

## LICENSING THE FOUNDATION OF AN INSURANCE OR REINSURANCE COMPANY

- I. Pursuant to the provisions of Section 9(1)a aa) an 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 annexes 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 application for licensing the foundation of the insurance company shall be submitted on *electronic form No. BIZA\_1017* entitled "*Application for licensing the foundation of an insurance company*" available under the Foundation/transformation menu item of the *E-administration/Licensing* service.

For **natural persons** electronic administration is an optional form of procedure; however, pursuant to Article 58 (2) of the MNB Act, natural persons not subject to mandatory electronic communication may also submit their application, notification or other submission on the electronic form, available in the ERA system, dedicated to the respective application, notification or other submission, or on the ÁNYK (General Form Filling Framework) form, dedicated to the respective application, notification or other submission, available in the storage space within the Central Client Registration database, simultaneously uploading the additional documents prescribed by the MNB. The ÁNYK forms are also available on the website of the MNB at: <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes/2018-januartol-hatalyos-szabalyok/a-termeszetes-szemelyek-elektronikus-ugyintezese-anyk>

*Natural persons continue to be entitled to submit applications in hard copy by using the printed forms available on the website of the MNB, attaching the appendices specified by law. The standard forms are available at:* <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/formanyomtatvanyok>

The website of the MNB includes information materials on electronic transactions and the submission of appendices to be attached in licensing procedures (electronic documents) at: <https://www.mnb.hu/letoltes/tajekoztatas-az-e-ugyintezesrol-az-mnb-elotti-engedelyezesi-eljarasokban-1.pdf>

Further information related to certain aspects of the licensing procedures is available under the following menu item: <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/tajekoztatok>

- II. Pursuant to Section 237 (1)a) of Act LXXXVIII of 2014 on the Business of Insurance (**Insurance Act**), the foundation of an insurance or reinsurance company requires authorisation by the MNB. In possession of the foundation licence, the founder may pursue activities necessary for the foundation of the insurance or reinsurance company, and for the preparation of the insurance activity and other activities directly linked to it.

The following documents shall be attached to the application aimed at the licensing of the foundation, submitted on a standard form, also considering the relevant provisions of the Insurance Act (*Sections 238-239 of the Insurance Act*):

1. The draft statutes of the insurance or reinsurance company to be founded, containing the clear definition of its legal form and scope of activity. *(Section 238a) of the Insurance Act)*
2. Preliminary calculation of the costs of setting up the organisation for the performance of the administrative services and the business activity, and a confirmation issued by a credit institution on the availability of the funds to cover these costs. *(Section 238 b) of the Insurance Act)*

Minimum value of such funds *(Section 93 (2) of the Insurance Act):*

- (a) one hundred million forints for insurance and reinsurance joint stock companies and for branches of third-county insurance companies;
  - (b) fifty million forints for cooperative insurance and reinsurance companies;
  - (c) one million forints for mutual associations.
3. The natural person identification data of the senior executives of the insurance or reinsurance company to be registered in the company register during the foundation, and the documents proving the existence of the facts specified in respect of such senior executives in Section 54 (1) of the Insurance Act. *(Section 238 c) of the Insurance Act)*
  4. When the founder is a foreign natural person (with no place of residence in Hungary) or non-resident non-natural person, the declaration on the agent for service of process. *(Section 238 d) of the Insurance Act)*

The agent for service of process may be a lawyer or lawyer's office registered in Hungary, or the applicant's insurer, reinsurer or insurance intermediary registered in Hungary, or the employee of these. *(Section 4 (1)58 of the Insurance Act)*

