

Financial Supervisory Authority

Regulation No. 10/2015 on Alternative Investment Fund Management

In accordance with the provisions of Art. 1(2), Letters a) and d) of Art. 2(1), Letter b) of Art. 3(1), Art. 6(1) and (2) and Art. 14 of Government Emergency Ordinance No. 93/2012 on the establishment, organisation and operation of the Financial Supervisory Authority, approved as amended and supplemented by Law No. 113/2013, as subsequently amended and supplemented,

on the basis of the provisions of Art. 1(6), Letters a) and b) of Art. 2(2), Art. 4(2), Letter b) of Art. 8(1), Art. 18(5), Art. 19(1) and (2), Art. 20(3), Art. 27(4), Art. 30(4), Art. 31(7), Art. 32(1), Art. 36(10), Art. 38(2), Art. 39(18), Art. 46(3), Art. 47, Art. 49(3), Art. 57(3) and Art. 63(6) of Law No. 74/2015 on alternative investment fund managers,

further to the deliberations held in the meeting of the Financial Supervisory Authority's Board of 21 July 2015,

the Financial Supervisory Authority hereby issues this regulation.

TITLE I

General Provisions

Art. 1. - (1) This regulation lays down rules for the authorisation, registration and operation of alternative investment fund managers (AIFM), and on the appointment and duties of the depositary of an alternative investment fund (AIF).

(2) This regulation is supplemented with the provisions of the following Regulations issued by the European Commission:

a) Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision, hereinafter referred to as *Regulation (EU) No 231/2013*;

b) Commission Implementing Regulation (EU) No 447/2013 of 15 May 2013 establishing the procedure for AIFMs which choose to opt in under Directive 2011/61/EU of the European Parliament and of the Council, hereinafter referred to as *Regulation (EU) No 447/2013*;

c) Commission Implementing Regulation (EU) No. 448/2013 of 15 May 2013 establishing a procedure for determining the Member State of reference of a non-EU AIFM pursuant to Directive 2011/61/EU of the European Parliament and of the Council, hereinafter referred to as *Regulation (EU) No 448/2013*;

d) Commission Delegated Regulation (EU) No 694/2014 of 17 December 2013 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to regulatory technical standards determining types of alternative investment fund managers, hereinafter referred to as *Regulation (EU) No 694/2014*.

(3) This regulation shall apply together with the Guidelines of the European Securities and Markets Authority, hereinafter referred to as ESMA, issued in relation to the application of Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment

Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010, published in the Official Journal of the European Union, Series L 174 of 1 July 2011, hereinafter referred to as AIFMD.

Art. 2. - (1) The terms and expressions used in this regulation shall have the meanings specified in Law No. 74/2015 on alternative investment fund managers, hereinafter referred to as Law 74/2015 and in the (EU) Regulations issued for the application of AIFMD, referred to in Art. 1(2).

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

a) **AIFMs authorised by ASF** – means the AIFMs which, in accordance with Art. 7(1) of Law No. 74/2015, must apply for authorisation with ASF. This category shall also include AIFMs which are not obligated to seek authorisation but which choose to opt in under Law No. 74/2015 with the aim to benefit from the passport granted by AIFMD, in accordance with Art. 2(5) of Law No. 74/2015, and also investment management companies (SAI)/self-managed investment companies applying for authorisation as AIFM with ASF in accordance with Art. 7(3) of Law No. 74/2015;

b) **AIFMs registered with ASF** – means the AIFMs that are obligated to apply for registration with ASF in accordance with Art. 2(3) of Law No. 74/2015, including managers of venture capital funds (EUVECA) regulated by Regulation (EU) No 345/2013, of social entrepreneurship funds (EUSEF) regulated by Regulation (EU) No 346/2013, and of European long-term investment funds (ELTIF) regulated by Reregulation (EU) No 760/2015 on European long-term investment funds. Such obligation to register with ASF’s Register as “registered AIFMs” shall also apply to SAIs/self-managed investment companies/established by articles of association which meet the requirements of Art. 2(2) of Law No. 74/2015;

c) **substantive holding** – means the substantive direct or indirect holding, referred to in Letters a) and b) of Art. 2(2) of Law No. 74/2015, representing at least 33% of the share capital or voting rights of an AIFM;

d) **GEO No. 32/2012** – means Government Emergency Ordinance No. 32/2012 on undertakings for collective investment in transferable securities and investment management companies, and amending and supplementing Capital Market Law No. 297/2004, approved as amended and supplemented by Law No. 10/2015;

e) **Open-ended AIF** – means the AIFs referred to in Art. 1(2) of Regulation (EU) No 694/2014;

f) **Closed-ended AIF** – means the AIFs referred to in Art. 1(3) and (5) of Regulation (EU) No 694/2014 which do not meet the requirements to be considered open-ended AIFs;

g) **AIF** – means collective investment undertakings, including investment compartments thereof, defined in accordance with the provisions of ESMA/2013/611 Guidelines on key concepts of the AIFMD, which:

(i) raise capital from a number of investors, with a view to investing it in accordance with a defined investment policy for the benefit of those investors; and

(ii) do not require authorisation pursuant to Article 5 of Directive 2009/65/EC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS);

h) **senior management** - means the person(s) who effectively conduct the business of the AIFM in accordance with Letter b) of Art. 8(1) of Law No. 74/2015 and the executive member(s) of the management body, as appropriate.

TITLE II

Authorisation, Registration and Operation of AIFMs

Chapter I

General Provisions

Art. 3. In order to establish the obligation for authorisation by the Financial Supervisory Authority, hereinafter referred to as ASF, or registration with ASF, the managers of AIFs shall calculate the value of the assets under management and of leverage, in accordance with Article 2 and Articles 6 – 11 of Regulation (EU) No 231/2013.

Art. 4. - (1) The date of calculation of the assets of AIFs managed by the AIFM seeking authorisation by or registration with ASF shall precede the submission of the application for authorisation/registration by no more than 30 days.

(2) If, throughout the period between the date of submission of the application referred to in (1) and the issuance date of the authorisation/certificate for registration by ASF, the value of the assets under management exceeds or falls below the thresholds specified in Letter a) or b) of Art. 2(2) of Law No. 74/2015, the AIFM shall inform ASF thereof and request that the legal provisions corresponding to the new condition be applied. AIFM shall supplement, as appropriate, the documentation submitted with the documents required to obtain the new capacity. After analysis of the documents submitted, ASF shall order by individual act the new capacity obtained by the AIFM.

(3) For the purposes of following-up and complying with Article 3 and Article 2(1) and (3) and Article 3 of Regulation (EU) No 231/2013 and, having regard to the provisions of Article 2(6) of Regulation (EU) No 231/2013, the AIFM shall calculate, after the authorisation by/registration with ASF, the value of the total assets of AIFs managed, at least on the 31st day of December of the year corresponding to the authorisation by/registration with ASF, and also twice a year in the following years, on the date established by the AIFM.

(4) Change by the AIFM of the date of calculation of the total value of assets of AIFs managed, established in accordance with Para (3), shall be subject to approval by ASF. For that purpose, the AIFM shall send ASF the reasons for the adoption by the AIFM of such decision 15 working days prior to the application of the new date of calculation.

(5) The value of the assets of AIFs managed shall be monitored on an ongoing basis, in accordance with the working procedures of the AIFM. The occasional excess over/reduction under the thresholds referred to in Letter a) or b) of Art. 2(2) of Law No. 74/2015 shall be notified to ASF on the working day immediately following the day when it is ascertained. Subsequently, to determine whether or not the excess over/reduction under the relevant thresholds is of a temporary nature, the AIFM shall send ASF the new value of the assets of AIFs managed within 90 days after the date when such is ascertained.

(6) Where the excess over/reduction under the threshold referred to in Para (5) lasts for more than 90 consecutive days, the AIFM shall, as appropriate:

a) submit an application for registration, if the total value of the assets under management by authorised AIFMs falls below the relevant ceilings/thresholds,

b) submit an application for authorisation, if the total value of the assets under management by registered AIFMs exceeds the relevant ceilings/thresholds,

c) request that the validity of the authorisation decision be maintained, in the event that the total value of the assets under management by authorised AIFMs falls below the relevant thresholds/ceilings, and the AIFM concerned voluntarily wishes to opt in under Law No. 74/2015, in accordance with Art. 2(5) of that law.

Art. 5. - (1) To determine the obligation for authorisation/registration and, in applying Art. 3, the date of calculation of leverage shall be deemed the calendar date provided for in Art. 4 corresponding to the date of calculation of the value of total assets of AIFs managed.

(2) Where the instruments of incorporation and the promotional/marketing materials of AIFs managed by AIFMs whose value of assets is between EUR 100,000,000 referred to in Letter a) of Art. 2(2) of Law No. 74/2015 and EUR 500,000,000, referred to in Letter b) of Art. 2(2) of that law, expressly provide that they do not use mechanisms creating leverage, as such is defined by Regulation (EU) No 231/2013, those AIFMs are subject to registration with ASF.

(3) The leverage shall be used by the AIFMs registered with ASF referred to in Para (2) only subject to the prior approval by ASF of their request to be placed in the category of authorised AIFMs.

(4) For calculating the level of the leverage in the process of applying for authorisation/registration of the AIFM provided for in Art. 3, the wording "AIFs consist of AIFs" provided for in Letter b) of Art. 2(2) of Law No. 74/2015 means "AIFM managing AIF portfolios".

Chapter II

Provisions Applicable to AIFMs Authorised by ASF

Section 1

Authorisation of AIFMs

Art. 6. - (1) To become an AIFM authorised by ASF, ASF must issue an authorisation, in compliance with Arts. 7-9 of Law No. 74/2015, within 3 months or 6 months, as appropriate, after the submission of the application, in accordance with Art. 8(6) of that law.

(2) Any reasoned request by ASF for additional information or modification of the documents initially submitted shall interrupt the three-month period referred to in Para (1), which shall start running again as of the date of submission of that information or modifications, which may not exceed 60 days after ASF's request, on penalty of rejection of the initial application.

(3) Where, further to ASF's request referred to in Para (2), the documents submitted are incomplete, illegible, or they were not submitted in an appropriate form, or documents are missing, and if the provisions of this regulation are not fully complied with, those documents shall be returned to the applicant, based on a decision of ASF's Board indicating the reasons for doing so.

(4) The decision referred to in Para (3) may be challenged within maximum 30 days after its communication.

(5) In the situation covered by Art. 4(2) of Law No. 74/2015, the AIFM shall send ASF, as competent authority of the home Member State of the AIFM, within maximum one working day from the ascertaining date, a note on the aspects which do not allow for the compliance with that law.

(6) After analysing the situation referred to in Para (5), ASF shall order within maximum 15 working days that the AIFM takes the necessary steps to remedy such situation. Those steps shall at least refer to:

a) the urgent elaboration by the AIFM's senior/executive management of an action plan approved by ASF for the urgent remedy of the situation, detailing the concrete measures adopted to protect the interests of unit-holders;

b) the adoption of any measures for the AIF's liquidity and risk management adopted on a temporary basis by the AIFM;

c) the modification of the AIF's investment strategy and policy to protect investors and in compliance with the provisions of the AIF's instruments of incorporation;

d) ensuring the alignment of the investment strategy, liquidity profile and redemption policy of AIFs;
e) the appropriate adjustment of the level of leverage used by the AIF, having regard at least to the aspects provided for in Article 112(2) of Regulation (EU) 231/2013.

(7) If, despite such steps taken by the AIFM as referred to in Para (6), the non-compliance persists, or if the AIFM has failed to take the steps ordered by ASF, ASF may decide that the AIFM resigns as manager, and shall inform, as appropriate, the competent authority of the home Member State of the AIF.

(8) Together with the decision whereby the management of the AIF by the AIFM is ended as referred to in Para (7), ASF shall request the AIFM to transfer within maximum 90 days the assets of the AIF managed to another AIFM that, in the case of the AIF established by instruments of incorporation, was either appointed by the statutory bodies of the AIF as external manager or it was decided that the AIF be managed internally or, if the AIF was established by articles of association, was selected as the AIFM further to a documented selection process.

