after the portfolio has been taken over, does or does not hold own funds eligible to cover the SCR, unless it is in the situations referred to in Article 99 paras. (2) and (3) and Article 100 par. (2);

b) agrees or disagrees that the portfolio of branches established on the territory of Romania or the contracts concluded by the transferor undertakings on the territory of Romania on the basis of the freedom to provide services should be included in the transfer.

(4^1) The absence of a response from the supervisors consulted within a period of 3 months shall be considered as tacit agreement.

(5) The transferee company shall notify the policyholders and other persons having rights and obligations under the transferred contracts of the portfolio transfer approved under this Article within the time limit set in the decision approving the portfolio transfer, the policyholders having the right to terminate the contracts and to request the return of the premiums paid in advance and relating to the unexpired validity period.

SECTION 4
Report on solvency and financial capacity

Article 39. - Content (**1)** Insurance undertakings, taking into account the provisions of Article 37 paras. (6) and (7), publish an annual report on solvency and financial capacity, which shall include the information in full or make references to equivalent information published under other legal provisions.

(2) The report referred to in para. (1) shall include information on:

a) activity and performance;

(b) the system of governance and the assessment of its adequacy to the risk profile;

c) risk sensitivity and exposure, risk minimization and risk concentration, each broken down by risk categories;

(d) the bases and methods used for the valuation of assets, technical provisions and other liabilities, separately for each of them, together with explanations if there are any major differences between them and those used for the valuation of assets, technicalprovisions and other liabilities in the financial statements;

e) capital management, in respect of the following:

(i) the structure, amount and quality of own funds;

(ii) SCR and MCR value;

(iii) the main differences between the assumptions underlying the standard formula and those underlying the internal model used to calculate the SCR;

(iv) the material amount by which the SCR was not met and the amount by which the MCR was not met during the reporting period, even if the situation has been remedied.

(3) The data referred to in para. (2) sub-par. (e) item (iv) shall be accompanied by explanations of the causes and consequences of non-compliance with the SCR and MCR, as well as the remedial measures taken.

(4) In the case of use of the matching adjustment in accordance with Article 55 paras. (2) to (6), the information referred to in para. (2) sub-paragraph) d) shall include:

a) description of the matching adjustment;

b) the portfolio of liabilities and allocated assets to which it is applied;

c) quantification of the impact on the financial capacity of reducing the matching adjustment to zero.

(5) Where a volatility adjustment is used in accordance with Article 55 paras. (8) to (16), the information referred to in para. (2) (d) shall include:

a) the declaration of its use;

(b) quantify the impact on the financial statement of reducing the volatility adjustment to zero.

(6) The information referred to in para. (2) sub-para. (e) item (i) shall include an analysis of significant changes since the previous reporting period, an explanation of major differences in the value of own fund items in the financial statements and a brief description of the transferability of capital.

(7) The information on SCRs and MCRs referred to in para. (2) sub-par. (e) item (ii) shall separately highlight:

a) the value calculated according to the standard formula or internal model;

(b) the amount of the capital add-on to the Solvency Capital Requirement, if applicable;

c) the impact of the specific parameters used further to the A.S.F.'s decision issued pursuant to Article 81 and concise explanations on how A.S.F. justified its decision.

(8) The information on the SCR shall be accompanied, where applicable, by a statement that its final value is being assessed by A.S.F.

(9) Insurers offering insurance-based investment products shall comply with the applicable provisions of Regulation (EU) No 2019/2088 of the European Parliament and of the Council of 27 November 27 2019 on sustainability disclosures in the financial services sector.

Article 40 - Principles applicable (**1)** A.S.F. allows insurance undertakings not to publish certain information, except for the information referred to in Article 39 para. (2) sub-paragraph) e), when:

a) the publication of that information infringes the principle of competition;

(b) there are certain obligations to policyholders or certain relationships with counterparties which require them to respect confidentiality.

(2) A.S.F. shall allow insurance undertakings to refer to information already published in accordance with other legal provisions, as long as it is equivalent in nature and granularity to the information provided for in Article 39.

(3) If A.S.F. allows the non-publication of certain information in accordance with para. (1), insurance undertakings shall state so in the report and explain the reasons.

Article 41 - Additional information and updating of the report (**1)** Insurance undertakings shall publish additional information on the nature and effects of material changes affecting the relevance of the information published in accordance with Articles 39 and 40.

(2) Significant changes within the meaning of para. (1), one of the following situations:

a) if the MCR is no longer observed and A.S.F. considers that the insurance undertakings cannot present a realistic short-term financing plan or they do not submit it to A.S.F. within one month from the date of the finding of non-compliance with the MCR;

b) where the materiality of the non-compliance with the SCR is high, undertakings fail to submit to A.S.F. a realistic recovery plan within two months from the date of the finding of non-compliance with the SCR.

(3) In the situations referred to in para. (2), insurance undertakings shall immediately publish:

a) the amount by which the SCR is not complied with and explanations of its causes and consequences;

b) the amount by which the MCR is not respected and explanations of the causes and consequences;

(c) the remedial measures taken.

(4) If the deficiency referred to in para. (2) sub-para. (a) is not remedied within 3 months and the deficiency referred to in para. (2) sub-par. (b) is not remedied within 6 months and those plans prove ineffective at the end of those periods, the insurance undertakings shall publish that fact, including the new planned remedial measures.

(5) In addition to the requirements set out in Articles 39 and 40, insurance undertakings may disclose other information on solvency and financial condition.

Article 42 - Strategy and approval (**1)** Insurance undertakings shall establish appropriate systems and structures to ensure compliance with the requirements set out in Articles 39-41 and shall adopt strategies on the ongoing adequacy of the respective information.

(2) The solvency and financialcapacity report shall be published only after it has been approved by the management of the undertakings.

SECTION 5
Qualifying holdings

Article 43 - Acquisitions (**1)** Potential acquirers shall submit the proposed acquisition to A.S.F. drawn up in accordance with the legal provisions, indicating the size of the stake to be held.

(2) Shareholders who intend to dispose, directly or indirectly, of a qualifying holding shall notify A.S.F. of such intention, indicating the proportion of the holding held as a result of the disposal.

(3) The notification referred to in para. (2) shall also be made where shareholders decrease their qualifying holding in a company so that:

a) voting rights or capital held falls below 20%, 33% or 50%;

(b) the company ceases to be their subsidiary.

Article 44 -Assessment deadline (**1)** A.S.F. shall send to the potential acquirer, within two working days, an acknowledgment of receipt of the proposed acquisition or of the information referred to in paras. (2) and (3), specifying the date of expiry of the deadline for assessment of the project.

(2) During the assessment period, but not later than the 50th business day, A.S.F. may request the potential acquirer to submit, within 20 business days at the latest, additional documents and information necessary to finalize the assessment of the proposed acquisition.

(3) The assessment period shall be interrupted between the date of the written request for the additional information referred to in para. (2) and the date of receipt; in the case of subsequent requests, theassessment period shall not be interrupted.

(4) The period of interruption of the assessment period may be extended up to a maximum of 30 business days where the proposed acquirer is established and regulated in a third country or is not supervised by a competent financial authority of a Member State.

(5) A.S.F.'s decision to approve the proposed acquisition may specify a deadline for its completion, which may be extended by A.S.F. when necessary.

(6) If, following the assessment, A.S.F. does not approve the proposed acquisition, it shall notify the potential acquirer of the duly reasoned decision within two business days of its adoption; A.S.F. shall publish the decision when it deems it necessary.

(7) The proposed acquisition shall be deemed approved if A.S.F. does not communicate to the potential acquirer, within theassessment period, the decision referred to in para. (6).

(8) The decision referred to in para. (6) may be challenged in accordance with the provisions of Article 165.

Article 45 - Assessment (**1)** A.S.F. assesses the impact of the potential acquirer on the fair and prudent management of the company concerned by the proposed acquisition, based on the following criteria, cumulatively:

a) the fitness and propriety suitability of the potential acquirer;

(b) the financial stability of the proposed acquirer, in particular in relation to the business carried on by the company at that time and the business described in the proposed acquisition;

c) the moral character and professional experience of the persons who are to have managerial responsibilities as a result of the proposed acquisition;

d) the ability of the company to comply with the legal provisions and national legislation on supplementary supervision of insurance groups and financial conglomerates, as laid down in Government Emergency Ordinance No. 98/2006, approved with amendments and additions by Law No. 152/2007, as amended and supplemented;

e) the existence of reasonable grounds to suspect, in relation to the proposed acquisition, that a money laundering or terrorist financing operation is being, has been or is attempted or that the proposed acquisition could increase the risk thereof, within the meaning of Law no. 656/2002 on the prevention and sanctioning of money laundering, as well as for the establishment of measures to prevent and combat terrorist financing, republished, as amended.

(2) A.S.F. may refuse to approve the proposed acquisition only if there are reasonable grounds to do so, in accordance with the criteria set out in para. (1), or if the information provided by the potential acquirer is incomplete.

(3) The proposed acquisition shall be drawn up in accordance with the list of information necessary for its assessment, published by A.S.F. on its website in accordance with Article 8 para. (2) sub-par. a); this information shall be relevant and proportionate to the nature of the proposed acquirer and the proposed acquisition and shall be submitted to A.S.F. together with the notification pursuant to Article 43.

(4) Without prejudice to the provisions of Article 44 para. (1) - (4), A.S.F. shall assess in a non-discriminatory manner the proposed acquisitions notified by several potential acquirers for the same company.

(5) In the process of assessing the proposed acquisition, in the case of insurance undertakings listed on the capital market, the shareholders' voting rights shall be assessed in accordance with the provisions of the specific Romanian legislation.

Article 46 - Acquisitions made by regulated financial entities. The decision made by A.S.F. on a proposed acquisition in the cases referred to in Article 10 para. (10) shall state the views or reservations expressed by the supervisory authority of the proposed acquirer.

Article 47 - Information submitted by insurance undertakings (**1)** Insurance undertakings shall inform A.S.F. about the acquisition or disposal of shareholdings that lead to a change in the shareholding thresholds of 20%, 33% or 50% of the shareholders or associates.

(2) Insurance undertakings shall communicate to A.S.F., at least annually:

a) the identity of the shareholders or associates holding qualifying holdings;

b) the value of participations held, in accordance with:

(i) register of shareholders;

(ii) the specific legislation applicable to undertakings listed on the capital market.

Article 48. - Measures adopted by A.S.F. A.S.F. adopts the measures provided for in Article 163, paras. (6), (7), (9) and para. (10) thesis II, if it

considers that the influence exercised by the persons referred to in Article 43 is likely to prejudice the fair and prudent management of the company or if they have not submitted to A.S.F. the proposed acquisition or have not notified A.S.F. of the intention to acquire or dispose of.

SECTION 6

Simultaneous pursuit of life and non-life insurance activity

Article 49 - Separate administration of activities. (**1)** Composite insurers and those who have obtained authorization following the application provided for in Article 20 para. (5):

(a) run life and non-life insurance activity separately so that policyholders' rights are respected;

b) organize and keep separate accounts for the two categories of insurance;

(c) show directly the assets and liabilities, income and expenditure items for the two categories of insurance;

(d) use substantiated allocation keys, in compliance with the specific legislation applicable to assets and liabilities, income and expenditure items which cannot be directly identified;

(e) have procedures, approved by management, for the allocation of assets and liabilities, income and expenditure and the principles underlying the determination of the allocation keys for those items that cannot be directly allocated;

f) the allocation keys approved by the management are notified to and approved by A.S.F. and are maintained for at least one financial year.

(2) Without prejudice to Article 72 para. (1) and Article 95 para. (1), the insurers referred to in para. (1) shall calculate, on the basis of separate accounts:

a) Notional MCR for life insurance business;

b) Notional MCR for non-life insurance business.

(3) The insurers referred to in par. (1) shall at all times hold basic own-fund items to cover the notional MCRs referred to in para. (2) and may not use basic own fund items relating to one activity to cover the MCR of the other activity.

(4) The insurers referred to in para. (1) may use elements of eligible surplus own funds related to one activity to cover the SCR of the other activity, subject to the following conditions:

a) Notional MCRs are respected;

b) request the approval of A.S.F. for this purpose.

(5) On the basis of the accounting records, the insurers referred to in para. (1) shall determine the items which shall be classified, for each notional MCR, in basic own funds Tier 1 and Tier 2 in accordance with Article 71 par. (4).

(6) If the amount of eligible basic own funds items related to one of the activities is insufficient to cover the notional MCR of that activity, A.S.F. shall impose measures to remedy the situation of the deficient activity, in accordance with the legal provisions, regardless of the results of the other activity, as if that

activity were carried out by a separate entity; by way of exception from the prohibition not to use basic own funds items related to one activity to cover the MCR of the other activity, provided for in para. (3), such measures may include the approval by A.S.F. of an explicit transfer of eligible basic own fund items from one activity to the other.

Article 50 - Specific provisions. (**1)** Insurers authorized following the request provided for in Article 20 para. (5) shall comply with the accounting regulations relating to life insurance for all activities carried out.

(2) Insurerspracticing non-life insurance having financial, commercial and administrative links with life insurers shall not enter into contracts or other arrangements with life insurers which have a negative impact on their financial statement.

SECTION 7
External auditors

Article 51 - Duties of external auditors. (**1)** Insurance undertakings shall submit their financial statements or consolidated financial statements to a statutory audit carried out by financial audit firms that are members of the Chamber of Financial Auditors of Romania, with the approval of A.S.F.

(2) A.S.F. may require insurance undertakings to carry out an audit for a purpose other than that provided for in para. (1) and may set the standards applicable in the situation in question.

(3) Financial audit firms shall have adequate experience and independence and their employees shall comply with the requirements referred to in Article 27.

(4) The team carrying out the audit referred to in para. (1) shall include at least one actuary who fulfils the conditions described in Article 32 para. (2) and who has not entered into a contract with another company or with another entity belonging to the same group as the audited company.

(5) During the statutory audit mission of undertakings, the audit team must inform A.S.F. at the time of finding significant issues that may have one of the following consequences:

a) violation by insurance undertakings of the legal provisions regarding the licensing conditions and conduct of business;

(b) potential risks of discontinuity in the business;

c) affecting the patrimonial situation;

d) expressing a qualified opinion on the financial statements or refusing to provide an opinion;

e) non-compliance with the SCR;

f) non-compliance with the MCR.

(6) The financial auditors, while performing their duties in an entity that has close links with a company on which they perform the statutory audit, shall inform A.S.F. about the matters related to the audited company, upon the request of A.S.F. or at the time of the finding of such facts.

(7) The information referred to in paras. (5) and (6) shall be communicated by the financial auditors and the management of the audited insurance undertakings, unless there are compelling reasons for not doing so.

(8) Thesubmission of the information referred to in paras. (5) and (6) shall not constitute a breach of professional secrecy imposed by contractual clauses or by national law and shall not give rise to liability of audit firms or audit team members.

(9) A.S.F. may ask the audit team for details, clarifications or explanations regarding the financial statements of the audited undertakings or the audit activity carried out, as well as the documents prepared by the audit team in case the clarifications are considered insufficient.

(10) A.S.F. shall inform the Chamber of Financial Auditors of Romania about the non-compliance by the financial auditors with the provisions of paras. (5) and (6), in order to adopt the necessary measures to remedy the situation.

CHAPTER V
Solvency

SECTION 1
Valuation of assets and liabilities

Article 52 - Valuation of assets and liabilities. Insurance undertakings shall value their assets and liabilities as follows:

(a) assets, at the value at which they could be traded between counterparties in an objective transaction;

(b) liabilities, at the amount at which they could be transferred or settled between counterparties in an arm's length transaction, without any adjustment for credit deterioration.

SECTION 2
Technicalprovisions

Article53 - General provisions. **(1)** Insurance undertakings shall establish technicalprovisions to cover all their obligations towards policyholders and beneficiaries.

(2) The value of technicalprovisions shall correspond to the present amount which insurance undertakings would pay to other undertakings if they immediately transferred their liabilities to them.

(3) The prudent, reliable and objective calculation of technical provisions shall be based on information provided by the financial markets and generally available data on underwriting risk, in accordance with the realistic approach.

(4) Insurance undertakings shall calculate technical provisions in accordance with Article 54, subject to the conditions laid down in paras. (2) and (3) and Article 52.

Article 54 - Calculation of technical provisions **(1)** The value of technical provisions shall be equal to the sum of the best estimate and the risk margin, set out in paras. (2) to (5), respectively in paras. (2) to (5), respectively in paras. (2) to (5), and para. (6) respectively.

(2) The best estimate corresponds to the probability-weighted average of future cash flows, taking into account the time value of money and using the relevant risk-free interest rate term structure; the time value of money is understood as the estimated present value of future cash flows.

(3) The calculation of the best estimate shall be carried out using relevant and appropriate actuarial and statistical methods, based on credible and up-to-date information and realistic assumptions.

(4) The cash flow projection used to calculate the best estimate shall take into account all cash inflows and outflows required to cover the obligations over their lifetime.

(5) The best estimate shall be calculated on a gross basis, without deducting claims from reinsurance or special-purpose vehicles, which shall be calculated separately, as provided for in Article 58.

(6) The risk margin shall be calculated in such a way as to ensure a sufficient amount of technical provisions, which would be needed by the undertakings in order to be able to assume and cover their obligations.

(7) The best estimate and the risk margin shall be calculated separately, unless the cash flows associated with the obligations can be adequately replicated using financial instruments with an observable and reliable market value, so that the amount of technicalprovisions is calculated on the basis of the market value of those instruments.

(8) Where the risk margin is calculated separately, it shall be based on the cost of capital equal to the SCR required to cover the obligations over their lifetime.

(9) The rate used by insurance undertakings to determine the cost of capital referred to in para. (8) shall be the additional rate, revised periodically, to the relevant risk-free interest rate required to maintain eligible own funds covering the SCR.

Article 55 - Long-term guarantees. **(1)** The relevant risk-free interest rate term structure shall be derived from financial instruments and bonds whose maturities materialize in a diversified, liquid and transparent market; otherwise, the relevant term structure shall be extrapolated as follows:

a) on the basis of the forward rates of the longest observable maturities for financial instruments and bonds in a diversified, liquid and transparent market, which are uniformly derived from a set of forward rates and converge towards the latest forward rate;

(b) on the basis of risk-adjusted risk-free interest rates.

(2) Insurance undertakings may apply, under the conditions referred to in Article 166 para. (1) sub-par. h), a premium for balancing the relevant risk-free interest rate term structure to calculate the best estimate for a portfolio of life

insurance or reinsurance liabilities, including annuities arising from non-life insurance or reinsurance, and under the following conditions:

(a) insurance undertakings shall allocate a portfolio of assets consisting of bonds and other assets with similar cash flow characteristics to cover the best estimate of the portfolio of insurance or reinsurance obligations and maintain that allocation over the life of the obligations, except for the purpose of maintaining the equivalence of the estimated cash flows of the assets and liabilities where there has been a material change in cash flows;

(b) the portfolios of assets and insurance or reinsurance liabilities referred to in point (a) shall be identified, organized and managed separately from the other activities of the company and the portfolio of assets may not be used to cover losses arising from other activities;

(c) the assets are held in the same currency as the insurance or reinsurance obligations they cover and any mismatches that may arise do not give rise to material risks added to the risks inherent in the business to which the matching adjustment applies;

(d) the contracts that make up the portfolio of insurance or reinsurance liabilities do not give rise to future premium payments;

(e) the only underwriting risks associated with the portfolio of insurance or reinsurance obligations are mortality risk, expense risk, revision risk and longevity risk;

f) in the case of mortality risk, the best estimate shall be increased by up to 5% under stressful conditions, the calibration being in accordance with the provisions of Article 72 paras. (2) - (4);

(g) the contracts which make up the portfolio of insurance or reinsurance liabilities shall not include options for policyholders or shall only include the option to surrender up to the value of the assets of the obligation in question at the time of surrender;

(h) the asset cash flows are fixed and cannot be modified by issuers or third parties;

(i) the portfolio of insurance or reinsuranceliabilities shall include all liabilities in respect of covered contracts which may not be divided.

(3) Notwithstanding the provisions of para. (2) sub-par. (h), undertakings applying a matching adjustment may use assets with variable cash flows:

a) if they are dependent on inflation in a similar way to liabilities;

(b) if the issuer or the counterparty changes cash flows, the compensation received by the insurance undertakings allows them to reinvest in assets eligible to cover the bond portfolio and of equivalent or higher credit quality.

(4) Insurance undertakings applying a matching adjustment may not use another method, and if the conditions referred to in para. (4) are no longer met, they shall immediately inform A.S.F. of the measures taken to remedy the situation within a maximum of two months from the date of the finding, and if this is not possible, they shall no longer use a matching adjustment for a period of 24 months.

(5) Insurance undertakings shall not use a matching adjustment when applying the volatility adjustment referred to in paras. (8) to (16) or the transitional measure referred to in Article 167.

(6) For each currency, undertakings shall calculate the matching adjustment in accordance with the following principles:

a) the matching adjustment is strictly equal to the difference between the following elements:

(i) the annual accrued rate, calculated as a single discount rate which, when applied to the cash flows of the bond portfolio, results in a value equal to the value of the allocated asset portfolio;

(ii) the annual accrued rate, calculated as a single discount rate which, when applied to the cash flows of the bond portfolio, results in a value equal to the best estimate that takes into account the time value of money using the relevant risk-free interest rate term structure;

(b) the matching adjustment does not include the historical credit margin reflecting the risks retained by the undertakings;

(c) without prejudice to point (a), the historical credit margin shall be increased where necessary in order to ensure that the matching adjustment applied to assets of lower credit quality does not exceed the matching adjustment applied to assets of higher credit quality, both asset classes having the same duration and being of the same credit quality;

d) the use of external credit assessments in the calculation of the matching adjustment shall be carried out in accordance with the legal provisions.

(7) The historical credit margin referred to in para. (6) sub-par. c):

a) is equal to the sum of the following elements:

(i) the credit spread corresponding to the probability of non-collection of asset-related claims determined on the basis of long-term statistical data on assets of the same duration, credit quality and asset class;

(ii) the credit spread corresponding to the expected loss due to the decline in asset quality;

b) in the case of exposures to governments and central banks of the Member States, at least 30% of the long-term average of the credit spread over the risk-free interest rate of assets of the same maturity, credit quality and asset class observable in the financial markets;

(c) for assets other than exposures referred to in point (b), at least 35% of the long-term average of the credit spread over the risk-free interest rate of assets of the same duration, credit quality and asset class observable in the financial markets;

(d) corresponds to the percentages referred to in sub-pars. (b) and (c) if a credible credit spread cannot be determined from the statistical data referred to in sub-par. (a) item (i).

(8) The volatility adjustment applied to the relevant risk-free interest rate term structure to calculate the best estimate in accordance with Article 166 para. (1) item (i), shall be determined on the basis of the spread between the interest rate

generated by the assets in a benchmark portfolio and the rates of the relevant risk-free interest rate term structure for each currency.

(9) The portfolio of assets referred to in para. (8) shall be representative of each currency and of the assets denominated in that currency in which undertakings invest in order to cover the best estimate of the liabilities held in the same currency.

(10) The amount of the volatility adjustment referred to in par. (8) shall be 65% of the risk-adjusted currency margin calculated as the difference between the margin referred to in the same paragraph and the percentage of that margin attributed to the realistic assessment of expected losses, unexpected credit risk or other risks inherent in the assets.

(11) The volatility adjustment referred to in para. (8) shall apply only to the interest rate points for which the extrapolation referred to in para. (1); the extrapolation shall be carried out on the basis of the adjusted interest rate points.

(12) The increase referred to in para. (13) shall be made before application of the 65% referred to in para. (10).

(13) For each relevant jurisdiction, the volatilityadjustment shall be increased by the difference between the risk-adjusted jurisdiction margin and twice the risk-adjusted currency margin, if that difference is positive and the risk-adjusted jurisdiction margin exceeds 85 basis points.

(14) The volatility adjustment increased in accordance with the provisions of para. (13) shall apply only to products marketed in that jurisdiction.

(15) The risk-adjusted jurisdiction margin shall be calculated in the same way as the risk-adjusted currency margin under para. (10), with the reference portfolio being representative of assets that are denominated in the currency of that jurisdiction and that cover the best estimate of the liabilities related to the products traded in that jurisdiction.

(16) By way of exception from the provisions of Article 72, the SCR shall not cover losses incurred by basic own funds due to changes in the volatility adjustment.

(17) Insurance undertakings shall use the following technical information published quarterly by EIOPA and requested by the European Commission, for each relevant currency:

a) the relevant term structure of the risk-free interest rate;

(b) the historical credit spread for duration, credit quality and relevant asset classes;

(c) the volatility adjustment for each relevant national insurance market; undertakings may apply the volatility adjustment only in respect of those national currencies and markets for which directly applicable regulatory acts issued by the European Commission provide for it.

Article 56 - Other elements for the calculation of technical provisions (**1)** When calculating technical provisions, in addition to the elements set out in Article 54, the following shall be taken into account:

a) all expenses relating to the administration of insurance and reinsurance liabilities;

b) inflation, including expenses and damages;

(c) payments to policyholders and beneficiaries, including estimated future discretionary benefits, whether contractually guaranteed or not, unless the payments fall under Article 66;

d) the amount of financial guarantees and all contractual options included in insurance and reinsurance contracts;

e) the likelihood of contract options being exercised by policyholders.

(2) The assumptions used to determine the probability referred to in para. (1) sub-par. (e) shall be realistic, based on reliable and up-to-date information and shall be established taking into account, explicitly or implicitly, the impact that possible changes in financial and non-financial capacity may have on the exercise of the options concerned.

Article 57 – Segmentation. For the purpose of calculating technical provisions, undertakings shall segment insurance and reinsurance liabilities into homogeneous risk groups and, at least, by lines of business.

Article 58 - Claims from reinsurance or special- purpose vehicles (**1)** Insurance undertakings shall calculate claims from reinsurance or special-purpose vehicles in accordance with the provisions of Articles 53 to 57 and taking into account the time lag between the time of direct payment and the time of actual recovery of those claims.

(2) The result obtained under para. (1) shall be adjusted on the basis of the assessment of the probability of non-collection of claims and the resulting average losses.

Article 59 - Quality of data and approximations used. (**1)** Undertakings shall establish procedures and processes in their application to ensure the appropriateness, completeness and accuracy of the data used to calculate technical provisions.

(2) Insurance undertakings may use appropriate best estimate approximations where they do not have sufficient data of adequate quality to apply an appropriate actuarial method to sets or subsets of insurance and reinsurance liabilities or reinsurance or special-purpose vehicles claims.

Article 60 - Results obtained and previous experience. Insurance undertakings shall establish procedures and processes in their application that allow for ongoing comparison of best estimate values and assumptions established with those obtained and previously established and, in the event of the identification of systematic differences, make adjustments to the actuarial methods used and/or assumptions established.

