

**Rules**  
**on the ADR procedure**  
**concluded with proposing a solution**

**RECAST 2**  
**approved pursuant to**  
**the Resolution dated 21.02.2018**  
**of the Steering Board**


**Contents**

General provisions .....	2
Conciliation Application.....	2
Preliminary review of the application .....	4
Preliminary casefile .....	4
Declaration of Acceptance, Independence, Impartiality and Availability .....	5
Annex 1 .....	5
Decision of admissibility .....	5
Performance of the procedure .....	5
Effective conciliation procedure.....	6
Conciliation term .....	6
Resolution note .....	6
Decision .....	7
Report .....	8
Enforceable title .....	8
Closure of the procedure .....	8
Final Provisions .....	10

Provisions of the procedure	Annexes
<p><b>General provisions</b></p> <p><b>Art. 1.</b></p> <p>(1) The ADR Procedure concluded with proposing a solution, hereinafter referred to as conciliation procedure, is optional for the parties. Recourse to the conciliation procedure is determined at the initiative of the consumer, with the agreement of the trader reference is made to in art. 1 para. (3) of the Regulation for organization of the Alternative Banking Dispute Resolution Center and functioning of the Steering Board, expressed in the course of the mandatory attempt to have the case resolved directly, or, afterwards by the latest commencement of the conciliation procedure, pursuant to art. 8 para. (2) below.</p> <p>(2) Any of the party may withdraw from the procedure at any time.</p> <p>(3) Decision of the parties to turn to the conciliation procedure organized and managed by the ADR Center amounts to their acceptance of these rules.</p> <p>(4) The parties participate in the procedure in person and/or by representative.</p> <p>(5) The consumer may be assisted or represented, as the case may be, by a representative of the consumer, or of a consumer association, or a lawyer the fee of whom is born by the consumer.</p> <p>(6) The trader participates, at their own expenses, through a legal representative, legal advisor or lawyer under an authorization/mandate/power of attorney..</p> <p>(7) The procedure is free of charge only for the consumer.</p>	
<p><b>Conciliation Application</b></p> <p><b>Art. 2.</b></p> <p>The conciliation procedure starts with the conciliation application</p>	

<p>submitted to the ADR Center by the consumer, having enclosed the agreement of the trader to choice of procedure and the proof of the consumer's attempts to have the dispute previously and directly settled with the respective trader.</p>	
<p><b>Art. 3.</b>          The conciliation application includes:</p> <ul style="list-style-type: none"> <li>a) name and first name of the consumer, including their identification data, identification data of the trader, as well as the emails, phone and fax numbers of the parties. In the event the consumer's domicile or habitual residence is abroad, the application shall further indicate their address for service in Romania, should such an address be available;</li> <li>b) as applicable, the name and capacity of the consumer's representative and the proof of the capacity of representative thereof;</li> <li>c) presentation of the subject matter of the case;</li> <li>d) subject matter and amount of the claims and, as the case may be, the method employed to have these determined;</li> <li>e) the reasons in support of each claim, indicating the evidence requested in support thereof and the documents relied on for the same purpose;</li> <li>f) signature of the consumer and/or the representative thereof;</li> </ul>	
<p><b>Art. 4.</b>          The conciliation application shall have enclosed the documents the consumer intends to rely on to support the case.</p>	
<p><b>Art. 5.</b>          Where the consumer's domicile or residence is abroad, they are required to submit the conciliation application and related documents drawn up in the language selected for the procedure, together with translations thereof into Romanian.</p>	