(9) During the 90-day period referred to in Para (8), the AIFM shall carry out only activities for the preservation of the assets of the AIF, for the protection of the interests of the unit-holders of the AIF and transfer of the assets of the AIF to the new AIFM.

(10) After the transfer of the assets, the AIFM shall notify ASF to that effect, and shall present at the same time the certification of the depositary of the AIF that the assets were transferred to the new AIFM. ASF shall issue the decision for withdrawal of the AIFM's authorisation and deregistration from ASF's Register.

Art. 7. - (1) The Romanian legal person AIFM, referred to in Letter a) of Art. 1(2) of Law No. 74/2015, applying for membership as authorised AIFM with ASF, shall be established as a joint-stock company, issuer of registered shares, in accordance with Company Law No. 31/1990, republished, as subsequently amended and supplemented, hereinafter referred to as *Law No. 31/1990*.

(2) The authorisation referred to in Para (1) shall be issued by ASF based on an application for authorisation, drawn up in accordance with the form and statement set out in Annexe No. 1, in the case of external AIFMs defined in accordance with Art. 3 Point 3 of Law No. 74/2015, and the form and statement set out in Annexe No. 2, in the case of the internally managed AIFs referred to in Letter b) of Art. 4(1) of Law No. 74/2015, together with the relevant documents and information provided for in Art. 7 of Law No. 74/2015, and Regulation (EU) No 231/2013, and the proof of payment into ASF's account of the fees determined in accordance with Regulation No. 16/2014 on the revenues of the Financial Supervisory Authority, as subsequently amended and supplemented, hereinafter referred to as *Regulation No. 16/2014*.

(3) The AIFM shall also submit to ASF, together with the application for authorisation, the working procedures related to the policies/practices/systems provided for in Arts. 13-19 of Law No. 74/2015, drawn up in accordance with Regulation (EU) No 231/2013. The remuneration policies and practices provided for in Art. 13 of Law No. 74/2014 shall be drafted and applied in compliance with *ESMA Guidelines 232/2013 on sound remuneration policies under the AIFMD*.

(4) In the case of the working procedures which the AIFM must draw up in accordance with Regulation (EU) No 231/2013, other than those referred to in Para. (3), the legal representative(s) of the AIFM shall certify by an affidavit that those procedures were drawn up in compliance with Law No. 74/2015 and EU Regulations issued for the application of the AIFMD and that they shall be consistently applied by AIFMs. The affidavit shall be submitted together with the application referred to in Para (2).

(5) If the AIFM that, prior to the entry into force of Law No. 74/2015, was an investment management company (SAI) regulated by GEO No. 32/2012, the application for authorisation shall be drawn up in accordance with the form and statement set out in Annexe No. 3.

(6) The provisions of Para (5) shall also apply to AIFMs that, prior to the entry into force of Law No. 74/2015, were self-managed closed-ended investment companies, given that the entities meet the size requirements for the portfolio of AIFs managed for the capacity as authorised AIFMs, or if they voluntarily opt in for such capacity in compliance with Art. 2(5) of Law No. 74/2015.

(7) If, together with the submission of the application for authorisation, the AIFM submits also the documentation for authorisation/registration of one or more AIFs which it seeks to manage after obtaining the authorisation or if, at the time of submission of the application for authorisation, the AIFM manages one or more AIFs, then the AIFM shall supplement the documentation submitted for authorisation with the information referred to in Art. 22(1) of Law No. 74/2015 for each AIF managed.

(8) The issuance of the AIFM authorisation shall be accompanied by the registration of that entity with ASF's Register.

(9) The AIFM must mention in all of its official documents, in addition to its identification data, the registration number and date with ASF's Register and of the authorisation issued by ASF.

Art. 8. - (1) For the application of the provisions of Letter b) of Art. 8(1) of Law No. 74/2015, the managers/members of the executive board of an AIFM authorised by ASF (*senior management* as defined in Letter h) of Art. 2(2)), and also the persons replacing them/succeeding them in office, shall meet the following requirements:

a) to fulfil the general conditions provided for by Law No. 31/1990, for the performance of that function;

b) to be of good repute and to have a professional experience of at least 3 years acquired through performing several functions at entities pursuing business in the capital market/insurance/private pension, banking field, or experience of minimum 3 years in the legal field acquired further to the provision of legal advice to similar entities on the establishment and operation thereof;

c) not to be members of the board of directors/supervisory board or managers/members of the executive board of another AIFM or depositaries of the AIFs managed, not to be members of the board of directors/supervisory board, managers or members of the executive board of the SSIF with which the AIFM concluded an intermediation contract and not to be employed or have any kind of contractual relationship with another AIFM, except for other entities belonging to the same group;

d) not to have been convicted for fraudulent management, abuse of trust, forgery of documents and trafficking therein, fraud, embezzlement, false statement, bribe giving or taking, or other economic crimes, or not to be the subject of a provisional arrest warrant, or not to be the subject of a judicial investigation for corruption, or economic crimes;

e) not to have been punished in the last 10 years by ASF, National Bank of Romania (NBR), Insurance Supervisory Commission (ISC), Private Pension System Supervisory Commission (PPSSC), National Securities Commission (CNVM) or by other similar competent authorities of other States with a prohibition of the pursuit of the activities regulated by them, or not to fall under the sanctions referred to in Letter c) of Art. 273(1) of Law No. 297/2004 applied by ASF or other similar sanctions applied by NBR or other supervisory and regulatory authorities in the economic and financial field abroad;

f) to have higher education attested by bachelor's degree exam or diploma, as appropriate;

g) not to have been a shareholder or director/manager, member of the supervisory board/executive board of a company regulated by Law No. 31/1990 or of a foreign company, under judicial reorganisation or being declared bankrupt, in the last 5 years prior to the date of initiation of bankruptcy proceedings, for which they were proved to be liable, if the liability was established by final court ruling;

h) to exercise their duties during the company's normal business hours.

i) The persons replacing/succeeding in office for a limited period of time the managers/members of the executive board may work part-time, and in the case of final substitution as a result of the termination of the contractual relationship between AIFM and managers/members of the executive board they replace/succeed in office, the AIFM must seek authorisation for the change of the senior management.

(2) The members of the board of directors/supervisory board of the AIFM authorised by ASF (*governing bodies* defined in Article 1 Point 4 of Regulation (EU) No 231/2013) shall meet the following requirements:

a) to fulfil the general conditions provided for by Law No. 31/1990, to carry out their respective functions;

b) not to be members of the board of directors/supervisory board or managers/members of the executive board of another AIFM/investment management company/investment company or credit institution acting as depositary for any of the undertakings for collective investment under management, not to be members of the board of directors/supervisory board of the SSIF with which the AIFM/SAI concluded a financial intermediation contract and not to be employed or have any kind of contractual relationship with another SAI or investment company, except for other entities belonging to the same group;

c) not to have been convicted for fraudulent management, abuse of trust, forgery of documents and trafficking therein, fraud, embezzlement, false statement, bribe giving or taking, or other economic crimes, or not to be the subject of a provisional arrest warrant, or not to be the subject of a judicial investigation for corruption, economic crimes;

d) not to have been punished in the last 10 years by ASF, BNR, CSA, CSSPP, CNVM, with a prohibition of the pursuit of the activities, or not to fall under the sanctions referred to in Letter c) of Art. 273(1) of Law No. 297/2004 applied by ASF or other similar sanctions applied by NBR or other supervisory and regulatory authorities in the economic and financial field of other states;

e) to have higher education attested by bachelor's degree exam or diploma, as appropriate;

f) to have professional experience in the capital market/insurance/private pensions field or in the banking or investment management field of at least 3 years;

g) not to have been the director of a company regulated by Law No. 31/1990 or of a foreign trading company under judicial reorganisation or being declared bankrupt, in the last 3 years prior to the date of initiation of bankruptcy proceedings, for which they were proved to be liable, if the liability was established by final court ruling.

(3) For the application of the provisions of Letter a) of Art. 7(2) of Law No. 74/2015, the AIFM shall file with ASF, together with the application for authorisation, the following documents for the members of the board of directors/supervisory board, and for the managers/members of the executive board and for the persons replacing/succeeding the latter in office:

a) copy of the identity document (IB/IC/passport for the foreign natural persons);

b) curriculum vitae dated and signed, with the detailed presentation of their professional experience, revealing the fulfilment of the conditions referred to in Para (1) or (2);

c) certified copy of the diplomas;

d) criminal record certificate, submitted during its validity term, in accordance with the legal provisions in force, in original, attesting that they were not convicted by a final ruling for the crimes referred to in Para 1 Letter d) and Para 2 Letter c);

e) tax offense record certificate, submitted during its validity term, in accordance with the legal provisions in force, in original;

f) affidavit, under handwritten signature, revealing that the provisions of Law No. 31/1990, Law No. 74/2015, of this regulation are not breached and that the requirements referred to in Para (1) or (2), as appropriate, are met;

g) affidavit, under handwritten signature, containing all individual holdings in, and the holdings related to other persons involved in, and closely linked with, any company regulated by Law No. 31/1990 or by any law applicable to the state of residence of the company where shares are held and representing at least 10% of the share capital or of the voting rights;

h) affidavit, under handwritten signature, revealing that the requirements referred in Para (1) Letter d) and Para (2) Letter c) are met.

(4) For the application of the provisions of Letter b) of Art. 7(2) Letter b), in conjunction with the provisions of Letter c) of Art. 8(1) of Law No. 74/2015, the shareholders of the AIFM with qualifying holdings therein shall be assessed in accordance with the provisions of Regulation No. 2/2009 as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in investment firms, approved by Order No. 15/2009 of the National Securities Commission, hereinafter referred to as *Regulation No. 2/2009*, and the documentation accompanying the application for authorisation of the AIFM on such persons shall be that provided for by the same regulation.

(5) For the application of the provisions of Art. 17(1) of Law No. 74/2015 and having regard to the provisions of Article 22 of Regulation (EU) No 231/2013, the AIFM shall ensure that the persons holding non-managerial positions directly linked to the portfolio management activity, or risk management shall cumulatively meet the following requirements:

a) to have a continuous experience of 12 months in the specialised compartments (only economic/IT administrative-logistics/human resources, etc.) in an entity such as AIFM, SAI, SSIF, SIF depository of FIA/UCITS, or in other similar entities under the supervision of competent authorities in the capital market field of other EU Member States, within ASF or other competent national authorities of other EU Member States, and to have completed a specialisation course organised by specialised institutions such as national or international vocational training providers, attesting to the acquisition of knowledge in the investment management or risk management field, and qualifying them to fulfil the responsibilities corresponding to the positions held;

b) no person may be employed on a permanent basis for two or more positions which would result in the breach by the AIFM of the conditions on the regime of privileged information, regime of conflict of interest, risk management, execution of subscription/redemption requests of AIF investors or orders to trade of AIF, provided for by Law No. 74/2015 and/or by Regulation (EU) No 231/2013.

(6) For the application of the provisions of Letter d) of Art. 8(1) of Law No. 74/2015, the AIFM shall file with ASF, at the time of the application for authorisation, documents attesting to its registered office (certified copy of the lease contract/sale-purchase contract; in the case of the sublease contract, a copy thereof shall be submitted together with the copy of the lease contract and the landlord's affidavit approving the sublease).

The registered office of the AIFM must meet at least the following requirements:

a) to be exclusively used by the AIFM;

b) to correspond to the organisational structure, business plan and activities to be authorised;

c) to be properly partitioned so as to ensure the effective separation of the activities carried out; in the case of entities acting both as SAI and authorised or registered AIFM, similar/identical activities related the management of AIF and UCITS may be carried out within the same compartment;

- d) not to be located in the basements of buildings;
- e) if the AIFM has both a registered office and a head office, the requirements referred to in Letters a) through e) shall be met by the head office, and the registered office shall only meet the requirement referred to in Letter a). The head office is the office where the AIFM carries out the activities to be authorised by ASF;
- f) to have adequate technical equipment for the pursuit of its business.

