

CONSUMER PROTECTION PROVISIONS GOVERNING THE CAPITAL MARKET

1.1. STANDARD SERVICE AGREEMENT

According to Government Decree 22/2008 (II.7.) on the mandatory elements of the business terms at business organisations providing investment services, auxiliary investment services and commodity exchange services, the standard service agreement drawn up by a business organisation (company) carrying out investment service activities, ancillary services and investment activities (hereinafter: ancillary services), commodity exchange services pursuant to Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities (Bszt.), concerning such activities shall contain

- a) a list of the investment service activities, ancillary services, commodity exchange services authorised by the Magyar Nemzeti Bank in the exercise of its duties related to the supervision of the financial intermediary system, and the activities set out in Section 8(5) of the Bszt.,
- b) the number and date of the decision issued by the MNB, granting authorisation to perform the activities included in Subsection a) , the name of the MNB, as well as its correspondence address and website address,
- c) the languages that can be used by clients in their communications with the company, and
- d) the ways and means of communication between the company and its clients, including the ways and means of sending and receiving orders.

In connection with the conclusion, performance, amendment and termination of the contract, the company's standard service agreement shall contain

- a. the detailed regulations for client identification,
- b. the list of documents and statements that are suitable for carrying out the fitness or compliance test prescribed for the company, and the rules for the categorisation of clients,
- c. the detailed regulations for the transactions that can be concluded in the scope of certain investment service activities, ancillary services or commodity exchange services, including the method of and the detailed rules for access to clients' financial instruments and funds managed by the company, per transaction,
- d. the reasons for refusing to enter into contract with the client, as provided for under the law,
- e. the method and deadlines of settlement with clients,
- f. the detailed rules for the amendment and termination of contracts, including cancellation and termination
- g. deadlines, and
- h. the annexes forming parts of the standard service agreement, as specified in Section 6 Government Decree 22/2008 (II. 7),
- i. the method to provide data protection information.

The company's standard service agree shall contain

- a. the general regulations governing the transfer of accounts,
- b. the company's liabilities to the client – also including the method of providing information under exceptional circumstances – in the case of the suspension in whole or in part, or the limitation of the company's activity license or certain activities, or in the case of the withdrawal of the authorisation to conduct the activity,
- c. the liabilities and the risks borne by the company and by the client per transaction type in the case that the company's activity is restricted or suspended by the stock exchange or the MNB, or in the case that the clearing house or the central counterparty takes measures that affect the client's orders.

In the case of the administration of securities accounts and client accounts, the following shall be

determined in the standard service agreement:

- a) the detailed conditions for opening an account,
- b) the frequency and the method of notifying clients about crediting and debiting accounts, and about the balance of accounts.

If the company also accepts orders from clients placed by phone, by fax or via other electronic means, the detailed rules for this shall be provided in the standard service agreement, regarding, especially

- a) the procedure to be followed in the case of orders placed by phone, by fax or via other electronic means (audio recordings, or written records taken by the person taking the order), the method and time of drawing up the written contract,
- b) the retention period of the audio recordings.

If the company records the order in audio recordings, the standard service agreement shall provide for the right of access to such audio recordings.

The company's standard service agreement shall include that – except for cases in the legislation and except for the client's failure to remedy a serious contract breach despite being warned – the company may not limit or exclude its liability for performing the contract. The standard service agreement shall include, per transaction, the cases considered as the client's serious breach of contract, and, in respect of the parties' breach of contract, the parties' rights and obligations.

In the company's standard service agreement, the frequency and method of notifying and informing clients and its budgetary consequences shall be specified.

If the obligation to provide information is fulfilled using a durable medium as prescribed in the Bszt., in its standard service agreement the company shall explicitly draw the client's attention to the detailed rules relating to the means of providing information.

The company's standard service agreement may not exclude the possibility of the client requesting information about the fulfilment of the order placed by it and about the balance of its account managed by the company in a manner other than specified in the standard service agreement.

The company's standard service agreement shall contain

- a) the frequency, timing and nature of the report on the investment service activity, ancillary service or commodity exchange service performed or provided for the client,
- b) a summary of the measures aimed at the safeguarding of the client's financial instruments or funds in the case of managing such financial instruments or funds, including information about the investor protection scheme available for the client and about its operation.

In the standard service agreement the company explicitly draws the client's attention to

- a. the requirements included in anti-money-laundering legislation,
- b. the law applicable to legal disputes between the company and the client.

Annexes to the company's standard service agreement:

- a. forms used for contracts to be concluded between the company and the client,
- b. the list of outsourced activities and the entities to which activities are outsourced,
- c. the list of intermediaries used by the company,
- d. the list of rates applied by the company, which includes the costs and fees related to concluding the contract and – in the case of a valid contract concluded at an earlier point (framework contract) – to the individual transactions, borne by the client,
- e. business hours,

- f. standard terms and conditions,
 - g. regulations regarding complaints handling procedures,
 - h. the company's execution policy,
 - i. a summary description of the company's conflict of interest policy.
- (Government Decree 22/2008. (II. 7.))

With the exception set out below, all contracts between investment firms and their clients shall be fixed in writing according to their standard service agreement.

Agreements for the execution of orders on behalf of a client under portfolio management services relating to financial instruments (hereinafter: 'order') shall not be made out in writing if placed under an existing framework agreement, if such framework agreement is made out in writing and the investment firm records the order electronically.

Investment firms may not use for the identification of a client a pseudonym or any other reference suitable to conceal the identity of the client or to obscure the identification procedure. (Section 52 of the Bszt.)

In connection with carrying out commodity exchange services, where commodity dealers have carried out an order on behalf of a client, they shall – with the exception set out below – promptly provide the client with the essential information concerning the execution of that order in the manner laid down in the standard service agreement.

The information determined above shall not be provided where the same information is promptly dispatched to the client by a third party.

In addition to the requirements above, commodity dealers are required to supply the client, on request, with information about the status of his order. (Section 90 of the Bszt.)