Article 61 - Adequacy and increase of technical provisions. **(1)** A.S.F. shall require undertakings to document:

(a) the adequacy of the level of technical provisions;

b) the adequacy and relevance of the statistical methods and data used.

(2) Ifthe provisions of Articles 53-60 are not complied with when calculating the technical provisions, A.S.F. shall require the insurance undertakings to

increase the amount of technical provisions up to the minimum accepted level for the purpose of compliance with the respective provisions.

SECTION 3
Own funds

SUBSECTION 3.1
Determination of own funds

Article 62 - General provisions. Own funds shall be the sum of the basic own funds provided for in Article 63 and the ancillary own funds provided for in Article 64.

Article 63 - Basic own funds. Basic own funds shall comprise the following items:

(a) the excess of assets over liabilities, valued in accordance with Article 52, less the value of own shares held;

b) subordinated debts.

Article 64 - Ancillary own funds. **(1)** Ancillary own funds shall comprise items other than basic own funds which may be called on to cover losses, such as:

a) share capital or initial fund, unpaid and that has not been called up;

b) letters of credit and guarantees;

(c) other contractually binding instruments available to insurance undertakings.

(2) In the case of mutual insurance undertakings with variable contributions, ancillary own funds may comprise additional calls for capital from members realized in the following 12 months.

(3) Where an ancillary own fund item is paid up or called up, it shall be treated as an asset item and shall no longer be an ancillary own fund item.

Article 65 - Approval of auxiliary own funds. **(1)** A.S.F. approves, in accordance with Article (1) sub-par. a), the amount of ancillary own fund items included in the total amount of own funds.

(2) The value of ancillary own-fund items shall be determined using prudent and realistic estimates and, if the items have a fixed nominal value, that value shall be taken into account only to the extent that it adequately reflects the ability of those items to cover losses.

(3) A.S.F. approves one of the following:

(a) the monetary value of each ancillary own fund item;

(b) the method of calculating the value of each ancillary own fund item for a specified period of time.

(4) With a view to the approval referred to in para. (3), A.S.F. shall assess, for each ancillary own funds item, the following aspects:

(a) the ability and willingness of counterparties to honour obligations;

(b) the recoverability of ancillary own funds, depending on the legal form and any conditions making it impossible to pay out or call up those items;

c) all information on previous appeals, if it facilitates the assessment of the outcome of future appeals.

Article 66 - Surplus funds. Surplus funds are accumulated undistributed profits to policyholders and beneficiaries and are not considered as insurance and reinsurance liabilities if they meet the criteria set out in Article 68.

SUBSECTION 3.2
Classification of own funds

Article 67 - Characteristics. **(1)** In classifying own fund items in accordance with Article 68, the following characteristics shall be taken into account:

(a) the item is available or can be called on to cover losses in full, so as to ensure the continuation of the business;

(b) in the event of liquidation of insurance undertakings, the item is available in full to cover losses, with repayment to the holders of the item being made only after settlement of all liabilities, including insurance or reinsurance liabilities.

(2) In assessing the extent to which own fund items meet the characteristics referred to in para. (1), the following shall be taken into account:

a) lifetime;

(b) relative lifetime compared with the duration of the insurance and reinsurance obligations, where there is a maturity;

(c) are not subject to any obligation or incentive to repay the nominal amount;

d) are not subject to mandatory fixed administration fees;

e) are free of encumbrances.

Article 68 - Main criteria for classification by tiers. Own funds items shall be classified in 3 tiers as follows:

(a) Tier 1: basic own fund items, if they substantially have the characteristics set out in Article 67;

b) Tier 2:

(i) basic own fund items, where they largely exhibit the characteristics set out in Article 67 para. (1) sub-par. (b) and par. 2;

(ii) ancillary own fund items, if they substantially have the characteristics set out in Article 67;

(c) Tier 3: allbasic and ancillary own fund items which are not covered by sub-pars. (a) and (b).

Article 69 - Classification by tiers. **(1)** Insurance undertakings shall classify own fund items taking into account the criteria referred to in Article 68 and the list of own fund items contained in the legal provisions.

(2) Where there are own fund items which are not provided for in the list of items set out in para. (1), undertakings shall apply to A.S.F., in accordance with Article 166 para. (1) sub-paragraph) b), the approval of their valuation and classification carried out in accordance with Article 68.

Article 70 - Classification of insurance-specific own funds items. Without prejudice to Article 68, insurance-specific own funds shall be classified as follows:

a) tier 1: surplus funds referred to in Article 66;

b) tier 2:

(i) letters of credit and guarantees, held in the custody of an independent trustee for the benefit of the policyholders and provided by credit institutions authorized in accordance with Government Emergency Ordinance no. 99/2006, approved with amendments and additions by Law no. 227/2007, as amended and supplemented;

(ii) the applications for additional contributions, in the following 12 months, by mutual reinsurance undertakings covering risks in classes in point A of Annex 1;

(iii) requests for additional contributions, within the following 12 months, from mutual reinsurance undertakings covering risks other than those referred to in point (ii).

SUBSECTION 3.3
Eligibility of own funds

Article 71 - Eligibility of items and limits applicable to tiers. **(1)** Insurance undertakings shall hold own fund items eligible for compliance with the SCR as follows:

a) Tier 1 items: more than one third of the total amount of eligible own funds;

(b) Tier 2 elements: according to the quantitative limits specified by the legal provisions;

c) Tier 3 items: within the quantitative limits specified by the legal provisions and less than one third of the total amount of eligible own funds.

(2) The value of the eligible own fund items covering the SCR shall be equal to the sum of the value of the tier 1 items and the value of the eligible tier 2 and 3 items set out in para. (1).

(3) Undertakings shall hold basic own fund items eligible for compliance with the MCR as follows:

a) Tier 1 items: more than half of the total amount of eligible basic own funds;

(b) Tier 2 elements: according to the quantitative limits specified by the legal provisions.

(4) The value of the eligible basic own fund items covering the MCR shall be equal to the sum of the value of the Tier 1 items and the value of the eligible Tier 2 items set out in para. (3).

SECTION 4
Solvency Capital Requirement

SUBSECTION 4.1
General provisions

Article 72 - Calculation of SCR. **(1)** Insurance undertakings shall be required to hold eligible own funds to cover the SCR, calculated by a standard formula or an internal model in accordance with Subsection 4.2 and Subsection 4.3 respectively.

(2) The SCR shall be calculated taking into account the going-concern principle and shall be calibrated so as to take into account all quantifiable risks to which undertakings are exposed.

(3) In performing the calibration referred to in para. (2) shall take into account unexpected losses from ongoing business and all new contracts to be written in the next 12 months.

(4) The calibration referred to in para. (2) shall be based on the Value-at-Risk of Basic Own Funds at a 99.5% confidence level over a one-year period.

(5) The SCR shall cover at least the following risks:

a) underwriting risk for non-life insurance business;

b) underwriting risk for life insurance business;

c) underwriting risk for health insurance business;

(d) market risk;

(e) credit risk;

f) operational risk, which includes legal risk but excludes reputational risk and decision risk.

(6) When calculating the SCR, insurance undertakings shall take into account the effect of risk minimization techniques, provided that credit risk and other risks related to these techniques are appropriately reflected in the SCR.

(7) The SCR may be adjusted only in accordance with Articles 35, 79, Articles150-152 and Article 155 paras. (1) and (2).

Article 73 - Frequency of calculation. **(1)** The insurance undertakings shall calculate the SCR at least once a year and shall send the result to A.S.F.

(2) Insurance undertakings shall hold eligible own funds covering the reported SCR and shall monitor the amount of those funds and the level of the SCR.

(3) If a company's risk profile deviates significantly from the assumptions underlying the calculation of the reported SCR, the SCR shall be recalculated and the result shall be submitted to A.S.F.

(4) A.S.F. shall require insurance undertakings to recalculate the SCR if their risk profile changes significantly since the last reporting date.

SUBSECTION 4.2

SCR calculation with the standard formula

Article 74 - The structure of the SCR standard formula calculated with the standard formula is equal to the sum of the following elements:

a) Basic SCR, provided for in Article 75;

(b) the capital requirement for operational risk set out in Article 78;

(c) the adjustment taking into account the capacity of technical provisions and deferred taxes to cover losses provided for in Article 79.

Article 75 - Structure of the basic SCR. **(1)** The basic SCR shall consist of individual risk modules, aggregated as set out in Annex no. 2, and shall comprise at least the following:

a) underwriting risk for non-life insurance business;

b) underwriting risk for life insurance business;

c) underwriting risk for health insurance business;

(d) market risk;

(e) counterparty risk.

(2) In the case of the modules referred to in para. (1), sub-pars. (a) to (c), insurance and reinsurance operations shall be allocated to the module which best reflects the technical nature of the risks captured.

(3) The overall SCR shall be determined in accordance with Article 72 by calibrating the capital requirements for each risk module and aggregating the respective modules by correlation coefficients.

(4) The risk modules referred to in para. (1) shall be calibrated in accordance with Article 72 paras. (2) to (4) and, where appropriate, the structure of each module shall take into account diversification effects.

(5) The structure and specifications of the risk modules shall be used both for the calculation of the basic SCR and for the simplified calculations referred to in Article 80.

(6) For the disaster risk related to the modules referred to in para. (1) sub-pars. (a) to (c), geographical specifications shall be used, where appropriate.

(7) For the modules referred to in para. (1) sub-pars. a) - c), under the conditions specified by the legal provisions and by Article (1) sub-par. c), undertakings may use specific parameters instead of a subset of parameters from the structure of the standard formula, calibrated by standardized methods and based on internal data or data directly relevant to the operations carried out.

(8) In order to use specific parameters, undertakings shall request the approval of A.S.F., which shall verify the completeness, accuracy and adequacy of the respective data.

Article 76 - Calculation of the basic SCR. **(1)** The general underwriting risk module reflects the risk arising from non-life insurance obligations, depending on:

a) insured events;

b) the way in which the activity is carried out;

(c) the uncertainty of the results of the activity in relation to the related obligations;

(d) new contracts expected to be subscribed in the next 12 months.

(2) Thenon-life underwriting risk module shall be calculated in accordance with Annex No 2 as a combination of capital requirements, at least for the risks of loss or adverse change in the value of insurance liabilities, resulting therefrom:

a) for the premiums and provisions risk sub-module, as a result of fluctuations between the time of occurrence, frequency and severity of insured events and the amount of claims and the time of their payment;

b) for the catastrophic risk sub-module, as a result of a significant level of uncertainty in the assumptions used in setting the tariffs and the amount of provisions for extreme or exceptional events.

(3) The life insurance underwriting risk module shall reflect the risk arising from life insurance obligations, depending on the insured events and the manner in which the business is conducted.

(4) The life underwriting risk module shall be calculated in accordance with Annex No 2 as a combination of capital requirements, at least for the risks of loss or adverse change in the value of insurance liabilities, resulting therefrom:

(a) for the mortality risk sub-module, following changes in the level, trend or volatility of the mortality rate, where an increase in the mortality rate leads to an increase in the value of the obligations;

(b) for the longevity risk sub-module, following changes in the level, trend or volatility of the mortality rate, where a decrease in the mortality rate leads to an increase in the value of the liabilities;

c) for the disability - morbidity risk sub-module, as a result of changes in the level, trend or volatility of disability, sickness or morbidity rates;

(d) for the life insurance expense risk sub-module, as a result of changes in the level, trend or volatility of expenses related to the administration of contracts;

(e) for the revision risk sub-module, following changes in the level, trend or volatility of the annuity revision rate due to changes in the legal framework or in the health status of the insured;

(f) for the lapse risk sub-module, as a result of changes in the level or volatility of the rates of termination, renewal or surrender of insurance policies;

g) for the catastrophic risk sub-module, as a result of the significant degree of uncertainty in the assumptions used in setting tariffs and the amount of provisions for extreme or irregular events.

(5) The health underwriting risk module shall reflect the risk arising from health insurance obligations, whether or not underwriting is carried out on a similar technical basis to life insurance, depending on the insured events and the manner of business.

(6) The health underwriting risk module shall include, as a minimum, the risks of loss or adverse change in the value of insurance liabilities, resulting from:

a) for the health insurance expenditure risk sub-module, due to changes in the level, trend or volatility of contract administration expenses;

b) for the premiums and provisions risk sub-module, as a result of fluctuations in the reserving between the time of occurrence, frequency and severity of insured events and the time of payment and the amount of claims;

c) for the catastrophic risk sub-module, according to the significant degree of uncertainty in the assumptions used in setting tariffs and the amount of provisions for epidemic and risk accumulation events.

(7) The market risk module shall reflect the risk arising from the volatility of market prices of financial instruments, which influences the value of corporate assets and liabilities, and shall also adequately reflect the structural mismatch between assets and liabilities, in particular in terms of their maturity.

(8) The market risk module shall be calculated in accordance with Annex No 2, as a combination of capital requirements, at least for the risks arising from the value sensitivity of assets, liabilities and financial instruments to the following elements:

(a) for the interest rate risk sub-module, to changes in the risk-free interest rate term structure or changes in the volatility of interest rates;

(b) for the equity downside risk sub-module, changes in the level or volatility of equity market prices;

c) for the sub-module real estate investment risk, to changes in the level or volatility of real estate market prices;

(d) for the credit margin risk sub-module, to changes in the level or volatility of credit spreads that exceed the risk-free interest rate term structure;

(e) for the foreign exchange rate risk sub-module, changes in the level or volatility of foreign exchange rates.

(9) In addition to the sub-modules referred to in para. (8), the market risk module shall also comprise the market risk concentration risk sub-module, which shall cover the additional risks arising either from insufficient diversification of the asset portfolio or from significant exposure to counterparty risk through major investment in the securities of a single issuer or a group of affiliated issuers.

(10) The counterparty risk module shall reflect possible losses caused by:

a) the default of counterparties and corporate debtors;

b) deterioration in the creditworthiness of counterparties and borrowers in the following year.

(11) The counterparty risk module shall include:

a) risk minimization contracts, such as reinsurance contracts, securitizations and derivatives;

b) claims from intermediaries;

(c) exposures not covered by the credit margin risk sub-module;

(d) collateral, real or otherwise, held by or on behalf of undertakings and the risks associated with it;

(e) overall exposure to counterparty risk, regardless of the legal form of the counterparties' contractual obligations.

(12) Insurers underwriting life insurance shall apply to A.S.F. for approval to calculate the SCR for the duration-based equity devaluation risk sub-module if they also carry out one of the following activities:

a) occupational pensions in accordance with Law no. 1/2020 on occupational pensions, as amended;

(b) the provision of retirement benefits paid with reference to the attainment of retirement age or the expectation of reaching retirement age, where the legislation in force provides for tax deductibility of premiums.

(13) The activities referred to in para. (12) shall be carried out under the following conditions:

a) the assets and related liabilities are dedicated funds, separately managed and organized, with no possibility of transfer;

b) are carried out only in Romania;

c) the average duration of the liabilities is more than 12 years.

(14) The SCR calculation for the sub-module referred to in para. (12) shall be calibrated for the items referred to in para. (13) sub-par.(a) with the value-at-risk for a period corresponding to the usual period for insurers to hold equity investments at a 99.5% confidence level, which ensures an adequate level of protection for policyholders and beneficiaries.

(15) The elements referred to in para. (13) sub-par. (a) shall be taken into account in full for the assessment of the effects of diversification, without prejudice to respect for the interests of policyholders and beneficiaries in other Member States.

(16) The calculation of the SCR for the sub-module referred to in para. (12) shall only be performed if the liquidity and solvency position, strategies, processes and reporting procedures with respect to asset liability management ensure that the investment in shares is held for a period that corresponds to the usual holding period for insurers of those investments.

(17) Insurers shall document the compliance with the provisions of paras. (13) - (16) to A.S.F.

(18) Insurers shall request the approval of A.S.F. to revert to the SCR calculation in accordance with pars. (1) - (11), only in documented circumstances.

Article 77 - Calculation of the equity devaluation risk sub-module: symmetric adjustment mechanism. **(1)** The equity devaluation risk sub-module calculated with the standard formula shall include a symmetric adjustment to the cost of capital of equity investments, calibrated in accordance with Article 72 para. (4), applied to cover risks arising from changes in equity prices.

(2) The adjustment referred to in para. (1) applied to the standard cost of capital shall be based on a function of the current level of an appropriate stock index and the weighted average of that index, calculated over an appropriate period of time, identical for all undertakings.

(3) Following the adjustment referred to in para. (1), the cost of capital obtained shall not exceed 10 percentage points above the standard cost of capital, upwards or downwards.

Article 78 - SCR for operational risk. **(1)** The capital requirement for operational risk shall reflect the risks that have not been included in the risk modules set out in Article 75 and shall be calibrated in accordance with Article 72 paras. (2) - (4).

(2) In calculating the SCR for operational risk on life insurance contracts where the investment risk is borne by the policyholders, the amount of the annual expenses related to the relevant insurance obligations shall be taken into account.

(3) When calculating the SCR for operational risk related to insurance and reinsurance business, except that referred to in para. (2), account shall be taken of the volume of earned premiums and technical provisions held for the insurance and reinsurance liabilities in question and of the fact that the requirement in question has a maximum limit of 30% of the basic SCR for that business.

Article 79. - Adjustment for the ability of technical provisions and deferred taxes to cover losses. **(1)** The adjustment shall reflect the possible offsetting of unexpected losses by a simultaneous decrease in technical provisions, deferred taxes or both, taking into account the risk minimizing effect associated with future discretionary benefits included in insurance contracts, if the undertakings can demonstrate that the decrease covers unexpected losses; the risk minimizing effect associated with future discretionary benefits shall not exceed the sum of technical provisions and deferred taxes related to those benefits.

(2) For the purposes of para. (1), the value of future discretionary benefits in unfavourable circumstances shall be compared with the value of the same benefits under the assumptions on which the best estimate is calculated.

Article 80 - Simplifications of the standard formula. Insurance undertakings may, in accordance with the legal provisions and the principle of proportionality, carry out simplified calculations for specific risk modules or sub-modules, calibrated in accordance with the provisions of Article 72 paras. (2) - (4).

Article 81 - Use of specific parameters. If the risk profile of insurance undertakings deviates significantly from the assumptions underlying the calculation of the SCR with the standard formula, A.S.F. shall require them, by reasoned decision, to replace a subset of parameters with specific parameters calibrated in accordance with Article (7) and (8) and to use them in such a way as to comply with the provisions of Article72 paras. (2) - (4).

SUBSECTION 4.3

SCR calculation with full or partial internal model

Article 82 - General provisions regarding the approval process. **(1)** Insurance undertakings that intend to use an internal model, in whole or in part, may request A.S.F. to start a prior review process.

(2) Insurance undertakings may use an internal model, in whole or in part, subject to the approval of A.S.F. in accordance with Article 166 para. (1) sub-paragraph) d), for the calculation of the following elements:

(a) one or more of the modules or sub-modules referred to in Articles 75 and 76;

b) SCR for operational risk in accordance with Article 78;

(c) the adjustment provided for in Article 79.

(3) Insurance undertakings may use a partial internal model for the entire business or only for one or more major business units.

(4) The application for approval of the internal model shall contain the documentation demonstrating compliance with the requirements laid down in

Articles 88, 89 and Subsection 4.4; in the case of a partial internal model, the documentation shall be adapted to the scope of that model.

(5) A.S.F. shall decide on the approval or rejection of the application for the use of an internal model within 6 months of receipt of the complete documentation.

(6) A.S.F. shall approve the use of an internal model provided that the documentation submitted by the undertakings shows that the systems for identifying, measuring, monitoring, managing and reporting risks are adequate and, in particular, that the internal model complies with the requirements referred to in para. (4).

(7) If A.S.F. does not approve the request to use the internal model, A.S.F. shall send a reasoned decision to the undertakings.

(8) After approving the use of an internal model, A.S.F. may, by reasoned decision, require undertakings to calculate the SCR also by the standard formula set out in subsection 4.2.

Article 83 - Specific provisions regarding the approval process of the partial internal model. **(1)** A.S.F. approves the request of undertakings to use a partial internal model under the conditions set out in Article 82 and in compliance with the following:

(a) insurance undertakings adequately demonstrate the limited scope of application of that model;

(b) the SCR value obtained by using that model, in accordance with the principles set out in Subsection 4.1, better reflects the risk profile;

c) the SCR structure obtained follows the principles set out in subsection 4.1, which allows the model to be fully integrated into the standard formula.

(2) A.S.F. shall require undertakings wishing to use a partial internal model to submit a realistic transitional plan explaining how they intend to extend the scope of the model to other risk submodules and/or major business units for a given module, so that the model covers a predominant part of the insurance operations with respect to that risk module.

Article 84 - Policy on the modification of the internal model. **(1)** As part of the initial approval process of the internal model, undertakings shall submit to A.S.F. the adopted policy on major or minor changes to the internal model, which must be subsequently complied with.

(2) Major changes to the internal model and changes to the change policy referred to in para. (1) shall be subject to the approval of A.S.F., in accordance with Article 82; minor changes shall not be subject to the approval of A.S.F., as long as they are made in accordance with the adopted policy.

Article 85 - Re-use of the standard formula. Insurance undertakings shall re-calculate all or part of the SCR with the standard formula, subsequent to the approval requested in accordance with Article 82, only in documented circumstances and only with the approval of A.S.F.

Article 86 - Non-compliance with the requirements on the internal model. **(1)** If, subsequent to the approval requested in accordance with Article 82, the requirements set out in Articles 88, 89 and subsection 4.4 are no longer

complied with, insurance undertakings shall immediately submit to A.S.F. a plan to restore compliance with those requirements within a reasonable time or demonstrate that the non-compliance with those requirements has no material effect.

(2) If by the application of the plan referred to in para. (1) insurance undertakings do not remedy the situation, A.S.F. shall require them to calculate the SCR with the standard formula.

Article 87 - Significant deviations of the risk profile. Where the calculation of the SCR with the standard formula is inadequate, because the risk profile of the undertakings deviates significantly from the assumptions underlying the standard formula, A.S.F. shall require the respective undertakings, by reasoned decision, to use an internal model in full or in part.

Article 88. - Use test. **(1)** Insurance undertakings shall document the importance and extent of use of the internal model in the system of governance, in particular in:

a) the decision-making process;

b) risk management system;

c) the processes for valuation and allocation of economic and solvency capital;

(d) ORSA.

(2) The undertakings shall document that the determination of the frequency of SCR calculation with the internal model is consistent with the frequency of its use in accordance with the provisions of para. (1).

Article 89 - Profit and loss attribution. As regards the attribution of profits and losses, insurance undertakings shall:

a) analyse, at least annually, their sources and causes by major operational units;

(b) demonstrate how the risk classification used in the internal model explains the sources and causes referred to in point (a);

(c) rank risks and allocate profits and losses to reflect the risk profile.

Article 90 - External data and models. The provisions of Articles 88, 89 and Subsection 4.4 shall also apply to the use of a model or data obtained from third parties.

SUBSECTION 4.4

Quality standards applicable to the internal model

Article 91 - Statistical data. **(1)** The methods used in the calculation of the probability distribution forecast shall be compatible with the methods used in the calculation of technical provisions and shall be based on:

(a) appropriate, applicable and relevant actuarial and statistical techniques;

b) realistic assumptions;

c) credible and up to date information.

(2) The insurance undertakings shall provide documented justification to A.S.F. on how the assumptions underlying the internal model are established.

(3) The data used by the internal model shall be complete, accurate and appropriate, and the data series used in the calculation of the probability distribution forecast shall be updated at least annually.

(4) Irrespective of the method of calculating the probability distribution forecasting, the ability of the internal model to rank the risks shall be sufficient to comply with Article 88.

(5) The internal model shall cover all significant risks to which insurance undertakings are exposed, but at least the risks referred to in Article 72, para. (5).

(6) Undertakings may consider in the internal model:

a) diversification effects due to dependencies between different risk categories and between risks within each category, only if A.S.F. considers that the system used to measure those effects is appropriate;

(b) the effect of risk minimization techniques, where the credit risk and the risks arising from the use of these techniques are adequately reflected by the internal model;

(c) future management actions taken in special circumstances and the period necessary for their implementation;

d) estimated payments to policyholders and beneficiaries, whether contractually guaranteed or not.

(7) Insurance undertakings shall appropriately assess in the internal model, where material, the risks associated with financial guarantees, options given to policyholders and own contractual options, taking into account the impact of possible changes in financial and non-financial conditions on the exercise of those options.

Article 92. – Calibration. **(1)** Insurance undertakings may use a different period or a different risk measure than the one provided for in Article 72 para. (4), if the internal model calculations result in an SCR amount which provides the same level of protection to policyholders and beneficiaries as that referred to in Article 72.

(2) To the extent possible, insurance undertakings shall derive the SCR directly from the probability distribution forecast generated by the internal model, based on the value-at-risk referred to in Article 72, para. (4); if this is not possible, A.S.F. shall allow the use of approximations in the calculation of the SCR, as long as the undertakings document the same level of protection as that set out in Article 72.

(3) A.S.F. may require undertakings to apply the internal model to benchmark portfolios, using assumptions based on external rather than internal data, in order to verify the calibration of the internal model and whether the technical specifications correspond to generally accepted market practices.

Article 93 – Validation. **(1)** Insurance undertakings shall periodically validate the internal model, aiming to

a) monitor its proper functioning;

(b) review the technical specifications of the design so that they are permanently appropriate;

c) compare model results with historical data.

(2) As part of the internal model validation process, undertakings shall include:

a) application of efficient statistical methods to:

(i) demonstrate that the amount of capital requirements raised is appropriate;

(ii) test the adequacy of the probability distribution forecast, both in relation to historical data and in relation to relevant, current and meaningful data and information;

b) analyse the stability of the model, in particular testing the sensitivity of the results to changes in important assumptions;

c) assess the completeness, accuracy and appropriateness of the data used.

Article 94 – Documentation. Insurance undertakings shall prepare documentation related to the internal model that demonstrates compliance with the provisions of this Subsection, Articles 88 and 89 and shall present in detail:

a) the structure and functionality of the internal model;

b) the theories, hypotheses and mathematical and empirical bases underlying the internal model;

c) the possible circumstances in which the internal model is not functioning adequately and effectively;

d) significant changes to the internal model in accordance with Article 84.