(7) For the application of the provisions of Art. 9 of Law No. 74/2015, the documents that the AIFM, as appropriate, must submit to ASF for authorisation purposes shall be the following:

- a) supporting documents attesting that the AIFM holds the initial capital imposed, and own additional funds in the situation provided for in Art. 9(3) of Law No. 74/2015 (payment orders issued by credit institutions, statements of account proving that the initial capital has been paid/deposited into the account opened for that purposes at a credit institution, and in the case of the legal persons established for at least one year, the copy of the balance sheet, together with the report of the financial auditor of the company, as appropriate);
- b) the copy of the professional indemnity insurance exceeding the threshold provided for in Art. 15(3) and (4) of Regulation (EU) No 231/2013;

(8) In addition to the documentation referred to in Paras (6) and (7), the AIFM shall also file the following documents with ASF for authorisation purposes, as appropriate:

- a) copy of the registration certificate/company details certificate issued by the office of the trade register;
- b) revised instruments of incorporation, bearing a certified date, in original;
- c) copy of the ruling issued by the delegated judge with the office of the trade register for the incorporation and registration of the company;
- d) copy of the depository contract concluded for each AIF managed, or copy of the framework contract concluded with a depository for several AIFs managed;
- e) if the object of activity of the external AIFM includes also the services and activities provided for in Letter b) of Art. 5(5) of Law No. 74/2015 and set out in Annexe No. 9 to Regulation No. 32/2006 on financial investment services, approved by CNVM Order No. 121/2006, as subsequently amended and supplemented, then the AIFM must send the documentation to ASF and comply with the working and reporting procedures established by the regulation concerned;
- f) for the shareholders with a qualifying participation, the documents provided for Annexe No. 2 to Regulation No. 2/2009;
- g) business plan/activity plan, which shall include at least the following:
 1. identification data of the AIFM: name, full address of the registered office/head office, as appropriate, telephone, fax, email, web page address, subscribed and paid-in share capital, Sole Registration Code or its equivalent for foreign persons, bank and IBAN Code;
 2. information on the activities to be carried out,
 3. information on how the AIFM intends to conduct its activity in a safe and prudent way, including information regarding the risk management function;
 4. organisational structure, specifying the responsibilities and the spheres of competence of the decision-making personnel;
 5. study of the market and of the factors that may affect the feasibility of the business plan;
 6. investment policy and the business financing plan, including the investment recovery period;

- h) list of signature specimens for the members of the board of directors/supervisory board and for the managers/members of the executive board of the AIFM, and for the person/persons whom the AIFM wishes to authorise as compliance officer(s) or person(s) responsible for risk management;
- i) contract concluded with a financial auditor, member of the Chamber of Financial Auditors of Romania, approved by ASF, in accordance with the regulations issued for that purpose;
- j) identification of the company's internal auditors, of the members of the audit committee and of the person/persons responsible for the application of the legal provisions on preventing and combating money laundering and terrorist financing, and legal provisions on international sanctions in the field;
- k) documents provided for in Art. 13(2) for the authorisation of the person appointed as compliance officer, which office in the case of AIFMs acting also as SAI may be assimilated to that of representative of internal control compartment;
- l) documents provided for in Art. 13(10) for the authorisation of the person responsible for risk management;
- m) any other documents required by ASF for compliance with the requirements provided for by Law No. 74/2015 and Regulation (EU) No 231/2013;
- n) proof of payment into ASF's account of the fees determined in accordance with the regulations in force for the authorisation of the AIFM and of the persons member of the managing bodies, senior management and compliance and risk management officers.

Art. 9. - (1) The transmission of the forms, statements and documents certifying the validity of the information sent, and also the compliance with the conditions provided for in Arts. 6-8 and set out in Annexes Nos. 1-8, shall be made in hard copy or electronically, in the Romanian language. The electronic transmission and receipt of the documents mentioned above shall be made in accordance with the electronic filling-out instructions available on ASF's website.

(2) The documents referring to foreign/non-resident natural and legal persons involved in the establishment and/or operation of the AIFM (shareholders, members of the board of directors/supervisory board, managers/members of the executive board, third parties to whom activities of the AIFM were delegated in accordance with the provisions of Art. 19 of Law No. 74/2015, etc.) may be submitted in the English language, in certified copy or legalised translation for those documents filed in foreign languages (other than English), except for the criminal record and tax offense record certificate, in which case the original must also be submitted.

Art. 10. In the case of AIFMs established in third countries for which Romania is designated a Member State of reference, the authorisation shall be issued by ASF in accordance with the provisions of Art. 39(2) of Law No. 74/2015 and of this regulation.

Art. 11. For the application of the provisions of Art. 10(1) of Law No. 74/2015, the modification of the significant conditions referred to in Letters c), d), g) and j) of Art. 7(2) of the same law shall be certified by the submission to ASF, within maximum 10 days of the adoption date, of the resolution/decision of the corporate bodies responsible for the adoption of that modification, together with the supporting documents provided for in Arts. 7 and 8, as appropriate.

Art. 12. (1) For the application of the provisions of Letter a) of Art. 11 of Law No. 74/2015, ASF may withdraw the authorisation at the express request of the AIFM where:

- a) the AIFM previously requested ASF the withdrawal of the authorisation and deregistration from ASF's Register of all AIFs managed, and, at the time of the submission of the application for withdrawal of the authorisation, the redemption process by the investors of those AIFs of the invested amounts had been ended;

b) the AIFM previously requested ASF the transfer of the assets of all AIFs managed by another AIFM in accordance with the procedure described under Art. 25, such that, at the time of submission of the application for withdrawal, the AIFM does no longer manage any AIF.

(2) The authorisation shall be withdrawn at the express request by the AIFM based on the application accompanied by the following documents:

a) resolution of the corporate body of the AIFM in connection with the cessation of the activities referred to in Art. 5(2) and (3) of Law No. 74/2015, and change of the object of activity and name of the company (in the sense of removing "AIFM") or initiation of the dissolution proceedings;

b) proof of publication in a national newspaper of an advertising on the resolution referred to in Letter a);

c) proof of payment of its debts to ASF;

d) specification of the address of the archive and the identification data and contact details of the person in charge of managing the AIFM's archive;

e) financial auditor's report regarding the AIFM's situation upon the cessation of activity;

f) proof of payment into ASF's account of the fees determined according to the regulations in force;

g) any other documents that ASF deems necessary for the settlement of the application.

Section 2

Compliance and Risk Management Functions of the AIFM

Art. 13. (1) For the application of the provisions of Letter b) of Article 61(3) of Regulation (EU) No 231/2013, the compliance officer of the AIFM shall send the report on the activity carried out to the senior management within 60 days after the end of each year, and must meet the following requirements:

a) to be an employee of the AIFM under an employment contract and to carry out activities specific to the compliance function only at that AIFM;

b) to be higher education graduates in economy or juridical sciences attested by bachelor's degree exam or diploma, as appropriate, and to have at least 2 years of experience in the capital market field. If their experience in the capital market exceeds 5 years, then they may be higher education graduates in fields other than economy or juridical sciences;

c) to have participated/participate in training courses and passed/pass, within maximum 6 months after the authorisation date, the test on the knowledge of the legislation in force, organised by vocational training providers certified by ASF;

d) not to be a significant shareholder of the AIFM, a member of the board of directors/supervisory board or manager/member of the executive board, and not to carry out any duties such as those he/she must control, not to be a financial auditor of the AIFM, SSIF with which the AIFM concluded an intermediation contract, not to be a person involved with another AIFM/SAI or with a depositary of an AIF managed by the AIFM and not to be an employee of another AIFM/SAI or of a depositary within the department/service carrying out activities in connection with the depositary activity;

e) not to have been convicted for fraudulent management, abuse of trust, forgery of documents and trafficking therein, fraud, embezzlement, false statement, bribe giving or taking, or other economic crimes;

f) not to have been punished by ASF, CNVM, ISC, PPSSC, NBR or other supervisory and regulatory authorities in the economic and financial field of Romania, of other Member State or third country, with a prohibition of the pursuit of activities on the markets regulated by them.

(2) For the authorisation of the compliance officer referred to in Para (1), the AIFM shall file with ASF an application for authorisation, together with the following documents:

- a) curriculum vitae specifying the training and professional experience, updated, dated and signed;
- b) copy of the identity document;
- c) certified copies of the diplomas;
- d) criminal record certificate and tax offense record certificate submitted during their validity term, in accordance with the legal provisions in force, in original;
- e) affidavit, in original, drawn up in accordance with Annexe No. 6, of each compliance officer, on to the fulfilment of the requirements referred to in Para (1);
- f) confidentiality contract concluded by the compliance officer with the AIFM;
- g) proof of payment into ASF's account of the fees determined in accordance with the regulations in force.

(3) If the AIFM uses the Value at Risk (VaR) model for the calculation of the global exposure, the person with a permanent risk management function of the AIF shall be responsible for:

- a) supplying data, testing, keeping and daily using the VaR model;
- b) supervising the process of determining the reference portfolio if the performance/yield of the AIF's investment portfolio is determined in relation to such benchmark;
- c) verifying on a continuous basis that the VaR models for the estimation of the risks related to the AIF are adjusted to the AIF's portfolio;
- d) validating on a continuous basis the VaR model(s) used;
- e) validating and applying, for each AIF managed, a system of VaR limits in accordance with its risk profile, approved by the heads and board of directors of the AIFM;
- f) monitoring and controlling VaR limits;
- g) monitoring on a regular basis the leverage of the AIF;
- h) preparing on a regular basis reports on the current level of the VaR measure (including the ex-post test and stress test) and submission thereof to the heads of the AIFM;
- i) preparing on an annual basis a report on the risk management and submitting it to ASF within 60 days after the end of each year.

(4) The report referred to in Letter i) of Para (3) shall present in detail the risk management policy of all AIFs (and related sub-funds/investment compartments, where appropriate) managed by the AIFM.

(5) The person with a permanent risk management function must inform ASF within maximum 7 working days after the date of any significant modifications of the risk management policy previously reported to ASF.

(6) For the application of the provisions of Art. 15 of Law No. 74/2015 and of Art. 39(1) of Regulation (EU) No 231/2013, the permanent risk management function must be functionally and hierarchically exercised independently by reference to that of portfolio management, by adopting all organisational measures for preventing conflict of interest, expressly stipulated in the internal rules of the AIFM.

(7) The independence of the permanent risk management function must not be affected by the fact that the risk management activities are closely linked to the investment process.

(8) The risk management policy established by the AIFM shall allow the assessment of market risk (including the determination of the global exposure), liquidity risk, counterparty risk, and of all other risks (including the operational risk), which are important for the AIF, considering the investment objectives and strategies, management styles or for the management of the assets of each AIF and which may thus directly affect the unit-holder's interests.

(9) The AIFM may use the accrual based method, gross method or VaR method for the calculation of the global exposure. The accrual based method may not be used by the AIFM for the managed AIFs investing to a large extent in derivatives, within the meaning of Article 111(1) of Regulation (EU) No 231/2013.

(10) For the authorisation of the person responsible for risk management, the AIFM shall file with ASF an application for authorisation, together with the following documents:

- a) curriculum vitae specifying the training and professional experience, updated, dated and signed;
- b) copy of the identity document;
- c) certified copies of the diplomas;
- d) criminal record certificate and tax offense record certificate submitted during their validity term, in accordance with the legal provisions in force, in original;
- e) confidentiality contract concluded by the person responsible for risk management with the AIFM;
- f) proof of obtaining the certification referred to in Art. 19(1);
- g) proof of payment into ASF's account of the fees determined in accordance with the regulations in force.

(11) For the authorisation and performance of the activity within the AIFM, the person responsible for risk management must cumulatively meet the requirements referred to in Letters a), d), e) and f) of Para (1) and of Letter a) of Art. 8(5).

(12) If the AIFM has a risk management department consisting of several persons, those persons must meet the requirements for eligibility and registration in ASF's Register. By way of exception, for vocational training purposes, the AIFM may employ, for maximum 12 months within its risk management department, other employees of the AIFM who do not meet the eligibility requirements, provided that all of the AIFM's documents on risk management are drawn up exclusively by a person authorised by ASF as risk management officer. The AIFM shall notify ASF of the list of persons who do not meet the eligibility requirements on a temporary basis.

