Recommendation 6/2017. (V. 30.) of the Magyar Nemzeti Bank
on the negotiated restructuring process of claims against co-financed corporate borrowers

I. Purpose and scope of the Recommendation

The high proportion of non-performing corporate loans is a serious burden for the Hungarian banking system and has a negative impact on the lending activities and the exposure of the lenders, and results in long-lasting uncertainty for the lenders and the borrowers alike.

It is a priority aim of Magyar Nemzeti Bank (hereinafter, the "MNB") to help to restore the solvency of the borrowers in order to reduce the non-performing exposures while ensuring the continuity of their business, to contribute to the reduction of the share of non-performing corporate exposures and prevent the recurrence of the subsequent development of a portfolio similar in size and composition. In this Recommendation, MNB summarises the behaviours and the good practices it expects the lenders to comply with in order to achieve the aims above.

In order to reduce the ratio of the non-performing corporate portfolio, MNB attaches great importance to constructive and good faith cooperation among the lenders and between the lenders and the borrowers. Accordingly, this Recommendation gives guidance and a framework for the process of negotiated restructuring, the success of which can help to avoid the generally lengthy and costly judicial enforcement proceedings. Providing a framework, the Recommendation primarily aims to draw up the principles, however, compliance with these principles during the restructuring process takes place in various specific ways, taking into account all the circumstances of the particular case, the proposals of the advisors and the information obtained in the course of due diligence. Therefore, MNB does not expect the lenders to equally apply the provisions of the Recommendation on the restructuring process in all cases. Thus, the Recommendation does not create a general compliance obligation for the institutional lenders in their legal relations with the borrowers or *inter se*.

This Recommendation sets out the proposals of MNB concerning the negotiated restructuring process in relation to claims against co-financed corporate borrowers. Nevertheless, MNB suggests that the addressees apply them – based on their own decision – also in such of their proceedings that do not fall within the scope of this recommendation in order to make their own restructuring process more effective, observing the sectoral rules and the specificities of the activity. MNB suggests that the lenders apply this Recommendation also in proceedings aimed at the enforcement of collaterals, during which the amendment of the agreement does not include any special discount but covers only the enforcement of the collateral on the basis of a compromise.

This Recommendation is addressed to:

a) Financial institutions pursuant to Act CCXXXVII of 2013 on credit institutions and financial enterprises,
b) Investment enterprises under Act CXXXVIII of 2007 on investment enterprises and commodity exchange service providers, as well as the rules of activities to be performed by them, and
c) Insurance and reinsurance undertakings entitled to enter into credit insurance contracts under Act LXXXVIII of 2014 on the insurance activity

(hereinafter collectively referred to as “institutional lender”).

The supervisory requirements set out in this Recommendation apply to the following claims against co-financed corporate borrowers:

a) Claims arising from co-financing, which qualify as a non-performing exposure under Article 5 of MNB Decree 39/2016. (X. 11.) on prudential requirements concerning non-performing exposures and restructured claims (hereinafter referred to as “MNB Decree 39/2016. (X. 11.)”) and the total amount of which (either separately or, in the case of co-financing provided to various members of a client group, including all the claims against the members of the client group collectively) exceeds 1 billion Forint or, in the case of a claim in a currency other than the Forint, exceeds 1 billion Forint converted at the official foreign exchange rate published by MNB;
b) The co-financed corporate borrower has financial difficulties and the total amount of the autonomous liabilities of the borrower or respectively the members of the client group to several institutional lenders exceeds 1 billion Forint or, in the case of a claim in a currency other than the Forint, exceeds 1 billion Forint converted at the official foreign exchange rate published by MNB;
c) The claims under point a) and b) derive from purchase or insurance of claims, or
d) The claims are related to financial services, financial auxiliary services, investment services, insurance or reinsurance activities or as that of an institutional lender against any borrower or any member of a client group in respect of which the claim under point a) or b) is also outstanding.

