

LICENSING THE COMMENCEMENT OF THE INSURER'S ACTIVITY

- I. 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 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 application for licensing the commencement of the insurance activity shall be submitted on *electronic form No. BIZT_1033 entitled "Application for licensing the commencement of the insurance activity"* available under the Activity licences menu item of the E-administration/Licensing service.

The website of the MNB includes information materials on electronic transactions and the submission of appendices to be attached in licensing procedures (electronic documents):

<https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes/2018-januartol-hatalyos-szabalyok>

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)b) of Act LXXXVIII of 2014 on the Business of Insurance (**Insurance Act**), the commencement of the insurance or reinsurance activity requires authorisation by the MNB. The insurance or reinsurance company shall submit to the MNB the application for the licence related to the commencement of the insurance or reinsurance activity within ninety days from the receipt of the MNB's resolution authorising the foundation. If the application is not submitted by the deadline, the MNB withdraws the foundation licence. (*Section 243 of the Insurance Act*)

The following documents shall be attached to the application aimed at the licensing of the start of insurance or reinsurance activity, submitted on a form, also considering the relevant provisions of the Insurance Act (*Section 244 of the Insurance Act*):

1. The business plan complying with the provisions of Section 95 of the Insurance Act. (*Section 244 (1)a) of the Insurance Act*)
2. Proof that the insurance or reinsurance company possesses the eligible basic own funds to cover the absolute floor of the minimum capital requirement. (*Section 244 (1)b) of the Insurance Act*)
3. Proof that the insurance or reinsurance company will be able to maintain – based on its business plan – the eligible solvency capital providing cover for the solvency capital requirement; (*Section 244 (1) c) of the Insurance Act*)
4. Proof that the insurance or reinsurance company will be able to maintain – based on its business plan – the eligible basic own funds providing cover for the minimum capital requirement; (*Section 244 (1) d) of the Insurance Act*)

5. Proof that the insurance or reinsurance company complies with – in accordance with the provisions of Sections 49-75 of the Insurance Act – the requirements applicable to the managers and employees, and is well-prepared for the compliance with the related rules, and has the governance system satisfying the requirements set forth in Sections 76-92 of the Insurance Act. (*Section 244 (1e) of the Insurance Act*) To this end, the following documents shall be attached:
 - (i) the organisational and operational regulation;
 - (ii) the personal identification data of the senior executives¹ and other natural person managers, and the documents proving compliance with the requirements set forth in Sections 54 (1), 57 (1), 59 (1), 61 (1), 63 (2), 65 (1) and 67 (1) of the Insurance Act²;
 - (iii) documents related to the functioning of the risk management framework, the internal audit and the internal control system, and – if the procedure is outsourced – the documents related to the outsourcing of the procedures.

6. Confirmation of the fulfilment of the material conditions, specified in Sections 93-94 of the Insurance Act, necessary for the performance of the insurance or reinsurance activity, which should include the following documents as annexes (*Section 244 (1f) of the Insurance Act*)
 - (i) declaration to the effect that it is well-prepared for the maintenance of the continuous record-keeping, data processing and reporting system adjusted to the insurance activity, together with the result of the pilot operation of the computer programmes used for record-keeping, data processing and reporting, and the plan to address emergency situations;
 - (ii) proof of the existence of the technical, IT, technological and security equipment and premises (particularly the description of the IT equipment and systems to be used, and the documents proving the right to use or rent, or the ownership right of the premises for the performance of the insurance activity);
 - (iii) draft of the accounting policy and detailed accounting system;
 - (iv) a declaration to the effect that the insurance or reinsurance company has prepared for (manual and automated) filing to ensure data protection;
 - (v) description of the internal regulatory order complying with reliable and prudent operation, list of internal regulations (including the regulation related to data protection and IT);

7. A declaration as to when the applicant intends to start its activity. (May be provided on the application form.)

8. The internal regulations to be prepared in respect of the activity related to life insurance contracts in accordance with Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing (**AML Act**) and Act LII of 2017 on the Implementation of Financial and Property Restrictive Measures ordered by the European Union and the UN Security Council (**Restrictive Measures Act**).

