AUTHORISATION OF THE ACQUISITION AND INCREASE OF A QUALIFYING HOLDING IN CREDIT INSTITUTIONS

Pursuant to the provisions of Section 9 (1)a) aa) an b) of Act CCXXII of 2015 on the General rules of trust services and electronic transactions, Sections 17 (1) and 19 (1) of Government Decree 451/2016 (XII. 19.) on the Detailed rules of electronic services, and Section 3 (1) of MNB Decree 36/2017 (XII. 27.) on the Rules of electronic communication in official matters in progress before the Magyar Nemzeti Bank ("**Decree**"), the legal representative of the enterprise and the applicant (client) obliged, pursuant to Section 58 (2) of Act CXXXIX Of 2013 on the Magyar Nemzeti Bank ("**MNB Act**"), to apply electronic communication, shall submit its application, notification or other petition by using the prescribed form available in the information system supporting the electronic administration of the MNB ("ERA System") and introduced for the procedure related to the submission in question, in the manner and with content specified therein, simultaneously uploading the 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 applicants or their legal representatives by sending them to the delivery storage space.

For **natural persons**, electronic transactions are an optional procedural form, however, Section 58 (2) of the MNB Act provides that natural persons who are not obliged to apply electronic communication may submit their application, notification or other petition by using the prescribed electronic form introduced for the purpose of the application, notification or other petition concerned that is available in the ERA System or the ÁNYK form introduced for the purpose of the application, notification or other petition concerned available on the dedicated storage space in the Central Client Registration Database, simultaneously uploading any other documents required by the MNB. The ÁNYK forms are also available on the website of the MNB at the following link: https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes/2018-januartol-hatalyos-szabalyok/a-termeszetes-szemelyek-elektronikus-ugyintezese-anyk

Natural persons are still entitled to submit their application on paper using the form available on the MNB's website, accompanied by the annexes specified in the legislation. The forms are available – without registration and login – on the following ERA interface [Public Services/Forms/Select Forms/Authorisation, approval, registration procedures and notifications (MNB Decree No 4/2016 (III.1.)], and can be filled in, saved and validated as a pdf file. https://era.mnb.hu/ERA.WEB/PublicServices/Current?code=eraformanyomtatvany.

A mandatory annex to the application, the "Good Business Reputation Survey" is available, without registration or logging in, on the ERA interface (Public Services/Forms/Select Forms/Good Business Reputation Surveys/Acquisition of Holdings), as a pdf file to be filled in, saved and validated. The filled in and electronically signed questionnaire can be attached to the prescribed electronic form as an annex. The questionnaire is available at: https://era.mnb.hu/ERA.WEB/PublicServices/Current?code=eraformanyomtatvany

The website of the MNB includes information materials on electronic administration and the submission of annexes to be attached in licensing procedures (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 (e.g. Ascertaining Good Business Reputation) is available at: https://www.mnb.hu/letoltes/tmpc812-tmp-12233381.pdf

The licensing guide contains, in addition to the requirements under Act CCXXXVII of 2013 on credit institutions and financial enterprises ("**Banking Act**") and Commission Delegated Regulation (EU) 2022/2580 of 17 June 2022 supplementing Directive 2013/36/EU of the European Parliament and of the Council with regard to regulatory technical standards specifying the information to be provided in the application for the authorisation as a credit institution, and specifying the obstacles which may prevent the effective exercise of supervisory functions of competent authorities ("**RTS**") the provisions of the EBA-ESMA-EIOPA joint guidelines issued in the document titled "Joint Guidelines on the prudential assessment of acquisitions and increases of qualifying holdings in the

financial sector"[1] ("**Guidelines**"), **compliance with which by the institutions is expected by the MNB during its procedures** as integrated in its supervisory practice.

The information submitted in an application for authorisation as a credit institution should be true, accurate, complete and up-to-date from the moment of submission of the application until authorisation and the commencement of activities. To this end, the MNB must be informed of any changes to the information provided in the original application. *(Preamble paragraph (2) of the RTS*)

I. QUALIFYING HOLDINGS

It means a direct or indirect holding in an undertaking which represents 10 % or more of the capital or of the voting rights or which makes it possible to exercise a significant influence over the management of that undertaking.
*(Paragraph 36 of Article 4 (1) of Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012 ("**CRR**"))*

The authorisation of the MNB is required for the acquisition of a qualifying holding in a credit institution and for increasing the qualifying holding up to the limits of 20%, 33% and 50%, respectively.
(Paragraph d) of Section 14 (1), Section 126 (1)) (in the prescribed electronic form or form)

Any person intending to acquire, directly or indirectly, a qualifying holding in a credit institution or to modify such a holding so that it reaches the thresholds of 20, 33 or 50 per cent must submit a request for prior authorisation to the MNB. The authorisation requirement applies to any person in the ownership chain who will hold a direct or indirect participation of up to 10 per cent in the credit institution, up to and including the ultimate natural person(s) at the top of the ownership chain, irrespective of the length of the ownership chain and the number of intermediary companies.

The MNB also expects any person intending to acquire a qualifying holding to submit a **prior notification** to the MNB before submitting an application for authorisation.

The prior notification shall include at least the following information:

- a description of the transaction (which credit institution the notifying person is acquiring a stake in, the size of the stake, the purchase price, etc.)
- a description of the entire chain of ownership from the notifier's shareholding to the target credit institution, with an indication of the ownership percentages and a chart,
- an indication of the main business activity of the notifier and of all intermediary companies in the chain of ownership, in particular whether they are supervised enterprises in a Member State,
- -an indication of whether the notifier already holds or is in the process of obtaining the necessary supervisory authorisation for the transaction.[2]

1.1 Indirect holding

It means when equity holdings in an enterprise are held or controlled, or voting rights are exercised through the equity holdings or voting rights held by another company in that company (for the purposes of Schedule No. 3 of the Banking Act, hereinafter referred to as "intermediary company") (paragraph 66 of Section 6 (1) of the Banking Act). *(paragraph 66 of Section 6 (1) of the Banking Act)*

[1] https://esas-joint-committee.europa.eu/Publications/Guidelines/JC_QH_GLs_HU.pdf