MNB does not expect implementation of this Recommendation with respect to co-financed corporate borrowers falling within the scope hereof where, on the starting date of the application hereof, there is an active and mutual communication in progress between the borrower and the institutional lenders aimed at the restructuring of the contract, or there is another debt adjustment procedure based on the law against the borrower. The requirements drawn up in this Recommendation are not applicable, either, if the borrower is considered as non-cooperating, as defined in Article 2, or the negotiated debt adjustment procedure based on this Recommendation has been completed but has not succeeded, or the restructuring was successfully completed but the borrower has repeatedly initiated restructuring before the closing of the agreement. MNB does not expect application of this Recommendation, either, in case the liabilities to lenders who are not subject to this Recommendation represent the majority of the liabilities, which are non-performing or are expected to become non-performing in the near future, either in terms of the amount or of the liabilities that rank more favourable in terms of the collaterals within the total liabilities of the borrower or the client group concerned to domestic institutional lenders and institutional lenders domiciled in EEA Member States and third countries.

II. Interpretative provisions

1. For the purposes of this Recommendation:

1.1. "*Restructuring process*" means the voluntary restructuring process between the co-financed corporate borrower and the institutional lender, outside the legal debt adjustment procedure, which aims to create the claim defined in Articles 8 to 11 of MNB Decree 39/2016. (X. 11.) as a result;

1.2. "*Restructuring college"* means the college facilitating a consensus-based agreement or, in the case of cooperating co-financed corporate borrowers, the body established to facilitate the relationship among the institutional lenders *inter se* and the relationship between the institutional lenders and the borrower;

1.3. *"Unbiased person"* means any person who is not involved in the matters concerning the claim, hence is capable of independently assessing the information;

1.4. *"Co-financed corporate borrower"* means a business association or entity considered as such under the foreign law applicable to it, to which several institutional lenders provided co-financing or against which several institutional lenders have autonomous claims, including business associations that provided any collateral in relation to the above financing or claim;

1.5. *"Collateral"* means any lien, suretyship or guarantee created by a document produced in relation to the claim or based on legal regulation, which secures the repayment of the claim or recovery of the claims of the institution arisen in relation to the relevant claim in any other way (that is, other than in the way stipulated in the original contract), as well as any legal arrangement or contract serving as collateral (including collection rights, options and assignment for collateral purposes);

1.6. "*Independent advisor"* means, depending on the particular case, the independent advisor assigned by the institutional lenders or the co-financed corporate borrower, who contributes to the successful and timely arrangement of the negotiated debt adjustment procedure;

1.7. *"Independent business due diligence"* means the examination of the business or the trading and financial position of the borrower or its client group by an independent advisor based on objective assessment, which can include the use of stress tests, commercial and market position analysis, profit and cash flow estimates, the evaluation of the business and financial strategies, as well as financial, legal and tax due diligence;

1.8. *"Moratorium"* means the negotiated de facto transitional period or the transitional period based on subsequent agreement, if any, during which the institutional lenders refrain from initiating any legal debt adjustment proceedings against the co-financed corporate borrower or taking any measures to enforce any claim or any collateral granted in favour of such borrowers;

1.9. *"Legal debt adjustment proceedings"* means execution proceedings (including the enforcement of the collateral by extrajudicial means), bankruptcy proceedings, forced cancellation proceedings, litigation, arbitration, insolvency or liquidation proceedings, but excludes the payment warrant proceedings;

1.10. *"Documents produced in relation to a claim"* means any document that:
   a) Creates a claim,
   b) Records the conditions of the claim,
   c) Creates or modifies a collateral securing the claim,
   d) Contains appraisals related to the collaterals,
   e) Lays down the rules of procedures related to the claim or those of certain legal relationships relating to the claim (e.g. agreement between the lenders, agreement on subordination),
   f) Creates a hedge or other risk mitigation (e.g. insurance) transaction in order to manage any interest, exchange or other risk with respect to the claim,
   g) Contains any statement, certificate, remission of claim or liability, waiver or statement made, concluded or issued in relation to the claim, and
   h) Has materiality similar to those above with respect to the claim in terms of the relationship of the co-financed corporate borrower and the institutional lenders or the institutional lenders *inter se*.

