

Rule 27/ 2019

For the modification and completion of the rule of the Financial Supervisory Authority No 13/2019 on the uniform framework for the conduct of the statutory audit to the entities authorised, regulated and supervised by the Financial Supervisory Authority

In accordance with the provisions of art. 3 para. (1) letter b), corroborated with the provisions of art. 6 of the Government Emergency Ordinance Nr. 93/2012 on the establishment, organisation and functioning of the Financial Supervisory Authority, approved with amendments and additions by Law No. 113/2013, with subsequent amendments and additions,

Under the provisions of art. 258 para. (1) of Law No. 297/2004 on the capital market, with subsequent amendments and additions, of art. 94 of the Government Emergency Ordinance No. 32/2012 on undertakings for collective investment in transferable securities and investment management companies, as well as for the modification and completion of the Law No. 297/2004 on the capital market, approved with amendments and additions by Law No. 10/2015, with subsequent amendments and additions, of art. 250 and 251 of Law No. 126/2018 on the markets in financial instruments, of art. 51 para. (4) to (6) and of art. 105-110 of Law No. 411/2004 on privately managed pension funds, republished, with subsequent amendments and additions, of art. 15 para. (7) and (8) of art. 35, art. 81 para. (2) and (3) and of art. 83 letter d) of Law No. 204/2006 on optional pensions, with subsequent amendments and additions, of art. 1 para. (6) of Law No. 74/2015 on Alternative Investment fund managers, with subsequent amendments and additions, as well as of art. 51, art. 173 para. (1) letter k) and art. 179 para. (4) of Law No. 237/2015 on the authorisation and supervision of the insurance and reinsurance activity, with subsequent amendments and additions,

having regard to the provisions of Law No. 162/2017 on statutory audits of annual financial statements and consolidated annual financial statements and amending certain normative acts,

Following the deliberations of the Council of the Financial Supervisory Authority at the hearing on 20 November 2019,

The Financial Supervisory authority shall issue this rule

Article. I.- The norm of the Financial Supervisory Authority No. 13/2019 on the uniform framework for the conduct of the statutory audit to entities authorised, regulated and supervised by the Financial Supervisory Authority, published in the Official Gazette of Romania, part I, No. 395 of 21 May 2019, shall be amended and supplemented as follows:

1. In article 1 (2), point G) shall be amended and shall be worded as follows:

g) Central counterparties;

2. Article 6 (2) shall be amended and shall be worded as follows:

”(2) The holding of a professional civil liability insurance contract referred to in para. (1) letter (g) is compulsory for the entire duration of conducting statutory audit missions for entities governed by A.S.F. The responsibility for the compliance of the professional civil liability insurance contract with the rules on occupational risk assurance shall lie with the regulatory authority in the field of statutory audit and supervision of financial auditors and audit firms under the specific legislation issued in this respect. ’

3. In article 7, Points g), K), L) and M) shall be amended and shall be worded as follows:

”g) for the key audit partner: Curriculum vitae, signed and dated, document certifying the quality of the financial auditor registered in the electronic public register of Financial auditors and audit firms, published by A.S.P.A.A.S., in the category of active financial auditors, a declaration on their own responsibility, under a handwritten signature, showing the fulfilment of the conditions laid down in art. 6 para. (1) letter (e) as well as a declaration completed in the form set out in annex No. 1.

k) affidavit, under handwritten signature, resulting in the fulfilment of the conditions laid down in art. 6 para. (1) letter e) and F);

l) Declaration on its own responsibility, under the handwritten signature, in the form set out in annexes 1, 2, and 3, as appropriate, depending on the requirements of each financial supervisory sector;

m) questionnaire completed in the form shown in annex No. 4.

4. Article 8 shall be amended and shall be worded as follows:

Art. 8. - (1) The documentation provided for in art. 7 It shall be lodged at the registry A.S.F. or transmitted by post and accompanied by an application drawn up in accordance with Annex No. 5.

2. Where the audit firm has been approved for carrying out the statutory audit in a financial supervision sector and manifests its intention to be approved for carrying out the statutory audit and in the other sectors of financial supervision, it shall transmit, for the purposes of its approval, the application drawn up in accordance with Annex No. 5, accompanied only by the documents required by those financial supervisory sectors.

3. A.S.F. may reject the reasoned request for endorsement provided for in para. 2. If it finds that the conditions and legal provisions specific to the sector for which the approval is sought are not complied with. '

5. Article 9 (1) shall be amended and shall be worded as follows:

„Art. 9. - (1) for the approved audit firm which manifests its intention to carry out the statutory audit to another entity operating on the same financial market, the documentation provided for in art. 7 will be replaced by the audit firm questionnaire set out in annex No. 4 and with the declarations provided for in annexes 1, 2, and 3, as appropriate, accompanied by documentary evidence for the situation in which amendments have occurred. '

6. Article 16 shall be amended and shall be worded as follows:

Art. 16. - (1) following approval by A.S.F., the audit firm is obliged to notify A.S.F. the signature of statutory audit contracts not later than 15 days from the date of the conclusion of those contracts, with the completion of the declarations and questionnaires provided for in annexes No. 1, 2, 3, respectively, annex No. 4 of this rule, where changes to the information presented in the notice have occurred.

