

Effective from 26 November 2015

## **Act CXXXIX of 2013**

### **on the Magyar Nemzeti Bank**

Pursuant to Articles 41 and 42 of the Fundamental Law, the Parliament hereby adopts the following Act on the Magyar Nemzeti Bank, its primary objectives, basic tasks, institutional, organisational, personal and financial independence and its operations, with a view to the definition of macro-prudential tasks and responsibilities, establishing the possibility for effective macro-prudential intervention, strengthening international macro-prudential cooperation and reinforcing supervision of and control over the system of financial intermediation:

#### ***PART ONE***

#### ***Legal status, primary objective, tasks and organisation of the Magyar Nemzeti Bank***

##### Chapter I

Legal status, primary objective and basic tasks of the Magyar Nemzeti Bank

#### **1. Legal status and primary objective of the Magyar Nemzeti Bank**

**Article 1** (1) The Magyar Nemzeti Bank (hereinafter referred to as 'MNB') is a member of the European System of Central Banks and the European System of Financial Supervision.

(2) The MNB, and the members of its bodies shall be independent in carrying out their task and meeting their obligations conferred upon them by this Act, and shall neither seek nor take instructions from the government, or from the institutions, bodies and offices of the European Union, with the exception of the European Central Bank (hereinafter referred to as 'ECB') and the instances described in paragraph (3) below, or from the governments of Member States or any other organisation or political party. The government as well as all other organisation shall adhere to this principle and shall not attempt to influence the MNB and the members of its bodies in the course of the performance of their tasks.

(3) With a view to its membership in the European System of Financial Supervision, the MNB shall perform the tasks imposed on the MNB, arising out of the scope of the European Banking Authority, the European Insurance and Occupational Pensions Authority, the European Securities and Markets Authority and the European Systemic Risk Board.

**Article 2** The governor of the MNB shall be obliged to provide oral and written reports to the Parliament.

**Article 3** (1) The primary objective of the MNB shall be to achieve and maintain price stability.

(2) Without prejudice to its primary objective, the MNB shall support the maintenance of the stability of the system of financial intermediation, the enhancement of its resilience, its sustainable contribution to economic growth; furthermore, the MNB shall support the economic policy of the government using the instruments at its disposal.

#### **2. Basic and other tasks of the MNB**

**Article 4** (1) The MNB shall define and implement monetary policy.

(2) The MNB shall be entitled to issue banknotes and coins in the official currency of Hungary. Banknotes and coins – including commemorative banknotes and coins – issued by the MNB in the official currency of Hungary (hereinafter referred to collectively as ‘banknotes and coins’) shall be legal tender of Hungary.

(3) The MNB shall hold and manage official foreign exchange and gold reserves in order to preserve the external stability of the Hungarian economy.

(4) The MNB shall conduct foreign exchange operations in relation to the management of foreign exchange reserves and the implementation of exchange rate policy.

(5) The MNB shall oversee payment and securities settlement systems, this shall include overseeing the operations of the system and of the organisation performing central counterparty activity, in order to ensure the sound and efficient operation of these systems and the smooth circulation of money. Within the scope of these powers and the legislative powers defined in Article 171(2), the MNB shall participate in the development of payment and securities settlement systems.

(6) The MNB shall collect and publish statistical information required for carrying out its tasks and of fulfilling the statistical reporting obligations towards the ECB as defined in Article 5 of Protocol (No 4) on the Statute of the European System of Central Banks and of the European Central Bank annexed to the Treaty on the Functioning of the European Union (hereinafter referred to as ‘ESCB Statute’).

(7) The MNB shall establish the macro-prudential policy for the stability of the entire system of financial intermediation, with the objective to enhance the resilience of the system of financial intermediation and to ensure its sustainable contribution to economic growth. To that end and within the limits specified in this Act, the MNB shall explore the business and economic risks threatening the system of financial intermediation as a whole, promote the prevention of the development of systemic risks and the reduction or elimination of the evolved systemic risks; furthermore, in the event of disturbances to the credit market it shall contribute to the balanced implementation of the function of the system of intermediation in financing the economy through stimulating lending and by restraining lending in the event of excessive credit outflow.

(8) Within the scope of its powers defined in a separate Act, the MNB shall act as resolution authority.

(9) The MNB shall supervise the system of financial intermediation in order to

a) ensure the smooth, transparent and efficient functioning of the system of financial intermediation;

b) facilitate the prudent operation of the persons and organisations forming part of the system of financial intermediation and supervising the prudent exercise of owners’ rights;

c) discover undesirable business and economic risks threatening individual financial organisations or individual sectors thereof, reducing or eliminating evolved specific or sectoral risks, and taking preventive measures with a view to ensuring the prudent operation of individual financial organisations;

d) protect the interests of users of the services provided by financial organisations and strengthening public confidence in the system of financial intermediation.

(10) The MNB shall settle disputes out of court – via the Financial Arbitration Board – between consumers and the entities or persons covered by the acts defined in Article 39 relating to the establishment and performance of legal relationships for the use of services.

(11) Tasks for the MNB shall be defined by acts or, in the context of the tasks listed in paragraph (9), by legal regulations adopted pursuant to the authorisation of an act. Such tasks of the MNB defined in acts or legal regulations adopted pursuant to the authorisation of acts shall comply with the basic tasks and responsibilities of the MNB as defined in this Act.

(12) The MNB shall have exclusive competence to perform the tasks defined in paragraphs (1) to (5) and in paragraph (9).

(13) The tasks specified in paragraphs (1) to (7) shall be the basic tasks of the MNB.

(14) Tasks other than the basic tasks are the other tasks of the MNB, which it shall only perform – in accordance with the provisions of legal regulations – without prejudice to the achievement of its primary objective and the performance of its core tasks.

(15) In performing the function provided for in Paragraph (8), adequate arrangements shall be in place to ensure operational independence of the department responsible for enforcement of resolution functions from other departments of the MNB, including that these functions must be performed under the direct control and supervision of the governor or any of the deputy governors of the MNB.

## Chapter II

### Organisation of the MNB

#### **3. Legal status of the MNB**

**Article 5** (1) The MNB shall be a legal person functioning in a form of a company limited by shares. The seat of the MNB shall be in Budapest.

(2) The company name of the MNB need not be entered in the Register of Companies. The designation ‘company limited by shares’ need not be included in the company name of the MNB.

(3) The Statutes of the MNB shall be established by the shareholder and presented to the Parliament.

(4) The shares of MNB shall be owned by the State. The State as shareholder shall be represented by the minister in charge of public finances (hereinafter referred to as ‘minister’).

(5) The subscribed capital of the MNB is HUF 10,000,000,000 that is ten billion forints.

**Article 6** (1) The shareholder shall decide in a Shareholder Resolution on:

- a) the establishment and amendment of the Statutes;
- b) the appointment and dismissal of the auditor; and
- c) the establishment of the remuneration of the auditor.

(2) The executive board shall notify the shareholder of the accounting report by sending the report including the audit opinion to the shareholder, as defined in Article 12(4) subsection b).

**Article 7** The provisions of the Act on business associations (hereinafter referred to as ‘Gt.’) shall apply to the MNB with the exceptions laid down by this Act.

#### **4. The bodies of the MNB**

**Article 8** The bodies of the MNB are:

- a) the Monetary Council,
- b) the Financial Stability Council,
- c) the executive board and
- d) the supervisory board.

#### **5. The Monetary Council**

**Article 9** (1) For the tasks specified in this Article, the Monetary Council is the supreme decision-making body of the MNB.

The scope of competence of the Monetary Council shall include:

- a) strategic decisions concerning the tasks defined in Article 4(1) to (4) and (6),
- b) decisions under Article 20(1) within the scope of competence defined under subsection a);
- c) decisions relating to the tasks defined in Article 22(2) within the scope of competence defined under subsection a);
- d) definition of the strategic framework within which the Financial Stability Council makes its decisions, in respect of the tasks specified in Article 4(5) and (7) to (9).
- e) establishing the rules of procedure of the Monetary Council, and
- f) decisions on any other matter in the exclusive competence of the Monetary Council as defined by law.

(2) Meetings of the Monetary Council may be convened at any time deemed necessary, but a meeting shall be convened at least once a month.

(3) The Monetary Council shall consist of at least five and at most nine members. The aggregate number of the members of the Monetary Council defined in paragraph (4) subsections a) and b) shall be less than the number of the members defined in paragraph (4) subsection c); and the number of the members specified under paragraph (4) subsection c) shall be less than twice of the aggregate number of the members defined in paragraph (4) subsections a) and b). Members of the Monetary Council shall be the employees of the MNB during their term of office.

(4) The members of the Monetary Council are:

- a) the governor of the MNB as chairman of the Monetary Council;
- b) the deputy governors of the MNB; and
- c) other members, elected by the Parliament for six years.

(5) Hungarian citizens with outstanding theoretical knowledge and practical professional expertise in issues related to monetary, financial or credit institution activities may be appointed or elected members of the Monetary Council.

(6) Any person recommended as a member of the Monetary Council shall attend a hearing of the Parliament's Standing Committee for Economic Affairs.

(7) Upon taking office, the members of the Monetary Council defined in paragraph (4) subsections a) and b) shall take an oath before the president of the republic; other members defined in paragraph (4) subsection c) shall take an oath before the Parliament.

(8) The mandate of a member of the Monetary Council pursuant to paragraph (4) subsection c) shall terminate upon:

- a) expiration of the term of office;
- b) resignation;
- c) dismissal or
- d) death.

(9) Resignations shall be submitted in writing to the president of the republic by members defined in paragraph (4) subsections a) and b), and to the Speaker of the Parliament by members defined in Article (4) subsection c). In the event of the resignation of a member of the Monetary Council, the mandate shall end on the date indicated in the letter of resignation following the date of the submission of such letter of resignation, or, in the absence thereof, upon receipt of the letter of resignation by the president of the republic in case of the members defined in paragraph (4) subsections a) and b), or in case of the members defined in paragraph (4) subsection c) by the Speaker of the Parliament. A statement of acceptance shall not be required for the validity of the resignation of the member of the Monetary Council.

(10) The president of the republic shall dismiss members of the Monetary Council specified under paragraph (4) subsections a) and b), and the Parliament shall dismiss members of the Monetary Council specified under paragraph (4) subsection c) exclusively for reasons specified in Article 14.2 of the ESCB Statute.

(11) The Parliament's Standing Committee for Economic Affairs shall make a recommendation to the Parliament on the appointment or dismissal of members, as specified in paragraph (4) subsection c).

(12) The proposal for dismissal pursuant to paragraph (11) shall be sent to the respective member of the Monetary Council, who may seek remedy at the Court of Public Administration and Labour, in accordance with the provisions of the labour code (hereinafter referred to as 'Mt.'). The right to seek remedy before the court on grounds of the provisions of the Mt. is without prejudice to the right of seeking legal remedy before the Court of Justice of the European Union as defined in Article 14.2 of the ESCB Statute.

(13) The proposal for dismissal pursuant to paragraph (11) may be submitted to the president of the republic in case of the members of the Monetary Council specified under paragraph (4) subsection b), and to the Parliament in case of the members of the Monetary Council specified under paragraph (4) subsection c) following expiry of the deadline for filing an appeal, or – in the event of filing an appeal – after the court's decision establishing that the grounds for dismissal in Article 14.2 of the ESCB Statute are met takes legal effect.

(14) Each year the Monetary Council shall elect by a simple majority of the votes of those present a deputy chairman of the Monetary Council at its first meeting from amongst the deputy governors of the MNB. In the event that the mandate of the deputy chairman is terminated, the Monetary Council shall elect a new deputy chairman at its next meeting.

(15) The Monetary Council shall have a quorum if the majority of its members are present. The Monetary Council shall adopt its resolutions by a simple majority of the votes of the members present; in the event of a tied vote, the chairman of the Monetary Council, or in the absence of the chairman the deputy chairman shall have the casting vote.

(16) The chairman of the Monetary Council, or, in the absence of the chairman, the deputy chairman shall be entitled to disclose the position of the Monetary Council to the public.

## **6. The governor of the MNB**

**Article 10** (1) The head of the MNB shall be the governor.

(2) The prime minister shall make a proposal for the governor of the MNB to the president of the republic. The term of office of the governor of the MNB shall be six years. A person may hold the position of the governor of the MNB at most twice.

(3) The provisions of Article 9(5) to (10) shall also apply to the governor of the MNB.

(4) The governor of the MNB shall be dismissed by the president of the republic at the proposal of the prime minister, in accordance with the provisions defined in Article 9(10).

(5) The prime minister's proposal for dismissal pursuant to paragraph (4) shall be sent to the governor of the MNB, who may seek remedy before the Court of Public Administration and Labour, in accordance with the rules defined in the Mt. The right to seek remedy before the court based on the provisions of the Mt. is without prejudice to the right

of seeking legal remedy before the Court of Justice of the European Union as defined in Article 14.2 of the ESCB Statute.

(6) The proposal for dismissal may be submitted to the president of the republic following expiry of the deadline for filing an appeal or – in the event of an appeal – after the court’s decision establishing that the grounds for dismissal defined in Article 14.2 of the ESCB Statute are met takes legal effect.

(7) The decision of the president of the republic to appoint and dismiss the governor of the MNB requires the countersignature of the prime minister.

(8) With the exception of the issuance of decrees, the deputy chairman of the Monetary Council shall substitute for the governor of the MNB in the event of his absence.

## **7. The deputy governors of the MNB**

**Article 11** (1) The MNB shall have at least two and at most three deputy governors. The prime minister shall make a proposal for the deputy governors to the president of the republic.

(2) The provisions of Article 9(5) to (10), (12) and (13) shall also apply to the deputy governors of the MNB, provided that the prime minister shall propose the dismissal of the deputy governors of the MNB by recommendation of the governor of the MNB.

(3) The decision of the president of the republic on the appointment and dismissal of the deputy governors of MNB requires the countersignature of the prime minister.

## **8. The executive board**

**Article 12** (1) The executive board shall be responsible for implementing the decisions of the Monetary Council in respect of the tasks defined in Article 4(1) to (4) and (6), and of the Financial Stability Council in respect of the tasks defined in Article 4(5) and (7) to (9) as well as for managing the operations of the MNB.

(2) The members of the executive board are:

a) the governor of the MNB as chairman of the executive board; and

b) the deputy governors of the MNB.

(3) The chairman shall act on behalf of the executive board.

(4) The scope of competence of the executive board shall include:

a) managing the implementation of the decisions of the Monetary Council and the Financial Stability Council;

b) establishing the accounting report of the MNB, issuing decisions on the payment of dividends, and approving the draft report to be sent to the shareholder on the management and the assets of the MNB;

c) approving matters related to the organisation and internal management of the MNB;

d) approving study plans and programs relating to the operation of the MNB and the performance of its tasks – including the costs of the development and operational plan;

e) managing the MNB’s internal audit organisation in respect of tasks falling outside the scope of competence of the supervisory board, and discussing the observations and plans of the internal audit;

f) amending the collective agreement in respect of employment rights and obligations , the exercise and performance of such rights and obligations, and the associated procedures; and

g) adopting decisions relating to the provisions of Article 159.

(5) The Monetary Council may authorise the executive board to decide on any matter falling within its scope of competence. The executive board shall report to the Monetary Council on these decisions. Beyond the provisions defined in paragraph (4), the governor of the MNB may submit any matter within his scope of competence to the executive board for a decision.

(6) The executive board shall adopt its decisions by a simple majority of votes of the members present. In case of a tied vote, the chairman, or in his absence the member of the executive board designated by the chairman shall have the casting vote. The executive board shall have a quorum if at least two of its members are present.

## 9. The Financial Stability Council

**Article 13** (1) Among the cases within the MNB's competence, within the strategic framework defined by the Monetary Council, the Financial Stability Council — as the MNB's body within the meaning of Article 8 subpoint b), acting on behalf of the MNB — shall have the right to act in procedures concerning the tasks specified in Article 4(5) and (7) to (9) .

(2) Pursuant to paragraph (1), the Financial Stability Council shall

a) continuously monitor the stability of the system of financial intermediation as a whole and of the financial markets in order to maintain the stability of the system of financial intermediation as a whole,

b) take account of risk factors threatening the system of financial intermediation as a whole,

c) analyse the risks related to certain types of institutions or products or to the spread of these which may represent a threat to the system of financial intermediation as a whole,

d) monitor developments on international and European markets and risks which may represent a threat to the stability of the system of financial intermediation as a whole, and make a decision on the necessary measures within the strategic framework defined by the Monetary Council,

e) discuss strategic, regulatory and risk-related issues affecting the system of financial intermediation as a whole and issues opinions if necessary,

f) in situations threatening the stability of the system of financial intermediation as a whole, assess systemic risks and decide on the measures required to reduce or eliminate such risks,

g) as necessary, place on its agenda the recommendations, opinions and risk warnings of the European Systemic Risk Board relevant for the system of financial intermediation as a whole,

h) discuss the recommendations and decisions issued by the European Supervisory Authorities as needed, including decisions addressed to national supervisory authorities calling for specific measures in the event of serious jeopardy to the stability of the European financial system and express its opinion on the tasks arising from such decisions,

i) publish non-binding recommendations for the persons and bodies covered by the acts defined in Article 39 describing the grounds of jurisdictional principles followed by the MNB,

j) annually define the priority target areas of the MNB's control activities,

k) make decisions in administrative proceedings relating to the exercise of supervision over persons, bodies and activities falling under the scope of the acts defined in Article 39, as defined in Article 4(9), and

l) make decisions in administrative proceedings relating to the exercise of resolution function according to Article 4(8), defined in a separate Act.

(3) The Financial Stability Council shall report periodically on its decisions to the Monetary Council.

(4) The Financial Stability Council shall be composed of at least three and at most ten members.

(5) The members of the Financial Stability Council are:

- a) the governor of the MNB as its chairman,
- b) the deputy governors supervising the tasks defined in Article 4(7) to (9),
- c) managers designated by the governor of the MNB,

(6) The Financial Stability Council shall hold its meetings as needed, but at least every two months.

(7) The meeting of the Financial Stability Council shall be convened and chaired and its agenda shall be proposed by the chairman.

(8) The representative of the minister responsible for the regulation of the money, capital and insurance market and external attendees invited by the governor of the MNB shall participate in the meetings of the Financial Stability Council with the right of discussion.

(9) The Financial Stability Council shall have a quorum if the majority of its members are present. The Financial Stability Council shall make its decisions by a simple majority of the votes of the members present; in the event of a tied vote, the chairman shall have the casting vote. The decisions of the Financial Stability Council shall be signed by the chairman of the Financial Stability Council.

(10) The Financial Stability Council defines its own rules of procedure.

(11) The Financial Stability Council may, in accordance with its rules of procedure, transfer the issuer's rights in respect of decisions defined in paragraph (2) subsections k) and l) — excluding decisions ordering resolution as defined in a separate Act and decisions involving resolution measures — either comprehensively or for specific decisions only, to persons employed by the MNB and holding an executive mandate.

(12) The chairman or the member authorised by the Financial Stability Council may disclose the position of the Financial Stability Council.

## **10. The supervisory board**

**Article 14** (1) The supervisory board is the body responsible for the continuous supervision of the MNB on behalf of the owner.

(2) The internal audit department of the MNB – subject to the restrictions defined in paragraph (3) – shall be subject to the control of the supervisory board, and with respect to duties falling outside the scope of competence of the supervisory board, to the control of the executive board. If the executive board, while exercising its management powers, becomes aware of any audit findings within the scope of competence of the supervisory board, it shall immediately provide information to the supervisory board on such findings.

(3) The scope of competence of the supervisory board shall not include the tasks defined in Article 4(1) to (9) or their impact on the MNB's profit and loss. The supervisory board shall compile the report required by the Gt. on the annual accounts as specified in the Act on accounting within the above limitations.

(4) The members of the supervisory board are:

- a) the chairman elected by the Parliament;
- b) three additional members elected by the Parliament;
- c) the representative of the minister; and



d) an expert appointed by the minister.

(5) The chairman of the supervisory board shall be nominated by the parliamentary panels of the governing parties.

(6) The Parliament shall vote on the election of the candidates of the parliamentary panels for membership as defined in paragraph (4) subsection b) simultaneously, in a group.

(7) Hungarian citizens with excellent professional knowledge in matters relating to credit institutions, finance and accounting who qualifies to be elected as a member of the Parliament may be nominated for membership of the supervisory board.

(8) The mandate of the members of the supervisory board shall be for the duration of the mandate of the Parliament, and shall last until the end of the mandate of the Parliament.

(9) Members of the supervisory board may be recalled by the Parliament responsible for their election, or by the minister responsible for their appointment, respectively.

(10) Members of the supervisory board shall be subject to an obligation to provide information to the Parliament responsible for their election or to the minister responsible for their appointment, respectively.

## **11. Auditor**

**Article 15** The auditor of the MNB may be appointed for a maximum term of five years. The auditor may not be reappointed as auditor of the MNB within 5 years of the expiry of the mandate.

## ***PART TWO***

### ***DETAILED RULES OF THE TASKS OF THE MNB***

#### **Chapter III**

#### **Certain basic tasks of the MNB**

### **12. The monetary policy**

**Article 16** In order to achieve the primary objective defined in Article 3(1), the MNB shall influence the supply of and demand for money and credit, using the instruments defined in Article 18.

**Article 17** Within the framework provided for by this Act, the MNB shall independently define monetary policy and the instruments for implementing such policy.

**Article 18** As instruments of its monetary policy, the MNB shall:

a) accept deposits in relation to its account management activity, and provide credit against adequate collateral, subject to the restrictions defined in Article 146;

b) buy and sell securities as well as acting as intermediary of securities in the spot and derivative markets within the framework of open market operations and repurchase agreements;

c) issue securities;

d) influence and set exchange rates and interest rates;

e) discount (rediscount) securities;

f) regulate minimum reserves; and

g) use other central bank instruments.

### **13. Minimum reserves**

**Article 19** (1) In a decree the governor of the MNB may require financial institutions and investment firms to place reserves with the MNB, in proportion to their assets and off-balance sheet items (hereinafter referred to as 'reserve ratio').

(2) The MNB may define different levels of reserve ratios for different types of liabilities, individual assets and off-balance sheet items of financial institutions and investment firms based on their different characteristics. Based on their different characteristics, the reserve ratios applicable to certain elements of the reserve fund may be subject to more than one level of reserve ratio, in which case the shall be aggregated.

(3) The MNB may pay interest on the minimum reserves deposited by the institutions defined in paragraph (1). The interest may be paid at different rates in accordance with the different types of reserve ratio elements and their different characteristics in the reserve ratio.

**Article 20** (1) The Monetary Council shall decide on the level of the reserve ratio and the interest rate to be paid on reserves. The governor of the MNB shall declare the level of the reserve ratio and the interest to be paid on such reserves in a decree.

(2) The governor of the MNB shall regulate in a decree the rules governing the calculation of minimum reserves, the method of allocation and deposition of reserves, and the rules applicable in the event of non-compliance with these regulations.

### **14. Central bank base rate**

**Article 21** The MNB shall determine the central bank base rate as the key interest rate. The Monetary Council shall decide on the level of the base rate . The governor of the MNB shall declare the level of the base rate in a decree.

### **15. Exchange rates**

**Article 22** (1) The MNB shall quote and publish the official exchange rates for the conversion of foreign currencies into forint and forint into foreign currencies.

(2) The government in agreement with the MNB shall determine the exchange rate regime and all features thereof. Changes in the exchange rate system shall be without prejudice to the primary objective of the MNB to achieve and maintain price stability.

(3) Within the framework of the exchange rate regime developed in accordance with paragraph (2), the MNB shall protect and influence exchange rates on domestic and foreign currency markets when necessary and possible.

(4) The government and the MNB shall treat exchange rate policy as a matter of common interest of the Member States of the European Union.

### **16. Issuing operations**

**Article 23** (1) The governor of the MNB shall declare in a decree the issue of banknotes and coins, their denomination and distinguishing features, and their withdrawal from circulation. The banknotes and coins withdrawn from circulation shall lose their function as legal tender as of the date specified in the decree of the governor of the MNB.

(2) Banknotes and coins issued by the MNB shall be accepted at face value for payments to be made in the official Hungarian currency until their withdrawal from circulation.

(3) The MNB shall convert banknotes and coins which it has withdrawn from circulation and which are no longer legal tender at face value into the legal tender of Hungary within 20 years of the date of withdrawal in respect of

banknotes, and within 5 years of the date of withdrawal in respect of coins. Credit institutions and the institution operating the Postal Clearance Centre (hereinafter referred to as 'post office') shall convert banknotes and coins withdrawn from circulation by the MNB no longer qualifying as legal tender, into legal tender of Hungary within 3 years from the date of withdrawal in respect of banknotes, and within 1 year of the date of withdrawal in respect of coins.

(4) For cash payments, including cash payments to payment accounts, credit institutions and the post office shall be obliged to accept more than 50 coins.

(5) Banknotes and coins suspected of being counterfeit shall not be acceptable under any title, excluding the provisions of Article 24(3).

(6) In payment transactions, there shall be no obligation to accept banknotes and coins which are damaged or difficult to identify.

(7) Without prejudice to paragraph (8), the MNB shall convert banknotes and coins which are damaged or difficult to identify for legal tender free of charge at their nominal value. The MNB may use a contributor to meet this obligation.

(8) The MNB shall convert incomplete damaged banknotes exclusively if more than 50 per cent of the banknote is presented. The MNB shall withdraw from circulation and destroy incomplete damaged banknotes without refund where the completeness of the banknote does not exceed 50 per cent. Credit institutions and the post office shall take over from clients, without refund, incomplete damaged banknotes where the completeness of the banknote does not exceed 50 per cent, and forward them to the MNB for withdrawal and destruction.

(9) If there is a suspicion of crime in connection with banknotes damaged due to the activation of security equipment used to prevent the unlawful appropriation of money, the MNB, the credit institution or the post office may withhold payment of value of the banknotes until the investigation of law enforcement agencies is closed, and they shall be entitled to handle personal data (family name and first name, address, type and number of identification document) of the natural person payer (holder) of the banknotes damaged due to the activation of the security equipment used to prevent the unlawful appropriation of money. This shall include the right to forward the aforementioned data to the agencies conducting the criminal procedure or performing tasks of law enforcement. The MNB may charge a fee for the conversion of banknotes damaged due to the activation of security equipment used to prevent the unlawful appropriation of money to legal tender except if the person initiating the conversion proves, with a document issued by the competent authority, that the damage occurred due to robbery or theft.

(10) The MNB shall not refund the value of destroyed banknotes or coins. A procedure for the destruction of banknotes or coins may not be initiated. The MNB shall have the exclusive right for the sale of legal tender coins qualifying as difficult to identify or damaged, excluding commemorative coins issued by the MNB, and the coins already withdrawn from circulation by the MNB, as raw material or the sale of the raw material obtained from such coins, provided that such sales shall be subject to market conditions.

(11) The governor of the MNB shall define in a decree issued pursuant to the authorisation of this Act regulating the conditions of cash distribution,

a) the rules on the conversion of coins to other denominations of coins or banknotes, and on the conversion of banknotes to other denominations of banknotes or coins, including the entities subject to conversion obligation and the terms of their remuneration;

b) the rules of converting banknotes and coins which have been withdrawn from circulation, are difficult to recognise or damaged banknotes and coins for legal tender, including the terms of their remuneration.

**Article 24** (1) The MNB shall perform technical and other tasks within its scope of competence with regard to the protection of Hungarian and foreign legal tender against counterfeiting, including in particular the tasks related to counterfeit currency expert services, training, data provision and dissemination of information. This shall include, with a view to the protection of euro banknotes and coins against counterfeiting, the MNB shall perform

a) the tasks of the National Counterfeit Centre defined in the Decision of the European Central Bank No ECB/2001/11 of 8 November 2001 on certain conditions regarding access to the Counterfeit Monitoring System (CMS),

b) the tasks defined in Article 3(1) of Council Regulation No 1338/2001/EC of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting (hereinafter referred to as 'Council Regulation') with regard to euro banknotes and coins,

c) the tasks of the National Analysis Centre pursuant to Article 4(1) to (3) of the Council Regulation, and

d) the tasks of the Coin National Analysis Centre pursuant to Article 5(1) to (3) of the Council Regulation.

(2) In the course of performing its tasks as currency expert, the MNB shall be entitled to manage, until the completion of the relevant criminal procedure, data concerning the first name and family name, address, type and number of identification document of the natural person payer or holder of suspected counterfeit currencies for the purpose of usage of such data in criminal procedures initiated in connection with currency identified to be counterfeit on the basis of the expert examination and, within this framework shall forward the abovementioned data to the authorities conducting criminal proceedings in counterfeiting cases. If the MNB or the organisation specified under paragraph (3) establishes that the currency is not counterfeit, the MNB shall delete personal data obtained after completion of the examination of the currency expert without delay.

(3) Hungarian or foreign suspected counterfeit currencies, including currencies denominated in euro, shall be submitted to the MNB for expert examination or shall be handed over to the organisation defined in a decree of the governor of the MNB for in order to be forwarded for examination by the MNB.

(4) No refund shall be paid for counterfeit Hungarian or foreign currencies, including currencies denominated in euro.

(5) The organisations defined in a decree of the governor of the MNB providing payment, currency exchange and money processing services as defined by the Act on credit institutions and financial enterprises, and the organisation providing international postal money order services pursuant to the Act on postal services shall be obliged to send any Hungarian or foreign suspected counterfeit currencies, including those denominated in euro, they found by them to the MNB, and to provide data on the circumstances of the finding, in the form and with the content prescribed in the decree of the governor of the MNB.

(6) In the course of data provision under paragraph (5), the organisations defined in a decree of the governor of the MNB providing payment, currency exchange and money processing services as defined in Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (hereinafter referred to as 'Hpt. '), and the organisation providing international postal money order services in accordance with the Act on postal services shall also forward personal data defined in paragraph (2) to the MNB. The MNB shall be entitled to manage personal data obtained this way for the purposes specified in paragraph (2) subject to the time limit defined therein.

**Article 25** The MNB shall account for the costs associated with the production of banknotes and coins as an expense.

**Article 26** (1) Imitations of legal tender in circulation, or of banknotes or coins withdrawn from circulation by the MNB but convertible for legal tender, may only be produced or arranged to be produced for any purpose in accordance with the provisions of the decree of the governor of the MNB. The procedure of the production, registration, safekeeping and the destruction of imitations shall be governed by the provisions of the decree of the governor of the MNB.

(2) The provisions on imitations of the euro, including medals and tokens similar to euro coins, with the exception of the rules on sanctions, shall be defined by the decree of the governor of the MNB, with considerations of the provisions of Council Regulation No 2182/2004/EC of 6 December 2004 concerning medals and tokens similar to euro coins.

(3) In the context of the distribution of imitations and forint and euro commemorative coins that do not qualify as imitations, it is prohibited to engage in conduct violating the fulfilment of the MNB's basic task defined in Article 4(2), confidence in the legal tender and the production and distribution of coins — including commemorative coins

(hereinafter collectively: coins) — carried out by the organisation under a contract signed with the MNB, in particular any commercial practices that

a) may cause confusion with the MNB, the organisation producing and distributing the coins, their company name or the coins,

b) contain false information regarding the legal status of the distributor of imitations and commemorative coins not qualifying as imitations, their relationship with the MNB or the organisation producing and distributing the coins, or display accurate facts in a misleading or potentially misleading manner, in consideration of all circumstances of display.

(4) Within the meaning of paragraph (3)

a) forint and euro commemorative coin: forint or euro banknote imitation as defined in the MNB Decree on the imitation of forint and euro coins;

b) commercial practice: as defined in the act on the prohibition of unfair business-to-consumer commercial practices.

### **17. Payment transactions and oversight**

**Article 27** (1) The MNB shall designate the payment and securities settlement systems as defined in the Act on settlement finality in payment and securities settlement systems.

(2) The governor of the MNB shall regulate the execution of payment orders within the scope of Article 171(2).

**Article 28** (1) The licence of the MNB shall be required for the entry into force of the General Terms and Conditions and the internal regulations of the organisation operating a payment system as well as for any amendments thereof.

(2) The MNB shall grant the licence under paragraph (1) if the General Terms and Conditions and internal regulations comply with the Decree of the governor of the MNB issued pursuant to the authorisation of this Act on the content and formal requirements for the General Terms and Conditions and internal regulations of the organisation operating a payment system.

(3) The organisation operating a payment system shall publish its General Terms and Conditions and any amendments thereto as licensed by the MNB, in a consolidated version on its website, on the day of entry into force of the licence of the MNB at the latest.