Pursuant to Act CXX of 2001 on the Capital Market (Tpt.), the account manager shall record all transactions to and from a securities account in a statement and shall send this confirmation to the account holder as prescribed in the standard service agreement. A power of attorney supplied to the account manager shall be accepted only if made out in the form and if containing the information specified in the standard service agreement. The signature specimen of authorised signatories shall be supplied to the account manager in the manner stipulated in the standard service agreement. (Sections 142 (1), 143 (1) of the Tpt.)

Special rules relating to investment fund managers:

The rules for the management and administration of an investment fund shall be laid down in the management policy, that is to be approved by the MNB in the case of public investment funds, or submitted to the MNB in the case of private investment funds. The management policy shall contain all information necessary for investors to make an informed judgment of the operation, investment strategy and management of the investment fund. In the case of alternative investment funds (**AIF**) the management policy shall make reference to any arrangement made by the depositary to contractually discharge itself of liability in accordance with Section 64 (16) of Act XVI of 2014 on Collective Investment Trusts and Their Managers, and on the Amendment of Financial Regulations (Kbftv). The management policy shall be drawn up according to the formal and content requirements of the templates set out in the Kbftv., in Chapter I of Annex 3 for public investment funds, in Chapter II of Annex 3 for private investment funds, and in Chapter III of Annex 3 for venture capital funds and private equity funds.

In the case of private investment funds, as regards the contents of the management policy, Regulation

(EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No. 648/2012 shall apply mutatis mutandis.

When purchasing investment units, the investor shall supply a statement of acknowledgement of the terms and conditions contained in the management policy, in particular the risks associated with the investment units and the investor's preferences regarding risk taking and risk tolerance.

Except as provided for in Section 72 (4) of the Kbftv., the investors' consent is not required for the investment fund manager to amend the management policy of a public investment fund, however, it shall be authorised by the MNB. (Section 72 (1)–(3) of the Kbftv.)

While operating the fund, the fund manager is obliged to act on behalf of the investor, in compliance with the legislation, the rules of operation and the currently valid management policy.

In connection with the purchase and redemption of investment units, the consideration for the investment units may be provided in money, or – if expressly permitted in the management policy with the relevant conditions defined – in other assets, in whole or in part, which are deemed appropriate based on the fund's investment policy. In the latter case, at the time of redemption, the type of assets to be provided in consideration shall be determined based on the share such assets represent in the fund's portfolio.

In the process of distribution, the investor may be charged a sales (purchase or redemption) fee or commission payable – in part or in full, as specified in the investment fund's management policy – to the investment fund, the distributor or to the investment fund manager involved. The principle of equal treatment shall not be considered breached, where the fees or commissions charged to investors for distribution services are determined by the distributors, or if the investment fund manager sets different contractual terms and conditions for different distributors.

As regards open-ended investment funds investing in securities, if more than 5% of the investment fund's assets have become illiquid, the investment fund manager may decide to segregate such illiquid assets within the investment fund's portfolio, or to segregate illiquid investment units within a portfolio, so as to ensure the principle of equal treatment among investors and to maintain the distribution of other investment units.

(Section 109 (1)–(2), Section 128 (1) of the Kbftv.)

All investment units issued under the name of an investment fund must comprise one or more series and must be of the same nominal value and must have the same rights attached in any one series. The fund's management policy shall specify in detail the differences between the different sets of investment units. Sets of investment units that differ in terms of distribution of earnings, and the sequence in which they are distributed, and sharing of losses, and the sequence in which they are covered, may be set up by private investment funds only. (Section 71 (1) of the Kbftv.)

The fund manager shall manage and register the investment funds' and clients' portfolios separated from its own portfolio.

1.2. INFORMATION

The company shall make public its standard service agreement in its premises available for customer service, and, in the case of providing electronic commerce services, it shall also make it continuously and easily accessible to clients electronically, making it possible for clients to store and retrieve it. (Section 5 (1) of Government Decree 22/2008. (II. 7.))

General rules for providing information

In the scope of its investment service activity or ancillary services, the investment firm shall act in accordance with the legislation, complying with the rules of the profession, in a fair and efficient manner, in the client's interest, at all times while performing the contract concluded with the client or executing the client's order.

Investment firms that manufacture financial instruments for sale to clients shall ensure that those financial instruments are designed to meet the needs of an identified target market of end clients within the relevant category of clients, the strategy for distribution of the financial instruments is compatible with the identified target market, and the investment firm takes reasonable steps to ensure that the financial instrument is distributed to the identified target market.

The investment firm shall assess the compatibility of the financial instruments with the needs of the clients to whom it provides investment services, also taking account of the identified target market of end clients as referred to in Section 17/A (2) of the Bszt., and ensure that financial instruments are offered or recommended only when this is in the interest of the client.

All information, including investment research and marketing communications, addressed by the investment firm to clients or potential clients shall be fair, clear, balanced and accurate as provided for in Article 44 of Commission Delegated Regulation (EU) 2017/565, and shall not supply any information to clients and potential clients that is misleading. Marketing communications shall be clearly identifiable as such.

Having regard to Sections 41–43 of the Bszt., the investment firm shall provide appropriate information in good time to clients or potential clients with regard to the investment firm and its services, the financial instruments and proposed investment strategies, execution venues and all costs and related charges. That information shall include the following:

a) when investment advice is provided, the investment firm must, in good time before it provides investment advice, inform the client:

aa) whether or not the advice is provided on an independent basis,

ab) whether the advice is based on a broad or on a more restricted analysis of different types of financial instruments and, in particular, whether the range is limited to financial instruments issued or provided by entities having close links with the investment firm or any other legal or economic relationships, such as contractual relationships, so close as to pose a risk of impairing the independent basis of the advice provided,

ac) whether the investment firm will provide the client or potential client with a periodic assessment of the suitability of the financial instruments recommended;

b) the information on financial instruments and proposed investment strategies must include appropriate guidance on and warnings of the risks associated with investments in those instruments or in respect of particular investment strategies, and whether the financial instrument is intended for retail or professional clients, taking account of the identified target market in accordance with Section 17/A (2);

c) the information on all costs and associated charges must include information relating to both investment service activities and ancillary services, including the cost of advice, where relevant, the cost of the financial instrument recommended or marketed to the client and how the client may pay for it, also encompassing any third-party payments.