<p><b>Art. 6.</b></p> <p>(1) The conciliation application and the documents can be filed online or on paper.</p> <p>(2) Filing of the conciliation application can be in person (to the registered office of the ABDRC) or, as applicable, by mail with acknowledgment of receipt.</p>	
<p><b>Art. 7.</b></p> <p><b><i>Preliminary review of the application</i></b></p> <p>The Procedural Secretariat handles the preliminary screening of the applications received from consumers in order to provide conciliators with the documents required for smooth performance of the conciliation procedure.</p>	
<p><b>Art. 8.</b></p> <p>(1) The consumer's application together with the documents submitted in support of the application are served by the Procedural Secretariat to the trader.</p> <p>(2) Within 15 calendar days of receiving of the documents in para. (1), the trader shall submit to the Procedural Secretariat of the ADR Center their agreement to commencement of the conciliation procedure, their opinion on the subject matter of the application, as well as the documents they intend to use to support their point of view/position.</p> <p>(3) Failure of the trader to formally agree to commencement of the conciliation procedure shall close the consumer's application.</p>	
<p><b>Art. 9</b></p> <p><b><i>Preliminary casefile</i></b></p> <p>The application filed by the consumer, together with the documents submitted by the consumer, the agreement and opinion of the trader, as well as the documents enclosed by the latter form the preliminary casefile. The casefile thus formed is randomly assigned for resolution to a conciliator in the List of Conciliators.</p>	

<p><b>Art. 10.</b>  <b><i>Declaration of Acceptance, Independence, Impartiality and Availability</i></b></p> <p>The conciliator has available 3 business days from the date when they were notified by the Procedural Secretariat to appear in the registered office of the ABDRC to take a first look at the documents and submit to the casefile their Declaration of Acceptance, Independence, Impartiality and Availability</p>	<p><b>Annex 1</b></p> <p>        Anexa 1_Declaratie        acceptare &amp; indeper</p>
<p><b>Art. 11</b>  <b><i>Decision of admissibility</i></b></p> <p>The conciliator shall issue a decision of admissibility of the procedure in the respective dispute, the wording of which shall be in keeping with the provisions of. 18 para. (3) of the Regulation for organization of the Alternative Banking Dispute Resolution Center and for functioning of the Steering Board, within the same 3-business day term set out under art. 10 above.</p>	
<p><b>Art. 12</b></p> <p>(1) The randomly designated conciliator can be either confirmed or not by the parties.</p> <p>(2) Confirmation/refusal of conciliator designation is first issued by the consumer, and then by the trader.</p> <p>(3) The term for confirmation/refusal is 3 business days of service.</p> <p>(4) Where the parties refuse for to confirm the conciliator for grounded reasons, or the conciliator abstains from resolution of the application for incompatibility reasons, the application of the consumer is randomly assigned to another conciliator from the same List of Conciliator, within 3 business days.</p>	
<p><b>Art. 13</b></p> <p>The conciliator designated pursuant to art. 12 para. 4 shall resume the procedure pursuant to the provisions of art. 10 and 11.</p>	
<p><b>Performance of the procedure</b></p>	

<p><b>Art. 14</b></p> <p><b><i>Effective conciliation procedure</i></b></p> <p>Once the conciliator has been confirmed by the parties, the casefile is sent in electronic format to this. Submission of the casefile in electronic format to the conciliator stands for the time when the casefile is deemed complete and as of which the effective conciliation procedure starts, in observance of the provisions of art. 11 para. 3 of the Government Decision no. 38/2015.</p>	
<p><b>Art. 15</b></p> <p><b><i>Conciliation term</i></b></p> <p>(1) The conciliator, subject to consultation of the parties through the fastest available to them, may set a conciliation term when the parties will be called to appear via electronic means or in writing, by care of the Procedural Secretariat of the ADR Center. On this date, the conciliator may ask, if they find appropriate, for additional information and supporting documents, as necessary for the clarification of the case.</p> <p>(2) The conciliation term is set not later than 10 calendar days from the date when the Procedural Secretariat sent the request.</p> <p>(3) Should service of the proceedings to consumer not be possible by electronic means, the terms are deferred accordingly with the time needed for service of the proceedings and receiving the reply thereto, by any means which support the proof of service.</p>	
<p><b>Art. 16</b></p> <p><b><i>Resolution note</i></b></p> <p>(1) Having reviewed the documents and, as the case may be, met the parties, the conciliator proposes, under a resolution note, a solution for the dispute in question, and has this submitted, by care of the Procedural Secretariat of the ADR Center, to both parties, employing the means agreed upon therewith.</p>	