(4) In performance of its duties defined in Article 4(5), the MNB shall carry out the functions deriving from the implementation of Regulation No 648/2012/EU of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (hereinafter referred to as 'Regulation 648/2012/EU').

**Article 28/A** In performance of its duties defined in Article 4(5), the MNB, as the relevant authority defined in Article 2(1)(18) of Regulation 909/2014/EU of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation 236/2012/EU (hereinafter referred to as 'Regulation 909/2014/EU') shall carry out the tasks deriving from the implementation of Regulation 909/2014/EU.

**Article 29** The MNB shall, as a competent authority pursuant to Article 10 of Regulation No 260/2012/EU of the European Parliament and of the Council of 14 March 2012 on establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation No 924/2009/EC (hereinafter referred to as 'Regulation 260/2012/EC of the European Parliament and of the Council'), implement Regulation No 260/2012/EU of the European Parliament and of the Council.

### **18. Central bank information system**

**Article 30** (1) In order to perform the tasks defined in Article 4(1) to (9), including the compilation of statistics on monetary, balance of payments and the related stock, securities, financial accounts, money circulation, payment systems, financial stability, as well as macro-prudential statistics and statistics on the system of financial intermediation, the MNB shall operate a central bank information system. Organisations and natural persons defined in the Decree of the governor of the MNB or in an administrative decision of the MNB taken within its supervisory scope of competence pursuant to Article 48(3) shall provide, for the purposes of the central bank information system, the information required.

(2) In order to perform the tasks defined in Article 4(6), the MNB shall operate a statistical system as part of the central bank information system, for the purposes of which it shall be entitled to receive data not qualifying as personal data from bodies of the official statistical service, in a manner suited for individual identification. Individual statistical data provided accordingly may be used solely for statistical purposes, and the central bank information system shall handle such data separately from other data. When handling statistical data within the central bank information system, the MNB shall take all necessary regulatory, technical and organisational measures to ensure the physical and logical security of individual statistical data. The professional content and methodology of the statistical information system operated as part of the central bank information system shall be developed by the MNB in agreement with the Central Statistical Office, having consulted the minister.

(3) Based on information available in the central bank information system, the MNB shall publish information relevant to the operation of the credit institution system and to the financial situation of the country, and shall make such detailed data available to the Parliament, the government and the central administrative bodies upon their request. The MNB shall provide the data available in the central bank information system to the Central Statistical Office for statistical purposes upon its request, in a manner suited for individual identification.

(4) Unless otherwise provided by law, data may only be published in a form which precludes the possibility of identifying information pertaining to individual entities providing the data.

(5) The governor of the MNB may stipulate in a decree the scope of information to be provided to the central bank information system and the method and deadline for data submission thereof, in order to facilitate the execution of the necessary research, analysis and the preparation of decision making preparation required for the performance of the basic tasks of the MNB, in such a manner that the organisations falling under the scope of the Act on credit institutions and financial enterprises, the Act on capital markets (hereinafter referred to as 'Tpt.') and the Act on investment firms and commodity dealers and on the regulations governing their activities (hereinafter referred to as 'Bszt.'), as well as the state tax authority, the pension insurance administration body, the health insurance body, the Central Statistical Office, the Court of Registry, and, in respect of family support and disability benefits, social, child welfare, child protection and public education benefits and allowances financed from the central budget, the treasury shall irreversibly modify, for the purposes of data provision to the central bank information system, the personal data, tax secrets, banking secrets, payment secrets, securities secrets, insurance secrets, fund secrets and individual statistical data managed by them in such a way which prevents the information being associated with the subjects of the data, in order to provide the MNB with information on organisations deprived of their confidential nature, or on natural persons deprived of their personal nature. The governor of the MNB shall designate the organisations providing information in a decree.

(6) The governor of the MNB shall also be entitled to stipulate in a decree the deprivation of information referred to in paragraph (5) of its confidential or personal nature by the transfer of information under an anonymous linking code generated using the encoding methodology made available by the MNB individually to those subject to an obligation of reporting pursuant to paragraph (5). The MNB shall delete the encoding method after making it available but before the submission of information.

(7) The MNB shall be entitled to request the information referred to in paragraph (5) from several different organisations with the anonymous linking code established on the basis of the same encoding method, and to interconnect such information. Such interconnection may not extend to a database managed by the MNB.

(8) The entity subject to an obligation of providing information pursuant to paragraphs (5) and (6) shall be obliged to refuse to submit information if the data cannot be deprived of its confidential or personal nature. The entity subject to an obligation of providing information pursuant to paragraphs (5) and (6) shall notify the MNB of the refusal, including the reasons for such, within the deadline for submitting the information.

(9) The MNB shall establish the method of generating the anonymous linking code and the basis of the code generation as follows:

a) the code generation shall not be based on data identifying organisations or natural persons whose data the MNB is entitled to manage, and

b) the specific individual method of code generation shall contain unique elements selected at random.

(10) In the course of data submission under paragraphs (5) and (6), the organisation providing the information shall modify the data pertaining to the address of natural persons prior to the data submission in such a way that the relevant address cannot be ascertained more precisely than the local region.

(11) After the information has been provided, the MNB shall be obliged to reimburse, based on a detailed statement of costs, the organisations providing information for the justified costs incurred directly in connection with the generation of information pursuant to paragraphs (5) and (6).

(12) The entity subject to an obligation of providing information pursuant to paragraphs (5) and (6) shall not modify the method of code generation, and shall delete it immediately after generating the anonymous linking code, and thereafter shall delete the anonymous linking code immediately after the providing information.

(13) Following the interconnection, the MNB shall irreversibly remove the link between the anonymous linking code and the data received and shall delete the anonymous linking code.

(14) For the purpose of this Article, anonymous linking code shall mean a series of characters generated by a method containing random elements of the data pertaining to the same natural persons or organisations and identifying such natural persons or organisations, whereby the same data always generates the same series of characters, but as a result of which the data identifying the natural person or entity cannot be restored from the generated series of characters.

(15) In the course of statistical activities pursuant to Article 4(6) usage for the purpose of improving statistical methodology and the production of analyses and statistical results shall qualify as usage for statistical purposes in the application of paragraph (2). Statistical results constitute aggregated data and indicators which characterise economic and social phenomena.

## Chapter IV

### Basic tasks related to the identification and management of systemic risks

#### **19. The monitoring of credit supply**

**Article 31** (1) In order to reduce or prevent systemic risks threatening the balanced supply of credit, the MNB shall continuously monitor crediting activity by undertakings performing credit and money lending activities in Hungary. The MNB shall assess the status of the credit cycle regularly.

(2) The MNB shall also monitor the credit and money lending activity of undertakings established in Hungary carried out in other Member States of the European Union or in third countries.

#### **20. Measures to prevent the excessive credit outflow**

**Article 32** (1) If fluctuations emerge, or are likely to emerge, in the outflow of credit as a consequence of which the rate of economic growth substantially deviates from the long-term trend, and as a consequence of which the real economy would probably suffer substantial losses, the governor of the MNB, acting on the basis of the authorisation conferred under Article 171(1) subsection k) ka) pursuant to the decision of the Financial Stability Council adopted within the strategic framework specified by the Monetary Council, specifies the measures required to reduce the risk of excessive credit outflow in a decree.

(2) In the decree referred to in paragraph (1), the governor of the MNB shall establish rules concerning

a) contracts concluded with natural persons in the territory of Hungary in the course of credit and money lending activities

aa) governing the maximum coverage ratio for real estate loans, vehicle financing loans and financial leasing transactions,

ab) the maximum payment-to-income ratio, and

b) with regard to credit institutions and investment firms, in the case of residential and commercial properties located in Hungary

ba) risk weights designed to manage asset bubbles in the real estate sector,

bb) the minimum level of the average exposure weighted loss given default (LGD) values for all retail exposures secured with property.

(3) In his decree referred to in paragraph (2) subsection b) the governor of the MNB shall comply with the following articles of Regulation No 575/2013/EU of the European Parliament and of the Council on prudential requirements for credit institutions and investment firms and amending Regulation No 648/2012/EU (hereinafter referred to as 'Regulation No 575/2013/EU'): specify

a) Article 124 in respect of specifying the risk weights, providing that he will concurrently establish stricter rules for the conditions of applicable to a band between 35 per cent and 150 per cent in the case of residential property and to a band between 50 per cent and 150 per cent in the case of commercial property as well as to preferential risk weights below 100 per cent,

b) Article 164 in respect of specifying the minimum level of the average exposure weighted (LGD), providing that on the basis of financial stability considerations, higher minimum values of exposure weighted average LGD may also be set.

## **21. The countercyclical capital buffer**

**Article 33** (1) The governor of the MNB shall regulate the conditions of the establishment of the countercyclical capital buffer in a decree issued on the basis of the decision of the Financial Stability Council and within the strategic framework laid down by the Monetary Council.

(2) For the countercyclical capital buffer rate, the governor of the MNB – based on the decision of the Financial Stability Council, within the strategic framework specified by the Monetary Council – shall determine the governing capital buffer rate every quarter, to serve as the basis for the determination of the countercyclical buffer rate, taking into consideration

a) the status of the lending cycle,

b) the risks of the excessive outflow of credit,

c) the specificities of the national economy,

d) the percentage rate of the stock of credit to the gross domestic product and its deviation from the long-term trend, and

e) the guidelines of the European Systemic Risk Board for the determination of the countercyclical buffer rate.

(3) The MNB shall publish the methodology that serves as a basis for determining the governing buffer rate in an announcement.

(4) In his decree referred to in paragraph (1), the governor of the MNB shall determine and publish on its website the level of the countercyclical buffer rate taking into consideration the governing capital buffer rate, the guideline



referred to in paragraph 2 subsection e) above and any other factor relating to the stability of the system of financial intermediation. The MNB shall review the level of the countercyclical buffer rate quarterly. The MNB shall disclose the result of this review according to a time schedule.

(5) When the level of the countercyclical capital buffer rate is determined for the first time and it exceeds 0%, and when it increases, the decree of the governor of the MNB referred to in paragraph (1) shall be published 12 months prior to the date of application. If the MNB decides otherwise and determines a shorter period of preparation for the setting aside of the countercyclical capital buffer, it shall publish its detailed reasons on its website in an announcement.

(6) If the level of the countercyclical capital buffer rate is reduced or cancelled, the countercyclical capital buffer rate shall be applicable promptly, and the MNB shall publish, in an announcement on its website, an indicative period during which no increase in the countercyclical capital buffer rate is expected. This announcement shall not be binding for the MNB in reviewing the level of the countercyclical capital buffer rate.

(7)–(9)

## **22. Measures to mitigate systemic liquidity risks**

**Article 34** (1) If warranted by the prevention of the development of systemic risks and the enhancement of the resilience of the system of financial intermediation, the governor of the MNB, acting upon the authorisation conferred in Article 171(1) subsection k) kc), shall require, in a decree, credit institutions and investment firms to implement measures to mitigate systemic liquidity risks. The decree of the governor of the MNB may specify requirements additional to the legal requirements justified by the specific risks of credit institutions, if warranted by the prevention of the development of systemic risks or the enhancement of the resilience of the system of financial intermediation.

(2) On the basis of the decision of the Financial Stability Council, within the strategic framework determined by the Monetary Council, the governor of the MNB shall regulate, in a decree,

a) the maturity match between the assets and liabilities of the institutions referred to in paragraph (1), including off-balance-sheet items,

b) the denomination match between the assets and liabilities of the institutions referred to in paragraph (1), including off-balance-sheet items,

c) the short-term liquidity coverage requirements for the minimum level of liquidity concerning the institutions referred to in paragraph (1).

## **23. Measures to reduce the probability of bankruptcy in systemically important institutions**

**Article 35** (1) The MNB shall determine and annually review Hungarian-seated

a) credit institutions and investment firms of global systemic importance on a consolidated basis,

b) other systemically important credit institutions and investment firms on an individual, sub-consolidated or consolidated basis,

and it shall continuously monitor their operation.

(2) If – pursuant to Article 90 of the Hpt. and Article 110/E of the Bszt. – the MNB determines or modifies the capital buffer applicable to other systemically important credit institutions and investment firms, one month prior to the publication of the relevant decision, it shall inform the competent and designated authorities of the Member States concerned of the following:

a) an explanation as to why the capital buffer is deemed to be effective and proportionate to mitigate the systemic risk posed by systemically important credit institutions and investment firms,

- b) the expected impact of the capital buffer on the internal market,
- c) the capital buffer rate applicable to the systemically important credit institutions and investment firms.

### **23/A. Measures mitigating systemic or macroprudential risks**

**Article 35/A** (1) If warranted by the prevention of the development of non-cyclical systemic risks and the mitigation thereof, and the enhancement of the resilience of the system of financial intermediation, the governor of the MNB – on the basis of the decision of the Financial Stability Council, within the strategic framework determined by the Monetary Council – may determine a capital buffer rate for systemic risk.

(2) The notification specified in Article 141/A (1) shall include the following:

- a) assessment of the systemic or macroprudential risk in Hungary and the impact thereof on the system of financial intermediation,
- b) justification of the necessity of the capital buffer for systemic risk and presentation of its expected efficient and proportionate risk mitigating impact,
- c) assessment of the expected impact of the capital buffer for systemic risk on the single market,
- d) justification of why the measures set forth in the Hpt. and Regulation No 575/2013/EU –with the exception of Articles 458 to 459 of Regulation No 575/2013/EU – cannot adequately address the macroprudential or systemic risk identified, with a detailed presentation of the inadequacy of those measures;
- e) the applicable capital buffer rate for systemic risk.

(3) If the intended capital buffer rate for systemic risk is equal to or less than 3 percent, the MNB may apply it to all exposures defined in Article 92(1) of the Hpt. and Article 110/G (1) of the Bszt. 30 days after giving the notification specified in Article 141/A (1) subsection a) at the earliest, providing that it shall determine an identical capital buffer rate for systemic risk in respect of the exposures in all EEA Member States.

(4) A capital buffer rate for systemic risk intended to be set over 3% for the exposure defined in Article 92(1) subsection b) of the Hpt. and Article 110/G(1) subsection b) of the Bszt. or of over 5 per cent for the exposure defined in Article 92(1) subsections a) and c) of the Hpt. and Article 110/G(1) subsections a) and c) of the Bszt., may only be implemented by the MNB with the prior approval of the European Commission. In such a case, the MNB shall send the draft measure, together with its opinion, to the European Commission, which shall provide the MNB with its opinion within two months.

(5) If the MNB wants to prescribe a capital buffer rate for systemic risk for the exposure defined in Article 92(1) subsections a) and c) of the Hpt. and Article 110/G(1) subsections a) and c) of the Bszt. of between 3 and 5 per cent, it shall send the draft measure in advance, together with its opinion, to the European Commission, and may only introduce the capital buffer rate for systemic risk pursuant to this paragraph after receipt of the European Commission's preliminary opinion.

(6) If in its opinion referred to in paragraph (4) the European Commission opposes to the implementation of the capital buffer for systemic risk at the rate planned by the MNB according to paragraph (4), the MNB shall act in compliance with the opinion of the European Commission.

(7) If the European Commission opposes the implementation of the capital buffer rate for systemic risk at the rate planned by the MNB according to paragraph (5) in its opinion defined in paragraph (5), the MNB may introduce the capital buffer rate for systemic risk stated in its draft measure without taking the counteropinion into consideration, but shall furnish a detailed explanation on its decision to the European Commission.

(8) In the case defined in paragraph (5), if a subsidiary of a parent credit institution established in another EEA Member State is affected, the MNB shall notify and consult with all other relevant supervisory authorities affected in the matter, simultaneously notifying the European Commission. If the other affected relevant supervisory authorities

and the MNB disagree on the proposal sent to the European Commission, or the European Systemic Risk Board issues a counteropinion to the introduction of the capital buffer rate for systemic risk within one month of the proposal's submission to the European Commission, the MNB shall initiate a consultation with the European Banking Authority. In the context of this consultation, the European Banking Authority's opinion shall not be binding vis-à-vis the MNB.

(9) The MNB may recognise the capital buffer rate for systemic risk determined in another EEA Member State – taking into consideration the information received under Article 141/A(1) subsection a) – and require credit institutions and investment firms established in Hungary to apply it in respect of their exposures in the relevant EEA Member State.

(10) The MNB may request the European Systemic Risk Board to issue a recommendation to one or more EEA Member States in respect of the recognition of the capital buffer rate for systemic risk determined by the MNB.

#### **24. Additional tasks relating to the management of systemic risk**

**Article 36** If there are circumstances owing to which the operation of a credit institution jeopardises the stability of the financial system, the MNB may extend an extraordinary credit to the credit institution, complying with the prohibition of monetary financing defined in Article 146.

**Article 37** In urgent, extraordinary cases which threaten the stability of the financial system as a whole and the smooth execution of payments, the MNB – considering it independently – may grant a credit to the National Deposit Insurance Fund and the Investor Protection Fund at their request, complying with the prohibition on monetary financing defined in Article 146; the maturity of such a loan may not exceed three months.

**Article 38** The performance of the task defined in Articles 31 to 37 shall be without prejudice to the performance of the tasks of the MNB set forth in Article 4(1) and the tasks arising from MNB's membership in the European System of Central Banks.

### Chapter V

#### Supervisory tasks

**Article 39** (1) Unless otherwise provided for by an act, the MNB, in the performance of its duties set out in Article 4(9), shall perform the supervision of organisations, persons and activities governed by:

- a) the Act on voluntary mutual insurance funds,
- b) the Act on the Hungarian Export-Import Bank Limited Company and the Hungarian Export Credit Insurance Limited Company,
- c) the Act on credit institutions and financial enterprises,
- d) the Act on home savings and loan associations,
- e) the Act on mortgage loan companies and mortgage bonds,
- f) the Act on private pensions and private pension funds,
- g) the Act on the Hungarian Development Bank Limited Company,
- h) the Tpt.,
- i) the Act on insurance institutions and the insurance activity,
- j) the Act on the distance marketing of consumer financial services,

k) the Act on occupational retirement pension and institutions for occupational retirement provision (hereinafter referred to as 'Fnytv.'),

l) the Bszt.,

m) Act on collective investment forms and their managers and on the amendment of certain financial acts (hereinafter referred to as 'Kbftv.'),

n) the Act on reinsurance (hereinafter referred to as 'Vbit.');

o) the Act on the pursuit of the business of payment services, and

p) the Act on insurance against civil liability in respect of the use of motor vehicles (hereinafter referred to as 'Gfvt.'),

q) the Act on the central credit information system,

r) the Act on settlement finality in payment and securities settlement systems,

s) the Act on certain payment service providers.

(2) In the performance of its duties set forth in Article 4(9), the MNB shall supervise the activities of lenders offering commercial loans, in respect of the activities covered by Act on consumer credit.

(3) In the performance of its duties set forth in Article 4(9), the MNB shall exercise the supervisory functions defined in Act CXXXVI of 2007 on the prevention and combating of money laundering and terrorist financing (hereinafter referred to as 'Pmt.') as regards the service providers specified in Article 1(1) subsections a) to e) and l) of the Pmt.

**Article 40** (1) In the performance of its duties set forth in Article 39(3), the MNB shall implement Regulation No 1781/2006/EC of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds.

(2) In the performance of its duties set forth in Article 39(1) subsection l), the MNB shall implement Commission Regulation No 1287/2006/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive.

(3) In the performance of its duties set forth in Article 39(1) subsection h), the MNB shall implement Commission Regulation No 809/2004/EC of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements.

(4) In the performance of its duties set forth in Article 4(9), the MNB shall implement Regulation No 924/2009/EC of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation No 2560/2001/EC.

(5) In the performance of its duties set forth in Article 4(9), the MNB, as the competent authority pursuant to Article 22(1) of Regulation No 1060/2009/EC of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (hereinafter referred to as 'Regulation No 1060/2009/EC of the European Parliament and of the Council'), shall implement Regulation No 1060/2009/EC of the European Parliament and of the Council and supervise such Regulation pursuant to Article 25a.

(6) In the performance of its duties set forth in Article 39(1) subsection m), the MNB shall implement Commission Regulation No 583/2010/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards key investor information and conditions to be met when providing key investor information or the prospectus in a durable medium other than paper or by means of a website as well as Commission Regulation No 584/2010/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards the form and content of the standard notification letter and UCITS attestation, the use of electronic

communication between competent authorities for the purpose of notification, and procedures for on-the-spot verifications and investigations and the exchange of information between competent authorities.

(7) In the performance of its duties set forth in Article 4(9), as the competent authority referred to in Article 32 of Regulation No 236/2012/EU of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps (hereinafter referred to as 'Regulation No 236/2012/EU of the European Parliament and of the Council'), the MNB shall implement Regulation No 236/2012/EU of the European Parliament and of the Council.

(8) In addition to the tasks specified in Article 28(4), in the performance of its duties set forth in Article 4(9) the MNB shall, as the competent authority pursuant to Article 2(13) of Regulation 648/2012/EU, perform tasks relating to the implementation of Regulation 648/2012/EU.

(9) In the performance of its duties set forth in Article 4(9), the MNB shall function as the competent authority referred to in Article 43 of Commission Regulation No 1031/2010/EU of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community (hereinafter referred to as 'Commission Regulation No 1031/2010/EU') as regards the implementation of Articles 37-42 of Commission Regulation No 648/2012/EU.

(10) In the performance of its duties set forth in Article 4(9), the MNB shall be responsible for the implementation of Regulation No 575/2013/EU.

(11) The MNB performs the execution of Regulation No 345/2013/EU of the European Parliament and of the Council of 17 April 2013 on European venture capital funds in the context of its functions defined in Article 39(1) subsection (m).

(12) The MNB performs the execution of Regulation No 346/2013/EU of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds in the context of its functions defined in Article 39(1) subsection (m).

(13) The MNB performs the execution of Commission Implementing Regulation No 447/2013/EU 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 in the context of its functions defined in Article 39(1) subsection (m).

(14) The MNB performs the execution of Commission Implementing Regulation No 448/2013/EU 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 in the context of its functions defined in Article 39(1) subsection (m).

(15) In the context of its tasks defined in Article 39(1) subsection m), the MNB shall perform the tasks arising from the implementation of Commission Delegated Regulation No 231/2013/EU 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.

(16) In addition to the tasks specified in Article 28/A, the MNB, in the context of its tasks defined in Article 4(9) and acting as the relevant authority pursuant to Article 2(1)(17) of Regulation 909/2014/EU, shall perform the tasks relating to the implementation of Regulation 909/2014/EU.

(17) The MNB, in the context of its tasks defined in Article 39(1) subsection m), shall perform the tasks arising from the implementation of Commission Delegated Regulation 2015/514/EU of 18 December 2014 on the information to be provided by competent authorities to the European Securities and Markets Authority pursuant to Article 67(3) of Directive 2011/61/EU of the European Parliament and of the Council.

(18) The MNB, in the context of its tasks defined in Article 39(1) subsection m), shall implement Regulation 760/2015/EU of the European Parliament and of the Council of 29 April 2015 on European Long-term Investment Funds.

**Article 41** (1) In the performance of its duties set forth in Article 4(9), the MNB shall implement Regulation No 2006/2004/EC of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws in respect of violations within an European Economic Area (hereinafter referred to as 'EEA') Member State of laws of Member States transposing

a) Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC,

b) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts,

c) Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services, and

d) Directive 2005/29/EC of the European Parliament and of the Council of 11 May 2005 concerning unfair business-to-consumer commercial practices in the internal market and amending Council Directive 84/450/EEC, Directives 97/7/EC, 98/27/EC and 2002/65/EC of the European Parliament and of the Council and Regulation No 2006/2004/EC of the European Parliament and of the Council, in respect of commercial practices related to the activities within its scope of supervision.

(2) In implementing decisions adopted in proceedings referred to in paragraph (1) in the course of mutual assistance, the MNB shall proceed in accordance with Commission Decision 2007/76/EC of 22 December 2006 implementing Regulation No 2006/2004/EC of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance.

**Article 42** the MNB shall, in the performance of its duties set out in Article 4(9),

a) evaluate applications submitted for authorisation and other submissions;

b) keep the records delegated to the authority of the MNB by the acts specified in Article 39,

c) monitor the reporting systems and reporting of the persons and bodies covered by the acts referred to in Article 39,

d) supervise compliance with Hungarian legal regulations and European Union Acts within its scope of competence regarding the operation and activities of the persons and bodies covered by the acts referred to in Article 39 as well as implementation of the decisions of the MNB,

e) oversees the operation of financial markets relying on the data and information supplied by the persons and bodies covered by the acts referred to in Article 39, and on facts which are officially known or are in the public domain,

f) facilitate the work of the board of directors of the National Deposit Insurance Fund and the preparation and implementation of its decisions;

g) open market surveillance procedures upon gaining cognisance of operations conducted without authorisation or notification; where there is suspicion of insider dealing or market manipulation (hereafter including insider dealing and market manipulation under Articles 37 to 42 of Commission Regulation No 1031/2010/EU); to verify compliance with the rules relating to the obligation of notification and disclosure of insiders and the restrictions on uncovered positions set forth in Articles 5 to 8 and Articles 12 to 14 of Regulation No 236/2012/EU of the European Parliament and of the Council, respectively,

h) cooperate with foreign financial authorities, in particular the financial supervisory authorities of the Member States of the EEA,

i) meet disclosure requirements and notification requirements to the European Commission within its sphere of competence set out in Article 4(9),

j) discharge notification and information obligations in connection with the establishment of branches and performance of cross-border activities, and cooperate with the financial supervisory authorities of the Member States of the EEA exercising financial supervision with a view to conducting the necessary examinations in respect of the operation of branches,

k) cooperate in discovering and eliminating obstacles that hamper the development of voluntary mutual insurance funds and private pension funds, and the guarantee fund of these funds, and in coordinating the cooperation of such entities with the social security authorities,

l) monitor compliance with the regulations and principles related to the acquisition of participating interests in public limited companies;

m) cooperate with the supervisory authority of public warehouses in the course of authorisation and control procedures pursuant to the Act on public warehousing;

n) control the activities of insurance companies, the party managing the Compensation Fund, the party managing the Claims Guarantee Fund, the Claims Organisation, the Information Centre, the National Bureau and claims adjustment representatives defined in the Gfbt.,

o) perform supplementary supervision pursuant to the Act on the supplementary supervision of financial conglomerates.

**Article 43** (1) The MNB shall operate a public electronic information system in order to ensure that the information to be provided with the assistance of the MNB to the general public by the persons and bodies covered by the acts referred to in Article 39 is publicly available.

(2) The MNB shall publish on its website

a) the list of bodies and persons the MNB has authorised or registered, including the type of authorisation issued,

b) the list of foreign competent supervisory authorities with which the MNB has supervisory cooperation agreements,

c) internet links to the regulations in force which are applicable to financial organisations and investment firms,

d) the criteria and methods employed in the course of regulatory review and assessment of the capital requirements of entities covered by the acts referred to in Article 39,

e) aggregate statistical data and related analysis on the application of legal regulations pertaining to the functioning, capital adequacy and prudential requirements of credit institutions and investment firms,

f) the recommendations describing the fundamentals of the procedural practices of the MNB regarding the supervised persons and organisations followed in performance of its duties defined in Article 4(9),

g) the range of options permitted by European Union Acts and the method and principles for exercising its relevant discretionary powers,

h) the methodology and principles applied to the review and assessment of remuneration,

i) the number and nature of decisions adopted due to the violation of the Hpt. and Regulation No 575/2013/EU, as well as in the case of supervisory measures,

j) for the purposes of Part Five of Regulation No 575/2013/EU, the general criteria and methods applied in the course of auditing compliance with Articles 405 to 409 of Regulation No 575/2013/EU, the summary of the results of the supervisory review of compliance with Articles 405 to 409 of Regulation No 575/2013/EU and the summary of the measures adopted in the event of non-compliance with Articles 405 to 409 of Regulation No 575/2013/EU,

k) the criteria applied in respect of Article 7(3) subsection a) of Regulation No 575/2013/EU, and the following details pursuant to Article 7(3) of Regulation No 575/2013/EU:

ka) the number of exempted parent companies and the number of parent companies with a subsidiary in a third country,

kb) the aggregate amount of own funds of exempted parent companies, calculated on a consolidated basis, and the aggregate amount of the own funds of the subsidiaries in third countries,

kc) the ratio of own funds of the subsidiaries in third countries to the aggregate amount of the own funds calculated on a consolidated basis,

kd) the ratio of own funds of the subsidiaries in third countries to the aggregate amount of own funds calculated on a consolidated basis as stipulated in Article 92 of Regulation No 575/2013/EU,

l) the criteria applied in respect of Article 9(1) of Regulation No 575/2013/EU, and the following details pursuant to Article 9(1) of Regulation No 575/2013/EU:

la) the number of exempted parent companies and the number of parent companies with a subsidiary in a third country,

lb) the aggregate amount of own funds of exempted parent companies, calculated on a consolidated basis, and the aggregate amount of the own funds of the subsidiaries in third countries,

lc) the ratio of own funds of the subsidiaries in third countries to the aggregate amount of the own funds calculated on a consolidated basis,

ld) the ratio of own funds of the subsidiaries in third countries to the aggregate amount of own funds calculated on a consolidated basis as stipulated in Article 92 of Regulation No 575/2013/EU,

m) concurrently with the measures specified in Article 33(4),

ma) the percentage rate of the stock of credit to the gross domestic product and its deviation from the long-term trend,

mb) the governing buffer rate,

mc) the countercyclical capital buffer rate and the reasons for its determination,

md) the dates specified in Article 33(5) and (6),

n) if the MNB, pursuant to Article 88(4) subsection a) of the Hpt., obliges credit institutions to apply a countercyclical capital buffer rate exceeding 2,5 percent, or if the MNB, pursuant to Article 88(3) and (5) of the Hpt, determines a countercyclical capital buffer rate to the operations of credit institutions in a third country,

na) the applicable countercyclical capital buffer rate,

nb) the list of the EEA Member State or third country where the countercyclical capital buffer rate shall be applied to the risk-weighted exposure of the operations pursued by the credit institution,

nc) the date of effect of the countercyclical capital buffer rate, when it is determined for the first time or when it increases, and

nd) justification if the time period between the publication and the date referred to in point nc) is less than 12 months,

o) In respect of the capital buffer rate for systemic risk applicable pursuant to Article 35/A (1)



- oa) the capital buffer rate for systemic risk,
- ob) the scope of credit institutions or investment firms affected,
- oc) the reason for implementing a capital buffer rate for systemic risk, unless its disclosure jeopardises the stability of the system of financial intermediation,
- od) the starting date for generating the capital buffer rate for systemic risk, and
- oe) the list of EEA Member States and third countries with a capital buffer rate for systemic risk recognised by the MNB,
- p) the updated list of other systemically important institutions and global systemically important institutions, and the assignment of the latter into sub-categories, and
- q) the methodology applied to determine the governing buffer rate.

(2a) The MNB shall meet its disclosure obligation under paragraph (2)

- a) regularly, but at least once a month,
- b) on a standard electronic platform, in a transparent manner.

(3) The content and form of the information published by the MNB pursuant to paragraph (2) subsections c) to f), h) and j) to p) shall facilitate comparison with the approaches and methodologies adopted by the financial supervisory authorities of other Member States.

(4) In the course of the disclosures defined in paragraph (2), the MNB shall comply with the relevant legislation on the protection of personal data, banking secrets, payment secrets, securities secrets, fund secrets, insurance secrets, occupational retirement secrets and business secrets.

**Article 44** (1) In the performance of its duties set forth in Article 4(9), the MNB shall cooperate with the Hungarian Competition Authority and other authorities supervising the persons and entities covered by the acts referred to in Article 39.

(2) In order to discharge its duties set out in Article 4(9), the MNB shall enter into cooperation agreements and – pursuant to relevant legislation – exchange information with foreign financial supervisory authorities with a view to exercising supervision on a consolidated basis and supplementary supervision, and promoting the process of integration. Foreign financial supervisory authorities shall mean any authorities vested with powers under their national law to discharge any of the responsibilities conferred on the MNB in Article 4(9).

(3) The MNB shall participate in supporting the preparation and publication of studies related to the provision of information to customers of the persons and entities covered by the acts referred to in Article 39, to the reinforcement and promotion of financial literacy and to supervisory and supervised activities, as well as the activities of non-governmental consumer protection organisations.

(4) In the implementation of its tasks set out in Article 4(7) to (9), the MNB shall consider the impact of its decisions on the stability of the financial systems of the other Member States concerned.