The information about all costs and charges referred to above, including costs and charges in connection

with the investment service activities and ancillary services and the financial instrument, which are not caused by the occurrence of underlying market risk, shall be aggregated to allow the client to understand the overall cost as well as the cumulative effect on return of the investment. Where the client so requests, an itemised breakdown shall be provided. Where applicable, such information shall be provided to the client on a regular basis, at least annually, during the life cycle of the investment. The information shall be provided in accordance with Article 50 of Commission Delegated Regulation (EU) 2017/565.

The information referred to in Section 40 (5) and (6) and also in Section 41 (4)–(6) of the Bszt. shall be provided in a comprehensible form, in such a manner that clients or potential clients are reasonably able to understand the investment service activities and ancillary services and the nature and risks of the given financial instrument that is being offered, and, consequently, to take investment decisions on an informed basis. That information may be provided in a standardised format as well.

Where investment service activities or ancillary services are offered as part of a financial product which is already subject to the provisions of Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (Hpt.), or Act CLXII of 2009 on Consumer Credit (Fnyht.) with respect to information requirements, that service shall not be additionally subject to the obligations set out in Section 40 (4)–(7) of the Bszt.

Where an investment firm informs the client or potential client that investment advice is provided on an independent basis, that investment firm shall:

- a) assess a sufficient range of financial instruments available on the market which must be sufficiently diverse with regard to their type and issuers or product providers to ensure that the client's investment objectives can be suitably met and must not be limited to financial instruments issued or provided by:
 - aa) the investment firm itself or by companies having close links with the investment firm, or
 - ab) other companies with which the investment firm has such close legal or economic relationships, such as contractual relationships, as to pose a risk of impairing the independent basis of the advice provided;
- b) not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to clients.

By way of derogation from paragraph b), minor non-monetary benefits that are capable of enhancing the quality of service provided to a client and are of a scale and nature such that they could not be judged to impair compliance with the investment firm's duty to act in the best interest of the client must be clearly disclosed and are excluded from paragraph b) above.

Information on investment advice shall be provided in accordance with Article 52 of Commission Delegated Regulation (EU) 2017/565, and information on investment advice provided on an independent basis shall be made available in accordance with Article 53 of Commission Delegated Regulation (EU) 2017/565.

Within the framework of portfolio management the investment firm shall not accept and retain fees, commissions or any monetary or non-monetary benefits paid or provided by any third party or a person acting on behalf of a third party in relation to the provision of the service to clients. Minor non-monetary benefits that are capable of enhancing the quality of service provided to a client and are of a scale and nature such that they could not be judged to impair compliance with the investment firm's duty to act in the best interest of the client shall be clearly disclosed and are excluded from this Subsection.

Investment firms are regarded as not fulfilling their obligations under Section 110 or under Section 40 (1) of the Bszt., where they pay or are paid any fee or commission, or provide or are provided with any non-monetary benefit in connection with the provision of investment service activities or ancillary services,

to or by any party except the client or a person on behalf of the client, other than where the payment or benefit:

- a. is designed to enhance the quality of the relevant service to the client; and
- b. does not impair compliance with the investment firm's duty to act honestly, fairly and professionally, and in accordance with the best interest of its clients.

The investment firm shall clearly disclose to the client the existence, nature and amount of the payment or benefit referred to in Section 41 (5) of the Bszt., or, where the amount cannot be ascertained, the method of calculating that amount, in a manner that is comprehensive, accurate and understandable, prior to the performance of the investment service activity or the provision of the ancillary service. Where applicable, the investment firm shall also inform the client on mechanisms for transferring to the client the fee, commission, monetary or non-monetary benefit received in relation to the performance of the investment service activity or the provision of the ancillary service.

The payment or benefit which enables or is necessary for the performance of the investment service activity or the provision of the ancillary service, such as custody costs, settlement and exchange fees, regulatory levies or legal fees, and which by its nature cannot give rise to conflicts with the investment firm's duties to act honestly, fairly and professionally in accordance with the interests of its clients, is not subject to the requirements set out in Section 41 (5) of the Bszt.

An investment firm that performs investment service activities or provides ancillary services to clients shall ensure that it does not remunerate or assess the performance of its staff in a way that conflicts with its duty to act in the best interests of its clients. In particular, it shall not make any arrangement by way of remuneration, sales targets or otherwise that could provide an incentive to its staff to recommend a particular financial instrument to a retail client when the investment firm could offer a different financial instrument which would better meet that client's needs.

When an investment service is offered together with another service or product as part of a package or as a condition for the same agreement or package, the investment firm shall inform the client whether it is possible to buy the different components separately and shall provide for a separate evidence of the costs and charges of each component. Where the risks resulting from such an agreement or package offered to a retail client are likely to be different from the risks associated with the components taken separately, the investment firm shall provide an adequate description of the different components of the agreement or package and the way in which their interaction modifies the risks.

Unless otherwise prescribed in the Bszt, the information provided under Sections 40 and 41 of the Bszt. shall be made available in good time as is necessary for the client to understand the information provided to take an informed decision, with regard to the complexity of the transaction forming the subject of the contract.

Where, according to the Bszt., investment firms are required to provide information in a durable medium, it shall be provided:

- a) in writing; or
 - b) in another form of durable medium,
- in accordance with Article 3 of Commission Delegated Regulation (EU) 2017/565.
(Sections 40–42 of the Bszt.)

The account provider shall issue a confirmation on the transaction executed on the securities account, on the day of executing the transaction, and it shall send it to the account holder as specified in its standard service agreement. The account provider shall supply an account statement indicating the transactions in and the balance of the securities account whenever one is requested by the account holder. (Section 142 (1) of the Tpt.)

Obligation to provide prior information

Investment firms are required to ensure that natural persons giving investment advice or information about financial instruments, investment service activities or ancillary services to clients on behalf of the investment firm possess the necessary knowledge and competence to fulfil their obligations under the Bszt. relating to the provision of information to clients.

Investment firms shall fulfil their obligation to provide prior information to clients subject to content and formal requirements provided for in Chapter X of the Bszt. and under Articles 45–51 of Commission Delegated Regulation (EU) 2017/565. (Section 43 of the Bszt.)