SECTION 5

Minimum Capital Requirement (MCR)

Article 95 - Calculation of the MCR. **(1)** Insurance undertakings shall hold eligiblebasic own funds to cover the MCR calculated as follows:

a) in a clear, simple and audit-proof manner;

(b) it should correspond to a minimum amount of eligible basic own funds so that policyholders and beneficiaries are not exposed to unacceptable risk;

(c) the linear function referred to in para. (2) shall be calibrated to the value-at-risk of basic own funds at a confidence level of 85% over a one-year period;

d) record an absolute threshold of:

(i) the equivalent in Lei of Euros 2,500,000, for insurers practicing non-life insurance, including captive insurers;

(ii) the equivalent in Lei of EUR 3,700,000, for insurers practicing non-life insurance, including captive insurers, which underwrite, in whole or in part, also risks in classes 10-15 as set out in Annex no. 1, Section A;

(iii) the equivalent in Lei of Euros 3,700,000, for life insurers, including captive life insurers;

(iv) the equivalent in Lei of EUR 6,200,000 for composite insurers;

(v) the equivalent in Lei of EUR 7,400,000, for composite insurers which underwrite, in whole or in part, also risks in classes 10-15 set out in Annex no. 1, Section A;

(vi) the equivalent in Lei of EUR 3,600,000 for reinsurers;

(vii) the equivalent in Lei of Euros 1,200,000 for captive reinsurers.

(2) Notwithstanding para. (3), the MCR shall be calculated as a linear function of a set or subset of the following variables, net of reinsurance:

a) technical provisions;

(b) written premiums;

(c) capital at risk;

d) deferred taxes;

e) administrative expenses.

(3) Notwithstanding para. (1) sub-par. (d), the MCR shall not fall below 25% of the SCR and shall not exceed 45% of the SCR which may include any increase in solvency capital; until 31 December 2017, the MCR shall comply with the prescribed percentage range applied to the SCR calculated using the standard formula.

Article 96 - Informationsubmitted to A.S.F. **(1)** Insurance undertakings shall submit to A.S.F. the amount of the MCR, at least quarterly.

(2) If the MCR reaches one of the percentage limits referred to in Article 95 para. (3), the undertakings shall provide A.S.F. with information on the reasons that led to this situation.

SECTION 6
Investments

Article 97 - Prudent person principle. **(1)** Insurance undertakings shall only invest in assets and instruments whose risks can be adequately identified, measured, monitored, managed, controlled and reported and which can be taken into account in covering the overall solvency needs as determined in accordance with ORSA.

(2) All investments, in particular those constituting assets covering SCRs and MCRs, shall be made in such a way as to ensure the safety, quality, liquidity, profitability and accessibility of the entire investment portfolio.

(3) Investments representing assets covering technical provisions shall be made by the insurance undertakings or entities which manage their investment portfolio, in accordance with the nature and duration of the liabilities and in the interest of the policyholders and beneficiaries, in accordance with the contractual terms, including in the event of a conflict of interest.

(4) Notwithstanding the provisions of paras. (1) to (3), with regard to investments which constitute assets corresponding to life insurance activity in which the investment risk is borne by policyholders, the following shall be taken into account:

(a) the technical provisions corresponding to the benefits under contracts providing benefits directly linked to the value of units in an insurance undertaking for collective investment in transferable securities or to the value of an internal fund divided into units shall be represented as closely as possible by those units or, where units are not established, the technical provisions shall be represented by the value of that fund;

(b) the technical provisions, in respect of contracts providing benefits directly linked to a share index or some other reference value other than those referred to in point (a), shall be represented as closely as possible by the units representing that reference value or, where the units are not fixed, the technical provisions shall be represented by the value of assets with marketability and certainty as close as possible to those on which the reference value is based.

(5) Notwithstanding paras. (1) to (3), where the benefits referred to in para. (4) (b) include guarantees of investment performance or other guaranteed benefits, account shall be taken of the following:

(a) the use of derivatives shall be undertaken to the extent that they contribute to risk mitigation or facilitate efficient investment portfolio management;

b) investments and assets that are not admitted to trading on a regulated financial market are kept at a prudent level;

(c) the investments are sufficiently diversified so as to avoid excessive reliance on any particular asset, issuer, group of undertakings or geographical area and to avoid excessive accumulation of risk in the portfolio as a whole;

(d) investments in assets issued by the same entity or by entities belonging to the same group shall be made in such a way as to avoid excessive risk concentration.

(6) Assets corresponding to reinsurance claims from undertakings authorized in a thirdcountry whose solvency regime is not deemed equivalent according to legal provisions shall be localized in a Member State.

CHAPTER VI

Insurers in difficulty

Article 98 - Identification and notification of deterioration of the financial capacity. **(1)** At the moment of the deterioration of the financial capacity, identified according to the established procedures, the undertakings shall notify A.S.F.

(2) In the procedures referred to in para. (1), insurance undertakings shall also take into account the indicators and the risk of occurrence of the events referred to in Article 101 para. (4).

(3) The insurance undertakings shall submit to A.S.F. the procedures referred to in para. (1), as well as any updated version thereof, in accordance with the regulations issued by A.S.F.

Article 98[1] - Preventive Remedial Plan. **(1)** Insurance undertakings holding a significant share in the national insurance market shall draw up preventive remedial plans in accordance with the provisions of this Article and Article 98[2].

(2) A company shall be deemed to have a significant weight in the national insurance market if it fulfils any of the following conditions:

a) the amount of the insurance undertaking's gross technical provisions exceeds 5% of the total amount of gross technical provisions at market level;

b) has a market share of at least 5%.

(3) The market share of insurance undertakings having a significant share of the national insurance market shall be determined by taking life insurance business separately from non-life insurance activity, as follows:

(a) for life insurance, by reference to the amount of the insurance undertaking's gross technical provisions as a percentage of the total gross technical provisions of all life underwriters;

(b) for non-life insurance, by the ratio of the gross written premiums of the company to the total gross written premiums of all insurance undertakings writing non-life insurance.

(4) The insurance undertakings referred to in para. (1) shall draw up preventive remedial plans every 3 years and submit them to A.S.F. for assessment.

(5) A.S.F. shall establish annually the list of insurance undertakings falling under the provisions of para. (1), on the basis of the annual financial statements submitted by the insurance undertakings for the financial year preceding the year in which the list is drawn up.

(6) A.S.F. shall notify the insurance undertakings of their inclusion in the list provided for in para. (5), as well as the situation when they are no longer included in the list.

(7) The insurance undertakings shall submit to A.S.F. the preventive remedial plan provided for in para. (4) within a maximum of 120 days from the date of communication of the notification provided for in para. (6).

(8) By way of exception from the provisions of para. (4), A.S.F. may, by decision, require the insurance undertakings referred to in para. (5) to draw up and submit the preventive remedial plan annually or every 2 years, depending on the nature, scale and complexity of their activity and risks and on the issues found by A.S.F. in the exercise of its duties and legal powers.

(9) In the situation referred to in para. (8), the insurance undertakings shall submit to A.S.F. the first preventive remedial plan within 120 days from the date of communication of the decision and, thereafter, according to the frequency established by the decision.

(10) Insurance undertakings shall include at least the following information in the preventiveremedial plan:

a) a summary of the most important elements of the plan and a presentation of the company's overall ability to remedy the financial capacity and system of governance.

b) summary of significant changes in the company's situation since the last submitted preventive remedial plan;

(c) a framework of own indicators identifying situations where actions can be taken and mechanisms set out in the plan can be triggered; the indicators shall be quantitative and qualitative and shall at least cover capital, liquidity, assets and own funds positions, as well as profitability, market and macroeconomic conditions;

d) actions and mechanisms envisaged to remedy the situation;

e) the estimated timetable for the implementation of the planned actions and mechanisms;

f) a detailed description of significant obstacles to the effective and timely implementation of the plan;

g) other elements established by legal provisions.

(11) Insurance undertakings shall provide documented justification to A.S.F. for the approval of the plan by the management.

(12) When drawing up the preventiveremedial plan, undertakings shall not rely in any way on access to public financial support as defined in Article 2 point 41 of Law no. 246/2015 on the recovery and resolution of insurers, as amended.

(13) Insurance undertakings shall update the preventive remedial plan and submit it to A.S.F. whenever changes occur that may have a significant impact on the plan or would require its amendment, in relation to:

(a) the company's system of governance, activity and/or financial capacity;

b) the actions or mechanisms set out in the preventive remedial plan submitted.

(14) The provisions of para. (11) and Article 98^2 shall also apply to the preventive remedial plan updated in accordance with the provisions of para. (13).

(15) By way of exception from the provisions of pars. (7) and (10), at the reasoned request of a company, A.S.F. may approve, by decision:

(a) simplified requirements for the content and level of detail of the information in the preventive remedial plan developed by the company;

b) a time limit for submitting the plan to A.S.F. of maximum 150 days from the date the notification referred to in para. (6) is served.

(16) A.S.F. may approve the request referred to in para. (15) if it assesses that a potential state of difficulty of the company would not have a significant impact on the insurance market, on other undertakings and on the national economy as a whole, having regard to the principles of proportionality and expert judgment.

(17) A.S.F. may at any time, by decision, order the company applying simplified requirements to fully apply the requirements set out in para. (10), with the establishment and communication to the company of the time limit for its compliance with the said requirements.

(18) The application of the simplified requirements does not affect the powers of A.S.F. to order measures for the direct removal of deficiencies in the plan or obstacles to its implementation, referred to in Article 98^2 para. ($^{2)\cdot}$ (3), and/or the preventive and corrective measures referred to in Article 101.

Article 98^2 - Assessment of the preventive remedial plan and measures to remove deficiencies or obstacles. **(1)** A.S.F. shall assess whether the preventive remedial plan:

a) contains the information referred to in Article 98^1 para. (10) or para. (15) sub-paragraph) a), as the case may be;

(b) comply with the following requirements:

(i) the implementation of the actions proposed in the plan is reasonably likely to ensure the continued viability and improvement of the financial capacity of the company, taking also into account the preliminary actions which the company has taken or is planning to take;

(ii) the implementation of the plan and of the remedial possibilities identified therein is reasonably likely to be carried out quickly and efficiently, with the least possible material adverse effects on the insurance market, including in the scenario where other undertakings would also have to implement their own preventive remedial plans in the same period.

(2) When assessing the plan, A.S.F. shall take into account the degree to which the level and quality of own funds, as well as the level of solvency and/or liquidity of the company correspond to the nature, extent and complexity of its activity and risks.

(3) If A.S.F. assesses that the preventive remedial plan has major deficiencies or that there are significant obstacles to its implementation, it shall request explanations from the company and, after analysing them, shall communicate the result of the assessment and, where appropriate, request it to submit an amended plan containing solutions to remove the deficiencies or obstacles.

(4) The insurance undertaking shall submit the amended plan within 45 days from the date of communication of the request to A.S.F., with due observance of the provisions of Article 98^1 para. (11).

(5) At the insurance undertaking's request and for good reasons, A.S.F. may extend the period referred to in para. (4) by a maximum of 30 days.

(6) Where A.S.F. considers that the deficiencies or obstacles have not been removed by the amended plan, A.S.F. may require the company to make specific amendments to the plan in order to remove or minimize them and shall set a deadline within which the company shall make the amendments, which may not be less than 20 days.

(7) If the insurance undertaking fails to submit an amended preventive remedial plan or if A.S.F. determines that the amended plan still presents deficiencies or obstacles and that it is not possible to remove or minimize them by imposing ad hoc changes to the plan, A.S.F. requests the insurance undertaking to identify the changes it will make to its business and the proposed period for their implementation in order to remove those deficiencies or obstacles to the implementation of the plan; the insurance undertaking shall determine the period of implementation in a reasonable manner, i.e.: in line with the proposed changes and taking into account the nature, scale and complexity of its business and its risks.

(8) The insurance undertaking shall communicate the information required under para. (7) within the deadline set by A.S.F. in accordance with the nature, scale and complexity of the company's activity and risks.

(9) If the insurance undertaking fails to identify such changes within the deadline set in accordance with para. (8), or A.S.F. considers that the changes proposed by it would not adequately address the deficiencies or obstacles or the company fails to fulfil its commitments to make changes to its business

undertaken under para. (8), A.S.F. may require the insurance undertaking, by decision, to apply one or more of the following measures:

a) changing the risk profile;

b) the application of capitalization measures;

c) business strategy review;

d) changing the system of governance;

(e) technicalprovisions adequacy measures;

f) any other measure that A.S.F. deems necessary and appropriate in order to remove the respective deficiencies or obstacles.

(10) For the purposes of exercising the power provided for in para. (9), A.S.F. shall ensure that the measures imposed are proportionate to the seriousness of the deficiencies or the extent of the obstacles identified.

Article 99 - Non-compliance with the SCR. **(1)** Insurance undertakings shall inform A.S.F., at the time of the finding, that the SCR is no longer complied with or that there is a risk that it will not be complied with in the next 3 months.

(2) Within two months from the date of ascertainment of the situation referred to in para. (1), insurance undertakings shall submit to A.S.F. for approval a recovery plan with measures to restore the level of eligible own funds covering the SCR or to modify the risk profile so that the SCR is again respected within 6 months.

(3) A.S.F. may approve the extension of the application of the recovery plan measures referred to in para. (3) for a maximum of 2 months.

(4) In the event that EIOPA declares the existence of adverse situations affecting undertakings representing a significant market share or a significant percentage of the affected business lines, A.S.F. may extend the period provided for in para. (3) by a maximum of 7 years, taking into account all relevant factors, including the average duration of technical provisions; in this case, A.S.F. may consult the European Systemic Risk Board.

(5) Insurance undertakings in the situations referred to in para. (4) shall submit to A.S.F., every 3 months, an activity report and the progress made in complying with the measures in the recovery plan and if the report shows that the insurance undertakings have not made progress, A.S.F. shall withdraw the extension of the 7-year period.

(6) In exceptional circumstances, if A.S.F. considers that the financial capacity of the insurance undertakings referred to in para. (2) is about to worsen, A.S.F. shall apply the measures provided for in Article 13 paras. (1) and (3) and Article 14 para. (5).

Article 100 - Non-compliance with the MCR. **(1)** Insurance undertakings shall inform A.S.F., at the time of the finding, that the MCR is no longer complied with or that there is a risk that it will not be complied with in the next 3 months.

(2) Within one month from the date of ascertainment of the situation referred to in para. (1), the insurance undertakings shall submit to A.S.F. for approval a short-term financing plan to restore the level of eligible basic own funds covering the MCR or to modify the risk profile so that, within 3 months, the MCR is again

respected; at the same time, A.S.F. may apply the measures provided for in Article 13 paras. (1) and (3) and Article14 para. (5).

Article 101 - Measures adopted in case of deterioration of the financial capacity. **(1)** If an insurance undertaking violates or is likely to violate, in the near future, the requirements set out in the regulatory acts applicable to the insurance sector, as a result of a deterioration of the financial capacity or of the system of governance, A.S.F. may order, by decision, one or more of the following preventive and corrective measures:

a) require the undertaking's management to implement one or more of the actions set out in the preventive remedial plan referred to in Article 98^1, to update the plan if the circumstances of the company at the time of taking the measures provided for in this Article differ from the assumptions made when the plan was drawn up and to implement one or more of the actions set out in the updated plan;

b) to request the management of the insurance undertaking that does not have a preventive remedial plan to examine the deterioration situation, to identify its causes and measures to address the problems found and to develop a timetable for implementation of the measures;

(c) require the management of the insurance undertaking to convene a general meeting of the shareholders or members of the company or, if the management fails to comply with this requirement, to convene such a meeting directly and, in either case, to set the agenda and request that certain matters be considered for adoption at the meeting;

d) in case of significant, rapid and/or continuous deterioration of the insurance undertaking's financial situation, of the system of governance or in case the company or the company's management seriously violates the regulatory acts specific to the insurance sector or does not implement the measures ordered according to the provisions of this Article, A.S.F. shall have the competence:

(i) require the insurance undertaking to replace all or part of the management; and/or

(ii appoint one or more temporary administrators, as defined in Article1 para. (2) point 2^3, subject to the provisions of para. (7) - (19);

e) request the insurance undertaking's management to make changes to the insurance undertaking's business strategy and/or governance system;

(f) impose additional reporting requirements on the insurance undertaking in terms of the content of the information and/or the frequency of its transmission;

g) to request the insurance undertaking's management to suspend the payment of the variable remunerations due according to the remuneration policy or, by way of derogation from the provisions of Article 67 para. (2) of Law no. 31/1990, republished, as subsequently amended and supplemented, the suspension of the payment of dividends approved to be distributed to shareholders and/or the limitation of the level of such subsequent payments;

(h) to require the management of the insurance undertaking to apply the main loss-absorbing mechanisms for own fund items, to suspend the redemption or repayment of own fund items and/or to cancel or, where appropriate, postpone

the making of distributions on such items, to the extent that the own fund items covered by this measure have such characteristics or particularities, in accordance with the legal provisions on the classification of own fund items by tiers;

i) to prohibit the total or partial distribution of the profit for purposes other than those required by law;

j) to request the company to submit the information necessary to update the resolution plan and to prepare a possible resolution of the company, as well as to carry out an assessment of the company's assets, liabilities and equity, in accordance with the provisions of Law no. 246/2015, as amended; the information may be obtained by A.S.F. also by a control at the undertaking's registered office carried out in accordance with the provisions of the applicable insurance regulatory acts, in the event that the information provided by the undertaking is not sufficient;

(k) to require the insurance undertaking to ask shareholders for capital injections in the form of share capital, subordinated loans or other forms of capital in order to strengthen the level of own funds available to cover solvency requirements;

l) to apply the measure provided for in Article 51 para. (2).

(2) A.S.F. may order the preventive and corrective measures provided for in para. (1) as a result of notifications submitted by undertakings in accordance with the provisions of Article 98 or of its own findings made in the supervisory process in accordance with the provisions of Article 8 para. (3) and Article 34 para. (3).

(3) For each of the measures referred to in para. (1), A.S.F. shall establish by individual act an appropriate deadline for implementation; A.S.F. may extend the deadlines for implementation of the measures in accordance with the principle of expert judgment.

(4) For the purposes of the provisions of para. (1), the deterioration of the insurance undertaking's financial statement shall include one or more of the following situations:

a) deterioration:

(i) the extent to which the SCR and/or MCR is covered by eligible own funds, including due to the inappropriateness of the calculation of the SCR and/or MCR as required by law;

(ii) liquidity situation;

(b) inadequacy of the calculation of technical provisions, including those entered in the books;

c) inadequacy of investment policy;

d) other elements established by the regulations issued by A.S.F. in application of this law.

(5) For the purposes of the provisions of para. (1), deterioration of the system of governance includes one or more of the following situations:

a) the vacancy, in a short period of time, of several positions held by persons who effectively run the company or hold key or other critical positions, which significantly affects the decision-making process at company level;

b) failure to clearly assign responsibilities;

c) significant increase in operational risk, including outsourcing of functions or activities;

d) failure to comply with the requirements on key functions, professional competence and moral probity, self-assessment of risks and solvency, as well as with the requirements for the effective transmission of all information within the company, as laid down in the regulatory acts applicable to the insurance sector;

e) other elements established by the regulations issued by A.S.F. in application of this law.

(6) Without prejudice to the provisions of Articles 99 and 100, where the solvency of undertakings continues to deteriorate, A.S.F. shall adopt measures to protect policyholders or the performance of obligations arising from reinsurance contracts, proportionate to the level and duration of the deterioration, in accordance with the legal provisions; in this case, A.S.F. may also adopt the measures provided for in para. (1) sub-pars. c) -i), k) and l) and Article177[5] para. (1) sub-pars. a), b), q), s) and t).

(7) Temporary administrators appointed to the insurance undertaking in accordance with the provisions of para. (1) sub-par. d) item (ii) shall perform one of the following duties:

a) work temporarily with the management of the company;

b) temporarily exercise powers of management and administration of the undertaking:

(i) in the event of partial or total replacement of its management;

(ii) in case of completion or assurance of the management of the insurance undertaking, in the event of non-compliance with the legal provisions regarding the management of the activity by persons approved by A.S.F.

(8) A.S.F. shall specify the powers and duties of the temporary administrator in the decision appointing him/her, depending on the given circumstances, in accordance with the provisions of this Article.

(9) All expenses related to the temporary administration shall be borne by the undertaking to which the temporary administrator has been appointed; the temporary administrator's fee shall be set by A.S.F., not exceeding the remuneration granted to the insurance undertaking's management.

(10) The period of appointment of a temporary administrator shall not exceed one year, with the possibility of exceptionally extending it if the financial statement of the company is not yet remedied or until the date of approval by A.S.F. of a new management.

(11) A.S.F. is the only competent authority to determine the circumstances of the maintenance of a temporary administrator.

(12) A.S.F. shall publish in the Official Journal of Romania the decision on the appointment of the temporary administrator who has the power to legally

represent the undertaking and, where applicable, the extension of the period for which he is appointed, as well as the decision on the termination of his mandate.

(13) When appointing the temporary administrator, A.S.F. shall ensure that he/she has the capacity, qualifications and knowledge necessary for the exercise of his/her powers and duties and that he/she is not in conflict of interest.

(14) The temporary administrator shall be civilly liable for failure to perform or omission to perform, in bad faith or gross negligence, the powers and duties conferred.

(15) The powers of the temporary administrator referred to in para. (8) may include some or all of the legal or statutory powers of the management of the undertaking, including the power to exercise some or all of the administrative functions of the management.

(16) The temporary administrator may exercise, in any case, the power to convene the general meeting of shareholders or members of the company, in the case of mutual undertakings, and to set its agenda, in order to carry out the measures ordered by A.S.F., the discussion of other matters likely to influence the financial situation or the system of governance of the undertaking or for which a general meeting is mandatory by law; the temporary manager shall notify A.S.F. of the convening of the general meeting and the proposed agenda within a maximum of 3 days of the date of the convening, A.S.F. having the power to order the amendment of the agenda if it considers that the proposals submitted may affect the financial situation of the company.

(17) In the case referred to in para. (7) sub-par. a), by the decision appointing the temporary administrator, A.S.F. shall also establish requirements for the management of the undertaking to consult with the temporary administrator and/or to obtain its consent before taking certain decisions or undertaking certain actions; the management of the undertaking shall comply with the requirements established by the decision for its own responsibility.

(18) The duties of the temporary administrator established in accordance with the provisions of para. (8) may include:

a) assessment of the undertaking’s financial situation;

(b) managing the business or part of the business of the undertaking with a view to maintaining or remedying its financial situation;

c) taking measures to restore sound and prudent management of the insurance undertaking's activity;

d) drawing up reports on the insurance undertaking’s financial statement and the actions undertaken during its mandate, both at intervals set by A.S.F. and at the end of the mandate, and, subsequently, submitting them to A.S.F.;

e) other duties established by A.S.F. depending on the given circumstances, as well as on the nature, structure, scale and complexity of the activity and risks related to the company.

(19) A.S.F. may, by its decision of appointment, determine that certain acts of the temporary administrator shall be subject to its prior approval.

(20) Where A.S.F. requests the company that certain decisions be considered for adoption by the general meeting of shareholders or members, the management of the undertaking shall send for publication or dispatch the convocation, as provided by law, within a maximum of 5 days from the date of communication of A.S.F.'s decision on this measure; undertakings shall notify A.S.F. of the decision adopted by the general meeting within 2 business days from the date of its meeting.

Article 102. - Recovery plan and financing plan. **(1)** The recovery plan referred to in Article 99 para. (2) and the financing plan referred to in Article 100 para. (2) shall reflect the following:

a) estimate of the administration expenses, in particular current overheads and fees;

(b) estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions;

c) a forecast balance sheet;

d) the estimated financial resources to cover the technical provisions, SCR and MCR;

e) reinsurance policy;

f) other elements established by legal provisions.

(2) If the situation of non-compliance with the SCR and/or MCR is found by A.S.F. in the supervisory process, it shall issue a reasoned decision in this regard, and the date of the finding of the situation, referred to in Article 99 para. (2) and Article 100 para. (2), the date from which the deadline for submission to A.S.F. of the recovery plan and/or the short-term financing plan shall start to run shall be the date of communication to the company of the respective decision.

(3) A.S.F. rejects the recovery plan and/or the financing plan, by reasoned decision, if it assesses that there are no reasonable prospects that its implementation will result in the sustainable restoration of the situation of compliance with the SCR or, where applicable, the MCR or if the estimates, information and/or measures presented are unrealistic, incomplete or insufficiently documented and thus the plan is inadequate.

(4) If A.S.F. rejects the plan, insurance undertakings may apply for approval of a new plan, provided that it is submitted within the two-month period provided for in Article 99 para. (2), respectively within the period of one month provided for in Article 100 para. (2), as the case may be; the provisions of paras. (1) and (3) shall apply mutatis mutandis to the new plan.

(5) A.S.F. shall issue regulations in application of the provisions of this chapter.

CHAPTER VII

Applicable law and conditions of direct insurance contracts

Article 103 - General provisions. Insurance contracts shall be concluded in accordance with the applicable national law.

Article 104 - Related obligations in case of compulsory insurance. **(1)** Insurers may offer and underwrite compulsory insurance contracts only if they comply with the provisions of specific legislation.

(2) A.S.F. shall submit to the European Commission the following information for each type of compulsory insurance:

a) provisions of specific legislation;

b) the elements specified in the attestation which are proof that the insurance has been taken out.

Article 105 - Contract conditions and tariffs for non-life insurance. A.S.F. may require insurers to submit the specific conditions of contracts or forms used in their relations with policyholders, as a control measure to ensure compliance with the provisions of national legislation on insurance contracts.

Article 106 - Contractual conditions and tariffs for life insurance. A.S.F. may require insurers to submit the conditions of insurance contracts and the systematic submission of the technical bases used in the calculation of premiums and technical provisions, as a control measure of compliance with actuarial principles.

Article 107 - Information presented to potential policyholders - non-life insurance. **(1)** Before concluding a non-life insurance contract, insurers shall inform potential policyholders, natural persons, of the following:

(a) the law applicable to the contract where the parties do not have a free choice; the fact that the parties are free to choose the law applicable and, in this case, the law which the insurer proposes to choose;

b) the manner of dealing with petitions, including the right to apply to A.S.F., without prejudice to the right to bring the matter before the competent courts.

(2) A.S.F. shall issue its own regulations establishing the modalities of application of the provisions of para. (1).

(3) Where insurers provide non-life insurance on the basis of the right of establishment or the freedom to provide services, they shall communicate to potential policyholders and include in the documents issued, including the insurance offer, the following information:

a) the address of the head office and contact details of the branch or other secondary offices issuing the insurance contract;

(b) the name and address of the claims representatives handling claims in the Member States, appointed pursuant to Article 21 par. (1) sub-par. g).

(4) Communication of the information referred to in para. (3) sub-paragraph) a) shall not be compulsory in the case of underwriting of major risks.

Article 108 - Information presented to potential policyholders - life insurance. **(1)** Before concluding an insurance contract, the insurer shall communicate to potential policyholders at least the following:

a) its name, legal form, registered office address and contact details of the branch or other secondary offices issuing the insurance contract;

b) the manner of access to the solvency and financial stability report referred to in Article 39, allowing the policyholder easy access to this information.