### ***PART THREE***

#### ***Procedures of the MNB***

##### **Chapter VI**

###### **Common provisions relating to administrative proceedings**

**Article 45** The MNB shall act as an authority in

- a) exercising continuous supervision over the persons, organisations and activities subject to the acts specified in Article 39(1) under its scope of responsibilities set forth in Article 4(9),
- b) within the framework of its responsibilities set out in Article 4(8) in exercising the entitlement provided for in the Act on the development of the institutional framework intended to enhance the security of members of the system of financial intermediation,
- c) designating and withdrawing designations under the Act on settlement finality in payment and securities settlement systems under its scope of responsibilities set forth in Article 4(5),
- d) licensing the production or the arrangement for the production of imitations of Hungarian legal tender in circulation and of banknotes and coins already withdrawn from circulation by the MNB, which can still be converted to legal tender, under its scope of responsibilities set forth in Article 4(2), and
- e) monitoring compliance with the provisions of this Act, the decrees of the governor of the MNB and the decisions of the MNB,
- f) in the course of imposing requirements for the creation of a capital buffer for globally and other systemically significant credit institutions and investment undertakings and the creation of a capital buffer against systemic risk within the meaning of Article 35/A (1) proceeding in the context of its duties defined in Article 4 (7), in accordance with Articles 89 and 90 of the Hpt. and Articles 110/D and 110/E of the Bszt.

**Article 46** The provisions of the Act on the general rules of administrative proceedings (hereinafter referred to as 'Ket.')

 shall apply to the administrative proceedings of the MNB, subject to the exceptions defined in this Act and in:

- a) the Act on the prohibition of unfair business-to--consumer commercial practices, the Act on the basic requirements and certain restrictions of commercial advertising activities, and the Act on certain issues of electronic commerce services and information society services,
- b) the Act on the development of the institutional framework intended to enhance the security of members of the system of financial intermediation, and
- c) the special procedural rules applicable to the specific cases specified in the acts defined in Article 39(1) in proceedings other than those mentioned in subsection a) and b).

**Article 47** (1) In the licensing, control,market surveillance procedures of MNB and in the context of the procedure defined in Article 45 subsection f), client means those

- a) with respect to whom the MNB is entitled to establish rights or obligations,
- b) whom the MNB subjects to its control,
- c) who have submitted an application for licensing to the MNB,
- d) with respect to whom the authentic official register maintained by the MNB contains data.

(2) Upon request, the MNB shall inform the person or entity initiating an ex officio procedure exclusively about the fact of launching and closing the procedure and the measures applied.

**Article 48** (1) Within the scope of its activities defined in Article 45 subsection a), the MNB shall conduct

- a) licensing procedures,
- b) control procedures,

- c) consumer protection proceedings and
- d) market supervisory proceedings.

(1a) In the context of the continuous supervision defined in Article 45 subsection a), the MNB shall consider the potential impact of its decisions on the Hungarian system of financial intermediation and the affected financial systems of the European Union, taking into account the information available at the time. During times when financial markets are affected by extraordinary movements, the MNB shall take into account the potential procyclical impact of its activities.

(2) The MNB shall perform its supervisory activity defined in Article 39 and the resolution function provided for in the Act on the development of the institutional framework intended to enhance the security of members of the system of financial intermediation by way of on-site inspections and the verification and analysis of data derived from regular and extraordinary data provision, documents submitted to the MNB and facts the MNB is officially aware of.

(2a) The MNB shall draw up or review its control plan in connection with its procedures defined in paragraph (1) subsections b) to d), containing inter alia the subject matter of scheduled inspections, the period inspected, the timetable and means of the inspections, the inspection criteria and the continuous control task.

(2b) The MNB publishes the control plan on its website. The control plan shall be disclosed in a manner and to the extent so as not to jeopardise the outcome of the inspections.

(3) In the interests of obtaining the information necessary for continuous supervision, the MNB may prescribe regular or extraordinary data provision obligation for the entities or persons covered by the acts defined in Article 39(1) and by the Act on the development of the institutional framework intended to enhance the security of members of the system of financial intermediation.

(4) If called upon by the MNB, the persons and entities covered by the acts defined in Article 39(1) and by the Act on the development of the institutional framework intended to enhance the security of members of the system of financial intermediation shall be obliged to provide information requested by the MNB concerning their activities required for the performance of MNB's tasks and prepare and make available to the MNB, in the format specified by the MNB, data, reports, certificates, audit documentations, accounting records, regulations, documentation related to individual transactions, the proposals and minutes of the meetings of their supreme bodies, their managing and supervisory bodies, the written findings of the auditors, audit reports, reports and protocols of internal audits, and reports in a specific format and breakdown, concerning their activities and relating to the administrative proceedings.

(5) The MNB may also directly apply the measure specified in Article 75(1) on the basis of the facts of which it is officially aware.

**Article 49** (1) Article 10(2), Article 29(3) subsection b), Article 33/A and Article 49 of the Ket. shall not be applicable to the administrative proceedings of the MNB.

(2) In the course of its administrative proceedings, the MNB may determine the way of performing the data reporting obligation in derogation of the rules defined in the Ket. concerning electronic means of communication construed as provided in writing.

(3)

**Article 50** (1) In its administrative proceedings, the MNB shall be entitled – in the absence of a client with contrary interests – to waive the mandatory use of the Hungarian language and of the submission of documents in Hungarian. In such cases the MNB may require the preparation of a Hungarian language summary of the documents.

(2) Following application of the provisions of paragraph (1), the MNB shall provide the documents at its disposal to the other participants of the proceedings, with the exception of the client's representative, and to other authorities in the language of the proceedings and, in the absence of their declaration to the contrary, in a Hungarian translation. The costs of translation shall be borne by the MNB.

(3) Paragraph (1) shall not apply in proceedings concerning the foundation, the licensing of activities and the acquisition of a qualifying interest, in the course of which clients are required to provide certified Hungarian translations of the documents.

**Article 50/A** (1) Postal consignments of official documents delivered to the permanent or ordinary residence of natural person clients or to the address of their authorised proxy, or the registered office of clients other than natural persons kept on record in the trade register or court records in case of non-governmental organisations, or the address of their authorised proxy, or to the Hungarian proxy or agent for service of process for non-resident persons with no permanent residence or registered office in Hungary, shall be deemed served

a) on the day of attempted service if the addressee or other person authorised to accept the document refuses or deliberately inhibits acceptance, or if service at the address reported by the addressee is failed due to the addressee being unknown at or, according to postal records, reportedly having moved from such address, or if the addressee has deceased (or been dissolved),

b) if the document is returned to the sender marked unclaimed, the document shall be considered served on the fifth working day following the day of the second postal delivery attempt, unless proven to the contrary.

(2) If the MNB serves its administrative decision itself without resorting to postal delivery, the decision shall be deemed served on the day of attempted personal delivery even if the person authorised to accept official documents at the non-natural person's registered office kept on record in the trade register or, in case of non-governmental organisations, in court records, refuses to accept service.

(3) If the client has several proxies, the MNB shall serve the document to the proxy designated by the client in writing for receiving documents or, in the absence of such written designation, to the proxy chosen by the MNB itself.

(4) In all other matters, the provisions of the Ket. on presumption of service and refutation thereof shall apply, with due consideration of the derogations set forth in this Act.

**Article 51** (1) In its proceedings, the MNB shall be entitled to request data from the criminal records system under the Act on the criminal records system, on the register of rulings brought against Hungarian citizens by courts of the Member States of the European Union and on the records of criminal and law enforcement biometric data.

(2) The data request pertaining to the persons covered by the acts defined in Article 39 shall be limited to the information necessary to establish whether any of the disqualifying factors specified by the act laying down the conditions for the pursuit of the activity concerned apply to the data subject.

**Article 52** (1) A procedural fine may be imposed upon the client, other participants of the proceedings and the person obliged to collaborate if, in the course of the procedure, he acts or behaves in a manner which is designed to or results in prolonging or impeding the procedure or frustrating the identification of the true facts of the case.

(2) The lowest amount of the procedural fine shall be fifty thousand forints, its highest amount shall be ten million forints, and the requirement of proportionality shall be borne in mind while imposing it.

(3) The request for a court review against the ruling imposing a procedural fine shall have no suspensory effect on the execution of the ruling.

**Article 53** (1) In respect of its decisions made in administrative proceedings, the MNB shall publish on its website

a) the number and subject of the decision;

b) the name and registered address of clients, other than natural persons, involved in the administrative proceedings, and

c) the operative part of the decision, exclusive of information on the available remedy if the decision is final.

(1a) In addition to paragraph (1), in its final decision adopted under Articles 185, 189 to 192 of the Hpt., of Article 400(1) subsection o) subpoint 2 of Tpt., Article 400(1) subsection w) of Tpt. and Article 164 of the Bszt. and disclosed in compliance with paragraph (1) above, the MNB will identify the name of the offender natural person.

(2) In the publication referred to in paragraph (1) in the case of decisions on the authorisation of appointments, the MNB shall publish, in addition to the information defined in paragraph (1), the family name and first name of the officer authorised to enter into office.

(3) The MNB shall not publish its decision if such publication would jeopardise the stable and smooth operation of the system of financial intermediation.

(3a) The publication obligation defined in paragraph (1) only applies to resolutions that are issued in consumer protection proceedings launched ex officio and stipulate measures, as well as to resolutions that are issued in market surveillance proceedings and stipulate measures.

(4) The MNB shall publish its decision on the measures or extraordinary measures specified in the Hpt., Tpt. and Bszt., as well as its decision on the imposition of a fine anonymously, if disclosure

a) is disproportionate to the infringement committed by the natural person,

b) causes disproportionate disadvantage to the natural person or legal entity, or

c) jeopardises a criminal proceedings in progress.

(5) At its discretion, the MNB may postpone – for 30 days at most – the publication of the decision on the measures or extraordinary measures specified in the Hpt., Tpt. and Bszt., or on the imposition of a fine, if the unlawful conduct is expected to discontinue within a short time period (maximum 30 days), and the infringement does not jeopardise the safe operation and the protection of the clients of the legal entity, and the stability of the system of financial intermediation.

(6) The MNB shall make its decision on the measures or extraordinary measures specified in the Hpt., Tpt. and Bszt., or on the imposition of a fine available on its website for at least 5 years, but not longer than for 10 years.

**Article 53/A** (1) The provisions of the Ket. on the ex officio amendment and withdrawal of decisions issued in the context of administrative powers shall be applied with the derogation defined in paragraph (2).

(2) Prior to the announcement of the decision of a court proceeding in public administrative cases, the MNB may amend the performance deadline stated in its decision ex officio even if it does not violate any laws and the conditions defined in Article 74(2) of the Ket. do not prevail, however the amendment shall not render the decision more burdensome for the client. The amendment upon request of the performance deadline stated in the decision is only possible on the basis of Article 74(2) of the Ket. In the event of any amendment of the decision, the MNB will notify the proceeding court.

**Article 54** (1) With the exception of the fee specified in separate legal regulations to be paid to the MNB and the payment of fines imposed by the MNB, the provisions of the Ket. on enforcement procedures shall not be applicable in the proceedings of the MNB.

(2) In respect of obligors keeping a payment account with the MNB, overdue claims arising from a resolution for payment shall be collected by direct satisfaction.

(3) The fines imposed by the MNB in a final decision and not paid in a due time, as well as the penalty interest for delay imposed by final decision because of fines not paid in due time shall be enforced by the state tax authority as taxes. The MNB shall append a copy of the final resolution to such requests made to the state tax authority.

**Article 55** (1) The decisions of the MNB may not be appealed. The client may request a judicial review of MNB's resolutions and rulings subject to independent legal remedy from the Budapest Court of Public Administration and Labour.

(2) In the event of any omission by the MNB, the Budapest Court of Public Administration and Labour shall, at the client's request, instruct the MNB to conduct proceedings.

(3) The MNB may impose ex officio the suspension of the enforcement of a decision contested in court, in part or in full, until the decision on the suspension of judicial enforcement or the binding decision on the review is issued. If the obliged party fulfils the stipulations of the decision despite the suspension, no claims for damages will be admitted in the context of claims as defined in Article 56.

**Article 56** A claim for damages or compensation against the MNB — on the grounds of damaged caused or the violation of rights related to personality in the context of public administrative functions —, may be enforced if the MNB's resolution or omission was unlawful and the damage sustained or the violation of rights related to personality on which the compensation claim is based was caused directly by such resolution or omission, and the resolution against the MNB issued in the administrative action opened in relation to the injurious MNB decision causing the violation has become final in the event of the MNB having lost the case at least in respect of the decision or omission serving as the grounds for damages or compensation.

**Article 57** (1) The MNB may use individual data received from foreign financial supervisory authorities in the course of international cooperation within its scope of responsibilities set forth in Article 4(9) exclusively for the following purposes, and it may release data to foreign financial supervisory and resolution authorities and the organisation defined in Article 140(1) subsection a) for the following purposes:

a) to assess applications for licensing foundation and activities to audit compliance with the provisions of the licence, to assess the prudential operation of organisations, and for court proceedings relating to resolutions or the MNB;

b) to lay down the grounds for the decisions of the financial supervisory and resolution authority, in particular for the measures applied and the sanctions imposed, and

c) to carry out the duties defined by legal acts of the European Union in the context defined by the legal acts of the European Union for the organisations specified in Article 140(1) subsection a).

(2) Data supplied or received within the framework of supervisory cooperation may be forwarded to third parties on the basis of the prior written consent of the authority providing the data, provided that all the miscellaneous conditions of forwarding data are met.

(3) In its administrative proceedings, the MNB shall manage the personal data obtained pursuant to this Act or the acts defined in Article 39 for a maximum period of five years from the time of termination of the data subject's status which is subject to authorisation or registration.

(4) The MNB shall be entitled to manage the data specified in Article 51 until the resolution made in administrative proceedings or the ruling terminating the proceedings becomes final, or until the conclusion of court proceedings including its legal remedy stage.

(5) The MNB shall be authorised to know and handle the personal data of the client and other participants of the proceedings. Where evidence contains personal data unrelated to the subject matter of the proceedings, and the separation of the data cannot be removed without compromising the probative value of the evidence in question, the MNB shall be entitled to handle all personal data affected by the evidence, however, it shall be entitled to examine the personal data unrelated to the infringement subject to the investigation only to the extent required to ascertain that the data is not related to the infringement being investigated.

(6) Data processed by the MNB may only be transmitted to a foreign financial supervisory authority if the conditions defined in Article 8 of Act CXII of 2011 on informational self-determination and freedom of information (hereinafter referred to as: 'Infotv.')

Article 8(4) of the Infotv. shall govern the data transmission to authorities functioning as financial supervisions in the members States of the European Economic Area (hereinafter referred to as: 'EEA Member States') and the organisations defined in Article 140(1) subsection a).

(7) The MNB may hand over secrets specified in Article 150(1) to the authority performing public supervisory auditing duties and acting within the scope of its functions. The persons exercising public supervisory powers are bound by a confidentiality obligation in terms of these secrets.

**Article 57/A** Article 12/A of Act XXXIV of 2004 on small and medium-sized enterprises and the supporting of their development shall not be applied in the procedures defined in Article 48(1) subsection b) to d).

## **25. Electronic communication**

**Article 58** (1) In the proceedings under Annex No. 1, communication between the MNB and entities covered by the acts defined in Article 39 (hereinafter referred to collectively as 'entity obliged to maintain electronic communication') shall be conducted electronically via the electronic interface operated by the MNB the mail storage facility for the entity obliged to maintain contact electronically, through the mail storage facility dedicated to the entity obliged to maintain electronic communication.

(2) When placing a document in the mail storage facility, the MNB shall send notifications to up to five electronic mail addresses specified by the entity obliged to maintain electronic communication. Such notification shall have no legal effect.

(3) If the recipient fails to take receipt the document within eight days of its placement in the mail storage facility, the document in question shall be deemed to have been delivered on the ninth day following the date of its placement in the mail storage facility. If the document placed at the place of delivery pertains to the notice, supplement to the base prospectus or prospectus or the suspension of the marketing procedure, it shall be regarded as delivered on the working day following its placement. The MNB shall receive an automatically generated electronic read receipt (electronic acknowledgement of receipt) of service and of the presumption of service.

(4) The MNB shall keep the document in the mail storage facility until the last day of the period open for ordinary and extraordinary possibilities of legal remedy which are available upon request (hereinafter referred to as 'retention period'). On the last day of the retention period the MNB shall remove the document from the mail storage facility, after which the entity obliged to maintain electronic communication may request it to be re-sent by electronic means.

(5) If for any reason the mail storage facility of the MNB is out of service on working days for at least four hours, that day shall not be included in the time limit referred to in paragraph (3) above. The MNB shall publish on its website the days which are not included in such time limits.

(6) Within the framework of electronic communication under this Act, the service performed by the MNB is construed as a secure delivery service.

## **Chapter VII**

### **Certain administrative proceedings**

## **26. Authorisation proceeding**

**Article 59** (1) Unless otherwise provided by law, in proceedings opened on request applicants shall pay an administrative fee. The level of the administrative fee, together with the detailed rules governing its collection, management, recording and refund, shall be established by the governor of the MNB in a decree.

(2) Applicants shall declare that they have disclosed to the MNB all relevant facts and data required for the authorisation.

(3) In the course of the authorisation procedure, the MNB shall take into consideration all the available documents, data and information related to the application and ascertain, by way of on-site inspection where necessary, that the granting of the authorisation does not conflict with any legal provision.

(4) In the authorisation, approval and registration procedures, de-registration proceedings and notifications governed by the legislation referred to in Article 39(1) subsections a), c), f), h), i), k), l), m) and s) and Article 40(10), applications or notifications shall be submitted on the printed or electronic forms provided for this purpose.

**Article 60** (1) Where the administrative time limit is thirty days, the MNB shall send a call for the remedy of deficiencies within fifteen days.

(2) Applications may not be amended in any proceedings of the MNB, with the exception of the remedy of deficiencies and the case described in Article 52(6).

(3) If the MNB has called on the applicant to remedy deficiencies or to amend or supplement the application, the administrative time limit shall be calculated the time when deficiencies are remedied in full.

**Article 61** (1) The administrative time limit in the MNB's proceedings — with the exceptions defined in paragraphs (2) to (5) — shall be thirty days.

(2) The administrative time limit in the proceedings for the authorisation of foundation, merger, demerger, for the issuance of operating licenses, for the cessation of operations, and for the procedure defined in Article 45 subsection c) shall be three months, which may be extended once by a maximum period of three months.

(3) The administrative time limit in proceedings for the authorisation of portfolio transfer shall be two months, extendable once by at most two months.

(4) The administrative time limit in proceedings for the authorisation and approval within the MNB's competence on the basis of Regulation 575/2013/EU shall be three months, which may be extended once in warranted cases by a maximum of three months.

(5) If a directly applicable legal act of the European Union established a different time limit for proceedings within the competence of the MNB, the rules defined in paragraphs (1) to (4) shall not be applicable.

(6) If the application submitted by the client in the proceedings referred to in paragraphs (2) and (3) is deficient, the MNB shall call on the applicant once to remedy deficiencies within thirty days.

(7) If the complete application and its enclosures fail to satisfy the requirements set out in the relevant legislation or contain unreasonable or inappropriate provisions, the MNB shall, within thirty days of receiving the complete application, call on the client to supplement or amend the application or its enclosures within the specified time limit.

(8) In its call for the supplementation or amendment of the application, the MNB shall warn the client that in the event of non-compliance the MNB shall assess the application on the merits based on the data available.

## **27. Control proceedings**

**Article 62** (1) The control powers of the MNB shall cover control of compliance with

a) this Act,

b) the provisions laid down in legal regulations governing the operations and activities of the persons and entities covered by the acts referred to in Article 39, and

c) decrees of the governor of the MNB

as well as the implementation of the administrative resolutions of the MNB.

(2) Control by the MNB shall comprise the verification of data reporting and the on- and off-site control procedures (hereinafter referred to as 'control procedures') conducted by the MNB ex officio.



**Article 63** (1) Article 29(3) to (12), Article 70, Article 93, Article 94 and Article 94/A of the Ket. shall not apply to such control procedures.

(2) The MNB shall not be performed control procedures on the request of clients.

(3) The MNB shall periodically verify the data obtained from reporting without informing the client about such verification.

**Article 64** (1) In the course of the control procedure, the MNB conducts

a) comprehensive inspections,

b) targeted inspections,

c) thematic inspections,

d) extraordinary targeted inspections, and

e) post-inspections.

(2) The MNB shall conduct comprehensive inspections

a) at least once every two years at organisations engaged in the operation of payment systems and organisations performing clearing house activities,

b) at least annually at the central counterparty and the central securities depository,

c) with the exception of the cases defined in subsection d),

ca) at least every three years at credit institutions, insurance companies, reinsurance companies, electronic money institutions, payment institutions, investment firms, commodity exchange service providers, investment fund managers, stock exchanges and persons and entities covered by the acts referred to in Article 39 subject to consolidated supervision (hereinafter referred to as: 'financial group'),

cb) one year after the start of operations at credit institutions, insurance companies, reinsurance companies, investment firms, commodity exchange service providers and investment fund managers,

d) at least every five years at credit institutions having joined the Integration Organisation defined in Act CXXXV of 2013 on the integration of cooperative credit institutions and the amendment of certain economy-related legal regulations, at small insurance companies under the scope of Part 6 of the act on the insurance business, at venture capital fund managers, private pension funds, voluntary mutual insurance funds and institutions for occupational retirement provision.

(3) The MNB shall have powers to conduct comprehensive inspections at all members of the group simultaneously. Audits of a financial group shall cover compliance with the regulations pertaining to supervision on a consolidated basis, and may include the individual audit of all group members in terms of compliance with the statutory provisions applicable to all group members (hereinafter referred to as 'group inspection').

(4) The MNB may conduct targeted inspections for the ad hoc verification of compliance with the legal provisions defined in Article 62(1). Targeted inspections may also be held in the event of the suspected violation of legal provisions and to check compliance with certain legal provisions – in a non-comprehensive manner.

(5) The MNB may conduct thematic inspections of several persons and organisations for the harmonized and comparative verification of compliance with the identical or similar legal provisions defined in Article 62(1).

(6) The MNB shall launch extraordinary targeted inspections of the persons and organisations under the scope of Article 39 in the event of well-founded suspicion of the severe breach of the legal provisions defined in Article 62(1) if the infringement

a) affects a large number of clients,

b) carries significant systemic risk, or

c) generally jeopardises trust in the given market.

(7) The MNB shall check the fulfilment of its resolutions in the context of a post-inspection, which may cover the examination of data stemming from regular and extraordinary data reporting and the findings of on- and off-site inspections.

**Article 65** (1) In the context of off-site control procedures, the MNB shall be entitled to apply the provisions defined in Article 48(3) and (4) and may also request additional information in order to clarify the relevant facts of the case.

(2) In order to clarify the relevant facts of a case, any person or entity shall be obliged to provide the necessary information also in writing, and to send to the MNB documents relating to the object of the inspection.

(3) The MNB shall notify the persons, entities and the controlling member of the financial group subject to control procedures in writing about the conduct of the control procedure at least 15 days before the commencement of such procedure, except if prior notification would jeopardise the outcome of the control procedure.

(4) An employee of the MNB designated for this purpose by the governor of the MNB shall be authorised to monitor exchange operations by electronic means, to take notes and to request suspension of operations for a brief investigation that may be warranted by perceived irregularities, if any, and to prepare on-site reports.

(5) An employee of the MNB designated for the purpose by the governor of the MNB shall be authorised to attend the meetings of the Board of Directors, general meetings, management meetings and meetings of the body exercising the powers of the supreme body of the entities covered by the acts referred to in Article 39.

(6) In the framework of controlling the obligations pertaining to the production of printed securities as set out in a separate legal regulation, the MNB shall proceed within the scope and in the manner specified therein, in cooperation with the Special Service for National Security.

**Article 66** The MNB may access information relating to clients of the persons and entities covered by the acts referred to in Article 39 and to fund members solely for the purposes of and to the extent required for discharging its control responsibilities. Customers and fund members need not be informed about data disclosure occurring in proceedings within the scope of the MNB's control responsibilities which fall under the scope of confidentiality.

**Article 67** (1) In the performance of the control procedure specified in Article 64(1), the MNB may also hold on-site inspections. In case of group inspections on-site inspections may be held at all group members.

(2) Article 65(3) shall apply to notification of conducting on-site inspections.

(3) The MNB shall provide persons conducting on-site inspections with letters of mandate, and such persons shall be considered public officials when performing such duties.

(4) Person conducting on-site inspections shall be obliged to present the letter of mandate and satisfactory proof of their identity at the start of the on-site inspection.

(5) On-site inspections may be conducted at any location where evidence necessary for ascertaining the relevant facts of the case can be found. Within their sphere of authority, persons conducting the inspection may enter premises necessary for performing the inspection, may inspect, may monitor documents, data storage media, objects and work procedures related to the object of the inspection, may request and prepare information and

statements from the client, the client's representatives and any other persons at the site of the inspection, and may undertake trial transactions, and may perform other evidencing.

(6) During the on-site inspection, the MNB shall be authorised to prepare a hard mirror image of any data storage media and to inspect the data stored on the data media using such copy.

(7) If the on-site inspection is conducted by the MNB using means of information technology, upon certification of the authorisation to carry out the inspection, access must be granted to the MNB to the data, if necessary by providing the technical conditions and access rights to the information technology system.

(8) On-site inspections shall be conducted during the hours when the activity covered by the inspection is conducted, in a private residence that is not registered as a business address — unless successful conduct of the on-site inspection makes necessary to choose another time — on working days between 8:00 am and 8:00 pm. The on-site inspection shall be conducted so as to cause the least amount of disturbance in the work and regular activities of the person or entity under inspection.

(9) In justified cases, if deemed necessary for the successful and safe conduct of the on-site inspection, the MNB may ask for police assistance.

(10) The MNB will not draw up a separate report or simplified report on on-site inspections carried out within the framework of control procedures; instead, the MNB will record its findings of the control procedure in the inspection report and group inspection report under Article 69(1).

**Article 67/A** (1) The on-site inspection may be conducted immediately, simultaneously to instituting the targeted inspection, extraordinary targeted inspection or post-inspection.

(2) If an on-site inspection within the meaning of paragraph (1) is deemed necessary for an urgent reason — in particular the risk of the destruction, disappearance or loss of access to means of proof —, the authority may carry out the on-site inspection by opening a locked area, building or room by force, even against the will of the persons present.

(3) Conducting an on-site inspection in the manner specified in paragraph (2) shall be subject to the prior consent of the competent public prosecutor, and shall be carried out with police assistance in the presence of an official witness.

(4) If obtaining the prior consent of the public prosecutor is likely to result in undue delay, the on-site inspection may be carried out without the prior consent of the public prosecutor, in which case the on-site inspection report — specifying the urgent reason and the action taken in detail — shall be sent to the public prosecutor within five days.

**Article 67/B** (1) The MNB may use any document, data or other means of proof acquired legally in one of its control procedures in the course of other proceedings.

(2) The client's right of access to documents for review may be limited, in addition to the provisions of Article 69(1) of the Ket., where there is reason to believe that knowledge of the contents of the documents is likely to jeopardise the outcome of the proceeding or that it may facilitate unauthorised access to the personal data of a third person that is protected by statutory provisions.

**Article 68** (1) The MNB shall be entitled to conclude trial transactions in the course of inspections.

(2) Trial transactions may be conducted to verify single transactions or longer transaction processes, however, they may not extend beyond the time of signature of the contract pertaining to the subject of the trial transaction, in the case of a trial transaction for a payment order or the conversion of banknotes and coins until the receipt of the convertible banknotes and coins.

(3) The MNB may use contributing participants in the trial transactions. The MNB shall provide a letter of mandate to the contributor, containing the name of the contributor, the type of inspection covered and the persons or entities falling under the acts referred to in Article 39 where he/she may be involved.

(4) The obligation of confidentiality prescribed for MNB's employee shall also apply to contributing persons.

(5) The provisions on the exclusion of administrative officers and the conflict of interest rules applicable to the MNB's employee shall also apply to contributing persons.

(6) In case of a trial transaction, the MNB's employee performing the inspection or the contributor shall verify his/her right to conduct the inspection upon completion of the trial transaction by presenting his/her letter of mandate.

(7) Upon certifying the right to conduct the inspection, the inspected person or organisation and the person conducting the inspection or the contributing person shall be obliged to reimburse any amount received in the course of the trial transaction.

(8) The provision defined in paragraph (7) shall not apply to any fee charged for a service the entity or person has supplied in the course of the trial transaction before its completion, provided that it was established during the procedure that the entity or person did not violate the consumer protection regulations subject to the trial transaction. The MNB shall refund the fee of such services to the inspected entity or person immediately after the relevant resolution is adopted.

**Article 69** (1) The MNB shall record its findings of control procedures in an inspection report within six months following the date of the opening of such procedures in the case of comprehensive inspections and targeted inspections and within nine months in the case of thematic inspections , and shall deliver it to the person or entity inspected. If a group inspection is conducted in the framework of the control procedure, the MNB shall record its findings of the group inspection in a group inspection report and communicate it to all group members through the controlling member of the financial group. In justified cases the time limit prescribed for the completion and delivery of the inspection report and the group inspection report may be extended once by up to six months.

(1a) The MNB shall record its findings of the extraordinary targeted inspections defined in Article 64(1) subsection d) in an inspection report within two months following the date of the opening of such procedures and shall deliver it to the person or entity inspected. The deadline for drawing up and disclosing the inspection report on extraordinary targeted inspections may be extended once in warranted cases by at most one month.

(1b) If no infringement was established in the context of the targeted inspection or extraordinary targeted inspection, the MNB may dispense with drawing up an inspection report. In this case, the MNB will conclude the procedure with an order which shall be communicated to the affected organisation.

(2) The inspection report and the group inspection report shall contain:

a) the name of the authority, the name of the head of the inspection , the subject matter of the inspection and the case number;

b) the name and home address of the inspected entity, or the name and registered office for organisations, the legal position of the inspected person or entity in the proceedings and – if made available to the authority – other contact details;

c) statement advising the person or entity affected by the procedural action of his/its rights and obligations;

d) the findings MNB has made during the control procedure and the evidence presented in support of such findings, and

e) the assessment of such findings.

(3) Group inspection reports shall contain the MNB's findings relating to the financial group on the whole and its findings for the individual inspection of each member on solo basis.

(4) The persons and entities inspected may submit comments concerning the findings of the inspection report or the group examination report in writing within twenty days following its receipt. If such time limit is likely to jeopardise the outcome of the measures taken, the MNB may set a shorter time limit.

**Article 70** (1) The MNB shall adopt a decision as regards the comments made under Article 69(4) within sixty days of the date of receipt thereof, or after the lapse of the time limit without comments submitted. In justified cases, this deadline may be extended on one occasion by a maximum of 30 days.

(2) (3) In the case of extraordinary targeted inspections —in particularly warranted cases — the MNB may make a decision prior to the receipt of the comment specified in Article 69(4), provided that it is warranted by the urgent action taken to mitigate or counter the impact of the infringement forming the grounds for the extraordinary targeted inspection.

(4) The MNB shall render its final decision based on the findings shown in the inspection report and on other evidence at its disposal, as well as facts of which it is officially aware or which are in the public domain.

(5) The MNB shall indicate in its decision referred to in paragraphs (1) to (3) above the cause for proceeding without advance notice as per Article 65(3) – except for control procedures conducted on the basis of the verification of data received within the framework of regular reporting -, for reducing the time limit specified in Article 69(4) and the reasoning for its decision specified in paragraph (3).

**Article 71** If after the delivery of the inspection report or the group inspection report the MNB becomes aware of any new data, fact or information which may have a material impact on the merits of the case, and which necessitate the amendment or supplementation of the inspection report or the group examination report, the MNB shall have the option to send on one occasion the whole of the inspection report or group inspection report, or the amended or supplemented part thereof, to the inspected person or entity for the purpose of soliciting comments before making the decision under Article 70(1). The time limit for the second annotation round of comments by the inspected person or entity shall be governed by Article 69(4), and the time limit for the MNB's decision shall commence at the time when the comments are received, or after the original time limit if no comments are made.

**Article 72** (1) If the personal and material conditions for effectively, quickly and successfully conducting the control procedure cannot be otherwise ensured temporarily by the MNB — in particular by expanding these conditions —, the MNB may appoint

a) an independent auditor holding relevant sectoral certification, or

b) an other expert.

(2) If the person specified in paragraph (1) is employed in the context of an on-site inspection, the MNB shall furnish a letter of mandate to such person.

(3) The person specified in paragraph (1) may be employed alongside the concurrent presence of the person conducting the on-site inspection.

