

CONTRACT PORTFOLIO

Pursuant to the provisions of Section 9 (1 a) aa) and b) of Act CCXXII of 2015 on the General rules of trust services and electronic transactions, Sections 17 (1) and 19 (1) of Government Decree 451/2016. (XII. 19.) on the Detailed rules of electronic services, and Section 3 (1) of MNB Decree 36/2017. (XII. 27.) on the Rules of electronic communication in official matters in progress before the Magyar Nemzeti Bank ("Decree"), the legal representative of the enterprise and the applicant (client) obliged, pursuant to Article 58(2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank (MNB Act), to apply electronic communication, shall submit its application, notification or other petition by using the prescribed form available in the information system supporting the electronic administration of the MNB ("ERA System") and introduced for the procedure related to the submission in question, in the manner and with content specified therein, simultaneously uploading the attachments specified by the law and other documents required by the MNB.

In the licensing procedures, the applications and notifications must be submitted by using the prescribed electronic form available in the *E-administration / Licensing* service on the ERA interface on the MNB's website, attaching the certified electronic copies of the appendices. The resolutions, requests for clarification, notices and other communications of the MNB are delivered to the financial organisations or their legal representatives by sending them to the delivery storage space.

The electronic form necessary for initiating the authorisation of the transfer of deposits, other repayable funds, and payment services framework contract portfolio is available among the forms introduced for credit institutions falling within Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (**Credit Institutions Act**), within the *E-administration/Licensing* service.

The website of the MNB includes information materials related to the electronic administration and the submission of annexes to be attached in the licensing procedure (electronic documents) at:

<https://www.mnb.hu/letoltes/tajekoztatas-az-e-ugyintezesrol-az-mnb-elotti-engedelyezesi-eljarasokban-1.pdf>

For further information related to certain aspects of the licensing procedures see the following menu item:

<https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/tajekoztatok>

Deposits, other repayable funds and payment services framework contract portfolios may be transferred – based on an agreement between the transferor and the recipient credit institutions – subject to the MNB's authorisation.

When transferring the portfolio, the rules of Act V of 2013 on the Civil Code (Civil Code) related to the transfer of contracts shall be applied except that upon the transfer of portfolios the collaterals securing the contract shall not lapse and the legal declaration of the party remaining in the contract is not necessary for portfolio transfer. (*Section 17 (1) of the Credit Institutions Act*).

The MNB's authorisation shall not substitute the authorisation of the Hungarian Competition Authority under Act LVII of 1996 on the Prohibition of Unfair and Restrictive Market Practices (*Section 17 (1) of the Credit Institutions Act*).

The application for the **authorisation of portfolio transfer** shall contain:

- a) the legal declaration of the transferor and the recipient related to the transfer and acceptance of the portfolio (*Section 17 (1) a) of the Credit Institutions Act*)
- b) the specification of the assets and collaterals connected to the portfolio to be transferred (on electronic form) (*Section 17 (1) b) of the Credit Institutions Act*)
- c) the date of and consideration for the portfolio transfer (on electronic form) (*Section 17 (2) c) of the Credit Institutions Act*).
- d) confirmation that the recipient credit institution has, in addition to the minimum own funds belonging to its own portfolio, the minimum own funds necessary for the received portfolio (*Section 17 (2) d) of the Credit Institutions Act*)

- e) the applicant credit institutions' declaration that they have disclosed to the MNB all important facts, data and information necessary for issuing the authorisation (on electronic form) (*Article 59 (2) of the MNB Act*),
- f) a declaration according to which the credit institution transferring the contract portfolio notifies by post all clients concerned on its intention to transfer the portfolio at least sixty days before the date authorised by the MNB for the transfer, and a sample of the notification letter (*Section 17 (3) of the Credit Institutions Act*).

The credit institution transferring the contract portfolio shall notify by post all clients concerned on its intention to transfer the portfolio at least sixty days before the date authorised by the MNB for the transfer. In the notification it shall remind the clients that until the date authorised by the MNB for the transfer they are entitled to cancel the contract in writing, in the absence of which it shall be considered that they acknowledged the transfer. In the case of bearer deposits or securities the notification shall be published as an announcement in two national daily newspapers. (*Section 17 (3) of the Credit Institutions Act*).

If in connection with the portfolio transfer the credit institution receiving the contract portfolio initiates the amendment of the payment services framework contract, the transferor and recipient credit institutions may agree that until the effective date of the amendment of the payment services framework contract by the recipient credit institution, the transferor credit institution will provide all services necessary for the fulfilment of the transferred payment services framework contracts by the recipient credit institution (*Section 17 (4) of the Credit Institutions Act*).

The MNB will deny the authorisation of the portfolio transfer, if it jeopardises the fulfilment of the obligations undertaken in the contracts concluded by the recipient and the transferor credit institutions (*Section 17 (5) of the Credit Institutions Act*).

Following the transfer of the payment service framework contract, the fulfilment of the payment orders based on the framework contract shall be the obligation of the recipient credit institution. The approval given to the transferor credit institution with regard to the fulfilment of the payment order shall be regarded as an approval given to the recipient credit institution (*Section 17 (6) of the Credit Institutions Act*).

By transferring the payment services framework contract portfolio all contracts connected to payment services will be also transferred with the proviso that upon the transfer of contracts for the fulfilment of payment transactions against a credit line, the application shall contain the following:

- a. the transferor and recipient credit institutions' legal declaration aimed at the transfer (*Section 17 (2) aa) of the Credit Institutions Act*),
- b. the specification of the contracts to be transferred and the collaterals securing them (*Section 17 (2) ab) of the Credit Institutions Act*),
- c. the date of and consideration for the transfer of the contract portfolio (*Section 17 (2) ac) of the Credit Institutions Act*),
- d. the book value of the contract portfolio to be transferred, stated in the books of the transferor financial institution, as well as the impairment and provisions related to the contract portfolio (*Section 17 (2) ad) of the Credit Institutions Act*),
- e. the data serving the identification of the parties remaining in the contract (*Section 17 (2) ae) of the Credit Institutions Act*),
- f. confirmation that the recipient credit institution has the minimum own funds to cover the risks attached to the contract portfolio to be taken over (*Section 17 (2) af) of the Credit Institutions Act*),
- g. the business plan of the recipient credit institution prepared in consideration of the contract portfolio to be taken over (*Section 17 (2) ag) of the Credit Institutions Act*),
- h. the statement of the applicant credit institutions that they have disclosed to the MNB all important facts, data and information required for the issue of the authorisation (*Article 59 (2) of the MNB Act*) (*on electronic form*).

Upon transferring deposits, for the purposes of the indemnification limit to be paid by NDIF, the deposits placed by the same depositor with the transferor and the recipient credit institution shall be regarded as separate deposits for three months at most. (*Section 214 (10) of the Credit Institutions Act*).

Should, after carefully reading this guide, any further question – related to the respective, individual case, not possible to answer in the form of consultation over the phone or in writing – arise, the MNB provides the applicant with the possibility of personal consultation. For the possibility of personal consultation, contact the secretariat of the Money and Capital Markets Licensing Department (Telephone number: +361-489-9381; Email: ptef@mnk.hu).

If the questions are solely of IT nature, you may also contact the Information Technology Supervision Department directly for the purpose of personal consultation (Telephone number: +361-489-9321; Email: iff@mnk.hu).

Last amendment: November 2020