(2) With regard to the insurance contract, the insurer shall communicate the following to potential policyholders:

a) description of each contractual option and benefit;

b) the duration of the contract;

(c) the termination of the contract;

d) the terms and time limits for payment of premiums;

e) the method of calculation and distribution of benefits;

f) the total surrender value of the reduced sums insured and the level up to which they are guaranteed;

g) information about premiums for main or supplementary benefits;

(h) for unit-linked contracts, the definition of the units underlying the benefits and information on the nature of the assets covering them;

(i) the modalities of application of the clause on withdrawal from the contract without penalty;

j) general information on the tax regime applicable to the type of contract concerned;

k) the manner of dealing with petitions, including the right to address A.S.F., without prejudice to the right to bring the matter before the competent courts;

(l) the law applicable to the contract where the parties do not have a free choice; the fact that the parties are free to choose the law applicable and, in this case, the law which the insurer proposes to choose;

m) the specific information for a proper understanding of the risks included in the insurance contract and which the potential policyholders would assume.

(3) Throughout the term of the contract, the insurer shall communicate to the policyholders any change in the following information:

a) the name, legal form, head office address and contact details of the branch or agency issuing the insurance contract;

b) the general and specific conditions of the contract;

(c) the information referred to in para. (2) sub-pars. (d) to (i), in the event of a change in the law applicable to the contract or in the conditions of insurance;

d) annually, information on the state of benefits.

(4) In the event of the submission of an offer or the conclusion of a contract, accompanied by figures on the amount of any additional payments other than those guaranteed by the contract, the insurers:

a) present a simulation of the calculation of the amount of the respective payments on the due dates, starting from 3 different interest rates for the basis of calculation of the premiums;

(b) provide clear and complete information so that potential policyholders understand the following:

(i) the calculation simulation referred to in point (a) is the application of a model based on notional assumptions;

(ii) the results of that calculation do not constitute a contractual right.

(5) Insurers shall be exempt from the obligations set out in para. (4) in the event of the submission of an offer or the conclusion of a life insurance contract without an accumulation component.

(6) In the case of with-profits contracts, policyholders shall be informed annually, in writing, by the insurer of:

a) their rights and profit-sharing;

(b) the difference between the forecasts and the actual development, if they have been presented with figures on the development of that participation at the time the contract was concluded.

(7) The information referred to in pars. (2) - (6) shall be clearly and accurately drafted in Romanian and sent to the policyholders; the information may be sent to the policyholders in another language, if they so request.

(8) A.S.F. shall issue its own regulations on the manner of application of paras. (2) - (7) and the transmission of additional information, if it contributes to the understanding of the essential elements of the contract.

Article 109 - Waiver of the contract - life insurance. **(1)** The clause on the waiver of the contract without penalty provides for a period of 20 days from the date on which the policyholder is informed of the conclusion of the contract, during which he/she may give notice of waiver of the contract, at which time any future obligation under the contract shall cease.

(2) In the situation referred to in para. (1), the conditions for waiver laid down by the law applicable to the contract shall be complied with.

(3) The provisions referred to in para. (1) shall not apply where the duration of the contract is up to 6 months.

CHAPTER VIII

Licence withdrawal

Article 110 – Licence withdrawal. **(1)** A.S.F. may withdraw the operating licence granted to insurance undertakings, by a decision stating detailed reasons, if they:

a) do not conduct insurance business for 12 consecutive months from the date of obtaining the licence;

b) request the withdrawal of the licence;

c) cease to conduct insurance activity for a period exceeding 6 consecutive months;

d) no longer comply with the conditions of licensing;

e) seriously breach the obligations arising from legal provisions.

(2) A.S.F. shall withdraw the operating licence granted to the insurance undertakings, by means of a detailed reasoned decision, if they do not comply with the MCR, and A.S.F. considers that the submitted financing plan is clearly inadequate or the company in question does not comply with the approved plan within 3 months from the date of the finding of non-compliance with the MCR.

(2^{1}) A.S.F. shall also withdraw the operating licence of undertakings in the following situations:

a) if it gives them prior notice for dissolution and voluntary winding up in accordance with Article 177^{12};

b) at the closure of the special financial reorganization procedure in accordance with the provisions of Article 177^{9} para. (4).

(2$^{2)(2}$) In the situation referred to in para. (2) and para. (2^{1}) lit:

a) ascertain the existence of indications of the undertaking's insolvency, as defined in Law no. 85/2014 on insolvency prevention and insolvency proceedings, as amended; or

b) orders the insurance undertaking to enter into the procedure of dissolution and liquidation.

(2^{3}) In the situation referred to in para. (2^{2}) sub-paragraph) a), A.S.F. shall submit the application for the opening of bankruptcy proceedings against the company, in accordance with the provisions of Law no. 85/2014, as amended and supplemented.

(2^{4}) In the situations referred to in par. (2^{2}), by a decision to withdraw the operating licence, A.S.F. shall also appoint an interim administrator to the undertaking, who shall exercise his/her duties in accordance with the provisions of Article 110^{1} and shall order the company to be prohibited from freely disposing of assets during his term of office.

(2^{5}) As from the date of withdrawal of the operating license, insurance undertakings which are in the situations referred to in para. (2^{1}) sub-par. (2^{2}) sub-par. b) shall remain under the supervision of A.S.F. until the completion of their liquidation in accordance with the law, in order to ensure the protection of policyholders and beneficiaries; A.S.F. shall issue regulations applicable to the undertakings referred to in this para. which shall include provisions on the form and content of periodic reports, the specific supervisory process exercised by A.S.F. over them, the transfer of portfolio, as well as other aspects of the conduct of business permitted under the provisions of paras. (2^{6}) and (2^{7}).

(2^{6}) The insurance undertakings referred to in par. (2^{5}) may carry on insurance business, with the exception of the following operations which are prohibited:

a) the underwriting of new insurance and reinsurance contracts;

b) the renewal of insurance and reinsurance contracts in force or the application of automatically renewable clauses, even tacitly;

c) modification of insurance and reinsurance contracts in respect of the sum insured, limits of liability, risks covered, period of validity, territorial limits of validity;

d) reinstatement of suspended insurance and reinsurance contracts.

(2^{7}) By way of exception from the provisions of para. (2^{6}), the amendment of insurance contracts with regard to the period of validity shall be permitted for contracts falling within Class 15 of Schedule 1, Section A.

(2^{8}) After the withdrawal of the operating licence and during the liquidation procedure, undertakings shall continue to keep accounts in accordance with the specific accounting regulations applicable until the date of withdrawal of the authorization and shall comply with the regulations issued by A.S.F. regarding the activity carried out by them.

(2^{9}) Acts concluded in breach of the provisions of para. (2^{6}) after the publication in the Official Journal of Romania of the decision to withdraw the operating licence shall be null and void.

(2[10]) Where, within 90 days of the date of notification of the decision referred to in paragraph. (2[2]) sub-paragraph) b), the undertaking does not comply with the measure ordered by A.S.F. concerning the dissolution and liquidation, A.S.F. shall file the application for dissolution and liquidation of the undertaking with the competent court; the dissolution and liquidation procedure shall be carried out in accordance with the provisions of Articles 177[12] - 177[14].

(3) The decision to withdraw the operating licence shall be communicated to the insurance undertaking concerned.

Article 110[1] - The interim administrator. **(1)** The interim administrator shall ensure the administration and management of the undertaking from which the operating licence has been withdrawn and shall adopt measures to prevent the decrease of the assets and increase of the liabilities of the undertaking, while preserving its property.

(2) The mandate of interim administrator shall terminate automatically on the date of the appointment of the liquidator.

(3) From the date of the communication of the decision to appoint the interim administrator and until the end of his/her term of office, the duties of the company's management shall be suspended automatically, with the exception of the power to bring the action provided for in Article 250 para. (2) of Law no. 85/2014, as subsequently amended and supplemented, and the duty to hand over the records in accordance with the provisions of Article 12[2] of Law no. 213/2015, as subsequently amended and supplemented, for the fulfilment of which the undertaking's management remains liable.

(4) The expenses related to the interim administration shall be borne by the undertaking to which he/she was appointed; the administrator's fee shall be set by A.S.F. by the appointment decision, without exceeding the remuneration granted to the undertaking’s management.

(5) A.S.F. may issue a decision to replace the interim administrator or to terminate the mandate granted to him/her for good reasons.

(6) The interim administrator shall provide A.S.F., upon request, with any relevant information and documents related to the exercise of the mandate and shall fulfil any other measures ordered by A.S.F. necessary to ensure the defence of the rights and legitimate interests of the policyholders and beneficiaries.

CHAPTER IX
Right of establishment and freedom to provide services

SECTION 1
Right of establishment

Article 111 - Establishment of the branch office. **(1)** Insurers intending to establish a branch office in the territory of another Member State shall notify in advance to A.S.F. the following:

(a) the name of the host Member State;

b) the business plan, including at least the types of business they intend to conduct and the organizational structure of the branch;

c) the address of the branch and the name of the trustee;

(d) proof of membership of the national motor bureau or national protection fund of the host Member State, if it intends to operate class 10, carrier's liability only, as provided for in Annex No 1, section A.

(2) Insurers shall notify A.S.F. and the supervisor of the host Member State at least one month before making any changes to the information communicated to A.S.F. in accordance with para. (1), sub-pars. b) to d).

(3) The insurers referred to in para. (1) shall comply with the provisions referred to in Article 8 para. (14) with the avoidance of double taxation.

Article 112 - Notification and communication of information. **(1)** Within 3 months of the submission of the documentation referred to in Article 111 para. (1), A.S.F. shall forward the respective information to the supervisor of the host Member State, informing also the insurer concerned, unless it finds that the governance system and the financial statement of the insurers or the professional competence and good repute of the trustee are not adequate to the business plan.

(2) The information referred to in para. (1) shall be accompanied by confirmation that the insurers comply with the SCR and MCR.

(3) If they do not communicate to the supervisors of the host Member States the information received in accordance with Article 111 para. (1), A.S.F. shall provide the insurers concerned with a duly substantiated reason for this, within 3 months from the date of receipt of the information in question; in this case, the insurers may refer the matter to the Bucharest Court of Appeal, Administrative and Tax Litigation Section.

(4) Where A.S.F. is notified by a supervisor from a home Member State of the intention of an insurer authorized in that Member State to establish a branch on the territory of Romania, A.S.F. shall communicate to the supervisor concerned, within two months, the legislation relating to the protection of the general interest, which must be respected in the conduct of business.

(5) If it is notified by a supervisor in a host Member State of the legislation to be complied with in the conduct of business of a branch which an insurer intends to establish in that Member State, A.S.F. shall communicate that information to the insurer concerned.

(6) Insurers may establish a branch office in the territory of another Member State and start business as from the date on which the insurer receives the information referred to in para. (5) or on the expiry of a period of two months from the date on which A.S.F. has informed the supervisor of the host Member State, if the information concerning the law to be complied with to conduct business in the territory of that State is not received.

(7) Insurers carrying out activity in the territory of other Member States on the basis of the right of establishment shall report to the Social Security Fund, in accordance with the legal provisions, the volume of premiums, claims and

commissions, net of reinsurance, separately for general and life insurance and broken down by lines of business and by Member State.

(8) For Class 10 provided for in Annex No 1, Section A, excluding carrier's liability, the reports referred to in para. (7) shall also include frequency and average cost of damage.

SECTION 2
Freedom to provide services

Article 113 - Notification and communication of information. **(1)** An insurer intending to carry out activity directly for the first time in another Member State shall notify A.S.F. of its intention to do so, indicating the nature of the risks which it intends to underwrite and the commitments which it intends to assume.

(2) Within one month from the date of receipt of the notification referred to in para. (1), A.S.F. shall communicate to the supervisor of the Member State in which the insurer intends to conduct direct business the following information:

a) proof of compliance by the insurer with the SCR and MCR;

(b) the classes of insurance which it is authorized to conduct;

(c) the nature of the risks they intend to underwrite and the commitments they intend to assume in that Member State.

(3) A.S.F. shall inform the insurer of the transmission of the information referred to in para. (2) at the same time as it notifies the supervisor of the host Member State, and the insurer may start business as from the date of receipt of this information.

(4) If it does not send the information referred to in para. (2), A.S.F. shall, within one month of the date of receipt of the notification referred to in paragraph (1), give full reasoning for doing so to the respective insurer; in this case, the insurer may refer the matter to the Bucharest Court of Appeal, Administrative and Tax Litigation Section.

(5) The procedure described in paras. (1) - (4) shall also be complied with if the insurer makes changes to the risks and commitments underwritten, respectively assumed.

(6) Where A.S.F. is notified of the intention of an insurer of a Member State to underwrite directly risks of class 10 listed in Annex No 1, section A, excluding carrier's liability, A.S.F. shall require the following from the insurer concerned:

a) the name and address of the representative referred to in Article 21 para. (1) sub-par. g);

b) a statement confirming that he/she has become a member of BAAR and FPVS.

(7) Insurers carrying out their activity in the territory of other Member States under the freedom to provide services shall report to A.S.F., in accordance with the legal provisions, the volume of premiums, claims and commissions, without deduction of reinsurance, separately for non-life and life insurance and broken down by lines of business and by Member State.

(8) Insurers carrying out their activity in the territory of other Member States under the freedom to provide services shall comply with the provisions laid down in Article 8, para. (14).

Article 114 - Compulsory motor third party liability insurance. **(1)** The financial contribution to the BAAR and FPVS of the insurer referred to in Article 113 para. (6) shall be calculated on the basis of the gross premiums collected or the number of risks covered on the territory of Romania, by the same method used by insurers carrying on business under the right of establishment.

(2) The insurer referred to in Article 113 para. (6) shall treat claims for payment of damages in the same way as it would treat claims for payment of damages if it were operating in the territory of Romania on the basis of the right of establishment.

(3) The insurer referred to in Article 113 para. (6) shall appoint a claims representative resident or established in the territory of Romania with the following duties:

a) collect all necessary information on claim files;

b) have the power to represent the insurer in relation to persons who have suffered damage and may claim compensation, including for the payment of compensation;

c) represent or take the necessary steps to ensure that the insurer is represented before the Romanian courts and authorities in respect of claims;

d) represents the insurer before A.S.F. regarding the verification of the existence and validity of insurance policies;

e) performs only the duties referred to in sub-pars. a)-d), A.S.F. or other authorities not having the power to require him/her to undertake other activities on behalf of the insurer.

(4) The appointment of the representative referred to in para. (3) may not be treated as the establishment of a branch within the meaning of Article 111, and where the insurer does not appoint a representative, the claims representative shall be appointed in accordance with the specific provisions of the law of the home Member State.

(5) For class 10 referred to in Annex No 1, Section A, for class 10, excluding carrier's liability, the reports referred to in Article 112 para. (7) shall also include the frequency and average cost of claims.

CHAPTER X

Branches of insurance undertakings of third countries

Article 115 - Licensing process. **(1)** For the purposes of this chapter, a branch shall mean the permanent presence in Romania of an insurance undertaking from a third state, authorized by A.S.F. to carry out its activity in Romania, or a similar situation in the other Member States.

(1^1) For the purposes of this Chapter and of Article 163, "*third-country* insurance *undertaking*" means an insurer from a third country which carries out its activity in Romania through a branch or similar situation in other Member States.

(2) A.S.F. shall authorize branches of insurance undertakings from a third country if those insurance undertakings meet the following conditions:

a) are authorized in the third country to conduct insurance and/or reinsurance activity;

b) undertake to keep accounts at the branch's registered office, corresponding to the activity it intends to carry out, and keeps all documents related to the activity;

c) appoint a general representative, authorized by A.S.F.;

d) hold in the territory of Romania a volume of assets equal to at least 50% of the absolute threshold provided for in Article 95 para. (1) sub-par. d) and provide a deposit of 25% of this amount as collateral;

e) document that it can comply with SCR and MCR;

f) communicate the name and address of the claims representative of other Member States, if underwriting class 10 risks listed in Annex No 1, section A, except carrier's liability;

g) submit a business plan, under the conditions set out in Article 116;

h) comply with the governance requirements set out in Chapter IV Section 2.

Article 116 - Business plan. **(1)** The business plan referred to in Article 115 para. (2) sub-par. g) shall contain the following information:

(a) the nature of the risks they intend to underwrite or the commitments they intend to assume;

b) guiding principles for reinsurance;

(c) estimates of SCR and MCR values and the methods used to determine them;

(d) the elements of eligible own funds and basic own funds covering the SCR and MCR respectively;

(e) estimates of the costs of setting up the administrative services and ensuring a business environment conducive to the conduct of business and the financial resources to cover them and, where the risks are included in class 18 in Annex 1, Section A, the means at its disposal for the provision of the assistance;

f) information on the structure of the governance system.

(2) In addition to the elements set out in para. (1), for the first 3 financial years the plan shall contain the following:

a) forecast balance sheet;

b) estimates of the financial resources to cover technical provisions, SCR and MCR;

c) for non-life insurance:

(i) estimates of administrative expenses, other than those referred to in para. (1) sub-par. (e), in particular current overheads and commissions;

(ii) estimates of the volume of premiums or contributions, as the case may be, and of the volume of claims;

d) for life insurance, detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions.

(3) Insurers underwriting life insurance shall submit at the request of A.S.F. the technical bases used for the calculation of tariffs and technical provisions; this requirement is not a precondition for carrying on business.

Article 117 - Portfolio transfer. **(1)** A.S.F. approves the transfer of the portfolio of branches, in whole or in part, to a transferee insurance undertaking established in Romania only if, after the acquisition of the portfolio, the transferee insurance undertaking holds own funds eligible to cover the SCR.

(2) A.S.F. shall approve the transfer of the portfolio of branches, in whole or in part, to insurance undertakings established in another Member State, only if the supervisor of that Member State certifies, within 3 months from the date of receipt of the request, that the transferee company, after taking over the portfolio, holds own funds eligible to cover the SCR.

(3) Where a branch transfer all or part of its portfolio to a branch established in another Member State, A.S.F. shall approve the portfolio transfer only if the supervisor of the Member State of the branch of the transferor company or the supervisor of the Member State referred to in Article 119 certifies, within 3 months from the date of receipt of the request, the following:

a) the transferee insurance undertaking, after accepting the portfolio, holds own funds eligible to cover the SCR;

b) the law of the Member State of the transferring insurance undertaking permits the transfer;

c) agrees to the transfer.

(4) Where the branch of the acquiring insurance undertaking is established in Romania and takes over, in whole or in part, the contract portfolio of a branch established in another Member State, A.S.F. shall issue, within 3 months from the date of receipt of the request, the following certifications:

a) the transferee insurance undertaking after acceptance of the portfolio, holds or does not hold own funds eligible to cover the SCR;

b) national law permits such a transfer;

c) A.S.F. agrees or does not agree with the portfolio transfer.

(5) Where the risk is situated in another Member State or the commitment is also undertaken in another Member State, A.S.F. shall approve the portfolio transfer referred to in para. (1) and (3) after obtaining the consent of the supervisor of the Member State in which the risk is situated or the Member State of the commitment.

(6) Where A.S.F. is consulted on a portfolio transfer between two branches located in other Member States, and the portfolio in question covers risks and commitments located in Romania, A.S.F. shall submit its opinion or advice to the requesting authorities within 3 months from the date of receipt of the request, the absence of a reply being deemed equivalent to tacit consent.

(7) The decision on the portfolio transfer, approved under the conditions set out in this Article, shall be published in accordance with the publication regime established by A.S.F.'s own regulations, in the situation where Romania is a Member State of the commitment or Member State where the risk is situated.

(8) The transferee insurance undertaking shall notify the policyholders and other persons having rights and obligations under the transferred contracts of the portfolio transfer approved under this article within the time limit set in the decision approving the portfolio transfer, the policyholders having the right to terminate the contracts and to request the return of the premiums paid in advance and relating to the unexpired validity period.

Article 118. - Solvency. **(1)** Branches of third-country insurance undertakings shall comply with the provisions of Chapter V Sections 1-5.

(2) For the purpose of calculating SCR and MCR, branches shall only take into account the activity carried out by them for both life and non-life insurance and hold eligible own fund items as referred to in Article 71 par. (3).

(3) The amount ofbasic own funds eligible to cover the MCR, which may not be less than 50% of the absolute threshold referred to in Article 95 para. (1) sub-par. d), shall be determined in accordance with the provisions of Article 71 para. (4) and the deposit constituted in Romania in accordance with Article 115 para. (2) sub-par. d) is eligible for the coverage of the MCR.

(4) Assets covering the SCR up to the level of the SCR shall be located in Romania and excess assets in any of the other Member States.

Article 119 - Advantages of licensing in several Member States. **(1)** Insurance undertakings having their head office in third countries and having branches in Member States, including Romania, may apply to A.S.F. for the cumulative granting of the following advantages:

a) the SCR to be calculated for the activity carried out by all branches authorized in the Member States;

(b) the deposit referred to in Article 115 par. (2) sub-par.(d) is constituted in one of the Member States concerned;

(c) the assets covering the MCR are located in any of the Member States in which it carries on business.

(2) In the request referred to in para. (1), the insurance undertakings concerned shall duly justify the designation of A.S.F. as the supervisor responsible for monitoring the solvency of the entire business of its branches in the Member States.

(3) A.S.F. shall cooperate with the supervisors of the Member States in order to reach an agreement on the granting of the benefits referred to in para. (1).

(4) If A.S.F. is appointed as the responsible supervisor, according to para. (2), it shall:

(a) inform the supervisors concerned that he/she is the appointed supervisor, on which date the aforementioned benefits shall take effect;

b) require that the deposit referred to in para. (1) sub-paragraph) b) to be constituted in Romania;

(c) request from the supervisors concerned the information necessary for the fulfilment of their duties as appointed supervisor;

d) where the company referred to in para. (1) is in difficulty, it shall apply to it the provisions of Article 13 para. (1), Articles 99 and 100.

e) issue, where appropriate, the necessary certifications for situations similar to those referred to in Article 117 paras. (3) and (4).

(5) In the absence of a designated supervisor, A.S.F.:

(a) grant the benefits referred to in para. (1) from the date on which it is informed of the designated supervisor's assumption of responsibility for monitoring the solvency of the entire business of branches;

(b) submit to the designated supervisor the information requested by the latter.

(6) The application of the advantages granted under this article shall be withdrawn simultaneously by all Member States at the initiative of A.S.F. or of another supervisor concerned.

Article 120. - Branches in difficulty. The provisions of Article 8, Article 13 paras. (1) and (3), Article 14 para. (5) and Article 101 shall apply to branches subject to this Chapter.

Article 121 - Separation of the activity. **(1)** Branches established on the territory of Romania may not simultaneously conduct life and non-life insurance activities.

(2) Branches that were simultaneously practicing both activities on 1 January 2007, as well as on the date of entry into force of this Law may continue their activity provided that the provisions of Article 49 are complied with.

(3) If third-country undertakings simultaneously carry on both activities and, on 1 January 2007, as well as on the date of entry into force of this law, underwrote, respectively underwrite, on the territory of Romania only life insurance through branches and intend to carry on also non-life insurance activity on the territory of Romania, they may continue to underwrite life insurance only through branches.

Article 122 - Withdrawal of the licence. **(1)** Without prejudice to the provisions of Article 110, A.S.F. may withdraw the operating licence granted to branches also in the event that they do not comply with the provisions of this chapter.

(2) If, in its capacity as designated supervisor, A.S.F. withdraws the authorization of the branch established on the territory of Romania, A.S.F. shall notify the other authorities concerned.

(3) Where A.S.F. is not the designated supervisor and is notified of the withdrawal of authorization of a branch in another Member State:

a) ensure the supervision of the branch;

(b) withdraw the licence of the Romanian branch office if the decision of the designated supervisor is based on a breach of the overall solvency requirements.

Article 123 – Reinsurance. Where the supervisory regime in a third country is declared by the European Commission to be equivalent on a permanent or temporary basis, reinsurance contracts concluded with insurers and reinsurers which have their head office in that third country shall be treated as if they were concluded with insurers and reinsurers which have their head office in the Member States.

CHAPTER XI
Specific provisions

Article 124 - Non-life insurance. **(1)** Insurance contracts do not provide in the general and specific conditions for particular situations of manifestation of the risk underwritten.

(2) Insurers underwriting class 10 risks listed in Annex 1, section A, excluding carrier's liability, shall be required to be members of BAAR and FPVS.

(3) Insurers shall join the BAAR within 30 days of receiving the licence to underwrite risks of class 10 as referred to in Annex No. 1, Section A, except for carrier's liability, and shall be obliged to set up the Green Card Fund as from the date of joining.

Article 125 - Community co-insurance. **(1)** Insurers may participate in a community co-insurance contract only under the conditions laid down in this article.

(2) Co-insurance operations, which do not fulfil the conditions referred to in para. (3) shall not be considered as Community co-insurance operations.

(3) Community co-insurance operations shall cover the risks listed in classes 3 to 16 in point A of Annex No 1, under the following conditions:

a) are major risks;

(b) they are risks covered by a single contract, for an overall premium and for the same period, concluded with at least two insurers as co-insurers, one of which is considered as the leading co-insurer;

c) are risks located in Member States;

(d) for the purpose of covering risks, the leading co-insurer shall be treated as fully covering those risks;

e) where the insurer, being the lead co-insurer, is authorized by A.S.F., at least one of the other co-insurers participates in the contract through its head office or a branch situated in another Member State;

f) the lead co-insurer sets the contractual terms, conditions and tariffs.

(4) The provisions of Article 113 paras. (1) to (6) and Article 114 shall apply only to the lead co-insurer.

(5) The insurers party to a co-insurance contract shall be required to establish and maintain technical provisions at the level of the underwritten share of the insured risk, as laid down by the legislation in force, but at least equal to those established by the leading co-insurer in accordance with the legislation of its home Member State.

(6) If the insurer, as a leading co-insurer, is authorized by A.S.F., the level of technical provisions constituted and maintained by each co-insurer shall be determined by it, in accordance with the legislation in force.

(7) Co-insurers shall keep statistical records on:

(a) the extent of Community co-insurance operations in which they participate;

(b) the Member States in which the underwritten risk is situated.

(8) In the case of winding-up of insurers participating in a Community co-insurance contract, the obligations arising out of that contract shall be honoured in the same way as the obligations arising out of other insurance contracts are honoured, irrespective of the nationality or nationality of the policy holders and beneficiaries.

Article 126 - Activities similar to tourist assistance. Assistance activities provided to persons in need in circumstances other than those referred to in Article2 para. (2) sub-par. (5) shall be subject to the provisions of this Part and shall be treated as activities falling within Class 18 of Annex No 1, Section A.