1.11. *"Non-performing exposure"* has the meaning in Article 5 of MNB Decree 39/2016. (X. 11.);

1.12. "*Financial difficulty"* means any situation that substantially and persistently prevents the borrower from fulfilling its financial commitments in accordance with the original terms and conditions either currently or actually or likely in the near future (e.g. a threat of insolvency situation);

1.13. *"Co-financing"* means the term under MNB Decree 40/2016. (X. 11.) on client and partner qualification and the prudential requirements of collateral appraisal (hereafter referred to as "MNB Decree 40/2016. (X. 11.)");

1.14. *"Client group"* has the meaning in MNB Decree 40/2016. (X. 11.).

III. General provisions

2. In applying this Recommendation, a co-financed borrower is considered non-cooperating, which
   a) Does not notify its institutional lenders on the details of its financial difficulties in a timely manner, especially if it faces a threat of insolvency,
   b) Refuses the contact at least two occasions in provable way, or fails to respond to the request of any institutional lender (it is also considered as a refusal of contact if the borrower has received the relevant letters but did not respond to them),
   c) Refuses to supply to the institutional lenders relevant information unavailable to them but necessary to draw up the status assessment or develop options for a solution, or deliberately supplies false information to the institutional lenders during the negotiated debt adjustment process,
   d) Rejects the options for a solution proposed by the institutional lenders without offering any realistic or acceptable alternative proposal,
   e) Disposes of any assets being part of the collateral of any third party or any institutional lender not involved in the restructuring process or encumbers the same without the consent of the institutional lenders during the negotiated debt adjustment process (except where this is done

in the course of ordinary business and there is no relevant restriction in the documents produced in relation to the claim or the moratorium),

f) Breaches the contract on the moratorium or the agreement on the negotiated debt adjustment,

g) Breaches any of the provisions of any document produced in relation to the claim, the fulfilment of which is feasible despite the financial difficulty and the fulfilment of which has not been waived by the institutional lenders or the obligation for the fulfilment of which has not been renounced by institutional lenders,

h) Fails to give any of the institutional lenders an authorisation made in a public document or a private document with full probative force to the effect that the institutional lender may transfer the information under Article 11 to the other institutional lenders, or

i) The borrower concerned or any other client that is not considered to be a part of the borrower's client group but is affiliated with the borrower in terms of ownership or management has materialised any of points a) to h) during any earlier credit relationship and, on that basis, the majority of the institutional lenders concluded, observing all the circumstances of the case, that the cooperation under this Recommendation would cause a bigger risk in terms of the protection of their interests than the lack of it.

3. MNB expects the application of this Recommendation within the framework of the relevant legislation in force. The application of the Recommendation may not result in any violation of the legislation in force, in particular the rules concerning legal debt adjustment proceedings, competition control or data protection.

IV. Role of independent advisors

4. MNB considers it a good practice that the institutional lenders involve independent external advisors to facilitate the cooperation between the parties and the subsequent agreement, e.g. financial consultant, legal advisor, tax advisor, negotiation expert or financial restructuring expert, as the case may be. Institutional lenders are also advised to encourage the co-financed corporate borrower to use the services of an independent advisor.
5. MNB suggests that the advisor assisting the institutional lenders in the process to find a negotiated solution should be a person who is familiar with the market environment affected by the given co-financing and has experience related to restructuring. MNB recommends that such advisor should not be a person who has previously participated in the conclusion of the contracts underlying the claims against the co-financed corporate borrower or has otherwise previously advised the institutional lender or lenders in connection with the claims in questions.
6. In taking a decision to involve an independent advisor, it should be reasonable to balance the ratio of the costs of engaging the independent advisors to the benefits that can be achieved.
7. MNB considers it a good practice, which can also promote the cooperation between the parties and a subsequent successful arrangement, if the institutional lenders assign or recommend the same advisor, who is engaged by the co-financed corporate borrower. This is without prejudice to the right of each institutional lender to engage an advisor of its own to represent its interests,

however, it is recommended that the advisors cooperate in such a situation in order to coordinate the interests of the individual institutional lenders.