Obligation to obtain prior information

Any investment firm that is engaged in providing investment advice or portfolio management services shall, to the extent required for such activities under Section 44 (2) of the Bszt. prior to the signature of the contract or – in the case of a framework agreement – before the execution of orders:

- a) obtain the necessary information regarding the client's or potential client's knowledge and experience in the investment field relevant to the financial instrument or transaction, his risk profile to determine whether it is appropriate to enable the client to take investment decisions on an informed basis; and
- b) obtain information needed for the performance of the contract, regarding the client's or potential client's financial situation and investment objectives, so as to enable the firm to recommend to the client or potential client a transaction or financial instrument that is adjusted to that person's circumstances, is in accordance with that person's ability to bear losses and is suitable for meeting that person's investment expectations.

Where an investment firm provides investment advice recommending a package of services or products bundled pursuant to Section 41 (9) of the Bszt., the overall bundled package shall be suitable for the client or potential client.

Having in possession the information obtained according to Section 44 (1) of the Bszt. (hereinafter: 'fitness test'), the investment firm providing investment advice or portfolio management services to the client shall assess compliance of the service offered with the requirements set out in Articles 54 and 55 of Commission Delegated Regulation (EU) 2017/565.

In the case of services offered within the framework of providing investment advice, the investment firm shall, before the transaction is made, provide the client with a statement on suitability (hereinafter: 'suitability statement') in a durable medium, specifying the advice given and how that advice meets the preferences, objectives and other characteristics of the retail client.

Where the agreement to buy or sell a financial instrument is concluded using means of distance communication which prevents the prior delivery of the suitability statement, the investment firm may provide the written statement on suitability in a durable medium immediately after the client has concluded the agreement, provided that the following conditions are met:

- a) the client has consented to receiving the suitability statement without undue delay after the conclusion of the transaction; and
- b) the investment firm has given the client the option of delaying the transaction in order to receive the suitability statement in advance.

Where an investment firm provides portfolio management services or has informed the client that it will carry out a periodic assessment of suitability in accordance with Section 44 (1) of the Bszt., the periodic report provided for in Article 54 of Commission Delegated Regulation (EU) 2017/565 shall contain an

updated statement of how the investment meets the retail client's preferences, objectives and other typical needs.

Where an investment firm is engaged in investment service activities other than what is mentioned under Section 44 (1) of the Bszt., it shall, to the extent required for such activities prior to the signature of the contract or – in the case of a framework agreement – before the execution of orders, ask the client or potential client, subject to the exception set out in Section 45 (3) of the Bszt., to provide information regarding his knowledge and experience in the investment field:

- a) relevant to the specific type of transaction,
- b) relevant to the specific type of financial instrument, and
- c) relevant to the risks involved,

so as to enable the investment firm to provide to the client or potential client the service relating to the transactions and financial instruments that are suitable for him.

Where a package of services or bundle of products is envisaged pursuant to Section 41 (9) of the Bszt., the assessment shall consider whether the overall bundled package is appropriate for the client or potential client.

As regards the assessment of experience and knowledge referred to in Section 45 (1) (hereinafter: 'compliance test'), the investment firm shall proceed in accordance with Articles 55 and 56 of Commission Delegated Regulation (EU) 2017/565.

The provisions of Section 45 (1) of the Bszt. shall not apply where an investment firm concludes the agreement specified in Section 5 (1) a) or b) of the Bszt. with a client or potential client – with or without ancillary services, except for granting credit under Section 5 (2) c) of the Bszt. without offering a credit line for the client's loans, current accounts and overdraft facilities –, and:

- a) the transactions relate to shares admitted to trading on a regulated market or in an equivalent third country market, or to a multilateral trading facility, excluding collective investment instruments issued by an AIF provided for in the Kbftv. in the form of shares, and excluding shares that embed a derivative; or
- b) the transactions relate to debt securities or other forms of securitised debt admitted to trading on a regulated market or in an equivalent third country market, or to a multilateral trading facility, excluding those instruments that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved; or
- c) the transactions relate to money-market instruments, excluding those instruments that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved; or
- d) the transactions relate to collective investment instruments in UCITS, excluding structured UCITS as referred to in the second subparagraph of Article 36 (1) of Regulation 583/2010/EU; or
- e) the transactions relate to structured deposits, excluding those that incorporate a structure which makes it difficult for the client to understand the risk involved or the cost of exiting the product before term; or
- f) the transactions relate to other non-complex financial instruments which meet the conditions laid down in Article 57 of Commission Delegated Regulation (EU) 2017/565; and

the agreement related to the transaction is provided at the initiative of the client or potential client, and – at that time – the client or potential client has been clearly informed that the investment firm is not required to assess the suitability of the financial instrument for achieving the client's investment

objectives, meaning that it does not apply the provisions contained in Section 45 (1) of the Bszt., and therefore the client does not benefit from the corresponding consequences, and the investment firm complies with its obligations under Section 110 of the Bszt.

If, relying on the information obtained under Section 45 (1) of the Bszt., the investment firm is of the opinion that the financial instrument or transaction to which the contract pertains is not appropriate to the client or potential client, the investment firm shall warn the client or potential client.

In cases where the client or potential client does not provide the information referred to under 45 (1) of the Bszt., or if the investment firm considers the information provided insufficient, the investment firm shall warn the client or potential client that such a decision will not allow the firm to determine whether the service or product envisaged is appropriate for him.

The warning referred to in Section 46 (1) and (2) of the Bszt. may be provided in a standardised format. (Sections 44–46 of the Bszt.)

Reporting obligations in respect of execution of orders

Investment firms shall, where they have carried out an order within the framework of investment service activities other than for portfolio management, in respect of that order promptly provide the client, in a durable medium, with the essential information concerning the execution of that order in accordance with Articles 59 and 61 of Commission Delegated Regulation (EU) 2017/565.

The above shall not apply where orders executed on behalf of clients relate to bonds funding mortgage loan agreements - concluded in accordance with the Consumer Credit Act (Fhtv.) – with the said clients.

Investment firms which provide the service of portfolio management to clients within the framework of investment service activities are required to provide each such client with a periodic statement in a durable medium containing information specified in Articles 60 and 62 of Commission Delegated Regulation (EU) 2017/565 by the tenth working day of the following month, covering the period up to the last day of the reference period.