Article 127 - Legal expenses insurance. **(1)** This article shall apply to insurers concluding legal expenses insurance contracts having as object:

a) covering the costs of legal proceedings;

b) the provision of other services directly related to the insurance cover given:

(i) to redress damages suffered by policyholders as a result of mediation, civil or criminal proceedings;

(ii) to cover the legal costs incurred by policyholders in civil, administrative or criminal proceedings or in the event of a complaint against them.

(2) Legal expenses insurance shall be provided by a contract separate from those concluded for other classes of insurance or, in the case of a single policy, by a contract in which the nature of the cover and the amount of the premium for the cover shall be specified in a separate section.

(3) Legal expenses insurers shall choose one of the following methods of claims management:

(a) insurers shall ensure that the personnel handling claims or advising on claims handling do not carry out the same type of activity in another insurer with which they have financial, commercial or administrative links, and in the case of composite insurers, that such personnel are dedicated solely to that class of insurance;

(b) insurers shall outsource claims management or legal advice in relation to claims management to an entity whose name is mentioned in the contract or in the separate section referred to in para. (2), which entity assigns this task to a specially designated staff; such staff and the management of that entity may not simultaneously carry out similar activities with another insurer with which that entity has links;

c) the contract or the separate section referred to in para. (2) stipulates the right of the contractor to choose a lawyer or mediator in accordance with national law.

(4) The policyholder shall have the right to choose a lawyer or mediator to defend or represent his/her interests in legal proceedings or in the event of a conflict of interest.

(5) The provisions of para. (4) shall not apply if all of the following conditions are met:

a) the insurance shall be limited to cases arising out of the use of road vehicles on the territory of Romania;

b) the insurance is linked to a contract of assistance in the event of an accident or breakdown of a road vehicle;

c) the insurer providing legal protection and the insurer providing assistance do not underwrite liability classes of insurance;

(d) the insurer shall make arrangements for legal advice and representation of each party to the dispute by independent lawyers where both parties are insured for legal protection by the same insurer.

(6) The provisions of para. (3) shall also apply in the case of the exemptions referred to in para. (5).

(7) The parties shall stipulate in the legal expenses insurance contract the procedure for settling disputes between them through mediation or arbitration, as well as the right of the insured person to have recourse to such procedures, without prejudice to his right to bring the matter before the competent courts, in accordance with the law.

(8) This article shall not apply in the following cases:

a) the insurance shall cover disputes or risks related to the use of seagoing ships;

b) the activity carried out by an insurer providing liability cover for the purpose of defending or representing the policyholder in an investigation or prosecution where it is carried out simultaneously in the insurer's own interest under that cover;

(c) the legal protection is provided by an insurer offering protection in accordance with class 18 in Section A of Annex No 1, subject to the following conditions:

(i) it is given in a Member State other than that in which the contractor is habitually resident, with a clear indication in the contract to that effect and that the legal protection is ancillary to the assistance;

(ii) is provided for in a contract of insurance to assist persons who fall into difficulties while traveling and during absence from home or habitual residence.

(9) Where a conflict of interest arises or in the absence of an agreement on the settlement of a dispute, the insurer or claims handling personnel shall inform the contractor of the rights arising under paras. (4) and (7).

Article 128 - Health insurance. **(1)** Where insurance contracts covering the risks in class 2 of Annex no. 1, section A, may partially or fully replace the health insurance provided by the social insurance system, they shall be concluded in compliance with the legislation on the protection of the general good and on condition that the insurers provide in advance to the Social Security Agency the general and special conditions of this type of insurance.

(2) Insurers shall submit to A.S.F. the technical bases used for the calculation of premiums before offering the products, which are similar to those for life insurance if the following conditions are cumulatively met:

a) insurance premiums shall be calculated on the basis of morbidity tables and other relevant statistical data in accordance with actuarial mathematical methods used in insurance and shall be sufficient to settle the liabilities;

(b) insurers set up a maturity reserve;

c) insurers may terminate the health insurance contract within 20 days from the date of notification to the contractor;

(d) insurance contracts provide that premiums may be increased or payments reduced even for existing contracts;

e) the insurance contracts shall provide for the right of the policyholders to conclude a new contract in accordance with the provisions of para. (1), offered by the same insurer or the same branch and taking into account the rights they have acquired; the conclusion of the new contract shall take into account the maturity reserve and a new medical examination may be required only in the case of an extension of cover.

(3) A.S.F. shall publish the morbidity tables and other relevant statistical data and submit them to the supervisory authorities of the home Member State.

Article 129 - Insurance against workplace accidents. Insurers who provide compulsory insurance against accidents at work at their own risk on the basis of the right of establishment and the freedom to provide services shall comply with the special provisions laid down in the national law of the host Member State for this type of insurance.

Article 130 - Life insurance. Insurers shall set the level of premiums for new products on the basis of reasonable actuarial assumptions so that the premiums are sufficient to cover their liabilities and, in particular, to establish technical provisions; for this purpose, they shall take account of all financial aspects, without the contribution from resources other than premiums and income therefrom being systematically and permanently such as to affect their long-term solvency.

Article 131 - Finite reinsurance. **(1)** Insurers underwriting finite reinsurance contracts and reinsurers conducting finite reinsurance activities shall have procedures in place to adequately identify, measure, monitor, manage, control and report the risks arising from those activities.

(2) For the purposes of the provisions of para. (1), finite reinsurance is reinsurance under which the maximum potential loss, expressed as the maximum economic risk ceded, arising from a significant transfer of underwriting risk and timing risk, is higher than the reinsurance premium for the whole contract by a limited but significant amount, taking into account at least one of the following characteristics:

a) the time value of money due for services rendered is actual and explicitly defined;

b) the contractual provisions balance over time the economic equilibrium of the relations between the parties, so that the transfer of risk reaches the agreed level.

Article 132 - Special- purpose vehicles. **(1)** The establishment of special-purpose vehicles is carried out only following the licence granted by A.S.F., in accordance with Article (1) sub-par. e), and in accordance with the legal provisions.

(2) Special- purpose vehicles authorized before 31 December 2015 are subject to specific national legislation.

TITLE II
Groups

CHAPTER I
Scope

Article 133 - Cases of application of group supervision. **(1)** For the purposes of this Title, the term insurance undertaking shall mean an insurance undertaking belonging to a group, authorized either in Romania or in other Member States.

(2) The provisions of Title I shall also apply as appropriate to insurance undertakings forming part of a group, except where otherwise provided in this Title.

(3) Group supervision shall apply to:

(a) insurance holding companies of at least one company from Member States or third countries;

(b) insurance undertakings whose parent insurance undertakings are insurance holdings or mixed financial holdings which have their head office in a Member State;

(c) insurance undertakings whose parent insurance undertakings are insurance undertakings, insurance holdings or mixed financial holdings from third countries;

d) insurance undertakings whose parent insurance undertakings are mixed-activity insurance holdings.

(4) A.S.F. supervises third-country insurance undertakings, insurance holdings, mixed insurance holdings and mixed financial holdings only at group level, and in the case of insurance holdings or mixed financial holdings the provisions of Article 27 shall also apply.

(5) A.S.F. decides, on a case-by-case basis, to exclude a company from group supervision if:

a) it is established in a third country where there are legal restrictions on the exchange of information, without prejudice to Article 148;

b) its exclusion does not materially influence the achievement of the objectives of group supervision;

(c) its inclusion is inappropriate or would lead to erroneous conclusions regarding the objectives of group supervision.

(6) A.S.F. shall include, in the group supervision, the undertakings referred to in par. (5) sub-par. b) if, taken collectively, they have a significant impact on the achievement of the objectives of group supervision.

Article 134 - The highest-ranking parent insurance undertaking. **(1)** The provisions of Articles 15 to 18 and Articles 137 to 161 shall apply at the level of the highest-ranking parent insurance undertaking, insurance participating undertaking or mixed financial holding undertaking which has its head office in a Member State, where:

(a) the holdings referred to in Article 133 par. a) are subsidiaries of insurance undertakings which have their head office in a Member State;

(b) an insurance holding or mixed financial holding referred to in Article 133 par. (3) sub-par. (b) is a subsidiary of another insurance participating undertaking or mixed financial holding which has its head office in a Member State.

(2) Where a parent insurance undertaking, a parent insurance participating undertaking or a parent mixed financial holding of the highest-ranking is a subsidiary of an entity subject to supplementary supervision within the meaning of Government Emergency Ordinance no. 98/2006, approved with amendments and additions by Law no. 152/2007, as subsequently amended and supplemented, A.S.F. may decide, after consultation with the other supervisors involved, not to supervise either the risk concentration referred to in Article 157 or the intra-group transactions referred to in Article 158, or none of these elements.

Article 135 - The highest-ranking parent company at national level. **(1)** For the entities referred to in Article 133 para. (3) sub-pars. a) and b) with head office in Romania and the highest-ranking parent insurance undertaking with head office in the Member States, A.S.F., after consulting the coordinating supervisor and the highest-ranking parent insurance undertaking at the level of the Member States, may decide to subject to group supervision the highest-ranking parent insurance undertaking at national level, giving reasons for its decision to the coordinating supervisor and the highest-ranking parent insurance undertaking at the level of the Member States.

(2) In the case referred to in para. (1), the provisions of Articles 15-18 and Articles 137-161 shall apply accordingly, in accordance with the provisions of paras. (3) - (9).

(3) A.S.F. may limit group supervision of the highest-ranking parent insurance company at national level to:

a) the provisions of Chapter II;

b) the provisions of Articles 157 and 158;

c) the provisions of Article 159;

d) a combination of the provisions referred to in sub-pars. a)-c).

(4) If A.S.F. decides to apply the provisions of Chapter II, the decision of the coordinating supervisor on the method chosen by the coordinating supervisor for the parent company of the highest-ranking Member State at the level of the Member States, in accordance with Article 139, shall be final and shall also be applied by A.S.F.

(5) Where A.S.F. decides to apply the provisions of Chapter II to the highest-ranking parent company at national level, but the highest-ranking parent company at Member State level is allowed to calculate the SCR by internal model, both at group level and at the level of the group's component undertakings, the decision of the coordinating supervisor shall be final and shall also be applied by A.S.F.

(6) In the case referred to in para. (5), if A.S.F. considers that the risk profile of the highest-ranking parent company at national level deviates significantly from the internal model approved at Member State level and that company fails to remedy the situation, A.S.F. may:

(a) impose a solvency capital add-on to the SCR resulting from the use of that model;

(b) to require the calculation of the SCR at group level with the standard formula if the increase referred to in point (a) proves inadequate.

(7) A.S.F. shall state the reasons for the decision taken in the situation referred to in para. (6), both to the coordinating supervisor and to the parent company of the highest national rank.

(8) If A.S.F. decides to apply the provisions of Chapter II, the subsidiaries of the parent company of the highest ranking at national level shall not be subject to the provisions of Article 155, even if the conditions set out in Article 154 or 156 are met.

(9) The provisions of para. (1) shall not apply where the highest-ranking parent insurance undertaking at the level of the Member States has obtained approval to calculate with the internal model the SCR and MCR at group level for its subsidiaries in accordance with Article 16 par. (9).

Article 136 - Supervision at subgroup level. **(1)** In case of application of the provisions referred to in Article 135, A.S.F. may conclude an agreement with the authorities of the Member States in which a subsidiary of the group treated as a parent company of the highest national ranking is present, in order to carry out group supervision at the level of a subgroup located in several Member States.

(2) A.S.F. may not apply the supervision referred to in Article 135 to a subsidiary of a group if other authorities conclude an agreement within the meaning of para. (1) for other subsidiaries of that group.

(3) For the situation referred to in para. (1), the provisions of Article 135 pars. (2) to (9) shall apply accordingly.

CHAPTER II
Solvency at group level

SECTION 1
Own funds and solvency calculation at group level

Article 137. - General provisions. **(1)** The insurance holding company referred to in Article 133 para. (3) sub-par. a) or the holding referred to in Article 133 para. (3) sub-par. b) shall at all times ensure that the group has eligible own funds at least equal to the SCR at group level calculated in accordance with the provisions of Articles 139-152 and 153 respectively.

(2) If the insurance holding company informs A.S.F. that the SCR at group level is no longer complied with or that there is a risk of non-compliance within

the next 3 months, A.S.F. shall inform the other authorities within the college of supervisors in order to take appropriate measures.

Article 138 - Frequency of calculation. **(1)** Insurance holding companies or mixed financial holding companies shall determine at least annually the level of eligible own funds provided for in Article 137 para. (1).

(2) The relevant data on the basis of which the own funds are determined and the results of the determination shall be submitted to A.S.F. by the holding company, the insurance holding, the mixed financial holding or the group company designated by A.S.F. after consultation with the group and the supervisory authorities concerned.

(3) Holdings, insurance holdings or mixed financial holdings shall continuously monitor the SCR at group level and recalculate that requirement, submitting the results to A.S.F., if since the last reporting:

a) the risk profile deviates significantly from the assumptions underlying the calculation;

b) the risk profile is significantly altered.

Article 139 - Choice of calculation method. **(1)** The calculation of the solvency at group level for insurance holding companies shall be carried out in accordance with the provisions set out in Articles 140 to 148 and in accordance with method No 1 set out in Article 149.

(2) Where the use of method no. 1 is not appropriate, A.S.F. may approve, after consulting the college of supervisors and the group concerned, the use of method no. 2 provided for in Article 150 or the use of a combination of the two methods.

Article 140 - Inclusion of the proportional share. **(1)** The calculation of the solvency at group level shall take into account the proportional share held by the participating undertaking in the affiliated entities, which shall include:

a) the percentages used for drawing up the consolidated accounts, where method No 1 is applied;

(b) the proportion of subscribed capital held directly or indirectly, where method 2 is applied.

(2) Where the affiliated entity is a subsidiary and does not hold sufficient eligible own funds to cover its own SCR, irrespective of the method applied, the total solvency deficit of the subsidiary shall be taken into account in the calculation of the SCR at group level, and where A.S.F. and the college of supervisors consider that the liability of the company is strictly limited to the proportion of capital held, it may approve the taking into account of that deficit on a pro-rata basis.

(3) The proportionate share shall be determined by A.S.F., after consulting the college of supervisors, and shall be taken into account when:

a) there are no capital links between some group entities;

(b) one of the supervisors considers that the direct or indirect holding of capital or voting rights in an entity qualifies as participation because significant influence is effectively exercised over that entity;

(c) one of the supervisors considers an entity to be the parent of another entity because it effectively exercises a dominant influence over the latter.

Article 141 - Dual use of own funds. **(1)** Insurance undertakings within a group may not use the eligible own funds of another group company to cover their own SCR.

(2) When calculating the SCR at group level and where the methods set out in Articles 149-152 do not provide otherwise, the following values shall be excluded:

(a) the amount of assets held by the insurance holding companies which are considered as eligible own funds items covering the SCR of one of the related undertakings;

(b) the amount of assets held by an affiliated insurance undertaking and treated as eligible own fund items covering the SCR of the insurance holding company or other affiliated insurance undertakings.

(3) Notwithstanding para. (1), the following values may be included in the calculation of the SCR at group level, only to the extent that they are eligible for SCR coverage of affiliated entities:

(a) surplus funds referred to in Article 66, registered by life insurance undertakings affiliated to the insurance holding company for which the group solvency is calculated;

(b) the subscribed and uncalled share capital of affiliated undertakings of the participating insurance undertaking for which the group solvency is calculated.

(4) Notwithstanding para. (3), the following values shall be excluded from the calculation of the SCR at group level:

(a) the subscribed and uncalled share capital which represents a potential liability on behalf of the holding company;

(b) the subscribed and uncalled share capital of the participating company which represents a potential obligation on behalf of a related company;

(c) the subscribed and uncalled share capital of a related company which represents a potential liability on behalf of another related company.

(5) If A.S.F. considers that certain own funds eligible for the SCR of affiliated insurance undertakings, other than those referred to in para. (3), are not effectively available to cover the SCR of the participating insurance undertaking at group level, then those funds shall be taken into account only to the extent that they are eligible to cover the SCR of the affiliated undertakings.

(6) The amount of own funds referred to in paras. (3) and (5) shall not exceed the SCR of the affiliated company.

(7) The eligible ancillary own funds of subsidiaries of an insurance holding company for which group solvency is calculated shall be included in the calculation of the SCR at group level after prior approval by the authority responsible for the supervision of the respective subsidiary or after prior approval by A.S.F. in accordance with Article 65, in the case of subsidiaries located in Romania.

Article 142 - Intra-group capital. **(1)** Where a company or its affiliated insurance undertakings hold shares in, or grant loans to, another entity which

directly or indirectly holds own funds eligible for SCR cover of the first company, this shall be considered as reciprocal financing.

(2) When calculating the solvency at group level, no account shall be taken of eligible own funds arising from reciprocal financing between the participating company and:

a) affiliated entities;

b) participatory entities;

(c) other entities related to its investees.

(3) Own funds covering the SCR of a related insurance undertaking of an insurance holding company for which the group-wide SCR is calculated shall be disregarded when calculating the group solvency if they arise from reciprocal financing with a related insurance undertaking of that participating insurance undertaking.

Article 143 – Valuation. The valuation of assets and liabilities shall be carried out in accordance with the provisions of Article 52.

Article 144 - Calculation method for affiliated insurance undertakings. **(1)** Where insurance undertakings have more than one affiliated insurance undertaking, the solvency at group level shall be calculated by including all affiliated insurance undertakings.

(2) Where a related insurance undertaking of an insurance undertaking for which the group solvency is calculated has its head office in a Member State other than that Member State, the calculation of the SCR and the assessment of own funds for the related insurance undertaking shall be carried out in accordance with the legislation of that Member State.

Article 145. – Calculation method for intermediate holding companies **(1)** When calculating the group solvency of an insurance undertaking which holds participations in affiliated insurance undertakings in Member States or in undertakings in third States through an insurance holding company or a mixed financial holding, the situation of that holding company, referred to as intermediate holding company, shall also be taken into account for the calculation of the group solvency; for the sole purpose of this calculation, the intermediate holding company shall be treated as a regulated entity as provided for in Title I , Chapter V, Sections 3 and 4 as regards eligible own funds and SCR.

(2) If the intermediate insurance holding company referred to in para. (1) holds subordinated loans or other eligible own funds to which the limits provided for in Article 71 apply, they shall be recognized only up to the amount resulting from the application of these limits to the total eligible own funds at group level compared to the SCR at group level; ancillary own funds may be taken into account in the calculation of solvency at group level only after approval by A.S.F. in accordance with the provisions of Article 65 and Article 166 para. (1) sub-paragraph) f).

Article 146 - Calculation method for affiliated insurance undertakings in third States. **(1)** When calculating the group solvency at group level in accordance with method 2 for an undertaking which holds participations in an undertaking

in a third State, the latter shall be treated, exclusively for this purpose, as a related undertaking.

(2) Where the third country referred to in para. (1) is a third country referred to in para. (1), the following shall apply (1) provides for the authorization of undertakings in its national law and applies a solvency regime at least equivalent to that laid down in Title I, Chapter I, Solvency Capital Requirement. V, the eligible own funds and the SCR of that company shall be in accordance with the law of the third country where it has its head office.

Article 147 - Calculation method for affiliated institutions such as credit institutions, investment firms or other financial institutions. **(1)** Insurance undertakings with participating interests in financial institutions, credit institutions or investment firms may apply, consistently over time, method no. 1 or method no. 2 for the calculation of solvency at group level; in the case of the first method, it shall be applied only if A.S.F. finds that the requirements on integrated management and internal control for the inclusion of entities in the scope of consolidation are complied with.

(2) At the request of insurance holding companies or on its own initiative, A.S.F. shall approve the deduction of the holdings referred to in para. (1) from the own funds eligible for SCR at group level of the participating undertakings.

Article 148 - Lack of information. Where A.S.F. does not have the necessary information on a related insurance undertaking which has its head office in another Member State or in a third country for the calculation of the group solvency of insurance undertakings, the book value of the holding in that entity shall be deducted from the amount of eligible own funds covering the group solvency and the unrealized gains on this holding shall not be recognized as own funds covering the group solvency.

Article 149 - Calculation method No 1. **(1)** The calculation of the group solvency of an insurance holding company shall be carried out on the basis of consolidated accounts.

(2) The group solvency of an insurance holding company is the difference between the following:

a) eligible own funds covering the SCR, determined as per the provisions of Title cap. V, Section 3;

b) the SCR at group level, calculated in accordance with the provisions of Title I Chapter V, Section 4.

(3) The SCR at group level based on consolidated data, also referred to as the consolidated SCR, shall be calculated in accordance with the provisions of Title I, Chapter I, Section I. V, Section 4.

(4) The consolidated SCR, covered by own funds eligible in accordance with Article 71 para. (4), shall be at least the sum of:

a) MCR of the participating undertaking;

b) the proportional shares in the MCR of affiliated undertakings.

Article 150 - Calculation method No 2. **(1)** The group solvency of a insurance holding company shall be calculated as the difference between:

(a) the aggregated eligible own funds at group level referred to in para. (2);

(b) the value of the holdings held by the participating undertaking and the SCR aggregated at group level referred to in para. (3).

(2) Aggregated eligible own funds at group level are the sum of:

a) own funds eligible for the SCR of the holding company;

(b) the proportional shares of the participating undertaking in the own funds eligible for SCR of the affiliated undertakings.

(3) The aggregated SCR at group level is the sum of:

a) SCR of the holding company;

b) the proportional shares in the SCR of affiliated undertakings.

(4) Where the holding in affiliated insurance undertakings consists of an indirect holding, whether in whole or in part, the value of that holding shall also include the value of the indirect holding, according to the relevant successive interests, the proportional shares referred to in para. (2) sub-par. (b) and para. (3) sub-par. (b) shall be modified accordingly.

(5) In determining the appropriateness of the aggregated group-wide SCR to the risk profile at group level, A.S.F. and other supervisors shall consider any specific risks existing at group level which may be insufficiently covered because they are difficult to quantify, and, in the event of a significant deviation of the risk profile at group level from the assumptions underlying the aggregated group-wide SCR, may impose a Solvency Capital Requirement in accordance with Article 35.

Article 151. - The internal group model. **(1)** The application submitted to A.S.F. for approval in accordance with Article 166 para. (1) sub-par. g), by an undertaking and its affiliated entities, by an insurance participating undertaking or a mixed financial insurance holding company and their affiliated entities for approval to calculate the aggregated SCR at group level and the SCR of the insurance undertakings within the group on the basis of an internal model, shall be accompanied by the complete documentation.

(2) A.S.F. shall submit to the applicants referred to in para. (1), the decision on the approval or rejection of the use of the internal model at group level, accompanied by the related motivation.

(3) Where A.S.F. finds that the risk profile of a company calculating the SCR with the group internal model deviates from the assumptions underlying that model, A.S.F. may impose a capital add-on to the solvency capital in accordance with Article 35 or, if the company does not remedy the situation, the calculation of the SCR with the standard formula.

(4) A.S.F. may impose a solvency capital add-on in accordance with the provisions of para. (3) and where the SCR of a company is calculated using the standard formula.

(5) The reasoned decision on the increase of the Solvency Capital Requirement adopted in the cases referred to in paras. (3) and (4) shall be communicated to the insurance undertaking concerned and to the college of supervisors.

Article 152 - Solvency capital add-on at group level. **(1)** In determining whether the SCR at group level reflects the risk profile of the group, A.S.F. shall

take into account the situations referred to in Article 35, para. (1) sub-pars. a) - d) that may occur at group level, in particular if:

a) there are specific risks at group level that are not sufficiently captured by the standard formula or internal model because they are difficult to quantify;

(b) the other supervisors have imposed a Solvency Capital Requirement on the affiliated undertakings.

(2) Where the SCR at group level does not reflect the risk profile of the group, A.S.F. shall impose a Solvency Capital Requirement.

Article 153. – Group solvency of an insurance holding or mixed financial holding. For an insurance holding or a mixed financial holding, solvency calculation at group level is made on the respective holding level, under enforcement of the provisions of Articles 139-152, being dealt with as an undertaking complying with the provisions on own funds and SCR, as per title I Chapter V sections 3 and 4.

SECTION 2

Group solvency for groups with centralized risk management

Article 154 – Conditions. **(1)** The provisions of Article 155 paras. (1) - (3) shall apply to undertakings which are subsidiaries of a parent insurance undertaking, insurer or reinsurer, if the following conditions are cumulatively met:

(a) the subsidiary is included in group supervision under the conditions of this Title;

(b) the parent company's risk management processes and internal control mechanisms cover the subsidiary and are considered by the authorities concerned to be adequate for the exercise of prudent management of the subsidiary;

(c) the parent company has received the approval referred to in Article 159 para. (5);

(d) the parent company has received the approval referred to in Article 16, para. (24);

e) the parent company submits an application for the application of the centralized risk management system and A.S.F. approves the application, following the applicable procedure set out in Articles 15-18.

(2) The parent company shall ensure that the conditions referred to in para. (1) are complied with at all times. (1) sub-pars. b) - d); if they are no longer complied with, the parent company shall immediately inform A.S.F. and the subsidiary of this fact, forwarding a plan to remedy the situation.

(3) If A.S.F. finds that the conditions set out in para. (1) sub-pars b) - d), the parent company shall submit a plan whereby, within a reasonable time, the conditions in question are again met.

Article 155 - Solvency Capital Requirement (SCR) and Minimum Capital Requirement (MCR). **(1)** Where the SCR of the subsidiaries authorized by A.S.F. included in the group supervision is calculated in accordance with the

provisions of Article 151 para. (1) and the risk profile deviates significantly from the assumptions underlying that model, A.S.F. may impose the measures provided for in Article 151 para. (3).

(2) If the SCR of the subsidiaries is calculated with the standard formula and the risk profile deviates significantly from the underlying assumptions and if the subsidiaries do not remedy the situation, A.S.F. may impose, by a duly reasoned decision, the following measures:

a) replace subsets of parameters in the standard formula with branch-specific parameters for the underwriting risk modules general, life and health underwriting, as provided for in Article 81;

b) to increase the Solvency Capital, in accordance with Article 35.

(3) If the SCR or MCR is not complied with, the subsidiaries shall be subject to the provisions of Article 99 or 100, as the case may be.

(4) The provisions of paras. (1) - (3) shall cease to apply in the following situations:

a) the conditions referred to in Article 154 para. (1) sub-pars. a), c) and d) are no longer fulfilled;

(b) the conditions referred to in Article 154 par. (1) sub-par. (b) are no longer fulfilled and the group does not take the necessary steps to ensure that those conditions are again fulfilled within a reasonable time.

(5) The provisions of paras. (1) to (3) shall be applicable again if the parent company so requests and receives approval in accordance with the applicable procedure set out in Articles 15 to 18.

Article 156 - Subsidiaries of an insurance holding company or a mixed financial holding company. Articles 154 and 155 shall apply accordingly to insurance undertakings which are subsidiaries of an insurance participating holding or a mixed financial holding.