The guide published for the purpose of providing market participants with professional assistance may help prepare the internal regulations. The guide is available on the MNB's website at: *Supervision / Regulation / Anti-money laundering / Policies, guides/ Guides for the preparation of internal regulations*³

As it is also mentioned in the information on the page above, the guide may be used as a basis for preparing the internal regulations; however, the applicant may depart from the guide with the proviso that the internal regulations must contain the mandatory content elements prescribed by the AML Act

¹ It is not necessary to submit the data and documents stipulated in Section 238c) of the Insurance Act in respect of the senior executives – to be registered in the company register during the foundation – if no change has occurred in respect of those senior executives compared to the foundation licence.

² For the guide related to the licensing of the senior executives and other managers see the MNB's website at: *Supervision / Licensing and institution oversight / Licensing / Sectors / Insurance market / Insurance and reinsurance companies / Licensing of senior executive and other managers /*.

³ <http://www.mnb.hu/felugyelet/szabalyozas/penzmosas-ellen/szabalyzatok-segedletek/segedlet-a-belső-szabalyzat-elkesziteséhez>

and the Restrictive Measures Act and the decrees issued for the implementation of those, i.e. MNB Decree 45/2018 (XII.17.)⁴ and MNE Decree 21/2017 (VIII. 3.)⁵.

If the applicant prepares the internal risk assessment specified in Section 27 (1) of the AML Act in a separate document (not as part of its internal regulations), this document – also considering the provisions of Section 27 (3) of the AML Act – shall be also attached to the application. When preparing the internal risk assessment, the applicant shall – in line with Section 27 (6) of the AML Act – take into consideration the result of the national risk assessment, in relation to which further information is available on the MNB's website at:

Supervision / Regulation / Anti-money Laundering / Key information and documents / Request for service provider version of the National Risk Assessment and sample document to be used for the preparation of internal risk assessment⁶

9. Confirming the payment of the administrative service fee.

Pursuant to Section 14 (1a) 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 an administrative service fee of HUF 1,300,000 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 700,000 in the case of mutual insurance associations, 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*"⁷) see the following menu item on the MNB's website:

Supervision/Licensing and institution oversight/Licensing/Notices

10. 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*)

In the case of small insurance companies and – considering the derogations specified in Sections 231-236 of the Insurance Act – small insurance associations, the following documents shall be attached to the application for the licence related to the commencement of the insurance activity:

- (a) The business plan complying with the provisions of Section 213 of the Insurance Act. (*Section 244 (2)a of the Insurance Act*)
- (b) The documents specified in Section 244 (1)f) of the Insurance Act to prove the satisfaction of the material conditions necessary for the performance of the activity (duly considering the provisions of Section 6 above). (*Section 244 (2)a of the Insurance Act*)
- (c) A declaration as to when the applicant intends to start its activity. (May be provided on the application form.) (*Section 244 (2) of the Insurance Act*)
- (d) Proof of the availability of the minimum guarantee fund specified in Section 218 of the Insurance Act. (*Section 244 (2)b of the Insurance Act*)

⁴ MNB Decree No. 45/2018 (XII. 17.) on the Rules on the Implementation of the Act on the Prevention and Combating of Money Laundering and Terrorist Financing as Apply to Service Providers Supervised by the MNB and the Detailed Rules on the Minimum Requirements Applying to the Development and Operation of the Screening System Stipulated in the Act on the Implementation of Restrictive Measures Imposed by the European Union and the UN Security Council Relating to Liquid Assets and Other Financial Interest