Section 3

Management of Individual Portfolios of Investments

Art. 14. For the application of the provisions of Letter a) of Art. 5(5) of Law No. 74/2015, an external AIFM intending to carry out management activities of individual portfolios of investments, including those held by pension funds, on a discretionary basis and individually, must carry out that activity only under a written contract, containing at least the clauses, properly applied, provided for in Arts. 16 through 22 of ASF Regulation No. 9/2014 on the authorisation and operation of investment management companies, undertakings for collective investment in transferable securities and depositaries of undertakings for collective investment in transferable securities, in compliance with all requirements and obligations provided in such regulation.

Section 4

Provision by an External AIFM of Non-Core Services

Art. 15. For the application of the provisions of Letter b) of Art. 5(5) of Law No. 74/2015, an external AIFM intending to supply the non-core services referred to in the corresponding article of the legislative act must send the documentation and comply with the working and reporting procedures laid down by ASF Regulation No. 32/2006.

Section 5

Stress Tests and Valuation of AIF's Assets

Art. 16. - (1) For the application of the provisions of Letter b) of Art. 15(3) and Art. 16(1) of Law No. 74/2015 and having regard to the provisions of Point b) of Article 40(3), Point c) of Article 45(2), Article 48, Point e) of Article 52 and Article 53(2) of Regulation (EU) No 231/2013, periodic stress tests under normal and exceptional circumstances shall be conducted at least annually, on the date established in accordance with the working procedures of the AIFM and notified to ASF within maximum two days after it is scheduled.

(2) Stress tests in exceptional circumstances shall be conducted when circumstances so require.

Art. 17. - (1) The valuation of the assets of the AIF managed by AIFM or by the external valuer appointed in accordance with Letter a) of Art. 18(8) of Law No. 74/2015, and also the calculation of the net asset value (NAV) of the AIF and the publication of the issue and redemption price, shall be made as follows:

a) half-yearly and upon each subscription, redemption, cancellation of units, and in the case of increases or decreases of share capital, for AIFs of the closed-ended type referred to in Letter f) of Art. 2(2);

b) quarterly and upon each subscription, redemption, cancellation of units, and in the case of increases or decreases of share capital, for AIFs of the open-ended type referred to in Letter e) of Art. 2(2).

(2) The requirements referred to in Para (1) shall apply to AIFs of the closed/open-ended type the units of which are marketed exclusively to professional investors, defined at Point 29 of Art. 3 of Law No. 74/2015.

(3) In the case of AIFs of the closed/open-ended type the units of which are marketed also to retail investors, defined in Point 30 of Art. 3 of Law No. 74/2015, the valuation of the assets and also the calculation of NAV of the AIF managed shall be made by the AIFM at least monthly and upon each subscription, redemption, cancellation of units, and in the case of increases or decreases of share capital.

(4) Within the meaning of and in applying this regulation, it is considered that:

a) the undertakings for collective investment such as other undertakings for collective investment referred to in Letters a) and b) of Art. 185 of Regulation No. 15/2004 on the authorisation and operation of investment management companies, undertakings of collective investment and depositaries, approved by Order No. 67/2004 of the President of the National Securities Commission (CNVM), as subsequently amended and supplemented, hereinafter referred to as *CNVM Regulation No. 15/2004*, may be assimilated to AIFs the units of which are marketed exclusively to professional investors, and whether the AIF is of the open-ended or closed-ended type shall be determined having regard to the provisions of Regulation (EU) No 694/2014;

b) the undertaking for collective investment such non-UCITS referred to in Letters c) through e) of Art. 185 of CNVM Regulation No. 15/2004, may be assimilated to AIFs the units of which are

marketed also to retail investors, if they raise financial sources publicly and/or privately, and whether the AIF is of the open-ended or closed-ended type shall be determined having regard to the provisions of Regulation (EU) No 694/2014.

(5) The category of AIFs referred to in Letter b) of Para (4) shall also cover the investment companies (SIFs) established in accordance with the provisions of Law No. 133/1996, as subsequently amended and supplemented, and “Fondul Proprietatea” - SA, established in accordance with the provisions of Law No. 247/2005 on the reform in the property and justice fields, and certain related measures.

(6) The references in Regulation of CNVM (CNVM) No. 15/2004 to *closed-ended investment funds* or *closed-ended investment company*, defined in accordance with Art. 114(1) of Law No. 297/2004, shall be understood to be made to the terms *AIF established under articles of association* and *AIF established under instruments of incorporation*, and whether the AIF is of the open-ended or closed-ended type shall be determined having regard to the provisions of Regulation (EU) No 694/2014.

(7) For the application of the provisions of Art. 18(2) of Law No. 74/2015, the valuation rules of the assets of AIFs which the AIFM or the external valuer appropriately uses shall be those provided for in Arts. 113 through 122 of Regulation No. 9/2014 applicable to UCITS, except for “Fondul Proprietatea” - SA that applies the assessment rules provided for in Art. 19 of CNVM Regulation No. 4/2010 on the registration with the National Securities Commission and operation of “Fondul Proprietatea” - SA, and trading in shares issued by it, as subsequently amended and supplemented, hereinafter referred to as *CNVM (CNVM) Regulation No. 4/2010*.

(8) For the application of the provisions of Art. 18(1) and (8) and in compliance with Letter e) of Art. 7(2) and Art. 19(1) of Law No. 74/2015, the AIFM authorised by/registered with ASF shall notify ASF at the time of submission of the application for authorisation, and subsequently, whenever changes are made, on how the valuation function is performed. The notification shall also comprise information and data attesting to the fulfilment by the internal or external valuer, as appropriate, of the requirements referred to in Letter a) of Art. 18(8) and of those referred to in Art. 18(9) of Law No. 74/2015, for external valuers, and of those referred to in Letter b) of Art. 18(8) of the same law, for internal valuers, and also of the provisions of Articles 67 through 74 of Regulation (EU) No 231/2013.

(9) For the application of the provisions of Letter b) of Art. 18(8) of the second sentence of Law No. 74/2015 and having regard to the provisions of Articles 67 through 74 of Regulation (EU) No 231/2013, the delegation by the AIFM authorised by/registered with ASF of the valuation of the assets of the AIF managed by the depositary of the AIF’s assets shall be notified to ASF, submitting the documents which prove the functional and hierarchical separation of the depositary functions from those of external valuer.

(10) Any conflict of interest shall be appropriately identified, managed, monitored and communicated to the AIF’s investors by the AIFM authorised by/registered with ASF through the publication on the AIFM’s official website and in a national newspaper of an informative note to investors within maximum 2 days as of the date of notification to ASF.

Art. 18. - (1) For the application of the provisions of Art. 18(9) through (11) of Law No. 74/2015, the external valuers of the AIFM authorised by/registered with ASF shall be registered in ASF’s Register.

(2) For the registration in ASF’s Register, the external valuers of the AIFM authorised by/registered with ASF shall file with ASF the following documents:

a) copy of the registration certificate/company details certificate issued by the Office of the Trade Register;

b) revised instruments of incorporation, authenticated, in original;

c) proof of their capacity as authorised valuer, corporate member (legal person), specialised in the valuation of undertakings, or as authorised valuer, accredited member (natural person) of certain professional assessment bodies affiliated to the European Group of Valuers’ Association (TEGoVA) or

of other international organisations acknowledged by ANEVAR and of the compliance with Art. 18(9) of Law No. 74/2015;

d) proof of professional indemnity insurance concluded for negligence or non-fulfilment of its tasks, as provided by Art. 18(15) of Law No. 74/2015;

e) affidavit that the external valuers of the AIFM are not in any conflict of interest likely to prejudice the objectiveness of the valuation process;

f) other additional documents requested by ASF to meet the requirements provided for in Law No. 74/2015 and Regulation (EU) No 231/2013.

Art. 19. - (1) For the application of the provisions of Letter b) of Art. 45(3) and Art. 68 of Regulation (EU) No 231/2013, the models used for risk assessment and the models used for valuation of the assets of the AIF, established at the internal level of the AIFM, shall be validated by a person meeting the requirements referred to in Art. 8(5). In this case, the specialisation course shall be organised by any of the following institutions: *CFA Institute, Professional Risk Managers' International Association or Global Association of Risk Professionals.*

(2) Alternatively, the specialisation course referred to in Para (1) may also be organised by another nationally or internationally recognised organisation, provided that ASF was previously notified and the equivalence of these courses organised by those organisations with any of the three organisations referred to in Para (1) was obtained. For equivalence, ASF shall take account of at least the following quantitative and qualitative reasons:

a) repute of the organisation which issued the certification;

b) geographical spread and number of members at the international and national level of the organisation;

c) curricula and types of specialised courses run by the organisation;

d) opinions provided by other competent national authorities, counterparts for ASF, in the case of internationally recognised organisations.

(3) For the application of the provisions of Article 70 of Regulation (EU) No 231/2013, the valuation policies/procedures shall be reviewed annually by the AIFM on the date established in accordance with the internal rules and procedures and shall be communicated to the investors and ASF within 60 days after the end of each year.

Section 6

Delegation of Activities by the AIFM

Art. 20. – (1) For the application of the provisions of Art. 19(1) of Law No. 74/2015 and having regard to the provisions of Articles 75 through 82 of Regulation (EU) No 231/2013, in support of the application for approval/notification of the delegation of certain activities provided for in Art. 5(2) and/or (3) of Law No. 74/2015, the AIFM shall file with ASF the following documents:

a) delegation contract in the Romanian language;

b) documentation based on which certain activities of the AIFM were delegated to a third party that is not under ASF jurisdiction, including at least the supporting documents attesting to the registration with another competent authority, object of activity of the delegated entity, legal representatives and organisational chart of the delegated entity, complete list of delegated activities, professional indemnity insurance, brief description of the national legislation of the home Member State/third country of the delegated entity in the insolvency field, documents concerning the segregation of the AIF's assets from those of the delegated entity, as appropriate, etc.;

c) proof of the authorisation/certificate issued by the competent authorities if the delegated entity is an entity of another Member State/third country;

d) affidavit signed by the legal representative of the AIFM and countersigned by the legal representative of the delegate acknowledging that the delegation was made in compliance with Art. 19(2) of Law No. 74/2015 and Article 76 of Regulation (EU) No 231/2013.

(2) For the application of the provisions of Art. 19(3) of Law No. 74/2015 and subject to compliance with the provisions of Para (1), the portfolio management or risk management activity may be delegated only to the entities provided for in Article 78(2) of Regulation (EU) No 231/2013, if the delegate is of a third country, the provisions of Article 78(3) of the same regulation being also applicable.

(3) In order to comply with the provisions of Art. 19(5) through (7) of Law No. 74/2015 and of Article 81 of Regulation (EU) No 231/2013, the provisions of Paras (1) and (2) shall apply in the case of sub-delegation of certain activities.

Section 7

Transparency and Reporting Requirements

Art. 21. – (1) For the application of the provisions of Art. 21(2) of Law No. 74/2015, the annual report for each financial year drawn up by the AIFM for each of the AIFs under management, having regard to the provisions of Articles 103 through 107 of Regulation (EU) No 231/2013, shall be sent to ASF no later than the last working day corresponding to the 6-month and 4-month terms, as appropriate, provided for in Art. 21(1) of Law No. 74/2015.

(2) The accounting information (balance sheet and income and expense account) provided for in Letters a) and b) of Art. 21(2) of Law No. 74/2015 shall contain at least the elements and underlying line items provided for in Article 104(1) and (2) of Regulation (EU) No 231/2013 and shall be drawn up in compliance with Art. 21(3) of Law No. 74/2015 and Art. 104(3) through (7) of the same regulation.

Art. 22. – (1) For the application of Art. 22(4) of Law No. 74/2015 having regard to Article 108 of Regulation (EU) No 231/2013, the AIFM shall send periodic communications to the investors of the AIF under management at a frequency similar to the frequency of calculation of the net asset value and issue and redemption price, established in accordance with Art. 17.