CHAPTER III

Oversight of group-wide risk concentration, intra-group transactions and system of governance

Article 157 - Oversight of risk concentration. **(1)** Within the supervisory process exercised by A.S.F., the supervision of risk concentration at group level shall also be carried out in accordance with the applicable procedure set out in Articles 15-18 and with the provisions of Article 159.

(2) The group coordinating insurance undertakings or, where applicable, the insurance holdings or mixed financial holdings shall submit to A.S.F., at least annually, a report on significant risk concentration at group level, identified in accordance with Article 16 paras. (21) and (22).

Article 158 - Oversight of intra-group transactions. **(1)** Within the supervisory process exercised by A.S.F., the oversight of intra-group transactions shall be carried out in accordance with the applicable procedure set out in Articles 15-18 and with the provisions of Article 159.

(2) Group coordinating insurance undertakings or, where applicable, insurance holdings or mixed financial holdings shall submit to A.S.F., at least annually, a report on all significant intra-group transactions carried out by undertakings, including with individuals having close links with any entity within the group, identified in accordance with Article 16 para. (21); the report on significant intra-group transactions shall be submitted as soon as practicable.

Article 159 - Supervision of the system of governance. **(1)** Without prejudice to the requirements laid down in Title I, Chapter IV, Section 2, the reporting procedures and risk management and internal control systems shall be developed and consistently applied by all insurance undertakings included in the group level supervision in accordance with Article 133 para. (3) sub-pars. (a) and (b) so that they are controllable at group level.

(2) The internal control system shall comprise the following:

(a) adequate solvency procedures at group level, so that all material risks are identified and quantified and eligible own funds are allocated to cover them;

b) accounting and reporting procedures for monitoring and managing intra-group transactions and risk concentration;

(c) the general internal control framework.

(3) Insurance holding companies, insurance holdings or mixed financial holdings shall carry out ORSA at group level, in accordance with the provisions of Article 29, which shall be subject to the supervisory process by A.S.F. as coordinating supervisor.

(4) Where insurance holding companies, insurance holdings or mixed financial holdings decide to calculate the solvency at group level with method No 1 referred to in Article 149, they shall demonstrate to A.S.F. that the difference between the SCR sum of all affiliated insurance undertakings and the aggregated group-wide SCR sum is correct.

(5) Insurance holding companies, insurance holdings or mixed financial holdings shall apply to A.S.F. for approval to conduct ORSAs at group level and at subsidiary level at the same time and to submit a single report to A.S.F. and the supervisory authorities of the respective subsidiaries.

(6) The exercise by the group of the option referred to in para. (5) shall not exempt the subsidiaries from complying with the provisions of Article 29.

CHAPTER IV
Public report

Article 160 - Solvency at group level. **(1)** Insurance holding companies, insurance holdings or mixed financial holdings shall publish annually a report on the solvency and financial capacity at group level, in compliance with Articles 39-42.

(2) Where insurance holding companies, insurance holdings or mixed financial holdings apply to A.S.F. for approval of the publication of a single solvency and financial condition report, it shall contain the information set out in Articles 39-42, as follows:

a) at group level;

b) at branch level, so that their situation is easily identifiable.

Article 161 - Group structure. Insurance undertakings, insurance holdings or mixed financial holdings shall disclose annually information at group level on the legal structure, governance and organizational structure, including description of subsidiaries, description of branches and significant affiliated entities.

CHAPTER V
Parent insurance undertakings having their head office in third States

Article 162. - Lack of equivalence of the supervisory regime. **(1)** If the supervisory regime of a third country is not declared equivalent, including temporarily, or if A.S.F. decides not to rely on the third country in the situation provided for in Article 16 para. (32), A.S.F. shall apply to the undertakings of the third country any of the following provisions:

a) Articles 137-153 and 157-160, in accordance with the applicable procedures set out in Articles 15-18;

(b) one of the methods provided for in Article 16 par. (34) and Article 17 para. (17).

(2) For the sole purpose of calculating solvency at the group level, the parent undertaking shall comply with the provisions of Title I, Chapter I, Solvency I, Cap. V, Section 3 and one of the following:

a) SCR determined in accordance with the provisions of Article 145, if it is an insurance participating undertaking or mixed financial holding company;

b) SCR determined in accordance with the principles set out in Article 146, if it is a company from a third State.

TITLE III
Other provisions

CHAPTER I
Penalties

Article 163 – Penalties. **(1)** The following acts constitute petty offences:

a) non-compliance by insurance undertakings and by the persons who are part of their management or by those who hold key functions or other critical functions with the provisions of this Law, delegated acts or regulations, regulatory technical and implementing technical standards, implementing acts and other acts issued by the European Commission or the Council and the European Parliament, with direct applicability in the Member States, as well as with the regulations issued by A.S.F. in application of this law;

b) failure by insurance undertakings to comply with the provisions relating to the conduct of business set out in Article 25 pars. (3)-(5) and (7), Article 26 pars. (1)-(5), Articles 36, 49, 50 and Article 51 para. (1), as well as by the branches

of insurers from third countries established in the territory of Romania of the provisions of Articles 121, 124 paras. (2) and (3), 127 par. (3), 128 par. (10 and 130 thesis I;

b[1]) non-compliance by the persons who are part of the management of the undertakings with the provisions on the conduct of the activity provided for in Article 25 paras. (1) and (2);

c) breach of the provisions of Article 27 by the undertakings and by the persons who are part of their management or by those who hold key functions or other critical functions;

d) infringement by insurance undertakings of the provisions of Article 21 para. (2) and (5[1]);

e) failure by insurance undertakings to comply with the provisions relating to the transfer:

(i) documents and information pursuant to Article 8 para. (4), Articles 37, 39, 41, 42 and 47;

(ii) documents and reports as required by law;

(iii) the documented refusal provided for in Article 25 para. (9) and Article 26 para. (7);

(f) failure by insurance undertakings to comply with the provisions of Section 2 of Chapter V on the establishment and calculation of technical provisions, the provisions of Section 3 of Chapter V on own funds, Section 4 of Cap. V on SCR, Section 5 of Chapter V on MCR, Section 6 of Chapter V on investments of Title I of Part I, as well as by branches of undertakings in third States of the provisions of Article 118;

g) failure by the transferee company to comply with the provisions of Article 38 para. (5) and Article 117 par. (8), as well as carrying out the portfolio transfer without the approval of A.S.F.;

h) failure by insurance undertakings to comply with the provisions of Article 20 para. (15) and failure by undertakings to comply with the conditions laid down in Article 21 para. (1) sub-pars. a), b), h) and i);

i) carrying out by the insurance undertakings or by the persons who are part of their management of any changes to the documents and/or conditions on the basis of which the operating licence was granted, without the approval of A.S.F.;

j) failure by insurance undertakings to comply with the provisions of Article 99 paras. (1), (2) and (5) and Article 100;

k) non-compliance by insurance undertakings and branches of third-country insurers established in Romania with the measures adopted by A.S.F. in accordance with Article 101;

l) failure by insurance undertakings to comply with the provisions of Article 107 paras. (1) and (3) and Article108 pars. (1) - (4), (6) and (7) concerning the information submitted to potential policyholders;

m) failure by insurers to comply with the provisions of Article 111, Article 112 paras. (7) and (8), Articles (1), (7), (8) and Article 114;

n) failure by insurance undertakings defined in accordance with Article 133 para. (1) the provisions of Article 137 para. (1), Articles 138, 139 par. (1), 140 paras. (1) and (3), 141-145, 146 par. (2), Articles 153, 154, 157 par. (2), Article 158 para. (2) and Articles 159-161;

n^1) failure by insurance undertakings and persons forming part of the management of undertakings to comply with the obligations regarding the identification and notification of deterioration of the financial situation referred to in Article 98, as well as with the obligations to draw up, submit and update the company's preventive remedial plan referred to in Article 98^1 paras. (1)-(8), (12) and (13);

n^2) failure by the insurance undertakings and the persons who are part of the management of the insurance undertakings to fulfil the obligation to provide A.S.F. with the requested documents and information, as provided for in Article 177^3 pars. (2)-(4);

n^3) failure to apply or improper application by undertakings and persons who are part of the management of insurance undertakings of the measures to remove the deficiencies of the preventive remedial plan or obstacles to its implementation, preventive and corrective measures or recovery measures within the special financial recovery procedure ordered by A.S.F. by decisions pursuant to the provisions of Article 98^2 para. (9), Articles 101, 177^4-177^5 and 177^6 pars. (1)-(4);

n^4) failure by the persons forming part of the management of the insurance undertakings to comply with the requirements imposed on them by the decision appointing the temporary administrator in accordance with the provisions of Article 101 para. (17);

n^5) non-compliance by insurance undertakings and persons forming part of the management of insurance undertakings with the provisions of Article 177^7 para. (3) concerning the unrestricted access of the members of the monitoring committee to the documents, registers and technical-operational and accounting records of the company, to the meetings of the management and to the general meetings of shareholders or members, as well as the provision, upon request, of all information that is necessary for the members of the committee to exercise their duties and powers;

n^6) failure by insurance undertakings and persons forming part of the management of undertakings to comply with the provisions on dissolution and liquidation, as provided for in Article 177^{12};

n^7) failure by the persons who are part of the management of the undertakings to comply with the provisions regarding the maintenance of special registers of assets, as provided for in Article 177^{13};

o) unlawfully hindering the exercise of the rights conferred by law to A.S.F., as well as the unjustified refusal of any person to respond to requests from A.S.F. in the exercise of its duties under the law;

p) non-compliance by insurance undertakings and persons who are part of their management with the measures established by the acts of authorization, supervision, regulation and control or as a result thereof;

(r) influence likely to prejudice the sound and prudent management of the undertaking by its management or by persons holding key or other critical positions within the undertaking.

s) non-compliance by insurers which are market participants within the meaning of Article 2(1)(a) of Regulation (EU) No 2.088/2019 of the European Parliament and of the Council of 27 November 2019 on sustainability information in the financial services sector, as amended, with:

(i) the applicable provisions of Articles 3 to 13 and Article 15 of the same Regulation;

(ii) the provisions of Articles 5 to 7 of Regulation (EU) No 852/2020 of the European Parliament and of the Council of 18 June 2020 on establishing a framework to facilitate sustainable investment and amending Regulation (EU) 2019/2.088.

(2) Committing the petty offenses referred to in para. (1) by undertakings or branches of undertakings in third states shall be sanctioned, as appropriate, with:

a) written warning;

b) a fine from Lei 10,000 to Lei 5,000,000, by way of derogation from the provisions of Article (2) of Government Ordinance no. 2/2001 on the legal regime of contraventions, approved with amendments and additions by Law no. 180/2002, as subsequently amended and supplemented.

(3) In addition to the main misdemeanour sanctions provided for in para. (2), depending on the nature and seriousness of the offense, A.S.F. Council may impose on undertakings or branches of undertakings from third states one or both of the following additional misdemeanours:

(a) a temporary or permanent total or partial prohibition, in respect of one or more classes of insurance, on the exercise of insurance and/or reinsurance business, in accordance with the principle of proportionality;

(b) withdrawal, in whole or for one or more classes of insurance, of the operating licence.

(4) Committing the petty offenses referred to in para. (1) sub-pars. a), $b^{1)}$), c), i), n^{1})-n^{7})), o), p) and r) by the management of undertakings or persons holding key or other critical positions within them shall be sanctioned, as appropriate, with:

a) written warning;

b) a fine from Lei 10,000 to Lei 1,000,000, by way of derogation from the provisions of Article (2) of Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, as subsequently amended and supplemented.

(5) In addition to the main non-criminal fines provided for in para. (4), depending on the nature and seriousness of the petty offense, the A.S.F. Council may apply to the management of the undertakings or persons holding key or other critical positions within them one or both of the following complementary misdemeanours:

a) withdrawal of the approval granted by A.S.F.;

b) disqualification from holding positions that require the approval of A.S.F. for a period of between one and 5 years from the date of communication of the sanctioning decision or another date expressly mentioned therein.

(5^1) By way of derogation from the provisions of Article 10 para. (2) of Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, as subsequently amended and supplemented, in the event of two or more petty offences, a penalty shall be imposed for each offence.

(6) Influencing by shareholders or by members of mutual undertakings, which is likely to prejudice a fair and prudent management of the undertaking, shall be sanctioned by A.S.F. with the suspension of the exercise of voting rights, expressed by the respective shareholders. In the event of non-compliance with the suspension decision, A.S.F. may apply to the court for the annulment of the votes cast by the shareholders or members of the mutual society during the period of suspension.

(7) If the acquisition of a qualifying holding has been carried out without complying with the notification obligation provided for in Article 43, during the period of assessment provided for in Article 44 or without taking into account the opposition made by A.S.F. in accordance with Article 45 para. (2), the corresponding voting rights shall be null and void and any votes already cast shall be annulled accordingly.

(8) If significant shareholders no longer meet the criteria set out in Article 45 para. (1) sub-pars. a) - d) and the requirements of the legal provisions on their approval, as well as if there are reasonable grounds to suspect, in connection with the proposed acquisition, that a money laundering or terrorist financing operation within the meaning of Law no. 656/2002, republished, as amended, is being, has been or is attempted to be committed or that the proposed acquisition could increase the risk in relation to them, A.S.F. may order the suspension of the voting rights attached to the shares held by the respective shareholders or the withdrawal of the approval granted.

(9) A.S.F. shall order the shareholders referred to in paras. (7) and (8) to sell, within a period of 3 months, the shares relating to the holding in respect of which A.S.F. has not given its consent. The shares concerned shall be taken into account when determining the quorum required for the general meeting of shareholders. After the expiry of this period, if the shares have not been sold, A.S.F. shall order the company to cancel the shares in question, issue new shares bearing the same number and sell them, the proceeds of the sale being recorded at the disposal of the original acquirer, after deduction of the expenses incurred in the sale.

(10) The board of directors or, as the case may be, the members of the undertaking's management board shall be responsible for carrying out the necessary measures for the cancellation of shares, in accordance with the provisions of para. (9) and the sale of the newly issued shares. If the price obtained is not satisfactory or if, due to lack of buyers, the sale has not taken place or only a partial sale of the newly issued shares has been realized, the

undertaking shall immediately proceed to reduce the share capital by the difference in value between the registered share capital and the share capital held by the shareholders with voting rights.

(11) When determining the type of penalty or sanctioning measure and the amount of the fine, for the offenses referred to in paras. (1), (3) and (5), the A.S.F. Council shall take into account the principle of proportionality and qualified reasoning, as well as all relevant circumstances of the commission of the act, including the following aspects, as the case may be:

(a) the nature and seriousness of the facts, including those which may give rise to systemic risk within the meaning of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board;

b) form of guilt;

c) financial capacity;

d) financial stability;

(e) the amount of profits realized or losses avoided, in so far as they can be determined;

f) damage caused to third parties, insofar as it can be determined;

g) the degree of cooperation with A.S.F.;

h) previous infringements.

(12) The sanctioning decisions issued by A.S.F. shall contain the reasons in fact and in law, the mention that the sanctioned persons and entities have the right to appeal under Article 165, the deadline within which the appeal may be filed, the court to which it may be addressed and shall be communicated to the persons and entities concerned.

(13) The amount of the fines referred to in para. (2) sub-par. b) and para. (4) sub-par. b) shall be updated by A.S.F.'s own regulations.

(14) A.S.F. shall publish the sanctioning measures provided for in pars. (3) and (5) in the Official Journal of Romania, Part I.

(15) The application of sanctions and sanctioning measures shall not exclude material, civil or criminal liability, as the case may be.

(16) By way of derogation from the provisions of Article 8 pars. (3) and (4) of Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, as subsequently amended and supplemented, the fines established by law and applied by the A.S.F. Council shall be paid to the state budget in a 50% share, and the remaining 50% shall be paid to the A.S.F. budget.

(16[1]) In the case of sanctions imposed for committing the petty offences referred to in para. (1), the sanctioned persons shall pay the fine within a maximum of 15 days from the date of communication by A.S.F. of the sanctioning decision, by way of derogation from the provisions of Article (1) and Article 28 para. (1) of Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, as subsequently amended and supplemented.

(17) By derogation from the provisions of Article 13 para. (1) of Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, as subsequently amended and supplemented, the application of the non-criminal fines provided for by this Law shall be prescribed within 3 years from the date of the commission of the act.

(18) The petty offences referred to in para. (1) shall be ascertained by the specialized structures within A.S.F., and the application of the non-criminal fines provided for in pars. (2) - (8) shall be carried out by the A.S.F. Council, under the conditions of Article 21^2 of Government Emergency Ordinance no. 93/2012, approved with amendments and additions by Law no. 113/2013, as amended and supplemented.

(18^1) A.S.F. shall notify the insurance undertakings and/or persons concerned of the non-compliance with the legal provisions, having the right to explain the reason for the non-compliance or to raise objections within 7 days from the receipt of the notification.

(18^2) After the expiry of the period referred to in para. (18^1), A.S.F. may adopt appropriate measures to prevent or remedy any situations of non-compliance with the legal provisions found and/or may impose fines.

(18^3) The specialized structures within A.S.F. with control attributions shall draw up a report, following the periodic or unannounced control at the undertakings' premises; undertakings may object to the report within the time limits established by the legal provisions.

(19) Insofar as this law does not provide otherwise, the petty offences referred to in para. (1) the provisions of Government Ordinance no. 2/2001, approved with amendments and additions by Law no. 180/2002, with subsequent amendments and additions, shall be applicable.

Article 164 – Crimes. **(1)** Carrying out insurance and reinsurance activity without an operating license issued by A.S.F. or carrying out the activity without being entered in the Register of Insurance Undertakings is a crime and is punishable by imprisonment from 6 months to 3 years or a fine.

(2) Conducting operations in violation of the provisions of Article 110 para. (2^6) shall constitute a criminal offense and shall be punishable by imprisonment from 6 months to 3 years or a fine.

Article 165 - Appeals and procedural rules. **(1)** The acts adopted by A.S.F. in accordance with the provisions of this law may be challenged at the Bucharest Court of Appeal, Administrative and Tax Litigation Section, within 30 days from the date of communication.

(2) The appeal addressed to the Bucharest Court of Appeal, Administrative and Tax Litigation Section does not suspend, during its resolution, the measures ordered by A.S.F.

(3) A.S.F. does not have passive legal standing and cannot be summoned to be sued in lawsuits against undertakings, even if they are in financial recovery or bankruptcy proceedings and in lawsuits against the Policyholders Guarantee Fund, in order to answer for the non-fulfilment of the obligations assumed by them according to the law and/or international conventions.

(4) The act establishing and individualizing the payment obligation of individuals and legal entities sanctioned according to Article 163, drawn up or issued by the A.S.F. bodies according to the law, constitutes a debt instrument.

(5) On the due date, the debt instrument becomes an enforceable title, on the basis of which A.S.F. shall initiate the enforcement procedure for the recovery of its claims, according to the provisions of Law no. 134/2010 on the Code of Civil Procedure, republished, as subsequently amended and supplemented.

CHAPTER II

Provisions applicable in the transitional stages

Article 166 - Powers of A.S.F. **(1)** Starting with the date of entry into force of this Law in accordance with the provisions of Article 182, A.S.F. approves:

a) ancillary own funds in accordance with Article 65;

(b) the classification of own fund items referred to in Article 69 par. (2);

c) the specific parameters, in accordance with the provisions of Article 75 para. (7);

d) the internal model, in whole or in part, in accordance with the provisions of Article 82 and Article 83 respectively;

e) the establishment of special-purpose vehicles, in accordance with the provisions of Article 132;

(f) ancillary own funds of intermediate holding undertakings, in accordance with the provisions of Article 145 para. (2);

g) the internal group model in accordance with the provisions of Article 151;

h) the application of the matching adjustment in the case of the relevant risk-free interest rate term structure, in accordance with the provisions of Article 55 paras. (2) - (7);

i) the application of the volatility adjustment to the relevant risk-free interest rate term structure, in accordance with the provisions of Article 55 paras. (8) - (17);

j) application of the transitional measure in the case of the risk-free interest rate, in accordance with the provisions of Article 168;

k) the application of the transitional measure in the case of technical provisions, in accordance with Article 169.

(2) Starting with the date of entry into force of this Law in accordance with the provisions of Article 182, A.S.F. shall:

a) determine the level of group supervision and decide on the companies included in the scope of group supervision in accordance with the provisions of Title II, Chapter I;

(b) participate, within the college of supervisors, in the appointment of the coordinating supervisor in accordance with the criteria referred to in Article 16 para. (1);

c) participate in the establishment of colleges of supervisors, in accordance with the provisions of Article 15 paras. (1) and (2).

(3) Starting with the date of entry into force of this Law in accordance with the provisions of Article 182, A.S.F. shall:

a) decide on the deduction of participations, in accordance with the provisions of Article 147 para. (2);

b) determine the method of calculation of the solvency at group level in accordance with Article 139;

(c) determine the equivalence of the solvency and supervisory regime of third countries, where applicable, in accordance with the provisions of Article 1 pars. (30) and (33) and determine how to apply the provisions of Article 162;

d) permit, in accordance with the provisions of Article 154, the application of the provisions of Article 155 para. (1) under the conditions laid down in Articles 15-18;

e) decide, if necessary, the application of transitional measures, under the conditions of Article 167, and the application of the provisions of Article 155 para. (1), under the conditions laid down in Articles 15-18.

(4) Decisions and approvals granted under the provisions of paras. (1) and (3) shall apply as of 1 January 2016.

(5) A.S.F. shall submit to the supervisors of the other Member States the list of insurance undertakings falling under Article 167 paras. (1) and (2).

(6) Until 1 January 2021, A.S.F. shall submit annually to EIOPA the following information:

a) whether products with long-term guarantees are available on the national market and the investment practices of insurance undertakings to cover the obligations arising from those products;

(b) the number of insurance undertakings applying the matching adjustment, the volatility adjustment , the extension of the recovery period in accordance with Article 99 par. (4), the duration-related share devaluation risk sub-module and the transitional measures provided for in Articles 168 and 169;

(c) the impact of the matching adjustment, the volatility adjustment , the symmetric adjustment mechanism applied to the cost of capital related to equity investments, the duration risk sub-module and the transitional measures provided for in Articles 168 and 169 on the financial situation of undertakings at national level and, on an anonymous basis, for each company, without mentioning the identity of the company;

(d) the effect of the matching adjustment, the volatility adjustment, the symmetric adjustment mechanism applied to the cost of capital related to equity investments and the duration devaluation risk sub-module on undertakings' investment practices and whether the application of these measures leads to an unjustified reduction in capital requirements;

(e) the effect of a possible extension of the recovery period in accordance with Article 99 par. (4) on the measures implemented by insurance undertakings to restore the level of eligible own funds to cover the SCR or to reduce the risk profile in order to comply with that requirement;

f) where insurance undertakings apply the transitional measures provided for in Articles 168 and 169, the situations in which they comply with the phase-in plan provided for in Article 170 and the possibility to reduce the reliance on these transitional measures, including the measures adopted or envisaged to

be adopted by the undertakings and A.S.F., in compliance with the legal provisions.

Article 167 - General provisions. **(1)** Insurance undertakings that by 1 January 2016 no longer underwrite new insurance or reinsurance contracts and manage their portfolio exclusively for the cessation of business shall be excluded from the scope of the provisions of Title I Chapters I-IX in one of the following cases:

a) notify A.S.F. that they will terminate their activity before 1 January 2019;

b) are subject to reorganization measures in accordance with the applicable national law and have appointed a special administrator.

(2) The provisions of Title I Chapters I-IX shall apply to the insurance undertakings referred to in para. (1) sub-par. a) as from 1 January 2019, and to those referred to in para. (1) sub-par. b), as from 1 January 2021; if A.S.F. considers that the process of cessation of the activity of these insurance undertakings does not progress, A.S.F. shall decide to apply the provisions of Title I Chapters I-IX from a date earlier than those referred to in this para.

(3) The provisions of pars. (1) and (2) shall apply only if the following conditions are met:

(a) the insurance undertakings are not part of a group or, if they are part of a group, all the undertakings in the group cease underwriting new contracts;

b) insurance undertakings shall submit an annual report to A.S.F. indicating the progress made in the cessation of activity;

c) insurance undertakings shall notify A.S.F. that they apply the transitional measures referred to in this Chapter.

(4) The provisions of pars. (1) and (2) shall not prevent undertakings from operating in accordance with Title I Chapters I-IX.

(5) The insurance undertakings referred to in para. (1) shall submit to A.S.F. the information referred to in Article 37 paras. (1) to (4), (6) and (7), annually or less frequently, and publish the report referred to in Article 39, as follows:

a) for the financial year ended as at 31 December 2016, by 19 May 2017;

b) for the financial year ended as at 31 December 2017, by 4 May 2018;

c) for the financial year ended as at 31 December 2018, by 19 April 2019;

d) for the financial year ended as at 31 December 2019, by 3 April 2020.

(6) The insurance undertakings referred to in para. (1) shall submit to A.S.F. the quarterly information in accordance with Article 37 paras. (1) - (4), (6) and (7), as follows:

a) for the financial year ended as at 31 December 2016:

(i) first quarter, by 25 May 2016;

(ii) second quarter, by 24 August 2016;

(iii) third quarter, by 24 November 2016;

(iv) fourth quarter, by 28 February 2017;

(b) for the financial year ended as at 31 December 2017:

(i) first quarter, by 19 May 2017;

(ii) second quarter, by 18 August 2017;

(iii) third quarter by 17 November 2017;

(iv) fourth quarter by 16 February 2018;
c) for the financial year ended as at 31 December 2018:
(i) first quarter, by 11 May 2018;
(ii) second quarter, by 10 August 2018;
(iii) third quarter by 9 November 2018;
(iv) fourth quarter, by 11 February 2019;
d) for the financial year ended as at 31 December 2019:
(i) first quarter, by 3 May 2019;
(ii) second quarter, by 2 August 2019;
(iii) third quarter by 4 November 2019;
(iv) fourth quarter by 4 February 2020.

(7) Without prejudice to Article 68, basic own fund items shall be included in basic own funds Tier 1 for no more than 10 years after 1 January 2016, provided that they:

a) be issued before 1 January 2016 or before the date of entry into force of the specific delegated act, whichever is the earlier;

(b) cover at least 50% of the available solvency margin calculated in accordance with the national law in force up to 31 December 2015;

c) are not classified as tier 1 or tier 2 own funds in accordance with Article 68.

(8) Without prejudice to Article 68, basic own fund items shall be included in basic own funds Tier 2 for no more than 10 years after 1 January 2016, provided that they:

a) be issued before 1 January 2016 or before the date of entry into force of the specific delegated act, whichever is the earlier;

(b) cover at least 25% of the available solvency margin calculated in accordance with the national law in force before 1 January 2016.