[2] Management Circular on the assessment to be carried out in the context of the authorisation procedures for acquisitions of qualifying holdings/acquisitions of qualifying influence in financial and capital market institutions (https://www.mnb.hu/letoltes/vezetoi-korlevel-a-penzugyi-es-tokepiaci-szektor-intezmenyeiben-torteno-befolyasolo-reszesedesszerzesek-minositett-befolyasszerzesek-engedelyezesi-eljarasai-soran-vegzendo-ertekelesrol.pdf)

1.1.1 Calculation of indirect holding

a) The extent of an indirect holding should be determined by multiplying the share or voting right held in the intermediary company by the share or voting right – whichever is greater – held by the intermediary company in the target company (multiplication criterion calculation method). If the share or voting right in the intermediary company is greater than fifty per cent, it must be treated as a whole (majority ownership calculation method).
b) In the case of natural persons, the ownership interests or voting rights jointly owned or exercised by the natural person's close relatives are to be calculated cumulatively.
c) Voting rights must be taken into account in the same manner as ownership interests. *(Schedule No. 3 of the Banking Act)*

II. GENERAL RULES OF THE ACQUISITION OF QUALIFYING HOLDINGS

Any person with a qualifying holding in a financial institution must satisfy the following requirements:
a) be independent of any influences which may endanger the financial institution's sound, diligent and reliable (hereinafter referred to collectively as "prudent") operation, and have good business reputation and the capacity to provide reliable and diligent guidance and control of the financial institution, furthermore
b) transparency in business connections and ownership structure so as to allow the competent authority to exercise effective supervision over the financial institution.
(Section 125 of the Banking Act)

III. RULES ON THE DETERMINATION OF THE SIZE OF QUALIFYING HOLDINGS

3.1. Extent of qualifying holding

For the purposes of determining the size of qualifying holding, the voting rights must be calculated, irrespective of any provisions for restrictions on voting rights, on the basis of all the shares to which voting rights are attached, as provided for in the company's charter document.

For the purposes of determining the size of qualifying holdings, apart from the applicant's shares, the voting rights below must also be taken into consideration.

For the purposes of determining the size of a qualifying holding, the voting rights of:
a) any investment fund manager or undertaking for collective investment in transferable securities (hereinafter referred to as "UCITS"), if the investment fund manager or the UCITS management company is controlled by the applicant and if able to exercise the voting rights attached to the securities it manages,
b) any credit institution or investment firm, if the credit institution or investment firm is controlled by the applicant and if able to exercise the voting rights attached to the portfolio it manages under direct or indirect instructions from the applicant or another controlled company of the applicant, or in any other way, must be taken into consideration.

For the purposes of determining the size of a qualifying holding, voting rights attached to shares must be recognised as the voting right of the applicant in any of the following cases, where the voting right is exercised:
a) by the applicant and a third party under an agreement, which provides for the concerted exercise of the voting rights for the parties to the agreement;
b) by the applicant under an agreement providing for the temporary transfer of the voting rights;
c) by the applicant related to shares which are placed with them as collateral, under an agreement;
d) by the applicant under the right of beneficial interest pertaining to the share,
e) by the applicant's controlled company within the meaning of paragraphs a)-d),
f) by the applicant as a depositary, at its own discretion in the absence of specific instructions from the depositor,
g) by a third party in their own name and on behalf of the applicant, under an agreement with the applicant, or
h) by the applicant as a proxy, at their own discretion in the absence of specific instructions from the principal.

(Section 127 (1)–(4) of the Banking Act)

3.2. Exceptions in the context of the determination of the size of qualifying holding

For the purposes of determining the size of qualifying holding, voting rights held by the applicant's controlled company need not be taken into account if the applicant and its controlled company provides a written statement at the time of acquiring the share to the effect that:

a) those rights are not exercised, or exercised by a third party independently from the applicant and its controlled company, and that the shares will be disposed of within one year of acquisition;
b) those rights are exercised by a third party independently from the applicant and its controlled company according to specific instructions received from that third party on paper or by way of electronic means; or
c) it is not involved in the decisions relating to the appointment and removal of members for the financial institution's decision-making, management or supervisory bodies.
(Section 127 (5) of the Banking Act).

As a further exception, in determining the size of qualifying holding, voting rights held by any credit institution or investment firm that is controlled by the applicant need not to be taken into account if the credit institution or investment firm is authorized to provide portfolio management services and it is permitted to exercise the voting rights attached to the portfolio it manages:

a) under instructions submitted on paper or by way of electronic means,
b) independently from the applicant.
(Section 127 (6) of the Banking Act)

3.3. Determination of the size of qualifying holding in the case of cooperative credit institutions operating as cooperatives

In calculating the 10 (ten) per cent threshold defined in the definition of qualifying holding, the amount of the share portfolio held by the members should not be compared to the subscribed capital but, rather, to the share capital and the percentage of the equity holding must be determined accordingly. In calculating the percentage of the equity holding, the subscribed capital (or the asset elements registered therein that may not be allocated) should not be taken into account as a basis for projection. (Pursuant to paragraph 49 of Section 6 (1) of the Banking Act, subscribed capital means the capital defined in Section 35 (3) of Act C of 2000 on Accounting (the "Accounting Act"), that is the capital as specified in the charter document and recorded by the court of registration.)

If the holding so calculated exceeds ten (10) per cent of the share capital, the entity acquiring the holding must submit an application for authorisation.

In the subscribed capital of the cooperative credit institutions operating in cooperative form, the total direct and indirect equity holding (shareholding) of one shareholder, other than the State of Hungary, the Integration Body, the Central Bank or the National Deposit Insurance Fund, may not exceed fifteen per cent. *(Section 17/F (2) of Act CXXXV of 2013 on the integration of cooperative credit institutions and the amendment of certain acts on economic matters)*

In case the qualifying holding compared to the subscribed capital of the cooperative credit institution operating in cooperative form exceeds 15 per cent, the entity acquiring the holding must dispose of the part exceeding 15 per cent without delay.