(4) The rules defined in Article 67 (5) to (8) shall apply to the procedure applied by the person specified in paragraph (1) in the context of on-site inspections. The provisions of the Ket. shall apply to the procedure applied by the person specified in paragraph (1), with the exception of Article 58(1) of the Ket.

(5) The appointment of the person specified in paragraph (1) cannot result in the long-term fulfilment of the MNB's control duties by another person.

**Article 73** Pursuant to the acts referred to in Article 39 and the Act XXXVII of 2014 on the Development of the Institutional Framework Intended to Enhance the Security of Members of the Financial Intermediary System (hereinafter referred to as 'resolution Act'), the MNB may carry out control procedures at the request of foreign financial and resolution authorities.

**Article 74** (1) In its proceedings, the MNB, in the form of a ruling that may be declared enforceable irrespective of any request for the suspension of enforcement for the period ending upon the passing of the decision,

a) shall take measures or exceptional measures pursuant to the relevant act referred to in Article 39 applicable to the activity in question, where there is an urgent need for such action to protect the legal or economic interests of the parties involved,

b) may prohibit the continuation of a conduct in breach of law and may order termination of the breach if such there is an urgent need for such action in order to perform its basic tasks specified in Article 4(9), where any delay would potentially cause significant or irreparable damage.

(2) The MNB shall adopt the ruling referred to in paragraph (1) subsection b) above in priority proceedings.

**Article 75** (1) If at the end of its control pursuant to Article 62(2) or based on officially known facts the MNB established a violation, evasion, failure of performance or delayed or deficient performance of obligations set forth in legal regulations referred to in Article 62(1) or in an administrative resolution of the MNB, it shall – unless otherwise provided by law -

a) apply the measure or exceptional measure required by the legal regulation covering the activity in question as specified in Article 39 or it may impose a fine in respect of persons or entities covered by the acts referred to in Article 39, or

b) apply the following measures in respect of persons or entities not falling under subsection a):

ba) call for strict compliance with the requirements and observance of time limits,

bb) set a deadline for the adoption of the necessary measures and the termination of the infringements and deficiencies found,

bc) requires them to draft and implement an action plan and to submit a report on the implementation thereof where appropriate,

bd) impose an extraordinary or retrospective reporting obligation,

be) require the destruction of reproductions of legal tender in circulation produced without authorisation, or of banknotes and coins withdrawn from circulation by the MNB but convertible to legal tender,

bf) impose a fine, or

bg) initiate disciplinary, infringement, criminal, civil or other proceedings

[subsections a) and b) hereinafter referred to collectively as 'measure'].

(2) The MNB may also apply measures initiated by a foreign financial supervisory authority.

(3) The MNB shall be entitled to impose measures repeatedly and in combination.

(4) The MNB shall have regard for the following circumstances when imposing measures:

a) the gravity of the infringement or negligence;

b) the impact of the action on prudent and sound operation and on the market,

c) the impact of the action on the persons and organisations subject to the legal regulations specified in Article 62(1) and on the members or clients thereof,

d) the impact of the action on other members of the system of financial institutions,

e) the risk caused by the infringement or negligence, the extent of damage, the degree of the violation of rights related to personality forming the grounds for the compensation claim and willingness to mitigate the damage,

f) cooperation with the MNB on the part of the persons responsible;

g) whether the person affected by the measure acted in good or bad faith, and the pecuniary advantage obtained or pecuniary disadvantage averted by such person through the infringement or negligence,

h) intended or actual concealment of data, facts and information on which the measure is based, and

i) recurrence and frequency of the infringement or negligence.

(5) No measures shall be imposed after three years from the time when the negligence or misconduct came to the knowledge of the MNB, or after five years from the time it was committed. If the court instructs the MNB to reopen the proceedings, measures may be imposed until the last day of the fifth year after the act was committed, without regard to the three-year time limit.

(6) Within the time limits specified in paragraph (5), a measure may be imposed even if the natural person affected is no longer employed by the inspected entity or person at the time of the imposition of such measures, his mandate has ended or he is no longer engaged in performing the inspected activities.

**Article 76 (1)** The amount of the fine that may be imposed on the inspected persons or entities shall be between HUF 100,000 and HUF 2 billion.

(2) By way of derogation from paragraph (1), the maximum fine that may be imposed shall be two hundred per cent of annual supervisory fee (the sum of the basic fee and variable fee) payable by the persons or entities covered by the acts referred to in Article 39 if this exceeds two billion forints.

(3) The amount of the fine which may be imposed on the chief executive officer or executives employees, as defined by the relevant legal regulations, of the audited entity shall be between one hundred thousand forints and five hundred million forints. The inspected body shall not assume responsibility for the payment of a fine imposed on the chief executive officer or persons considered as executive employees.

(4) In the application of paragraph (3), above and beyond the persons defined as such in the acts referred to in Article 39, the executives officers, managing directors and deputy managing directors of voluntary mutual insurance funds and private pension funds, and persons carrying out the management of the activities of independent insurance intermediaries shall also be deemed executives employees.

(5) The amount of the fine which may be imposed in the case of an administrative offence specified in Article 184 of the Hpt. and pursuant Article 164 of the Bszt. on a the legal entity having acquired a qualifying holding without a permit, or on an undertaking, not authorised as a financial institution, collecting deposits or other repayable funds, may be maximum 10 percent of the net revenue – as specified in Article 89(3) subsections b) and d) – realised in the business year preceding the decision establishing the infringement, but may not exceed twice the profit or avoided loss – if the amount thereof can be determined – arising from the infringement.

(6) The amount of the fine which may be imposed in the case of an administrative offence specified in Article 184 of the Hpt. and pursuant Article 164 of the Bszt. on a natural person having acquired a qualifying holding without a permit, or, without being authorised as a financial institution, collecting deposits or other repayable funds, is HUF 1,467,550,000, but may not exceed twice the profit or avoided loss – if the amount thereof can be determined – arising from the infringement.

(7) In the event of the violation, evasion, failure to fulfil or late or deficient performance of the obligations defined for payment service providers in Article 14/A, 36/A(1) to (3) and 36/B of Act LXXXV of 2009 on the provision of payment services, the MNB shall apply the legal consequences defined in Article 88.

(8) The amount of the fine which may be imposed pursuant to Article 400(1) subsection w) subpoint 3. of Tpt. may be

a) in the case of undertakings

aa) maximum HUF 2,984,800,000 or 5% of the annual sales revenue as stated in the last annual report approved by the decision-making body, with the proviso that when the undertaking is a parent company or such subsidiary of the parent company that is obliged to prepare consolidated financial statements pursuant to the accounting laws, the annual sales revenue to be taken into account shall be the annual sales revenue stated in the last annual report approved by the parent company's decision-making body or the equivalent revenue based on the accounting laws, or

ab) maximum twice the profit arising from the legal offence or the loss avoided as a result thereof,

b) in the case of natural persons

ba) maximum HUF 596,960,000, or

bb) maximum twice the profit arising from the legal offence or the loss avoided as a result thereof,

(9) Of the amounts specified in paragraph (8) always the higher amount shall be applied.

**Article 77** (1) The fine shall be payable into the account designated in the decision within 30 days after the decision imposing a fine becomes legally binding.

(2) Parties who can demonstrate that they acted in a manner that would be reasonably expected of persons acting in such capacities in similar circumstances may not be required to pay fines.

(3) In respect of corporate bodies, members who did not participate in making the decision giving rise to the fine or who voted against such decision and this is documented in the minutes of the meeting shall not be required to pay a fine.

**Article 78** In the performance of the tasks of the MNB set out in Article 40(8), rules governing control procedures shall apply mutatis mutandis.

## 28. The supervisory commissioner

**Article 79** (1) The provisions set out in this Article and in Article 80 shall apply in respect of appointment of the supervisory commissioner defined in the acts referred to in Article 39(1) subsections a), c), f), h), i), k), l), m) and n).

(2) Only the employees of the MNB engaged in the functions defined in Article 4(9) or employees of or parties in other work-related relationship with the non-profit business association engaging in the liquidation of the entities covered by the acts referred to in Article 39 (hereinafter referred to as 'non-profit business association') shall be appointed as supervisory commissioner. The MNB's employee and the employee of or party in other work-related relationship with the non-profit business association may also discharge the supervisory commissioner tasks together.

(3) The person eligible for the role of supervisory commissioner:

a) shall have a clean criminal record and shall not be restrained by court order from exercising the profession required for functioning as a supervisory commissioner and

b) shall hold a university-level degree in a relevant field and have at least four years of management experience at:

ba) a fund defined in the act set forth in Article 39(1) subsection a),

bb) a credit institution or financial enterprise specified in the act referred to in Article 39(1) subsection c),

bc) a fund defined in the act set forth in Article 39(1) subsection f),



bd) an investment fund manager, a venture capital fund manager, the stock exchange, an organisation performing clearing house activities, a central depository, a central counterparty defined in the acts set forth in Article 39(1) subsections h) and m),

be) an insurance company defined in the act set forth in Article 39(1) subsection i),

bf) an institution for occupational retirement provision defined in the act set forth in Article 39(1) subsection k),

bg) an investment firm defined in the act set forth in Article 39(1) subsection l),

bh) a reinsurance company defined in the act set forth in Article 39(1) subsection n).

(4) Within the meaning of paragraph (3) subsection b), a person in possession of a university-level degree in a relevant field shall be deemed those with a university or college level degree certifying completion of specialised studies in economics, law, finance and accounting or foreign trade, with certification as an auditor or with university-level training which is required for appointment or election as the managing director or executive officer of the bodies governed by the acts referred to under Article 39(1) subsections a), c), f), h), i), k), l), m) and n).

(5) The following persons shall not be appointed as supervisory commissioner and shall not act in that capacity:

a) persons who, or whose close relative, at the time of their appointment or following their appointment hold any interests in organisations which are covered by the acts referred to in Article 39(1) subsection a), c), f), h), i), k), l), m) and n) and are subject to the work of the supervisory commissioner, thus who are in particular in an ownership or contractual relationship with the organisation or draw or have claims to revenue or income from the organisation in any form whatsoever,

b) persons of whom impartial judgement and objective performance of the tasks of a supervisory commissioner cannot be expected (bias).

(6) The supervisory commissioner shall immediately notify the appointing entity or person about any of the circumstances set out in paragraph (5) upon his appointment, or forthwith after the occurrence of any circumstances set out in paragraph (5) if they emerge after his appointment. In such case, a new supervisory commissioner shall be appointed.

(7) The MNB shall provide compensation for any damage caused to third parties by the supervisory commissioner appointed as its employee in this capacity or for any violation of rights relating to personality providing the grounds for claims for compensation, while the non-profit business association shall provide compensation for any damage caused to third parties by the supervisory commissioner employed by or in any other work-related relationship with the non-profit business association in this capacity or for any violation of rights relating to personality providing the grounds for claims for compensation. The non-profit business association shall have adequate financial means to cover its obligations to pay damages and compensation.

(8) The appointed supervisory commissioner shall bear liability for any damage caused to the non-profit business association or the violation of rights relating to personality providing the grounds for claims for compensation in accordance with the regulations on the liability for damages or compensation of employees and parties in other work-related relationships, with the proviso that, in cases of negligence or the violation of rights relating to personality providing the grounds for claims for compensation, the extent of compensation for damages may not exceed six months' pay of the appointed supervisory commissioner. In the event of damages caused willfully or the violation of rights relating to personality providing the grounds for claims for compensation, compensation for total damage or the full claim for compensation shall be provided.

(9) The non-profit business association shall have adequate financial means to cover its compensation obligations.

(10) The MNB shall notify the appointed supervisory commissioner to the relevant court of registry for the purposes of registration and publication.

(11) The person to be appointed as a supervisory commissioner shall produce official documentary evidence — prior to appointment — evidencing a clean criminal record and the absence of any court order restricting them from exercising the profession required for functioning as supervisory commissioner.

**Article 80** (1) Upon appointment of the supervisory commissioner, the MNB, proceeding within its functions defined in Article 4(9), shall define the role and tasks of the supervisory commissioner in a resolution, which the MNB may amend at any time during its mandate by virtue of a resolution. The supervisory commissioner appointed as an employee of the MNB may be instructed by the MNB proceeding within its functions defined in Article 4(9).

(2) The appointed supervisory commissioner shall draw up a report on the financial situation of the affected organisation and its activities conducted during its mandate for the specific period defined by the MNB, proceeding within its functions defined in Article 4(9), or for the entire duration of its mandate.

## **29. Control proceeding for the protection of the interest of consumers**

**Article 81** (1) The MNB shall, in the framework of procedures opened upon request or of its own motion, monitor compliance with

a) the acts referred to in Article 39 laying down requirements concerning the conduct of the persons and entities covered by the acts referred to in Article 39 in respect of consumers using their services as well as the provisions of regulations adopted for the implementation of these acts,

b) the provisions of the Act on the prohibition of unfair business-to-consumer commercial practices,

c) the provisions of the Act on the basic requirements and certain restrictions applying to commercial advertising practices, as well as

d) the provisions of the Act on certain issues of electronic commerce services and information society services [subsections a) to d) hereinafter referred to collectively as ‘consumer protection regulations’], and

e) the provisions of this Act concerning obligations in relation to consumer disputes of a financial nature,

and – with the exception of the regulations pertaining to the conclusion, validity, legal effect and termination of contracts, and cases of breach of contract and the related legal consequences – shall take action in the event of any infringement of these provisions (hereinafter referred to as ‘proceedings for the protection of the interest of consumers’).

(2) For the purposes of this Act, the term ‘consumer’ shall mean natural persons proceeding in matters other than their independent profession and business activity.

(3) Consumers shall be able to initiate proceedings for the protection of the interest of consumers only after having lodged a complaint, orally or in writing, with the person or entity covered by the acts referred to in Article 39, by the means specified and published by said person or entity (in person, by phone, post, fax, or through a dedicated IT system) with contents facilitating the establishment of the consumers’ identity, concerning the services or actions of the person or entity covered by the acts referred to in Article 39, however:

a) the compliant failed to elicit a response,

b) investigation of the compliant did not occur in compliance with the acts referred to in Article 39,

c) another infringement of consumer rights under the legislation referred to paragraph (1) is alleged based on the reply of the person or entity covered by the acts referred to in Article 39.

**Article 82** (1) In proceedings for the protection of consumers’ interests, client rights shall be conferred upon the qualified entities established under the laws of any Member State of the EEA – with respect to the consumer interests they protect – that are included in the list published in the Official Journal of the European Communities pursuant to Article 4(3) of Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on

injunctions for the protection of consumers' interests with respect to any violation of the legal provisions on the transposition of the directives referred to in Article 41(1).

(2) In proceedings for the protection of consumers' interests, client rights shall be conferred upon the foreign financial authority which has competence over the case at hand.

**Article 83** (1) Proceedings for the protection of consumers' interests may not be opened after a period of five years following the time of the infringement.

(2) For continuous infringements, the time limit shall commence at the time when the infringement is terminated.

(3) Where an infringement consists in the failure to terminate a situation or circumstance, the aforementioned period shall not commence as long as such situation or circumstance continues to prevail.

(4) The administrative time limit in proceedings for the protection of consumers' interests launched upon request shall be three months.

**Article 84** If, regarding all or parts of the request for the opening of proceedings for the protection of consumers' interests,

a) a control procedure has already been conducted or is in progress in respect of the entity or person affected by the request, or

b) the MNB has already adopted a decision concerning the conduct of the entity or person stated in the request on the same grounds and under the same regulations,

the MNB shall refuse the request regarding such grounds without examining its merits, or shall terminate the proceedings, and inform the client about the number of its resolution adopted in the previous procedure.

**Article 85** (1) The MNB shall have powers to carry out trail transactions in the context of consumer protection procedures to verify compliance with the rules applicable to transactions.

(2) The rules defined in Article 68 (2) to (8) shall apply to trial transactions conducted in the context of consumer protection proceedings.

**Article 86** (1) The MNB may hold ex officio consumer protection

a) targeted inspections,

b) thematic inspections, or

c) post-inspections

at the organisation or person subject to the acts defined in Article 39.

(2) The MNB may hold targeted consumer protection inspections for the ad hoc verification of compliance with consumer protection provisions and in the event that the violation of consumer protection provisions affects a broad group of consumers and the inspection is warranted by a need for immediate intervention.

(3) The MNB may conduct thematic consumer protection inspections of several persons and organisations for the harmonised and comparative verification of compliance with identical or similar consumer protection provisions.

(4) The MNB checks the fulfilment of its decisions issued in its consumer protection control procedures in the context of consumer protection post-inspections, covering the examination of data stemming from regular and extraordinary data reporting and the findings of on- and off-site inspections.

(5) The provisions defined in Article 62 (2), Article 63 (1) and (3), Article 65 (1)-(3), Articles 66 and 67, Article 67/B, Article 70(4), Article 75 (3) to (6) and Article 77 shall be duly applied in consumer protection control procedures, with the proviso that provisions referencing a control procedure shall be interpreted as referencing the consumer protection control procedure.

(6) Article 81(3) shall not apply to ex officio consumer protection control procedures.

**Article 86/A** (1) The MNB shall record its findings made in the context of consumer protection control procedures launched ex officio within six months of the opening of targeted inspections, and within one year of the opening of thematic inspections, and disclose such report to the person or entity under inspection. The deadline for drawing up and disclosing the inspection report may be extended once in warranted cases by at most three months.

(2) The inspection report shall include

- a) the object of the inspection,
- b) the relevant facts of the case and the underlying evidence,
- c) an assessment of the facts of the case.

(3) The organisations and persons under review shall be entitled to comment the inspection report in writing within twenty days from the date of receipt. Should this period jeopardise the successful outcome of the procedure, the MNB may impose a shorter deadline.

(4) The MNB shall issue its decision within forty-five days of receipt of the comments or from the expiry of the deadline having yielded no result. In warranted cases, this deadline may be extended once by a maximum of thirty days.

**Article 87** In proceedings for the protection of consumers' interests, the MNB may adopt a ruling prohibiting the continuation of the conduct in breach of law and ordering termination of the breach, which may be declared enforceable irrespective of any appeal for the period ending upon the passing of the resolution or the ruling for the termination of the proceedings, where there is an urgent need for such action with a view to the protection of the legal and economic interests of consumers. The MNB shall adopt such decision in priority proceedings.

**Article 87/A** (1) If the conduct of the targeted consumer protection inspection is warranted by the violation of consumer protection provisions that affects a broad group of consumers and requires immediate intervention, the MNB shall draw up its inspection report within 30 days following the launch of the control procedure and shall disclose the report to the person or entity under inspection; this deadline is extendable once by at most 15 days.

(2) In the case specified in paragraph (1), the time limit applicable to submitting the comments defined in Article 86/A(3) is eight days. Should this period jeopardise the successful outcome of the procedure, the MNB may impose a shorter deadline.

(3) In the case defined in paragraph (1) — especially in warranted cases — the MNB may issue a decision prior to the receipt of the comment specified in paragraph (2), provided that it is warranted by the urgent action taken to mitigate or counter the impact of the infringement forming the grounds for the targeted inspection.

(4) The MNB shall render its final decision based on the findings shown in the inspection report and on other evidence at its disposal, as well as facts of which it is officially aware or which are in the public domain.

(5) The MNB shall indicate the reason for proceeding without the advance notice specified in Article 65(3), for reducing the time limit specified in Article 86/A(3) and the decision defined in Paragraph (3) in its decision defined in Article 86/A(4) and in paragraph (3).

**Article 88** (1) If the MNB finds any infringement of the relevant consumer protection regulations or of its resolution adopted in proceedings for the protection of consumers' interests, it may impose the following legal consequences

with due consideration to the criteria set out in Article 75(4) subsection a), c) and e) to i) and to the principle of proportionality:

- a) call on to take the measures, assure compliance with legal provisions, and eliminate the deficiencies found,
- b) order the termination of the breach,
- c) prohibit the continuation of the conduct in breach of law,
- d) may set a deadline for the termination of the errors and deficiencies identified, requiring the infringing party to inform the MNB about the measures carried out to eliminate such errors and deficiencies,
- e) prohibit or impose conditions on the pursuit of the activity or the supply of services that were found infringing, until the infringement is eliminated,
- f) impose a consumer protection fine.

(2) Legal regulations setting out provisions for the protection of consumers may lay down additional legal consequences for violations of provisions prescribed therein.

(3) In the application of paragraph (1), the gravity of a violation shall be determined, in particular, based on the number of consumers affected, the extent and scope of the injury and the scope of the infringement.

(4) The MNB shall impose a consumer protection fine whenever

- a) the same entity or person repeatedly violated the same legal provision within a period of six months following the deadline or end of the time limit set for the entity or person to comply with the obligation prescribed in the final resolution of the MNB establishing the infringement, or
- b) the infringement affects a broad range of consumers.

**Article 89** (1) The amount of the consumer protection fine shall be between fifteen thousand forints and

- a) five per cent of the annual net revenue but not exceeding one hundred million forints, of entities covered by the act on accounting whose annual net revenue is in excess of one hundred million forints, or not exceeding two billion forints if the infringement results in substantial financial injury to a broad range of consumers,
- b) five million forints for entities or persons not covered by subsection a), or up to ten per cent of the annual net revenue of the entity or person if the infringement concerns a broad range of consumers or results in substantial financial injury to a broad range of consumers if this exceeds five million forints, or up to fifteen million forints for entities and persons not covered by the act on accounting.

(2) The net revenue referred to in paragraph (1) shall be determined relying on the annual accounts or simplified annual accounts (hereinafter referred to collectively as 'annual accounts') filed for the financial year immediately preceding the time when the resolution establishing the infringement was adopted. If the entity or person operated for less than one year, the figures shall be annualised. If there is no reliable information available relating to net revenue for the financial year immediately preceding the time when the resolution on the infringement was adopted, the maximum of the consumer protection fine shall be determined based on the net revenue of the last financial year for which the books are officially closed. In the case of newly established entities which have no annual accounts, the business plan for the year when the procedure was opened, or where there is none, the net revenue the service provider stated upon the authority's request, calculated in accordance with the provisions of the act on accounting on interim balance sheets with the date of the opening of the procedure as the cut-off date shall be taken into consideration.

(3) In the application of paragraph (1), the net revenue of the entities specified in subsections a) to d) below shall mean:

- a) for insurance companies, gross premiums;
- b) for investment firms, revenues from investment services and revenues from non-trading financial transactions;
- c) for private pension funds and voluntary mutual funds, membership payments related to operating activities; for voluntary mutual health funds and mutual provident societies, membership fees of the operational fund; and for institutions for occupational retirement provision, the employers' and members' contributions related to operational activities;
- d) for credit institutions and financial enterprises:
  - da) interest receivable and similar income,
  - db) income from securities,
  - dc) commissions and fees received (accrued),
  - dd) net profit on financial operations, if positive,
  - e) in the case of commodity dealers, the sum total of
    - ea) net revenue from commodity exchange services, and
    - eb) gains arising from financial operations,
  - f) in the case of payment institutions, the sum total of
    - fa) net revenues from payment service activities, and
    - fb) gains arising from financial operations.

(4) In the application of paragraph (1), where the figures in the annual accounts of an entity or person are stated in a foreign currency, they shall be translated to forints based on the official exchange rate quoted by the MNB for the day of closing of the financial year or the entity or person, or in the case of newly established service providers, for the last day of the previous year.

**Article 89/A** (1) If the MNB checks compliance with consumer protection provisions in the context of the control procedure, the provisions defined in Article 81(1) and (2) and Articles 83 to 89 shall be duly applied..

(2) If, in the course of its control procedure, the MNB detects any violation of consumer protection provisions, it may resort to the measures defined in Articles 88 and 89.

(3) If, in addition to the cases described in Article 75(1) subsections a) and b), consumer protection regulations have also been violated as evidenced by the facts of the case established in the control procedure, the MNB shall have the option to order a collective sanction for all such violations, applying the measures provided for in Articles 75 and 76.

#### **Article 89/B**

### **30. Market surveillance proceeding**

**Article 90** (1) The MNB shall initiate a market surveillance procedure

a) upon any suspicion of operation conducted without authorisation or in the absence of notification in the fields of financial services and activities auxiliary to financial services, exchange market and commodity exchange services, investment fund management, central depository services, clearing or settlement services, voluntary mutual insurance services, private pension services, insurance and reinsurance services, , occupational retirement provision, investment services, activities auxiliary to investment services or intermediation (agency) activities,

- b) upon any suspicion of insider dealing or market manipulation,
- c) for the purpose of verifying compliance with the obligation of notification and publication relating to insiders,
- d) for the purpose of verifying compliance with regulations relating to acquisitions,
- e) for the purpose of verifying compliance with regulations applicable to the obligation of notification and publication referred to in Articles 5 to 8 and to the restrictions on uncovered transactions referred to in Articles 12 to 14 of Regulation No 236/2012/EU of the European Parliament and of the Council

[subsections a) to e) hereinafter referred to collectively as 'market surveillance procedure'].

(2) In proceedings opened to identify any operation conducted without proper authorisation or notification, suspected cases of insider trading or market manipulation, for the enforcement of the obligation of reporting and publication relating to insiders and the regulations relating to acquisitions, the administrative time limit shall be six months from the date of opening the proceedings ex officio. In justified cases, the administrative time limit may be extended once by a maximum period of three months.

(3) At the MNB's request stating the reason and purpose, the persons and entities covered by the acts referred to in Article 39(1) and (2) shall, in connection with a market surveillance procedure and of the procedure as relating to a client:

- a) produce documents, electronically recorded data, signals or recorded phone conversations,
- b) provide other information, and
- c) disclose any personal data which the MNB is authorised to manage under separate legislation which they manage and which pertain to a party to the market surveillance procedure and relate to the case at hand.

(4) The provisions contained in Article 70(1) of Act CXLI of 1997 on real estate registration shall not apply to the MNB's inquiries from the electronic real estate registration database made for reasons of market surveillance.

(5) The MNB shall have the right to manage any data it has obtained under paragraph (3) subsection c) and paragraph (4)

- a) until the conclusion of the proceedings if the MNB adopted no resolution based on the findings of the investigation and did not initiate criminal prosecution,
- b) until the resolution adopted in conclusion of the investigation without any sanctions becomes final, or until the implementation of the resolution if it contains any sanction, or until the term of limitation of enforceability,
- c) if the MNB's decision was submitted for judicial review or if the MNB initiated criminal prosecution, until the final conclusion of the court proceedings unless a petition for extraordinary remedy is filed,

following which the data must be destroyed forthwith but not later than in two working days.

(6) If warranted for conducting the market surveillance procedure and provided that it is not prohibited under the law regulating the protection of the affected data, the MNB is entitled to access and handle protected data in accordance with Article 17(4) of the Ket.

(7) At the MNB's request, the client, any other participant in the procedure and any person required to cooperate in the clarification of the facts of the case is required to disclose data necessary for a substantive decision in the context of data reporting, including protected data, unless excluded under the law regulating the protection of the affected data. The client is not required to issue a statement acknowledging the infringement, however, it may not refuse to furnish any compelling evidence, data or documents.

(8) At the MNB's request, the client, any other participant in the procedure and any person required to cooperate in the clarification of the facts of the case shall certify the veracity of the facts of the case stated in their statement, deposition or data reporting, in particular by disclosing other data or a pending other documents.

(9) At the MNB's request, the client and other participants in the procedure and any person required to cooperate in the clarification of the facts of the case is, unless excluded under the law regulating the protection of the affected data, can be subject to a hearing regarding personal and protected data, and is required to furnish such data to the MNB. The client is not required to issue a declaration admitting the infringement in the context of the hearing.

**Article 90/A** (1) On-site searches performed in the context of market surveillance procedures to find means of proof pertaining to the infringement forming the object of the inspection may be conducted – unlike on-site inspections in accordance with Article 67 – against the will of the owner (holder) or the persons present on site or in their absence at any location where evidence necessary to clarify the facts of the case can be found. In this context, the opening of locked areas, buildings or rooms by force is allowed. If deemed necessary for the successful and safe conduct of the on-site search defined in this Article, the MNB may ask for police assistance.

(2) On-site searches of the private purpose or private use property, vehicle or data carrier not reported as the client's residential address, registered office or business premises and otherwise not used by the client for conducting economic activity may only be conducted if such are used by a natural person that is a client during the procedure, or if other than a natural person, the client's executive officer, employee, agent or – if other than a natural person – a person exercising actual control over the client, or held such capacity during the period under inspection.

(3) On-site searches within the meaning of this Article may only be performed in possession of a preliminary judicial authorisation. The MNB's request for authorisation must contain the purpose and location of the on-site search, the facts corroborating the grounds for the search and the identification of the means of proof, in particular data and data carriers, warranting the on-site search. The MNB's request for authorisation are assessed by the Budapest Court of Public Administration and Labour within 72 hours of receipt in non-contentious proceedings.

(4) The court will authorise the requested on-site search if the MNB strongly suggests that other inspectional action – in particular the on-site inspection defined in Article 67 – would not yield a result, and it can be reasonably assumed that means of proof linked to the infringement forming the object of the inspection can be found at the location specified in the proposal, and it can be assumed that such means of proof would not be voluntarily made available or would be rendered unusable. The court may partially authorise the on-site search, defining the target person and inspectional action that may be taken.

(5) The on-site search may be conducted within 15 days of issuance of the judicial authorisation.

(6) The market surveillance procedure must be opened simultaneously to the start of the on-site search at the latest, stating this fact on-location to the client present, including the client's employee present, and to other clients by telephone or electronic mail, alongside commencing notification in accordance with the general rules pertaining to notification.

(7) The affected party present shall be notified of the on-site search simultaneously to the start of the on-site search, and the court ruling authorising the on-site search and the purpose of the search shall be stated prior to commencing the search. The on-site search should be conducted in the presence of the affected party, where possible. If the affected party is unable to attend, the cooperation of an authorised witness must be requested. During the on-site search, the person performing the search may request spoken or written clarifications and explanations from the affected parties, or may otherwise obtain information on-site.

(8) On-site searches may be conducted – unless another time is better suitable for the purposes of the inspection – on working days between 8:00 am and 8:00 pm. In the case specified in paragraph (3), the on-site inspection shall be conducted so as to avoid any disproportionate restriction of the affected party's personal life, and to cause the least amount of disturbance in the work and regular activities of the affected party.

(9) During the on-site searches, the MNB's employee is entitled to make copies of or seize means of proof not linked to the object of the market surveillance procedure and not specified in the court authorisation, but otherwise warranting the launch of a market surveillance procedure. The judicial authorisation defined in paragraph (3) in



respect of such means of proof must be procured subsequently; any means of proof found cannot be used as evidence in the absence of subsequent judicial authorisation.

(10) Requests for subsequent judicial authorisation in accordance with paragraph (9) must be submitted at the latest within fifteen days of the conduct of the on-site search.

**Article 90/B** (1) If during the on-site search, the inspection of the data carrier at the location is not possible without restricting the normal performance of the affected activity for a disproportionately long time, or the affected party otherwise gives its content, the person conducting the search may make copies of the data found on the data carrier and any documents (hereinafter referred to as: 'copy of seized items').

(2) The record taken of the on-site search must specify the type and individual identification data of the data carrier used to record the copy, the type of the copied data and documents, and unique identification features of the copy, as well as any other data necessary for subsequently confirming their unaltered nature.

(3) The person conducting the on-site search shall perform this for means of proof using the work copy of the data and documents constituting the copy of the seized items (hereinafter referred to as: 'inspectional work copy'). The person conducting the on-site search shall make a separate electronic or hardcopy copy (hereinafter referred to as: 'evidence summary') of the evidence it intends to use and shall send a description of the data and documents included in the summary and enabling to their individual identification to the client who had possession of the data carrier of regarding whom a copy of the seized items within the meaning of Article 90/A(2) was made on-site, with a time limit of eight days.

(4) When making the inspectional work copy, the electronic copy of the data stored on the data carrier shall be recorded in a manner preventing the subsequent altering of the data, or — if this is not possible due to the type of data carrier — the procedure used to record the data shall ensure the possibility to subsequently check the unaltered nature of the data.

**Article 90/C** (1) Documents prepared for the purpose of defense cannot be used as evidence in the context of the market surveillance procedure — with the exception of the cases defined in this Article —, and cannot be inspected, seized or copied, and their presentation, handover or granting of access thereto may be refused. The client may waive this prohibition.

(2) Documents prepared for the purpose of defense are documents or portions of documents generated in the context of communication between the client and its retained attorney for the purpose and in the context of the client's defense, or which record the contents of such communication, and the documents itself clearly shows this nature. Documents that are not in position of the client or the affected attorney do not qualify as documents prepared for the purpose of defense, unless they prove that the document was taken from their possession unlawfully.