8. Unless the institutional lenders and the co-financed corporate borrower have agreed otherwise, it would be reasonable if the costs arising from the involvement of independent advisors are borne by the party that engaged the independent advisor. Unless otherwise agreed, the costs related to the joint advisor of the institutional lenders should be allocated between the institutional lenders represented by the advisor pro rata to the claims of the lenders or their exposure at the time of the engagement or taking into account any other considerations, such as the extent of the lender's exposure, risk-tolerance or the priority of satisfaction.
9. MNB considers it a good practice that, if using an independent advisor by the co-financed corporate borrower is justified, the institutional lenders allow the corporate borrower to separate the sources intended to cover the reasonable costs related to the independent advisor during the procedure.
10. If, based on the documents produced in relation to the claim, the costs of the institutional lenders relevant to the independent advisors are not a part of the claims secured by the collateral, it is recommended that the institutional lenders take action to settle the same during the restructuring process. Where the fees of the independent advisors are advanced by one or more institutional lenders based on an agreement, it is recommended that they are given a security for the reimbursement of the costs.

V. Coordination mechanisms supporting the cooperation of the institutional lenders *inter se* and between the institutional lenders and the co-financed corporate borrower

11. Unless the documents produced in relation to the claims against the co-financed corporate borrower provide otherwise, MNB expects the institutional lenders to inform the other institutional lenders without delay after becoming aware of the financial difficulties of the co-financed corporate borrower. In order to do that, MNB suggests that the institutional lenders provide for the possibility to share information constituting banking secret among the institutional lenders in the context of the contract made *inter se* respectively with the co-financed corporate borrower. In the absence thereof, institutional lenders are suggested to immediately request the co-financed corporate borrower to incorporate the possibility of disclosing the banking secret relevant to it in a public document or a private document with full probative force, or to give an authorisation to do so.
12. Once the institutional lenders have informed each other about the existing or expected financial difficulties of the co-financed corporate borrower, MNB expects them to examine the need to set up a restructuring college on the basis of the available information. The primary objective of a restructuring college is to ensure efficient information sharing among the institutional lenders *inter se* and between institutional lenders and the co-financed corporate borrower, coordinate the activity of the institutional lenders and their communication with the borrower, provide a platform for dispute settlement and, if applicable, give instructions to and coordinate the joint advisors of the institutional lenders. Therefore, setting up a restructuring college is considered a good practice by MNB in all cases where justified by the financing complexity of the borrower or

the client group, the large number of institutional lenders, the difference of the institutional lenders or the types of financing they provide, the number of jurisdictions concerned by the financing or similar circumstances.

13. In case a restructuring college is organised, MNB proposes to develop rules of procedure, which contain the rules governing the implementation of the cooperation and, so at least the following:
    a) The means and the details of communication and information sharing among the institutional lenders, between the institutional lenders and the co-financed corporate borrower and, if independent advisors are involved, between the institutional lenders and the independent advisors;
    b) The decision-making powers, including the scope of issues that require mandatory consultation among the institutional lenders or, for example, the number of votes necessary to establish the college or if there is a need to organise several restructuring colleges by the classes of lenders or based on other criteria;
    c) The main steps and the time frame of the decision-making process;
    d) The sharing of the costs and fees incurred, if any.
14. MNB considers it a good practice to appoint, within the restructuring college, an institutional lender in a leadership role, which provides for the coordination of the functioning of the college and the communication with the co-financed corporate borrower. Unless agreed otherwise, it is recommended that the leadership role in the restructuring college is filled by the institutional lender with the largest exposure in terms of the amount or the institutional lender that intends to provide additional financing in the context of the restructuring. Where the restructuring process involves several co-financed corporate borrowers, it is also recommended that the institutional lenders initiate the appointment of a person on the borrowers' side who, if holding an appropriate authorisation for representation, is responsible for the implementation of the restructuring as the primary contact on behalf of the co-financed by corporate borrowers or, in the absence of such, one contact person should be appointed for each borrower.
15. Even in the absence of setting up a restructuring college, the institutional lenders are expected to comply with point a) of Article 13, except where the rules formulated therein are included in the documents produced in relation to the claim with respect to all the institutional lenders affected by the restructuring process.
16. MNB considers it a good practice if the members of the restructuring college or, in the absence of such, the institutional lenders:
    a) Compare and coordinate their assessments and due diligence processes and, if they consider it necessary, the independent business due diligence and their decision-making processes;
    b) Inform the other institutional lenders in due time about the key information in all stages if the negotiated procedure;
    c) Inform each other about the status of the measures taken by them and the evolution of the status of the financial situation of the co-financed corporate borrowers (if it can be presumed that it is not available to the rest of the institutional lenders and an authorisation to that effect is held);