5. In the case of an insurance or reinsurance joint stock company to be founded, information on the shareholders' identification data and the rate of their shareholding, and also on the owners of qualifying holding and the rate of their qualifying holding. *(Section 238 e) of the Insurance Act)*
6. Data of the persons having close links<sup>1</sup> – not belonging to subsection 5 – with the insurance or reinsurance company to be founded. *(Section 238 (f) of the Insurance Act)*
7. When founding an insurance or reinsurance company subject to group or supplementary supervision, presentation of the procedure for the transfer of information related to the group or supplementary supervision, and the declaration of person having close links with the insurance or reinsurance company to the effect that they provide the MNB with all data, facts and information necessary for the group or supplementary supervision of the insurance or reinsurance company. *(Section 238 g) of the Insurance Act)*
8. When founding an insurance or reinsurance company subject to group or supplementary supervision, the declaration of the natural person having close links with the insurance or reinsurance company to the effect that he or she consents to the forwarding of his or her personal data transferred to the insurance or reinsurance company for the purpose of processing and forwarding such data to carry out the group and supplementary supervision. *(Section 238 (h) of the Insurance Act)*
9. If there is a person among the founders of the insurance or reinsurance company joint stock company or cooperative society who wishes to acquire qualifying holding in the insurance or reinsurance company to be established, the following documents attached to the foundation licence application *(Section 239 (1) of the Insurance Act):*
  - (i) When the applicant is a natural person – considering the provisions of Section 4 (3) of the Insurance Act – an extract from the judicial record, not older than ninety days, issued by the criminal records office, or equivalent document under the applicant's personal law. (The extract from the judicial record shall confirm that the natural person applicant has clean record, and he

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<sup>1</sup> Section 4 (1)94 of the Insurance Act

or she is not under the effect of being banned from exercising his or her civil rights, and not disqualified from occupation or activity.) (*Section 239 (1)a) and Section 258 (3)b) of the Insurance Act*)

- (ii) In the case of natural person applicants, and natural persons with qualifying holding or controlling interest in the applicant company, the declaration of the respective person that the disqualifying reason specified in Section 258(7) of the Insurance Act does not exist in relation to him or her. (*Section 239 (1)a) and Section 258 (3)c) of the Insurance Act*)
- (iii) In the case of non-natural person applicants the instrument of incorporation effective at the time of submitting the application, and a documentary confirmation, not older than thirty days, that the applicant has been registered based on its personal law, it is not under bankruptcy, liquidation or dissolution proceeding. (*Section 239 (1)a) and Section 258 (3)d) of the Insurance Act*)
- (iv) In the case of non-natural persons a declaration that the disqualifying reason specified in the Insurance Act does not apply to its senior executive. (May be provided on the application form.) (*Section 239(1)a) and Section 258(3)d) of the Insurance Act*)
- (v) Documentary confirmation, not older than thirty days, that the applicant has no outstanding debt to the tax authority, customs authority and social insurance fund having competence under its personal law, or that it is included in the database of taxpayers with no outstanding public debt. (*Section 239 (1)a) and Section 258 (3) of the Insurance Act*)
- (vi) Confirmation of the legal origin of the financial resources necessary for acquiring the qualifying holding or controlling interest. (*Section 239 (1)a) and Section 258 (3) of the Insurance Act*)
- (vii) A declaration to the effect that the applicant's other ownership interest and activity do not jeopardise the operation of the financial institution, and a declaration on the contingent and future liabilities— as specified in Act C of 2000 on Accounting. (May be provided on the application form.) (*Section 239 (1)a) and Section 258 (3)g) of the Insurance Act*)
- (viii) In the case of a non-natural person applicant, the detailed description of its ownership structure, supported by instruments, including – if possible – the presentation of the beneficial owners. (*Section 239 (1)a) and Section 258 (3)i) of the Insurance Act*)
- (ix) Applicant's statement executed in a private document providing full evidence, consenting to the verification of the authenticity of the content of the documents attached to the licence application by the administrative bodies commissioned by the MNB. (May be provided on the application form.) (*Section 239 (1)a) and Section 258 (3)k) of the Insurance Act*)
- (x) When the applicant is an insurance company, reinsurance company, credit institution or investment firm registered in a third country, the confirmation and declaration of the competent supervisory authority of the state of the registered office to the effect that the company operates in compliance with the rules applicable to the pursuance of the activity. (*Section 239 (1)b) and Section 258 (5) g) of b Insurance Act*)
- (xi) The filled in and signed questionnaire to confirm the professional suitability and business reliability (fit and proper requirements). (*Section 239 (1) c) of the Insurance Act*)

The questionnaire form is available on the MNB's website at:

*Supervision/Licensing and institution oversight/Licensing/Notices*<sup>2</sup>

For further information on professional suitability and business reliability ("*Fit and proper requirements (Insurance Act)*")<sup>3</sup> see the "*Notice on the criteria of assessing good business reputation and the practical application thereof*")<sup>4</sup> on the MNB's website under the following menu item:

