

AUTHORISATION OF SENIOR EXECUTIVES OF INSURANCE COMPANIES

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 shall be submitted on electronic form No BIZR_1007_v3 entitled “*Application for the authorisation of the employment, mandate, appointment or election of senior executives of insurance companies*” available on the MNB’s website in the ERA interface under the “Proceed to the service / Select forms / Insurance market / Insurers / Personnel authorisations” menu item within the *E-administration/Licensing* service, attaching to it the authentic electronic copies of the annexes. The resolutions, requests for clarification, notices and other communications of the MNB are delivered to the applicant or their legal representatives by sending them to the delivery storage space.

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>

Further information related to certain aspects of licensing procedures (e.g. establishing good business reputation) is available under the following menu item: <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/tajekoztatok>;

I. SENIOR EXECUTIVES

I. In accordance with Section 49 of Act LXXXVIII of 2014 on the Business of Insurance (**Insurance Act**) the **senior executives** of insurance and reinsurance companies shall include:

- i. members of the Board of Directors and the Supervisory Board in the case of joint stock insurance and reinsurance companies, cooperative society insurance and reinsurance companies and mutual insurance associations;
- ii. in the case of third country insurers or reinsurers operating in the form of their branch office in Hungary the representative registered in the company register;
- iii. in the case of mutual insurance associations averaging less than one hundred members over a period of one calendar year, the following persons, regardless of the title specified in the statutes:
 - (a) the chair of the body elected to carry out the functions of the administrative and representative organ, or any person elected for such purpose,
 - (b) the chair of the body elected to supervise the administrative and representative organ, or any person elected for such purpose,
- iv. the chief executive and his deputies.

II. Until the non-appealable conclusion of the criminal proceeding, the person against whom

- a charge had been brought due to a criminal offence specified in Titles VII and VIII of Chapter XV and in Chapters XVII and XVIII of Act IV of 1978, effective until 30 June 2013, or in Chapters XXVII or XXXV-XLIII of Act C of 2012 on the Criminal Code (Criminal Code), or
- the competent authority abroad has brought a charge due to crimes that were punishable under Chapters XVII and XVIII of Act IV of 1978 until 30 June 2013, or are punishable under Chapters XXXV-XLIII of the Criminal Code, shall not be appointed or elected as a senior executive.

If the aforementioned circumstances arise in respect of an already appointed or elected senior executive, until the non-appealable conclusion of the criminal proceeding the performance of his duties connected to the senior executive position shall be suspended. *(Section 53 (4)-(5) of the Insurance Act)*

III. Pursuant to Section 53 (1) of the Insurance Act, those persons may be appointed or elected as senior executives who have been notified by the insurer or reinsurer to the MNB thirty days before the planned date of the election or appointment, and the MNB authorised the appointment or election.

In accordance with Section 234 (2) of the Insurance Act, in the case of small mutual insurance associations, it is not necessary to conduct the procedure aimed at the authorisation of the senior executive, if upon the expiry of the senior executive's mandate the same person is re-appointed or re-elected as senior executive. (The small mutual insurance association is obliged to notify the MNB of this fact.)

II. LICENSING CRITERIA

The following documents shall be attached to the application aimed at the authorisation of the *members of insurer's or reinsurer's Supervisory Board*, submitted on a form, also considering the relevant provisions of the Insurance Act (Section 54 and Section 252 of the Insurance Act):

1. Extract from the judicial records, not older than ninety days, issued by the Criminal Records Office, or equivalent instrument under the personal jurisdiction of the person to be authorised (**Candidate**) (original or electronic copy prepared by a person authorised to make out public instruments), which confirms that the Candidate has a clean record, is not banned from exercising civil rights and not disqualified from occupation or activity. *(Section 54 (1) a) and b) and Section 252 (1) a) of the Insurance Act)*
2. The filled in and signed questionnaire to confirm the professional suitability and business reliability (fit and proper requirements) of the Candidate. *(Section 54 (1) b), Section 252 (1) c) and Section 253 (2) of the Insurance Act)*

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

Supervision / Licensing and institution oversight / Licensing / Personal Licences / Standard forms / Good business reputation questionnaires¹

Title of the form to be used: *"Questionnaire for natural persons nominated for a senior executive position at an insurer to establish their professional suitability and business reliability specified in Section 4 (1) 90 and Section 69 of Act LXXXVIII of 2014 on the Business of Insurance (Insurance Act)"²*

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

Supervision / Licensing and institution oversight / Licensing / Notices

3. The Candidate's declaration that he does not act as an auditor at any insurance or reinsurance company. *(Section 54 (1) e) of the Insurance Act)*

¹ <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugveles/engedelyezes/formanyomtatvanyok>

² https://alk.mnb.hu/bal_menu/formanyomtatvanyok/urlapok_kivalasztasa/szerkeszto?id=504&version=0&chid=15

³ <https://www.mnb.hu/letoltes/szakmai-alkalmassag-es-uzleti-megbizhatosag-3.pdf>

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

4. Declaration of the applicant insurance or reinsurance company 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 (1) of the MNB Act)*

In addition to the above, the following documents shall be also attached to the application aimed at the authorisation of additional senior executives (including the *chairman* of the Supervisory Board):

5. Notarised electronic copy of the degree (diploma) confirming by the Candidate's higher education. *(Section 54 (1) d) of the Insurance Act)*
6. Instruments to confirm management experience (e.g. employer's certificate, employment contract, job description, appointment), based on which the start and end date of the management practice can be clearly established, as well as the nature and legal relationship substantiating the practice, and the range of duties performed by the Candidate within that legal relationship. *(Section 54 (1) c) of the Insurance Act)*

Management experience shall include

- a. management experience in the business of insurance;
- b. experience in business management at a company with a staff of at least twenty, and
- c. experience in financial or economic management in the public sector,

if the length of such management experience is more than five years.