⁵ Decree No. 21/2017 (VIII. 3.) NGM of the Minister for National Economy on the mandatory content elements of an internal regulation to be prepared pursuant to Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing and Act LII of 2017 on the Implementation of Financial and Property Restrictive Measures ordered by the European Union and the UN Security Council

⁶ <https://www.mnb.hu/felugyelet/szabalyozas/penzmosas-ellen/fontos-informaciok-dokumentumok/a-nemzeti-kockazaterkeles-szolgaltoi-verziojanak-valamint-a-belso-kockazaterkeles-elkesziteshez-felhasznalható-mintadokumentum-igenyelse>

⁷ <http://www.mnb.hu/letoltes/tajekoztatas-a-magyar-nemzeti-bank-altal-egy-es-engedelyezesi-es-nyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgalatasi-dijrol.pdf>

- (e) Proof that the insurance company complies with – in accordance with the provisions of Sections 49-75 of the Insurance Act – the requirements applicable to the managers and employees, and is well-prepared for the compliance with the related rules. (*Section 244 (2) c) of the Insurance Act*)
- (f) The procedures to be applied in situations severely jeopardising the liquidity or solvency of the insurance company (*Section 244 (2) d) of the Insurance Act*)
- (g) Confirming the payment of the administrative service fee.
- (h) 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*)

When the licence application also covers motor third-party liability insurance, the following documents shall be also attached to the activity licence application:

- (a) confirmation of the mandate of the claim settlement representative operating in all Member States, and the name and address of the claim settlement representative (*Section 244 (1) h) of the Insurance Act*);
- (b) Confirmation of the initiation of the membership in the Association of Hungarian Insurance Companies (MABISZ) or the statement of commitment specified in Section 57 (4) of Act XII of 2009 on Compulsory Motor Third-party Liability Insurance;
- (c) confirmation that the insurance company has initiated accession to the bureau of insurance policy records.

In the case of insurance companies also wishing to pursue legal expenses insurance activity, the insurance company shall make a declaration in the activity licence application as to which solution it chooses of those specified in Section 161 a)-c) of the Insurance Act upon the settlement of legal expenses. (May be provided on the application form.) (*Section 244 (4) of the Insurance Act*)

III. The MNB will reject the application if, the applicant

- (i) does not have sufficient eligible basic own funds to cover the absolute floor of the minimum capital requirement (*Section 245 (1)a) of the Insurance Act*);
- (ii) will not be able to maintain – based on its business plan – the eligible basic own funds to cover the solvency capital requirement (*Section 245 (1)b) of the Insurance Act*);
- (iii) will not be able to maintain – based on its business plan – the eligible basic own funds to cover the minimum capital requirement (*Section 245 (1) c) of the Insurance Act*);
- (iv) does not have an appropriate governance system (*Section 245 (1)d) of the Insurance Act*);
- (v) fails to comply with the requirements applicable to managers and employees (*Section 245 (1) e) of the Insurance Act*);
- (vi) fails to satisfy the prescribed material conditions (*Section 245 (1)f) of the Insurance Act*);
- (vii) based on applicant's business plan, other documents attached to the licence application or other instrument, data or information available to the MNB it can be established that the applicant is unable to comply with the statutory requirements applicable to its activity or its activity would prejudice or jeopardise the interests of the policyholders. (*Section 245 (1) g) of the Insurance Act*)

In the case of small insurance companies and – considering the derogations specified in Sections 231-236 of the Insurance Act – small insurance associations, the MNB will reject the application if the applicant

- (a) fails to comply with the requirements specified in subsections (v)-(vii) above (*Section 245 (2)a) of the Insurance Act*),
- (b) does not have the minimum guarantee fund prescribed in Section 218 or fails to meet the requirement for own funds covering the minimum capital requirement to perform the activity specified in its business plan (*Section 245 (2)a) of the Insurance 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 Insurance and Pension Funds Licensing and Legal Enforcement Department (telephone number: +361-489-9491; email: 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).

Updated: March 2019