*Supervision/Licensing and institution oversight/Licensing/Notices*

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<sup>3</sup> <http://www.mnb.hu/letoltes/szakmai-alkalmazas-es-uzleti-megbizhatosag-3.pdf>

<sup>4</sup> <http://www.mnb.hu/letoltes/tmpc812-tmp-12233381.pdf>

If the applicant is a Hungarian citizen or non-natural person registered in Hungary, the instruments containing the proof of the data specified in subsections (iii), (v) and (viii) are procured by the MNB. (*Section 239 (2) of the Insurance Act*)

10. Confirming the payment of the administrative service fee.

Pursuant to Section 14 (1) and (2), Section 15(2) and 20 (1) of MNB Decree 14/2015. (V. 13.) on the Administrative service fee charged for certain licensing and registration proceedings carried out by the Magyar Nemzeti Bank within the framework of the supervision of the financial intermediary system and in respect of fiduciary companies, simultaneously with the launch of the licensing procedure for the procedure aimed at the licensing of the foundation an administrative service fee of HUF 1,100,000 shall be paid in the case of insurance or reinsurance joint stock companies, cooperative societies and the Hungarian branch office of third-country insurers and reinsurers, and HUF 300,000 in the case of mutual insurance associations, to the MNB's account no. 19017004-01673000-30900007 and the document confirming this shall be attached as annex to the application for the start of the procedure.

For further information on the administrative service fee (*"Information on the administrative service fee applied by Magyar Nemzeti Bank in certain licensing and registration procedures"*<sup>5</sup>) see the following menu item on the MNB's website:

*Supervision/Licensing and institution oversight/Licensing/Notices*

11. Applicant's declaration to the effect that it has disclosed to the MNB all important facts, data and information required for the issuance of the authorisation. (May be provided on the application form.) (*Article 59 (2) of the MNB Act*)

III. The MNB will refuse the application if,

- (i) the applicant provides misleading or false data during the licensing procedure (*Section 241 (1)a) of the Insurance Act*);
- (ii) the application does not comply with the requirements specified in Sections 238-239 of the Insurance Act, or the call for supplementation yielded no result (*Section 241 (1)b) of the Insurance Act*);
- (iii) the legal form of insurance company to be established does not comply with the requirements set forth in the Insurance Act (*Section 241 (1)c) of the Insurance Act*);
- (iv) the principal office and the registered office are not in the same country (*Section 241 (1)d) of the Insurance Act*);
- (v) the conditions set forth in the Insurance Act in respect of the senior executive are not fulfilled (*Section 241 (3) of the Insurance Act*);
- (vi) the founders of the insurance or reinsurance joint stock company, or the insurance or reinsurance cooperative society include a person who wishes to acquire qualifying holding in the institution to be founded and the circumstances specified in Section 261 (1) of the Insurance Act exist. (*Section 241 (4) of the Insurance Act*)

The MNB may also reject the application if it obtains knowledge of such facts, data or circumstances based on which it can be reasonably assumed that the efficient supervision of the insurance or reinsurance company cannot be ensured, particularly when

- (a) the activity of the insurance or reinsurance company's direct or indirect owner or its influence exerted on the insurance or reinsurance company may jeopardise the independent, reliable and prudent owner's control (*Section 241 (2)a) of the Insurance Act*);
- (b) the business activity – not sufficiently transparent for the purposes of the supervisory activity – of the direct or indirect owner of the insurance or reinsurance company, the nature of his business relations or the structure of his direct and indirect ownership in other undertakings is such that it hinders the supervisory activity (*Section 241 (2)b) of the Insurance Act*);

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<sup>5</sup> <http://www.mnb.hu/letoltes/tajekoztatas-a-magyar-nemzeti-bank-altal-egyes-engedelyezesi-es-nyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgaltatasi-dijrol.pdf>

- (c) the third-country regulation applicable to insurance or reinsurance company's direct or indirect owner with registered office in a third country hinders the supervisory activity. (*Section 241 (2) c) of the Insurance Act*)

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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 Insurance and Pension Funds Licensing and Legal Enforcement Department (telephone number: +361-489-9491; email: [bpeo@mnbb.hu](mailto:bpeo@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: +361-489-9491; email: [iff@mnbb.hu](mailto:iff@mnbb.hu)).

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