

## LICENSING THE START OF THE OCCUPATIONAL RETIREMENT PROVISION ACTIVITY

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 occupational retirement provision activity shall be submitted on electronic form No. *FNYE\_1006* entitled "*Application for licensing the commencement of the occupational retirement provision activity*" available under the Activity licences menu item of 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>

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/szektorok/penztari-piac/fo-glalkoztato-nyugdijszolgaltato-intezmeny/tevekenysegi-engedely/eljarassal-kapcsolatos-gyakori-kerdesek-es-valaszok>

### I. GENERAL RULES

The commencement of the activity of the occupational retirement provision institution is subject to the MNB's licence. The occupational retirement provision institution is obliged to submit to the MNB its application for the licence to commence the occupational retirement provision activity within 15 days from the first day after receiving the instrument confirming the submission of its application for registration in the company register. (*Section 9 (1) and 60(1)a) of Act CXVII of 2007 on Occupational Retirement Pension and Institutions for Occupational Retirement Provision (Occupational Pension Act)*)

### II. LICENSING PROCEDURE

#### 2.1 The application for licensing the commencement of the activity shall be accompanied by the following documents

The following documents shall be attached to the activity licence application (*Section 9 (4) of the Occupational Pension Act*):

1. the statutes (*Section 9 (4)a) of the Occupational Pension Act*),
2. the business plan (*Section 9 (4)b) of the Occupational Pension Act*)

Minimum content requirements applicable to the business plan (*Section 9 (6) of the Occupational Pension Act*):

- assets of the occupational retirement provision institution on the date of foundation broken down by items and value;

- forecast of costs and expenses, broken down per type and amount, for the period before the activity licence becomes definitive, and their proposed cover;
- the financial plan of occupational retirement provision institution for the remaining period of the financial year and for the next three financial years.

3. copy of the registration application registered as received by the court of registration; (*Section 9 (4)c of the Occupational Pension Act*),

4. proof that the occupational retirement provision institution has a payment account (*Section 9 (4) d of the Occupational Pension Act*),

5. in the event of outsourcing the management, investment, administration and registration or annuity payment procedures, the relevant contract (*Section 9 (4)e of the Occupational Pension Act*),

6. the document presenting the organisational structure (*Section 9 (4)f of the Occupational Pension Act*),

7. proof of compliance with the minimum guarantee fund requirement (*Section 9 (4)g of the Occupational Pension Act*),

8. proof of compliance with the personnel and material conditions (*Section 9 (4) h of the Occupational Pension Act*),

As part of the personnel conditions it shall be ensured that the applicant has the senior executives and other managers prescribed in the Occupational Pension Act (chief actuary, chief accounting officer, internal auditor, principal lawyer, investment manager and chief risk officer).

9. proof of employment of the other managers prescribed in Section 11 (1) of the Occupational Pension Act (*Section 9(4)i of the Occupational Pension Act*).

The applicants are kindly reminded of the fact that Section 60 (2) of the Occupational Pension Act prescribes that for the activity licence application the occupational retirement provision institutions must provide the data of the senior executives, other managers, mandatory employees and agents, the auditor and the outsourcing provider for the purpose of registration in the form prescribed by the Supervisory Authority.

10. a statement as to when the occupational retirement provision institution intends to commence its activity (*Section 9 (4) j of the Occupational Pension Act*),

11. the test results of the computer programs used for the data reporting, and a declaration that the occupational retirement provision institution has the necessary facilities in place to comply with the statutory reporting obligations (*Section 9 (4)k of the Occupational Pension Act*),

12. the accounting policy and the draft of the detailed accounting scheme (*Section 9 (4)l of the Occupational Pension Act*),

13. the procedures to be applied in situations severely jeopardising the liquidity or solvency of the occupational retirement provision institution (*Section 9 (4)m of the Occupational Pension Act*),

14. declaration of the applicant that it has disclosed to the Supervisory Authority all important facts and data required for the issuance of the licence (*Section 9 (4)n of the Occupational Pension Act, Article 59 (2) of the MNB Act*),