d) Where a joint advisor is engaged, apply jointly approved principles to take the decision on the appointment of the independent advisor who is holding the appropriate permits, professional experience and reputation;
e) Pay particular attention to avoid sharing information sensitive from the competition law point of view between the institutional lenders or indirectly through the advisors of the institutional lenders. Should they consider it necessary, they should create a group of unbiased persons to provide information including an independent summary evaluation;
f) Inform each other without delay if they intend to unilaterally open a legal debt adjustment procedure or if their interest involving the claims has been transferred or they have enforced the collateral in another way, or if the risk or the amount of the claim has reduced.

VI. Communication between the co-financed corporate borrowers and the institutional lenders

17. MNB considers it particularly important that, in the case of a financial difficulty, the co-financed corporate borrower and the institutional lenders contact as soon as possible and maintain the relationship throughout the process.
18. For the sake of the completeness of information sharing, it should be ensured that when the institutional lender(s) become aware that the co-financed corporate borrower(s) is(are) facing financial difficulties, contact is made with respect to all borrowers and lenders unless the borrower(s) has(have) already contacted the institutional lender(s).
19. Where possible, the details related to communication should be specified in the documents produced in relation to the claim or, if a restructuring college is established, in the rules of procedure drawn up under Article 13. MNB considers it important that a contact person is appointed by the institutional lenders also in the absence of setting up a restructuring college, as it makes the communication between the partners significantly faster and more effective. For this reason, MNB considers it a good practice if the institutional lenders propose to the co-financed corporate borrowers to do likewise and appoint a contact person for the sake of the smooth cooperation.
20. MNB considers it reasonable that the institutional lenders act in their contacting and communication with the co-financed borrowers or the contact persons so that the occurrence thereof can be subsequently demonstrated.
21. MNB expects the institutional lenders to make available all the information that facilitates the fulfilment of the obligations to the co-financed corporate borrower.
22. MNB considers it justified that the institutional lenders provide the key information to the co-financed borrower(s) or its(their) contact person(s) in all stages of the negotiated procedure (such as the start of providing the de facto moratorium).

VII. Internal regulatory elements of the negotiated debt adjustment procedure

23. MNB considers it a good practice if the institutional lenders develop the detailed rules of the negotiated debt adjustment procedure in a stand-alone policy or as a part of another internal regulation (e.g. credit risk management regulation, claims management regulation), adjusted to

the specificities of their internal functioning and strategy concerning non-performing corporate credits, by defining at least the following:

a) The tools and criteria that help to explore the solvency, potential financial difficulties of the co-financed corporate borrowers and the factors that make non-performance probable, in order to identify any potential problems as soon as possible;
b) Investigation of the details of financial difficulty notified by the co-financed corporate borrower or otherwise found out by the institutional lender and the methods and time limits developed to verify the information provided;
c) Process of informing the other institutional lenders and the other borrowers involved about the financial difficulty notified by the co-financed corporate borrower or otherwise found out by the institutional lender;
d) Order and method of managing and recording the information supplied to the institutional lenders during the negotiated debt adjustment procedure;
e) The rules of communication with the stakeholders, including the form of contacting and communication;
f) Internal organisational units of the institutional lender responsible for carrying out the negotiated debt adjustment procedure, as well as the responsibilities;
g) Processes and organisational solutions of the institutional lender to restore the solvency of the co-financed corporate borrower;
h) Tools assisting the cooperation of the co-financed corporate borrowers facing financial difficulties, in particular the provision of all information to the borrower(s), including a description and the main steps of the process of the negotiated debt adjustment procedure, the parties concerned therein, as well as the benefits of the procedure;
i) In case a restructuring college is established, details of participating or taking a leadership role in the restructuring college;
j) Content elements of the documents produced in relation to the claim, which regulation the institutional lender considers justified where co-financing is provided, including at least the cooperation and decision-making process of the lenders providing the co-financing, communication and delivery, the possible sharing and bearing of the costs, the selection of advisors and the need to regulate the disposal of co-financed participations, as well as a summary of the aspects of the institutional lender related to the same.