IV. LICENSING PROCEDURE

Prior to the entering into an agreement, the MNB's permission must be requested:

a) for the acquisition of a qualifying holding in a financial institution, or
b) for the modification of a qualifying holding by which to reach the 20, 33 or 50 per cent limit.
(Section 126 (1) of the Banking Act)

Members of a financial institution may enter into a contract regarding members' shares or voting rights or to secure advantages in excess of such rights only upon the MNB's permission.
(Section 126 (3) of the Banking Act)

The MNB's authorisation is not required if the person acquiring the qualifying holding or exceeding the threshold belongs to a group with the financial institution and the acquisition of the qualifying holding or the increase of the threshold takes place as a result of a merger, division or transformation within the group. *(Section 126 (4) of the Banking Act)*

4.1. Administrative time-limit

The time limit for processing the application is 60 working days, starting from the date of issue of the certificate of completeness. The MNB confirms receipt of the application and inform the applicant about the administrative time limit in writing within two working days of receipt ("certificate of receipt"). *(Section 129 (1) of the Banking Act)*

The MNB shall examine the intention to acquire qualifying holdings within sixty working days of the issue of the certificate of receipt (certificate of completeness) following the submission of all the documents to be attached to the application, i.e. the complete application, to determine whether, once it has been effected, the requirements of this Act can be met. *(Section 129 (2) of the Banking Act)*

If the information supplied is found incomplete or deficient, the MNB may request within fifty working days from the date of the certificate of receipt, in writing, additional information or to have the deficiencies remedied, indicating the information specifically required for completion of the evaluation process. The time limit for remedying deficiencies is twenty working days. The time limit for remedying deficiencies is thirty working days if:

a) the applicant is established in a third country, or
b) the applicant is not subject to supervision according to the national laws of Member States on the transposition of Council Directives 85/611/EEC and 92/49/EEC, and Directives 2002/83/EC, 2005/68/EC and 2006/48/EC of the European Parliament and the Council. *(Section 129 (3)–(5) of the Banking Act)*

If the MNB did not refuse to grant its consent within the administrative time limit specified in the Banking Act for the acquisition of qualifying holding or for increasing the size of qualifying holding, its consent should be considered as granted. *(Section 132 (1) of the Banking Act)*

If the MNB did not refuse to grant its consent for the acquisition of qualifying holding or for increasing the size of qualifying holding, it may specify the time limit within which to complete the transaction, not exceeding six months. *(Section 132 (2) of the Banking Act)*

4.2. Administrative service fee

On grounds of Sections 1 (2) and (5) of MNB Decree 32/2023. (VII. 19.) 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 ("**MNB Decree**"), the fee payable for the licensing of the acquisition of qualifying holding is 800,000 Forints in the case of banks and specialised credit institutions, respectively 350,000 Forints in the case of cooperative credit institutions (savings cooperatives).

Sections 1 (3) and (6) of the MNB Decree set forth that the administrative service fee payable of the licensing of the acquisition of qualifying holding in the event of a change beyond the person of the applicant (e.g. inheritance, succession) is 600,000 Forints in the case of banks and specialised credit institutions, respectively 250,000 Forints in the case of cooperative credit institutions.

Direct and indirect applicants both qualify as applicants. For the licensing of the acquisition of indirect qualifying holding the payable fee is the 75 per cent of the abovementioned fees. In procedures for the authorisation of acquisitions of qualifying holdings, the administrative service fee is payable per applicant.

Further information about the administrative service fee is available at the following link: www.mnb.hu/letoltes/tajekoztatas-a-magyar-nemzeti-bank-altal-egyes-engedelyezesi-es-nyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgaltatasi-dijrol.pdf

4.3. License application and its appendices

For the licensing of the acquisition of qualifying holdings and in order to verify those specified in paragraphs g) and h) of Section 18 (1), Sections 18 (2)–(4), Section 125, Section 126 (5) and Section 131 of the Banking Act, the following documents must be submitted:

The application for authorisation must contain:

a) the name of the holder of a qualifying holding in the financial institution *(in the prescribed form or form) (paragraph a) of Section 126 (5) of the Banking Act)*

b) the percentage of shares owned by the applicant in the enterprise which has a qualifying holding in a financial institution (in the prescribed form or form) *(paragraph b) of Section 126 (5) of the Banking Act)*

c) the percentage of share proposed to be acquired (in the prescribed form or form) *(paragraph c) of Section 126 (5) of the Banking Act)*

d) the market value of the holdings held respectively to be acquired by the entity intending to acquire a holding before and after the contemplated acquisition in Euros and the local currency *(pursuant to paragraph b) of Section 18 (2) of the Banking Act)*

e) the content of any intended shareholder's or member's agreements with other shareholders or members and the contribution of such parties to the financing of the proposed acquisition, the means of participation in the financial arrangement relevant to the intended acquisition and the future organisational arrangements for the intended acquisition *(paragraph b) of Section 18 (2) of the Banking Act and Annex II point 1 (f) of the RTS)*

f) a description of the proposed acquisition price and the criteria applied in the determination of that price and, if the market value and the proposed acquisition price are different, an explanation as to the reason of the difference. *(pursuant to paragraph b) of Section 18 (2) of the Banking Act)*

g) the contract proposal made for the acquisition of members' share or for an agreement to provide substantial advantages attached to voting rights, *(Paragraph d) of Section 126 (5) of the Banking Act)*

h) having regard to an executive officer of the applicant, all data and information for assessment of the grounds for exclusion specified in Section 137 (4) and a statement regarding the criminal proceedings specified in Section 137 (6). (To assess the grounds for exclusion, in addition to the statement concerning Section 137 (6) of the Banking Act, the official certificate of good character of the executive officers issued within 90 (ninety) days) regarding the whole of the data available in the criminal records, including the extended content, that is, the scope of any prohibition from occupation or public affairs, must also be submitted. With regard to Section 71 (4a) of the Bnytv.[3], the MNB also accepts the extended certificate of good conduct if it contains information that the candidate has no criminal record and is not under a ban from public office. In the case of foreign applicants, 'executive officer' means a person who is considered as an executive officer under the laws of the country of establishment.) *(paragraph e) Section 125 (5) (e) of the Banking Act)*

i) the applicant's identification data specified in Schedule No. 2 of the Banking Act *(paragraph a) of Section 18 (2) of the Banking Act and Annex II point 2 (a) of the RTS)*

j) evidence concerning the legitimacy of the financial means for acquiring qualifying holding *(paragraph b) of Section 18 (2) of the Banking Act and Annex II point 1 (i) of the RTS. Details in Clause 4.4)*

k) documents issued within 30 (thirty) days in proof of having no outstanding debts owed to the tax authority, customs authority, health insurance administration or pension insurance administration of competence under the applicant's national law, *(paragraph c) of Section 18 (2) of the Banking Act)*

