



COMMUNIQUE

The F.S.A. Decision regarding the rejection of the application for the approval of the Executive Board members

S.I.F. Transilvania informs the shareholders and investors that the Financial Supervisory Authority, through Decision no. 525 / 22.04.2020, has rejected the application for the authorization of a new Executive Board, composed of Mihai Fercala, Iulian Stan and Stefan Szitas, justifying the rejection of the approval on the grounds that **S.I.F. Transilvania had not allegedly submitted the complete documentation required by the F.S.A. Regulation no. 1/2019.**

The reasoning of the F.S.A. for said rejection does not reflect the reality of facts because ever since January 16, 2020, in accordance with art. 30 para. (6) of the F.S.A. Regulation no. 1/2019, all the documentation listed within this regulation has been submitted. After 31 days from the submission date, in order to justify not authorizing under the conditions provided for by its own regulation, i.e. to provide authorization for the application in maximum 30 days, the F.S.A. submitted a series of letters requesting further additions not provided for in the regulation, only to justify the delay of the authorization. Although the company responded promptly to these requests, the F.S.A. clerks asked for new clarifications. On 20.02.2020, the entire documentation was submitted again and a material error in the evaluation matrix was corrected. Since this submission, the F.S.A. has not requested anything at all, yet in the meeting of 22.04.2020, it rejects the approval, based on a series of arguments that cannot be legally accepted, distorting its own legal norms, all stemming from the desire to justify the non-approval.

The reasons listed in the decision cannot be accepted; they constitute a series of articles that we allegedly have not complied with, without the clear indication of which specific article has not been complied with.

The motivation of the administrative act must be factual, while in this case the F.S.A.'s enumeration of various articles included in the F.S.A. Regulation no. 1/2019 does not comply with such requisite, as the F.S.A. has not specified the reasons for which it deemed appropriate to establish those particular measures, respectively the reasons for which it ordered the rejection of S.I.F. Transilvania's application.

The lack of clarity of the resolution breaches the principle of predictability of the administrative act and seriously affects the legality of the administrative act, infringing the provisions of the High Court of Cassation and Justice Decision. no. 2122/2017.

The discretionary manner in which the F.S.A. appreciated to draft the Decision to reject the authorization infringes the rights of S.I.F. Transilvania S.A., in violation of the High Court of Cassation and Justice Decision no. 1580/2008.

We would also like to specify that the analysis of the relevance of the sanctions applied by the F.S.A. to S.I.F. Transilvania's management is the prerogative of the persons appointed by the

company to evaluate the members of the Executive Board, respectively of the Nomination Committee, as a specialized committee of S.I.F. Transilvania S.A.'s Supervisory Board. Therefore, **considering the fact that the evaluation is performed by the regulated entity itself, the analysis of the relevance of the sanctions applied by the F.S.A. to the members of the Executive Board is the sole prerogative of the Nomination Committee that conducted the evaluations, making it inadmissible for the A.S.F. to reject the request for approval for this reason.**

All the requests subsequent to January 16, 2020 have been complied with in accordance with the provisions of the F.S.A. Regulation no. 1/2019, it being demonstrated that the preliminary evaluation of the appointed members of the Executive Board, respectively annexes 1, 2 and 3 of the Supervisory Board Decision no. 1 of January 15, 2020, were complete.

All of the aspects presented above lead to a single conclusion, namely that the file submitted for the authorization of the members of the Executive Board was complete, according to the applicable provisions of the F.S.A. Regulation no. 1/2019, meaning that the F.S.A. has illegally rejected S.I.F. Transilvania's application for the issuing of the respective approvals.

In order to extend the legal authorization time limits, the F.S.A. has requested documents and evaluations not provided for in the F.S.A. Regulation no. 1/2019, such as the minutes of the Supervisory Board, the evaluation of the members of the Supervisory Board.

