

GUIDE

for conducting the verification and approval procedure of the prospectus and certain parts thereof

based on the provisions of Article 20 (7) of Regulation 2017/1129/EU of the European Parliament and of the Council of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC

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1. GOVERNING LEGISLATION

REGULATION 2017/1129/EU OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 14 June 2017 on the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Directive 2003/71/EC (**Prospectus Regulation**)

COMMISSION DELEGATED REGULATION (EU) 2019/979 (14 March 2019)

supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council with regard to regulatory technical standards on key financial information in the summary of a prospectus, the publication and classification of prospectuses, advertisements for securities, supplements to a prospectus, and the notification portal, and repealing Commission Delegated Regulation (EU) No 382/2014 and Commission Delegated Regulation (EU) 2016/301 (**Regulation 2019/979**)

COMMISSION DELEGATED REGULATION (EU) 2019/980 (14 March 2019)

supplementing Regulation (EU) 2017/1129 of the European Parliament and of the Council as regards the format, content, scrutiny and approval of the prospectus to be published when securities are offered to the public or admitted to trading on a regulated market, and repealing Commission Regulation (EC) No 809/2004 (**Regulation 2019/980**)

Act CXX of 2001 on Capital Markets (**Capital Markets Act**)

Act CXXXIX of 2013 on the Magyar Nemzeti Bank (**MNB Act**)

Act LXXVIII of 2017 on the professional activities of attorneys-at-law (**Attorneys Act**)

Government Decree 451/2016. (XII. 19.) on the Detailed rules of electronic services (**Government Decree 451/2016**)

MNB Decree 14/2015 (V. 13.) on the Administrative service fees of the Magyar Nemzeti Bank applied in certain licensing and registration procedures in the context of the supervision of the financial intermediary system and with respect to trustee enterprises (**Fee Decree**)

MNB Decree 28/2013 (XII. 16) on the Languages accepted by the Magyar Nemzeti Bank and generally used in the international financial markets (**Language Decree**)

MNB Decree 36/2017 (XII. 27.) on the Rules of electronic communication in official matters in progress before the Magyar Nemzeti Bank (**E-administration Decree**)

2. OTHER REGULATORY TOOLS

During the licensing procedure of the prospectus, in addition to the legal provisions, the Central Bank of Hungary (MNB) expects market participants to apply the requirements of the following guidelines published by the European Securities and Markets Authority (ESMA) and takes them into account when checking the content of the prospectuses.

- MNB 5/2017. (V.24.) transposition of ESMA's Guidelines on Alternative Performance Measures;
- Guidelines on risk factors
[esma31-62-1293_guidelines_on_risk_factors_under_the_prospectus_regulation.pdf](https://www.esma.europa.eu/sites/default/files/library/esma31-62-1293_guidelines_on_risk_factors_under_the_prospectus_regulation.pdf) (europa.eu)
- Guidelines on disclosure requirements under the Prospectus Regulation
[esma32-382-1138_guidelines_on_disclosure_requirements_under_the_prospectus_regulation.pdf](https://www.esma.europa.eu/sites/default/files/library/esma32-382-1138_guidelines_on_disclosure_requirements_under_the_prospectus_regulation.pdf) (europa.eu)
- Q&A-s on Prospectus regulation
https://www.esma.europa.eu/sites/default/files/library/esma31-62-1258_prospectus_regulation_qas.pdf
- Q&A-s on Prospectus Directive) (applicable until update)
https://www.esma.europa.eu/sites/default/files/library/esma31-62-780_qa_on_prospectus_related_topics.pdf

3. OBLIGATION TO PUBLISH THE PROSPECTUS AND EXEMPTIONS FROM THE OBLIGATION

Pursuant to the provisions of Article 3 of the Prospectus, the public offering of the securities in the European Union may only take place after publishing the prospectus in line with the Prospectus Regulation, and furthermore securities may only be admitted to trading on a regulated market situated or operating within the European Union after the publication of a prospectus in accordance with the Prospectus Regulation. In addition, the Prospectus Regulation also stipulates exemptions from the disclosure obligation.

In view of the special features of the different types of securities, issuers, offers and admissions, the Prospectus Regulation also stipulates rules for different forms the prospectus, i.e. for the standard prospectus, the wholesale prospectus of non-equity securities, the base prospectus, the simplified prospectus for secondary issuances and for the EU Growth prospectus. Any reference to the “prospectus” shall be construed as a reference to all forms of the aforementioned prospectuses.