[3] 1 Pursuant to Section 71 (4a) of Act XLVII of 2009 on the Criminal Records System, the Register of Rulings by the Courts of the Member States of the European Union against Hungarian Citizens and on the Register of Biometric Data in Criminal and Law Enforcement Matters ("Bnytv."), if the applicant is disqualified from occupation or activity, in the case of an application for proof of the fact specified in paragraph (3)(b) (i.e. that the applicant has no criminal record), the fact specified in paragraph (3)(e) (the occupation or activity from which the applicant is disqualified) must be indicated on the official certificate of good conduct, even in the absence of such an application.

l) a statement declaring that other holdings and business activities of the applicant are not harmful to the prudent management of the financial institution (paragraph c) of Section 18 (2) of the Banking Act) (statement to be made in the prescribed form or form)

m) in the case of a natural person, official certificate of good character of the executive officers issued within 90 (ninety) days regarding the whole of the data available in the criminal records, including the extended content, that is, the scope of any prohibition from occupation or public affairs, or an equivalent document under the applicant's national law, (paragraph e) of Section 18 (2) of the Banking Act) (see also paragraph 4.3 h))

n) in the case of a natural person, a statement that he is not subject to the grounds for exclusion under Sections 137 (4) and (6) of the Banking Act (paragraph e) of Section 131 (2) and Section 131 (3) of the Banking Act).

o) if other than a natural person, the applicant's charter document in force at the time of the submission of the application, documentary proof issued within 30 (thirty) days that it has been established (registered) in compliance with its personal law, that it is not undergoing bankruptcy, liquidation or winding up, further, that its executive officers are not subject to any disqualifying factors (as regards the absence of a bankruptcy, liquidation or winding up procedure, it is sufficient to make a statement) *(paragraph f) of Section 18 (2) of the Banking Act) (statement to be made in the prescribed form or form)*

p) if other than a natural person applicant, a detailed description of the applicant's ownership structure supported by documentary evidence and, if possible, information about beneficial owners, furthermore, if the applicant is subject to supervision on a consolidated basis, a detailed description of these circumstances, furthermore the consolidated annual accounts for the previous year of the credit institution or investment firm subject to supervision on a consolidated basis, if they are required to prepare a consolidated annual account, (paragraph g) of Section 18 (2) of the Banking Act)

q) a statement declaring any and all contingent liabilities and commitments, by definition of the Accounting Act,[4] (paragraph h) of Section 18 (2) of the Banking Act) (statement to be made in the prescribed form or form)

r) a statement of the applicant executed in a private document representing conclusive evidence, giving consent to having the authenticity of the documents attached to the application for authorisation verified by the MNB by way of addressed bodies, (paragraph i) of Section 18 (2) of the Banking Act) (statement to be made in the prescribed form or form)

s) in the case of a credit institution subject (or to be subject) to supplementary supervision on a consolidated basis or as defined in the Act on the Supplementary Supervision of Financial Conglomerates, a description of the information transfer arrangements related to consolidated or supplementary supervision and a declaration by persons closely associated with the credit institution that they will provide the MNB with the data, facts and information necessary for the consolidated and supplementary supervision of the credit institution *(paragraph g) of Section 18 (1) of the Banking Act) (in the prescribed form or form).*

In this context, the legal person intending to acquire a holding must provide to the MNB an analysis of the scope of the consolidated supervision of the group to which it would belong after the proposed acquisition. This analysis should include

- where the legal person is part of a group, information on the relationships between any credit institution, insurance or re-insurance undertaking or investment firm within the group and any other group entities, and the names of the supervisory authorities *(Annex II, point 3 (m) of the RTS)*.
- information about which group entities would be included in the scope of consolidated supervision requirements (Annex II, point 3 (n) of the RTS); and
- at which levels within the group would those requirements apply on a full or sub-consolidated basis *(Annex II, point 3 (n) of the RTS*),
- the effect of the proposed acquisition on the ability of the credit institution to continue to provide timely and accurate information to its supervisory authority, including the effect of the close links of the person intending to acquire a holding with the credit institution *(Annex II, point 1 (g) of the RTS*).

t) in the case of credit institutions that are subject to supervision on a consolidated basis or supplementary supervision under the Act on the Supplementary Supervision of Financial Conglomerates, a statement from each natural person with close links to the credit institution containing his consent to have the personal data he has disclosed to the credit institution processed and disclosed for the purposes of supervision on a

[4] Act C of 2000 on Accounting

consolidated basis or supplementary supervision *(paragraph h) of Section 18 (1) of the Banking Act)* (in the prescribed form or form)

u) in relation to the acquisition of a holding by the applicant, to demonstrate that the applicant is able to ensure the reliable and diligent guidance and control of the financial institution, a **strategy** for a reasonable period of time with respect to the qualifying holding intended to be acquired. *(paragraph a) of Section 125 (a) of the Banking Act)*

