

TRANSFER OF THE CONTRACT PORTFOLIO RELATED TO FUNDS ACCEPTED BY A PAYMENT INSTITUTION FOR PAYMENT TRANSACTIONS

Pursuant to the provisions in subparagraph aa) of paragraph a) and paragraph b) of Section 9 (1) 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”), on grounds of Section 58 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank (“**MNB Act**”), the legal representative of an economic operator or an applicant (client) obliged to apply electronic communication must submit his application, notification or other petition by using the prescribed form available in the information system ensuring the electronic transactions of the Magyar Nemzeti Bank (**MNB**) (“ERA System”) and introduced for the procedure related to the petition is 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 the initiation of the procedure aimed at the authorisation of the transfer of contract portfolio related to funds accepted by a payment institution for payment transactions is available – within the *E-administration/Licensing service* – among the forms dedicated to payment institutions within the meaning of the Credit Institutions Act.

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>

The contract portfolio related to funds accepted by a payment institution for payment transactions may be transferred subject to the MNB's authorisation based on the agreement between the transferor and recipient payment institution.

Upon the portfolio transfer the provisions of Act V of 2013 on the Civil Code (**Civil Code**) related to the transfer of contracts shall be applied with the exception that the portfolio transfer is not conditional upon the contracting party's legal declaration and the collateral of the contract shall not lapse.

The MNB's authorisation shall not substitute the authorisation of the Hungarian Competition Authority under the Act on the Prohibition of Unfair and Restrictive Market Practices. (*Section 81 (1) of Act CCXXXV of 2013 on Payment Service Providers (Payment Service Providers Act)*)

The application for the authorisation of portfolio transfer shall contain:

- a) the legal declaration of the transferor and the recipient payment institutions related to the transfer and acceptance of the portfolio, (*Section 81 (2) a) of the Payment Service Providers Act*)
- b) the specification of the assets and collaterals related to the portfolio to be transferred, (*Section 81 (2) b) of the Payment Service Providers Act*)
- c) the date of and consideration for the transfer of the portfolio, (*Section 81 (2) c) of the Payment Service Providers Act*)
- d) confirmation that the recipient payment institution has, in addition to the minimum own funds belonging to its own portfolio, the minimum own funds necessary for the portfolio to be taken over (*Section 81 (2) d) of the Payment Service Providers Act*)

Applicant's declaration to the effect that it has disclosed to the MNB all important facts, data and information required for the issue of the authorisation (*Section 59 (2) of the MNB Act*). (*on electronic form*).

Procedure conducted by the MNB:

The MNB will deny the authorisation of the portfolio transfer, if the transfer jeopardises the fulfilment of the obligations undertaken in the contracts concluded by the recipient and the transferor payment institutions. (*Section 81 (4) of the Payment Service Providers Act*)

The provisions specified in Section 46 of the Payment Service Providers Act, related to the protection of customer funds, shall be also applicable to the transfer of portfolios related to funds accepted for the purposes of payment transactions.

The payment institution receiving the contracts portfolio shall notify all contracting parties concerned on the transfer – within thirty days of receipt of the resolution on authorisation – in writing. (*Section 81 (3) of the Payment Service Providers 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 and +361-489-9731; Email: ptef@mnbb.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@mnbb.hu).

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