15. the policies and procedures related to the prevention and combating of money laundering and terrorist financing, and to the implementation of the financial and asset restricting measures ordered by the European Union and the UN's Security Council (*Section 9 (4)o of the Occupational Pension Act*),

When preparing this document, the principal rules specified in Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing, in Decree No. 21/2017 (VIII. 3.) of the Minister for National Economy on the mandatory content elements of an internal regulation to be prepared pursuant to Act LII of 2017 on the

Implementation of Financial and Proprietary Restrictive Measures ordered by the European Union and the UN Security Council and in MNB Decree 19/2017 (VII. 19) on the implementation of the Act on the Prevention and Combating of Money Laundering and Terrorist Financing applicable to the service providers supervised by the MNB, and the detailed rules pertaining to the minimum requirements for the elaboration and operation of filtering systems under the Act on the Implementation of Financial and Proprietary Restrictive Measures ordered by the European Union and the UN Security Council shall be also taken into consideration.

16. the document containing the definition of the planned area of operation (*Section 9 (4)p of the Occupational Pension Act*),

17. the rules of operation (*Section 9 (4)q of the Occupational Pension Act*),

The rules of operation shall include, as a minimum, the following (*Section 9 (5) of the Occupational Pension Act*):

- the nature of the services rendered by the occupational retirement provision institution (defined contribution or defined benefit pension scheme);
- the procedure and deadline for lodging a request for retirement benefits;
- the conditions and procedure for the transfer of a member to another occupational retirement provision institution or from another occupational retirement provision institution;
- the procedure related to membership status upon the termination of employment relationship;
- the procedure for the employers to join the scheme;
- everything else that the Act or the legal provisions issued by virtue of the Act refers to the occupational retirement provision institution's rules of operation or deemed necessary by the General Meeting.

18. Information on the identification data of the shareholders of occupational retirement provision institution and their rate of shareholding, as well as on the owners with qualifying holding and the rate of their qualifying holding (*Section 9 (4)r of the Occupational Pension Act*)

If the owners (shareholders) of the occupational retirement provision institution include persons who wish to acquire qualifying holding in the occupational retirement provision institution, in addition to the information mentioned above, the documents evidencing the fulfilment of the licensing criteria applicable to the acquisition of qualifying holding shall be also attached to the activity licence application:

- When the applicant is a natural person, 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 (original or notarised copy). (The extract from the judicial record shall confirm that the natural person applicant has clean record, and he 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 258 (3)b and Section 261 (1)e of the Insurance Act*)
- 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 258 (3) c of the Insurance Act*)
- In the case of non-natural person applicants the instrument of incorporation effective at the time of submitting the application. (*Section 258 (3)d of the Insurance Act*)
- 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. (*In the case of Hungarian citizens or non-natural persons with registered office in Hungary it is obtained by the MNB*). (*Section 258 (3)d of the Insurance Act*)
- In the case of non-natural person applicants a declaration that the disqualifying reason specified in the Insurance Act does not apply to its senior executive. (*May be done on the application form or on the standard form.*) (*Section 258 (3)d of the Insurance Act*)

- 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 the applicant is included in the database of taxpayers with no outstanding public debt. *(In the case of Hungarian citizens or non-natural persons with registered office in Hungary it is obtained by the MNB). (Section 258 (3)e) of the Insurance Act)*
- Confirmation of the legal origin of the financial resources necessary for acquiring the qualifying holding or controlling interest. *(Section 258 (3)f) of the Insurance Act) See sub-section 4.4.*
- A declaration to the effect that the applicant's other ownership interest and activity do not jeopardise the operation of the occupational retirement provision institution. *(May be done on the application form or on the standard form.) (Section 258 (3)g) of the Insurance Act)*
- Declaration on the contingent and future liabilities– as specified in Act C of 2000 on Accounting. *(Section 258 (3)g) of the Insurance Act)*
- 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 258 (3)i) of the Insurance Act)*
- In the case of occupational retirement provision institutions subject to group or supplementary supervision, the following declarations:

(i) presentation of the rules applicable to the transfer of information related to group or supplementary supervision, the declaration of the persons being in close relationship with the occupational retirement provision institution to the effect that the occupational retirement provision institution provides the MNB with all data, facts and information necessary for the group or supplementary supervision *(Section 258 (3)j and Section 238 g) of the Insurance Act);*

As part of this, the legal entities wishing to acquire ownership share shall provide the MNB with the analysis of the scope of the group supervision of the group they would belong to following the contemplated acquisition. Such analysis shall contain the information as to which members of the group would belong to the scope of the group supervision requirements following the contemplated acquisition, and within the group at which levels the requirements would apply on a consolidated or sub-consolidated basis. In addition, the applicant shall also submit to the MNB an analysis of the impact that the contemplated acquisition exerts on the target company's ability to continue to provide the supervisory authority with timely and accurate information, including the effects of the close links of the person wishing to acquire ownership share with the occupational retirement provision institution.

(ii) the declaration of the natural person being in close relationship with the occupational retirement provision institution to the effect that he or she consents to the forwarding of his or her personal data transferred to the occupational retirement provision institution for the purpose of processing such data to carry out the group and supplementary supervision. *(Section 258 (3)j) and Section 238 h) of the Insurance Act)*

- 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 done on the application form or on the standard form.) (Section 258 (3)k) of the Insurance Act)*
- If the applicant is an insurer, reinsurer, 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 258 (5) of the Insurance Act)*
- The filled in and signed questionnaire to confirm the professional suitability and business reliability (fit and proper requirements). *(Section 261 (1)e) of the Insurance Act)*

With a view to proving the satisfaction of the fit and proper requirements, the applicant shall submit the fully completed questionnaire – in accordance with the provisions included in the notice published on this subject – published

on the MNB's website to prove the **professional suitability and business reliability** of the applicant, and – in the case of non-natural person applicants – of the applicant and its senior executives.

Setting out from the information specified in the questionnaire, the MNB may also prescribe the submission of documents of broader range and other type and the confirmation of the facts if it finds that the information provided in the questionnaire is not sufficient to prove good business reputation.

**As regards the acquisition of qualifying holding in an occupational retirement provision institution, the Occupational Pension Act prescribes the application of the rules of Act LXXXVIII Of 2014 on the Business of Insurance. (Section 62/B of the Occupational Pension Act) For detailed information on the documents to be submitted and the conditions of authorisation see the licensing guide entitled "AUTHORISATION OF THE ACQUISITION AND INCREASE OF QUALIFYING HOLDING IN INSURANCE COMPANIES".**

#### 19. Confirmation of the payment of the administrative service fee

The administration service fee for the procedure aimed at the licensing of the start of the activity shall be HUF 700,000; the confirmation of the payment of such fee shall be attached as an annex to the application to start to procedure. *(Section 14(1)a) of 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)*

For further information on the administration service fee see the following menu item on the MNB's website: <http://www.mnb.hu/letoltes/tajekoztatas-a-magyar-nemzeti-bank-altal-egy-es-engedelyezesi-es-nyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgalatasi-dijrol.pdf>

## 2.2. Refusal of the application for activity licence

The MNB will reject the application for the activity licence, if

- the applicant does not comply with the conditions prescribed in this Act and other laws,
- the applicant failed to prove compliance with the conditions in a credible manner,
- the applicant provided misleading or false data *(Section 62 (1) of the Occupational Pension Act)*
- the close link between the occupational retirement provision institution and other person, as specified in the Credit Institutions Act, hinder the exercise of administrative oversight over the occupational retirement provision institution,
- the laws applicable to the person being in close relationship with the occupational retirement provision institution, applied in another EEA state, hinder the exercise of administrative oversight over the occupational retirement provision institution. *(Section 62 (2) of the Occupational Pension Act).*

The MNB shall be provided with the information necessary for verifying the conditions related to the exercise of oversight.

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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@mnb.hu](mailto:bpeo@mnb.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@mnb.hu](mailto:iff@mnb.hu)).

September 2019