(9) "repealed"

(10) Without prejudice to the provisions of Article 72 paras. (1) and (2) and Article 74, the following shall apply:

(a) until 31 December 2017, the standard parameters used in the calculations of the market risk concentration risk sub-module and the credit margin risk sub-module of the standard formula shall be the same for exposures to central governments or central banks of Member States denominated and funded in the national currency of each Member State as those that apply to exposures denominated and funded in lei;

(b) in 2018, the standard parameters used in the calculations of the market risk concentration risk sub-module and the credit margin risk sub-module of the standard formula shall be reduced by 80% for exposures to central governments or central banks of Member States denominated and funded in the national currency of that Member State;

(c) in 2019, the standard parameters used in the calculations of the market risk concentration risk sub-module and the credit margin risk sub-module of the standard formula shall be reduced by 50% for exposures to central

governments or central banks of Member States denominated and funded in the national currency of any other Member State;

(d) from 1 January 2020, the standard parameters used in the calculations of the market risk concentration risk sub-module and the credit margin risk sub-module of the standard formula shall not be reduced for exposures to central governments or central banks of Member States denominated and funded in the national currency of any other Member State.

(11) Without prejudice to the provisions of Article 99 paras. (2) - (4), where insurance undertakings comply on 31 December 2015 with the minimum solvency margin required by national law, but in 2016 do not comply with the provisions of this Part as regards the SCR, A.S.F. shall require them to take the necessary measures to establish the level of eligible own funds to cover the SCR or to reduce the risk profile to ensure compliance with the SCR by 31 December 2017 and to submit to A.S.F., every 3 months, a progress report on the measures taken and the progress achieved.

(12) The extension of the deadline until 31 December 2017 in accordance with para. (11) shall be annulled if A.S.F. finds from the activity report that in the period between the reporting of non-compliance with the SCR and the date of submission of the respective report, the insurance undertakings have not made progress in this respect.

(13) By 31 March 2022, the highest-ranking parent insurance undertakings in Romania may apply to A.S.F. for the approval of the use of an internal group model by group insurance undertakings located in Romania, which have a risk profile significantly different from that of the rest of the group.

(14) Without prejudice to the provisions of Article 137 para. (1), the provisions of paras. (7) to (10) and (13) and Articles 168-170 shall apply appropriately at group level.

(15) Without prejudice to Article 137, the provisions referred to in pars. (11) and (12) shall also apply *mutatis mutandis* at group level where the insurance holding companies or undertakings in the group comply with the adjusted solvency calculated in accordance with the applicable national law in force but do not comply with the SCR.

(16) By way of exception from the provisions of Articles 100 and 110, insurance undertakings which, on 31 December 2015, comply with the minimum solvency margin provided for in Article 16, paras. (1) and (2) of Article 16, paras. (1) and (2) of this Article, shall be deemed to be in compliance with the minimum solvency margin provided for in Article 16, paras. (1) and (2) of this Article. (5) and (5^1) of Law no. 32/2000 on insurance activity and insurance supervision, as amended and supplemented, but do not hold sufficient eligible basic own funds to cover the MCR, shall comply with the provisions of Article 95 para. (1) until 31 December 2016; otherwise, A.S.F. shall withdraw the licence of the insurance undertakings in question in accordance with the provisions of this Law.

Article 168 - Transitional measure on the risk-free interest rate. **(1)** After obtaining the approval of A.S.F., in accordance with Article (1) sub-par. j),

undertakings may adjust for the transitional period the time structure of the risk-free interest rate for eligible insurance and reinsurance obligations.

(2) For each currency, the adjustment shall be calculated as a percentage of the difference between:

a) the interest rate determined by undertakings in accordance with the national legislation in force on 31 December 2015;

b) the accrued interest rate, calculated as a single discount rate.

(3) The rate referred to in para. (2) sub-par. (b), when applied to the cash flows of the portfolio of eligible insurance or reinsurance liabilities, shall result in a value equal to the best estimate of the value of the portfolio of those obligations when taking into account the time value of money using the relevant risk-free interest rate term structure set out in Article 54 par. (2).

(4) The percentage provided for in para. (2) shall decrease linearly at the end of each financial year, from 100% during the year beginning on 1 January 2016 to 0% on 1 January 2032.

(5) Where insurance undertakings apply the volatility adjustment, the relevant risk-free interest rate term structure referred to in para. (2) sub-par. b) shall be the adjusted relevant risk-free interest rate term structure referred to in Article 55 pars. (8) - (16).

(6) Permissible insurance and reinsurance obligations shall comprise only obligations that meet the following requirements:

a) the resulting contracts were underwritten before 1 January 2016, excluding contracts renewed on or after that date;

b) the technical provisions for insurance and reinsurance liabilities have been determined in accordance with the national legislation in force on 31 December 2015;

c) Article 55 pars. (2) - (7) do not apply to them;

(7) Insurance undertakings applying the provisions of para. (1):

(a) shall not include eligible insurance and reinsurance obligations in the calculation of the volatility adjustment provided for in Article 55 pars. (8) - (16);

b) do not apply the provisions of Article 169;

c) they mention, in the report provided for in Article 39:

(i) the fact that they apply the transitional temporary risk-free interest rate structure;

(ii) quantification of the impact on the financial situation by not applying the volatility adjustment.

Article 169 - Transitional measure on technical provisions. **(1)** After obtaining the approval of A.S.F., in accordance with Article 166 para. (1) sub-par. k), insurance undertakings may apply a deduction for a transitional period to the technical provisions at the level of the homogeneous risk groups referred to in Article 57.

(2) The deduction referred to in para. (1) corresponds to a percentage of the difference between the following values:

(a) the technical provisions, after deduction of reinsurance and special-purpose vehicles claims, calculated either in accordance with Article 53 as at 1

January 2016, or with the volatility adjustment provided for in Article 55 pars. (8) to (16), if used by insurance undertakings on 1 January 2016;

(b) technical provisions after deduction of reinsurance claims calculated in accordance with national law in force on 31 December 2015.

(3) The maximum deductible percentage calculated in accordance with par. (2) shall decrease linearly at the end of each financial year, from 100% during the year beginning on 1 January 2016, to 0% on 1 January 2032.

(4) After obtaining the prior approval of A.S.F. or on its own initiative, the amount of technical provisions, including, if applicable, the amount of the volatility adjustment used for the calculation of the deduction provided for in para. (2), may be recalculated at intervals of 24 months or more frequently, if the risk profile of the company changes significantly.

(5) A.S.F. may limit the deduction referred to in pars. (1) - (3), if its application results in a reduction of the SCR compared to the capital requirements calculated in accordance with the national legislation in force on 31 December 2015.

(6) Insurance undertakings making use of the deduction referred to in para. (1):

a) do not apply the provisions of Article 168;

b) in the event that the SCR is not met without the application of that deduction, report annually to A.S.F. on the measures taken and the progress made in order to either restore, by 1 January 2032, a level of eligible own funds that covers the SCR or reduce their risk profile;

c) they shall mention, in the report provided for in Article 39:

(i) the fact that they apply the deduction provided for in para. (1);

(ii) quantification of the impact on the financial situation by not applying this measure.

Article 170 - The plan for complying with the SCR through the use of transitional measures. **(1)** The undertakings applying the transitional measures referred to in Articles 168 and 169 shall notify A.S.F. immediately that the SCR cannot be covered without the application of those measures.

(2) Within two months of the notification referred to in para. (1), undertakings shall submit to A.S.F. a plan for the phased introduction of measures to restore the level of eligible own funds covering the SCR or to reduce the risk profile so that, at the end of the transitional period, the SCR is respected; that plan shall be updated in the transitional stages.

(3) The insurance undertakings shall submit an annual report to A.S.F. on the measures adopted and the progress achieved according to the plan referred to in para. (2).

(4) A.S.F. shall withdraw the approval granted for the application of transitional measures, if it finds from the report referred to in para. (3) that compliance with the SCR at the end of the transitional stages is unrealistic.

Article 171. - Specific measures at group level. **(1)** The provisions of Article 167 paras. (5) and (6) on reporting to A.S.F. and publication of the annual report

shall apply accordingly to holdings, insurance holding companies and mixed financial holding companies.

(2) The deadlines for the submission of the reports referred to in Article 37 paras. (1) to (4), (6) and (7), on an annual or less frequent basis, and for the publication of the report referred to in Article 39, shall be as follows:

a) for the financial year as ended at 31 December 2016, by 30 June 2017;

b) for the financial year as ended at 31 December 2017, by 15 June 2018;

c) for the financial year ended as at 31 December 2018, by 31 May 2019;

d) for the financial year ended as at 31 December 2019, by 15 May 2020.

(3) The deadlines for the submission of the quarterly reports referred to in Article 37 paras. (1) to (4), (6) and (7) shall be as follows:

a) for the financial year ended as at 31 December 2016:

(i) first quarter, by 6 July 2016;

(ii) second quarter, by 5 October 2016;

(iii) third quarter, by 11 January 2017;

(iv) fourth quarter by 11 April 2017;

(b) for the financial year ended as at 31 December 2017:

(i) first quarter, by 30 June 2017;

(ii) second quarter by 7 October 2017;

(iii) third quarter, by 29 December 2017;

(iv) fourth quarter, by 30 March 2018;

c) for the financial year ended as at 31 December 2018:

(i) first quarter, by 22 June 2018;

(ii) second quarter, by 21 September 2018;

(iii) third quarter, by 21 December 2018;

(iv) fourth quarter by 25 March 2019;

d) for the financial year ended as at 31 December 2019:

(i) first quarter, by 14 June 2019;

(ii) second quarter, by 13 September 2019;

(iii) third quarter, by 16 December 2019;

(iv) fourth quarter by 17 March 2020.

PART II

National supervisory regime

Article 172 - General provisions. The provisions of this Part shall apply to:

a) Insurance undertakings that apply for a business license and do not wish to be supervised in accordance with Part I;

b) Insurance undertakings established on the territory of Romania which do not fulfil at least one of the conditions referred to in Article 2 para. (2);

c) Insurance undertakings in the situations referred to in Article 3.

Article 173 - Authorization and supervision of insurance and reinsurance business. **(1)** For the undertakings referred to in Article 172, A.S.F. shall issue regulations containing provisions on:

a) the minimum limit of the paid-up share capital, of the safety fund and of the freely paid-up reserve fund;

b) the conditions for authorization, maintenance and withdrawal of the operating licence;

c) conditions for the practice of compulsory insurance and for maintaining the authorization to practice it;

d) the conditions for underwriting certain classes of insurance;

e) the governance system and critical functions, including key functions;

(f) the conditions for receiving and ceding reinsurance, respectively;

g) the minimum solvency margin, the liquidity ratio and the methodologies for their calculation;

(h) the categories of assets eligible to cover technical provisions and the rules for their dispersion;

i) the methodology for calculating, valuing and recording the minimum technical provisions for non-life insurance activity;

j) conditions for the management of the life insurance fund, investments and valuation of assets, calculation of mathematical reserves and matters relating to actuarial rules;

k) statutory audit;

l) form and content:

(i) regular information and reporting;

(ii) financial statements;

m) supervisory activity;

n) portfolio transfer, merger and division;

o) financial recovery of undertakings in difficulty and special administration;

p) authorization, operation and supervision of mutual undertakings;

r) the objectives pursued in the supervision process, its main functions and activities;

s) dealing with petitions;

t) other matters relating to the conduct of insurance and reinsurance business.

(1[1]) The provisions on dissolution and winding up laid down in this Law shall apply accordingly also to the undertakings covered by this Part.

(2) A.S.F. shall have the power to request from the insurance undertakings referred to in Article 172 the documents and information necessary for the conduct of the supervisory process, including the minutes of the meetings of the management and of the committees established, and to carry out inspections at their premises.

(3) The provisions of Article 25 paras. (1) and (2) sub-pars. a) and c) shall also apply to the management of the undertakings referred to in Article 172.

Article 174. – Exclusions. **(1)** Insurers licensed and supervised in accordance with the provisions of this Part may not simultaneously carry on the business of non-life insurance and life insurance.

(2) Mixed insurers supervised in accordance with the provisions of this Part shall simultaneously carry on non-life insurance business and life insurance business under the conditions set out in Article 49.

Article 175 - Extension of insurance activity in third countries. Insurance undertakings carrying out their activity in accordance with the provisions of this Part may not set up branches in third countries unless they apply, even if they are in one of the situations referred to in Article 172, for the provisions of Part I to apply to them.

Article 176 - Provisions applicable. The fees provided for in Part I shall also apply to insurance undertakings authorized to operate under the provisions of this Part.

Article 177 – Penalties. The penalties provided for in Articles 163 and 164 shall be applicable to the insurance undertakings authorized and supervised under the provisions of this Part.

PART II[1]

Special financial recovery procedure and provisions for the winding-up and liquidation of insurance undertakings

Article 177[1] – Scope. **(1)** The provisions of this Part shall apply to Part I and Part II insurance undertakings, except reinsurers, and to branches of third-country branches of undertakings referred to in Chapter X of Part I of Title I.

(2) The provisions of this Part relating to insurance undertakings shall apply correspondingly to branches of insurance undertakings of third countries, unless otherwise provided.

(3) For the purposes of this Part, the expressions insurance claim and insurance creditors shall have the meaning provided by Law no. 213/2015, as amended and supplemented, which shall apply accordingly in any winding-up proceedings.

CHAPTER I

Special financial recovery procedure

Article 177[2] - General provisions. **(1)** A.S.F. is the only authority competent to decide on the opening of a special financial reorganization procedure at an insurance undertaking and the manner of application of the measures within it, to monitor the status of implementation of the measures and the evolution of the insurance undertaking’s financial capacity, as well as to decide on the closure of the procedure in question.

(2) An ongoing special financial recovery procedure shall not prevent:

a) the opening of winding-up proceedings;

b) application of the provisions of Articles 100 and 110;

c) applying the provisions of Law no. 246/2015, as amended.

(3) A.S.F. shall inform the supervisors of all other Member States of its decision to open a special financial recovery procedure with regard to a company, including the possible practical effects of such a procedure.

(4) The special financial recovery procedure may not exceed 18 months from the date of the decision to initiate the procedure referred to in Article 177^4 para. (1).

(5) The special financial recovery procedure and the measures ordered thereunder shall be effective throughout the European Union from the moment they become effective in Romania and without further formalities, including as regards third parties in other Member States, even if the legislation of those Member States does not provide for such financial recovery measures or makes their application subject to conditions which are not fulfilled.

(6) The financial recovery measures adopted in accordance with the legislation of a Member State shall be duly applied in the territory of Romania.

Article 177^3 - Conditions for opening the procedure. **(1)** A.S.F. may decide to open a special financial recovery procedure in respect of a company, as provided for in Article 177^4, when, in the exercise of its duties and powers regarding the conduct of the supervisory process, it identifies the existence of at least one of the following situations:

a) at the end of the implementation period of the recovery plan provided for in Articles 99 and 102, the company is still in non-compliance with the SCR;

b) the insurance undertaking does not submit the recovery plan to A.S.F. for approval in accordance with the provisions of Articles 99 and 102;

c) A.S.F. rejects the recovery plan submitted by the company for approval in accordance with the provisions of Articles 99 and 102;

d) the insurance undertaking inadequately implements the measures in the recovery plan provided for in Articles 99 and 102;

(e) if the available solvency margin of the insurance undertaking falls below the minimum solvency margin as determined in accordance with the provisions referred to in Article 173 par. (1);

f) the available solvency margin of the undertaking falls below the minimum safety margin established in accordance with Article 173 par. (1);

g) the non-compliance by the insurance undertaking with the legal provisions on:

(i) how to determine and/or respect the minimum level of the indicators referred to in para. (2) sub-pars. (a) -(c);

(ii) re-establishing the indicators referred to in point (i).

(2) Upon A.S.F.'s request, insurance undertakings shall disclose information on the SCR, own funds eligible to cover the SCR, available solvency margin, minimum solvency margin, the safety fund and/or one or more of the following:

a) liquidity indicator;

(b) technical provisions determined in accordance with Part I and/or those entered in the books of the company;

c) the assets of the company valued in accordance with the provisions of Part I and/or those recorded in the company's books;

d) other matters necessary to assess the insurance undertaking's financial capacity.

(3) In order to apply the provisions of para. (2), A.S.F. shall set the reference date for which the insurance undertakings shall determine the indicators and the maximum deadline for the communication of the required information by the insurance undertakings; the insurance undertakings shall comply with the deadlines set in accordance with the provisions of this para.

(4) The insurance undertakings referred to in Article 172 shall inform A.S.F., at the time of the observation, if the available solvency margin has fallen below the minimum solvency margin and/or the minimum safety fund limit, determined in accordance with Article 173 para. (1).

Article 177[4] - Opening and conduct of the procedure. **(1)** A.S.F. shall issue a reasoned decision on the opening of the special financial reorganization procedure, ordering the application to the company of one or more of the reorganization measures provided for in Article 177[5] and, where appropriate, the measure provided for in para. (2) of this Article.

(2) In the situations referred to in Article 177[3] para. (1) sub-pars. e)-g), A.S.F. shall at least require the company to submit for approval a plan of measures, in compliance with the provisions of Article 177[6].

(3) At any time during the course of the procedure, A.S.F. may order, by reasoned decisions, the application of one or more of the recovery measures provided for in Article 177[5], depending on the financial capacity of the insurance undertaking and taking into account the principle of expert judgment and the principle of proportionality, in order to protect the policyholders and beneficiaries.

(4) The decisions issued by A.S.F. in accordance with the provisions of this Article shall set deadlines for the implementation of the recovery measures ordered against the undertaking; A.S.F. shall set reasonable deadlines, taking into account the proportionality principle and the principle of expert judgment, as well as the specific situation of the insurance undertaking at the time of the decision.

(5) A.S.F. may extend the time limits referred to in para. (4), on its own initiative or at the insurance undertaking's request, taking into account the principle of expert judgment, the existence of exceptional situations independent of the insurance undertaking and/or the complexity of the implementation of the measures ordered.

(6) The insurance undertaking and the management of the insurance undertaking in respect of which the special financial recovery procedure has been opened shall comply with the deadlines set in the decisions of A.S.F.

Article 177[5] - Recovery measures. **(1)** The recovery measures that A.S.F. may order within the framework of a special financial recovery procedure include:

a) prohibition of the insurance undertaking from concluding new insurance contracts or underwriting new risks, relating to one or more classes of insurance, for the period expressly determined by the decision ordering this measure, applying the proportionality principles and documentation, in order to mitigate at least the concentration, operational, underwriting or liquidity risk;

(b) a temporary prohibition on the renewal by the insurance undertaking of insurance contracts which have expired or, where appropriate, only of certain types of insurance contracts expressly provided for in the decision ordering this measure;

c) the transfer by the insurance undertaking of all or part of the portfolio of insurance contracts in force, in compliance with the legal provisions in force and, where applicable, with the provisions of A.S.F. contained in the decision ordering this measure;

(d) verification, inventory and/or processing of claim files by the undertakings in order to assess the actual claim and determine the payment obligations towards the beneficiaries;

e) temporary prohibition for the insurance undertaking to make certain investments or to make significant investments only with the prior approval of A.S.F.;

f) convening the general meeting of shareholders to approve the increase of the insurance undertaking's share capital by issuing new shares, as well as carrying out the increase so approved;

g) the inventory by the insurance undertaking of its assets, the preservation of the insurance undertaking's assets throughout the period of the special financial reorganization proceedings, the restriction or prohibition of the undertaking's ability to dispose freely of one or more of them;

h) the replacement by the insurance undertaking of one or more members of the insurance undertaking's management, if the recovery measures ordered by A.S.F. according to the provisions of this Law or those undertaken by the company in the plan of measures provided for in Article 177^4 para. (2) are poorly implemented;

i) appointment of a special administrator to the insurance undertaking;

j) changes in the insurance undertaking's system of governance, business strategy and/or risk profile;

k) the suspension of the payment of dividends by the insurance undertaking, by way of derogation from the provisions of Article 67 para. (2) of Law no. 31/1990, republished, as subsequently amended and supplemented;

l) reduction of the insurance undertaking's share capital to cover losses;

m) imposing additional reporting requirements to A.S.F. on the insurance undertaking, in terms of granularity of information and/or frequency of their submission;

n) obtaining loans and/or converting loans into shares, in accordance with the law, in order to restore the company's financial situation;

o) reduction by the insurance undertaking of expenses, including by downsizing the staffing scheme and/or the territorial network, deferring the payment of variable remuneration due under the remuneration policy and/or limiting the level of such subsequent variable remuneration;

(p) the negotiation by the insurance undertaking of new due dates for the payment of claims which allow for their collection in the shortest possible time

and/or of debts with some or all creditors which allow for their payment within a timeframe correlated to that of the collection of claims;

q) prohibition of the insurance undertaking from granting loans to affiliated entities, emergency recovery of such loans granted, prohibition of the undertaking ‘s participation in the capital increase of such entities and/or the imposition on the insurance undertaking of the measure of disposal of shareholdings in affiliated entities;

r) modification by insurance undertakings of the composition and/or structure of assets in order to reduce at least market and credit risks;

s) modification, replacement or addition by the insurance undertaking of the risk minimization techniques used or modification or replacement of reinsurance agreements;

(t) limiting or prohibiting, as appropriate, transfers and transactions of assets by insurance undertakings with affiliated entities and/or entities outside the group;

u) temporary suspension of the payment of interest on contributions to the initial fund of the mutual insurance undertaking;

v) obtaining by the mutual insurance undertaking additional contributions from its members in accordance with the provisions of the insurance contracts and the articles of incorporation;

w) amendment of the articles of incorporation of the mutual insurance association as regards the method of determining the additional contributions and their maximum amounts;

x) any other prudential measures necessary to re-establish the financial situation of the undertaking in order to protect the rights and legitimate interests of policyholders and beneficiaries, including those referred to in Article 101 para. (1).

(2) If necessary, A.S.F. may apply to the competent court to order the establishment of precautionary measures on the insurance undertaking's property and/or assets, according to the law.

(3) The activity of verification, inventorying and instrumentation of the claim files, provided for in para. (1), sub-par. d), shall be carried out on an urgent basis, without exceeding 30 days from the date of communication of A.S.F. decision ordering this measure; A.S.F. may extend the implementation deadline in accordance with the principle of proportionality and the principle of qualified reasoning.

(4) The provisions of Article 101 para. (20) shall also apply to the measures ordered by A.S.F. pursuant to the provisions of this Article.

(5) By derogation from the provisions of Law no. 31/1990, republished, as subsequently amended and supplemented, the deadline for the general meeting of shareholders to approve the measures provided for in para. (1) sub-pars. f) and l) shall be, for the first meeting, no later than 7 days from the date of publication or dispatch of the convocation as provided by law, and for the second meeting, if applicable, no later than 3 days from the date set for the first meeting.

(6) If the general meeting of the company's shareholders approves the share capital increase operation, the payments of the subscribed capital shall be made within 3 months from the date of the shareholders' decision.

(7) At the reasoned request of the insurance undertaking, A.S.F. may extend the period referred to in para. (6) by a maximum of 3 months, in special circumstances such as, but not limited to, the need for shareholders to fulfil legal or statutory requirements prior to participating in the capital increase.

(8) In determining the provision of recovery measures under the provisions of para. (1) and/or for the purpose of exercising the power provided for in para. (2), A.S.F. shall take into account, but not be limited to, one or more of the following elements, having regard to the principle of proportionality and the principle of expert judgment:

a) the reasons that led to the opening of the special procedure for financial reorganization of the company and the degree of deterioration of its financial situation;

b) the evolution of the insurance undertaking's financial statement during the course of the special financial recovery procedure;

c) the state of implementation of the measures contained in the action plan referred to in Article 177^4 para. (2), where applicable, and/or the recovery measures ordered previously.

Article 177^6 - Plan of measures. **(1)** The insurance undertaking shall submit the plan of measures referred to in Article 177^4 para. (2) within a maximum of 20 days from the date of communication of the decision of A.S.F. to open the special financial recovery procedure.

(2) At the reasoned request of the insurance undertaking, A.S.F. may extend the period provided for in para. (1) by a maximum of 20 days, taking into account the principle of proportionality and the principle of qualified reasoning.

(3) Insurance undertakings shall justify in a documented manner to A.S.F. the management's approval of the plan of measures and any commitments undertaken by third parties in order to recover the undertaking's financial situation.

(4) Without prejudice to the application of the provisions of para. (5), the action plan shall include:

a) the measures that the insurance undertaking intends to implement in order to remove the conditions that led to the opening of the special financial recovery procedure and to restore the financial capacity, specifying the maximum time limits by which it proposes to complete their implementation;

b) the concrete modalities for the implementation of the recovery measures ordered by A.S.F. in accordance with the provisions of Article 177^5 and the maximum deadlines set for the completion of the implementation, if such measures have been ordered by the decision to open the procedure;

(c) for the financial year in which the opening of the special financial recovery procedure is ordered and for the following two financial years, at least the following information:

(i) estimates of the expenses of administering the insurance undertaking, in particular overheads and commissions on insurance business;

(ii) the estimated income and expenditure budget, showing separately the income and expenditure in respect of direct insurance business, reinsurance acceptances and reinsurance cessions, respectively.

(5) Taking into account the proportionality and expert judgment principles, A.S.F. shall have the power to require the insurance undertaking to include in the plan of measures additional information to the information provided for in para. (4) or to exempt it from submitting certain information.

(6) A.S.F. shall assess the plan of measures submitted by the insurance undertaking in accordance with the proportionality and expert judgment principles and may request additional information and documents, as well as explanations and clarifications, relevant to the assessment process.

(7) After evaluating the plan of measures, A.S.F. shall issue a decision on:

a) approval of the plan;

b) the obligation of the insurance undertaking to complete and/or amend the plan, within a maximum of 10 days from the date of communication of the decision, in compliance with the provisions of para. (3);

c) rejection of the plan, in accordance with the provisions of para. (8).

(8) A.S.F. shall reject the plan of measures if it assesses that there are no reasonable prospects that its implementation will result in the removal of the conditions that led to the opening of the special financial reorganization procedure of the company in question within the maximum period provided for in Article 177^2 para. (4) or that the estimates, information and/or measures submitted by the undertaking are unrealistic, incomplete or insufficiently substantiated.

Article 177^7 - Monitoring Commission. **(1)** A.S.F. may appoint, by decision, a monitoring commission to follow the state of implementation by the undertaking of the action plan and/or recovery measures ordered under the provisions of this law.

(2) A.S.F. shall establish, by decision, the tasks of the monitoring commission that it deems necessary in order to carry out the special financial recovery procedure under appropriate conditions, taking into account the principle of proportionality.