<p>(2) The solution rendered by the conciliator shall be substantiated by all the information and documents made available to them by the parties.</p>	
<p><b>Art. 17</b></p> <p>(1) The parties may other accept/refuse the solution proposed by the conciliator in the Resolution Note within 15 calendar days of receiving thereof.</p> <p>(2) The parties or the conciliator, if applicable, may ask for a meeting to clarify/negotiate the solution proposed under the Resolution Note within 5 calendar days since service thereof.</p> <p>(3) The conciliator sets a term within 10 calendar days of receiving the request of the parties for clarification/debating on the proposed solution and make a decision thereon.</p> <p>(4) The outcome of the clarification/negotiations is documented in a Minutes signed off by the conciliator and the parties, which is an integral part of the Resolution Note.</p>	
<p><b>Art. 18</b></p> <p><b><i>Decision</i></b></p> <p>(1) On the basis of the express agreement of the parties to the Resolution Note, the conciliators renders, draws up and submits to the Procedural Secretariat, within 15 calendar days, a decision reasoned under the equity law, in three original counterparts.</p> <p>(2) This decision is served to the parties as registered letter with acknowledgment of receipt.</p> <p>(3) The decision is effective as of the service date.</p> <p>(4) The decision may be appealed against with the court having jurisdiction.</p>	
<p><b>Art. 19</b></p>	

<p><b>Report</b></p> <p>(1) If one of the parties disagrees with the proposed solution, the conciliator issues a report. The provisions of art. 18 paras. (1) and (2) apply accordingly as of the date when the refusal of the party is received.</p> <p>(2) If the proposed solution was rejected by the trader, this report shall indicate the judicial redress the consumer may pursue to have the dispute resolved.</p>	
<p><b>Art. 20</b></p> <p><b>Enforceable title</b></p> <p>Any decision which is not appealed against within 15 calendar days from the service date becomes enforceable title under art. 13 para. 4 of the Government Ordinance no. 38/2015.</p>	
<p><b>Closure of the procedure</b></p> <p><b>Art. 21</b></p> <p>The conciliation procedure closes, as the case may be:</p> <ul style="list-style-type: none"> <li>a) with issuance by the conciliator of a reasoned decision documenting acceptance of the proposed solution;</li> <li>b) with issuance by the conciliator of a report documenting rejection of the proposed solution or withdrawal from the procedure, notified by any of the parties.</li> </ul>	
<p><b>Art. 22</b></p> <p>Calling of the parties to the conciliation meetings, if applicable, or submission of documents or information to the parties or requests thereof are handled by the Procedural Secretariat of the ADR Center, which shall employ the most efficient and swift means therefor, and document</p>	



<p>completion thereof in the casefile.</p>	
<p><b>Art. 23</b>          The terms which lapse in a non-business day are extended to the next business day.</p>	
<p><b>Art. 24</b>          The conciliator cannot serve an arbitrator, representative or advisor of any of them in any arbitration or court proceedings having the same subject matter as the dispute referred for conciliation.</p>	
<p><b>Art. 25</b>          The confidential nature of the conciliation procedure must be observed by all the persons involved, including the Procedural Secretariat of the ADR Center, and shall survive closure of the procedure and be irrespective of the outcome thereof.          The consumer's representative shall signed off a non-disclosure agreement regarding the entire procedure.</p>	
<p><b>Art. 26</b>          The parties are under the obligation not rely, in any arbitration or court proceedings, on</p> <ul style="list-style-type: none"> <li>a) the points of view issued in the conciliation procedure;</li> <li>b) the proposals made by the conciliator, unless accepted;</li> <li>c) the declarations of one of the parties whereby these expressed their intention to accept the proposal made by the conciliator.</li> </ul>	

**Final Provisions**

**Art. 27**

- (1) The Procedural Rules were approved in the meeting of the Steering Board of 21.02.2018 and come into force on 02.03.2018.
- (2) Annex no. 1 is an integral part of these Procedural Rules.