The strategy should include

1. for proposed acquisitions of less than 50 per cent:
   - the applicant's stated intention, inter alia, whether the investment is intended to be short-term or long-term, and any plans to increase, decrease or maintain its holding in the foreseeable future *(Annex II, point 1 (c) of the RTS)*,
   - information on the financial or business reasons for which the person intending to acquire a holding would hold the shares, whether it is a strategic (professional) or financial investor, including whether it is a private equity fund or a hedge fund *(Annex II, point 1 (c) of the RTS)*, and
   - details as to whether these persons or entities intend to act as active minority shareholders, including the reasons for such intention *(Annex II, point 1 (d) of the RTS*)
   - The strategy must detail the level of influence the credit institution intends to exercise, taking into account the size of the stake it intends to acquire, based on its current financial situation, including the dividend policy to be followed, strategic development and resource allocation *(Annex II, point 1 (d) of the RTS*),
   - information on the applicant's willingness to provide the credit institution with additional own funds if necessary to develop its activities or in the event of financial difficulties *(Annex II, point 1 (e) of the RTS)*.
   -
2. for proposed acquisitions of up to 50% of the shares, the information set out in point 1, and: a strategic development plan, which shall include the following elements:
   - the general purpose of the proposed acquisition;
   - medium-term financial targets, which may be given in the form of return on equity, profit/cost ratio, earnings per share or other forms, as appropriate;
   - the possible re-direction of activities, products, target customers and the possible reallocation of funds or resources likely to affect the credit institution;
   - the credit institution's general processes for the involvement and integration of the person intending to acquire a holding into the group structure, including a description of the main interactions with other entities in the group and a description of the policies governing the relationships within the group. (For institutions authorised and supervised in the European Union, it is sufficient to provide information on the divisions within the group structure affected by the transaction).

v) in the case of controlling influence, it should also be presented that the applicant is able to provide reliable and diligent member's guidance and control of the financial institution, a **mid-term business plan**[5] on the future operations of the credit institution, which contains a strategic development plan (see point (u)), the credit institution's estimated financial statements and the impact of the acquisition on the credit institution's governance and overall organisational structure (paragraph a) of Section 125 of the Banking Act)

w) the applicant's statement about the persons effectively guiding the business activities of the credit institution in the future (bearing in mind that the election and the appointment of the executive officers are subject to prior authorisation, it is not necessary to provide other information, as they will be assessed in the authorisation procedure of such persons). If the applicant does not intend to change the circle of persons who effectively guiding the credit institution, they must so declare. *(paragraph a) of Section 125 of the Banking Act and Annex II, point 1 (h) of the RTS)*

[5] See point 4.6

x) The application must be accompanied also be a statement the applicant that he has disclosed to the MNB all important facts, data and information required for the issue of the authorisation. (Section 59 (2) of the MNB Act) (In the prescribed form or form)
y) To prove their good business reputation, the applicant must submit the following documents and disclose the following information *(Section 139 and Section 131 (1) (c) of the Banking Act, Annex II, point 2 (b) and (c) and point 3 (g), (h) and (j) of the RTS)*:

i. to prove the good business reputation of the applicant or, in the case of a non-natural person applicant, that of the applicant and its executive officers, the fully completed questionnaire posted on the website of the MNB in accordance with the provisions contained in the information issued on this subject,
ii. to prove the good business reputation of the applicant or, in the case of a non-natural person applicant, that of its executive officers, a detailed curriculum vitae (or equivalent document), indicating the relevant level of education and training, previous work experience and all professional activities or other relevant functions currently carried out.

Using the information included in the questionnaire as a basis, the MNB may require submission of other types of documents or the proof of facts in a wider range if it considers that the information provided in the questionnaire is not sufficient to prove the existence of good business reputation.

4.4. **Existence of financial resources and proof of their legality**

The verification of the legitimate origin of the financial resources specified in paragraph j) of Section 4.3, necessary for the acquisition of the qualifying holding, involves **proof of the legitimate origin** itself on the one hand and **confirmation of its continuous availability** on the other hand.

The applicant must attach a **statement** detailing the elements of the financial resources required for the acquisition of the qualifying holding and present a detailed explanation on the sources of the financing of the acquisition of the holding, including the following:
a) details about the use of **private financial resources**, including their availability and source, including any relevant supporting documents, in order to prove to the competent authority that the planned acquisition of holding does not attempts money laundering *(Annex II, point 1 (i) (i) of the RTS*);
b) details about the **means of payment** for the intended acquisition and the network used to transfer funds *(Annex II, point 1 (i) (ii) of the RTS*);
c) details about access to capital sources and financial markets, including **details of financial instruments to be issued** *(Annex II, point 1 (i) (iii) of the RTS*);
d) **information on the use of borrowed funds**, including the name of the lenders and details of the facilities granted, such as maturities, terms, security interests and guarantees, as well as information on the source of revenue to be used to repay such borrowings, and, if the lender is not a supervised financial institution, information on the origin of the loans *(Annex II RTS point 1 (i) (iv)*);
e) information on any **financial arrangement** with other persons who are or will be shareholders or members of the applicant credit institution *(Annex II, point 1 (i) (v) of the RTS*);
f) **information on any assets** which are **to be sold to help finance the proposed participation**, such as conditions of sale, price, appraisal and details about the characteristics of those assets, including information on when and how they were acquired." *(RTS Annex II, point 1 (i) (vi)*)

The applicant should support the legitimacy of the items included in the declaration and the detailed explanation be means of documents.

4.4.1. Legitimate origin

The financial resources may be provided from own or foreign sources.

Own source can be verified, in the case of private individuals, primarily by an income certificate issued by the National Tax and Customs Administration, which also includes the separately taxed income. Separately taxed income includes, among others, dividends, income from the renting out of property and exchange gains.

From the amount of the aggregate income shown in the income certificate, costs reasonably necessary to cover the normal way of living and the tax(es) indicated in the income certificate will be deducted. **The tax return itself is not sufficient to prove own sources.**

A business associations applicant may verify own sources by means of its balance sheet data and audited accounts if the amount of the balance sheet profit and the profit reserve on the assets side equals or is higher than the amount to be used for acquiring the holding.

If, due to the lapse of time, the audited accounts cannot be considered current when the licensing procedure is initiated, a non-audited interim balance sheet should be submitted, which should be supported by the current ledger extract.
In addition to the assets side of the annual account, the liabilities will also be examined to verify if the applicant has sufficient liquid assets for the financial sources and, on the other hand, that such liquid assets ensure the proper liquidity of the applicant also after the acquisition of holding.

Please indicate which line of the annual accounts contains the financial source necessary for the acquisition of the holding.

Sources from loan contracts may be taken into account as **foreign sources**, in respect of which the legitimate origin of the loan amount must be examined.