Within the framework of their investment service activities investment firms that hold client financial instruments or client funds for or belonging to clients are required to provide each such client with a periodic statement in a durable medium containing information specified in Article 63 of Commission Delegated Regulation (EU) 2017/565, by the tenth working day of the following month, covering the period up to the last day of the reference period.

Within the framework of their investment service activities – apart from portfolio management services – investment firms are required to send a monthly statement, up to the last day of the month, to each client on their financial instruments or funds, in writing or in another form of durable medium. The statement shall include the following information:

- a. details of all the financial instruments or funds held by the investment firm for or belonging to the client on the last day of the month covered by the statement,
- b. the extent to which any client financial instruments or client funds have been the subject of securities financing transactions on the last day of the month covered by the statement,
- c. the extent of any benefit that has accrued to the client by virtue of participation in any securities financing transactions in financial instruments or funds held by the investment firm for or belonging to the client, and the basis on which that benefit has accrued,
- d. a password individually generated by the methodology provided for in specific legislation, enabling the client to access certain information on the MNB's website.

(Sections 67–69/A of the Bszt.)

Investment firms which carry out the service of *portfolio management* may guarantee to protect the capital invested (*capital guarantee*) and may undertake to guarantee the earnings (*yield guarantee*), where the yield guarantee incorporates a guarantee to preserve the capital invested. The capital and yield guarantee offered by investment firms shall be accompanied by a bank guarantee.

Investment firms which carry out the service of *portfolio management* may pledge to preserve the capital invested (*capital protection*) and make a pledge for earnings (*yield protection*), where the promise of yield incorporates a pledge to preserve the capital invested. Investment firms shall have an adequate investment policy in place concerning the financial instruments held to secure earnings to support the pledge to preserve the capital invested and a pledge for earnings. (Section 71 of the Bszt.)

Under a securities account contract the securities account manager undertakes the commitment to administer the securities owned by the other party (the account holder) under the securities account as contracted, to execute the account holder's legitimate instructions, and to keep the account holder informed without delay concerning all transactions to and from the account, as well as on the balance of the account. The account manager shall record all transactions to and from a securities account in a statement and shall send this confirmation to the account holder as prescribed in the standard service agreement. The account manager shall supply an account statement indicating the transactions in the securities account whenever one is requested by the account holder. (Sections 140 (2) and 142 (1) of the Tpt.)

When *securities are lent under a framework contract*, the investment firm or credit institution participating in the transaction shall notify the owner of the securities that his securities have been transferred under lending arrangements, indicating the quantity and the duration. Any investment firm or credit institution that fails to abide by the restrictions stipulated by the owner of the securities in question (the lender), shall be subject to unlimited liability for damages caused by such negligence. (Section 170 (3) of the Tpt.)

Calculation of the Unified Securities Yield Index

In the case of debt securities, and investment fund units, as defined in Section 8 (4) of Government Decree No. 82/2010 (III. 25.), where the interest or yield on a security was determined by the issuer for the remaining period from maturity, investment enterprises, credit institutions, investment fund managers and any other organisation, with regard to provisions on returns on securities, which are entitled to offer self-issued securities on the market on the strength of law, without using any distributor are obliged to calculate and announce the Unified Securities Yield Index (hereinafter: EHM) in the manner described in Section 9 of Government Decree No. 82/2010 (III. 25.) (Section 8 (1) of Government Decree No. 82/2010 (III. 25.))

Publication of yield on securities

Investment enterprises, credit institutions and, in the case defined in Section 8 (4) of Government Decree No. 82/2010 (III. 25.), investment fund managers and any other organisation, which are entitled to offer self-issued securities on the market on the strength of law without using any distributor, are obliged to post the following information in premises available for customer service:

- a) the concrete formula for calculation of the yield on securities;
- b) the dates of payment of interest or yield;
- c) the value of EHM indicating the abbreviation, in a percentage format, with an exactness of two

decimal points;

- d) any fact, information and condition that may have impact on the amount disbursed on the basis of the security.

If the interest, concrete yield or any charge relating to the transaction appears in the offer submitted for the securities transaction or in the commercial communication, the rate of EHM shall also be indicated directly after it, showing the abbreviation, in a percentage format, with an exactness of two decimal points, at least in the same size and in equal display, or shall be explained in a clearly understandable form.

(Section 9 of Government Decree 82/2010. (III.25.))

When collective investment instruments issued abroad are marketed and distributed in Hungary, the foreign investment fund or other collective investment trust is obliged to comply with the following information requirements, including prescriptions relating to the content structure and regular publication of the information note concerning distribution.

Open-ended investment units may be offered to the public on condition that the investment fund manager makes public, before marketing, a management policy drawn up according to Chapter I of Annex 3 of the Kbtv. and approved by the MNB, and a prospectus containing the information in the layout defined in the template under Annex 5 of the Kbtv., key investor information according to Section 130 of the Kbtv., and a public notice provided for in Section 104 of the Kbtv. Subscription of investment units shall be null and void if – with the exception under Section 105 (1) of the Kbtv. – the units are marketed in the absence of a management policy, prospectus, key investor information or a public notice approved by the MNB.

Selection of investors by drawing among investors having subscribed investment units in the marketing process is prohibited, as well as the publication of any information to that effect in the documents and in the investment fund's marketing communication.

Investment units of open-ended investment funds may be offered to the public upon publication of a public notice, which shall contain:

- a) the number and date of the supervisory authority's approval of the related prospectus,
- b) a description of the investment units offered and the name of the issuing investment fund,
- c) the quantity (amount) of investment units offered, their nominal value and selling price or the applied pricing method,
- d) the approved duration of the marketing procedure and the locations where the investment units can be subscribed,
- e) the method of offering and the terms of payment, and
- f) information as to where, when and how the prospectus is published or circulated.

A subscription procedure is not required for the marketing of a new series of investment units by an open-ended investment fund that has already been registered.

(Sections 103–105 of the Kbtv.)

Investment fund managers shall disclose essential details to the public on a regular basis of the financial position and the general course of business of the public investment funds they manage.