VIII. De facto moratorium

24. MNB considers the de facto moratorium as a temporary behaviour, during which the institutional lenders providing co-financing that fall within the scope of this Recommendation basically refrain from initiating legal debt adjustment proceedings against the co-financed corporate borrower or taking any steps to enforce any claim or collateral provided in favour of such lenders by observing the provisions of Article 26. During the de facto moratorium, any security deposit, right to setoff, collection right, assignment for collateral purposes, or purchase option and any other similar right of the institutional lenders over financial instruments may be enforced only exceptionally and in justified cases as a last resort in order to reduce an immediate or potentially inevitable loss,

keeping each other informed. MNB expects that the institutional lenders, who may not participate in providing the de facto moratorium for justified reasons, also inform the other institutional lenders in the same way about taking any of the actions mentioned above, which is otherwise not expected during the de facto moratorium but the taking of which cannot be foregone by such institutional lenders.

25. In addition to stimulating cooperation, the de facto moratorium also aims to allow the co-financed corporate borrower and the institutional lenders to assess the situation, including the possible need for providing a negotiated moratorium. In the case of an imminent threat of insolvency, it should be reasonable, having taken into account all the circumstances of the case, to state either in the notice on the de facto moratorium or otherwise during the process that the institutional lenders providing the de facto moratorium consider the moratorium as being in their best interest subject to the specific terms and conditions, if any.

    In order to promote the cooperation between the institutional lenders and the co-financed corporate borrowers, MNB considers it a good practice that the institutional lenders grant a de facto moratorium to the borrower until the restructuring measure. Institutional lenders should make the decision about providing the de facto moratorium and the start thereof as soon as possible and, if possible, immediately after the date:

    a) When the co-financed corporate borrower notified the institutional lenders about its financial difficulties, whether actual or expected in the near future, or
    b) Where the institutional lender becomes aware of the occurrence of the financial difficulties of the co-financed corporate borrower other than from that borrower and contacts the co-financed corporate borrower in order to have a negotiated debt adjustment, when the co-financed corporate borrower commits to the negotiated debt adjustment procedure.

26. If the institutional lenders or any part thereof grant a de facto moratorium to the co-financed corporate borrower the co-financed corporate borrower must be notified of the fact, duration and consequences thereof in a provable and retrievable way in accordance with Article 20. Granting the de facto moratorium does not in itself mean that the co-financed corporate borrower becomes exempt from the payment of the instalments due, but the institutional lender(s) may supplement the de facto moratorium with such a measure. In the event of such supplementation, it should be reasonable to make the moratorium or the exemption from paying the instalment due subject to proportional conditions and deadlines in order to protect the interests of the institutional lenders and facilitate the cooperation of the co-financed corporate borrower.
27. MNB expects that the de facto moratorium lasts for the shortest possible duration. If the parties wish to subsequently maintain the de facto moratorium, it is recommended to enter the conditions thereof in an agreement, observing the principles set out in Section IX.
28. MNB considers it a good practice if the de facto moratorium terminates on the earliest of the occurrence of the following dates:

    a) When the negotiated restructuring between the institutional lenders and the co-financed corporate borrower enters into force;
    b) When the co-financed corporate borrower becomes a non-cooperating borrower;