A loan contract from a financial institution may be accepted if its objective is in accordance with the acquisition of the qualifying holding.
Where the lender is a private individual, it is necessary to examine the legality of the source provided by them.
In the case of a business association or other non-natural person lender, it should be examined if the lender has a profit or profit reserve or liquid assets that allow for the lending and whether it has not used those for another purpose.

The loan contract or another document setting out the terms of the loan must be submitted in the licensing procedure. It must also be substantiated that the applicant is able to repay the loan. If the loan will be repaid from the profit of the supervised institution, the business plan[6] of the supervised institution may also be necessary to substantiate the repayment, regardless of the size of the holding.

Given that a capital fund is a mass of assets, if the applicant is a closed-end capital fund or a similar fund, the financial source in respect of the capital fund and, in respect of the existence of other conditions (good business reputation, clean criminal record of the executive officer, declaration on grounds for exclusion), the manager of the capital fund must be examined. In the case of acquisition of a holding by a capital fund, not only the capital fund itself but, in respect of the exercise of voting rights, the capital fund manager is also considered as the applicant, so the provisions of this guidance apply to them as well.
In the case of an operating fund, the annual accounts of the fund should be submitted. If the fund is newly established, the sums made available to the fund by the investors making payments into the fund will be examined.

4.4.2. Examination of availability

It is necessary to prove that the financial sources from legitimate sources are continuously available to the applicant from the creation of the source to the time of acquisition of the holding, meaning, that its legality is maintained.

Availability means that if a longer time passes between the acquisition and the use, that is, the acquisition of the qualifying holding, it is also necessary to verify that the source is still available in the given procedure and has

not been used for any other purpose in the meantime. The availability of the sources may primarily be verified by means of certificates issued by account keeping banks or securities account managers.

In the case of a loan, it is necessary to prove the flow of the funds from the payment to the use thereof. To prove the transfers, transfer orders or certificates of the banks involved in the money flows are also acceptable. If the foreign source comes from other than a bank loan, the loan contract must state the purpose of the loan and where it is transferred.

Depending on the type of the acquirer, a bank certificate of an escrow certificate by an attorney or notary public is necessary if the funds on the account of the acquirer or escrow agent, which will be used for the acquisition of the holding once the authorisation has been obtained, is blocked or separated for such purpose. If the source is securities, a statement must be made that the source of the cash will be the sale of the existing liquid securities (e.g. they can be sold on the market within 2 days).

4.5. Assessment of the applicant's financial and economic position

Clauses 12 and 13 of the Guidelines require the financial reliability of the applicant and the maintenance of the future prudent operation of the financial organisation as assessment criteria in the case of planned acquisitions of a holding.

Paragraph a) of Section 131 (2) of the Banking Act provides that the conduct of the applicant, or of any member or executive officer of the applicant, or their influence on the financial institution must be considered harmful to the independent, sound and prudent management of the financial institution in particular if the applicant's financial and economic position is deemed inadequate for the size of the ownership interest they propose to acquire.

The applicant's financial and economic position can be deemed adequate if not is only able to finance the planned share acquisition of the holding, that is, the financial sources necessary to acquire a holding are available, but is also able to maintain the safe financial structure of the financial organisation in the foreseeable future (usually for three years).
The following criteria must be examined in the procedure: the applicant's overall economic position; if the applicant will face financial difficulties during the acquisition or in the foreseeable future; if it will be able to provide new capital to the financial organisation, if any, that is necessary for its future operations and development; if it is able to implement any other adequate solution to provide the additional equity needs of the financial organisation.

In order to assess the financial position, a statement of commitment by the applicant must be attached to the application that the applicant will be able to ensure the prudent operation of the financial organisation.

The applicant's ability to maintain the prudent operation of the financial organisation is closely related to ideas of the applicant regarding the future operation of the financial organisation. If the applicant's economic and financial position cannot be clearly deemed stable or it can only partly prove its ability to ensure the prudent operation or, for example, it provided the financial sources from a loan, it should plan the future operation of the financial organisation in a conservative way.

The applicant must substantiate the contents of its declaration with other documents including, in particular, the following:

- **information on the current financial position** of the natural person intending to acquire a holding, including details concerning sources of revenues, assets and liabilities, security interests and guarantees, whether granted or received *(RTS Annex II, point 2 (e))*;
- a description of the **business activities** of the person intending to acquire a holding *(Annex II, point 2 (f) of the RTS*);
- financial information, including credit ratings and publicly available reports on any undertakings directed or controlled by the person intending to acquire a holding, and, where applicable, credit ratings and publicly available reports on the person intending to acquire a holding. *(Annex II, point 2 (g) of the RTS)* In the case of legal persons, approved annual accounts for the previous three years at individual or consolidated group level. Where these financial statements are audited by an external auditor, the

person intending to acquire a holding is required to provide statements approved by the external auditor. *(Annex II, point 3 (o) of the RTS*)

- the balance sheet;
- the profit and loss accounts or income statement;
- the annual reports and financial annexes and any other documents registered with the competent registry court or authority of the person intending to acquire a holding, including the planning assumptions used, at least under base case and stress scenarios.

- where available, information on the credit rating of the person intending to acquire a holding and the overall rating of its group.
- for a newly created institution, a preliminary balance sheet and profit and loss account for the first three financial years;
- where the person intending to acquire a holding is part of a group of companies, either as a subsidiary or as the parent company, a detailed organisational chart of the structure of the group and information on the share of capital and voting rights of shareholders with significant influence over the entities of the group and on the activities performed by the entities of the group *(Annex II, point 3 (l) of the RTS*);
- in the case of natural persons, presentation of tax certificates for the previous three years, other possible income (shares in a company, real estate) and current assets (including any outstanding liabilities)
- information about any other interests or activities of the person intending to acquire a holding which might be incompatible with those of the financial institution and possible ways of dealing with any such conflict of interest *(Annex II, point 2 (i) and (k) of the RTS*);
- in the case of a credit institution or investment firm, a statement whether the applicant is a member of a customer group under paragraph 39 of Article 4 (1) of the CRR. If so, the customer group and any risks arising from its operations must be presented.