Investment fund managers shall discharge their obligation of disclosure of information on a regular basis in connection with publicly available closed-ended investment funds in accordance with Chapter V of the Tpt., taking into account the provisions of Regulation (EU) 2015/2365 on transparency of securities financing transactions and of reuse (SFTR).

Investment fund managers shall discharge their obligation of disclosure of information in connection with publicly available open-ended investment funds:

- a) in the form of an annual report for each complete business year,
- b) in the form of a half-yearly report covering the first six months of the business year,
- c) in the form of a monthly portfolio report.

The annual and half-yearly reports, and the monthly portfolio report shall be published within the following time limits, with effect from the end of the period to which they relate:

- a) 4 months in the case of the annual report,
 - b) 2 months in the case of the half-yearly report,
 - c) by the 10th working day of the following month in the case of the monthly portfolio report,
- on the understanding that annual and half-yearly reports shall be available to the public for at least a period of 5 years.

The annual report of a publicly available open-ended investment fund shall include a detailed income and expenditure account for the investment fund, a report on the activities performed during the given period and other information provided for in Annex 6 of the Kbftv., and in Annex 7 of the Kbftv. in the case of real estate funds, as well as any significant information which will enable investors to make an informed judgment on the development of the activities of the investment fund and its results.

The half-yearly report of a publicly available open-ended investment fund shall include the information specified in Sections I–IV of Annex 6 of the Kbftv., and in Sections 2–3 of Annex 7 of the Kbftv. in the case of real estate funds. Where an investment fund pays an interim dividend, the balance sheet must indicate the results after tax for the half-year concerned and the interim dividend paid or proposed. As regards the content of the yearly and half-yearly reports of publicly available open-ended investment funds, the provisions of Regulation (EU) 2015/2365 shall apply *mutatis mutandis*.

The monthly portfolio report shall include, relying on the last net asset value of the month:

- a) a description of the portfolio broken down by main categories according to the investment objectives and limits set out in the investment policy (types of major assets, geographical diversification, currency diversification), or, if the investment policy contains no such limits, according to the types of major assets (shares, bonds, investment units, deposits, other),
- b) the net total level of risk exposure (leverage) inherent in the investment assets as calculated in consideration of derivative transactions,
- c) the list of assets (issuers) representing more than 10% of the portfolio,
- d) the net asset value of the investment fund on the aggregate and for each investment unit.

Publicly available open-ended investment funds shall provide to investors periodic reports by way of the means specified in the prospectus, management policy and the key investor information document. A paper copy shall be delivered to the investors on request and free of charge. At the same time, such periodic reports shall be sent to the MNB and, upon request, to the supervisory authority of the Member State in which the investment fund manager is established. (Sections 131–134 of the Kbftv.)

In connection with the public offering of investment units the prospectus shall – in addition to what is set out in Annex 5 – include the information necessary for investors to be able to make an informed judgment of the investment proposed to them, and, in particular, of the risks attached thereto, including the information provided for in Regulation (EU) 2015/2365. The prospectus shall include a clear and easily understandable explanation of the investment fund's risk profile. (Section 129 of the Kbftv.)

The obligation of extraordinary disclosure of information of investment fund managers shall cover the publication on their website of the following information with respect to publicly available open-ended investment funds they manage, with paper copies made available at points of sale, and shall send such

information to the MNB as well:

- a) the notice of restructuring or merger, at the latest 30 days before the planned or proposed restructuring or merger;
- b) the amendments to the investment fund's management policy representing changes in its investment rules, at the latest 30 days before the effective date of such amendments;
- c) the amendments to the management policy representing a reduction in the fixed period of maturity, at the latest 30 days before the effective date of such amendments;
- d) the amendments to the investment fund's management policy representing changes to the investors' detriment in relation to charges for the redemption of investment units, or representing changes in the rules pertaining to the redemption of investment units if they entail any increase in the settlement or redemption period, at least 30 days before the effective date of such amendments;
- e) the amendments to the investment fund's management policy representing any restriction in the opportunities for the redemption of investment units – excluding the discontinuation or suspension of marketing – at least 30 days before the effective date of such amendments so as to permit investors to redeem their investment units before the amendments in question enter into effect;
- f) any other amendment in the management policy on or before the effective date;
- g) any decision to withdraw the authorisation of the investment fund manager, within 2 working days following the date when the decision on the withdrawal of the authorisation became definitive;
- h) the decision to transfer investment fund management activities, within 15 days before it takes effect;
- i) the date and the manner of payment of capital and dividends (if the investment fund's management policy does not provide for automatic payment of dividends), on or before the due date;
- j) the suspension or discontinuation of the marketing of investment units, including when marketing is resumed, the segregation of illiquid financial assets, including when segregation is terminated, immediately;
- k) the notice of liquidation of the investment fund manager, within 2 working days after the ruling ordering liquidation becomes legally binding;
- l) the notice of dissolution if the investment fund is terminated, at the same time when it is sent to the MNB;
- m) with the exception of payment of dividends, the net asset value of each unit as compared to the previous net asset value, and, if a significant (more than 20%) drop occurs within three days if evaluated daily, an explanation for such a decline, within 2 working days from the time of occurrence;
- n) any change in the place of publication used for publication obligations, at least 10 days before the effective date thereof;
- o) any change in the distributors, on or before the working day immediately preceding the effective date of the change, or within 2 working days following the effective date of the change if the fund manager is notified after the fact that the list of distributors is reduced;
- p) if the investment fund provides key investor information, any changes therein, at the time when the up-to-date version is made available to the investors;
- q) any changes in the criteria stipulated in the MNB's authorisation or in the approved management policy, within 2 days following the effective date thereof.

Investment fund managers shall discharge their obligation of extraordinary disclosure of information in connection with publicly available closed-ended investment funds in accordance with Chapter V of the Tpt.

The MNB may prescribe the deadlines for disclosure obligations on a case-by-case basis when it deems it necessary for the protection of the investors.

If the entry into force following publication does not take place within 60 days following receipt of the MNB's authorisation, entry into force shall be permitted only if the authorisation procedure is repeated. (Section 139 of the Kbtv.)