(3) The insurance undertaking shall allow the members of the monitoring committee unrestricted access to all its documents, registers, technical-operational and accounting records, including in electronic format, as well as to the meetings of the management and general meetings of shareholders or members; the company shall provide the members of the committee, upon request, with all information necessary for the exercise of their duties and powers.

(4) The monitoring committee shall cease its activity on the date of the closure of the special financial recovery procedure of the undertaking concerned or on another date ordered by decision.

Article 177[8] - Special administrator. **(1)** A.S.F. may appoint, by decision, a special administrator to the insurance undertaking under special financial reorganization proceedings, in accordance with the provisions of Article 177[5] para. (1) sub-par. i), in the following situations:

a) at the opening of the proceedings under the conditions provided for in Article 177[3] para. (1) sub-pars. b)-d);

(b) the undertaking fails to submit the plan of measures referred to in Article 177[4] para. (2) and Article 177[6];

c) A.S.F. rejects the plan of measures submitted by the insurance undertaking pursuant to Article177[4] para. (2) and Article 177[6];

d) the insurance undertaking inadequately implements the action plan or recovery measures ordered by A.S.F.;

e) A.S.F. orders the reorganization measure provided for in Article 177[5] para. (1) sub-par. h), with regard to the entire management of the undertaking;

f) the insurance undertaking does not fulfil the requirements for the management and administration of the activity by persons approved by A.S.F. according to the legal provisions, thus jeopardizing the continuity of decision-making for the purpose of implementing financial recovery measures.

(2) The special administrator shall take all necessary steps to restore the financial capacity of the insurance undertaking, in compliance with the normative acts applicable to the insurance sector and with the provisions of the decision appointing him/her; A.S.F. may, by decision, determine that certain acts of the special administrator shall be subject to its prior approval.

(3) During the appointment of the special administrator, the following shall be suspended:

a) the legal powers and the right to remuneration of the undertaking's management, which shall be transferred to the special administrator throughout the period of special administration;

b) the shareholders' right to dividends, by way of derogation from the provisions of Article 67 para. (2) of Law no. 31/1990, republished, as subsequently amended and supplemented;

c) the exercise by members of the right to return the contribution to the initial fund, in the case of mutual undertakings, by way of derogation from the provisions of Article 14 para. (4) of Law no. 71/2019 on mutual insurance undertakings and amending and supplementing certain normative acts.

(4) As special administrator, he/she:

(a) shall have unrestricted access to all the insurance undertaking's places of business and to all its assets, books and other records;

(b) may decide to engage the services of persons, such as auditors, lawyers, valuers, consultants, specialists and/or independent licensed experts, to assist the insurance undertaking in the performance of its duties;

c) complies with the provisions, deadlines, conditions, requirements for informing A.S.F. and for submitting the required reports to A.S.F., as well as with the limits of the exercise of the mandate, as they are established by A.S.F. decision.

(5) All expenses related to the special administration shall be borne by the undertaking to which the special administrator has been appointed, the special administrator's fee being set by A.S.F. without exceeding the remuneration granted to the undertaking's management.

(6) Notwithstanding the provisions of Law no. 31/1990, republished, with subsequent amendments and additions, and of Law no. 71/2019, the agenda of the general meetings of shareholders or members convened during the special administration shall be set by the special administrator, with prior consultation with A.S.F., and may not be changed by the persons convened.

(7) The provisions of para. (6) and Article 177^5 para. (5) shall not apply to undertakings whose shares are admitted to trading on a regulated market in a Member State.

(8) A.S.F. may order, by decision, the termination of the mandate of the special administrator at any time during the financial recovery procedure if:

a) the measure of appointing the special administrator is no longer necessary as A.S.F. considers that the implementation of the action plan and/or recovery measures can be adequately ensured by the management of the company;

b) the special administrator does not comply with the provisions of para. (2);

c) at the request of the special administrator.

(9) In the situations referred to in para. (8) sub-pars. b) and c), A.S.F. shall decide, if necessary, to appoint a new special administrator.

Article 177^9 - Closure of the procedure. **(1)** A.S.F. shall issue a reasoned decision to close the special financial reorganization procedure of the undertaking when it finds, where appropriate:

a) that the insurance undertaking’s the financial status has been restored;

(b) the fact that the measures applied under the financial recovery procedure are not being carried out properly, within the time limits and under the conditions laid down, or that their application could not, during the period in which they were taken, achieve the aim pursued and eliminate the causes which gave rise to them.

(2) In the situation referred to in para. (1) sub-par. a), A.S.F. shall, by the decision closing the proceedings, order the termination of the reorganization measures and, where appropriate, the termination of the mandate of the special administrator.

(3) By way of exception from the provisions of para. (2), if, at the date of the decision to close the special financial reorganization procedure, the undertaking does not meet the legal requirements for the management of the business by persons approved by A.S.F., the special administrator shall be maintained until A.S.F. approves a new management; the provisions of Article 177^8 paras. (3) and (6) shall cease to apply from the date of the decision closing the proceedings.

(4) In the situation referred to in para. (1) sub-par. b), A.S.F. shall, by the decision closing the proceedings, order the withdrawal of the undertaking's operating licence and the application of the provisions of Article 110 paras. (2)-

(2^{10}) and Article 110^{1}, as well as, where applicable, the termination of the mandate of the special administrator.

(5) By way of exception from the provisions of para. (4), where the conditions for triggering the resolution provided for in Articles 42 and 43 of Law no. 246/2015, as amended, are met, A.S.F. shall order the application to the undertaking of the resolution measures provided for in that law.

Article 177^{10} – Publication. **(1)** The decisions to open and close the special financial reorganization procedure, to appoint the special administrator, to terminate his/her mandate, as well as those ordering reorganization measures affecting the pre-existing rights of parties other than the undertaking, its shareholders and/or employees, shall be published in the Official Journal of Romania.

(2) A.S.F. shall at the same time submit for publication in the Official Journal of the European Union, in Romanian, an extract of the decisions referred to in para. (1); the extract shall state that A.S.F. is the competent authority for issuing the decision in question, the law applicable to the special financial reorganization procedure and the name of the undertaking in which this procedure has been ordered, as well as, if applicable, the special administrator appointed to the company.

(3) Where A.S.F. is informed of the adoption by the competent authorities of other Member States of reorganization measures at insurance and/or reinsurance undertakings in those Member States, in a manner similar to the provisions of para. (1), A.S.F. shall ensure publication of those measures on its website.

(4) The measures ordered in the special financial reorganization proceedings shall apply irrespective of the provisions on publication set out in paras. (1) and (2) and shall be fully effective as regards creditors.

Article 177^{11} - Effects of the procedure. **(1)** The effects of the opening of the special financial reorganization procedure are subject to Romanian law, except for the effects on the contracts and rights mentioned below, which are subject to the following legal provisions:

a) employment contracts and employment relationships shall be governed solely by the law of the Member State applicable to the employment contract or employment relationship;

(b) a contract conferring the right to use or acquiring the ownership of immovable property shall be governed solely by the law of the Member State in the territory of which the property is situated;

(c) the rights of the insurance undertaking in immovable property, a ship or an aircraft subject to registration in a public register shall be governed solely by the law of the Member State under whose authority the register is kept.

(2) The opening of the special financial reorganization proceedings shall not affect the rights in rem of creditors or third parties in respect of tangible or intangible, movable or immovable assets - both definite assets and indefinite assets - belonging to the undertaking and situated within the territory of another Member State at the time of the opening of the proceedings.

(3) The rights in rem of creditors or third parties referred to in para. (2) shall consist, in particular, in:

(a) the right to dispose of the property or to ensure its disposal and to benefit from the profits or income generated therefrom, in particular by way of a lien or a mortgage;

(b) the exclusive right to recover a claim, in particular a right secured by a pledge or assignment by way of security;

c) the right to reclaim the property and/or its restitution from anyone who possesses and/or uses it against the will of the right holder;

d) the right in rem to reap the fruits of property.

(4) A right entered in a public register and enforceable against third parties, on the basis of which a right in rem within the meaning of para. (2) shall be assimilated to a right in rem.

(5) The provisions of pars. (2)- (4) shall not preclude the exercise of actions for the nullity, annulment and/or unenforceability of acts detrimental to all creditors, provided for by Romanian law; however, Romanian law shall not apply when the person who has benefited from a legal act detrimental to all creditors proves that the following conditions are cumulatively met:

a) that act is governed by the law of a Member State other than Romania;

(b) the law of the State referred to in point (a) does not provide for any means of challenging that act.

(6) The effects of the special financial reorganization procedure on a pending civil lawsuit concerning an asset or a right of which the undertaking has been dispossessed shall be governed by the law of the Member State in which the lawsuit is pending.

(7) The special financial reorganization procedure opened with an undertaking purchasing an asset shall not affect the secured rights of the seller where, at the time the procedure is opened, the asset is situated in the territory of a Member State other than Romania.

(8) The financial reorganization proceedings opened with an undertaking selling an asset, after its delivery, shall not constitute grounds for rescission or termination of the sale and shall not prevent the purchaser from acquiring ownership of the property if the asset in question is, at the time of the opening of the proceedings, located in the territory of a Member State other than Romania; where, by an act concluded after the opening of the reorganization proceedings, an undertaking disposes, for valuable consideration, of a real estate asset, a ship or an aircraft subject to entry in a public register, or disposes of securities or securities whose existence or transfer presupposes entry in a register or account, established by law, or which are placed in a central deposit system governed by the law of a Member State, the validity of that act shall be governed by the law of the Member State within the territory of which the immovable asset is situated or under the authority of which the register, account or system is kept.

(9) The financial reorganization procedure shall not prevent or affect the exercise of the rights of creditors regarding the set-off of their claims against the

claims of the undertaking subject to this procedure, under the conditions of the law.

(10) The provisions of pars. (7)-(9) shall not preclude the exercise of actions for nullity, annulment and/or unenforceability governed by Romanian law.

(11) Without prejudice to the application of the provisions of pars. (2)-(5), the effects of the opening of the special financial recovery procedure on the rights and obligations of the participants in a regulated market shall be subject only to the law applicable to that market; this shall not preclude actions for voidness, voidability and/or unenforceability governed by Romanian law which may be brought to disregard payments or transactions made in accordance with the law applicable to that market.

(12) A.S.F. shall issue regulations in application of the provisions of this chapter.

CHAPTER II

Provisions concerning the winding-up and liquidation of insurance undertakings

Article 177^{12} - General provisions. **(1)** The dissolution and liquidation of insurance undertakings referred to in Article 110 para. (2^{1}) sub-par. (a) and par. ($2^{(2)}$ sub-par. (b) shall be carried out in compliance with the provisions contained in this Chapter, which shall be duly supplemented by the provisions of Law No. 31/1990, republished, as subsequently amended and supplemented, and of other normative acts regulating liquidation, insofar as they do not conflict with the provisions of this Law.

(2) Voluntary dissolution and liquidation of an insurance undertaking shall be carried out at its request, with A.S.F.'s approval prior to the registration of the operation in the trade register, according to the law.

(3) The appointment of liquidators of an insurance undertaking in accordance with para. (1) shall be made only with the prior approval of A.S.F. and in compliance with the provisions of Article 251 of Law no. 85/2014, as subsequently amended and supplemented, which shall apply accordingly.

(4) By derogation from the provisions of the Government Emergency Ordinance no. 86/2006 on the organization of the activity of insolvency practitioners, republished, with subsequent amendments and additions, the Policyholders Guarantee Fund may be appointed as liquidator in the voluntary liquidation procedure; the expenses incurred by the liquidator in the course of the liquidation activity shall be considered liquidation expenses.

(5) Insurance claims shall enjoy absolute priority over all other claims in respect of assets eligible to represent the technical provisions of undertakings under winding-up and liquidation proceedings.

(6) The provisions of Law no. 85/2014, as subsequently amended and supplemented, relating to the order of extinction of claims, the privilege of insurance creditors and the expenses related to liquidation shall also apply accordingly to the liquidation of undertakings in accordance with para. (1).

(7) The provisions of Law no. 31/1990, republished, with subsequent amendments and additions, as well as of Law no. 85/2014, with subsequent amendments and additions, regarding the duties and powers of the liquidator shall also apply accordingly in the procedure of dissolution and liquidation of undertakings in accordance with para. (1).

(8) The provisions of Articles 323-336 of Law no. 85/2014, as subsequently amended and supplemented, shall apply accordingly with regard to private international law relations in the field of dissolution and liquidation of undertakings in accordance with para. (1).

Article 177[13] - Special register of assets. **(1)** Insurance undertakings shall draw up, keep at their head offices and permanently update special registers of assets used to cover gross technical provisions in order to ensure adequate protection of insurance creditors in the winding-up proceedings of insurance undertakings, according to the law.

(2) The values of the assets and gross technical provisions entered in the special registers shall be those in the books of the undertakings, organized in accordance with the applicable accounting regulations; at all times, the total value of the assets shown in the special registers shall be at least equal to the value of the gross technical provisions.

(3) Special registers shall be drawn up separately for non-life and life insurance activity respectively, except for insurance undertakings which are licensed in accordance with the provisions of Article 20 para. (5), which keep a single register for all activities.

(4) Where an asset entered in the special registers is encumbered in favour of a creditor or a third party, with the consequence that part of the value of this asset is unavailable to cover gross technical provisions, this situation shall be entered in those registers and the unavailable amount shall not be included in the total amount referred to in para. (2); undertakings shall immediately notify A.S.F. of the creation of encumbrances on an asset entered in the special registers.

(5) The special registers shall be maintained after the withdrawal of the operating licences of the insurance undertakings, respectively after the opening of their liquidation proceedings; after these dates, any amendment to the special registers may be made only with the prior approval of A.S.F. and, where appropriate, with the approval of the official receiver, except for the correction of clerical errors.

(6) Notwithstanding the provisions of para. (5), to the value of the assets entered in the special registers shall be added all the income derived from their fructification, as well as the value of the premiums received between the date of the withdrawal of the operating licence and the date of the opening of winding-up proceedings, whichever is earlier, and the date of the payment of the insurance claims or, where applicable, the date of the portfolio transfer.

(7) If the proceeds from the realization of certain assets are lower than their estimated value in the books, the liquidators shall provide a justification to A.S.F. and, where appropriate, to the official receiver.

(8) The responsibility for drawing up and maintaining the special registers provided for in this Article shall be borne by the management of the insurance undertakings, respectively by the persons entrusted with their management after the withdrawal of the operating licences or after the opening of the liquidation proceedings, according to the law.

(9) A.S.F. shall issue its own regulations on the special registers provided for in this Article, regarding their structure, the manner of recording the values of assets, the notification of the creation of encumbrances on the assets recorded and other elements related to the keeping of registers.

Article 177[14] - Provisions on liquidators and powers of A.S.F. **(1)** For good reasons and for failure to comply with the provisions of para. (3), Article 110 paras. (2^5)-(2^7), Article 177[13] paras. (5)-(7) and (9), as well as the regulations issued in application thereof, A.S.F. may apply to the competent court or to the general meeting of the company's shareholders or members for the replacement of the liquidator, at any time during the dissolution and liquidation proceedings.

(2) The appointment of the new liquidator shall be made with the prior opinion of A.S.F.

(3) The liquidators shall prepare and submit to A.S.F., upon its request, reports on the status of the dissolution and liquidation proceedings and shall fulfil any other provisions of A.S.F. necessary to ensure the protection of the rights and legitimate interests of insurance creditors.

(4) Where the insurance undertaking under dissolution and liquidation proceedings is in a state of insolvency, as defined by Law no. 85/2014, as amended and supplemented, the liquidator shall request the opening of bankruptcy proceedings; the provisions of Law no. 213/2015, as amended and supplemented, shall apply accordingly.

(5) The provisions of para. (4) shall be without prejudice to A.S.F.'s power to file an application for the opening of bankruptcy proceedings with the undertaking in the situation referred to in the same paragraph.

(6) For the purposes of applying the provisions of para. (4) second thesis, in the content of Law no. 213/2015, as amended and supplemented, references to the date of publication of the decision of A.S.F. establishing the existence of indications of insolvency shall be deemed to be made on the date of opening of the bankruptcy proceedings.

(7) By derogation from the provisions of Article 260 para. (1) of Law no. 31/1990, republished, as subsequently amended and supplemented, the winding-up procedure of undertakings shall be completed within a maximum period of 5 years, unless the undertakings have in their portfolio insurance contracts falling under class 15 of Annex no. 1, section A and classes of Annex no. 1, section C, in which case the winding-up procedure shall be carried out until the date of extinction of the obligations arising from the insurance contracts.

(8) A.S.F. shall issue regulations in application of the provisions of this chapter.

PART III
Final Provisions

Article 178 – Currency. **(1)** Insurance undertakings shall calculate the equivalent value in lei of the amounts in euro, with effect from 31 December of each year, on the basis of the exchange rate communicated by the National Bank of Romania for 31 October.

(2) The values expressed in euro referred to in Article 1 para. (2) point 55 sub-par. c), Article 2 para. (2) sub-pars. (a) to (e) and Article 95 para. (1) sub-par. d) shall be automatically revised by acts of the European Commission published in the Official Journal of the European Union in accordance with the prerogatives conferred on it by Article 300 of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) and, where appropriate, may be provided for in the regulations issued by A.S.F. in application of this Law.

Article 179 - Final provisions. **(1)** The Romanian Actuarial Association shall take over the Register of Actuaries from A.S.F. within 60 days from the publication of this law in the Official Journal of Romania, Part I.

(2) Undertakings may associate in professional unions representing their collective interests and may join international professional unions.

(3) The National Office of the Trade Register shall be obliged to allow A.S.F. free access to its database on the undertakings authorized in accordance with the provisions of this law, as well as other natural or legal persons who are or apply for approval to become significant shareholders; the National Office of the Trade Register shall be obliged to provide, upon request of A.S.F., economic and financial information reported by undertakings.

(4) A.S.F. shall issue its own regulations in application of the provisions of Part I. A.S.F. shall issue accounting regulations specific to the insurance sector, with the approval of the Ministry of Public Finance.

(5) Annexes 1 and 2 are an integral part to this Law.

Article 180. - "repealed"

Article 181 - Legislative adaptation. Whenever by laws and other normative acts reference is made to the provisions relating to insurers and reinsurers in Law no. 32/2000, as subsequently amended and supplemented, repealed by this law, the reference shall be deemed to be made to this law.

Article 182 - Entry into force. This Law shall enter into force on 1 January 2016, except for the provisions of Article 166 pars. (1) - (3), which shall enter into force 3 days after the date of publication of this Law in the Official Journal of Romania, Part I.

*

This Law transposes:

1. the provisions of Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), published in the Official Journal of the European Union, L 335 of 17 December 2009, with subsequent amendments and additions, with the exception of Articles 160, 161 and 303 and Title IV;

2. the provisions of Article 4 of Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate, published in the Official Journal of the European Union, L 326 of 8 December 2011;

3. The provisions of Article 2 of Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations (EC) No 1.060/2009, (EU) No 1.094/2010 and (EU) No 1.095/2010 in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and of the European Supervisory Authority (European Securities and Markets Authority), published in the Official Journal of the European Union, L series, No 153 of 22 May 2014.

4. the provisions of Article 63(1) of Directive (EU) No 2341/2016 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs), published in the Official Journal of the European Union, Series L, No 354 of 23 December 2016;

5. the provisions of Article 2 of Directive (EU) No 843/2018 of the European Parliament and of the Council of 30 May 2018 amending Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing and amending Directives 2009/138/EC and 2013/36/EU, published in the Official Journal of the European Union, L series, No 156 of 19 June 2018;

6. the provisions of Article 2 of Directive (EU) No 2.177/2019 of the European Parliament and of the Council of 18 December 2019 amending Directive 2009/138/EC on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II), Directive 2014/65/EU on Markets in Financial Instruments and Directive (EU) 2015/849 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, published in the Official Journal of the European Union, L, No 334 of 27 December 2019;

This law was adopted by the Romanian Parliament in compliance with the provisions of Articles 75 and 76 para. (1) of the Constitution of Romania, republished.

PRESIDENT OF THE CHAMBER OF DEPUTIES
VALERIU-ȘTEFAN ZGONEA

PRESIDENT OF THE SENATE
CĂLIN-CONSTANTIN-ANTON POPESCU-TĂRICEANU

Bucharest, 19 October 2015.
No. 237.

ANNEX No 1

Classes of insurance

Section A
non-life insurance

1. accidents, including accidents at work and occupational diseases:
a) fixed financial compensation;
b) variable financial compensation;
c) a combination of the compensations under pars. a) and b);
d) compensation for personal injuries suffered by passengers;
2. Health:
a) fixed financial compensation;
b) variable financial compensation;
c) a combination of the compensations under pars. a) and b);
3. land vehicles, excluding railway rolling stock, covering damage or loss related to:
(a) motor vehicles;
b) other vehicles;
4. railway rolling stock, covering damage or loss related to it;
5. aircraft, covering damage or loss related to them;
6. sea, lake and river vessels covering damage or loss related to:
(a) seagoing vessels;
(b) lake-going vessels;
(c) river vessels;
7. goods in transit, irrespective of the mode of transportation, covering damage or loss related to:
a) goods;
(b) baggage;
c) other goods;
8. fire and natural disasters, covering damage to or loss of property, other than those referred to in classes 3 to 7, caused by:
(a) fire;
b) explosion;
c) storm and other natural disasters;
d) nuclear energy;
e) trampling and landslides;
9. other damage or loss relating to property other than that mentioned in classes 3-7, caused by:
a) hail;

b) frost;
(c) theft;
d) other events, not covered by class 8;
10. motor third party liability for the use of land motor vehicles, including carrier's liability;
11. civil liability for the use of aircraft, including carrier's liability;
12. civil liability for the use of sea, lake and river vessels, including carrier's liability;
13. general civil liability, excluding that mentioned in classes 10-12;
14. credit, covering:
a) insolvency in general;
b) export credits;
c) instalment sales loans;
d) mortgage loans;
(e) agricultural loans;
15. guarantees:
a) direct guarantees;
(b) indirect guarantees;
16. sundry financial losses related to:
a) unemployment;
b) insufficient income in general;
c) adverse weather conditions;
d) non-realization of benefits;
e) current expenses in general;
f) unforeseen commercial expenses;
g) impairment of market value;
h) rents and other income;
i) other indirect trading losses;
j) other non-trading financial losses;
k) other financial losses;
17. legal protection: legal costs and other legal expenses;
18. assistance for persons in need during travel or absence from home or usual residence.

Section B

Name of the authorization for more than one class of non-life insurance

1. accident and health - classes 1 and 2;
2. motor insurance - class 1 item d) and classes 3, 7 and 10;
3. marine and transport insurance - class 1 sub-par. d) and classes 4, 6, 7 and 12;
4. aviation insurance - class 1 item d) and classes 5, 7 and 11;
5. insurance against fire and other damage to property - classes 8 and 9;
6. liability insurance - classes 10-13;
7. credit insurances and guarantees - classes 14 and 15;

8. all classes.

Section C
Life insurance

1. the insurances referred to in Article 2 para. (6) sub-par. a) points (i) to (iii), excluding those referred to in points 2 and 3;
2. marriage and birth insurance;
3. the insurances referred to in Article 2 para. (6) sub-par. a) points (i) and (ii) related to investment funds;
4. the tontine funds referred to in Article 2 para. (6) sub-par. b) point (i);
5. capitalization operations referred to in Article 2, para. (6) sub-par. (b) item (ii);
6. the management of group pension funds referred to in Article 2 para. (6) sub-par. b) points (iii) and (iv);
7. the operations referred to in Article 2 para. (6) sub-par. c).

ANNEX No 2

Standard formula for calculating SCR

1. Basic SCR calculation
The basic SCR referred to in Article 75 is equal to:

Basic SCR

where:
a) SCR_i is the risk module i;
b) SCR_j is the risk module j;
c) i, j denote that the sum of different terms should cover all possible combinations of i and j.
In the calculation, SCR_i and SCR_j are replaced by the following:
a) $SCR_{general}$ - general underwriting risk module;
b) SCR_{life} - life underwriting risk module;
c) SCR_{health} - health underwriting risk module;
d) SCR_{market} - market risk module;
e) $SCR_{counterparty}$ - counterparty risk module.
The $Corr_{i, j}$ factor represents the element in row $_i$ and column $_j$ of the following correlation matrix:

i / j	market	counterparty	Life subscription	health subscription	General subscription
market	1	0,25	0,25	0,25	0,25
counterparty	0,25	1	0,25	0,25	0,5
Life subscription	0,25	0,25	1	0,25	0
health subscription	0,25	0,25	0,25	1	0

General subscription	0,25	0,5	0	0	1

2. Calculation of the underwriting risk module for non-life insurance

The general underwriting risk module referred to in Article 76, paras. (1) and (2) is equal to:

SCR-General

where:

(a) SCR_i is risk sub-module i;

(b) SCR_j is risk sub-module j;

c) i, j denote that the sum of different terms should cover all possible combinations of i and j.

In the calculation, SCR_i and SCR_j are replaced by the following:

a) $SCR_{general\_premiums\ and\ reserves}$ - non-life insurance premiums and reserves risk sub-module;

(b) $SCR_{general\_catastrophe}$ - non-life insurance catastrophe risk sub-module.

3. Life underwriting risk module calculation

The life underwriting risk module referred to in Article 76, paras. (3) and (4) is equal to:

SCR life

where:

(a) SCR_i is risk sub-module i;

(b) SCR_j is risk sub-module j;

c) i, j denote that the sum of different terms should cover all possible combinations of i and j.

In the calculation, SCR_i and SCR_j are replaced by the following:

a) $SCR_{mortality}$ - mortality risk sub-module;

b) $SCR_{longevity}$ - longevity risk sub-module;

c) $SCR_{disability}$ - disability risk - morbidity sub-module;

d) $SCR_{life\_expenses}$ - life insurance expense risk sub-module;

e) SCR_{review} - review risk sub-module;

f) $SCR_{termination}$ - termination risk sub-module;

g) $SCR_{life\_catastrophe\_life}$ - life insurance catastrophe risk sub-module.

4. Calculation of the market risk module

The market risk module, referred to in Article 76, paras. (7) and (8) shall be equal to:

SCRmarket

where:

(a) SCR_i is risk sub-module i;

(b) SCR_j is risk sub-module j;

c) i, j denote that the sum of different terms should cover all possible combinations of i and j.

In the calculation, SCR_i and SCR_j are replaced by the following:

a) $SCR_{interest\_rate}$ - interest rate risk sub-module;

b) $SCR_{equity\ devaluation}$ - equity devaluation risk sub-module;

(c) SCR_{real_assets} - sub-module real estate risk;

d) SCR_{credit_margin} - credit margin risk sub-module;
e) $SCR_{concentration}$ - sub-module concentration risk market risk;
f) $SCR_{foreign\ exchange}$ - foreign exchange rate risk sub-module.