The preliminary evaluation of the members of the Executive Board is not standardized as is, for example, the Annex no. 1 of the F.S.A. Regulation no. 1/2019, and the request for the said evaluation in a specific format thought up by the F.S.A., along with the threat that the documentation will be deemed as being incomplete by the F.S.A., can be labeled as an indisputable abuse of power and infringement of its own regulations, made only to retaliate against the SIF Transilvania's Executive Board that it has dared to challenge in court certain illegal decisions of the F.S.A. and the court ruled in favor of SIF Transilvania – for example, Decision no. 381/2011, Decision no. 974/2014, art. 124 and art. 125 of the CNVM Regulation no. 1/2006, texts taken over in the F.S.A. Regulation no. 5/2018, within articles 165 and 166.

The discretionary statement, formulated under abuse of power, regarding the alleged non-compliance with the provisions of the F.S.A. Regulation no. 1/2019 in the re-evaluation reports, without presenting the specific provisions of the regulation on which this statement is based, **demonstrates once again the unjustified refusal to issue the requested individual administrative acts.**

Also, the F.S.A.'s imperative request included in the F.S.A. Decision no. 526/22.04.2020, that Fratila Constantin is to compulsorily participate in the deliberations of the Supervisory Board, **represents an instigation to violate the law, the Articles of Incorporation of S.I.F Transilvania, its own regulations – the F.S.A. Regulation. no. 1/2019, of art. 211 of the Civil Code,** given the fact that he is being criminally prosecuted *in personam* in the criminal Files no. 582/D/P/2016 and no. 745/P/2015, according to the communications of the prosecutor's offices, yet the F.S.A. he does not want to see these aspects.

We would also like to make one last remark: according to art. 50 para. (2) lit. (f) and (m) of Law no. 74/2015 and art. 5 para. (1) lit. (a) of the G.E.O. no. 93/2002, the F.S.A. is obligated to adopt urgent transitional measures in connection with the notifications regarding the incompatibility of some members of the Supervisory Board, regardless of possible subsequent revaluation procedures,

in order to ensure the stability, competitiveness and good functioning of the financial instruments markets, to promote confidence in these markets and in the investing in financial instruments, as well as to ensure the protection of the market operators and investors against unfair, abusive and fraudulent practices.

Rather, under these circumstances, as long as the F.S.A. has its own obligations to evaluate the members of the Executive Board, it cannot invoke non-compliances regarding the evaluation performed by the regulated entity, in order to “justify” the non-approval of the submitted documentation and to ensure protection and material advantages to persons who have committed crimes and are therefore incompatible with being a member of the Supervisory Board, without properly sanctioning them when they themselves claim in the press that they have violated certain trading restrictions only for the purpose of forcing the Executive Board and other members of the Supervisory Board to allow them to perform illegally, while the other members of the Supervisory Board hold, under F.S.A. guidance, illegal parallel meetings, are given counsel regarding the taking over of the management structures of SIF Transilvania S.A., although they have caused so much damage to the company's patrimony.

The rejection of the authorization documentation of the Executive Board made by the F.S.A. is premeditated, in order to adversely influence the company's shareholders, given the issues that are to be discussed at the general meeting of shareholders, precisely to further protect those who violate the law, considering that the members of the Executive Board and of the Supervisory Board demand the observance of the legislation, and the F.S.A., as retaliation, sanctions, in a completely abusive way, exactly those who are demanding for the law to be complied with.

Given that the F.S.A. has rejected the authorization of the new Executive Board, through the Decision no. 525/22.04.2020, we inform the shareholders that a preliminary complaint was filed with the F.S.A., requesting for the revocation of the respective decision, together with a request for the suspension of the effects of the F.S.A. Decision no. 525/22.04.2020, with the Bucharest Court of Appeal, Administrative and Fiscal Litigation Section.

**President of the Executive Board,
Ec. Mihai FERCALĂ, PhD**

**Member of the Executive Board,
Ec. Ștefan SZITAS**

**Marcus Valeriu Marin
Compliance Officer**