c) When the co-financed corporate borrower is able to prove to the lenders in a satisfactory way that it does not have financial difficulties that would jeopardise the performance of the co-financed claims;
d) When the institutional lenders holding more than 50% of the relevant claims against the co-financed corporate borrower conclude on the basis of the status assessment that, in their well-founded opinion, a negotiated restructuring process is not feasible or would not offer substantial benefits as compared to the legal debt adjustment procedure;
e) When the formal deadline for the conclusion of the contract on the moratorium or the deadline for the negotiated restructuring process expired unsuccessfully, based on all of the circumstances of the case taken into account by the institutional lenders, provided that the co-financed corporate borrower has been informed about the deadline and the institutional lenders have not extended such deadline;
f) Due to external circumstances, immediate action is required from the institutional lenders to protect their interests (including, if the lenders are required to join the given procedure on the basis of applicable law), provided that proper communication with each other and coordinated action are required from the institutional lenders in this situation as well;
g) Any of the lenders initiates a legal debt adjustment procedure against the co-financed corporate borrower or enforces the collateral.

IX. Negotiated moratorium[1]

29. If an agreement is made between the institutional lenders and the co-financed corporate borrower on the moratorium (hereinafter referred to as "negotiated moratorium"), such agreement should contain at least the following:
    a) An indication of the subject of the contract;
    b) A description of the parties;
    c) Determination of the duration of the moratorium, fixing the starting date and the expiry;
    d) The possibility of extending the duration of the moratorium and the necessary decision-making rules;
    e) The amount of the claim(s) confirmed by the institutional lenders and the co-financed corporate borrower;
    f) Stipulation of the terms of the moratorium, including the determination of the rights and the obligations of the institutional lenders and the co-financed corporate borrower during the moratorium, in particular:
        fa) An agreement on the measures which are not permitted or are limited during the moratorium, for example because such measures require the consent of a specific proportion of the other institutional lenders;
        fb) An agreement to take the measures that are permitted under certain conditions;
    g) Settlement of issues concerning confidentiality and confidential information.

[1] MNB is ready to review and, if it considers it necessary, supplement this Article of the Recommendation in relation to the point of superseniority following the national implementation of the European Union Directives.

30. MNB considers it a good practice if the institutional lenders procure that the owners of the co-financed corporate borrower support the negotiated moratorium even in such a way that these owners also sign the contract, in particular if it is foreseen that the parties plan to convert debt into equity as a part of the restructuring or the institutional lenders count upon the participation of the owners in connection with the provision of a bridging financing.
31. Unless it is an obstacle to the implementation of a successful restructuring, it is recommended that the fact that the negotiated moratorium is not signed by all the lenders is not considered a reason for exclusion. MNB considers it a good practice if the institutional lenders endeavour to obtain the support of as many lenders as possible for the negotiated moratorium. MNB also considers it a good practice if, for the purposes above, the institutional lenders, acting by the types of lenders, elaborate possible alternatives in order to try to near their possibly diverging interests due to their positions. For example, in order to support an institutional lender holding an insurance for the risks linked to the exposure, it should be reasonable to consider making an agreement between the lenders to manage the costs of extending the insurance as a bridging loan.
32. MNB expects that the contract on the moratorium contains the consent of the co-financed corporate borrower to share the information on its financial situation, the performance of the claim(s) between the contracting parties and, if applicable, their independent advisors, where such consent is not available yet to the institutional lenders during the search for solutions. During the negotiated moratorium, the institutional lenders should examine in detail, together with the advisors, the financial situation of the co-financed corporate borrower and any other relevant conditions affecting the performance of the claim(s). The purpose of this examination is to draw up a report, on the basis of which the institutional lenders may be able to elaborate proposals for solutions and review the proposed solutions submitted by the co-financed corporate borrower in order to reach the negotiated debt adjustment.