Means of compliance with the obligation of disclosure:

As regards the provisions on disclosure prescribed in the Kbtv. relating to investment fund managers and to the investment funds they manage, it shall be satisfied, unless otherwise provided for by the relevant legislation:

- a) via the website of the investment fund manager and the investment fund affected, and
- b) by means of the officially appointed information storage mechanism, if the MNB provides such service in compliance with the obligation of publication prescribed in the Kbtv., with the exception of net asset values.

As regards the provisions on disclosure relating to depositaries and distributors prescribed in the Kbtv., it shall be satisfied on their own websites, or by means of the officially appointed information storage mechanism, if the MNB provides such service in compliance with the obligation of publication prescribed in the Kbtv. (Section 141 of the Kbtv.)

The investment fund manager, or a depositary on its behalf shall publish the net asset value per unit of the public investment funds they manage, by way of the means specified in the investment fund's management policy, for each day for which it is calculated, within 2 working days from the day when calculated.

The investment fund manager, or a depositary on its behalf shall provide access for the general public to information on past-performance of the public investment fund they manage, showing the net asset value of an investment unit. If the investment fund has been in existence for a period longer than 5 years, it shall suffice to make available the net asset value of an investment unit for the past 5 years.

Upon request of an investor, the investment fund manager shall provide information relating to the quantitative limits that apply in the risk management of the UCITS, to the methods chosen to this end and to the recent evolution of the main risks and yields of the instrument categories.

All marketing communications shall be fair, clear and not misleading, and they shall make no statement that contradicts or diminishes the significance of the information contained in the prospectus and the key investor information. Marketing communications shall indicate that a prospectus exists and that the key investor information relating to the marketing and distribution of investment units is available. They shall specify where the prospectus and such marketing communications may be obtained by investors, and in which language they may obtain them in the case of collective investment trusts established in other EEA Member States.

The MNB may ban the publication of marketing communications if they contain any information that is in contrast with the draft version of the prospectus submitted and approved for publication, or any information that is misleading, or that falls within the scope of unfair business-to-consumer commercial practices according to the Fttv. (Sections 136–137 of the Kbtv.)

Where a UCITS authorised in another EEA Member State markets or distributes its collective investment instruments in Hungary, such UCITS must comply with the provisions of the Member State where registered, on the understanding that it shall provide to investors within the territory of Hungary all information and documents which it is required to provide to investors in the UCITS home Member State. Key investor information shall be made available in Hungarian. Other information and documents

shall be provided, at the choice of the UCITS, in Hungarian or translated into the language approved by the MNB, or into a language customary in the sphere of international finance. Key investor information shall be provided at the investors' request at the time of conclusion of the contract free of charge and in writing. (Section 119 (1) of the Kbtv.)

Contract terms which have not been individually negotiated shall become part of a contract only if they have previously been made available to the other party for perusal before the conclusion of the contract, and if the other party has accepted those terms. (Section 6:78 (1) of the Civil Code)

The other party shall be explicitly informed of any general contract term that differs substantially from legislation or the usual contract conditions, unless it is consistent with the prevailing practice among the parties. The other party shall be explicitly informed of any general contract term that differs from the term prevailing earlier among the parties. The terms defined above shall form part of the contract only if the other party has expressly accepted them after being informed about them. (Section 6:78 (2)–(3) of the Civil Code)

1.3. ADVERTISING RULES

Any corporation that is engaged in activities governed by the Tpt. must include its license number and an indication of its exchange membership in all business documents and commercial communications published in a written form (printed or electronic format). (Section 364 of the Tpt.)

It is prohibited to use any information relating to investor protection or to the Investor Protection Fund for the purpose of soliciting more investments holdings, in particular for advertisements. (Section 214 (4) of the Tpt.)

If the interest, concrete yield or any charge relating to the transaction appears in the offer submitted for the securities transaction or in the commercial communication, the rate of EHM shall also be indicated directly after it, showing the abbreviation, in a percentage format, with an exactness of two decimal points, at least in the same size and in equal display, or shall be explained in a clearly understandable form.

(Section 9 (2) of Government Decree 82/2010. (III.25.))

1.4. CONFIDENTIALITY AND DATA PROTECTION

'*Securities secrets*' shall mean all data and information that is at the disposal of an investment firm, an operator of multilateral trading facilities or a commodity dealer concerning specific clients relating to their personal information, financial standing, business operations and investments, ownership and business relations, and their contracts and agreements with any investment firm or commodity dealer, and to the balance and money movements on their accounts.

(Section 4, Point 27 of the Bszt.)

All data and information that is at the disposal of an investment fund management company, a venture capital fund management company, the stock exchange, the central securities depository or central counterparty concerning specific clients relating to their personal information, financial standing, business operations and investments, ownership and business relations, and their contracts and agreements with any investment fund management company, venture capital fund management company, the stock exchange, the central securities depository or central counterparty and to the balance and money movements on their accounts shall be construed as securities secrets.

For the purposes of legal provisions pertaining to securities secrets, any person who receives services from an investment fund management company, venture capital fund management company, the stock

exchange, the central securities depository or central counterparty shall be considered a client. (Section 369 of the Tpt.)

Investment firms and commodity dealers, and the executive officers and employees of investment firms and commodity dealers, and any other person affected shall keep confidential any securities secrets made known to them in any way without any limitation in time.

Investment firms and commodity dealers may disclose securities secrets to third parties, upon notifying the client affected, only if:

- a) so requested by the client to whom it pertains or his lawful representative in an authentic instrument or in a private document representing conclusive evidence expressly indicating the particular data, which are considered securities secrets, to be disclosed; it is not necessary to make the request in an authentic instrument or in a private document representing conclusive evidence, if the client provides a statement to that effect as an integral part of the contract with the investment firm or commodity dealer,
- b) the regulations contained in Section 118 (3)-(4) and (7) of the Bszt. provide an exemption from the requirement of confidentiality concerning securities secrets, or
- c) deemed necessary in light of the interests of the investment service provider or commodity dealer for selling its receivables due from the client or for the enforcement of its outstanding receivables.

(Section 118 (1)–(2) of the Bszt.)

