

**Rule No. 25/2015**

**on the reporting and transparency obligations in the voluntary pension system**

*In force as of 1 February 2016*

*Published in the Official Journal of Romania, Part I, No. 6 of 6 January 2016*

*No amendments until 9 February 2016*

*Having regard to the provisions of Art. 29(10) and (12), Art. 101-104 and Letter g) of Art. 108 of Law No. 204/2006 on voluntary pension funds, as subsequently amended and supplemented,*

*on the basis of Letters b), f) and h) of Art. 23, Letters j) and o) of Art. 24 of Government Emergency Ordinance No. 50/2005 on the establishment, organisation and operation of the Private Pension System Supervisory Commission, approved as amended and supplemented by Law No. 313/2005, as subsequently amended and supplemented,*

*in accordance with Letters c) and d) of Art. 2(1), Letter b) of Art. 3(1), Letter c) of Art. 5, Art. 6(1) and (2) and Art. 7(2) 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,*

*further to the deliberations of the Financial Supervisory Authority's Board held in the meeting of 16 December 2015,*

the Financial Supervisory Authority hereby issues this rule.

**CHAPTER I**

**General Provisions**

**Art. 1.** – This rule regulates the reporting and transparency obligations in the voluntary pension system.

**Art. 2.** – This rule shall apply to the following categories of entities, hereinafter referred to as the reporting entities:

- a)** managers of voluntary pension funds, hereinafter referred to as managers;
- b)** depositaries of voluntary pension funds, hereinafter referred to as depositaries;
- c)** private pension brokers.

**Art. 3.** – **(1)** The terms and expressions used in this rule shall have the meanings set out in Art. 2 of Law No. 204/2006 on voluntary pensions, as subsequently amended and supplemented, hereinafter referred to as the Law.

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

- a)** reporting format – means a standardized format used by the reporting IT system for the data transfer, i.e. the Extensible Markup Language standard reporting format, hereinafter referred to as XML;

- b)** primary indicators – means the data and information collected by the Financial Supervisory Authority, hereinafter referred to as ASF, through the reporting IT system;
- c)** technical instructions – means the rules whereby the minimum reporting requirements specific to each periodic report are established;
- d)** periodic report – means a set of primary indicators requested by ASF; they are set out in a reporting form and have the same periodicity for transmission and reporting deadline;
- e)** reporting IT system – means the IT system whereby ASF collects the primary indicators from the reporting entities, hereinafter referred to as SIR.

## **CHAPTER II**

### Obligations of the reporting entities

#### **SECTION 1**

##### General provisions on periodic reports

**Art. 4. – (1)** The periodic reports shall be filled in by the reporting entities according to supporting documents.

**(2)** The periodic reports sent must be true, accurate and complete.

**(3)** If there are no data, then the periodic reports shall be filled in with zero.

**(4)** The periodic reports shall be filled out in the Romanian language.

**Art. 5. – (1)** The reporting entities shall inform ASF of the:

**a)** name, position and contact information of the persons responsible for the preparation and transmission of reports;

**b)** organisational structure to which each person referred to in Letter a) belongs;

**c)** name, position and contact information of the persons who direct the organisational structures referred to in Letter b).

**(2)** The manager must provide ASF with the information referred to in Para (1) including for the persons responsible for the publication of the information on the manager's Internet page, in accordance with the provisions of this rule.

**(3)** Any change in the information referred to in Paras (1) and (2) shall be notified to ASF on the working day following such change.

**(4)** The information referred to in Paras (1) - (3) shall be sent to ASF, as set out in Annexe No. 7, with the extended electronic signature of the person directing the activity for which the reports are drawn up or of the person responsible for the preparation and transmission of the reports, based on the reporting entity's internal regulations and duties corresponding to the job description.

**Art. 6. – (1)** The reporting entities shall send ASF all periodic reports, in electronic form, with the extended electronic signature of the person directing the activity for which the reports are drawn up, or of the person responsible for the preparation and transmission of the reports, as appropriate, unless otherwise provided.