4.6. Business plan

A mid-term business plan must be attached to the application for the authorisation of the acquisition of qualifying holding considered as controlling influence.

The mid-term business plan on the operation of the credit institution (for at least three years; to include a balance sheet, profit and loss account, cash flow and liquidity plan, capital plan and income, cost analysis and profit plan) should be submitted in table form. The business plan should include a text analysis and the applied planning assumptions and may include a strategy.[7]

In addition to point v) of Clause 4.3, the business plan should include the impact the acquisition will exercise on the organisation and operation, IT and audit system, corporate governance and group structure of the credit institution based on the applicant's plans.
The business plan should show the impact of the acquisition on the credit institution's corporate governance and general organisational structure, in particular in the following areas:

a) the composition and duties of the administrative, management and supervisory bodies, the main committees established by the decision-making bodies concerned, including information concerning the persons to be appointed to manage the credit institution;
b) administrative and accounting procedures and internal controls, including changes in the accounting, internal audit, compliance processes and system (including the fight against money laundering and risk management), and appointments to the particularly important positions of the internal auditor, the compliance officer and the risk manager;
c) possible changes to the overall IT architecture, including the outsourcing policy, data flow diagrams, the internal and external software used and the basic data and system security procedures and tools, including, among others, backup, continuity plans and audit trails;
d) guidelines for outsourcing, including information regarding the selection of service providers, as well as the rights and obligations of the contracting parties in accordance with the contracts, as well as information on the service quality expected from the service providers;

[7] see point u) of Clause 4.3

e) any other relevant information on the impact of the acquisition on the credit institution's overall corporate governance and organisational structure.

The capital plan, being a part of the business plan, should evaluate the current situation of the credit institution and, on that basis, how the applicant will ensure continued financial support necessary to continuously maintain the capital adequacy of the credit institution in the short and the long term. If the applicant plans to expand the business activities, they must also present in the capital plan how the applicant will provide the resources required for the planned expansion.

The applicant should prepare the business plan taking into account the information in Section 12 of Schedule 1 of the Guidelines.

Please note that the contents of Clauses 4.4–4.6 are for information purposes only, but they represent the principles and the main assessment aspects of the licensing procedure. On the basis of the information contained in the relevant licence application, the MNB may require submission of other types of documents in a circle wider than the above if it considers that the documents that have already been submitted are not sufficient to verify the legality or the availability of the financial sources or the proper economic and financial position of the applicant. However, if it appears from the application concerned that it can be judged easily, involves a lower transactional value or aims at the acquisition of a smaller holding, the MNB may refrain from requiring certain documents.

4.7. Where the person intending to acquire a qualifying holding is has its head office in a third country, the information below must also be submitted addition to the above *(Annex II point 3 (p) of the RTS*)

a) a statement by the foreign competent authorities concerned that there is no obstacle or limitation on providing the information necessary for supervising the target enterprise;
b) general information about the regulatory regime of that third country as applicable to the person intending to acquire a holding, including information on the extent to which the third country's anti-money laundering and counter-terrorist financing regime is consistent with the recommendations of the Financial Action Task Force (FATF[8]) *(Sections 125, Section 131 and Annex II, point 3 (p) (iii) of the RTS)*

4.8. If the person intending to acquire a holding is a sovereign wealth fund, it must also provide the following information in addition to the above *(Annex II, point 3 (r) of the RTS*)**:**

a) name of the ministry or state organ responsible for determining the investment policy of the fund;
b) details of the investment policy and restrictions on investments;
c) name and position of the persons responsible for making the investment decisions of the fund, and details of any qualifying holding or the identified ministry or state organ on the everyday operation of the fund and the target enterprise, as defined in Article 11 (2) *(Section 125 and Section 131 of the Banking Act)*

4.9. If the person intending to acquire a holding is a UCITS fund manager, the following information must be provided in addition to the above *(Annex II, point 3 (q) of the RTS)*

a) the identity of the unit holders controlling the UCITS fund manager or having a holding enabling those unit holders to prevent the taking of decisions by the collective investment undertaking,
b) details of the investment policy and any restrictions on investment,
c) the name and position of the persons responsible, whether individually or as a committee, for determining and making the investment decisions for the UCITS fund manager, as well as a copy of any management mandate or, where applicable, terms of reference of the committee,
d) a detailed description of the applicable anti-money laundering legal framework and of the anti-money laundering procedures of the UCITS fund manager,
e) a detailed description of the performance of former holdings of the UCITS fund manager in other credit institutions, insurance or re-insurance undertakings or investment firms, indicating whether such holdings were approved by a competent authority and, if so, the identity of the authority

[8] https://www.mnb.hu/felugyelet/szabalyozas/penzmosas-ellen/korlatozo-intezkedesek-szankciok/penzugyi-akciocsoport-fatf

4.10. If the person intending to acquire a holding is a private equity fund or a hedge fund, the information below must also be submitted addition to the above:

a) a detailed description of any qualifying holdings acquired by the applicant in credit institutions
b) b) a detailed description of the applicant's investment policy, any limitations on the investment, including details in the monitoring of the investments, factors serving as the basis of the applicant's investment decisions concerning the credit institution and factor triggering changes in the exit strategy of the person intending to acquire the holding,
c) decision-making framework of the applicant concerning investment decisions, including the names and positions of individuals responsible for making the decisions,
d) a detailed description of the applicant's procedures against money laundering and the applicable money laundering framework. *(Section 125 and Section 131 of the Banking Act)*

4.11. If the acquisition of a qualifying holding relates to a relationship governed by a trust deed, the following information must also be provided *(Annex II, point 4 of the RTS)*

a) the identity of all trustees who will manage assets under the terms of the trust document and of each person who is a beneficiary or a settlor of the trust property and, where applicable, their respective shares in the distribution of income generated by the trust property,
b) a copy of any document establishing or governing the trust,
c) a description of the main legal features of the trust and its functioning,
d) the method of financing the trust and resources ensuring the financial soundness of the trust to support the applicant, and in particular:
    i. a description of the investment policy of the trust and possible restrictions on investments, including information on the factors influencing investment decisions and the exit strategy in relation to the applicant credit institution,
    ii. information about past and existing investments by financial sector entities and operating results in relation to those investments in relation to the trust,
    iii. an indication and overview of sources of funding and, where available, the annual financial statements of the trust