The prospectus may only be published if it has been or all of its components have been approved by the respective competent authority. The detailed rules applicable to the verification, approval and publication of the prospectus are included in Chapter IV of the Prospectus Regulation and in Chapter V of Regulation 2019/980/

a) Exemption from the preparation of a prospectus

In the case of public offering

According to Article 1(3) of the Prospectus Regulation, when the total consideration for the offer of the securities to the public in the European Union is less than EUR 1,000,000 over a period of 12 months. In this case, based on Section 21(1a) and (1b) of the Capital Markets Act, a summary prospectus should be prepared and approved.

Further exemptions are included in Article 1 (4) of the Prospectus Regulation.

In the case of admission for trading in the regulated market:

In the cases stipulated in Article 1(5) of the Prospectus Regulation.

b) Exemption from the preparation of a summary prospectus

In the cases stipulated in Article 7(1) of the Prospectus Regulation, and furthermore, when preparing

a base prospectus in accordance with the provisions of Article 8(8), if the base prospectus contains no final terms.

c) Prospectus prepared on a voluntary basis

In the cases stipulated in Article 4 of the Prospectus Regulation, the prospectus prescribed by the Prospectus Regulation may also be prepared on a voluntary basis.

4. LANGUAGE OF THE PROSPECTUS AND THE LANGUAGE ACCEPTED BY THE MNB

Pursuant to the provisions of Article 27 of the Prospectus Regulation and of MNB Decree 28/2013 (XII. 16.) on the Languages accepted by the Magyar Nemzeti Bank and generally used in the international financial markets, in order to obtain the approval of the MNB the prospectus must be prepared in Hungarian or in English, the summary in Hungarian.

If the securities are intended for public offering in other Member States as well, the summary must be available in the official language or at least in one of the official languages of the host Member State, or in any other language accepted by the competent authority of the host Member State.

5. PARTS AND VALIDITY OF THE PROSPECTUS

Pursuant to the provisions of Article 6 (3) of the Prospectus Regulation, the prospectus may be prepared as a single document or in the form of separate documents.

As a principal rule, in the prospectus comprising of separate documents, the prescribed information must be divided into a registration document, a securities note and a summary. If the prospectus comprises of several separate documents, based on the provisions of Article 21(9) of the Prospectus Regulation, it must be indicated in each document constituting the prospectus – with the exception of the documents incorporated by reference – that the respective document is only one part of the prospectus and where the other documents constituting the prospectus can be accessed.

The prospectus and its individual parts shall be prepared with the content and in the form specified by the Prospectus Regulation and Regulation 2019/980.

Pursuant to the provisions of Article 12 of the Prospectus Regulation, the prospectus remains in force for 12 months following its approval, provided that it has been supplemented with the potential additions prescribed in Article 23. If the prospectus comprises of separate documents, the validity period thereof shall commence upon the approval of the securities note. The previously approved registration document may be used for 12 months after its approval as a component of any prospectus. The universal registration document may be used for 12 months after its approval or submission mentioned in the second subparagraph of Article 9 (2) as a component of any prospectus. The expiry of the validity of the registration document or universal registration document has no effect on the validity of the prospectus that the registration document forms part of.

Pursuant to the provisions of Article 21 (8) of the Prospectus Regulation, the approved prospectus must contain, in a clearly visible place, a notice on the expiry of its validity. The notice shall also contain that after the expiry of the validity of the prospectus the obligation to make a supplementation to the prospectus upon the occurrence of material new factors, material errors or inaccuracies shall no longer exist.

6. ADMINISTRATIVE SERVICE FEE PAYABLE FOR THE PROCEDURE

Pursuant to Section 18/A(1) of the Fee Decree, an administrative service fee of HUF 1,100,000 shall be payable in the manner specified in Section 20 of the same.

7. DOCUMENTS TO BE SUBMITTED

Pursuant to Article 42 of Regulation 2019/980 the following documents must be submitted:

- the searchable draft of the prospectus in electronic form (pursuant to the provisions of Article 19 (2) of the Prospectus Regulation the prospectus must contain particularly a cross-reference list, which helps investors identify the respective information easily; in addition, the prospectus shall also contain hyperlinks pointing to documents containing information incorporated by way of reference);
- the list of cross-references in accordance with the provisions of Article 24 (5) and Article 25 (6) of Regulation 2019/980;
- in accordance with the provisions of Article 19 of the Prospectus Regulation, all information incorporated in the prospectus by way of reference, except when the competent authority have already approved the respective reference or it have been already submitted to the competent authority in searchable electronic format;
- all justified requests to the competent authority that it should authorise the omission of certain information from the prospectus as mentioned in Article 18 of the Prospectus Regulation;
- all requests to the competent authority that it should send documents in accordance with the provisions of Article 25 (1) of the Prospectus Regulation (upon passporting the prospectus and the supplementation);
- all requests addressed to the competent authority to the effect that it should send documents in accordance with the provisions of Article 26 (2) of the Prospectus Regulation and the appendix mentioned in Article 26(4) of the Prospectus Regulation, unless according to the second subparagraph of Article 7 (1) of the same no summary is necessary (upon the passport of registration document or the universal registration document);
- confirmation that according to the best knowledge of the issuer all regulated information to be published on mandatory basis in accordance with the national regulations transposing Regulation 2004/109/EC of the European Parliament and of the Council * and with Regulation 596/2014/EU of the European Parliament and the Council * have been submitted and disclosed in line with the aforementioned legal acts during the last 18 months or in the period elapsed since the start of the obligation related to the disclosure of the regulated information (whichever period is the shorter), if the issuer submits the draft universal registration document for approval or submits a universal registration document without prior approval and wishes to obtain the status of frequent issuer;
- if the universal registration document is submitted without prior approval, an explanation as to how the request for the amendment or supplementary information mentioned in the second subparagraph of Article 9 (9) of Regulation 2017/1129/EU has been taken into consideration in the universal registration document;
- all other information requested by the competent authority for the purposes of verifying and approving the prospectus, or verifying, assessing and approving the universal registration document, and particularly the following:
 - draft subscription sheet, if the distribution will take place through subscription;
 - draft auction sheet, if the distribution will take place through auction;
 - draft wording of the securities, or draft instrument issued on the dematerialised securities;
 - memorandum of association in the case of issuers operating in the form of company or cooperative society;
 - instrument containing the decision on the distribution;
 - in the case of the public offering of the shares of a private limited company or the admission of them for trading in the regulated market as well as the their registration in a multilateral trading system, the instrument containing the decision related to the amendment of the company's form of operation;

- contract or draft contract between the investment service provider entrusted with the preparation and execution of the distribution and the issuer, and the contracts between the investment service providers involved in the distribution.

The legal representation should be confirmed in the procedure, if the organisation acts through a legal representative:

- when the representation is performed by a lawyer's office or lawyer, the power of attorney must be attached:
 - electronic power of attorney: power of attorney with the advanced electronic signature of the person(s) entitled to represent the organisation/advanced security stamp and the electronic signature of the legal representative;
 - electronic copy prepared by a person entitled to issue a public instrument or an authentic copy thereof: an electronic copy of the power of attorney signed on paper by the person(s) authorised to represent the organisation and by the authorised legal representative taken by a person who is entitled to issue a public instrument or an authentic copy thereof;
 - power of attorney converted into electronic form by the legal representative: the legal representative is entitled – unless provided otherwise by the law – to convert the power of attorney prepared by and issued to him or her into electronic form, which is attested by the legal representative (in accordance with Section 11 of Government Decree 451/2016).
- in the case of chamber legal counsel, the legal counsel card or the official certificate issued by the chamber on the membership and the general or special power of attorney for the given procedure, certified as written in connection with the lawyer's power of attorney, must be attached pursuant to Section 68 (2) of the Attorneys Act. The legal counsel's certificate or official certificate may be authenticated in the following ways: electronic copy made by a person authorized to issue or certify a notarial copy: an electronic copy of a paper copy of an authentic instrument made by a person authorized to issue or certify a notarial deed.

8. ELECTRONIC ADMINISTRATION

Pursuant to Article 58 (2) of the MNB Act, in the administrative procedures conducted by the MNB under Article 45 of the MNB Act – with the exception of the market surveillance procedure – the communication between the respective organisation and the MNB shall be in electronic form, which shall take place solely in the MNB's IT system supporting electronic administration ("Electronic System for Receiving Authenticated data", **ERA system**) through the delivery storage facility dedicated to the respective organisation. In its administrative procedures, the MNB communicates with the clients through the ERA system, and thus the applications for the approval of the prospectus shall be submitted via the ERA system, on the dedicated electronic form, available within the E-administration/Capital market services.

Applications may be submitted by the electronic form entitled "*Application for approval of the prospectus or base prospectus*", in the case of closed-end public securities funds by "*Application for approval of the prospectus or the base prospectus and the management regulations in the case of public closed-end securities funds*", and in the case of closed-end public real estate funds by "*Application for prospectus, or to approve the base prospectus and the management regulations and to authorize the conclusion of a contract with a real estate appraiser in the case of a public closed-end real estate fund*". Simultaneously with the submission of the above-mentioned forms, in accordance with Article 21 (5) of the Prospectus Regulation, it is necessary to fill in the form entitled "*Form for the submission of information related to the approval of the prospectus / base prospectus*" and send it via ERA system.

The resolutions, requests for clarification, notices and other communications of the MNB are delivered to the organisations or their legal representatives by sending them to the delivery storage space.

