

## AUTHORISATION OF THE INTERNAL AUDITOR OF INSURANCE COMPANIES

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 the authorisation of the insurer's Internal Auditor shall be submitted on electronic form *BIZSZ\_1015\_v2* entitled "*Application for the authorisation of the employment, mandate, appointment and election of the senior executive and other manager of the insurance companies*" available under the *Insurance market/Insurers/ Personnel authorisation* menu item within the *E-administration/Licensing* service.

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>;

II. Pursuant to Section 55 (1) b) of Act LXXXVIII of 2014 on the Business of Insurance (**Insurance Act**), in order to carry out their activity, insurance and reinsurance companies shall employ an Internal Auditor, qualifying as other executive.

If two insurance companies or reinsurance companies employ the same person as internal auditor, they shall agree in writing – in accordance with Section 63 (5) of the Insurance Act – that they will raise no objection to the mutual employment of the internal auditor. The agreement shall be submitted to the MNB within thirty days from the date of conclusion.

Insurance companies operating in the form of branch offices, except for the Hungarian branch office of third-country insurance companies, are not required to employ other executives, including the Internal Auditor. Furthermore, the provisions related to the Internal Auditor – stipulated in Section 55 (1) d) and Sections 63-64 of the Insurance Act – shall not be applicable to small insurance companies. (*Section 55 (2), Section 233 (3) of the Insurance Act*)

Other executives – including the Internal Auditor – may fill other executive positions at not more than two insurers. (*Section 56 (2) of the Insurance Act*)

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 other executive. (*Section 53 (4) of the Insurance Act*)

If the aforementioned circumstances arise in respect of an already employed other executive, until the non-appealable conclusion of the criminal proceeding the performance of his duties connected to his other executive position shall be suspended. (Section 56 (1)-(2), Section 53 (4)-(5), of the Insurance Act)

III. Pursuant to Section 56 (1) of the Insurance Act, that person may be employed as Internal Auditor who has been notified by the insurer or reinsurer to the MNB thirty days before the planned start of the employment, and the MNB authorised the employment. The following documents shall be attached to the application submitted on the form dedicated to this, also considering the relevant provisions of the Insurance Act (Sections 55-56, Section 63 and Section 252 of the Insurance Act):

1. Original extract from the judicial records, not older than ninety days, issued by the Criminal Records Office, or an electronic copy of it prepared by person authorised to issue official documents or to make authentic copies of such documents, confirming that the person to be authorised (**Candidate**) has clean record, is not banned from exercising civil rights and not disqualified from occupation or activity. (Section 63 (2) c) of the Insurance Act)
2. The electronic copy – prepared by a person authorised to issue official documents or make authentic copies of such documents – of the degree (diploma), proving the Candidate's higher education qualification in the relevant field, – in particular – in economics, finance or law. (Section 63 (2) a) of the Insurance Act)
3. Instruments to confirm professional practice (e.g. employer's certificate, employment contract, job description, appointment), based on which the start and end date of the professional 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 63 (2) b) of the Insurance Act)

Requirements related to professional practice:

- a. professional experience of at least five years obtained at an insurance or reinsurance company, financial supervisory authority, in the government sector in the field of finance or economics, at the trade organisation of insurance companies and insurance intermediaries, an enterprise engaged in insurance mediation or at an insurance audit firm, or
- b. professional experience of at least five years obtained at regulated enterprises or at an audit company of those in the field of internal audit or compliance.

The end of the prescribed period of the professional experience may not be earlier than ten years before the start date of the Internal Auditor's employment. (Section 63 (4) of the Insurance Act)

4. The filled in and signed questionnaire to confirm the professional suitability and business reliability (fit and proper requirements) of the Candidate ("**Questionnaire**"). (Section 63 (2) d) 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 questionnaires*<sup>1</sup>

Title of the form to be used: "*Questionnaire for natural persons nominated for other 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*"<sup>2</sup>.

For further information on the fit and proper requirements see the "*Fit and proper requirements (Insurance Act)*"<sup>3</sup> and the "*Notice on the criteria of assessing good business reputation and the practical application thereof*"<sup>4</sup> on the MNB's website.

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

<sup>2</sup> [https://alk.mnb.hu/bal\\_menu/formanyomtatványok/urlapok\\_kivalasztasa/szerkeszto?id=504&version=0&chid=15](https://alk.mnb.hu/bal_menu/formanyomtatványok/urlapok_kivalasztasa/szerkeszto?id=504&version=0&chid=15)

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

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

5. 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 63 (2) e) of the Insurance Act*)
6. 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 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank*)
7. 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 63 (1) d), 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 Authority<sup>5</sup> 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”<sup>6</sup>.

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<sup>5</sup> [https://eiopa.europa.eu/GuidelinesSII/EIOPA\\_Guidelines\\_on\\_System\\_of\\_Governance\\_HU.pdf](https://eiopa.europa.eu/GuidelinesSII/EIOPA_Guidelines_on_System_of_Governance_HU.pdf)

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