4.12. If the person intending to acquire a qualifying holding is a foreign-based financial institution, insurance company or investment firm:

In addition to those outlined in Clause 4.3, the application for authorisation must be accompanied by a certificate or statement from the competent supervisory authority of the country of establishment that the enterprise is operating in compliance with the rules on the performance of the prudent activity.
(Section 18 (4) of the Banking Act)

V. CONSULTATION WITH FOREIGN SUPERVISORY AUTHORITIES

If the applicant

a) is a financial institution, investment firm, insurance company, reinsurance company or a UCITS management company authorised in another EEA Member State,
b) is the parent of either of the company mentioned in paragraph *a)*, or
c) controls either of the company mentioned in paragraph *a)*, the MNB must forward the application without delay to the competent supervisory authority of the place where the financial institution, investment firm, insurance company, reinsurance company or the UCITS management company is established.
(Section 130 (1) of the Banking Act)

The MNB is entitled to contact the competent foreign authority directly as part of its procedure to resolve a person's good business reputation, and may consult the European Banking Authority register on actions taken by EEA Member States for that purpose.[9] *(Section 139 (4) of the Banking Act)*

VI. NOTIFICATION REQUIREMENTS RELATED TO THE ACQUISITION OF A QUALIFYING HOLDING

Any person:

a. a. who has acquired a qualifying holding in a financial institution,

b. who has altered the size of his qualifying holding in a financial institution:
   ba) upon which it reaches the 20, 33 or 50 per cent limit, or
   bb) upon which it drops below the 20, 33 or 50 per cent limit; or

c. who has entered into an agreement providing substantial advantages attached to ownership rights or voting rights, or has amended such an agreement

must notify the MNB in writing within thirty days of the time of conclusion of the agreement. *(Section 134 (1) of the Banking Act)*

The financial institutions must notify the MNB in writing within 5 working days upon gaining knowledge of any acquisition, disposal or modification of ownership interest of 10, 20, 33 or 50 per cent.
(Section 134 (2) of the Banking Act)

A person having a qualifying holding in a financial institution must notify the MNB 2 (two) days prior to the execution of the contract if they:
a) intend to terminate their qualifying holding in full, or
(b) intends to alter their qualifying holding so as to reduce it below the 20, 33 or 50 per cent limit.
(Section 128 (1) of the Banking Act)

VII. REFUSAL OF AN APPLICATION FOR AUTHORISATION

The MNB shall refuse to grant the application for authorisation if the applicant's (or its member's or executive officer's):

a) activities, influence on the financial institution is considered harmful to the financial institution's independent, sound and prudent management *(paragraph a) of Section 131 (1) of the Banking Act)*
   (The conduct of the applicant, or of any member or executive officer of the applicant, or their influence on the financial institution must be considered harmful to the independent, sound and prudent management of the financial institution in particular if:
   - the applicant's financial and economic position is deemed inadequate for the size of the acquisition of the holding being the subject of the offer,
   - the legitimacy of the funds used for the acquisition of holding or that of the authenticity of the particulars of the person indicated as the owner of such funds cannot be verified
   - the applicant fails to meet the conditions set out in the emergency action plan,
   - the MNB has suspended its right to exercise voting rights within 5 (five) years preceding the notification, or
   - in respect of natural persons, there are grounds for exclusion under Section 137 (4).

b) the nature of its business activities or relations, or their direct or indirect members' shares or holdings in other companies are structured in a manner to obstruct supervisory activities
   (Section 131 (1) (b) of the Banking Act)

c) good business reputation is lacking *(paragraph c) of Section 131 (1) of the Banking Act),*

d) there are reasonable grounds to suspect that, in connection with the acquisition of its qualifying holding, money laundering or terrorist financing within the meaning of the relevant legislation is being or has been

[9] The MNB shall act on the basis of Commission Implementing Regulation (EU) 2017/461 of 16 March 2017 laying down implementing technical standards with regard to common procedures, forms and templates for the consultation process between the relevant competent authorities for proposed acquisitions of qualifying holdings in credit institutions as referred to in Article 24 of Directive 2013/36/EU of the European Parliament and of the Council.6

committed or attempted, or that the planned acquisition of qualifying holding could increase the risk thereof *(paragraph d) of Section 131 (1) of the Banking Act)*.

In order to check the facts or circumstances above, the MNB may request data or information that may be processed by virtue of the law from either of the parties concerned.
(Section 131 (4) of the Banking Act)

If there are no grounds to refuse authorisation for the acquisition of a qualifying holding, but there are criminal proceedings in progress against the applicant natural person as provided for in Section 137 (6) of the Banking Act, the MNB must grant the authorisation subject to suspension of the member's voting rights pending conclusion of the criminal proceedings. *(Section 131 (3) of the Banking Act)*

If the conditions for the authorisation of the acquisition of a qualifying holding are no longer fulfilled, the MNB must suspend the member's voting rights until the unlawful situation is terminated or the fulfilment of the conditions is verified again. *(Section 131 (5) of the Banking Act)*

In the case of a failure to apply for authorisation as prescribed, refusal of the application, failure to comply with the obligation of notification as prescribed or refusal to disclose information, the MNB may prohibit the exercising of voting rights arising from the agreement for the acquisition of a holding or for providing advantages until the relevant statutory requirements are fulfilled. *(Section 133 of the Banking Act)*

The permission of the MNB is not a substitute for the authorisation of the Gazdasági Versenyhivatal (Hungarian Competition Authority) required for the acquisition of control. *(Section 131 (7) of the Banking Act)*

If, after reviewing these guidelines, further questions arise which cannot be answered in a telephone or written consultation on a specific case, the MNB will also provide the applicant with the opportunity for personal consultation. For personal consultations, please contact the Secretariat of the Financial and Capital Markets Licensing Department (phone: +36 1-489-9731; e-mail: ptef@mnb.hu).

Last amendment: April 2024