Any person holding any business or securities secrets shall be subject to the requirement of confidentiality indefinitely, unless otherwise prescribed by law. All facts, information, solutions or data classified as business or securities secrets may not be disclosed to any third person, other than those authorised under the Tpt., without the consent of the client to whom it pertains, and may not be used for any purposes other than those authorised under the Tpt.

Any person who is in possession of business secrets or securities secrets may not use them to acquire any advantage, either for himself or for any third party, whether directly or indirectly, or to cause any injury to an investment fund management company, a venture capital fund management company, the stock exchange, the central securities depository or central counterparty, or to their clients. (Section 371 (1)-(3) of the Tpt.)

1.5. SAFEGUARDING THE CLAIMS OF CLIENTS

Investment firms must use the financial instruments and funds held for or belonging to their clients for the purposes as instructed by the clients. Investment firms may not use the financial instruments and funds they manage and those held for or belonging to clients as their own in any way or form, and shall provide adequate facilities to ensure that their clients have access to their financial instruments and funds at any given time.

(Section 57 (1)–(2) of the Bszt.)

With the exception set out in Section 58 (2) of the Bszt., investment firms may not use financial instruments held for or belonging to a client.

An investment firm may be allowed to use the financial instruments of a client if having in possession the client's prior written consent for use of the financial instruments, covering also the specific purpose of use.

An investment firm may be allowed to enter into arrangements for securities financing transactions in respect of financial instruments which are held on behalf of a client in an omnibus account maintained by a third party, or otherwise use financial instruments held in such an account for their own account or

for the account of another client, if, in addition to the conditions set out in Section 58 (2) of the Bszt.:

- a) each client whose financial instruments are held together in an omnibus account has given prior express consent in accordance with Section 58 (2) of the Bszt., or
- b) the investment firm ensures that only financial instruments belonging to clients who have given prior express consent in accordance with Section 58 (2) of the Bszt. are so used.

The records of the investment firm shall include:

- a) details of clients on whose instructions the use of the financial instruments has been effected, and
- b) the number of financial instruments used belonging to each client who has given his consent, so as to enable the accurate assessment and correct allocation of any loss.

(Section 58 (1)-(4) of the Bszt.)

Investment firms are required, on receiving any client funds under an agreement within the framework of investment service activities or ancillary services or upon the execution of a client order, promptly to place those funds – held for or belonging to the client – into one or more accounts opened with any of the following:

- a) a central bank,
- b) a credit institution, or
- c) a credit institution authorised in a third country to engage in the activities of credit institutions, or
- d) a qualifying money market fund.

(Section 60 (1) of the Bszt.)

The earnings of the account holder shall be recorded on the client account, and payments charged to the account holder shall be made from the client account. Client accounts shall contain separate columns for receivables and liabilities arising in connection with spot transactions, options and forward transactions.

(Sections 147 (1) of the Tpt.)

1.6. RULES PERTAINING TO SPECIFIC CONTRACTS

Securities lending agreements can be concluded exclusively for specific terms.

Securities lending and/or borrowing may be transacted only in possession of a securities lending and/or borrowing framework contract with the owners of such securities, or a securities lending contract.

Securities lending and/or borrowing framework contracts and securities lending contracts cannot be incorporated into any other contract made between the owner of securities and the borrower of the securities.

Securities lending and/or borrowing framework contracts and securities lending contracts must contain:

- a) the description, ISIN code and the series of the securities lent or proposed to be lent;
- b) the quantity of the securities lent or proposed to be lent;
- c) with respect to framework contracts, the period to which the securities lending contract pertains;
- d) the duration of securities lending;
- e) the amount of lending charges;
- f) a clause stipulating that the lender shall not be entitled to exercise the rights in and relating to the securities in question under the life of the contract; and
- g) in connection with shares, an agreement of the parties for the exercise of voting rights.

When securities are lent under a framework contract, the investment firm or credit institution participating in the transaction shall notify the owner of the securities that his securities have been

transferred under lending arrangements, indicating the quantity and the duration. (Section 170 of the Tpt.)

Although the rules and principles pertaining to calculating, presenting and publishing the performance or yield achieved on the portfolio managed by the provider of portfolio management services (Chapter 3 of the Bszt.) should also form part of the rules relating to providing information for investors, they are special, because their activity is related to a set of invested assets rather than to individual investment vehicles.

1.7. EMPLOYMENT OF INTERMEDIARIES

Investment firms and commodity dealers may carry out investment service activities or provide commodity exchange services through intermediaries. The following may function as intermediaries: *tied agents* or *investment firms*.

Investment firms and commodity dealers shall bear full responsibility for the activities of their intermediaries, and for compliance with the provisions of the Bszt.

An investment firm may enter into an agreement concerning intermediary activities

- a) with a tied agent who has a registered office, permanent or temporary residence in the territory of Hungary, and who is listed in the MNB's register described in Section 159 (2) of the Bszt., or
- b) with a tied agent who has a registered office, permanent or temporary residence in another EEA Member State, who is authorised by the competent supervisory authority of the country where established for the activities in question, or who is registered by the MNB under Section 159 (3) of the Bszt.

Commodity dealers may conclude an agreement concerning intermediary activities only with a tied agent covered by Paragraph a).

Upon entering into an agreement with an investment firm for the mediation of investment service activities, ancillary services or commodity exchange services, investment firms and commodity dealers shall notify the MNB thereof within 5 working days following the conclusion of the agreement, accompanied by a copy of the contract for such services.

Subject to the exception set out in Section 114 (2) of the Bszt., activities for the intermediation of investment service activities, ancillary services or commodity exchange services may be carried out by a tied agent, acting as such, who is listed in the MNB's register described in Section 159 (2) of the Bszt., and who is able to meet the conditions set out in Sections 111–116 of the Bszt.

Intermediaries established in other EEA Member States may engage in operations in the territory of Hungary in the form of cross-border services, or may set up a branch if authorised by the competent supervisory authority of the country where established for the activities in question, or if registered by the MNB under Section 159 (3) of the Bszt.

The MNB shall register – upon request – any tied agent who is able to meet the conditions laid down in the Bszt. and in specific other legislation adopted by authorisation of the Bszt. (Sections 111, 113 and 114 (1)-(3) of the Bszt.)