**(2)** The reports referred to in Para (1) shall be sent in the XML standard reporting format, as per the technical reporting instructions, unless otherwise specified.

**(3)** For the electronic transmission, the reporting entities must enter the users in the SIR application.

**Art. 7.** – At ASF’s request, the reporting entities shall send periodic reports on paper, signed by the legal representative, or by the person authorised to represent them in their relationship with ASF, as appropriate.

**Art. 8.** – The reporting entities must make available to ASF, upon request, in the form and within the deadlines fixed by it, the information and documents identifying and justifying the operations regarding the work carried out, in all its aspects.

## **SECTION 2**

### Reporting obligations of the managers for the activity of voluntary pension funds

**Art. 9.** – Managers must draw up and send periodic reports for the activity of each voluntary pension fund, in the XML standard reporting format, in the structure and within the deadlines fixed by ASF.

**Art. 10.** – For the activity of the each voluntary pension fund, the manager shall draw up and send the annual financial statements and biannual accounting reports to ASF, in accordance with the accounting regulations in force.

**Art. 11.** – The internal audit plan, approved by the board of directors or by the supervisory board, as appropriate, shall be forwarded annually to ASF prior to 31 January of the year for which the internal audit engagements shall be conducted, in accordance with Annexe No. 13.

**Art. 12.** – **(1)** The internal audit report, comprising the internal audit engagements conducted at the level of each voluntary pension fund, shall be forwarded biannually to ASF in accordance with Annexe No. 14.

**(2)** The internal control report, comprising the internal control actions carried out at the level of the manager and of each voluntary pension fund, shall be forwarded biannually to ASF in accordance with Annexe No. 15.

**(3)** The risk report, comprising the risk management activities carried out at the level of the manager and of each voluntary pension fund, shall be forwarded biannually to ASF in accordance with Annexe No. 16.

**(4)** The biannual reports referred to in Paras (1) - (3) shall be forwarded to ASF prior to the end of August of the current year for the reporting of the first semester, and prior to the end of February of the following year for the reporting of the second semester.

**Art. 13.** – **(1)** The manager shall quarterly calculate and report to ASF the rate of return of each voluntary pension fund, on the last working day of each quarter, for the period of the last 24 months prior to the calculation date, in accordance with Annexe No. 17.

**(2)** The manager shall publish on its own Internet page the rate of return of each voluntary pension fund managed by it, on the fourth working day after the end of the quarter.

**Art. 14.** – **(1)** The manager shall draw up monthly, for the activity of each voluntary pension fund, the following reports on the:

**a)** balances of the participants’ individual accounts, in accordance with Annexe No. 1A;

**b)** overview of “IN” type transfers, in accordance with Annexe No. 1B;

**c)** overview of “OUT” type transfers and use of participants’ personal assets, in accordance with Annexe No. 1C;

- d)** structure of the number of participants, in accordance with Annexe No. 1D;
- e)** overview of the collector account of the pension fund, in accordance with Annexe No. 1E;
- f)** analytical trial balance, in accordance with Annexe No. 8;
- g)** overview of OTC transactions, in accordance with Annexe No. 18.

**(2)** The monthly reports referred to in Letters d) and g) of Para (1) shall be forwarded to ASF within 2 working days of the month following that for which the reporting is made.

**(3)** The monthly reports referred to in Letters a), b), c) and e) of Para (1) shall be forwarded to ASF within 7 working days of the month following that for which the reporting is made.

**(4)** The monthly report referred to in Letter f) of Para (1) shall be forwarded to ASF prior to the 25<sup>th</sup> day of the month following that for which the reporting is made.

**Art. 15. – (1)** The manager shall draw up weekly, for the activity of each voluntary pension fund, the following reports on the:

**a)** statement of the assets invested and obligations of the pension fund, in accordance with Annexe No. 2;

**b)** detailed overview of investments, in accordance with Annexe No. 4.

**(2)** The weekly report referred to in Letter a) of Para (1) shall be forwarded to ASF on the second working day of the week following that for which the reporting is made, presented in detail for each calendar day of the previous week, including for non-working days.