The end of the prescribed period of the management experience may not be earlier than ten years before the date of submitting the application for authorisation.

In addition to the foregoing, the following documents shall be attached to application for the authorisation of the *chief executive* and his *deputies*:

7. Confirmation of the employment of the Candidate in an employment relationship (e.g. employment contract, employer's certificate issued by the insurer or reinsurer). *(Section 50 (1) of the Insurance Act)*

Small mutual insurance associations may engage the chief executive also by an agency contract. *(Section 231 (2) of the Insurance Act)* In this case the document confirming the existence of the agency relationship (e.g. agency contract, confirmation or declaration issued by the insurer or reinsurer on the mandate) should be attached to the application.

In addition to the foregoing, the following documents shall be attached to the application for the authorisation of all senior executives of the insurer, with the exception of small insurance companies :

8. **Declaration** of the applicant insurer or reinsurer to the effect that in respect of the Candidate it has performed the assessment of the fit and proper requirements in accordance with the laws and regulations applicable to professional suitability and business reliability. *(Section 54 (1) b), Section 252 (1) a) and c), Section 253 (1)-(2) of the Insurance Act)*

As part of this, it is necessary – among other things – **to describe the following procedures**, if any of those has been carried out in respect of the Candidate:

- description of the assessment procedures carried out by the supervisory authorities of the European Union's Member States with regard to the fit and proper requirements concerning Candidate (indicating the Member State, the name of the supervisory authority and the date of the procedure),
- if the competent authority has previously rejected the application for the authorisation procedure submitted in respect of the Candidate,
- if any authority or organisation has excluded or restricted the right of the Candidate to perform any activity or hold any office.

Section 54 (1) b) of the Insurance Act prescribes that only such persons may fill senior executive positions in an insurance company who comply with the fit and proper requirements. According to Section 252 (1) a) and c) of the Insurance Act, the documents confirming compliance with the requirements specified in Section 54 (1) and the documents to prove compliance with fit and proper requirements, having regard to the requirements set out in Section 69, shall be attached to the application for the authorisation of senior executives.

Pursuant to Article 258(1)d) of Commission Delegated Regulation 2015/35/EU supplementing the Solvency II Directive (**Regulation**) the insurer shall ensure that each individual member of the administrative, management or supervisory body has the necessary qualifications, competency, skills and professional experience to perform the tasks assigned.

Pursuant to Article 273(1) of the Regulation, insurance and reinsurance companies shall establish, implement and maintain documented policies and adequate procedures to ensure that all persons who effectively run the company or have other key functions are at all times fit and proper within the meaning of Article 42 of the Solvency II Directive. In accordance with Article 273 (3) of the Regulation, the assessment of whether members of the administrative, management or supervisory body are fit shall take account of the respective duties allocated to individual members to ensure appropriate diversity of qualifications, knowledge and relevant experience to make sure that the undertaking is managed and overseen in a professional manner.

In view of the provisions of Article 273 (2)-(3) of the Regulation and of guidelines 11-13 of the “Guidelines on system of governance” issued by the European Insurance and Occupational Pensions Authority (**Guidelines**), the assessment of whether a person is fit shall include an assessment of the person's professional and formal qualifications, knowledge and relevant experience within the insurance sector, other financial sectors or other businesses and shall take into account the respective duties allocated to that person and, where relevant, the insurance, financial, accounting, actuarial and management skills of the person. When fulfilling the above, upon assessing whether the candidate is fit, the insurer shall ensure – among other things – that in the case of executives effectively managing the insurance company and other persons with key duties it takes account of the respective duties allocated to individual members to ensure appropriate diversity of qualifications, knowledge and relevant experience to ensure that the insurance company is managed and overseen in a professional manner. The insurer shall establish assessment procedures and policies documenting those to ensure that all persons who effectively run the insurance company or have other key functions are at all times fit and proper.

According to Section 11 of MNB Recommendation 4/2016 (VI.06) on the Governance System of Insurers and Reinsurers (**Recommendation**) – in line with the provisions of guideline 11 of the Guidelines, the insurer “shall ensure that members of the insurer’s management, governance or supervisory bodies or other persons with other key functions are fit and take account of the respective duties allocated to individual persons to ensure appropriate diversity of qualifications, knowledge and relevant experience so that the undertaking is managed and overseen in a professional manner.” The members of the insurer’s management, governance or supervisory bodies shall have proper qualification, experience and knowledge, and the collective competences shall cover at least the following areas:

- (a) insurance and financial market;
- (b) business strategy and business model;
- (c) governance system;
- (d) financial and actuarial analysis;
- (e) regulatory framework and requirements.

In accordance with Section 15 of the Recommendation, the MNB expects the insurer to notify it of the information provided on the basis of the “Guidelines on system of governance” issued by the European

Insurance and Occupational Pensions Authority⁵ and submit to the MNB the information included in the technical annex thereto entitled “Minimum information to be provided to the supervisory authority concerning the fit & proper assessment”⁶.

III. RE-ELECTION OF SENIOR EXECUTIVES

The re-election of senior executives also qualifies as election, and thus it is subject to authorisation without exception.

Updated: March 2019

⁵ https://eiopa.europa.eu/GuidelinesSI/ElOPA_Guidelines_on_System_of_Governance_HU.pdf

⁶ <https://eiopa.europa.eu/GuidelinesSI/Guidelines%20on%20System%20of%20Governance%20Technical%20Annex.pdf>