(3) The person conducting the on-site search is entitled to view the document — without prejudice to the right protected under this Article, and only to the extent necessary — in order to determine whether reference to the document as having been prepared for the purpose of defense is not clearly unfounded.

(4) Documents may be seized in the context of an on-site search

a) if a copy of the seized items is made,

b) only an affected party that was not authorised to represent the client or the affected attorney in terms of the issuance of a declaration qualifying the documents as documents prepared for defense was present during the procedural action taken, or

c) the person conducting the on-site search disagrees with the declaration qualifying the documents as documents prepared for defense.

(5) The documents specified in paragraph (4) and the copy of the seized items must be stored on a storage device that prevents access to the data and their subsequent alteration, and which is closed by the affected party and the

person conducting the on-site search authenticated with their signature in a manner that the storage device cannot be opened without breaking the authentication (hereinafter referred to as: 'closed storage device').

(6) In the case specified in paragraph (4) subsections a) and b), the affected client must be requested — accurately specifying the document or portion thereof — to issue a statement on whether any of the seized documents qualify as documents prepared for defense. The affected client must simultaneously be notified that the procedural action specified in paragraph (9) will be applied to documents qualified as such by the client. The notification shall specify the time and date, expected duration and location of the procedural action, leaving at least eight days for the client to issue a statement.

(7) The closed storage device may only be opened, and the documents or copy of the seized items contained in the storage device may only be inspected once the time limit for the issuance of a statement specified in paragraph (6) has lapsed. If the client issues a statement within the time limit to the effect that the storage device contains documents prepared for defense or that the copy of the seized items contain such documents, the closed storage device may only be opened in the context of procedural action defined in paragraphs (9) and (13), and the copy of the seized items shall be placed back in the closed storage device after the action is completed.

(8) Documents in respect of which the affected client did not issue such a statement at the time of seizure by the MNB or within the time limit specified in paragraph (6) cannot be treated as documents prepared for defense. No justification will be accepted to explain any failure to meet the time limit specified in Paragraph (6).

(9) If according to the affected client's statement, the seized documents include documents prepared for defense, these documents must be sorted from the other documents in the presence of the affected client — by using a copy enabling the separation of data (hereinafter referred to as: 'intermediate work copy') in the case of the copy of the seized items — and handed over to the affected client, and an inspectional work copy made of the intermediate work copy not including any documents prepared for defense, and the intermediate work copy must then be immediately deleted by physically destroying the data carrier holding the intermediate work copy, or applying a procedure preventing the restoration of data or by deleting the data. If contrary to the client's statement, the document does not qualify as a document prepared for defense according to the person conducting the on-site search, the contested document or the intermediate work copy containing it shall be placed in a closed storage device. The decision of a duly notified affected client to remain absent from the search shall not affect the performance of the procedural action.

(10) In the case defined in Paragraph (4) subsection c), and in the event that the inspector contests the classification of the document as being a document prepared for defense during the procedural action specified in Paragraph (9), the Budapest Court of Public Administration and Labour shall issue a decision on the matter in the context of non-litigious proceedings at the MNB's request and following the hearing of the affected client, within 15 days of the submission of the request. The document or the intermediate work copy containing it shall be appended by the MNB to its request on a closed storage device.

(11) If the court finds that the document or portion of document does not qualify as a document prepared for defense, it shall issue the document or portion of document to the MNB. In the event of a contrary decision, the court shall issue the document or portion of document to the affected client.

(12) In derogation of paragraph (11), in respect of the documents contained in the intermediate work copy and if the separation of documents is not possible without harming their evidentiary value, the court shall specify in an order the document or portion of document that qualifies as a document prepared for defense, and shall issue the intermediate work copy or the document in a closed storage device to the MNB.

(13) The closed storage device may only be issued to the MNB as per paragraph (12), the data contained in it may only be inspected for the purpose of making an inspectional work copy of the intermediate work copy not containing any documents prepared for defense or for inspecting the part of the document not qualifying as a document prepared for defense in the presence of the affected client, and the documents shall be handed over to the client afterwards, and the intermediate work copy must then be immediately deleted by physically destroying the data carrier holding the intermediate work copy, or applying a procedure preventing the restoration of data or by deleting the data. The client shall be notified at least three days in advance of the time and date, expected duration and

location of this procedural step. The decision of a duly notified affected client to remain absent from the search shall not affect the performance of the procedural action.

**Article 91** (1) The MNB shall have powers – in the course of market surveillance proceedings investigating operations conducted without authorisation or notification, suspected cases of insider dealing or market manipulation, for the enforcement of the obligation of reporting and publication relating to insiders and rules pertaining to company acquisitions, and for the enforcement of the obligation of notification and publication referred to in Articles 5 to 8 and to the restrictions on uncovered transactions referred to in Articles 12 to 14 of Regulation No 236/2012/EU of the European Parliament and of the Council – to obtain and process, to the extent necessary to discharge its duties, the personal data (family name and first name, birth name, address)

a) of clients relating to securities account, client account and payment account transactions, the number of the account to be debited and credited, the holder of such account, the purpose of crediting and debiting, and the code for the identification of the financial transaction,

b) of clients relating to the telephone number or other identifier of the subscriber terminal specified in the Act on electronic communications, the calling and called subscriber numbers, and the date and time of calls or other services provided,

c) necessary for the identification of any natural person encountered in the payment account or securities account of a client under inspection, who is likely to have additional evidence that may be of import for the purposes of the market surveillance procedure.

(2) When requesting the data specified in paragraph (1), the MNB shall provide sufficient evidence to show that the data requested is necessary for ascertaining the relevant facts of the case to the fullest extent.

(3) The data specified in paragraph (1) subsection b) shall be made available subject to the public prosecutor's prior consent.

(4) The public prosecutor shall refuse consent if the MNB is unable to provide sufficient evidence as required under paragraph (2), or if other legal requirements for data management are not satisfied.

(5) The MNB is also authorised to access the data specified in paragraph (1) subsection a) in the case of a non-natural person client in respect of the person responsible for or directly linked to the client's activities under inspection if the evidence collected during the market surveillance procedure suggests that the amounts handled on this securities, client or payment account were used for the activities of the non-natural person client. If the account turnover proves that the suspected implication of the inspected person is not substantiated, the inspected person will not be involved as a client in the MNB's market surveillance procedure, however the MNB shall notify it of the verification of the account turnover. If the account turnover proves that the suspected implication of the inspected person is substantiated, the inspected person will be involved as a client in the MNB's market surveillance procedure.

**Article 92** (1) The MNB may deliver its consignments issued in the context of market surveillance procedures using the postal service or through its own delivery. Delivery through a postal service abroad shall be regarded as proper delivery if it complies with the provisions of domestic legislation on the delivery of official documents or the relevant local legislation of the place of delivery.

(2) The disclosure of a notice to client with no residential address or registered office in Hungary, or — if the relevant conditions apply — delivery through an administrator for service of process due to the absence of an appointed agent for service of process is only allowed if disclosure cannot be ensured through international legal assistance or other available methods of disclosure, providing certification thereof.

**Article 92/A** (1) The MNB may stipulate in an order issued in the context of its market surveillance procedure, contestable through separate remedy, that the party authorised to view the documents on the basis of the Ket. only have access to the documents of the market surveillance procedure following the conclusion of the evidencing procedure. The party authorised to view the documents may view the document imperatively necessary to exercise its right of remedy against the contestable order issued in the context of the market surveillance procedure even before the conclusion of the evidencing procedure.

(2) Based on the request of the party authorised to view the documents, the MNB may also authorise viewing of the documents prior to the conclusion of the evidencing procedure for reasons different from those defined in paragraph (1), if such does not jeopardize the outcome of the market surveillance procedure.

(3) In its request defined in Article 69(2) of the Ket., the client shall accurately specify the data to be handled as a business secret or privacy and the grounds for such handling — individually for each piece of data —, particularly the interest requiring protection that would be violated in the event of unauthorised access to the data.

(4) The client shall simultaneously disclose a document version of the document that does not contain any of the data specified in paragraph (3).

(5) In the order authorising the viewing of documents — if necessary in order to prevent access to the data by unauthorised persons — the MNB, alongside determining the detailed rules of document viewing for the purpose of accessing data only the necessary extent and scope,

a) may restrict the right to prepare and extract of the document, and

b) exceptionally, if the exercising of the client's lawful rights can only be ensured by making accessible data the accurate knowledge of which would directly and irreversibly violate the data holder's interest linked to the confidentiality of the data, they may prescribe access to the data only through the attorney representing the client or the expert appointed by the client, with the proviso that the restricted data may not be revealed to the client.

**Article 93** (1) If an activity is found to be performed without authorisation, the MNB shall

a) prohibit the conduct of the activity,

b) initiate criminal proceedings with the competent investigative authority if, in the MNB's opinion, there is any criminal element involved in accordance with the Act on the criminal code,

c) apply measures or exceptional measures, and/or

d) impose a market surveillance fine.

(2) In the case an activity performed without notification, the MNB shall:

a) prohibit the conduct of the activity,

b) apply measures or exceptional measures, and/or

c) impose a market surveillance fine.

(3) The MNB,

a) in the event of non-compliance with the obligation of notification and publication referred to in Articles 5 to 8 of Regulation No 236/2012/EU of the European Parliament and of the Council, shall order the person or entity who failed to comply with the obligation of publication to do so as required,

b) in the event of any infringement of the regulations relating to the restrictions on uncovered transactions referred to in Articles 12 to 14 of Regulation No 236/2012/EU of the European Parliament and of the Council, shall order the person or entity who breached the restriction on transactions to comply with the transaction requirements, and

c) shall impose a market surveillance fine in the cases specified in subsections a) and b).

(4) In addition to the provisions of the Ket., the MNB may impose provisional protective measures in order to enforce its decision adopted in market surveillance procedures in cases where it is deemed justified with a view to ascertaining the recovery of the market surveillance fine or for protecting the interests of the clients of persons or

entities engaged in activities without a license or without prior notification. In addition to the provisions of the Ket., the MNB may impose protective measures in order to enforce its decision adopted in market surveillance procedures in cases where it is deemed justified with a view to ascertaining the recovery of the market surveillance fine or for protecting the interests of the clients of persons or entities engaged in activities without a license or without prior notification. The MNB shall directly notify the affected financial organisations of the provisional protective measures and protective measures imposed by it in the context of market surveillance procedures, in the interest of immediate implementation.

(5) In market surveillance procedures

a) the amount of fines imposed in connection with activities performed without authorisation or in the absence of notification shall be between one hundred thousand forints and two billion forints,

b) the amount of market surveillance penalty imposed in connection with any infringement of the provisions on insider dealing, market manipulation and acquisitions shall be between one hundred thousand forints and two billion forints,

c) the amount of market surveillance penalty imposed in connection with any infringement of the obligation of notification relating to insiders shall be between one hundred thousand forints and ten million forints,

d) the amount of market surveillance penalty imposed in connection with any infringement of the regulations relating to the obligation of notification and publication referred to in Articles 5 to 8 and to the restrictions on uncovered transactions referred to in Articles 12 to 14 of Regulation No 236/2012/EU of the European Parliament and of the Council shall be between one hundred thousand forints and two billion forints.

(5a) In the case of non-natural person clients, the amount of the market surveillance fine levied on natural persons substantially cooperating in the activity affected by the market surveillance fine may range from HUF 100,000 to HUF 100 million, over and above the application of Article 93(5).

(6) By way of derogation from paragraph (5) subsection b), the maximum of the market surveillance fine shall be four hundred per cent of the exchange gain obtained or the exchange loss avoided, if the exchange difference can be identified, and if such difference is higher than the maximum of the market supervision fine set forth in paragraph (5) subsection b).

(7) Where the MNB controls compliance with market surveillance regulations within the framework of a control procedure, Articles 90 and 91 shall also be applicable to such procedures.

(8) If the MNB finds any infringement of market surveillance regulations within the framework of the control procedure, it may impose the measures described in paragraphs (1) to (6) hereof for such infringements.

(9) If, in addition to the cases described in Article 75(1), market surveillance regulations have also been violated as evidenced by the facts of the case established in the control procedure, the MNB shall have the option to order a collective sanction for all such violations, including the measures set forth in paragraphs (1) to (6) hereof in addition to the measures provided for in Articles 75 and 76.

(10) If in the course of its market surveillance procedure the MNB finds any infringement of the statutory provision relating to the persons and entities covered by the acts referred to in Article 39, or any violation of MNB's resolutions, the measures described in Article 75 may be imposed for such infringements.

(11) In market surveillance procedures, Article 29(3) subsection a) and paragraphs (4) and (5) and Article 70 of the Ket., and the rules governing control procedures under this Act shall apply, with the exception of the provisions defined in Article 64(1) to (6), Article 65(3) to (6), Article 67(10), Article 67/A, Article 67/B(2), Article 69 to 71, Article 73, Article 76 and Article 78 shall apply.

**Article 94** (1) If in connection with operations conducted without authorisation or in the absence of notification the MNB has imposed a market surveillance fine or prohibited the continuation of a conduct in breach of law and ordered termination of the breach, and where deemed necessary to protect the legal or economic interests of the

clients of the person or entities engaged in the pursuit of activities without authorisation or in the absence of notification, or to safeguard the public interest, the MNB shall publish on its website:

- a) the number and subject of the resolution;
- b) the infringer's family name and first name and home address, if a natural person,
- c) the infringer's name and registered address, if a legal person or unincorporated business association, and
- d) the operative part of the decision.

(2) The MNB shall remove the personal data referred to in paragraph (1) subsection b) published pursuant to paragraph (1) from its website after one year from the date of publication, and may remove information other than personal data from its website after one year from the date of publication.

### **30/A. Rules governing administrative contracts**

**Article 95** (1) With a view to terminating the infringement identified in the course of procedures for the protection of consumers' interests and market surveillance procedure, the MNB, instead of adopting a resolution, may enter into an administrative agreement with a client who undertakes to cease the infringement and to bring its behaviour in line with the provisions of the relevant legislation in the manner defined in the administrative agreement.

(2) The MNB shall post a notice concerning the administrative agreement on its website, or shall publish it by any other means it deems appropriate. The posted notice shall include the following:

- a) the fact that the agreement to safeguard the public interest was concluded,
- b) the summary of the commitment phrased in language that is easy to understand, and
- c) an indication that the administrative agreement is available for inspection at the MNB.

(3) If the client violates the terms of the administrative agreement, the MNB shall be authorised to adopt the measures and apply the legal consequences which would otherwise be applicable in accordance with the regulations on the proceedings if it had issued a resolution.

(4) No measures or legal consequences may be imposed on clients who entered into an administrative agreement with the MNB in respect of an infringement committed within the time limit prescribed in the agreement the termination of which was the object of the administrative agreement.

(5) An administrative agreement with the contents defined in Article 76(3) of the Ket. may be concluded if the client undertakes to submit to the provisions of paragraph (3) in the event that the terms of the agreement are violated.

## Chapter VIII

### The Financial Arbitration Board

#### **31. Tasks, organisation and operation of the Financial Arbitration Board**

**Article 96** (1) The powers and competence of the Financial Arbitration Board shall cover disputes between consumers and the persons and entities covered by the acts referred to in Article 39 relating to the conclusion and performance of legal relationships for the use of services (hereinafter referred to as 'consumer dispute of a financial nature') with a view to reaching an out-of-court settlement. To this end, the Financial Arbitration Board shall attempt to achieve an amicable settlement or, failing this, to adopt a decision in the case with a view to the simple, fast, efficient and cost effective enforcement of consumer rights.

(2) The Financial Arbitration Board is a professionally independent body operated by the MNB, consisting of the chairman and members of the Financial Arbitration Board.

(3) In the organisational structure of the MNB, the Financial Arbitration Board shall report directly to the governor of the MNB.

(4) The Financial Arbitration Board shall perform the duties set out in the by-laws of the Financial Dispute Resolution Network (hereinafter referred to as 'FIN-Net') facilitating the out-of-court settlement of disputes of a financial nature.

(5) The MNB shall provide funding for the operating expenditures of the Financial Arbitration Board, and for performing the duties of arbitration bodies relating to participation in the FIN-Net.

**Article 97** (1) Members of the Financial Arbitration Board (hereinafter referred to as 'arbitration board members') shall be employees of the MNB.

(2) Arbitration board members shall not be bound by any instructions in their decision-making capacity in consumer disputes.

(3) Arbitration board members are required to have legal qualifications and to have passed the bar examination, or a university degree in economics. The rules of procedure of the Financial Arbitration Board may set additional requirements for the eligibility of arbitration board members.

(4) The consent of the chairman of the Arbitration Board shall be required for the termination of employment of arbitration board members.

**Article 98** (1) The Financial Arbitration Board shall proceed in a panel of three members (hereinafter referred to as 'panel'), except for consumer claims of under HUF 50,000 or for consumer claims less complicated, and in cases involving a request for equitable procedure, in which cases a single board member may proceed alone. References to the proceeding panel or its chairperson shall also apply to the single board member proceeding alone.

(2) Members of the panel shall be appointed in accordance with the Financial Arbitration Board's rules of procedure.

(3) The rules of procedure shall contain provisions on conflicts of interest, as well.

(4) Arbitration board members delegated to the panel shall, without delay, notify and disclose all circumstances that may give rise to legitimate doubt regarding their independence or impartiality.

(5) Parties may lodge a motion for disqualification of an arbitration board member delegated to the panel if there are circumstances giving rise to legitimate doubts regarding his independence or impartiality.

(6) A reasoned written motion for disqualification may be presented within three days following the party gaining knowledge of the composition of the panel or of the circumstance giving rise to the submission of the motion for disqualification.

(7) The decision for disqualification shall lie with the chairman of the Financial Arbitration Board, to be rendered after hearing the board member concerned.

**Article 99** When requested, the Financial Arbitration Board shall provide information in writing or by way of any other appropriate means concerning its competence and jurisdiction, procedural rules and costs, on the conditions for passing binding decisions and recommendations, on the procedures for the enforcement of resolutions, on the conditions for annulling binding decisions and recommendations, and about the fact that its procedure shall have no bearing on the enforcement of claims in a court of law.

**Article 100** (1) The work of the Financial Arbitration Board shall be directed by the chairman of the Financial Arbitration Board.

(2) The chairman of the Financial Arbitration Board shall be appointed by the governor of the MNB for a term of six years.

(3) The monthly salary of the chairman of the Financial Arbitration Board, received from the MNB for the period beginning on 1 March and ending at the end of February of next year, shall be eight times the national monthly average gross wage officially in the previous year published by the Central Statistical Office.

(4) The mandate and employment relationship with the MNB of the chairman of the Financial Arbitration Board shall terminate upon

a) expiration of the term of office

b) resignation,

c) dismissal,

d) declaration of conflict of interest,

e) by death.

(5) In the case referred to in paragraph (4) subsections a), b) and e), termination of the mandate of chairman of the Financial Arbitration Board shall be established by the governor of the MNB.

(6) Resignation of the chairman of the Financial Arbitration Board shall be tendered in writing to the governor of the MNB. In the event of resignation, the time of termination of the mandate of the chairman of the Financial Arbitration Board shall be determined by the governor of the MNB; however, such time shall not be later than sixty days following submission of the resignation to the governor of the MNB.

(7) Conflict of interest pertaining to the chairman of the Financial Arbitration Board shall be established by the governor of the MNB.

(8) If the circumstances underlying the conflict of interest cease to exist before the declaration of a conflict of interest, no declaration of conflict of interest shall be made.

(9) The chairman of the Financial Arbitration Board may be dismissed by the governor of the MNB if he

a) engaged in conduct that hindered the proper functioning of the MNB,

b) was unable to attend to his vested duties for a period exceeding one hundred and eighty days.

(10) The proposal for dismissal shall be sent to the chairman of the Financial Arbitration Board, who may seek remedy in the Court of Public Administration and Labour, in accordance with the regulations of the Mt. The chairman of the Financial Arbitration Board shall send the petition registered as received by the court and the final court decision to the governor of the MNB forthwith. No legal remedy may be sought against the decision of the governor of the MNB.

(11) Declaration of a conflict of interest in relation to, or dismissal of, the chairman of the Financial Arbitration Board may take place after the time limit for bringing action before the court, or after the court decision on the initiative becomes final and enforceable, if applicable.

(12) If the mandate of the chairman of the Financial Arbitration Board ends, he shall be entitled to a discharge period and severance pay unless the mandate ends for the reasons stated in paragraph (4) subsections b) and d), or the reasons for dismissal stated in paragraph (9) subsection a).

(13) The discharge period shall be six months. For the discharge period, the chairman of the Financial Arbitration Board shall be released from his obligation to perform work and shall be entitled to six months of pay for this period, to be paid in equal monthly amounts.

(14) The chairman of the Financial Arbitration Board shall be entitled to severance pay amounting to six months of pay, which shall be paid within eight days of the end of his mandate.



**Article 101** (1) The chairman of the Financial Arbitration Board shall establish the operating procedures of the Financial Arbitration Board, subject to approval by the governor of the MNB.

(2) The chairman of the Financial Arbitration Board shall appoint the members of the panel proceeding in a particular consumer dispute.

(3) The chairman of the Financial Arbitration Board shall submit a recommendation to the governor of the MNB on the number of allocated posts of the Financial Arbitration Board.

(4) In the course of discharging his responsibilities defined by law, the chairman of the Financial Arbitration Board shall not be bound by any instructions.

### **32. The proceeding of the Financial Arbitration Board**

**Article 102** (1) The opening of Financial Arbitration Board proceedings shall be subject to the condition that the consumer is governed by the acts defined in Article 39 and has attempted before submitting the request to settle the dispute directly with the person or entity involved in the consumer dispute, or has unsuccessfully lodged a request for equitable procedure at such entity.

(2)-(3)

**Article 103** (1) The persons and bodies covered by the acts referred to in Article 39 may file a general statement of submission with the Financial Arbitration Board in writing, which remains in effect until revoked, submitting to the proceedings of the arbitration board and to the decision adopted if no negotiated settlement is achieved. In the general statement of submission, the entity or person may limit the extent and scope of its commitment to the amount it deems appropriate for the subject matter of the dispute or otherwise.

(2) The Financial Arbitration Board shall maintain a register of the general statements of submission it has received.

(3) If the consumer can substantiate that he entered into the legal relationship to which the consumer dispute of a financial nature pertains in light of the fact that the person or entity covered by the acts referred to in Article 39 claimed in its commercial communication to submit to the proceedings of the arbitration board and to the decision adopted by the arbitration board in the absence of a negotiated settlement, the entity or person shall be bound to such statement – under the terms laid down therein – in the proceedings in question, whether or not it has made a general statement of submission under paragraph (1). The entity or person shall not be bound by such statement if it is able to demonstrate that the statement was withdrawn before the conclusion of the contract in the same manner that it had been undertaken.

**Article 104** (1) Financial Arbitration Board proceedings are opened upon the consumer's request.

(2) The request shall be submitted to the Financial Arbitration Board in writing using the dedicated form for requests, except the request for equitable procedure. The request shall include

- a) the name and address of residence or place of stay of the consumer,
- b) the name and registered office of the person or entity covered by the acts referred to in Article 39 involved in the consumer dispute,
- c) a brief description of the consumer's view of the case, along with the facts and evidence substantiating such view,
- d) the consumer's statement on having made an attempt at amicable settlement,
- e) the complaint which was rejected and the document containing the rejection,
- f) the consumer's statement to the effect that he has not initiated the proceedings of another conciliation body in the same matter and has not filed for civil action,

g) if the request includes any special data, the consumer's statement that it consents, simultaneously to submitting its request, to the handling and transfer of this special data in accordance with Article 5(2) subsection a) of the Infotv.,

h) the motion for decision,

i) in the case of requests for equitable procedure, the consumer's statement that it has not lodged a request for equitable procedure based on the same factual basis or in respect of the same right to the Financial Arbitration Board.

(3) Documents, or a copy (extract) of documents presented by the consumer in evidence shall be attached to the request, in particular the written statement of the person or entity covered by the acts referred to in Article 39 on the rejection of the complaint or where there is none, any other documentary evidence in the possession of the consumer in proof of an attempt to reach a settlement.

(4) If the consumer is represented in the proceeding by an agent, the authorisation of such agent must also be attached to the request.

(5) If the request fails to conform to the requirements set out in paragraphs (2) to (4), the Financial Arbitration Board shall return the request, with the indication of deficiencies, within fifteen days of receipt to have such deficiencies remedied.

**Article 105** The opening of the procedure shall interrupt the limitation period. Article 6:25(1) and (2) of the Civil Code applies to time-barring following successful completion of the procedure, while Article 6:24(1) and (2) of the Civil Code applies in case of unsuccessful completion of the procedure.

**Article 106** (1) For establishing time limits starting from the opening of the proceedings, receipt of the complete request by the Financial Arbitration Board shall be considered as the time of the opening of the proceedings.

(2) Within eight days of the opening of the proceedings, the Financial Arbitration Board shall review whether the board has jurisdiction over the case. In the event that it does not have jurisdiction, the Financial Arbitration Board shall forward the case without delay to the appropriate body with jurisdiction and notify the requesting party accordingly.

(3) The Financial Arbitration Board – if its jurisdiction is established – shall notify the parties and shall set a hearing date within sixty days of the opening of the proceedings, subject to the exceptions set out in paragraph (5).

(4) In the notice, the Financial Arbitration Board shall communicate to the parties the names of those appointed to the panel or the member proceeding alone in the case.

(5) After weighing the relevant circumstances, the chairman of the proceeding panel may move that the proceedings be carried out in writing, however, the consent of both parties must be obtained in order to forego holding a hearing.

**Article 107** The Financial Arbitration Board shall reject the request in writing, without a hearing if there is evidence that mediation proceedings have previously been initiated by the same parties for the same subject under the same factual grounds with the Financial Arbitration Board, or a court action is in progress, or if a binding decision or judgement has been adopted with respect to the same subject.

**Article 108** (1) The Financial Arbitration Board shall in due time notify the parties regarding the scheduled time of the hearing, or if it plans to lodge a motion to proceed without hearing, with a copy of the request attached.

(2) In the notice, the person or entity covered by the acts referred to in Article 39 shall be requested to file a written statement (response) within 15 days of receipt of the notice with regard to the legitimacy of the consumer's claim, the circumstances of the case, on the failure to settle the consumer complaint, or the reason for refusing an equitable procedure, and acceptance of the decision of the panel as binding (submission), identifying in the statement the facts and evidence in support of its position and attaching any documents (or copies thereof) invoked

as evidence. The service provider shall be advised that, in the event of its failure to file a statement regarding the merits of the case, the Financial Arbitration Board shall pass its decision based on the information at its disposal.

(3) The chairman of the Financial Arbitration Board shall send a copy of the response of the person or entity covered by the acts referred to in Article 39 to the consumer without delay, or if there is not sufficient time to do so, shall present it at the hearing.

(4) If the person or entity covered by the acts referred to in Article 39 fails to file a response, the Financial Arbitration Board shall continue the proceedings, however, if such failure shall not be construed as acceptance of the requesting person's claims.

**Article 109** In the proceedings of the Financial Arbitration Board documents shall be delivered to the parties by way of postal service, in accordance with the relevant provisions on the service of official documents.

**Article 110** (1) The parties may be represented in the proceedings by an appointed agent.

(2) Any natural or legal person an unincorporated business association may be appointed to act as an agent.

**Article 111** (1) In the proceedings, the chairman of the panel shall attempt to negotiate an agreement between the parties. The panel shall approve the negotiated settlement by resolution if it is in conformity with the relevant legislation, otherwise, or if there is no agreement, it shall continue the proceedings, with the exception of cases including a request for equitable procedure.

(2) During the proceedings, the panel shall afford equal treatment to the parties and shall provide all parties with an opportunity to present their case and table any motions they may have. If necessary, the chairman of the panel shall inform the consumer of his rights and obligations.

(3) Proceedings shall be conducted in closed sessions, unless both parties have consented to have the proceedings held publicly.

**Article 112** (1) The request or response may be freely modified or supplemented during the course of the proceedings, unless prohibited by the panel due to any potential delay caused by such action, or if the person or entity covered by the acts referred to in Article 39 objects, with a view to its submission, to the request being modified or supplemented.

(2) If either of the parties fails to appear at the hearing in spite of having been properly notified or fails to present their evidence, the panel shall continue the proceedings and render a decision on the basis of the information in its possession.

(3) The panel shall terminate the proceedings if

a) the consumer withdraws the request,

b) the parties agree on termination of the proceedings,

c) continuation of the proceedings becomes impossible,

d) continuation of the proceedings is not necessary, if so deemed by the panel for any reasons, including if the request is found to be unsubstantiated.

(4) The panel shall decide on the merits of the case by a simple majority of votes.

(5) The panel shall conclude the proceedings within ninety days of the time of opening; the chairman of the Financial Arbitration Board shall have powers to extend this time limit by no more than an additional thirty days where justified.

(6) The Financial Arbitration Board shall be in recess twice a year, once in July or August and once in December, for a duration of 8-15 working days. This recess shall not be included in procedural deadlines. The chairperson of the Financial Arbitration Board shall define the dates of the recess yearly and publish them on the Financial Arbitration Board's website.

**Article 113** In the absence of a negotiated settlement the panel shall

a) adopt a binding resolution on the merits of the case if the request is found to be substantiated, and the person or entity covered by the acts referred to in Article 39 has undertaken to be bound by the decision of the Financial Arbitration Board in a general statement of submission or in a statement contained in its commercial communication or made at the time of the opening of the proceedings or, at the latest, before the decision is adopted, or

b) make a recommendation on the merits of the case if the request is found to be substantiated but the person or entity covered by the acts referred to in Article 39 affected has refused to be bound by the decision of the panel in a statement filed at the time of the opening of the proceedings, or did not declare its position concerning submission to the decision of the panel.

**Article 114** (1) The binding decision or recommendation shall cover all motions presented in the request and the reasons underlying the decision.

(2) The costs of the proceedings shall cover all expenses incurred by the parties in connection with the proceedings of the Financial Arbitration Board within reason and in good faith (such as the costs of preliminary inquiries, costs of negotiations and correspondence, travel expenses and loss of income relating to the appearance of the parties in person, etc.).

(3) The costs of the proceedings, and the party to pay such costs, shall be specified in the binding decision.

(4) The costs of the proceedings shall be borne by the party against whom the decision was passed.

(5) In respect of the fulfilment of the obligation established in the decision, a time limit of at least fifteen days shall be set from the day of the delivery of the decision.

(6) The panel shall deliver its decision or recommendation on the day when adopted. The panel shall send one copy of the written decision or recommendation to each of the parties within fifteen days.

**Article 115** The Financial Arbitration Board shall be entitled to publish, without disclosing the names of the parties, a brief description of the dispute and the outcome of the proceedings.

**Article 116** (1) The decision or recommendation of the panel is adopted without prejudice to the consumer's right to have his claim enforced in a court of law.

(2) The binding decision or recommendation of the panel may not be appealed, but annulment of the decision by court order may be requested as specified paragraph (3).

(3) Within fifteen days of receipt of the binding decision or recommendation, the party affected may file to have such decision or recommendation annulled by the Budapest Metropolitan Court if

a) the composition or the procedure of the panel was not in compliance with the provisions of this Act,

b) the Financial Arbitration Board did not have jurisdiction,

c) the request should have been rejected without a hearing.

(4) In addition to what is contained in paragraph (3), the person or entity covered by the acts referred to in Article 39 may, within fifteen days from the time of receipt of the recommendation, request the Budapest Metropolitan Court to annul the recommendation if it fails to comply with the relevant statutory provisions.

**Article 117** (1) The lawsuit shall be opened naming the Financial Arbitration Board as the defendant. In such cases, the Financial Arbitration Board shall be vested with legal capacity and competence in the court of law.

(2) Upon request by the party affected, the court may suspend enforcement of the decision.

(3) The ruling of the court may pertain only to having the binding decision or recommendation annulled.

(4) In other issues of proceedings of the court, the provisions of Chapters I to XIV of the Pp. shall apply.

**Article 118** (1) Within fifteen days of receipt of the binding decision or recommendation, the party affected may request to have any name changes, clerical errors in name or number, calculation errors or any other clerical errors of similar nature which may occur in the decision corrected, or to issue an interpretative clause for a specific section of the binding decision or the recommendation.

(2) If the Financial Arbitration Board deems the request justified, it shall implement such correction within eight days of receiving the request, or shall issue the interpretative clause. Such clause shall be construed an integral part of the binding decision or recommendation.

(3) The Financial Arbitration Board may correct the error(s) defined in paragraph (1) within thirty days of the delivery of the decision or recommendation of its own motion, without being requested to do so.

(4) The Financial Arbitration Board shall send the corrected decision or recommendation to the parties within five working days of making such corrections.