**(3)** The weekly report referred to in Letter b) of Para (1) shall be forwarded to ASF on the second working day of the week following that for which the reporting is made, for the last working day of the previous week.

**(4)** If the last calendar day of the month does not correspond to the last working day of the week for which the reporting is made in accordance with Para (3), the report referred to in Letter b) of Para (1) shall be drawn up also for the last calendar day of the month, and shall be sent within 2 working days of the month following that for which the reporting is made.

**(5)** ASF may decide that the report referred to in Letter b) of Para (1) be drawn up and sent on a daily basis.

**Art. 16. – (1)** The manager shall draw up daily, for the activity of each voluntary pension fund, a report on the net asset value, in accordance with Annexe No. 3.

**(2)** The daily report referred to in Para (1) shall be forwarded to ASF on the working day following that for which the reporting is made.

### **SECTION 3**

#### Reporting obligations of the managers for their own activity

**Art. 17. –** The managers must draw up and send periodic reports for their own activity, in the XML standard reporting format, in the structure and within the deadlines fixed by ASF.

**Art. 18. –** For its own activity, the manager shall draw up and send the annual financial statements and biannual accounting reports to ASF, in accordance with the accounting regulations in force.

**Art. 19. – (1)** The manager must draw up and send the annual actuarial report to ASF by the 31<sup>st</sup> day of January of the year following that for which the reporting is made, in accordance with Annexe No. 11.

**Art. 20. – (1)** The manager shall draw up monthly, for its own activity, the analytical trial balance prior to the 25<sup>th</sup> day of the month following that for which it is made in the format set out in Annexe No. 8.

**(2)** The report referred to in Para (1) shall be sent to ASF for June and December prior to the 25<sup>th</sup> day of the month following that for which the reporting is made.

**Art. 21. – (1)** The manager shall draw up monthly, for its own activity, the statement concerning the management fee, in accordance with Annexe No. 5.

**(2)** The monthly report referred to in Para (1) shall be sent to ASF prior to the 15<sup>th</sup> day of the month following that for which the reporting is made.

#### **SECTION 4**

##### Reporting obligations of the depositaries of voluntary pension funds

**Art. 22. –** The depositaries must draw up and send periodic reports, in the XML standard reporting format, in the structure and within the deadlines fixed by ASF.

**Art. 23. – (1)** The depositary shall draw up monthly the following reports:

**a)** the statement concerning the operation fee, in accordance with Annexe No. 6;

**b)** the statement of the assets covering the technical provision, in accordance with Annexe No. 9.

**(2)** The monthly report referred to in Letter a) of Para (1) shall be sent to ASF prior to the 25<sup>th</sup> day of the month following that for which the reporting is made.

**(3)** The monthly report referred to in Letter b) of Para (1) shall be sent to ASF on the first working day for the last calendar day of the previous month.

**Art. 24. – (1)** The depositary shall draw up daily, for the activity of each voluntary pension fund, the statement of the net asset value, in accordance with Annexe No. 3.

**(2)** The daily report referred to in Para (1) shall be forwarded to FSA, on each working day, following that for which the reporting is made.

## SECTION 5

### Reporting obligations of private pension brokers

**Art. 25.** – Private pension brokers shall draw up and send the annual financial statements and biannual accounting reports to ASF, in accordance with the accounting regulations in force.

## CHAPTER III

### Information and transparency obligations

**Art. 26.** – **(1)** In accordance with the provisions of Art. 100(1) of the Law, the manager shall publish on its own Internet page, on the 31<sup>st</sup> day of May of each year at the latest, an annual informative report for the participants comprising accurate and true information on the activity carried out during the previous calendar year.