(2) For the application of the provisions of Art. 22(5) of Law No. 74/2015 having regard to Article 109 of Regulation (EU) No 231/2013, the AIFM shall send regular communications to the investors of the AIF under management at a frequency similar to the frequency of calculation of the total value of the assets under management, and of the leverage used, established in accordance with Art. 4.

Art. 23. - (1) For the application of the provisions of Letter d) of Art. 2(3), and of Art. 23(1) through (4) of Law No. 74/2015 having regard to Article 110 of Regulation (EU) No 231/2013, the AIFM shall send such information to ASF within the reporting periods referred to in Points 8 and 9, and 11 through 14 of *GESMA Guidelines on reporting obligations under Articles 3(3)(d) and 24(1), (2) and (4) of the AIFMD* (ESMA Guidelines No. 869/2014). In the case of the AIFM already holding an authorisation as SAI, the first reporting of the information shall have regard to the provisions of Point 10 of the same Guidelines.

(2) For the application of the provisions of Article 110(4) of Regulation (EU) No 231/2013, ASF, as home Member State of the AIFM, may request in a reasoned manner that the AIFM sends the information referred to in Para (1) at a higher frequency than that provided under the same paragraph.

(3) The reporting templates set out in Annexe IV to Regulation (EU) No 231/2013 shall be drawn up having regard to the explanations/specifications of ESMA Guidelines No. 869/2014, the electronic reporting template available on ASF's website being that set out in the ESMA document called *AIFMD - Reporting - XML documents - V1.2*.

Art. 24. – (1) For the application of the provisions of Art. 26(1) and (2) and Art. 27(1) of Law No. 74/2015, the AIFM shall notify the entities and persons covered by such notification on the working day immediately following the event triggering the situation provided for in these articles.

(2) For the application of the provisions of Art. 27(4) of Law No. 74/2015, material change of the employment requirements means that change in the nature of the work carried out and/or the pay manner of employees, adversely affecting the latter or resulting in the breach of the provisions of the collective/individual employment contracts as provided by the labour legislation.

Section 8

Transfer of the AIF's Assets

Art. 25. – (1) The transfer procedure of the assets of the AIF authorised by ASF as a result of the replacement of the AIFM authorised by/registered with ASF managing that AIF (the assignor AIFM), with another AIFM authorised by/registered with ASF (the assignee AIFM), shall be carried out through the proper application of the procedure whereby SAI, manager of UCITS, may be replaced with another SAI, provided for in Arts. 54 through 59 of Regulation No. 9/2014, except for the provisions on the suspension of the issue and redemption of units, references to *SAI* and *UCITS*, being deemed to have been made accordingly to AIFM and AIF.

(2) The following procedure shall apply in the case of the AIF authorised by ASF whose AIFM authorised by/registered with ASF is replaced with an AIFM of another Member State or AIFM of a third country:

a) in the case of the AIF established under instruments of incorporation, the General Meeting of Shareholders of that AIF must previously approve the new AIFM;

b) the AIFM of the Member State of the AIFM of the third country shall follow the notification procedure provided for in Art. 35(2);

c) after the finalisation of the notification procedure referred to in Letter b), the assignee AIFM shall send ASF a copy of the management contract of the AIF authorised by ASF, contract concluded with the depositary of that AIF, and its certification of the finalisation of the transfer process of the AIF's assets.

Chapter III

Provisions Applicable to the AIFMs Registered with ASF

Art. 26. – (1) AIFMs that, further to the application of Article 2 of Regulation (EU) No 231/2013, fall under the provisions of Art. 2(2) of Law No. 74/2015, shall apply for registration with ASF being registered with ASF's Register as AIFM.

(2) Registered AIFMs shall comply with the provisions of Art. 5 of Law No. 74/2014 on the activities that may be carried out by AIFMs, by reference to their capacity as external AIFM or self-managed/internally managed AIF, and with those of Art. 6(1) on the form of establishment.

(3) ASF shall issue the certification attesting to the registration and entry in ASF's Register as registered AIFMs based on an application, drawn up in accordance with the form and statement set out in Annexe No. 4, in the case of external AIFMs defined in accordance with Point 3 of Art. 3 of Law

No. 74/2015, and Annexe No. 5, in the case of the internally managed AIF referred to in Letter b) of Art. 4(1) of Law No. 74/2015.

(4) The application referred to in Para (3) shall be accompanied by the relevant documents and information referred to in Letters b) through d) of Art. 2(3) of Law No. 74/2015 and Article 5(1) and (2) of Regulation (EU) No 231/2013, in accordance with Annexes No. 4 or 5 hereto, and by the proof of payment into ASF's account of the fees determined by Regulation No. 16/2014 for registration/entry with ASF/in ASF's Register.

(5) In addition to the information communicated to ASF in accordance with the provisions of Para (3), the AIFM applying for membership as registered AIFM shall file with ASF the working procedures related to the policies/practices/systems provided for in Arts. 13 through 19 of Law No. 74/2015, drawn up in compliance with the provisions of Regulation (EU) No 231/2013.

(6) In the case of the AIFM referred to in Para (1) that, prior to the entry into force of Law No. 74/2015, held the capacity of SAI regulated by GEO No. 32/2012, or investment company of the closed-ended type regulated by Law No. 297/2004, the application for registration shall be drawn up in accordance with the form set out in Annexe No. 3.

(7) The registered AIFM may manage the AIFs intended for retail investors, referred to in Letter b) of Art. 17(4) provided that any of the following requirements is met:

a) either that AIFM was authorised as SAI prior to the submission to ASF of the application for registration;

b) or that AIFM shall also submit to ASF, when applying for authorisation of AIF intended for retail investors, the application for transformation into authorised AIFM, together with the related documents provided for by Law No. 74/2015 and by this regulation.

Art. 27. - (1) If, at the same time with the submission of the application for registration, the AIFM files also the authorisation documentation of one or more AIFs that it intends to manage as of the date of the registration certification, or if at the time of submission of the application it manages more AIFs, the AIFM shall supplement the documentation filed for registration purposes with the information referred to in Art. 22(1) of Law No. 74/2015, in connection with each AIF.

(2) The registered AIFM must indicate in all of its official documents, in addition to its identification data, the number and date of the certification issued by ASF, and the registration number in ASF's Register.

Art. 28. - (1) Any modification of the information supplied upon the submission of the application for registration shall be notified to ASF within maximum 15 days after the modification, attaching the corresponding supporting documents.

(2) ASF may request that the information communicated be modified/supplemented if it does not correspond to the provisions of this regulation.

Art. 29. - The registered AIFM shall comply with the provisions of Arts. 13, 17 and 19 through 23 applicable to AIFMs applying for authorisation with ASF.

Art. 30. - In the case of the AIFM managing a venture capital AIF or Social Entrepreneurship AIF or long-term investment AIF, meeting the requirements on the capacity of registered AIFM, the provisions of this chapter shall be supplemented with those established by Regulation (EU) No 2013/345, Regulation (EU) No 2013 /346 and Regulation (EU) No 2015/760.

TITLE III

Provisions Applicable to Depositaries of AIF's Assets

Art. 31. - (1) For the application of the provisions of Art. 20(1) of Law No. 74/2015, the appointment by the authorised/registered AIFM of the depositary of the AIF under management shall be approved (in the case of the credit institution)/authorised (in the case of the SSIF) by ASF based on the application filed upon applying for authorisation/registration of AIFM, if, at the time of submission of that application, the AIFM also submits the application for authorisation of one or more AIFs under management. If the application for authorisation of the AIF under management is subsequently submitted, appointment by the AIFM of the depositary of the AIF under management must be endorsed/authorised by ASF prior to the commencement of AIF's activity.

(2) To carry out depository activities for the assets of the AIF authorised by/registered with ASF, the credit institution authorised by NBR or the branch of Romania of a credit institution authorised in a Member State, and the investment firm (SSIF) or the branch of Romania of an investment firm authorised in another Member State meeting the requirements referred to in Point 2, Letter a) of Art. 20(3) of Law No. 74/2015, shall apply to ASF for approval (in the case of credit institutions)/authorisation (in the case of SSIF) of the appointment as depositary of AIF's assets and registration in ASF's Register.

(3) The credit institutions provided for in Art. 60(1) of ASF Regulation No. 9/2014 which are already registered in ASF's Register as depositories of UCITS assets are not required to apply to ASF for registration in the Public Register as AIF's depositaries.

(4) For the issuance of the certification referred to in Para (2) approving also the appointment by AIFM of the depositary of the assets of AIF under management, referred to in Para (1), the AIFM shall document the application with the following information:

a) incorporation certificate with the office of the trade register, certified copy;

b) in the case of the credit institutions authorised by NBR or branches of Romania of a credit institution authorised in a Member State, authorisation issued by the competent authorities revealing that it was authorised to carry out depository activities of the AIF's assets;

c) certificate for registration of particulars concerning the modification of the object of activity in accordance with Letter b), where appropriate;

d) proof issued by NBR/competent authority of the EU Member State revealing that the special administration or supervisory measure was not imposed on the applicant bank/branch of Romania of a credit institution authorised in a Member State, or of a competent authority of an investment firm authorised in another Member State;

e) instruments of incorporation, and all addenda thereto, if any – certified copy;

f) organisational chart of the credit institution authorised by NBR/branch of Romania of a credit institution authorised in a Member State/investment firms/branch of Romania of an investment firm authorised in another Member State, together with the further specification of the structure and functions of the department/service carrying out depository-related operations, staff involved therewith, modality of making and sending decisions and internal control modalities, security procedures, control procedures and those applicable in the case of force majeure events, which would allow the safe keeping of all AIF's assets deposited, description of technical capabilities and equipment available to it;

g) working procedures provided for by Regulation (EU) No 231/2013 approved by the competent structures of the credit institution, or of the branch of Romania of a credit institution authorised in a Member State/investment firm/branch of Romania of an investment firm authorised in another

Member State on the exercise of the duties and performance of activities applicable to the depository activity of the AIF's assets – original;

h) curriculum vitae dated and signed, criminal record certificate submitted during its validity term, in accordance with the legal provisions in force, original, tax offence record certificate submitted during its validity term, in accordance with the legal provisions in force, original, for the decision-making personnel of the department/compartment/directorate/service, by reference to the organisational structure of each entity, carrying out operations related to the depository activity of the AIF's assets also for the persons replacing it;

i) list comprising the signature specimens for the persons representing the depository in its relationship with ASF;

j) proof of payment into ASF's account the fees determined in accordance with the regulations in force.

(5) The decision-making personnel ensuring the effective management of the depository activity must be higher education graduates, attested by bachelor's degree exam or diploma, as appropriate, and must have experience of at least 3 years in the capital market/insurance/private pensions or banking field.

(6) If the application referred to in Para (2) is rejected, ASF shall issue a reasoned decision and shall send it to AIFM and to the entity appointed as depository. Such decision may be challenged within maximum 30 days after communication.

Art. 32. - (1) After approval by ASF of the appointment of the depository, the AIFM shall notify ASF on the immediately following working day of any modification of the depository contract concerning the increase in the depository fees (including the impact of such increase over the NAV), liability of the depository or validity of the contract.

(2) For the application of the provisions of Art. 94(3) and Art. 97(2) of Regulation (EU) No 231/2013, and in any situation identified by the depository as likely to prejudice the interest of AIF and AIF's investors, under the obligations referred to in Art. 20(9) through (11) of Law No. 74/2015, the depository must inform ASF of those aspects on the immediately following working day.

(3) For the application of the provisions of Art. 98(1) of Regulation (EU) No 231/2013, the due diligence procedure for the selection and ongoing monitoring of the delegate shall be sent to ASF upon delegation by the depository of the AIF of certain activities, and upon the review of the same together with the conclusions resulting from the review.

(4) For the application of the provisions of Article 100(2) of Regulation (EU) No 231/2013, having regard to Art. 20(17) of Law No. 74/2015, the depository of the AIF shall inform ASF of the determination of the loss of a financial instrument held in custody, on the working day immediately following the event leading to the determination of the loss.