**Article 119** (1) In the event that the person or entity covered by the acts referred to in Article 39 fails to comply with the panel's recommendation, the Financial Arbitration Board shall be entitled to publish, without disclosing the name of the consumer, a brief description of the dispute and the outcome of the proceedings after sixty days of the time of delivery of the recommendation to the service provider in question.

(2) By way of derogation from paragraph (1), the recommendation may not be made available to the public if a petition was submitted to have it annulled, until the court proceeding is concluded by a final decision.

**Article 120** (1) In the event of the failure of the person or entity covered by the acts referred to in Article 39 to implement the binding decision or the negotiated settlement approved by resolution within the prescribed time limit, the consumer may request the court to append an enforcement order to the resolution.

(2) The court may refuse to order enforcement of the binding decision in the event that the Financial Arbitration Board did not have jurisdiction.

(3) The consumer and the person or entity governed by the acts referred to in Article 39 shall be required to notify the Financial Arbitration Board within sixty days in writing of the implementation or the absence of the implementation of the settlement approved by resolution and the resolution stipulating an obligation, and compliance or absence of compliance with the recommendation.

**Article 121** The Financial Arbitration Board shall have authority to make public the name and address of any person or entity covered by the acts referred to in Article 39, including a description of the activity to which the proceedings pertain, that did not comply with the request made to file a statement concerning the merits of the case on hand – consistent with what is contained in Article 108(2) – and did not appear at the scheduled hearing, thus preventing the conclusion of a settlement. The entity or person affected shall be advised of this in the notice.

**Article 122** In the event of any violation on the part of a person or entity covered by the acts referred to in Article 39 of the provisions relating to the settlement of consumer disputes of a financial nature, the MNB shall have powers to adopt the measures specified in this Act.

**Article 123** The Financial Arbitration Board may obtain the opinion of an independent lawyer with a law degree and bar exam or an independent economist with a degree in economics. The detailed regulations for the Financial

Arbitration Board's proceedings, set out within the framework of this Act, are included in the Financial Arbitration Board's rules of procedure.

### **33. The proceeding of the Financial Arbitration Board in case of cross-border consumer disputes of a financial nature**

**Article 124** In connection with cross-border consumer disputes concerning financial service activities of the persons and bodies covered by the acts referred to in Article 39 (hereinafter referred to in this subtitle as 'financial service activities') the provisions of this Act shall apply subject to the exceptions set out in this subtitle.

**Article 125** For the purposes of this subtitle:

a) 'cross-border consumer dispute of a financial nature' shall mean any consumer dispute where:

aa) the place of residence or stay of the consumer affected is in Hungary, and the person or entity covered by the acts referred to in Article 39 affected is established in a State that is a party to the Agreement on the European Economic Area or has its registered office or permanent establishment in an EEA Member State, or

ab) the place of residence or stay of the consumer affected is in another EEA Member State, and the registered office of the person or entity covered by the acts referred to in Article 39 is in Hungary,

b) financial service activities shall be understood to include the activities of a service provider established in another EEA Member State.

**Article 126** (1) In any cross-border consumer dispute concerning financial service activities between a consumer who has his place of residence or stay in Hungary and a person or entity covered by the acts referred to in Article 39 established in another EEA Member State, the proceedings shall be opened on condition that the service provider recognises the Financial Arbitration Board as having competence in the dispute and considers itself bound by the Financial Arbitration Board's decision.

(2) If the proceedings cannot be opened under paragraph (1), the Financial Arbitration Board shall

a) inform the consumer of alternative dispute resolution forums in other EEA Member States participating in the FIN-Net which have powers and competence to proceed, including the specific rules for the proceedings of such entities, in particular the requirement of prior consultation with the service provider affected and the time limits prescribed for the opening of the proceedings where appropriate, and

b) forward the consumer's request made on the standard form used in the FIN-Net – upon the consumer's request – to the alternative dispute resolution forum participating in FIN-Net vested with powers and competence in another EEA Member State.

**Article 127** (1) The proceedings shall be conducted in writing, the chairman of the panel proceeding in the case, however, shall have the right – upon weighing the circumstances – to conduct hearings. For such hearings, the consent of both parties shall be required.

(2) If the chairman of the panel proceeding in the case did not move to have a hearing scheduled in accordance with paragraph (1), the notice referred to in Article 108(1) shall inform the parties concerning the opening of the proceedings instead of the time of the hearing. Where a hearing is scheduled, the notice shall contain an indication of the fact and a warning that the consent of both parties is required.

(3) If the chairman of the panel proceeding in the case did not move to have a hearing scheduled in accordance with paragraph (1), the competent council may – with a view to determining as to whether the request is well founded – instruct the parties to provide information in writing or to make available documents within the prescribed deadline. The statements and arguments of a party shall be made known to the other party, with the possibility to express its opinion in the matter.

(4) If the chairman of the panel proceeding in the case did not move to conduct a hearing under paragraph (1), Article 114(6) shall not apply. The panel shall deliver its decision to each of the parties without delay after it is adopted.

**Article 128** (1) The Financial Arbitration Board – at the consumer’s request – shall hear the case in the language and render its decision – evidenced by a certified copy – in the language in which the contract to which the dispute pertains was written, or which was used for communication between the person or entity providing the financial service subject to the dispute and the consumer.

(2) The related translation costs shall be part of the costs of the proceedings.

(3) In justified cases, the time limit for the proceedings may be extended by an additional ninety days.

**Article 129** (1) When requested, the Financial Arbitration Board shall forthwith provide information in writing or by way of any other appropriate means concerning, in addition to what is contained in Article 99,

a) the functioning of FIN-Net, and

b) the alternative dispute resolution forum participating in FIN-Net vested with powers and competence in another EEA Member State for the settlement of cross-border consumer disputes concerning financial service activities, including the proceedings of such body.

(2) The Financial Arbitration Board shall provide information concerning the provisions of the relevant Hungarian laws pertaining to the case in question at the request of the alternative dispute resolution forum participating in FIN-Net vested with powers and competence in another EEA Member State for the settlement of cross-border consumer disputes concerning financial service activities.

(3) The Financial Arbitration Board shall prepare a summary report on its activities relating to the settlement of cross-border consumer disputes concerning financial service activities and shall send it to the chairman by 31 January of the following year.

(4) After the summary report is accepted, the chairman of the Financial Arbitration Board shall publish the summary report and shall send it to the minister responsible for the regulation of the money, capital and insurance markets.

(5) The Financial Arbitration Board shall report to the European Commission concerning its activities using the standard form prescribed by the Commission.

**Article 130** (1) The chairman of the Financial Arbitration Board shall prepare a summary report on the activities of the Financial Arbitration Board each year and shall send it to the governor for approval by 31 January of the following year.

(2) After its approval, the chairman of the Financial Arbitration Board shall publish the summary report within thirty days and shall send it to the minister in charge of consumer protection.

## ***PART FOUR***

### ***RELATIONS OF THE MNB WITH OTHER BODIES***

#### **34. Relation with the Parliament**

**Article 131** (1) The Parliament may request to be informed, orally or in writing, by the governor of the MNB on an ad hoc basis.

(2) The governor of the MNB shall report to the Parliament’s standing committee for economic affairs in writing semi-annually on the MNB’s semi-annual activity, with the content corresponding to the content of the annual report. At the request of the Parliament’s standing committee for economic affairs, the governor of the MNB shall be obliged to attend in person and supplement the report orally.

(3) At the request of the Speaker of the Parliament or the chairman of the Parliament's standing committee for economic affairs, the governor of the MNB shall be subject to an extraordinary reporting obligation.

(4) Upon request, the governor of the MNB shall provide information to the competent committee of the Parliament.

(5) The MNB shall prepare a detailed annual plan for its operating expenses and investments, separately for its basic and other tasks, prior to the beginning of a financial year. Following the closure of a financial year, it shall prepare a comparative analysis of the planned and actual operating and investment expenses. It shall forward such analysis including an auditor's opinion simultaneously with the annual report to the Parliament's standing committee for economic affairs and the State Audit Office.

(6) Simultaneously with the preparation of the detailed annual plan referred to in paragraph (5), the MNB may propose the determination of the level of the supervisory fee regulated in a separate legal regulation, and shall send such proposal to the Parliament's standing committee for economic affairs and to the minister responsible for the regulation of the money, capital and insurance markets.

(7) The reporting obligations of the governor of the MNB as defined in paragraphs (1) to (3) shall not result in interference with the independence of the members of the MNB's decision-making bodies, shall not affect the status of the governor of the MNB as member of the ECB's General Council, and shall not affect the obligation of confidentiality arising out of the ESCB Statute.

### **35. Relation with the government, the ministries and the general public**

**Article 132** The MNB shall be consulted regarding the drafts of decisions and legal acts related to the tasks of the MNB and the operation of the system of financial system.

**Article 133** Following the adoption of the proposal on the central budget (hereinafter referred to as 'draft') by the government, the minister shall without delay provide information to the MNB on the draft. The MNB shall be entitled to send its opinion on the draft directly to the minister. The governor of the MNB shall present this opinion at the meeting of the Budgetary Council. The governor of the MNB shall not be bound by this opinion in the course of freely exercising his rights as a member of the Budgetary Council.

**Article 134** The government shall invite the governor of the MNB to attend its meetings for items of the agenda pertaining to the MNB's scope of competence.

**Article 135** (1) Unless otherwise provided by law, the MNB shall prepare and publish a report on the trends in monetary developments and other important issues related to its basic tasks at least on a quarterly basis. The MNB shall publish an announcement regarding the method and frequency of providing such information.

(2) The MNB shall prepare a prudential risk report and a consumer protection risk report annually on the functioning of the persons and entities covered by the acts defined in Article 39, of the financial markets and of the system of financial intermediation.

(3) Upon request, the MNB shall provide information to the government and the members of the government on an ad hoc basis on monetary developments and other important issues related to its basic tasks.

(4) The governor of the MNB shall inform the minister about decisions, after their adoption, relating to the control of the MNB's operation which are of particular importance for such operation, adopted within the executive board's powers under Article 12. The MNB shall inform the minister about the foreign exchange operations performed as well as the gold and foreign exchange reserves on a weekly basis. Each year, the minister and the governor of the MNB shall agree in writing on the scope of additional information to be supplied by the MNB.

(5) Upon the government's request, the MNB may perform tasks incumbent on the government in international financial organisations, unless otherwise provided by law.



**Article 136** At the request of the MNB, the government, the central administrative bodies shall provide information related to their activities.

**Article 137** (1) Data concerning the size and composition of foreign exchange and gold reserves, individual transactions executed in the course of reserve management, decisions and internal regulations relating to reserve management shall not be publicly available until disclosed by the MNB but for 10 years following the generation of the data at the latest, unless such data are classified. The governor of the MNB shall decide on the disclosure of data within such time limit.

(2) Data generated or recorded in the course of proceedings for the adoption of the decision of the Monetary Council, the Financial Stability Council and the executive board and data used to support decisions relating to the performance of basic tasks shall not be publicly available for thirty years from their generation, during which time no request for access to data supporting decisions shall be submitted either before or after the adoption of the decision.

**Article 138** In the performance of its duties set forth in Article 4(9), the MNB may become member of international organisations promoting international cooperation among financial supervisory authorities.

### **36. Relation with the International Monetary Fund**

**Article 139** (1) In respect of amounts payable periodically to the International Monetary Fund pursuant to the resolution adopted by the International Monetary Fund on Hungary's membership and the Articles of Agreement of the International Monetary Fund, the MNB shall perform the tasks of the agency making payments on behalf of Hungary from appropriate sources defined by law or by a directly applicable legal act of the European Union, including the payments in connection with the participation in the Special Drawing Rights Department of the International Monetary Fund.

(2) In accordance with the Articles of Agreement of the International Monetary Fund, the MNB may issue non-transferable, non-interest bearing notes to the benefit of the International Monetary Fund in relation to Hungary's membership thereof.

(3) The MNB shall be the fiscal agency on behalf of Hungary as required by the Articles of Agreement of the International Monetary Fund. In this regard, the MNB shall be entitled to establish and implement all operations and transactions that may be carried out pursuant to the Articles of Agreement of the International Monetary Fund on behalf of Hungary, and to act as beneficiary in its capacity as the fiscal agency in respect of any amount transferred or paid to Hungary pursuant to the Articles of the Articles of Agreement of the International Monetary Fund.

(4) The MNB as the designated depository shall attend to the safeguarding of the currency reserves of the International Monetary Fund in Hungary.

### **37. Relation with certain institutions of the European Union**

**Article 140** (1) The MNB shall cooperate,

a) in the performance of its duties set out in Article 4(9), with

aa) the European Commission,

ab) the European Supervisory Authorities, in particular the European Banking Authority, the European Insurance and Occupational Pensions Authority and the European Securities and Markets Authority,

ac) the European Systemic Risk Board;

ad) the European Insurance and Occupational Pensions Committee, and

ae) the European Banking Committee,

- b) in the performance of its duties set out in Article 4(7), with the European Systemic Risk Board,
- c) in respect to its tasks defined in Article 4(8) with the European Banking Authority.

(2) The MNB shall meet notification requirements to the authorities referred to in paragraph (1).

(3) The MNB shall notify the European Commission of the following in writing:

- a) authorisations issued to insurance companies or reinsurance companies, and the withdrawal of such authorisations;
- b) authorisations issued to the Hungarian branches of third-country credit institutions, investment firms, insurance companies or reinsurance companies;
- c) authorisation issued to an investment fund manager, for the management of undertakings for collective investment in transferable securities, which is a subsidiary, whether directly or indirectly, of a third-country undertaking,
- d) acquisition of holdings in a Hungarian-registered credit institution by a third-country credit institution as a result of which the Hungarian-registered credit institution becomes a subsidiary of the third-country credit institution, and the termination of such holdings;
- e) acquisition of holdings in a Hungarian-registered insurance company by a third-country insurance company as a result of which the Hungarian-registered insurance company becomes a subsidiary of the third-country insurance company, and the termination of such holdings,
- f) acquisition of holdings in a Hungarian-registered reinsurance company by a third-country reinsurance company as a result of which the Hungarian-registered reinsurance company becomes a subsidiary of the third-country reinsurance company, and the termination of such holdings,
- g) application or termination of consolidated supervision of a financial holding company,
- h)
- i) proceedings opened in connection with Article 174(5) to (7) of the Hpt. relating to supervision on a consolidated basis;
- j) agreements referred to in Article 181/J(5) of the Tpt. if, as a result of the agreement, the MNB is responsible for consolidated supervision,
- k)
- l) any restrictions on the freedom of establishment creating barriers for insurance companies or reinsurance companies registered in Hungary in establishing themselves and operating in a third country or carrying on activities in a third country,
- m) measures adopted pursuant to Article 199(5) of the Hpt., Article 404(2) of the Tpt. and Article 177(2) of the Bszt.,
- n) the arrangements entered into with regard to delegation of responsibilities, including the precise conditions regulating such delegation,
- o) the statutory provisions prescribing mandatory insurance and any changes thereunto,
- p) the cases notified under Article 30/A of Act CXXV of 2003 on equal treatment and the promotion of equal opportunity, risk assessments, the data related to these procedures and the means of publication of such data,

q) information relating to bonds, mortgage bonds, and the particulars of the issuers of such, which satisfy the conditions set out in Article 52(4) of Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (hereinafter referred to as 'Directive 2009/65/EC'), including a list of the relevant categories with a notice specifying the status of the guarantees offered attached, and

r)

s) the list of other systemically important institutions and global systemically important institutions, and the assignment of the latter into sub-categories,

t) the results of the reviews specified in Article 35/A (1) above, in Article 92(1) of the Hpt. and in Article 110/G (1) of the Bszt.,

u) the exemptions granted under Articles 110/A (4) and 110/B of the Bszt.

(4) The MNB shall notify

a) the European Securities and Markets Authority

aa) concerning any market abuse and administrative measures and sanctions imposed for any infringement of the statutory provisions applicable to investment firms and commodity dealers, following publication, as well as annually in aggregate form,

ab) concerning the approval of the prospectus and any supplement thereto simultaneously with the notification of the issuer, the offeror or the person asking for admission to trading on a regulated market, and shall at the same time provide a copy of the prospectus and any supplement thereto,

ac) concerning the granting and withdrawal of authorisation to engage in investment service activities, for the foundation of an exchange, for exchange market operations, and for the pursuit of investment fund management activities,

ad) on the regulated markets established in Hungary, including a list of such regulated markets and any changes therein,

ae) on the extra-judicial complaint and redress mechanisms which are available to the persons and entities covered by the acts referred to in Article 39,

af) concerning bonds, mortgage bonds, and the particulars of the issuers of such, which satisfy the conditions set out in Article 52(4) of Directive 2009/65/EC, including a list of the relevant categories with a notice specifying the status of the guarantees offered attached, and

ag) on the information available relating to third countries under Article 12(2), Article 18(7), Article 27(6) and Article 30(3) of the Pmt.,

ax) in order to protect the integrity of the internal market and to seek funding from alternative financing sources;

b) the European Banking Authority

ba) on the granting and withdrawal of the authorisation of a credit institution for operation together with the justification therefor,

bb) on authorisations issued to Hungarian branches of third-country credit institutions,

bc) on resolutions adopted under Article 36(5) of the Hpt.,

bd) concerning the application or termination of consolidated supervision of a financial holding company,

be) on the agreements referred to in 175(5) of Article of the Hpt. if, as a result of the agreement, the MNB is responsible for consolidated supervision, on group-level corporate governance, systems, procedures and mechanisms of institutions under consolidated supervision,

bf) on the assessments made according to Article 167(4) and (5) of the Hpt., and

bg) on the information available relating to third countries under Article 12(2), Article 18(7), Article 27(6) and Article 30(3) of the Pmt.,

bh) on the list of authorities having received information pursuant to an exemption to keep business and bank secrets according to Article 159(3) subsection b) and Article 162(2) subsection c) of the Hpt., respectively,

bi) on qualifying holdings acquired in a credit institution,

bj) on financial holding companies or mixed financial holding companies subject to Article 11 of Regulation No 575/2013/EU,

bk) if it applies to Article 9(3), (7) and (11) of Act LXXXIII of 2013 on the supplementary supervision of financial conglomerates (hereinafter referred to as 'Pkt.') to a mixed financial holding company,

bl) on the information specified in Article 126(5) of the Hpt.,

bm) on a permit issued pursuant to Article 145(4) of the Hpt.,

bn) on decisions adopted under Articles 174(5), 185 and 199(5) of the Hpt. and Article 164 of the Bszt.

bo) on operating licences issued to the Hungarian branch of a credit institution or investment firm seated in a third country,

bp) on discussions planned in connection with the development and coordination of a recovery plan specified in Article 114 of the Hpt.,

bq) on the application of Article 180(1) of the Hpt. and Article 162(5) of the Bszt.,

br) on the operation of the supervisory review and assessment procedures specified in Article 177 of the Hpt. and Article 163/A of the Bszt., and the methodology applied by the MNB,

bs) on the information specified in Articles 35/A (2),

bt) on the decision adopted in connection with Article 86 of the Hpt. and Articles 110/A and 110/C of the Bszt.,

bu) on the list of other systemically important institutions and global systemically important institutions, and the assignment of the latter into sub-categories,

bv) on the results of the reviews conducted pursuant to Article 35/A herein, Article 92 of the a Hpt. and Article 110/G of the Bszt.,

bw) if Article 9(3), (7) és (11) of the Pkt. is applied to a mixed financial holding company,

bx) on the analyses made pursuant to Article 112(5) of the Hpt. and Article 24/D(5) of the Bszt. ,

by) on the exemptions granted under Article 110/A(4) of the Bszt and Article 110/B(8) herein,

bz) following consultation with the competent resolution authorities, on the application of the requirements set out in Article 65(3) of the resolution Act relating to own funds and liabilities eligible for write down or conversion;

c) the European Insurance and Occupational Pensions Authority

ca) on the information available relating to third countries under Article 12(2), Article 18(7), Article 27(6) and Article 30(3) of the Pmt.,

cb) on the granting and withdrawal of the authorisation of institutions for occupational retirement provision.

d) the European Banking Committee on issuing an operating licences issued to the Hungarian branch of a credit institution seated in a third country,

e) the European Systemic Risk Board

ea) on the quarterly countercyclical buffer rate determined pursuant to Article 33(4) and the information disclosed pursuant to Article 43(2) subsection m).

eb) on the exemptions granted under Articles 110/A (4) of the Bszt. and 110/B (8) herein,

ec) on the details specified in Article 35(2) herein,

ed) on the list of other systemically important institutions and global systemically important institutions, and the assignment of the latter into sub-categories,

ee) on the result of the reviews specified in Article 35(1) herein, in Article 89(9) of the Hpt. and in Article 110/D(9) of the Bszt.,

ef) on the fulfilment of the conditions in Article 113(2) of the resolution Act.

(5) The notification referred to in paragraph (3) subsection a) shall contain an indication whether the authorisation is issued to an insurance company which is directly or indirectly a subsidiary of one or more third-country companies, and in such cases the structure of the corporate group shall be presented in detail.

(6) The notification referred to in paragraph (3) subsection b) pertaining to credit institutions shall be sent to the European Banking Committee established by Commission Decision of 5 November 2003 establishing the European Banking Committee as well.

(7) The notification referred to in paragraph (3) subsection c) shall contain a detailed presentation of the structure of the corporate group.

(8) The MNB shall send the notification referred to in paragraph (3) subsections g) and n) to the financial supervisory authorities of the Member States of the EEA as well.

(9) The Financial Arbitration Board shall report to the European Commission concerning its activities using the standard form prescribed by the Commission.

**Article 141** (1) The MNB shall compile data disclosed on the basis of legislation in relation to the remuneration policies of credit institutions and investment firms established in Hungary as defined in the Hpt. and the Bszt., for the purposes of analysing remuneration trends. The MNB shall forward such information to the European Banking Authority, as well.

(2) In respect of credit institutions and investment firms established in Hungary, for the purposes of analysing policies as defined in other legislation, the MNB shall compile information on the number of executive officers and employees who are in the remuneration category of 300 million forints or more annually. The MNB shall forward such information to the European Banking Authority.

**Article 141/A** In connection with its tasks set forth in Article 4(7), the MNB shall inform

a) the European Committee, the European Banking Authority, and the competent or designated authority of the EEA Member State or third country concerned at least one month prior to the disclosure of its decision set forth in Article 35/A(1) if it intends to determine or modify a capital buffer rate for systemic risk,

b) the European Committee, the European Banking Authority, the European Systemic Risk Board and the competent or designated authority of the EEA Member State concerned, if, under Article 35, it recognises the capital buffer rate for systemic risk determined in another EEA Member State,

(2) If, pursuant to Article 183/A, prior to 1 January 2016 the MNB determines a countercyclical capital buffer rate to be applied by credit institutions seated in Hungary, it shall notify the European Committee, the European Systemic Risk Board, the European Banking Authority and the relevant college of supervisors.

(3) If a designated authority in an EEA Member State determines a countercyclical capital buffer rate prior to 1 January 2016, it may be recognised by the MNB, which, however, shall notify the European Committee, the European Systemic Risk Board, the European Banking Authority and the relevant college of supervisors of this recognition.

### **38. College of supervisors**

**Article 142** (1) In the interests of ensuring coordination of consolidated supervisory activities, including cooperation within the framework of crisis management, and appropriate cooperation with the competent financial supervisory authorities of third countries, the MNB, in its capacity as the consolidating supervisor defined in a separate act, shall establish a college of supervisors.

(2) In cooperation with the competent financial supervisory authorities of the Member States of the European Union, the college of supervisors shall provide for the following tasks:

- a) exchange of information between financial supervisory authorities;
- b) agreeing on voluntary entrustment of tasks and voluntary delegation of responsibilities where appropriate;
- c) setting up supervisory review programs based on group-level risk analyses for enterprises subject to supervision on a consolidated basis;
- d) increasing the efficiency of supervision;
- e) consistent application of prudential requirements in respect of enterprises subject to supervision on a consolidated basis applies, without prejudice to potential differences in the national legislation of Member States;
- f) cooperation pursuant to Article 176(4) of the Hpt.

(3) The college of supervisors shall be established and shall operate on the basis of the written agreement formulated by the MNB following consultation between the MNB and the competent financial supervisory authorities of the other Member States involved. The MNB may request the participation of the supervisory authorities overseeing the subsidiaries of EU parent credit institutions, EU parent investment firms, EU parent insurance companies, EU parent financial holding companies or EU parent mixed financial holding companies, as well as the competent authorities overseeing the systemically significant branches involved, as defined by a separate act, the relevant central banks where required, and the competent authorities of third countries in connection with consolidated supervision or supplementary supervision at the level of the financial conglomerate where appropriate.

(4) The person appointed by the governor of the MNB shall chair the meetings of the college. The MNB shall decide which of the competent financial supervisory authorities of the other Member States involved shall take part in specific meetings or activities of the college of supervisors, with due consideration to the role of the competent financial supervisory authority of the other Member State in the specific activity. The MNB shall keep all members of the college of supervisors fully informed on the anticipated topics of the meeting and the decisions rendered.

(5) The MNB shall, furthermore, be required to establish a college of supervisors in the event that a credit institution or investment firm established in Hungary which is not subject to consolidated supervision creates a systemically significant branch in another Member State of the European Union, with the proviso that the provisions of paragraphs (3) and (4) shall apply to the operation of the college of supervisors as appropriate.

(6) The MNB shall inform the European Banking Authority about the activities of the college of supervisors and notify it of any information which is important from the perspective of supervisory convergence.

(7) In its role as host country supervisor, the MNB shall participate in the activities of colleges of supervisors created by financial supervisory authorities of other countries.

**Article 143** In the performance of its duties set out in Article 4(9), the MNB shall establish and manage the college set forth in Regulation No 648/2012/EU.

### **39. Relation with the State Audit Office**

**Article 144** The governor of the MNB shall consult the president of the State Audit Office prior to the appointment or proposal for dismissal of the MNB's auditor.

### **40. Account management activity of the MNB**

**Article 145** (1) The MNB shall manage:

a) the single bank account of the treasury; and

b) the bank account of the Államadósság Kezelő Központ Zártkörűen Működő Részvénytársaság (Government Debt Management Agency Private Company Limited by Shares).

(2) The MNB shall pay interest on the current balance of the single bank account of the treasury at market interest rate but not exceeding the central bank base rate to the central budget.

### **41. Relation with the general government**

**Article 146** The MNB may not extend overdraft facilities or any other type of credit facility to the public sector as defined in Article 123 of the Treaty on the Functioning of the European Union, and shall not purchase debt instruments directly from them with consideration of the provisions of Council Regulation No 3603/93/EC of 13 December 1993 specifying definitions for the application of the prohibitions referred to in Articles 104 and 104b(1) of the Treaty.

**Article 147** (1) The MNB shall allocate the exchange rate gain or loss incurred from the sale of its foreign currency receivables and liabilities at the official exchange rate in effect on the last day of the subject year to the forint exchange rate equalisation reserve.

(2) The MNB shall allocate to the foreign currency securities equalisation reserve the difference determined on the basis of the market valuation of receivables in foreign currency securities, following the re-entry of the opening balance.

(3) The forint exchange rate equalisation reserve and the foreign currency securities equalisation reserve, as specified in paragraphs (1) and (2), shall form a part of the MNB's equity.

(4) In the event that – based on the available data – the balance of the sum of the equalisation reserves specified in paragraphs (1) and (2) is negative, and this negative balance exceeds the positive sum of the positive amount of the accumulated profit reserve and the balance sheet result, the central budget shall, by 31 March of the year following the subject year, make a direct cash disbursement to the accumulated profit reserve up to the level of negative balance that exceeds the positive sum of accumulated profit and the balance sheet profit or, in case of a negative balance of accumulated profit reserve and the balance sheet result, i.e. in case of a negative balance of the profit reserve and the balance sheet result, up to the extent of the negative balance of the equalisation reserves, to be accounted for in the balance sheet in the subject year.

(5) In the event that, based on the definitive data and with due consideration of the cash disbursement specified in paragraph (4), the balance of the sum of the equalisation reserves specified in paragraphs (1) or (2) is negative, and this negative balance exceeds the sum of the accumulated profit reserve and the balance sheet result, the central

budget shall make a direct cash disbursement to the accumulated profit reserve within eight days of the shareholder's receipt of the notification defined in Article 6(2), up to the level of the negative balance that exceeds of the sum of the accumulated profit reserve and balance sheet profit. In the event that the cash disbursement specified in paragraph (4) exceeds the required cash disbursement determined on the basis of definitive data, the MNB shall reimburse the overpayment to the central budget directly from accumulated profit reserve within eight days of the shareholder's receipt of the notification defined in Article 6(2). These items shall be recorded in the balance sheet of the year in which payments are affected.

**Article 148** (1) The MNB may act as an agent of the state on the securities market based on the mandate from the state or in respect of securities other than shares owned by the state.

(2) Based on the mandate from the state, the MNB may participate in the state's foreign currency borrowing operations and in the issuance of its securities abroad, as well as in the performance of tasks related to the management of the state's foreign receivables.

(3) The MNB may enter into forward and hedging transactions with the state or as an agent of the state under market conditions.

## **PART FIVE**

### **RULES APPLICABLE TO THE MEMBERS OF THE BODIES OF THE MNB AND OTHER EMPLOYEES**

#### **42. Remuneration of the governor, deputy governors, the members of the Monetary Council and supervisory board**

**Article 149** (1) The monthly remuneration of the governor from the MNB, for the period from 1 March of a reference year until the end of February in the following year, shall be ten times the national gross monthly average earnings officially published by the Central Statistical Office for the year preceding the reference year.

(2) The remuneration from the MNB of the MNB deputy governor appointed as the deputy chairman of the Monetary Council shall be 80% of the governor's remuneration. The remuneration of the other deputy governors of the MNB from the MNB shall be 70% of the governor's remuneration.

(3) The remuneration from the MNB of the members of the Monetary Council defined in Article 9(4) subsection c) shall be 60% of the governor's remuneration.

(4) The governor, deputy governors and the members of the Monetary Council defined in Article 9(4) subsection c) shall be entitled for other benefits from the MNB (including non-cash allowances, benefits in kind and social benefits) under the same conditions.

(5) The gross monthly remuneration of the chairman of the supervisory board shall be 1,200,000 forint.

(6) The gross monthly remuneration of the other members of the supervisory board shall be 800,000 forint.

(7) No additional remuneration shall be paid to the governor and deputy governors of the MNB with respect to their membership in the Monetary Council.

(8) Members of the Monetary Council of the MNB may not establish an employment relationship, or any other work-related legal relationship with a credit institution for 6 months following the termination of their mandate under Article 9(8) subsection a). In order to offset this prohibition, they shall be entitled to an allowance equivalent to six months' remuneration upon termination of their mandate pursuant to Article 9(8) subsection a).

#### **43. Professional secrecy and the legal status of employees**

**Article 150** (1) The employees of the MNB and the members of the supervisory board shall be required not to disclose any personal data, classified data, banking secrets, securities secrets, payment secrets, fund secrets, insurance secrets, occupational retirement secrets and business secrets which have come to their knowledge in



performing their duties and to comply with the legal regulations governing the management of such data. This obligation shall continue after the termination of their employment relationship or mandate.

(2) The employees of the MNB shall be required not to disclose ,as professional secrets, all data, facts or circumstances of which they gain knowledge in the course of carrying out public authority activities and which the MNB is not required by law to render accessible to other authorities or to the public. Employees of the MNB shall not disclose or use professional secrets without proper authorisation.

**Article 151** (1) The provisions of Act I of 2012 on the Labour Code (hereinafter referred to as 'Mt. ') shall apply to the employees of the MNB, with the exceptions defined in this Act.

(2) The provisions of Articles 204(3), 205 and 207 of the Mt. are not applicable to the MNB and its employees.

#### **44. Conflict of interest**

**Article 152** (1) Unless otherwise provided for by law, the employees of the MNB subject to the provisions of Articles 9, 13, 97 and 100, and the employees performing the basic tasks defined in Article 4(7) to (9) shall not establish and maintain membership or shareholder relationship, employment relationship or any other work-related relationship, executive officer relationship, supervisory board membership with any of the entities covered by the acts defined in Article 39.

(2) Membership in a voluntary mutual insurance fund, private pension fund, cooperative credit institution or insurance associations, membership in the supervisory board of a non-profit business association referred to in Article 79(2) and a legal relationship referred to in paragraph (1) with a financial institution in which the MNB holds a share shall not constitute a breach of the prohibition set forth in paragraph (1).