**(2)** The annual report referred to in Para (1) shall be forwarded to ASF within the same deadline and shall comprise the information referred to in Art. 101 of the Law, and at least the following:

- a)** the investment principles of the voluntary pension scheme and the results of applying such principles;
- b)** the risks arising from internal or external factors with an important negative impact on the activity of the manager and/or voluntary pension fund and how they have been managed;
- c)** the managements costs – total and broken down by categories;
- d)** the principles of the relationship between the manager and the participants in the voluntary pension fund and how it is conducted during the year;
- e)** the manager’s investment policy referred to in Art. 86(1) of the Law and the results of applying the policy, by each component;
- f)** the presentation of the investment portfolio by types of investment and holdings by each type of investment;
- g)** the rates of return at the end of each quarter of the year for which the report is drawn up.

**Art. 27.** – **(1)** In accordance with the provisions of Art. 103(1) of the Law, the manager shall send each participant in writing and free of charge an informative letter on the status of such participant’s personal assets as at 31 December of the previous year prior to 15 May of each year, at the last correspondence address communicated.

**(2)** The letter referred to in Para (1) shall contain the minimum information in accordance with Annexe No. 10.

**(3)** The manager must take all necessary actions so that the confidentiality of the information concerning the personal data of the participants in the voluntary pension funds is preserved in accordance with the legislation on the protection of personal data.

**Art. 28.** – **(1)** In accordance with the provisions of Art. 104 of the Law, the manager shall draw up and provide ASF prior to 15 April with an annual report offering a true, accurate and complete image of the management activity of the voluntary pension fund(s).

**(2)** The annual report referred to in Para (1) shall comprise the information referred to in Letters a) to d) of Art. 104(1) of the Law, and at least the following:

- a) data on the identification of the manager, management, organisation and operation, and organisational chart, indicating the average number of persons assigned to each department;
- b) data on the identification of each voluntary pension fund, depositary or auditor;
- c) information on the evolution of the number of participants in each voluntary pension fund;
- d) analysis of the compliance with the investment rules contained in the affidavit on the investment policy, changes made during the year and reasons of such changes;
- e) activity and marketing strategy in the voluntary pension field;
- f) investment risk management, valuation methods used and results of its management;
- g) operational risk management, valuation methods used and results of its management;
- h) compliance with the legislation in force and manager's internal regulations in the conduct of the operations;
- i) information on the management costs incurred by the manager and the management costs incurred by each voluntary pension fund, detailed by each component;
- j) information on the payment of the money made from each voluntary pension fund, detailed by types of payments;
- k) analysis of the notifications received from the participants, how they are settled and measures taken;
- l) analysis of the conduct of the internal audit activity and measures taken.

**(3)** The annual report referred to in Para (1) shall be accompanied by:

- a) the annual financial statements of each voluntary pension fund, drawn up and approved in accordance with the legislation in force;
- b) the annual financial statements of the manager, drawn up and approved in accordance with the legislation in force;

**(4)** The financial auditor shall issue an opinion on the report referred to in Para (1), in compliance with Art. 104(2) of the Law.

**(5)** The report referred to in Para. (1), together with the report of the financial auditor, referred to in Para (4), shall be sent by the manager to ASF on paper, prior to 15 April of each year.

**Art. 29. – (1)** The manager must publish on its own Internet page, within 5 working days after transmission of the following to ASF:

- a) the annual financial statements of each voluntary pension fund, in accordance with the accounting regulations in force;
- b) the annual financial statements of the manager of the voluntary pension fund, in accordance with the accounting regulations in force;
- c) the biannual accounting reports of each voluntary pension fund, in accordance with the accounting regulations in force;
- d) the biannual accounting reports of the manager of the voluntary pension fund, in accordance with the accounting regulations in force.

**(2)** For the activity of each voluntary pension fund, the manager must publish monthly the information below, on its own Internet page, within 10 working days after the end of the previous month:

**a)** the total number of participants in the voluntary pension fund and their structure by age and sex, i.e.: under 19 years of age, between 20 and 24 years of age, between 25 and 29 years of age, between 30 and 34 years of age, between 35 and 39 years of age, between 40 and 44 years of age, between 45 and 49 years of age, between 50 and 54 years of age, between 55 and 59 years of age, 60 and 64 years of age and older than 65 years of age;

**b)** the value of the gross contributions collected by the voluntary pension fund;

**c)** the structure of the investment portfolio, in accordance with Annexe No. 12.

**(3)** The manager must publish weekly, on the second working day of the week, on its own Internet page, for the last working day of the previous week, the following information on the activity of each voluntary pension fund:

**a)** the value of total assets of the voluntary pension fund;

**b)** the net asset value of the voluntary pension fund;

**c)** the total number of fund units of the voluntary pension fund;

**d)** the net asset value of their units.

**(4)** The information and data published on the manager's own Internet page shall be saved in archived format and remain published for 5 years after the publication on the Internet page.