2. Where no changes have been made to the information in the declarations and questionnaire referred to in para. (1), the audit firm shall transmit A.S.F. Within a maximum of 15 days from the date of conclusion of the audit contracts, a declaration on its own responsibility under a handwritten signature.

(3) The provisions of para. 1. and (2) shall not apply to audit firms carrying out statutory audits of entities operating on the private pension system market. '

7. In article 21, letter a) shall be amended and shall be worded as follows:

”a) the period for auditing an entity by the same financial auditor or audit firm shall be no more than 5 consecutive years, which may be extended by A.S.F. only once for a maximum period of 2 years on the basis of a substantiated note of The audited entity transmitted A.S.F. no later than 6 months before the expiry of the maximum audit period; ’

8. In article 21 after letter a), a new letter, letter a¹) shall be introduced as follows:

”a¹). After the period of 5 consecutive years, or a maximum of 7 years of auditing an entity by the same financial auditor or audit firm, a new audit agreement may be concluded with the same entity only after a minimum period of 2 years of The last statutory audit; ’

9. Article 27 (1) shall be amended and shall be worded as follows:

Art. 27. – (1) Financial auditors and audit firms carrying out statutory audits of the entities referred to in article 1 para. (2) They are obliged to transmit A.S.F., within 6 months of the end of the financial year, the letter to the management of the audited entity, referred to as a letter to the management. ’

10. Article 30 (1) shall be amended and shall be worded as follows:

Art. 30. - (1) The entities referred to in article 1 para. (2) which are part of the category of public-interest entities, shall be required to constitute an audit committee, consisting of non-executive members of the management and/or supervisory board and/or members appointed by the general Meeting of shareholders, in compliance with the legal provisions in force. ’

11. Article 39 shall be amended and shall be worded as follows:

”Art. 39. -In the event of failure to comply with the provisions of this rule by the financial auditors and audit firms, the A.S.F. shall notify the A.S.P.A.A.S. of the situation in question. ’

12. Annexes No. 1-5 shall be amended and replaced by the annexes 1-5 which are an integral part of this rule.

Art. II. -Within 30 days of the date of entry into force of this rule, the audit firms listed in the lists published on the website A.S.F. shall be obliged to notify the A.S.F. and submit the updated documentation in accordance with the provisions of the Financial Supervisory Authority No. 13/2019 on the uniform framework for the conduct of the statutory audit to the entities authorised, regulated and supervised by the Financial Supervisory Authority, with the amendments and additions made by this rule.

Article. III – This rule is published in the Official Gazette of Romania, part I and enters into force on the date of its publication.

For The President of the Financial Supervisory Authority,
Vice-President
Elena Doina Dascălu

Bucharest, 2019
No.27

STATEMENT

The undersigned (name and surname), key partner for audit of. (name of the audit company), proposed for the performance of the statutory audit at the entity ¹ (entity name):

-I declare that I am not in a situation of incompatibility or conflict of interest provided by the legislation in force;

-I declare that I no longer have the quality of a key audit partner;

Or²

-I have the quality of a key partner at the audit firm. in order to perform the statutory audit for the following entities:³

Date

Name and surname

Individual number in the Electronic Public Registry of financial auditors and audit companies.

¹ Does not apply for entities which activite on the market of private pensions.

² The appropriate variant will be chosen and will be completed accordingly.

³ The information shall be transmitted for each audit firm to which the quality of the key partner is owned, specifying the entities for which audit missions are carried out on behalf of that audit firm.

DECLARATION ¹

The undersigned First and last name of the legal representative: (name of the audit company), proposed for the performance of the statutory audit at the entity ². (entity name), declare that the mentioned audit company is not in one of the situations of incompatibility or in conflict of interests stipulated by the applicable.

Date

Name and surname

Individual number in the Electronic Public Registry of financial auditors
and audit companies.

¹This declaration will be filled in and signed by the legal representative of the audit company that has received the proposal to perform the audit mission to the entity. Statements signed by representation are not accepted.

²Does not apply for entities which activity on the market of private pensions.

STATEMENT

The undersigned (name and surname) actuary (employee / collaborator with a service contract) al. (name of the audit company), proposed for the performance of the statutory audit at the entity ¹. (entity name):

-I declare that I no longer have the quality of a key audit partner;

Or

- declare that the I am a part of the audit team proposed for the performance of the statutory audit at the entity

Date

Name and surname

No. from the Registry of
actuators

¹Does not apply for entities which activates on the market of private pensions.