(3) With the exception of inheritance, the employees of the MNB referred to in paragraph (1) may not acquire:

a) securities, with the exception of government securities, certificates of deposit, collective investment instruments, mortgage bonds, or

b) other financial instruments not listed under subsection a) as defined in Article 6 of the Bszt.

(4) The employees of the MNB referred to in paragraph (1) shall

a) make a declaration upon the commencement of the employment relationship on any existing membership or shareholder relationship, or concerning or any financial assets, which he is not allowed to acquire following the establishment of the employment relationship; and

b) make an immediate declaration after the grant of probate has taken legal effect concerning any membership or shareholder relationship or concerning or any financial assets, which he is not allowed to acquire following the establishment of the employment relationship, acquired by means of inheritance. (5) The employees of the MNB referred to in paragraph (1) shall terminate their membership or shareholder relationship, or sell their securities or other financial assets within three months of the commencement of the legal relationship with the MNB, or of the grant of probate taking legal effect in the case of inheritance.

(6) The employees of the MNB referred to in paragraph (1) shall immediately report if, following the commencement of their legal relationship, a close relative living in the same household obtains membership or shareholder relationship in an entity covered by the acts defined in Article 39 or acquires securities or other financial assets specified in Article 6 of the Bszt.

(7) Upon the commencement of their legal relationship, the employees of the MNB referred to in paragraph (1) shall submit a declaration on their existing membership in any insurance association, private pension fund or voluntary mutual insurance fund.

(8) Upon the commencement of their legal relationship, the employees of the MNB referred to in paragraph (1) are required to make a declaration concerning any close relative living in the same household with him/her, who

maintains an executive officer relationship, supervisory board membership, employment relationship, or other work-related legal relationship with any of the entities covered by the acts defined in Article 39. The employees of the MNB referred to in paragraph (1) shall immediately report any such legal relationship created following the establishment of their employment relationship.

(9) The employees of the MNB referred to in paragraph (1) shall,

- a) until the termination of the legal relationship specified in paragraph (1);
- b) until the fulfilment of the obligation set forth in paragraph (5); and
- c) in the cases set forth in paragraphs (6) to (8)

not participate in the preparation and taking of decisions pertaining to the entity concerned.

**Article 153** (1) Unless otherwise provided for by law, employees of the MNB performing the basic tasks defined in Article 4(1) to (6) may not establish or maintain an employment relationship or any other work-related legal relationship, executive officer relationship, supervisory board membership with a financial institution (not including financial institutions in which the MNB has holds a share), or with other legal entities providing ancillary financial services, with investment firms, the National Deposit Insurance Fund or the Investor Protection Fund.

(2) MNB employees referred to in paragraph (1) may not hold an interest in any financial institution, legal entity providing ancillary financial services and investment firm except as specified in paragraph (3).

(3) The employees of the MNB referred to in paragraph (1) shall

- a) make a declaration upon the commencement of the employment relationship on any existing interests; and
- b) make an immediate declaration after the grant of probate has taken legal effect concerning any interest acquired during their employment relationship by means of inheritance

in a financial institution, a legal entity providing ancillary financial services or an investment firm, and shall terminate such interest within three months of the commencement of the employment relationship with the MNB, or of the grant of probate taking legal effect in the case of inheritance.

(4) The employees of the MNB referred to in paragraph (1) shall report the acquisition of financial assets specified under the Bszt., with the exception of government securities and investment units issued by public open-ended investment funds, within three working days of such acquisition.

(5) Until the termination of the legal relationship or interest specified in paragraphs (1) to (3), and the fulfilment of the obligation set forth in paragraph (4), the employees of the MNB referred to in paragraph (1) shall not participate in the preparation or taking of any decision which affect the entity concerned.

(6) Notwithstanding the rules defined in Article 152, in paragraphs (1) to (5) and in Articles 154-156 concerning conflicts of interest, members of the Monetary Council and employees of the MNB may, without reporting obligation, establish and maintain executive officer relationship, supervisory board membership, excluding employment relationships with business associations in which the MNB holds a majority share, and membership, excluding employment relationships, in the managing body, board of trustees or supervisory board of foundations established by the MNB.

**Article 154** (1) The employees of MNB not falling under the scope of Article 9 may establish or maintain employment or other work-related relationship only with the prior authorisation of the governor of the MNB, with the exception of scientific, educational, artistic, proof-reading, editorial activities, intellectual activities protected by copyright or foster parenting legal relationships which must be reported.

(2) Employees of the MNB not falling under the scope of Article 152 and 153 shall

a) make a declaration upon the commencement of the employment relationship on any interest in a financial institution, legal entity providing ancillary financial services or investment company; and

b) make an immediate declaration upon acquiring an interest defined in paragraph a) during their employment.

(3) Upon the commencement of employment and in the course of employment, employees of the MNB shall immediately report if a close relative living in the same household holds or acquires an interest in a financial institution, legal entity providing ancillary financial services or investment firm.

(4) The employees of the MNB shall be obliged to make a declaration upon the commencement of employment on their membership in cooperative credit institutions. The employees of the MNB shall not be obliged to terminate such membership existing upon the commencement of employment as long as they owe a debt to the cooperative credit institution.

(5) The employees of the MNB shall:

a) required to make a written declaration upon the commencement of employment as to whether any of their close relatives living in the same household are in an executive officer relationship, supervisory board membership, employment relationship or other work-related relationship with a financial institution, legal entity providing ancillary financial services, or investment firm; and

b) make an immediate declaration if a close relative living in their household enters into any of the legal relationship specified under subsection a).

(6) In the cases specified in paragraphs (1) to (5), employees of the MNB may not take part in the preparation and the taking of decisions pertaining to the organisation concerned.

**Article 155** (1) The employees of the MNB not falling under the scope of Article 9 shall submit the reports and declarations defined in Articles 152 to 154 to the person exercising the employer's rights.

(2) A legal relationship shall not be established in the MNB, as a consequence of which the employees of the MNB would come into a management (supervisory), controlling or accounting relationship with a close relative.

(3) The MNB shall, in order to fulfil the obligations stipulated in Articles 152 to 154 and for monitoring the fulfilment thereof, keep a record of the reports and declarations made by its employees for three years after the termination of their employment.

(4) For the purposes of Articles 152 to 154, a close relative shall mean any such person specified in the Civil Code and a partner.

**Article 156** (1) Members of the Monetary Council of the MNB may only perform other activities which are compatible with their central bank decision-making duties, they may not hold office in political parties, carry out public activities on behalf of or in the interest of political parties, may not be members of the Parliament or representatives of a local government, or managers or civil servants in local governments or state organisation.

(2) Members of the Monetary Council shall not be executive officers or supervisory board members of a business association.

(3) The governor and deputy governors of the MNB may not establish any other employment relationship or other work-related legal relationship.

(4) Members of the Monetary Council as defined in Article 9(4) subsection c) may, under a reporting obligation of , establish other employment relationships or other work-related legal relationship which does not result in a conflict of interest with their membership in the Monetary Council.

(5) Members of the Monetary Council may establish other work-related legal relationship for scientific, educational, artistic, proof-reading, editorial activities, intellectual activities protected by copyright, as well as foster parenting legal relationships while giving a prior report of the establishment of such relationships.

(6) Members of the Monetary Council as defined in Article 9(4) subsections a) and b) shall comply with their obligation to submit reports and declarations referred to in Article 152 and in paragraph (5) to the president of the republic; members of the Monetary Council as defined in Article 9(4) subsection c) shall comply with their obligation to submit reports and declarations referred to in Article 152 and in paragraphs (4) and (5) to the Speaker of the Parliament.

(7) With regard to the members of the Monetary Council, the conflict of interest rules set out in Article 152(1) – except membership or shareholder relationship, employment relationship or any other work-related relationship, executive officer relationship, supervisory board membership with any of the entities in which the Hungarian State or the MNB holds a controlling share, covered by the acts referred to in Article 39 – shall apply for a period of six months following the termination of the employment relationship with the MNB.

(8) Conflict of interest in respect of members of the Monetary Council as defined in Article 9(4) subsections a) and b) shall be declared by the president of the republic by recommendation of the prime minister; and in respect of members of the Monetary Council pursuant to Article 9(4) subsection c), by the Speaker of the Parliament by recommendation of the Parliament’s standing committee for economic affairs.

(9) If the circumstances underlying the conflict of interest cease to exist before the declaration of a conflict of interest, no declaration of conflict of interest shall be made.

(10) The provisions of Articles 154 and 155 shall be applied in respect of members of the supervisory board.

#### **45. Declaration of wealth**

**Article 157** (1) The governor and deputy governors of the MNB and the members of the Monetary Council defined in Article 9(4) subsection c), as well as members of the supervisory board, shall make their declaration of wealth in the same manner, with the same content and frequency as members of the Parliament. The annual declaration of wealth shall reflect the status of 31 December of the previous year when the obligation is due, while the declaration of wealth due upon appointment or dismissal shall reflect the status on the day of appointment or dismissal. The person obliged to make a declaration shall enclose the declaration of wealth of his spouse or partner living in the same household, and for his children, with the same content as the declaration of wealth of the members of the Parliament.

(2) The declarations of wealth shall be registered by the Parliamentary Standing Committee on Matters of Immunity and Conflict of Interest. The rules governing the declaration of wealth and the proceedings related to the declaration of wealth of members of the Parliament shall apply to the declaration of wealth of the members of the Monetary Council and of the supervisory board and to the related proceedings, with the exceptions set out in this Article. Anyone may initiate proceedings relating to declarations of wealth with the Speaker of the Parliament.

### ***PART SIX***

#### ***MISCELLANEOUS PROVISIONS***

#### **46. Central bank rights**

**Article 158** (1) In order to maintain the stability of the system of financial intermediation, the governor of the MNB may submit a proposal to the government to adopt legal regulations or to make legislative proposals, or to any member of the government for adopting legal regulations. The governor of the MNB may, at his discretion, make such proposal in a public announcement.

(2) In response to any proposal of the governor of the MNB submitted to the government as defined in paragraph (1), the minister responsible for the regulation of the money, capital and insurance markets on behalf of the government, and in response to any proposal submitted to a member of the government, such member of the

government shall inform the governor of the MNB within 15 working days of receipt or publication of the proposal – through public channels if the proposal has been announced in the public – of the launch of a procedure directed at adopting a legal regulation or at making a legislative proposal, of the deadline for presenting a draft law to the Parliament in the case of a legislative proposal, about the deadline for publication in the official journal in the case of regulation in a decree or, in the absence of proceedings for the adoption of a legal regulation or for the initiation of legislation, about the reasons underlying such decision of the government or, in the case of a proposal to a member of the government, of such member.

(3) If the time limit specified in paragraph (2) expires without any actions taken, the addressee of the proposal shall immediately inform the governor of the MNB – through public channels if the proposal was announced in the public – of the causes delay and – if the addressee is in agreement with the proposal – of the new time limit for the presentation of the draft law to the Parliament, or for publication in the official journal.

**Article 159** (1) The MNB shall be entitled to manage forint and foreign currency accounts on behalf of

- a) payment service providers as defined in the Act on payment services;
- b) entities performing clearing house activity as defined in the Tpt.;
- c) entities performing the activity of operation of a payment system as defined in the Hpt.;
- d) entities carrying out cash processing activities;
- e) the central securities depository;
- f) the National Deposit Insurance Fund;
- g) the Investor Protection Fund;
- h) any other organisation established in Hungary, relating to the performance of the tasks specified in Article 4(1), (4), (5) and (7); and
- i) foreign central banks and any other organisations established outside Hungary, relating to the performance of the tasks specified in Article 4(1), (4), (5) and (7), or in order to fulfil any obligations arising under international treaties,
- j) the Fund for the compensation of the investors of Quaestor.

(1a) The MNB shall be entitled to maintain payments accounts in Hungarian forints and foreign currency for its employees, with the condition that employees are only authorised to initiate cash withdrawals from such accounts.

(2) In performing its tasks defined in Article 4(1) to (5) and (7), the MNB shall be entitled to conduct any other transactions within the scope of its financial and ancillary financial service activities in forint, foreign currency and precious metals.

(3) In performing its tasks defined in Article 4(1) and (7), the MNB may perform custody services and recording of financial assets as an ancillary service to investment activities in accordance with the Bszt., in this context it may manage client accounts, or manage deposits and related securities accounts, and may keep records of physical securities and manage related client accounts.

(4) In order to support the activity of the investigative authorities and the Public Prosecutor, the MNB is entitled – observing the prohibition of monetary financing set forth in Article 146 – to provide forint and foreign currency banknotes to these organisations for the performance of their investigative activities.

**Article 160** (1) Based on claims arising in relation to the performance of its tasks defined in Article 4(1) to (7), the MNB shall be entitled to a statutory lien on the assets of a debtor established in Hungary, regardless of the legal grounds upon which title to such assets has been acquired. Based on the statutory lien, the MNB may satisfy its claim

from the property subject to lien without any court proceedings, in a manner that it deems most suitable. These provisions shall apply accordingly to satisfaction from collateral provided to the MNB.

(1a) If a contract between financial institutions or between a financial institution and the MNB, not qualifying as a consumer contract, on credit and loan extension or on financial leasing is transferred in respect of a monetary policy instrument, the rules of the Civil Code governing the transfer of contract shall be applied, with the derogation that the transfer of the contract portfolio does not result in the termination of the guarantees of the contract governed by Act IV of 1959 on the Civil Code or Act V of 2013, and the consent of the party remaining in the contract is not required.

(2) In respect of liens or collateral for the benefit of the MNB acquired in relation to the performance of its tasks specified in Article 4(1) to (7), the provisions of the Act on bankruptcy and liquidation proceedings on the restrictions of direct enforceability of liens and collateral shall not be applied.

(3) The provisions of paragraphs (1) and (2) shall also apply to collaterals provided for the benefit of the central bank of another Member State of the European Union, or of the ECB, with regard to the performance of their central banking tasks.

(4) The MNB shall satisfy its claims against credit institutions arising from its activity defined in Article 18, by debiting the accounts kept for such credit institutions, prior to transferring funds in execution of court orders and administrative orders.

**Article 161** In Hungary, claims against the MNB shall only be filed at the seat of MNB. This provision shall not apply to legal actions arising from employment relationship.

**Article 162** (1) The books of the MNB and duly signed excerpts from such books shall have the power of evidence as official public documents.

(2) In line with its tasks and primary objective, the MNB may establish a business association in which it has a majority holding or may create a foundation.

#### **47. Data management by the MNB**

**Article 163** (1) In addition to what is contained in Article 57, the MNB may use individual data received from foreign financial supervisory authorities under international cooperation in the performance of its tasks defined in Article 4(9) exclusively for performing tasks relating to its participation in the European System of Financial Supervision, and it may release individual data to foreign financial supervisory authorities exclusively for the performance of such tasks.

(2) The MNB may release data it manages to a foreign financial supervisory authority only if such foreign authority guarantees a legal protection of such data at least equivalent with the protection in Hungarian law. Transmission of data to authorities exercising financial supervisory tasks in the Member States of the EEA shall be automatically treated as if the transmission took place within the territory of Hungary under equivalent legal protection.

(3) The MNB shall make available to the government control body all data the government control body is authorised to manage to discharge its duties defined in Article 63(1) subsection g) of the Act CXCV of 2011 on public finances (hereinafter referred to as 'Áht. '), and in connection with it in Article 63(1) h) of the Áht..

(4) Each department of the MNB shall make available data and information to other departments of the MNB to the extent it is required also for the other department to discharge its duties prescribed by law.

#### **48. Action in the public interest**

**Article 164** (1) In the performance of its tasks set out in Article 4(9), the MNB may file a civil action on behalf of consumers against a person engaged in any violation of the provisions of the acts listed under Article 39, legislation adopted under authorisation by such acts or the provisions of Article 81(1) subsection b), furthermore, who is allegedly engaged in the use of any unfair standard contractual clause as defined by the Civil Code in connection with

his activities, where such illegal action affects a wide range of consumers which can be established relying on the circumstances of the infringement.

(2) No action may be brought after the end of three years after the infringement was committed. The omission of this time limit shall result in forfeiture of rights. For continuous infringements, the time limit shall commence at the time when the infringement is terminated. Where an infringement consists in the failure to terminate a situation or circumstance, the aforementioned period shall not commence as long as such situation or circumstance continues to prevail.

(3) Where, with respect to the consumers affected by the infringement, the legal grounds for the claim and the amount of damages or compensation demanded, or the overall contents of the claim in the case of other claims, can be clearly established irrespective of the individual circumstances of the consumers affected by the infringement, the MNB may request the court to award such claims and order the affected person or entity covered by the acts referred to in Article 39 to satisfy these claims, or failing this, to request the court to establish the existence of an infringement in favour of all of the consumers indicated in the claim. If the court's decision established the existence of infringement in favour of all of the consumers indicated in the claim, the consumers affected shall be required, in an action filed against the person or entity covered by the acts referred to in Article 39, to prove exclusively the amount of damages claimed — where applicable — and the existence of a causal link between the infringement and such damage.

(4) In its ruling the court shall specify group of consumers in favour of whom the existence of the infringement was established and who therefore are entitled to demand satisfaction based on the judgement, and shall determine the data required for their identification.

(5) In its ruling the court may authorise the MNB to publish the court's decision in a national daily newspaper, or to make it available to the general public by means consistent with the nature of the infringement, at the infringer's expense.

(6) If the court's decision, in addition to establishing the infringement, also contains a clause ordering the person or entity covered by the acts referred to in Article 39 to provide satisfaction for a specific claim, the infringer shall be required to satisfy the claim of the consumer on whose behalf the judgement referred to in paragraph (4) was awarded. In the absence of voluntary compliance, the consumer may request judicial enforcement. The court shall probe, based on the criteria set forth in its decision, the consumer's entitlement in its proceedings for the issue of an enforcement order.

(7) The action brought by the MNB under this Article is without prejudice to the consumers' right to file civil action independently against the infringer.

(8) The entitlement to file legal action shall be afforded, pursuant to paragraphs (1) and (2) to (7),

a) to associations for the protection of consumers' interests under the Act on consumer protection, and

b) to all qualified entities established under the laws of any Member State of the EEA – with respect to the consumer interest they protect – that are included in the list published in the Official Journal of the European Communities pursuant to Article 4(3) of Directive 2009/22/EC of the European Parliament and of the Council on injunctions for the protection of consumers' interests, provided that the claim for which the action is filed pertains to any infringement of the legal provisions on the transposition of the directives specified in Article 41(1).

#### **Article 48/A The protection of informants**

**Article 164/A** (1) Anyone may file a report to the MNB on any irregularity in the operation of a person or entity defined in Article 39.

(2) In accordance with the relevant rules of the act on complaints and reports in the public interest (hereinafter referred to as: 'Pkbvt.')

on reports in the public interest, the MNB shall address the reports submitted to it with derogation defined in this Article, with references made in the Pkbvt. to reports in the public interest meaning the reports defined in this Article.

(3) The report draws the MNB's attention to a circumstance based on which the violation of a provision — not classified as a consumer protection provision — defined in a law governing the operation of a person or entity defined in Article 39 or in separate other legislation can be presumed. The report may also contain a recommendation.

(4) The MNB will examine the report within 15 days of receipt.

(5) If following the inspection defined in paragraph (4) the violation of the provision defined in paragraph (3) can be presumed, the MNB shall launch the procedure defined in Article 48(1) subsection b) or d).

(6) The MNB shall notify the reporting party of the launch of the procedure or the absence thereof, and the reasons for not launching a procedure.

(7) Where the provision of the Pkbtv.

a) refers to a report in the public interest, it shall be interpreted as the report defined in this Article,

b) refers to a state organisation, it shall be interpreted as the MNB.

#### **49. Acquisition of shares and payment of dividends**

**Article 165** (1) Unless otherwise provided by law, the MNB shall not own shares of any domestic or foreign organisation.

(2) The MNB may acquire and keep shares in an organisation which:

a) has been established in relation to its activity;

b) performs activities for the operation of a payment system; or

c) performs stock exchange, clearing house, central securities depository or central counterparty activities.

(3) Paragraph (1) shall not apply to the acquisition by the MNB of securities incorporating membership rights, introduced to the regulated market within the framework of transactions implemented in the course of completing the tasks defined in Article 4(1) and (7), of equity, with the provision that pursuant to Bszt. the MNB may not acquire a qualified interest in the issuer. Within the scope of its tasks specified in Article 4(1) and (7), the MNB may not acquire securities incorporating membership rights directly from the issuer.

(4) Paragraph (1) shall not apply to the acquisition of ownership interest in the course of performing of the tasks of the MNB set forth in Article 4(3).

(5) The MNB shall contribute to the ECB's capital in the proportion laid down in Articles 28 and 29 of the ESCB Statute.

**Article 166** (1) The MNB shall pay a dividend from the part of the result in the subject year that is not used for setting off the negative amount of the balance reserves pursuant to Article 147(5) or from the accumulated profit reserve, in accordance with the decision of the executive board adopted pursuant to Section 12(4) subsection b).

(2) The MNB shall not pay advance dividends.

(3) Where the amount of loss incurred in the subject year exceeds the accumulated profit reserve, the difference shall be directly reimbursed from the central budget to the accumulated profit reserve within 8 days of the shareholders receipt of the notification of the annual financial statements for the subject year pursuant to Article 6(2).

(4) The shareholder may provide capital allocation to the accumulated profit reserve in cash.



## 50. Rules for the payment of supervisory fees

**Article 167** (1) Supervisory fees shall be declared on the standard form posted on the official website of the MNB.

(2) Persons and organisations liable for payment of the supervisory fee shall calculate the amount of the fee using the formula defined in a separate legal regulation, and shall submit the completed form referred to in paragraph (1) to the MNB within the time limit set for payment.

(3) Persons and organisations liable for payment of the supervisory fee shall be required to submit a declaration whether or not any supervisory fee becomes chargeable in the relevant period. Payment of the fee shall not replace the obligation to calculate and declare the fee.

(4) In the event of non-compliance with the obligation prescribed under paragraphs (2) and (3), the MNB shall begin a control procedure against the person or entity liable for payment the supervisory fee.

(5) Capital market tied agents, independent money market intermediaries and independent insurance intermediaries shall not be required to submit declarations.

**Article 168** (1) The persons and organisations liable for the payment of the supervisory fee and holding a valid authorisation, or listed in the MNB's register on the first day of the calendar year shall be required to pay the minimum charge calculated in accordance with the provisions of another legal regulation, by way of bank transfer to the MNB's account, in a single instalment on or before 31 January each year.

(2) The persons and organisations liable for payment of the supervisory fee shall be required to pay the variable-rate fee calculated in accordance with the provisions of another legal regulation on a quarterly basis, by way of bank transfer to the MNB's account on or before the last day of the month following the quarter to which it pertains.

(3) In addition to the fees calculated and declared on a quarterly basis, where it is necessary due to the approval of the annual accounts by the general meeting or members' meeting of the entities covered by the acts defined in Article 39, any payment obligation arising from unpaid fees for the year shall be shown as an adjustment item in the declaration pertaining to the second quarter following the relevant financial year.

(4) The payment obligation for the said unpaid fees shall fall due simultaneously with the obligation to pay the fee calculated and declared for the second quarter of the subsequent year. Any overpayment in supervisory fees may be deducted from the amount of the fee due for the second quarter following the relevant year.

**Article 169** (1) All supervisory fees imposed by the MNB in a final decision, as well as the penalty interest for delay imposed by final decision because of supervisory fees not paid in due time shall be enforced, upon the MNB's request, by the state tax authority as taxes. The MNB shall append a copy of the final resolution to such requests made to the state tax authority.

(2) Non-payment or late payment of the supervisory fee shall be subject to late charges from the due date specified in Article 168 until the supervisory fee is paid in full.

(3) The level of the late charges shall twice the central bank base rate divided by three hundred and sixty-five for every calendar day.

## 51. Revenues of the MNB

**Article 170** (1) The MNB shall have the following revenues:

- a) supervisory fees;
- b) fines imposed by the MNB;
- c) administrative service fees; and

d) other revenues not falling under subsections a) to c).

(2) The MNB shall use the amount equivalent to the fines paid for purposes listed in paragraph (3); any amounts not used for such purpose shall be accounted for the accumulated profit reserve.

(3) The MNB's revenues from fines may be used for:

a) promoting and supporting the training of specialists in economics and finances;

b) promoting and supporting economic, financial and interdisciplinary research;

c) strengthening and spreading financial culture, raising financial awareness and supporting such purposes, in particular, developing related educational and research infrastructures,

d) donations to foundations; and

e) charitable purposes.

## Chapter IX

### Final provisions

#### 52. Authorisations

**Article 171** (1) The governor of the Magyar Nemzeti Bank shall be authorised to regulate in a decree:

a) the level of the base rate in accordance with the decision of the Monetary Council;

b) the level of the reserve ratio in accordance with the decision of the Monetary Council, and the interest rate payable on the minimum central bank reserve;

c) the calculation, the method of allocation and placement of the minimum central bank reserve, and the measures to be taken in the event of non-compliance;

d) the issuance, denomination, distinguishing features and withdrawal from circulation of banknotes and coins, including commemorative banknotes and commemorative coins;

e) technical and other tasks specified in Article 24(1) with regard to the protection against counterfeiting of Hungarian and foreign legal tender;

f) the entities obliged to provide data pursuant to Article 24(5), and the method and content of such data submission;

g) the conditions of licensing the production or the arrangement for the production of imitations of legal tender in circulation and of banknotes and coins withdrawn from circulation by the MNB but convertible to legal tender, and the requirements for the production, registration, safekeeping and destruction of such imitations;

h) the regulations relating to reproductions of euro, including medals and tokens similar to euro coins, with the exception of the rules on sanctions, with consideration for the provisions of Council Regulation No 2182/2004/EC of 6 December 2004 concerning medals and tokens similar to euro coins;

i) the scope of information to be provided and the scope of the providers for the central bank information system, the method and deadline of data submission as well as issues relating to the notification of any major malfunction in the IT system in connection with data submission;

j) the rules applicable to the payment, the method and conditions of calculation of supervisory fees;

k) within the strategic framework laid down by the Monetary Council, in line with the decision of the Financial Stability Council, the measures required to prevent the build-up of systemic risks, to mitigate such risks and to enhance the resilience of the system of financial intermediation:

ka) the measures necessary in order to reduce the risks of excessive credit outflow,

kb) the conditions of the establishment and maintenance of the countercyclical capital buffer,

kc) measures required necessary in order to mitigate systemic liquidity risks,

(2) The governor of the Magyar Nemzeti Bank shall be authorised, within the scope of his tasks defined in Article 4(5) and Article 27(2), to regulate in a decree:

a) the rules of execution of payment orders in payment transactions as well as the detailed rules applicable to methods of payment;

b) the conditions for cash distribution;

c) the rules applicable to cash processing activity; and

d) the detailed rules on the activity of operation of a payment system.

(3) The governor of the Magyar Nemzeti Bank shall be authorised, within the scope of his tasks defined in Article 4(5) and Article 28(1) and (2), to regulate in a decree:

a) the content and formal requirements for the General Terms and Conditions of the entities performing the activity of operation of a payment system and the requirements for the regulations required for the provision of their activity;

b) the content and formal requirements for the General Terms and Conditions of the entity performing clearing house activity under the Tpt.; and

ba) the rules governing the establishment and termination of client relationships,

bb) the financial and technical conditions to be satisfied by clients,

bc) clearing and settlement procedures,

bd) the rules governing risk management,

be) the rules governing the creation and use of statutory collateral,

bf) the rules governing the establishment, use and management of guarantee funds, and

bg) the fundamental principles of setting the fees charged for the services rendered to clients;

c) in the case of the central securities depository,

ca) the rules governing the establishment and termination of client relationships,

cb) the financial and technical conditions to be satisfied by clients,

cc) the fundamental principles of setting the fees charged for the services rendered to clients, and

cd) the rules governing risk management;

d) in the case of the entity acting as a central counterparty,

- da) the rules governing the establishment and termination of client relationships,
- db) the financial and technical conditions to be satisfied by clients,
- dc) the rules governing the assumption of obligations related to the settlement of transactions guaranteed by the central counterparty,
- dd) the rules governing risk management,
- de) the rules governing the creation and use of statutory collateral,
- df) the rules governing the establishment, use and management of guarantee funds, and
- dg) the fundamental principles of setting the fees charged for the services rendered to clients, and
- dh) clearing and settlement procedures.

**Article 172** (1) To ensure the safe operation of the system of financial intermediation, within the strategic framework laid down by the Monetary Council, in line with the decision of the Financial Stability Council, the governor of the Magyar Nemzeti Bank shall be authorised to prohibit or restrict of, or impose conditions upon the pursuit of activities governed by the acts defined in Article 39 for a specified period of time, but for maximum ninety days, in respect of all persons and entities covered by the acts defined in Article 39 entitled to carry out the activities concerned, including the provision of services, the conclusion of transactions and the distribution of products falling within the scope of such activities if the activity in question constitutes a major risk potentially jeopardizing the stability of the system of financial intermediation as a whole, with the proviso that an activity shall be prohibited exclusively if such risk cannot be averted in any other manner, in a decree.

(2) For the purpose of paragraph (1), an activity is deemed to constitute a major risk factor if there are serious grounds for believing, based on the number of persons and organisations engaged in the pursuit of the activity or on the number of clients and creditors of the organisations and persons engaged in the pursuit of the said activity, or on the transactions values affected, that:

- a) the interests of the clients or creditors of a large number of the persons or organisations covered by the acts defined in Article 39 are likely to be harmed; or
- b) the transparency of the system of financial intermediation is likely to diminish.

(3) The conditions for the pursuit of specific activities shall be laid down in the decree referred to in paragraph (1) in a manner that allows these to be suitable for the elimination of the major risk referred to in paragraph (2) without restricting the freedom to contract more than is strictly necessary to reduce such major risk.

(4) The governor of the MNB shall inform the government about the adoption of the decree referred to in paragraph (1) and the reasons of the necessity thereof after the decision but before the publication of the decree in the official gazette.

**Article 173** The governor of the Magyar Nemzeti Bank shall be authorised to regulate in a decree the detailed rules for:

- a) the level of administrative service fee, payable for the procedure for:
  - aa) the licensing of the foundation, establishment,
  - ab) the licensing of mergers, divisions,
  - ac) the registration,
  - ad) the licensing for the taking up of activities,

- ae) the notification of cross-border activities,
- af) the setting up of branches,
- ag) the approval or amendment of regulations,
- ah) the licensing for the acquisition of a qualifying interest,
- ai) authorisation of the use of an independent or tied intermediary, or their registration
- aj) termination of the information provision obligation regarding the issuance of securities issued as a series,
- ak) introduction of securities issued as a series to a regulated market or registration in a multilateral trading system,
- al) the acquisition of control in a publicly traded company

and the detailed rules on the collection, handling, recording and refund of such fees concerning money, capital and insurance market organisations and persons, voluntary mutual insurance funds, private pension funds, and institutions for occupational retirement provision, with respect to the proceedings falling within the MNB's competence but excluding the procedure for the designation granted under the Act on settlement finality in payment and securities settlement systems;

- b) the level and payment of the administrative service fee payable for the procedure for licensing the production or the arrangement for the production of imitations of legal tender in circulation and of banknotes and coins already withdrawn from circulation by the MNB but convertible to legal tender;
- c) the languages accepted by the MNB and the languages customary in the sphere of international finance;
- d) the content, the form and the submission relating to the standard printed and electronic forms prescribed under Article 59(4);
- e) the procedure, method, content and form relating to cases defined in Annex No. 1 where electronic communication between the MNB and the entities is mandatory, and the operation and use of the mail storage facility operated by the MNB.

**Article 174** (1) The minister responsible for Justice need not be consulted with regard to the decrees of the governor of the MNB.

(2) The decrees issued pursuant to Article 171(1) subsection c) shall be published in the official journal 15 days prior to its entry into force.

(3) Before the issue of the decrees defined in Article 171(1) subsection k), the MNB shall inform the European Systemic Risk Board.

### **53. Entry into force**

**Article 175** (1) This Act shall enter into force on the day following that of its publication in the official journal, except as provided for in paragraphs (2) and (3).

(2) Articles 1 to 174, Articles 176 to 177, Article 178(1) to (4) and (6) to (9), Article 179(1), (3) and (4), Article 180, Article 182, Articles 184 to 186 and Article 188 shall enter into force on 1 October 2013.

(3) Article 187 shall enter into force on 15 March 2014.

### **54. Transitional provisions**

**Article 176** (1) The Hungarian Financial Supervisory Authority (hereinafter referred to as 'HFSA') shall cease to exist on 1 October 2013, subject to the provisions of paragraphs (2) to (8) and Articles 177 to 183.