**(5)** The information and data published on the manager's own Internet page must be structured, visible and easily accessible.

**(6)** The home page of the manager's website must include internal links to the information referred to in Paras (1)-(3).

**Art. 30. – (1)** The manager must publish on its own Internet page for each voluntary pension fund, together with the annual financial statements, also the structure of the investment portfolio set out in Annexe No. 12, in detail, for each financial instrument and for each issuer, including information on the updated value, in RON, and the share held of the total assets of the voluntary pension fund as at 31 December.

**(2)** The manager must publish on its own Internet page, for each voluntary pension fund, prior to 1 October of each year, the structure of the investment portfolio set out in Annexe No. 12, in detail, for each financial instrument and for each issuer, including information on the updated value, in RON, and the share held of the total assets of the voluntary pension fund as at 30 June.

**Art. 31. –** The amount of the tariff charged by the manager for the information referred to in Art. 103(5) of the Law may not exceed the actual cost for making available the information.

## **CHAPTER IV**

### **Legal liability**

**Art. 32. –** The reporting entities shall be liable for the prejudice caused by the failure to fulfil or improper fulfilment of the reporting and transparency obligations.

**Art. 33. – (1)** The following shall be deemed minor offences:

**a)** failure to report, late reporting or reporting of data or information to ASF;

**b)** failure to comply with the provisions on the information of participants;

**c)** failure to comply with the provisions on the disclosure of information on its own Internet page.



**(2)** Where the reporting entity commits any of the offences set out in Para (1), then it shall be sanctioned as set out in Letter c) of Art. 38, Art. 120(1), Letter k) of Art. 121(1), (2) - (11), Art. 122 and Art. 122<sup>1</sup> of the Law.

## **CHAPTER V**

### Final provisions

**Art. 34. – (1)** The manager shall provide ASF’s representatives with unrestricted access to the IT system for the management of the operations of the voluntary pension fund at the manager’s headquarters, and to all IT systems used for the achievement of the object of activity.

**(2)** ASF may request the reporting entities and financial auditor to provide information on all aspects of the business pursued, including any details, clarification and explanations, and to provide all documents related thereto, in accordance with the applicable legislation.

**(3)** Transmission to ASF of the information referred to in Para (2) shall not constitute a breach of the obligation to keep the business secrecy, and shall not incur the liability of the entity concerned.

**(4)** The reports and information referred to in Paras (1) and (2) shall be sent to the persons responsible in accordance with Art. 5 and shall be signed by hand or with the extended electronic signature.

**Art. 35. –** The deadlines provided herein, which expire on a legal holiday or a non-working day, shall be extended until the next working day.

**Art. 36. –** Annexes Nos. 1A, 1B, 1C, 1D, 1E and 2-18\*) are an integral part of this rule.

\*) Annexes Nos. 1A-E and 2-18 shall be published in the Official Journal of Romania, Part I, No. 6 bis.

**Art. 37. –** This rule shall be published in the Official Journal of Romania, Part I and shall enter into force on 1 February 2016.

**Art. 38. –** Rule No. 11/2010 on the reporting and transparency obligations in the voluntary pension system, approved by Resolution No. 21/2010 of the Private Pension System Supervisory Commission, as subsequently amended and supplemented, published in the Official Journal, Part I Nos. 605 and 605 bis of 26 August 2010, as subsequently amended and supplemented, and any other provisions to the contrary, shall be repealed with effect from the date of entry into force of this rule.

President of the Financial Supervisory Authority

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No. 25