QUESTIONNAIRE ¹

The questionnaire is drawn up according to this model, in technical form. It is obligatory to answer all questions. In the situation where certain points are not applicable, this will be stated. No questionnaire signed by representation is accepted.

1. Identity of the audit firm (indicate: name, legal form, address of registered office, unique registration code and individual public electronic register number of financial auditors and audit firms, published by the Authority for Public oversight of the statutory Audit activity.) Statements signed by representation are not accepted.

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2. Identity of the statutory representative of the audit firm (to be indicated: name, surname, function, contact details-address, telephone, e-mail.)

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3. Identity of the key audit partner (to be indicated: name, surname, function, contact details-address, telephone, e-mail.)

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4. The identity of the actuary/actuaries of the audit team that will participate in the entity's statutory audit (will indicate: Name, surname, contact details-address, telephone, e-mail.)

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5. The identity of the expert/expert in auditing the information systems that owns/holds the CISA certification Certified Information Systems Auditor, which will/will participate in the entity's statutory audit (will indicate: name, surname, function, contact details-address, phone, e-mail.)

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6. Specify the entity to which the audit firm has coordinated or participated in its audit missions in auditing the consolidated annual and/or annual statements, specifying the financial exercises for which they were drawn up.

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7. Specify whether in the last 10 years any of the entities to which the audit firm has carried out statutory audits has been the subject of a judicial reorganisation/bankruptcy/liquidation/Special Administration/Financial recovery procedure. If so, present all the details.

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8. Whether in the last 10 years the audit firm or shareholders/associates of the audit firm has/have been subject, in Romania or abroad, of any professional, disciplinary, administrative or judicial inquiry or procedures, which has ended with any sanction, or are currently subject to such inquiries or procedures. If so, you have complete details, regardless of whether a rehabilitation has occurred in the meantime (it will indicate: the authority which ordered the sanctioning, the sanctioned deed, the sanction and the date of its application.)

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¹ The questionnaire shall be completed by the audit firm and shall retain the confidentiality of the information contained in the replies received, except in the cases provided for by law.

9. Mention whether the audit firm or its legal representative has been convicted of corruption offences, money laundering, crime against patrimony, abuse of service, making or bribery, false and use of false, embezzlement, evasion Tax, receipt of undue advantage, traffic of influence, false testimony, offences provided for by special Law on companies, insolvency or consumer protection or any other relevant facts.

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10. Present the entities to which the audit firm referred to in point 1 has carried out in the last 5 years or is currently conducting statutory audits.

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11. Present the entities to which the key audit partner has carried out in the last 5 years statutory audit, specifying the statutory audit missions given in responsibility.

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12. Present any additional information that may be considered relevant to the work of the audit firm referred to in point 1.

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The undersigned, knowing the provisions on false in statements provided for in the Criminal Code, declare on their own responsibility, under the sanction of the law, that all replies are complete and in line with reality and that there are no other relevant facts on which the financial Supervisory authority should be informed. At the same time, on behalf of the audit firm that I represent, I undertake to communicate to the Financial Supervisory authority any changes to the information provided.

Legal representative of the audit firm. (name
and surname)

Date

Signature

APPLICATION
for the certification of an audit company

Audit company with the registered office in, I request approval for the purpose of conducting statutory audit work with entities authorised, regulated and supervised by the Financial Supervisory authority of the sector., respectively at ¹.

1. Identification data of the audit company:

Name of the audit company

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Juridical form

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Address of the registered office

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Fiscal Registration Code

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Individual number in the electronic public register of Financial auditors and audit firms, published by the Authority for the public oversight of the statutory Audit activity

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Contact data (phone no., fax, e-mail)

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2. Data regarding the legal representative of the audit firm.

Name and surname

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Function

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Contact data (phone no., fax, e-mail)

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3. Data on actuary (employee or collaborator with service contract at the audit firm):

Name and surname

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Function

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4. Data on the expert in auditing information systems that holds the CISA certification Certified Information Systems Auditor (employee or collaborator with service contract at the audit firm):

Name and surname

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Function

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5. Present any additional information that may be considered relevant to the work of the audit firm referred to in point 1.

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¹To be filled in according to the situation existing at the moment of submission of the application.

The undersigned, knowing the provisions on false in statements provided for in the Criminal Code, declare on their own responsibility, under the sanction of the law, that all replies are complete and in line with reality and that there are no other relevant facts on which the financial Supervisory authority should be informed. At the same time, on behalf of the audit firm that I represent, I undertake to communicate to the Financial Supervisory authority any changes to the information provided.

Legal representative of the
audit firm

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(name and surname)

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(Signature)