(2) With the exceptions defined in this Act, the MNB shall exercise the rights and discharge the obligation of the HFSA under private law as the designated entity referred to in Article 11(5) of Act CXCIV of 2011 on public finances.

(3) The devolution of the rights and obligations referred to in paragraph (2) shall not render any claims on the HFSA due, and no claims based on a breach of contract or claims for provision of security shall be enforceable with reference to such devolution.

(4) Any accounting and tax obligations already existing on 1 October 2013 or arising in connection with the termination of the HFSA shall be discharged by the MNB based on the documents made available by the HFSA. The final report pertaining to the termination of the HFSA shall be drawn up by the MNB in cooperation with the ministry headed by the minister responsible for accounting regulations.

(5) In ongoing public procurement proceedings started before 1 October 2013 the HFSA shall be replaced by the MNB.

(6) In ongoing judicial or extrajudicial proceedings started before 1 October 2013 the HFSA shall be replaced by the MNB, and the Financial Arbitration Board of the HFSA by the Financial Arbitration Board.

(7) Any action for the court review of administrative decision adopted by the HFSA prior to 1 October 2013 shall be filed against the MNB after 30 September 2013.

(8) The legal effect of recommendations issued by the HFSA before 1 October 2013 shall not be affected by the entry into force of this Act.

**Article 177** (1) Subject to the exception stated in paragraph (2), any state assets managed by the HFSA on 30 September 2013 shall be transferred free of charge to the ownership of the MNB by virtue of this Act, and it shall increase the accumulated profit reserve of the MNB.

(2) Any state-owned real property managed by the HFSA on 30 September 2013 shall be transferred free of charge to the management of the MNB by virtue of this Act. Thereafter, the asset management relationship shall be governed by the legislative provisions applicable to the asset management contracts of the Magyar Nemzeti Vagyonkezelő Zrt. (Hungarian National Asset Management Inc.).

(3) As from 1 October 2013, ownership rights in respect of the business share in the Hitelintézeti Felszámoló Nonprofit Kft. (Credit Institution Liquidator Non-profit LLC) shall be exercised by the MNB on behalf of the state.

(4) The historical value of the asset items transferred to the ownership of the MNB pursuant to paragraph (1) shall be equivalent with their book value at the date of transfer. The termination of the HFSA pursuant to Article 176 and the transfer of the ownership and management right of the assets under its management shall be regarded as the reorganisation provided for in Article 17(3) subsection h) of Act CXXVII of 2007 on the value added tax.

(5) Any obligations of the HFSA in its books on 30 September 2013 as well as the obligations specified in Article 176(2) to (6) shall be transferred to the balance sheet of the MNB, and they shall reduce the accumulated profit reserve of the MNB. The historical value of such items shall be equivalent to their book value at the date of transfer.

(6) If the funds transferred from the HFSA to the MNB and the revenues arising from supervisory activities fail to provide sufficient cover for the discharge of the obligations entered into the balance sheet of the MNB pursuant to paragraph (5), the state shall bear liability for honouring the part of the obligations thus becoming overdue which is in excess of the financial assets taken over from the HFSA and the revenues from supervisory activities. Furthermore, the liability of the state extends, in the case of the judicial and extrajudicial proceedings referred to in Article 176(6), to the amount of obligations to be borne by the MNB in excess of the provision set up by the HFSA in respect of such claims, and the refund of obligations on the MNB arising from proceedings specified in Article 176(7).

**Article 178** (1) In public administrative proceedings ongoing on 1 October 2013 the HFSA shall be replaced by the MNB. The proceedings, including re-opened proceedings, of the HFSA already in progress on 1 October 2013 shall be governed by the provisions in force on 30 September 2013 with the proviso that the HFSA shall be understood as the MNB. The MNB shall assure that the change in the identity of the party is notified in respect of proceedings ongoing on 1 October 2013. The MNB shall verify compliance with administrative decisions issued by the HFSA before 1 October 2013, and any obligations imposed in such decisions shall be discharged vis-à-vis the MNB.

(2) In administrative agreements concluded by the HFSA and in force on 30 September 2013 the HFSA shall be replaced by the MNB as of 1 October 2013. Administrative contracts shall be governed by the provisions in force on 30 September 2013 with the proviso that the HFSA shall be understood as the MNB.

(3) Ongoing proceedings of the Financial Arbitration Board shall be governed by the rules laid down in paragraph (1) with the proviso that the Financial Arbitration Board, a professionally independent body operated by the MNB, shall be the legal successor of the Financial Arbitration Board operated by the HFSA.

(4) Any general statement of submission made to the Financial Arbitration Board operated by the HFSA shall remain valid and effective in respect of the Financial Arbitration Board, with the content defined in the statement of submission.

(5) The Financial Arbitration Board operated by the HFSA shall deliver data in the register of statements of submission made to it, as at 30 September 2013, to the MNB, which shall make them available to the Financial Arbitration Board it operates.

(6) The Financial Arbitration Board may publish the recommendations of the Financial Arbitration Board operated by the HFSA on its website.

(7) In respect of the tasks set forth in the memorandum of understanding on FIN-Net, the Financial Arbitration Board shall be regarded as the legal successor of the Financial Arbitration Board operated by the HFSA.

(8) In respect of cooperation agreements concluded by the HFSA and its predecessors with foreign financial supervisory authorities effective on 30 September 2013, and in respect of the membership of the HFSA in international organisations for the promotion of the inter-institutional cooperation of financial supervisory authorities existing on 30 September 2013, the MNB shall be entitled to proceed as the Hungarian contracting party or member as the legal successor of the HFSA as from 1 October 2013.

(9) The MNB shall notify parties to the cooperation agreements and international organisations that the MNB is entitled to act in the place of the HFSA in respect of the legal relationship subject to the agreement or the membership, pursuant to paragraph (8).

**Article 179** (1) As from 1 October 2013, the MNB shall be considered the holder of licenses related to the performance of the duties of the HFSA. The MNB shall initiate the relevant amendment of the licenses.

(2) The transfer by the HFSA, following the publication of this Act in the official journal and with a view to performing the tasks arising from the entry into force of this Act, to the MNB of data falling under the scope of confidentiality of tax secret, banking secrets, securities secrets, payment secrets, fund secrets, insurance secrets, occupational retirement secrets and business secrets shall not constitute a breach of such secrets.

(3) In respect of tenders and projects financed by the European Union, the HFSA shall be replaced by the MNB as of 1 October 2013. The MNB shall initiate the amendment of contracts required in relation to the projects within ten days of 1 October 2013. The sponsor or intermediate entity shall arrange for the implementation of amendments to such contracts within twenty days of such initiative.

(4) By virtue of this Act on 1 October 2013 any legal relationship which has the MNB as its sole obligor and the HFSA as its sole obligee shall be terminated.

**Article 180** (1) On the day of termination of the HFSA, its payment accounts shall be terminated, and the funds on the payment accounts of the HFSA on the date of termination, any amounts not yet credited to the payment

accounts of the HFSA pursuant to payment orders in favour of the HFSA and any cash balances of the HFSA existing on such date shall devolve to the MNB. The transferred funds shall increase the accumulated profit reserve of the MNB.

(2) Upon the order of the HFSA, the entity maintaining the accounts of the HFSA shall transfer any funds on the payment account of the HFSA to the payment account of the MNB on the date of the termination of the HFSA.

(3) As from 1 October 2013, any supervisory fee, administrative service fee and fine payable to the HFSA and falling due after the termination of the HFSA shall be payable to the MNB.

**Article 181** (1) The president of the HFSA in office on 30 September 2013 or under mandate from the president, another manager or managers of the HFSA in office on 30 September 2013 (hereinafter referred to as 'transferor') shall hand over the ongoing matters within the scope of tasks and competencies of the HFSA in person to the governor of the MNB or, under mandate from the governor of the MNB, to another manager of the MNB (hereinafter referred to as 'transferee') with a record.

(2) In the framework of the transfer procedure described in paragraph (1), the transferor shall provide information about all the facts, hand over all the documents to the transferee which are required for the exercise of the rights and discharge of obligations accruing to the MNB as of 1 October 2013 pursuant to Articles 176 to 180 and Article 183.

(3) In the framework of the transfer procedure described in paragraph (1), the transferor shall transfer the register of the state property referred to in Article 177(1) and (4) as well as the register of the obligations defined in Article 177(5), and shall make a declaration as to their completeness.

(4) In the framework of the transfer procedure described in paragraph (1), the transferor shall transfer any personnel files, declarations of wealth and expertise made on the grounds of national security review pursuant to the Act on national security services pertaining to persons employed by the HFSA before 1 October 2013 which are in the custody of the HFSA.

(5) With the participation of the highest ranking manager responsible for information technology employed by the HFSA, the transferor shall transfer the complete information technology infrastructure and systems of the information technology systems operated by the HFSA, including all the applications, authorisations and, where transferable, licenses necessary for the operation of the information technology system, required for discharging the tasks of HFSA within the scope of competence relating to

a) the maintenance of registers,

b) the operation of data submitting, notification and disclosure systems,

c) electronic communication

and to assuring the functioning thereof, as well as the data assets under management by the HFSA on 30 September 2013.

(6) The provisions laid down in paragraphs (1) to (2) and (5) shall be also applicable to the Financial Arbitration Board operated by the HFSA with the proviso that the transferor shall be the chairman of the Financial Arbitration Board operated by the HFSA in office on 30 September 2013 or any other manager of the HFSA in office on 30 September 2013 pursuant to the authorisation of the chairman.

**Article 182** (1) Until 1 December 2013 the MNB shall accept standard printed or electronic forms to be submitted to it even if they comply with the provisions relating to their content, form and submission in force on 30 September 2013.

(2) If, after 1 October 2013 the governor of the MNB issues a decree laying down the detailed rules for the content, the form and the submission relating to the standard printed and electronic forms pursuant to Article 59(4), the obligations covered by such decree may be performed, until the sixtieth day following the date of publication of such



decree in the official journal, in licensing, approval, registration and de-registration as well as notification proceedings in accordance with the rules effective on the day preceding the publication of such decree or, in the absence of such rules, without meeting the requirements set out in the decree.

**Article 183** (1) Subject to the exception stated in paragraph (5), on 1 October 2013 the status of any person who, on 30 September 2013,

a) has civil servant or employment relationship with the HFSA for an indefinite period of time shall be converted into an employment relationship with the MNB for an indefinite period of time;

b) has civil servant or employment relationship with the HFSA for a definite period of time shall be converted into an employment relationship with the MNB for a definite period of time

by virtue of this Act.

Full-time status will be converted into full-time employment, part-time status into part-time employment. The length of any probationary period specified for the public service or employment status with the HFSA in effect on 30 September 2013 shall remain unchanged after the change of legal status with the proviso that the end of the probationary period may not extend beyond 31 December 2013.

(2) By way of derogation from paragraph (2), the public service or employment relationship shall not be converted if the MNB is not allowed to establish an employment relationship with the person specified in paragraph (1) pursuant to the relevant provisions of legal regulations pertaining to employment. In this case the civil service or employment relationship is terminated by virtue of this Act on 30 September 2013 with the proviso that settlement shall be arranged for with the person specified in paragraph (1) by 15 October 2013, under the rules laid down in his or her appointment or labour contract effective on 30 September 2013, with due consideration to the provisions of Article 72(3) to (4) of the Kttv.

(3) The salary of persons specified in paragraph (1) may not be less after 1 October 2013 than the allowance they are entitled to under the Act CXCIX of 2011 on public service officials (hereinafter referred to as 'Kttv.')

for their grade together with the complements pursuant to the Kttv. on 30 September 2013, or than the salary they are entitled to under the employment contract in force on 30 September 2013 pursuant to the Act I of 2012 on the labour code (hereinafter referred to as 'Mt.').

(4) If in his employment relationship established pursuant to paragraphs (1) to (3) the employee fails to sign the contract of employment within eight working days of its receipt, his or her employment shall be terminated in accordance with the rules laid out in the Mt. concerning termination by the employee with the proviso that the notice period starts on the ninth day following the receipt of the contract of employment except where any delay occurs without any fault on his or her part. Until the signing of the contract of employment by the employee, employer's rights in respect of the employee in his or her employment relationship with the MNB shall be exercised by the designated deputy governor of the MNB.

(5) The mandate and civil service relationship of the president and vice-presidents of the HFSA and the chairman of the Financial Arbitration Board shall terminate on 30 September 2013. The termination of the mandate of the president of the HFSA shall be declared by the president of the republic by recommendation of the prime minister, the termination of the mandate of the vice-president and of the chairman of the Financial Arbitration Board, by the president of the HFSA. The president and vice-president of the HFSA and the chairman of the Financial Arbitration Board shall be entitled to a lump-sum allowance equivalent to their income for the discharge period as well as severance pay in the amount specified in Article 20(2) and (3) of Act CLVIII of 2010 on the Hungarian Financial Supervisory Authority, payable in one sum on the day preceding the end of their mandate.

(6) The collective agreement in force at the HFSA shall cease to have effect on 1 October 2013.

(7) The works council operating at the HFSA shall cease to exist on 1 October 2013.

(8) In respect of matters not regulated in this Act concerning the conversion of civil service status to employment status shall be governed by Article 72 of the Kttv.

(9) Paragraph (2) shall be applied accordingly in cases where a person referred to in paragraph (1) is subject to a conflict of interest pursuant to this Act, except where the cause underlying such conflict of interest can be eliminated and the employee takes action to this end until 15 October 2013 and provides proof of such.

(10) In the event of the termination of the employment relationship of MNB employees with notice within six months of the termination of the HFSA on 1 October 2013, the elimination of positions not essential for the discharge of duties to optimise staff management shall be deemed to be a reason connected to the employers' operation.

(11) The duration of legal relationship with the HFSA as provided in paragraph (1), including the duration of other employment recognised in connection with the legal relationship, shall be recognised and computed as time of service in the employment of the MNB following the transformation. On 30 September 2013 the HFSA shall issue a public service certificate or employment certificate to persons employed by the HFSA.

(12) The HFSA is exempted from the performance review requirement set forth in Article 130 of the Kttv.

(13) The HFSA shall make a payment in lieu of leave days not taken by persons employed by it on 30 September 2013 which such persons are entitled to pursuant to their civil servant status or employment up to 30 September 2013.

(14) Persons employed by the HFSA on 30 September 2013 shall be entitled to the full amount of fringe benefits provided by the HFSA for 2013. If the annual amount of fringe benefits provided by the MNB is greater than that provided by the HFSA, recipients shall be entitled to the time proportionate part of the difference in the annual amounts as a result of the change of legal relationship.

(15) The employment relationship with the MNB created through the change of legal relationship covered by this Act of persons employed by the HFSA on 30 September 2013 under Act CXXII of 2004 on the premium years program and on special employment staff (hereinafter referred to as 'Péptv.') shall be subject to the provisions of the Péptv., while maintaining the terms determined before such change of legal relationship in respect of the participation of beneficiaries in the premium years programme.

(16) In respect of persons specified in paragraph (1), the MNB shall discharge its obligation of reporting and notification of change concerning the data of insured persons employed by the employer or paying agent towards the National Tax and Customs Administration within 8 working days of establishing the employment relationship.

**Article 183/A** (1) In compliance with Article 33(1) – with the derogation specified in paragraphs (2), (3) or (4) – shall determine the countercyclical capital buffer at the rate stipulated in Article 87 of the Hpt. and Article 110/B of the Bszt., established by Act CCXXXVI of 2013 on the amendment of certain financial acts (hereinafter referred to as 'Módtv.'), with the effect of 1 January 2019 at the latest.

(2) According to Article 33(1), the MNB may determine the countercyclical capital buffer rate in divergence from the rate stipulated in Article 87 of the Hpt. and Article 110/B of the Bszt., established by the Módtv., as follows:

a) during the period between 1 January 2014 and 31 December 2014 – up to 0.625% of the total risk exposure amount specified in Article 92(3) of Regulation No. 575/2013/EU,

b) during the period between 1 January 2015 and 31 December 2015 – up to 1.25% of the total risk exposure amount specified in Article 92(3) of Regulation No. 575/2013/EU, and

c) during the period between 1 January 2016 and 31 December 2016 – up to 1.875% of the total risk exposure amount specified in Article 92(3) of Regulation No. 575/2013/EU,

providing that with the effect of 1 January 2018 the MNB shall determine the countercyclical capital buffer rate in compliance with Article 33 herein, Article 87 of the Hpt. and Article 110/B of the Bszt., established by the Módtv.

(4) According to Article 33(1), the MNB may determine the countercyclical capital buffer rate in divergence from the rate stipulated in Article 87 of the Hpt. and Article 110/B of the Bszt., established by the Módtv., as follows:

a) during the period between 1 January 2016 and 31 December 2016 – up to 0.625% of the total risk exposure amount specified in Article 92(3) of Regulation No. 575/2013/EU,

b) during the period between 1 January 2017 and 31 December 2017 – up to 1.25% of the total risk exposure amount specified in Article 92(3) of Regulation No. 575/2013/EU, and

c) during the period between 1 January 2018 and 31 December 2018 – up to 1.875% of the total risk exposure amount specified in Article 92(3) of Regulation No. 575/2013/EU,

providing that with the effect of 1 January 2019 the MNB shall determine the countercyclical capital buffer rate in compliance with Article 33 herein, Article 87 of the Hpt. and Article 110/B of the Bszt., established by the Módtv.

**Article 183/B** In line with Article 35/A(5) of the Bszt. established by the Módtv., the MNB may stipulate a capital buffer for systemic risk at a rate ranging between 3–5 percent with the effect of 1 January 2015.

**Article 183/C** The MNB may manage the documents produced by the HFSA prior to its cessation under Article 176 in the course of performing its financial supervisory tasks, and located in its registry and achieves as of 30 September 2013.

**Article 183/D** (1) The Magyar Nemzeti Bank shall acquire ownership rights over the business share of Hitelintézeti Felszámoló Nonprofit Kft., owned by the state, free of charge, which shall increase the Magyar Nemzeti Bank's accumulated profit reserve.

(2) The business share defined in paragraph (1) shall be acquired on the day of entry into force of the Kbftv.

**Article 183/E** In cases governed by the Act on the rules of the settlement laid down in Act XXXVIII of 2014 on measures to address the Curia's legal uniformity decision on consumer loan contracts and on certain other provisions and the Act laying down the rules applicable to the conversion of certain foreign exchange consumer loan contracts and matters relating to interest rate rules

a) the Financial Arbitration Board shall set a hearing date for the parties within 75 days of the opening of proceedings, in derogation of Article 106(3),

b) the service provider shall submit its reply document with the contents defined in Article 108(2) to the Financial Arbitration Board within 15 days of delivery of the notification to the service provider.

**Article 183/F** (1) Article 26(3) and (4) as laid down in the Act LXXXV of 2015 on the amendment of certain acts to promote the development of the system of financial intermediation (hereinafter referred to as: 'Módtv.')

 shall apply to administrative procedures launched after the entry into force of these provisions.

(2) Article 64(2) as laid down in the Módtv. will be applied by the MNB in the context of the scheduling of its comprehensive inspections as of 1 January 2016. Prior to this date, Article 64(3) effective on the day preceding the entry into force of the Módtv. shall be applied.

## **55. Compliance with the majority requirement set out in the Fundamental Law**

**Article 184** Articles 1 to 14, Articles 16 to 21, Article 23(1), (2) and (10), Article 24(1), (2), (4) and (5), Article 26 (1) and (2), Articles 27 and 28, Articles 29 to 32, Article 33(1), Article 34, Article 35(1), Article 36, Article 39(1) and (2), Article 42, Article 44(1) to (4), Articles 96 to 101, Articles 167 to 169, Article 176, Article 178(8) and (9) and Article 183(1) and (5) hereof are deemed implementing, pursuant to Article 41(1), (2), (5) and (6) of the Fundamental Law.

## **56. Compliance with European Union law**

**Article 185** This Act serves the purpose of conformity with the following acts of the European Union:

a) Article 2(1) subsections a) and b), Article 4(1) of Directive 2009/22/EC of the European Parliament and of the Council of 23 April 2009 on injunctions for the protection of consumers' interests;

- b) Article 21 of Directive No 2003/41/EC of the European Parliament and of the Council of 3 June 2003 on the activities and supervision of institutions for occupational retirement provision;
- c) Article 47 of Directive No 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC;
- d) Article 5(2) and Article 16 of Council Directive No 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services;
- e) Article 4 of Directive No 2005/14/EC of the European Parliament and of the Council of 11 May 2005 amending Council Directives 72/166/EEC, 84/5/EEC, 88/357/EEC and 90/232/EEC and Directive 2000/26/EC of the European Parliament and of the Council relating to insurance against civil liability in respect of the use of motor vehicles;
- f) Directive No 2005/68/EC of the European Parliament and of the Council of 16 November 2005 on reinsurance and amending Council Directives 73/239/EEC, 92/49/EEC as well as Directives 98/78/EC and 2002/83/EC;
- g) Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC,
- h)
- i) Article 1 of Directive No 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management;
- j) Directive No 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) (recast);
- k) Commission Directive No 2010/43/EC of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company;
- l) Commission Directive No 2010/44/EC of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards certain provisions concerning fund mergers, master-feeder structures and notification procedure;
- m) Directive No 2010/78/EU of the European Parliament and of the Council of 24 November 2010 amending Directives 98/26/EC, 2002/87/EC, 2003/6/EC, 2003/41/EC, 2003/71/EC, 2004/39/EC, 2004/109/EC, 2005/60/EC, 2006/48/EC, 2006/49/EC and 2009/65/EC in respect of the powers of the European Supervisory Authority (European Banking Authority), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority).
- n) Regulation No 236/2012/EU of the European Parliament and of the Council of 14 March 2012 on short selling and certain aspects of credit default swaps;
- o) Commission Regulation No 1031/2010/EU of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive 2003/87/EC of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;
- p) Directive No 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate.

- q) Regulation 260/2012/EU of the European Parliament and of the Council of 14 March 2012 establishing technical and business requirements for credit transfers and direct debits in euro and amending Regulation 924/2009/EC,
- r) Regulation No 575/2013/EU of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation 648/2012/EU,
- s) Regulation No 345/2013/EU of the European Parliament and of the Council of 17 April 2013 on European venture capital funds,
- t) Regulation No 346/2013/EU of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds,
- u) Commission Implementing Regulation No 447/2013/EU 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,
- v) Commission Implementing Regulation No 448/2013/EU 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,
- x) Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II),
- y) Directive 2014/51/EU of the European Parliament and of the Council of 16 April 2014 amending Directives 2003/71/EC and 2009/138/EC and Regulations 1060/2009/EC, 1094/2010/EU and 1095/2010/EU in respect of the powers of the European Supervisory Authority (European Insurance and Occupational Pensions Authority) and the European Supervisory Authority (European Securities and Markets Authority),
- z) Regulation 760/2015/EU of the European Parliament and of the Council of 29 April 2015 on European Long-term Investment Funds.

**Article 186** (1) Article 24(1) subsection a) serves the purpose of compliance with Decision ECB/2001/11 of the European Central Bank of 8 November 2001 on certain conditions regarding access to the Counterfeit Monitoring System (CMS).

(2) Article 24(1) subsections b) to d) and paragraphs (2) to (6), in conjunction with the MNB decree issued pursuant to the authorisation conferred in Article 171(1) subsections e) and f), defined the provisions required for the implementation of

1. Council Regulation No 1338/2001/EC of 28 June 2001 laying down measures necessary for the protection of the euro against counterfeiting as amended by Council Regulation No 44/2009/EC

2. Council Regulation No 1339/2001/EC of 28 June 2001 extending the effects of Regulation No 1338/2001/EC laying down measures necessary for the protection of the euro against counterfeiting to those Member States which have not adopted the euro as their single currency as amended by Council Regulation No 45/2009/EC

in respect of the MNB's competence and proceedings.

(3) Article 41(1), Article 87, Article 88(1) subsections a) to c) and Article 89 of this Act defined the provisions necessary for the implementation of Article 4(1) and (6) of Regulation No 2006/2004/EC of the European Parliament and of the Council of 27 October 2004 on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance, in respect of the MNB's competence and proceedings.

(4) Article 41(2) of this Act sets out provisions for the implementation of Commission Decision 2007/76/EC of 22 December 2006 implementing Regulation No 2006/2004/EC of the European Parliament and of the Council on cooperation between national authorities responsible for the enforcement of consumer protection laws as regards mutual assistance, as amended by Commission Decision 2008/282/EC of 17 March 2008, in respect of the MNB's competence and proceedings.

(5) Article 40

a) paragraph (1) contains provisions for the implementation of Article 15(3) of Regulation No 1781/2006/EC of the European Parliament and of the Council of 15 November 2006 on information on the payer accompanying transfers of funds;

b) paragraph (2) contains provisions for the implementation of Commission Regulation No 1287/2006/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive;

c) paragraph (3) contains provisions for the implementation of Commission Regulation No 809/2004/EC of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements;

d) paragraph (4) contains provisions for the implementation of Articles 9, 10, 12 and 13 of Regulation No 924/2009/EC of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation No 2560/2001;

e) paragraph (5) contains provisions for the implementation of Article 22(1) of Regulation No 1060/2009/EC of the European Parliament and of the Council of 16 September 2009 on credit rating agencies;

f) paragraph (8) contains provisions for the implementation of Regulation No 648/2012/EU of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories,

g) paragraph (16) contains provisions for the implementation of Regulation 909/2014/EU

in respect of the MNB's competence and proceedings.

(6) As regards consumer disputes of a financial nature, this Act contains provisions for the implementation of:

a) Article 14 of Directive 2002/65/EC of the European Parliament and of the Council of 23 September 2002 concerning the distance marketing of consumer financial services and amending Council Directive 90/619/EEC and Directives 97/7/EC and 98/27/EC;

b) Article 83 of Directive 2007/64/EC of the European Parliament and of the Council of 13 November 2007 on payment services in the internal market amending Directives 97/7/EC, 2002/65/EC, 2005/60/EC and 2006/48/EC and repealing Directive 97/5/EC;

c) Article 24 of Directive 2008/48/EC of the European Parliament and of the Council of 23 April 2008 on credit agreements for consumers and repealing Council Directive 87/102/EEC;

d) Commission Recommendation 98/257/EC of 30 March 1998 on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes;

e) Articles 11 and 12 of Regulation No 924/2009/EC of the European Parliament and of the Council of 16 September 2009 on cross-border payments in the Community and repealing Regulation No 2560/2001/EC

in respect of the MNB's competence and proceedings.

## **57. Amendments and repeals**

### **Article 187**

### **Article 188**



**Cases of obligatory electronic communication**

In proceedings between the MNB and:

a) the investment fund manager as regards the investment fund it manages:

aa) in connection with the marketing of investment units:

1. in the case of public open-ended funds qualifying as UCITS based on their harmonisation investing in securities, for the approval of the prospectus, public notice, management policy and key investor information, and for the approval of the depositary agreement to enter into effect,

2. in the case of public open-ended funds qualifying as AIFs based on their harmonisation investing in securities, for the approval of the prospectus, public notice, management policy and key investor information,

3. in the case of public open-ended funds investing in real estate properties, for the approval of the prospectus, management policy, public notice and key investor information, for the approval of the mandate of the real estate appraiser,

4. in the case of public closed-ended funds investing in securities, for the authorisation of publication of the public prospectus/base prospectus, and the public notice, for the approval of the management policy,

5. in the case of public closed-ended funds investing in real estate properties, for the authorisation of publication of the public notice, for the approval of the management policy, for the approval of the mandate of the real estate appraiser,

6. for the approval of the distribution in Hungary of the collective investment securities of European Union AIFs authorised in other EEA Member States for retail investors,

ab) for registration of the investment fund,

ac) for the withdrawal of registration of the investment fund,

ad) in the case of dissolution proceedings of the investment fund, for authorisation of the extension of the time limit for the sale,

ae) in connection with UCITS:

1. for authorisation for the investment of a feeder UCITS into a given master UCITS,

2. in the event of termination of a master UCITS, for authorisation for the investment of at least 85 per cent of the assets of the feeder UCITS in units of another master UCITS,,

3. in the event of termination of a master UCITS, for authorisation for the amendment of its management policy in order to enable the feeder UCITS to convert into a UCITS which is not a feeder UCITS,

4. if a master UCITS merges with another UCITS or is divided into two or more UCITS, for authorisation for the feeder UCITS to continue to be a feeder UCITS of the master UCITS,,

5. if a master UCITS merges with another UCITS or is divided into two or more UCITS, for authorisation for the feeder UCITS to continue to be a feeder UCITS of the master UCITS resulting from the merger or division of the master UCITS,

6. if a master UCITS merges with another UCITS or is divided into two or more UCITS, to invest at least 85 per cent of its assets in collective investment instruments of another master UCITS not resulting from the merger or the division,



7. if a master UCITS merges with another UCITS or is divided into two or more UCITS, or if liquidated, for authorisation in order to enable the feeder UCITS to convert into a UCITS which is not a feeder UCITS in accordance with Article 143(4) Subsection b) and Article 143(6) subsection c) of the Kbfvtv.,
8. if a master UCITS merges with another UCITS or is divided into two or more UCITS, for the withdrawal of registration of the feeder UCITS,
9. for authorisation enabling the master UCITS to function as the receiving UCITS in a proposed merger, ,
10. for authorisation enabling the master UCITS to continue materially unchanged as one of the resulting UCITS in a proposed division,
11. if the master UCITS is the merging UCITS and, due to the merger, the feeder UCITS becomes an investor in the receiving UCITS, for approval of that investment,
12. for authorisation enabling the feeder UCITS to become an investor of a UCITS resulting from a division that is materially different to the master UCITS, ,
13. in the event if the dissolution of the master UCITS, the deletion of the feeder UCITS from the register.

af) in other respects:

1. for the authorisation of the amendment of the public investment fund's management policy,
  2. for approval of the prospectus made for the restructuring of a public investment fund,
  3. for authorisation of the prospectus made for the restructuring of a private public investment fund and converting it into a public investment fund, ,
  4. For authorisation of the transfer of management of of investment funds,
  5. for the merger of AIFs,
  6. for the merger of UCITSs,
  7. for mergers where an investment fund becomes a newly constituted investment compartment with another investment fund managed by the same management company and depositary within the meaning of Article 82 (7) of the Kbfvtv.,
  8. for authorisation of the division of a collective investment trust, or any investment compartment thereof,
  9. in the case of merger, for suspension of the continuous redemption of investment units,
  10. for the extension of the suspension of the continuous redemption of investment units,
  11. for authorisation for entering into a contract with a real estate appraiser,
  12. for the authorisation of the publication of the prospectus or supplement to the base prospectus,
  13. in the case of public open-ended funds qualifying as UCITS based on their harmonisation, for the approval of the entry into force of the amendment to the depositary agreement,
- b) between the custodian in respect of the investment fund in respect of which it holds a mandate for the performance of custodian duties
- ba) for the deletion of the investment fund from the register if performed because the MNB has revoked the investment fund's licence to engage in investment fund management activities,

- bb) for the deletion of the investment fund from the register if performed because the MNB has required the investment fund manager to hand over the management of the investment fund, but no investment fund manager is willing to take over the management of the investment fund,
  - c) for the issuance of the decision on the equivalence of the information stated in the document specified in Article 22(2) and (5) of the Tpt. and the prospectus between the issuer and the person initiating introduction to the regulated market,
  - d) between the issuer, the bidder or person initiating the introduction of the security to the regulated market or its registration in a multilateral trading system, or the distributor
  - da) for the authorisation of the publication of the prospectus,
  - db) for the authorisation of the publication of the supplement to the base prospectus,
  - e) between the issuer, the bidder or person initiating the introduction of the security to the regulated market or its registration in a multilateral trading system,
  - ea) for the authorisation of the publication of the prospectus and the public notice,
  - eb) for the authorisation of the publication of the base prospectus,
  - f) between an international financial institution as defined in Annex 23 to the Tpt., or between an international institution of which at least one European Union member states is a member of, for the authorisation of the publication of the prospectus,
  - g) for the authorisation of the publication of the prospectus and the public notice for the public issuance or regulated market introduction of debt securities issued by a municipal government or a security guaranteed by a regional or local government of a European Union member state between the municipal government or a regional or local government of a European Union member state,
  - h) for the authorisation of the prospectus of the issuer established any third country,
  - i) for exemption of the reporting requirements towards the public between an issuer publicly issuing securities that is converting into a closed limited company,
  - j) a non-natural person bidder or the investment service provider mandated by it under Article 68(4) of the Tpt.
  - ja) for the approval of the public bid made by them,
  - jb) for the approval of the amended public bid made by them,
  - k) between the issuer of publicly offered securities,
- for the procurement of regulated information.