Art. 33. - (1) The depositaries of AIF must keep all of the information concerning the depository activity of the AIF's assets on a durable medium, as defined by Art. 2(3) of Regulation No. 9/2014, for at least 5 years after they become aware of such information.

(2) ASF may request that, upon withdrawal of the authorisation of AIFM/AIF or of the depository, the latter keeps the information referred to in Para (1) in the possession of the depository upon withdrawal of the authorisation, for 5 years after withdrawal of the authorisation.

Art. 34. - The operation whereby the activity is terminated or a depository of the AIF replaced, as appropriate, shall be carried out in accordance with TITLE II: Depository, Chapter V: Termination of the function as depository of ASF Regulation No. 9/2014.

TITLE IV

Cross-Border Management of AIF

Chapter I

Requirements Applicable to the Management by an AIFM of a Member State of AIFs Authorised by ASF

Art. 35. - (1) AIFMs of Member States may manage AIFs of Romania either directly, or through branches, after the fulfilment of the procedure provided for in Art. 34(1) of Law No. 74/2015.

(2) The notifications provided for in Art. 34(1) of Law No. 74/2015 shall be sent to ASF in electronic form at the address **aifmd.notifications@asfromania.ro**.

(3) Upon receipt of the notifications referred to in Para (2), ASF's IT system shall generate an automatic confirmation message of receipt of those documents and information of the competent authority of the home Member State of the AIFM of the following:

a) to start managing an AIF authorised by ASF, the AIFM/branch of AIFM must be registered in ASF's Register;

b) annually, having regard to the provisions of Art. 49(1) of Law No. 74/2015, ASF shall charge a supervisory fee of the management activities of the AIF authorised by ASF carried out by the AIFM of other Member States through a local branch; the amount of such fee shall be provided for in Art. 30(5) of ASF Regulation No. 16/2014;

c) monthly, the AIFM managing an AIF authorised by ASF, must pay the monthly share of the value of the net assets of the AIF to ASF in the name of the AIF, from the AIF's budget, in accordance with the provisions of art. 8 of ASF Regulation No. 16/2014.

Chapter II

Requirements Applicable to the Management by a non-EU AIFM of AIFs Authorised by ASF

Art. 36. – An AIF of Romania shall be managed by a non-EU AIFM included on the list of the states with the competent authorities of which ASF concluded cooperation arrangements, available on ESMA's website, in compliance with Arts. 39, 44 and 45 of Law No. 74/2015 and with the provisions of this regulation.

TITLE V

Cross-Border Marketing of the Units of AIFs

Chapter I

Requirements Applicable to the Marketing to Professional Investors of Romania of Units Issued by AIFs of Other Member States

Art. 37. - (1) The units issued by AIFs managed by AIFMs authorised in other Member States in accordance with the AIFMD may be marketed to professional investors in Romania, in accordance with the provisions of Art. 32 of Law No. 74/2015 and of this chapter.

(2) The AIF referred to in Para (1) shall be registered in ASF's Register.

(3) The units issued by AIFs authorised in other Member States shall be marketed to professional investors of Romania through the AIFM of the Member State managing the AIF notified or, if the AIFM delegated such activity, through the following entities:

a) AIFM, SSIF and SAI of Romania authorised by ASF;

b) investment firms, SAI and AIFM authorised in Member States, after the completion of the notification procedure in accordance with the capital market legislation in force, applicable to each of those entities;

c) credit institutions of Romania authorised by NBR or credit institutions authorised by the competent authorities of the Member States to carry out financial investment activities and services, after the completion of the notification procedure in accordance with the banking legislation in force.

Art. 38. - (1) The competent authority of the home Member State of the AIFM seeking to market in Romania the units of AIF provided for in Art. 37 shall send ASF, for each AIF the units of which the AIFM seeks to market in Romania, at the address **aifmd.notifications@asfromania.ro**, a notification in electronic form (in the Romanian or English language) in the form of Annexe No. 2 of Law No. 74/2015, confirming that the AIFM concerned is authorised to manage the AIF based on a certain investment strategy.

(2) For the application of the provisions of Letter g) of Annexe No. 2 of Law No. 74/2015, written or audio-visual advertising, as well as the direct contact of the investors of Romania by telephone or Internet, at the initiative of the AIFM/self-managed AIF, shall be strictly prohibited.

(3) The notification message sent in accordance with Para (1) must meet the following requirements:

a) size of message – no more than 10 MB;

b) type of attachments – doc, docx, pdf, zip, rar;

c) naming convention – it shall be specified in the TITLE of the message whether it contains an initial notification or an update of the documents/information already sent to ASF.

(4) At the time of the receipt of the notification referred to in Para (3), ASF's IT system shall generate an automatic confirmation message of receipt of those documents and information of the competent authority of the home Member State of the AIFM of the following:

a) AIFs intending to market the units in Romania are registered in ASF's Register;

b) annually, ASF shall charge a supervisory fee of the unit marketing activities of the AIF registered in other Member States to professional investors of Romania; the amount of such fee shall be provided for in ASF Regulation No. 16/2014;

c) payments to unit holders, redemption of units and transmission of information shall be ensured by the entity(ies) marketing the units in Romania.

Art. 39. If the documents and information initially sent upon the notification provided for in Art. 38 are modified, the AIFM of other Member States shall electronically notify ASF (through the competent authority of the home Member State of the AIFM) and investors of Romania in that regard, at least 10 days prior to the entry into force of those modifications.

Chapter II

Requirements Applicable to the Marketing to Retail Investors of Romania of Units Issued by AIFs of Other Member States

Art. 40. (1) For the application of the provisions of Art. 47(1) and (2) of Law No. 74/2015, the units issued by AIFs authorised in other Member States may be marketed to retail investors of Romania provided that those AIFs meet the requirements on investment limits and reporting, transparency and publicity requirements currently applicable to non-UCITS publicly raising financial resources.

(2) Provided that the provisions of Para (1) are complied with, the units issued by AIFs of other Member States shall be marketed to retail investors of Romania similarly to the procedures described in Arts. 37 through 39.

(3) In addition to the conditions referred to in Paras (1) and (2), the entities provided for in Art. 37(3) may market units issued by AIFs authorised in other Member States to retail investors of Romania provided that they are authorised to carry out investment advice services referred to in Letter b) Point (i) of Art. 5(5) of Law No. 74/2015.

Chapter III

Requirements Applicable to the Marketing to Investors of Romania of Units Issued by non-EU AIFs

Art. 41. (1) Having regard to the provisions of Chapter VII of Law No. 74/2015 and of this title, the units issued by non-EU AIFs shall be marketed in Romania subject to the registration of those AIFs with ASF.

(2) For the application of the provisions of Art. 36(10) of Law No. 74/2015, material change of the information communicated in accordance with the provisions of Paras (3) and (5) of the same article means:

a) modification of the documents of incorporation of AIF and/or AIFM,

b) change of the information referred to in Letters d), i), j), l) and p) of Art. 22(1) of Law No. 74/2015.

(3) For the application of the provisions of Art. 38(2) of Law No. 74/2015, an AIFM established in Romania may market in Romania the units of a non-EU AIF managed by it, provided that the provisions of Para (1) of the same article are complied with, and the obligations resulting from the application of *ESMA Guidelines on the model MoU concerning consultation, cooperation and the exchange of information related to the supervision of AIFMD entities* (ESMA/2013/998) are fulfilled.

(4) For the application of the provisions of Art. 39(18) of Law No. 74/2015, the non-EU AIFM shall communicate ASF, as competent authority of the new Member State of reference, within 3 working days, the name of the correct Member State of reference based on the marketing strategy actually applied.

(5) For the application of the provisions of Art. 46(3) and of Art. 47(2) of Law No. 74/2015, the non-EU AIFM may market to investors of Romania the units of the AIF managed by it, subject to prior notice of ASF, in compliance with the provisions of Art. 46(1), and having regard to this title.

(6) Without prejudice to the powers provided for in Law No. 74/2015, ASF may impose on the AIFMs referred to in Para (5), if it deems it necessary for a proper and orderly supervision and regulation of the AIFM, additional requirements to those laid down in Art. 46(1) of the same law, depending on the particulars of that AIFM, AIF and/or economic situation of the third countries.

(7) The conditions imposed by ASF under Para (6) shall apply as of the date indicated by ASF in the communication to the competent authority of the third country where the AIFM is established or in the individual act issued for that purpose.

Chapter IV

Requirements Applicable to the Marketing to Professional Investors of Other Member States of Units Issued by AIFs Managed by the AIFM Established in Romania and Authorised by ASF

Art. 42. - For the application of the provisions of Art. 31(3) of Law No. 74/2015, the units issued by the AIFs managed by AIFMs established in Romania and authorised by ASF may be marketed on a cross-border basis to professional investors of other Member States, based on a notification and certification sent by ASF to the competent authorities of the host Member States, in the form of Annexes Nos. 7 and 8 hereto.

TITLE V

Penalties

Art. 43. - (1) Infringement of the provisions of this regulation shall be punished in accordance with the provisions of Arts. 51 through 57 of Law No. 74/2015.

(2) Failure to fulfil the obligations referred to in Art. 5(3) shall be deemed petty offense in accordance with Letter a) of Art. 51(2) of Law No. 74/2015 and shall be punished as provided by the same law.

TITLE VI

Transitional and Final Provisions

Art. 44. - (1) SAIs, both for itself, and for non-UCITS under management, self-managed non-UCITS and depositaries of UCIs pursuing business or in the course of authorisation as of the date of entry into force of this regulation must, within 12 months after the entry into force of Law No. 74/2015, in accordance with the provisions of Art. 63(1) of the same law:

a) adjust their instruments of incorporation and operation and the activity to the provisions of this regulation;

b) apply for either the authorisation or registration as AIFM and file the applications and documentation for that purpose.

(2) If the SAI, both for itself, and for non-UCITS under management, or self-managed non-UCITS, is authorised/registered as AIFM prior to the time limit referred to in Art. 63(1) of Law No. 74/2015, then the provisions of Regulation No. 15/2004 on managers of non-UCITS shall no longer apply as of the date it was authorised/registered;

(3) In the case of those credit institutions of Romania/branches of credit institutions of EU Member States, approved by ASF prior to the entry into force of this regulation to pursue depository business for the assets of UCITS and/or non-UCITS, that approval shall maintain its validity. However, if the assets of the AIF are deposited, they must provide ASF, within the time limit referred to in Para (1), with the following documents:

a) contract, having at least the content referred to in Article 83(1) of Regulation (EU) No 231/2013,

b) revised working procedures having regard to the provisions of Points f), g), i), o), q), r) of Article 83(1), Point b) of Article 86, Article 90(4), Article 92(1), Article 94(2), Article 95, Article 96(1) and Article 98(1) of Regulation (EU) No 231/2013. In the case of registered AIFMs, the procedures sent shall be those laid down in Art. 26(5).

(4) For the application of the provisions of Article 83(5) of Regulation (EU) No 231/2013, the AIFM and depositary may conclude a framework agreement listing the depository services of more or all AIFs managed by the AIFM.

Art. 45. – Annexes Nos. 1 through 8 are an integral part of this regulation.

Art. 46. (1) This regulation shall be published in the Official Journal of Romania, Part I and shall enter into force on the date of its publication.

(2) The following shall be repealed as of the date of entry into force of this regulation:

a) the provisions of Regulation No. 15/2004 on the authorisation and operation of investment management companies, undertakings for collective investment and depositaries, approved by Order No.67/2004 of CNVM President, published in the Official Journal of Romania, Part I, No. 1.271 of 29 December 2004, as subsequently amended, on managers of non-UCITS managing undertakings for collective investment at the time of entry into force of this regulation.

b) Instruction No. 4/2006 on the procedure whereby an investment management company (SAI) – manager of an undertaking for collective investment – may be replaced with another SAI, approved by CNVM Order No. 51/2006;

c) ASF Rule No. 13/2013 on the intermediary procedure on marketing to professional investors of Romania the units issued by alternative investment funds managed in other EU Member States, and management by an alternative investment fund manager of a Member State of another undertaking for collective investment of Romania, as subsequently amended;

d) CNVM Executive Order No. 23/2012¹;

e) any other provisions to the contrary

(3) The provisions of Letter a) of Art. 5, Arts. 6 through 11, Letter a) of Art. 14(1), Arts. 22 through 26, Art. 34 and Annexes 1 through 3 and 6 of CNVM Regulation No. 4/2010 shall be repealed as of the date “Fondul Proprietatea” – SA is managed by an AIFM authorised in accordance with AIFMD, but not later than the time limit provided for in Art. 63(1) of Law No. 74/2015.