X. Bridging financing

33. Where bridging financing is provided, MNB considers it a good practice if the institutional lenders take into account not only the costs of operation in the narrow sense, but also examine the possibility of including the due and payable public debts of the co-financed corporate borrower in the financing objectives, for example, in order to prevent that the enforcement thereof compromises the effectiveness of the restructuring process. If an agreement to that effect is reached, it is recommended that the institutional lenders cooperate to the extent possible to mitigate the risk of the institutional lender participating in such financing.
34. MNB considers it a good practice if the institutional lenders invite the co-financed corporate borrower to submit proposals during the moratorium for ensuring the continuation of its business after the moratorium and to provide regular information on its financial situation.
35. Where financing for bridging or other similar purposes is provided, it is appropriate to ensure that the provisions of the moratorium do not violate the liability towards any institutional lender not involved in the restructuring process, or if there is any threat thereof, it is recommended to obtain the express consent of such lender. MNB considers it a good practice if the institutional lenders communicate with each other also for this purpose and each of them facilitates the success of the

restructuring by consenting, without undue delay, to restructuring measures that otherwise do not offend its interests or increase its exposure.

36. It is recommended to maintain the moratorium as long as a decision is made on the negotiated moratorium and its terms and conditions or the failure thereof.

XI. Search for solutions

37. MNB proposes that the institutional lenders elaborate proposals for the financial commitments (restructuring) taking into account the information appearing in the report illustrating the financial situation of the co-financed corporate borrower and other relevant circumstances affecting the performance of the claim, as well as the proposed solutions offered by the borrower. In developing the proposals, it is appropriate to assess *inter alia* the scale of the existing claim, the reasons for the financial difficulties and the debtor's current and future financial situation. MNB considers it a good practice if, following the development of the proposed (restructuring) solutions, the institutional lenders consider whether the allowances in Article 9 of MNB Decree 39/2016. (X. 11.) are applicable. In order to avoid that the duration of the de facto moratorium is too long, MNB also considers it a good practice if the negotiated moratorium does not necessarily include all the details and the conditions of the restructuring planned to be implemented, which will be developed by the parties during the negotiated moratorium.
38. In order to facilitate a smooth cooperation and efficient search for solutions between the institutional lenders and the co-financed corporate borrower, it is reasonable to appoint individuals who are responsible for the development of the negotiated debt adjustment and it is also advised to set in advance a deadline for drawing up the proposed solutions and the milestones of the preparation process.
39. MNB considers the restructuring of outstanding claims against the co-financed corporate borrower an efficient solution if the business continuity of the co-financed corporate borrower is expected to be restored by means of the restructuring process and the borrower is expected to be able to perform all its payment obligations that will be outstanding after the settlement.
40. If the provision of a new bridging facility arises as a part of the restructuring process, it is suggested to include as many institutional lenders in the financing as possible in order to atomise the risks.
41. MNB expects that the institutional lenders examine the need for cancelling any unused credit lines of the co-financed corporate borrower, as well as the following:
    a) Closing or cancelling such positions on derivatives and the accounting thereof from the remaining credit line or through conversion into a credit;
    b) Reaching an agreement on the sale of assets not required for safe operations and an agreement on using the proceeds from the same or any cash otherwise available for the fulfilment of the claim or involvement in the bridging financing.

XII. Closing provisions

42. Pursuant to point i) of Article 13 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank, this Recommendation is a regulatory tool that is non-binding upon the supervised entities.
43. MNB will monitor and assess compliance with this Recommendation with respect to the organisations supervised by it, in the context of its audit and monitoring activities, in accordance with the general European supervisory practice. MNB is planning to order, by means of an official resolution, an extraordinary data service one year after the starting date of the application of this Recommendation in order to assess the experience from the implementation of this Recommendation.
44. MNB calls the attention to that institutional lenders may incorporate the contents of this Recommendation into their policies. In this case, the institutional lender is entitled to state that its policies comply with the pertaining recommendation issued by MNB. If an institutional lender intends to include only certain parts of this Recommendation in its policies, reference to this Recommendation should be avoided or applied only in respect of the parts of the recommendations used.
45. MNB expects the institutions concerned to apply this recommendation from the 180th day of publication.

Dr. György Matolcsy
President of the Magyar Nemzeti Bank

Annex 1 to Recommendation 6/2017. (V. 30) of the MNB

Main steps of the negotiated restructuring process of claims against jointly financed corporate borrowers