In the case of a call for supplementation or declaration necessary for the clarification of facts the electronic form entitled "*Form for the submission of missing information*" or "*Form for declaration necessary for the clarification of*"

facts”, respectively, shall be filled in and submitted, while for other filings the form entitled “*Form for the filing of other submissions*” may be used.

The **use of the ERA system is conditional upon prior registration**, which can be performed in the registration interface of the ERA system (<https://era.mnb.hu/ERA.WEB/RegDb/Registration>). Enterprises wishing to obtain authorisation for a prospectus for the first time, also need to register for the **following services of the ERA system**, as step “zero” of the procedure.

- *E-administration – Capital market*: this service includes the forms for the licence applications and notifications.
- *Mailbox - E-administration authentic storage (EÜHT)*: the MNB delivers its decisions, calls, etc. to the organisation via the EÜHT, which at the same time also functions as the official contact point and delivery storage space of the organisations in the MNB’s electronic procedures.
- *External signature*: this service provides persons who have not registered for the ERA system, but their signature is necessary during the administrative procedure (e.g. official signatories) with the opportunity to sign the electronic form during the electronic administration.

In addition to the aforementioned services, **it is also recommended to register for the following services of the ERA system**:

- *Management of large files (NAK)*: the “Annexes” field of the electronic forms permits the attachment of documents up to 12MB; files larger than that may only be uploaded and submitted through the NAK service.

The technical information related to e-administration (registration, mailbox, external signature, etc.) is available in the ERA interface. The ERA system can be accessed through the MNB’s internet portal at: <https://era.mnb.hu/ERA.WEB/>.

Pursuant to Article 58 (1) and (11) of the MNB Act, the application must bear an **electronic signature**. Pursuant to Section 8(1) of the E-administration Decree, the application must bear advanced security electronic signature and timestamp, which complies with the provisions of Act CCXXII of 2015 on the General Rules of Electronic Administration and Trust Services.

Pursuant to Article 58 (11) of the MNB Act only **original documents or authentic electronic copies may be submitted** in the licensing procedures.

The self-issued documents and declarations of the organisation may be authenticated electronically in the following ways:

- electronically signed declaration: a declaration of the applicant, in accordance with the rules of company representation, bearing advanced security electronic signature/electronic stamp;
- electronic copy prepared by a person entitled to issue a public instrument or an authentic copy thereof: an electronic copy of the declaration signed on paper by the person in accordance with the rules of company representation taken by a person who is entitled to issue a public instrument or an authentic copy thereof;
- electronic copy taken by the applicant: the applicant digitises the paper-based declaration signed (jointly) in accordance with the rules of company representation and then furnishes it with qualified or advanced security electronic signature/stamp based on qualified certificate and places an electronic timestamp on it;
- electronic declaration made before a person authorised to issue public instruments: electronic declaration made by the applicant, in accordance with the rules of company representation, before a person entitled to issue public instruments;
- electronic copy taken by the acting lawyer or bar member legal counsel (legal representative): the legal representative may take electronic copy of the original paper-based private deed in his or her possession in accordance with Section 46 of Act LXXVIII of 2017 on the Professional activities of attorneys-at-law (Attorneys Act) and Regulation 11/2017 (XI. 20.) of the Hungarian Bar Association on the Drafting of instruments and electronic administration.

9. PROCEDURAL DEADLINES

The procedural deadlines are stipulated by Article 20 of the Prospectus Regulation. Accordingly, as a principal rule, the MNB will **pass a resolution within 10 working days** and notify the person who submitted the application.

If the MNB makes no decision within this deadline, the omission shall not be construed as the approval of the application.

As a principal rule the MNB has 10 working days to issue a call for supplementation.

The aforementioned 10-working day deadlines will change **to 20 working days**, if the public offering relates to securities issued by an issuer **none of the securities of which has been admitted for the trading in the regulated market before and has not made any public offer for securities before.**

In the case of frequent issuers the aforementioned deadlines decrease to 5 working days with the proviso that frequent issuers are obliged to notify the MNB at least 5 working days before the planned date of the submission of the application for approval.

10. COMMUNICATION

Pursuant to the second subparagraph of Section 45(1) of Regulation 2019/980, following the receipt of the first application for the approval of the draft prospectus and the universal registration document or the amendment thereof, the MNB shall inform the issuer, the offeror or the person applying for the admission for trading in the regulated market on the following:

- a) reference number of the application or submission;
- b) name and contact details of person in charge of the application

In addition to the foregoing, in respect of the specific procedures aimed at the approval of the prospectus the applicant may receive information at the central phone number of + 36 (1) 4899-100 or at tfj.titkarsag@mnbb.hu.