(4) As of the date the management company of “Fondul Proprietatea” – SA falls under the provisions of Law No. 74/2015 and secondary regulations issued for the application thereof, but not later than the time limit provided for in Art. 63(1) of the same law, Article 16 of CNVM Regulation No. 4/2010 shall be amended and read as follows:

“Article 16 – Provisions of Title III – Provisions applicable to depositaries of the assets of AIFs of the Regulation on alternative investment fund management issued for the application of Law No. 74/2015 shall apply accordingly to the depositary of Fondul Proprietatea.”

(5) References to “SAI” in CNVM Order No. 4/2010 approved by CNVM Order No. 8/2010, as subsequently amended and supplemented, shall be read as references to “AIFM”.

President of the Financial Supervisory Authority

Mișu NEGRÎȚOIU

Bucharest, 28 July 2015

No. 10

¹ NSC Executive Order No. 23/2012 was not published in the Official Journal of Romania, Part I.

Application for membership as authorised AIFM²

1. Identification of the AIFM:
 - Name of the company;
 - Address of the registered office;
 - Address of the head office³;
 - Structure and geographical origin of the shareholding;
 - Organisational chart of the company;
 - Level of initial capital, date of subscription and origin of funds;
 - Number of employees;
 - Annual periodical date of recalculation of the value of assets under management in accordance with Article 2(6) of Regulation (EU) No 231/2013;
 - Confirmation of the existence of a professional indemnity insurance and its value, in the case laid down by Article 15(1) of Regulation (EU) No 231/2013.
2. Existence of branches of the entity: if the entity has branches, then the name, address, date of incorporation and object of activity thereof shall be mentioned.
3. Status as a branch of an external AIFM/SAI authorised in another Member State. In this case, the following shall be indicated:
 - Name of the AIFM/SAI parent company;
 - Competent authority of the home Member State of the AIFM/SAI parent company;
 - Confirmation that the group of which the AIFM/SAI parent company belongs is a financial conglomerate or that it is subject to supervision on a consolidated basis (in this case, the name of the competent authority responsible for the supervision of the group on a consolidated basis shall be mentioned).
4. Identification details of the members of the managing bodies (members of the BoD/SB) of the AIFM
 - Surname and first name;
 - Signature specimen;
 - *Curriculum Vitae* signed and dated;
 - Certified copy of the valid identity card (or passport);
 - Criminal record certificate;
 - Affidavit that the member was not sanctioned as provided by Law No. 74/2015. Otherwise, the deeds for which and circumstances where the person was sanctioned by ASF (or by its predecessors, namely CNVM, CSA or CSSPP) shall be mentioned;

² To be filled in exclusively by the external AIFMs defined in accordance with Point 3 of Art. 3 of Law No. 74/2015, which prior to the entry into force of Law No. 74/2015, were not regulated, authorised and supervised by FSA

³ To be filled in if the AIFM has both a registered office and a head office.

- Proof that the persons of the managing bodies of the AIFM have the professional training and knowledge required for the achievement of the external AIFM'S object of activity.
5. Identification of the superior management of the AIFM (managers/members of the executive board), consisting of at least 2 persons hired full time within the AIFM:
 - Surname and first name;
 - Address/residence in Romania;
 - Telephone, fax, business email;
 - Copy of the employment contract, excluding the remuneration related information;
 - Proof that the persons of the superior management of the entity have the professional training and knowledge required for the fulfilment of the investment strategies of the external AIFM (any certifications, such as CFA, FRM or PRM shall be mentioned and attached as copies);
 - Indication for each member of the superior management of the persons with whom they have "close links" as defined in Point 16 of Art. 2(1) of Law No. 297/2004;
 - Signature specimen.
 6. Name of the entity's auditor, date of conclusion of the audit contract and validity thereof.
 7. Type of activities carried out: in accordance with Art. 5(2), (3) and (5) of Law No. 74/2015:
 - Portfolio management;
 - Risk management (the person responsible for the risk management shall also be mentioned);
 - legal and accounting services;
 - customer inquiries;
 - valuation and pricing, including tax returns;
 - legislation compliance monitoring;
 - maintenance of unit-holder register;
 - distribution of income;
 - unit issues and redemptions;
 - contract settlements, including certificate dispatch;
 - record keeping;
 - marketing;
 - activities related to the assets of AIFs, namely services necessary to meet the fiduciary duties of the AIFM, facilities management, real estate administration activities, advice to undertakings on capital structure, industrial strategy and related matters, advice and services relating to mergers and the purchase of undertakings and other services connected to the management of the AIF and the companies and other assets in which it has invested;
 - management of individual portfolios of investments, including those owned by pension funds, in accordance with mandates given by investors on a discretionary,

client-by-client basis, if these portfolios include one or more financial instruments, defined in Point 11 of Art. 2(1) of Law No. 297/2004;

- investment advice;
 - safe-keeping and administration in relation to units of collective investment undertakings;
 - reception and transmission of orders in relation to financial instruments.
8. For the portfolio management provided for in Letter a) of Art. 5(2) of Law No. 74/2015:
- Identity and number of natural/legal persons (in the case of delegation) for whom such activity is supplied, by categories of investors (retail/professional);
 - Name of the depositaries of the AIF's assets.
9. Information on the AIF which the external AIFM intends to manage (to fill in only if the AIFM applies simultaneously for its authorisation and authorisation of certain AIFs managed by it):
- Name of the AIF;
 - Member State or third country where the AIF is authorised;
 - States where the units of the AIF are currently being marketed;
 - Investment strategies/policies used for the management of the AIF;
 - Level of leverage used;
 - Risk profile of the AIF;
 - If the AIFM manages master-feeder type structures, the feeder AIF under management shall be individualised by resuming the sections laid down in Point 15;
 - Certified copy of the instruments of incorporation of each AIF which the external AIFM manages or intends to manage;
 - Identification details of the depositary of each AIF under management (name, State of authorisation, type of depositary: credit institution/investment firm etc., competent authority); and
 - Original/certified copy of the agreement concluded with the depositary of each AIF under management.
10. Activity program/Business plan laid down in Letter c) of Art. 7(2) of Law No. 74/2015 (including at least the estimated value and number of AIFs under management for the next 5 years, and the evolution of the value of net assets under management).
11. Rules and procedures for the prevention of conflicts of interest, accounting of external AIFMs, electronic processing of information, employees' personal transactions, external AIFM's trading on own account, verification of compliance with the investment strategy indicated in the instruments of incorporation of the AIF.
12. Identification of the compliance officer:
- Surname and first name;
 - Professional experience (including CV);
 - Delegation of the function to a third party (where appropriate);
 - Positioning of the compliance function in the organisational chart of the external AIFM.

13. Person responsible for the permanent internal audit function:

- Surname and first name;
- Telephone or email;
- Professional experience (including CV);
- Delegation of the function to a third party (where appropriate);
- Positioning of the internal audit function in the organisational chart of the external AIFM;
- Signature specimen.

14. Person responsible for the permanent risk management function:

- Surname and first name (including of the persons responsible for such activity in the case of managed individual portfolios);
- Telephone or email;
- Professional experience (including CV);
- Documents related to the delegation of such function to a third party (where appropriate);
- Positioning of the function in the organisational chart of the external AIFM;
- Description of the main tasks of such function correlated with the risk management rules and procedures which must be prepared by the AIFM (use of quantitative or qualitative risk limits, in accordance with the risk/reward profile of each AIF; indicate the types of risks managed/covered and the management techniques thereof, level of leverage calculated by the accrual method and Value at Risk method, reuse of collateral if the investors of the AIF allow for it);
- Signature specimen.

15. External AIFM's exposure to the securitised financial instruments.

16. Details on the liquidity management policy of the AIF.

17. Description of the remuneration policy with the external AIFM (in compliance with Law No. 74/2015).

18. Affidavit of managers/members of the executive board on the existence of the working procedures laid down in Art. 7(4) of the Regulation.

Statement for the application for authorisation of an external AIFM by ASF

The undersigned _____, representing (*to be filled in with the name of the external AIFM*), hereby acknowledge that we have understood and entirely filled in the sections of the authorisation form as external AIFM and that we shall notify ASF of any changes to the organisational structure or any other relevant information previously submitted to the authority and based on which the operation authorisation was issued, in accordance with Law No. 74/2015, Regulation (EU) No 231/2013 and ASF Regulation on alternative investment fund management issued for the application of Law No. 74/2015.

NAME:

POSITION:

DATE:

SIGNATURE:

NAME:

POSITION:

DATE:

SIGNATURE:

Application for membership as authorised internally managed AIF⁴

1. Identification of the internally managed AIF:
 - Name of the company;
 - Address of the registered office;
 - Address of the head office⁵;
 - Structure and geographical origin of the shareholding;
 - Organisational chart of the company;
 - Level of initial capital, date of subscription and origin of funds;
 - Number of employees;
 - Annual periodical date of recalculation of the value of assets under management in accordance with Article 2(6) of Regulation (EU) No 231/2013;
 - Confirmation of the existence of a professional indemnity insurance and its value, in the case laid down by Article 15(1) of Regulation (EU) No 231/2013.
2. Existence of branches of the entity: if the entity has branches, then the name, address, date of incorporation and object of activity thereof shall be mentioned.
3. Status as a branch of an external AIFM/SAI authorised in another Member State. In this case, the following shall be indicated:
 - Name of the AIFM/SAI- parent-company;
 - Competent authority of the home Member State of the AIFM/SAI-parent-company;
 - Confirmation that the group of which the AIFM/SAI-parent-company belongs is a financial conglomerate or that it is subject to supervision on a consolidated basis (in this case, the name of the competent authority responsible for the supervision of the group on a consolidated basis shall be mentioned).
4. Identification details of the members of the managing bodies (members of the BoD/SB) of the AIF:
 - Surname and first name;
 - Signature specimen;
 - *Curriculum Vitae* signed and dated;
 - Certified copy of the valid identity card (or passport);
 - Criminal record certificate;
 - Affidavit that the member was not sanctioned as provided by Law No. 74/2015. Otherwise, the deeds for which and circumstances where the person was sanctioned by ASF (or by its predecessors, namely CNVM, CSA or CSSPP) shall be mentioned;

⁴ To be filled in exclusively by the external AIFMs defined in accordance with Letter b) of Art. 4 (1) of Law No. 74/2015, which prior to the entry into force of Law No. 74/2015, were not regulated, authorized and supervised by FSA

⁵ To be filled in if the AIFM has both a registered office and a head office.

- Proof that the persons of the managing bodies of the AIF have the professional training and knowledge required for the achievement of the internally managed AIF's object of activity.
5. Identification of the superior management of the AIF (managers/members of the executive board), consisting of at least 2 persons full time hired within the AIF:
 - Surname and first name;
 - Address/residence in Romania;
 - Telephone, fax, business email;
 - Copy of the employment contract, excluding the remuneration related information;
 - Proof that the persons of the superior management of the entity have the professional training and knowledge required for the fulfilment of the investment strategies of the internally managed AIF (any certifications, such as CFA, FRM or PRM shall be mentioned and attached as copies);
 - Indication for each member of the superior management of the persons with whom they have "close links" as defined in Point 16 of Art. 2(1) of Law No. 297/2004.
 6. Name of the entity's auditor, date of conclusion of the audit contract and validity thereof.
 7. Type of activities carried out: in accordance with Art. 5(2), (3) and (5) of Law No. 74/2015:
 - Portfolio management;
 - Risk management (the person responsible for the risk management shall also be mentioned);
 - legal and accounting services;
 - customer inquiries;
 - valuation and pricing, including tax returns;
 - legislation compliance monitoring;
 - maintenance of unit-holder register;
 - distribution of income;
 - unit issues and redemptions;
 - contract settlements, including certificate dispatch;
 - record keeping;
 - marketing;
 - activities related to the assets of AIFs, namely services necessary to meet the fiduciary duties of the AIF, facilities management, real estate administration activities, advice to undertakings on capital structure, industrial strategy and related matters, advice and services relating to mergers and the purchase of undertakings and other services connected to the management of the AIF and the companies and other assets in which it has invested;
 - management of individual portfolios of investments, including those owned by pension funds, in accordance with mandates given by investors on a discretionary, client-by-client basis, if these portfolios include one or more financial instruments, defined in Point 11 of Art. 2(1) of Law No. 297/2004;

- investment advice;
 - safe-keeping and administration in relation to units of collective investment undertakings;
 - reception and transmission of orders in relation to financial instruments.
8. For the portfolio management provided for in Letter a) of Art. 5(2) of Law No. 74/2015:
- Identity and number of natural/legal persons (in the case of delegation) for whom such activity is supplied, by categories of investors (retail/professional);
 - Name of the depositaries of the AIF's assets.
9. Other information on the internally managed AIF:
- Member States where the units of the AIF are currently being marketed;
 - Investment strategies/policies used for the management of the AIF;
 - Level of leverage used;
 - Risk profile of the AIF;
 - If the AIF manages master-feeder type structures, the feeder AIF under management shall be individualised by resuming the sections laid down in Point 15;
 - Identification details of the depositary of the internally managed AIF (name, State of authorisation, type of depositary: credit institution/investment firm etc., competent authority) and
 - Original/certified copy of the contract concluded with the depositary of the internally managed AIF.
10. Activity program/Business plan laid down in Letter c) of Art. 7(2) of Law No. 74/2015 (including at least the estimated value of the net assets of the internally managed AIF for the next 5 years).
11. Rules and procedures for the prevention of conflicts of interest, accounting of the internally managed AIFs, electronic processing of information, employees' personal transactions, internally managed AIFM's trading on own account, verification of compliance with the investment strategy indicated in the instruments of incorporation of the AIF.
12. Identification of the compliance officer:
- Surname and first name;
 - Professional experience;
 - Delegation of the function to a third party;
 - Positioning of the compliance function in the organisational chart of the internally managed AIF.
13. Person responsible for the permanent internal audit function:
- Surname and first name;
 - Telephone or email;
 - Professional experience (including CV);
 - Delegation of the function to a third party (where appropriate);

- Positioning of the internal audit function in the organisational chart of the internally managed AIF;
- Signature specimen.

14. Person responsible for the permanent risk management function:

- Surname and first name (including of the persons responsible for such activity in the case of managed individual portfolios);
- Telephone or email;
- Professional experience;
- Documents related to the delegation of such function to a third party (where appropriate);
- Positioning of the function in the organisational chart of the internally managed AIF;
- Description of the main tasks of such function correlated with the risk management rules and procedures which must be prepared by the AIF (use of quantitative or qualitative risk limits, in accordance with the risk/reward profile of the AIF; indicate the types of risks managed/covered and the management techniques thereof, level of leverage calculated by the accrual method and Value at Risk method, reuse of collateral if the investors of the AIF allow for it);
- Signature specimen.

15. Internally managed AIF's exposure to the securitised financial instruments;

16. Details on the liquidity management policy of the AIF;

17. Description of the remuneration policy with the internally managed AIF (in compliance with Law No. 74/2015);

18. Affidavit of managers/members of the executive board on the existence of the working procedures laid down in Art. 7(4) of the Regulation.

Statement for the application for authorisation of an internally managed AIF by ASF

The undersigned _____, representing (*to be filled in with the name of the internally managed AIF*), hereby acknowledge that we have understood and entirely filled in the sections of the authorisation form as internally managed AIF and that we shall notify ASF of any changes to the organisational structure or any other relevant information previously submitted to the authority and based on which the operation authorisation was issued, in accordance with Law No. 74/2015, Regulation (EU) No 231/2013 and ASF Regulation on alternative investment fund management issued for the application of Law No. 74/2015.

NAME:

POSITION:

DATE:

SIGNATURE:

NAME:

POSITION:

DATE:

SIGNATURE:

Application by SAI/Investment company of the closed-end type for membership as external AIFM/internally managed AIF authorised/registered by ASF⁶

1. Identification details:

- Name of SAI/Investment company of the closed-end type;
- New name of the external AIFM/internally managed AIF authorised/registered;
- Address of registered office;
- Address of the main office/head office⁷;
- Legal form of organisation.

2. Contact person in the relationship with ASF:

- Surname and first name;
- Company (indicate whether such person is employee of SAI/investment company of the closed-end type);
- Position;
- Telephone;
- Email;
- Fax;
- Correspondence address.

3. Resolution of GMS on supplementation of the object of activity and re-drafted instruments of incorporation showing the performance by SAI of the activities provided for by Art. 5 of Law No. 74/2015.

4. Organisational structure: SAI/Investment company of the closed-end type shall confirm that no changes were made to its organisational structure since the last authorisation by ASF of the modifications to its manner of organisation and operation/instruments of incorporation in connection with:

- Management of SAI/investment company of the closed-end type (members of the Board of Directors/Supervisory Board and managers/members of the executive board⁸);
- Shareholding structure;
- Name of internal/financial auditor of SAI/investment company of the closed-end type, date of conclusion of the audit contract and validity thereof;
- Compliance officer (internal control compartment representative of SAI);
- Other organisational requirements imposed by Law No. 74/2015 (only for authorisation of external AIFM/internally managed AIF);

⁶ To be filled in exclusively by the SAI regulated by GEO No. 32/2012 covered by Art. 7(5) or (6) of this regulation which, prior to the entry into force of Law No. 74/2015, was regulated, authorised and supervised by FSA

⁷ To be filled in if the SAI has both a registered office and a head office.

⁸ Taken up request of SAMOPC

and that the members of the Board of Directors/Supervisory Board and managers/members of the executive board meet the requirements of Art. 8. Otherwise, SAI/Investment company of the closed-end type shall explicitly mention the changes to such sections.

5. **The documents provided for in Art. 13(2) for the authorisation of the risk management officer.**
6. **Working procedures and rules related to the policies/practices/systems provided for in Arts. 13 through 19 of Law No. 74/2015, drawn up in accordance with Regulation (EU) No 231/2013.**

Statement for the application by SAI/Investment company of the closed-end type for authorisation/registration by ASF as external AIFM/internally managed AIF

The undersigned _____ and _____ representing *(to be filled in with the name of the external AIFM/internally managed AIF)* hereby request to be authorised/registered as Alternative Investment Fund Manger (AIFM)/self-managed Alternative Investment Fund (internally managed AIF), in accordance with Law No. 74/2015.

We hereby acknowledge that we have understood and entirely filled in the sections of the authorisation/registration form as external AIFM/internally managed AIF and that we shall immediately notify ASF of any changes to the organisational structure or any other relevant information previously submitted to the authority and based on which the operation authorisation was issued.

NAME:

POSITION:

DATE:

SIGNATURE:

Application for membership as registered AIFM

1. Identification details of the applicant:

- Name of AIFM;
- Address of registered office;
- Address of the main office/head office⁹;
- Legal form of organisation.

2. Contact person in the relationship with ASF:

- Surname and first name;
- Company (indicate whether such person is employee of AIFM);
- Position;
- Telephone;
- Email;
- Fax;
- Correspondence address.

3. List of AIFs under management on the date of submission of the application for registration detailing the following sections:

- Name of AIF;
- Host Member State/third country of AIF;
- Home Member State/third country of AIF;
- Value of net assets of AIF;
- Investment strategy of AIF (general description, category of eligible assets, geographical or sectoral allocation of assets, leverage).

4. Confirmation of annual transmission to ASF of the information set out in Annexe IV of Regulation (EU) No 231/2013 (only the sections provided for in Point d) of Article 3(3) of Directive 61/2011/EU).

⁹ To be filled in if the SAI has both a registered office and a head office.

Statement for the application for registration of AIFM by ASF

The undersigned _____ and _____ representing *(to be filled in with the name of the AIFM)* hereby request to be registered as external Alternative Investment Fund Manger (AIFM), in accordance with Law No. 74/2015.

We hereby acknowledge that we have understood and entirely filled in the sections of the registration form as external AIFM which we shall annually update and send to ASF.

NAME:

POSITION:

DATE:

SIGNATURE:

NAME:

POSITION:

DATE:

SIGNATURE:

Application for membership as registered internally managed AIF

1. Identification details of the applicant:

- Name of the company;
- Address of registered office;
- Address of the main office/head office¹⁰;
- Legal form of organisation.

2. Contact person in the relationship with ASF:

- Surname and first name;
- Company (indicate whether such person is employee of the company);
- Position;
- Telephone;
- Email;
- Fax;
- Correspondence address.

3. List of AIFs under management on the date of submission of the application for registration detailing the following sections:

- Name of AIF;
- Host Member State/third country of AIF;
- Home Member State/third country of AIF;
- Value of net assets of AIF;
- Investment strategy of AIF (general description, category of eligible assets, geographical or sectoral allocation of assets, leverage).

4. Confirmation of annual transmission to ASF of the information set out in Annexe IV of Regulation (EU) No 231/2013 (only the sections provided for in Point d) of Article 3(3) of Directive 61/2011/EU).

¹⁰ To be filled in if the SAI has both a registered office and a head office.

Statement for the application for registration of internally managed AIF by ASF

The undersigned _____ and _____ representing *(to be filled in with the name of the internally managed AIF)* hereby request to be registered as self-managed Alternative Investment Fund (internally managed AIF), in accordance with Law No. 74/2015.

We hereby acknowledge that we have understood and entirely filled in the sections of the registration form as external AIFM which we shall annually update and send to ASF.

NAME:

POSITION:

DATE:

SIGNATURE:

NAME:

POSITION:

DATE:

SIGNATURE:

AFFIDAVIT

The undersigned....., domiciled at, holder of the identity document type....¹¹, Series..... No., issued by..... on....., with expiry on, PNC....., as employee under individual employment contract of AIFM, hereby declares that I meet all of the requirements provided for in Art. 13(1) of ASF Regulation on alternative investment fund management issued for the application of Law No. 74/2015, for authorisation as compliance officer and undertakes to comply with the provisions of Law No. 74/2015 and of ASF's regulations, and of the regulated markets.

Given and signed today, on my own responsibility, in awareness of the fact that false statements are punishable by law.

Date

Signature

¹¹ To be filled in with IB for identity bulletin and with IC for identity card, or PAS for passport, in the case of foreign natural persons.

CERTIFICATION

The Financial Supervisory Authority as competent national authority hereby certifies that (the name of the AIFM _____) shall be authorised as of _____ to manage portfolios of AIFs based on an investment strategy, i.e. _____.

Address: Splaiul Independenței No. 15, Sector 5, Postal Code 050092, Bucharest

Telephone: +4021.6596.205

Email: aifmd.notifications@asfromania.ro

Fax: +4021.659.60.51

Name of contact person of ASF: _____

Date _____

LETTER OF NOTIFICATION

Does this letter modify an initial notification previously sent?

Yes No

The Financial Supervisory Authority hereby notifies you of the intention of (the name of the AIFM _____), authorised as of _____, to start marketing in the territory of (name of the host Member State) _____ units of the following AIF(s) under management: _____ (indicate the name, type- open-end/closed-end-, place where the AIFs under management are established/registered).

Please be informed of the intention of the same AIFM to provide the categories of services mentioned below to professional investors in the territory of the host Member State: _____.

(choose among the activities laid down in Art. 5(2) of Law No. 74/2015).

Contact details of the AIFM (address, email) _____

Other Member States where the notified AIF(s) are marketed _____

Date _____

Name of the contact person of ASF: _____