

MNB Decree 47/2018 (XII.17.)

on diverging rules of compliance with obligations under certain MNB Decrees

Pursuant to the mandate conferred by Article 171(1)(i) and (k) and Article 171(2)(a) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank,

Article 290(3) and (7) of Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises,

Article 180(3), (7) and (8) of Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities,

Article 439(a) and (h) of Act LXXXVIII of 2014 on the Business of Insurance,

Article 77(3) of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing,

Article 79 of Act XCVI of 1993 on Voluntary Mutual Insurance Funds,

Article 135 of Act LXXXII of 1997 on Private Pension and Private Pension Funds,

Article 86(a) of Act CXVII of 2007 on Occupational Pension and the Related Institutions,

Article 201(3) of Act XVI of 2014 on Collective Investment Forms and their Managers, and on the Amendment of Financial Laws,

in exercise of the powers conferred upon me by Article 4(5) to (7) and (9) of the Act of CXXXIX of 2013 on the Magyar Nemzeti Bank, I hereby decree the following:

Article 1 For the purposes of this Decree:

1. Innovative solution shall mean a technology, business model, product or service which is novel in the given sector of the financial intermediary system and is advantageous for the clients (e.g. through providing a more quickly accessible or cheaper service),
2. financial entity shall mean an entity or person subject to the Acts defined by Article 39 of Act CXXXIX of 2013 on the Magyar Nemzeti Bank (hereinafter: MNB Act),
3. third country with strategic deficiencies representing a special risk shall mean the concept as defined in Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing.

Article 2 (1) The Magyar Nemzeti Bank (hereinafter: MNB) operates a Financial Innovation Testing Environment (hereinafter: FITE), the aim of which is that financial entities provide their clients services with innovative solutions, especially with regard to the renewing of the way of use of the services of financial entities and the enhancement of its efficiency.

(2) Participation in FITE is subject to an authorisation of the deviation from certain provisions of the MNB Decree as determined in Article 4(2) and (3) by the MNB upon the request of the financial entity, according to procedural rules governing the authorisation procedure under Article 48(1)(a) of the MNB Act, from the date determined in its resolution under Article 4(1) up to a period of 12 months and with regard to a maximum of 10,000 clients.

Article 3 (1) MNB shall authorise the deviation if

Unofficial translation

a) participation in FITE would not endanger the completion of tasks as determined in Article 4 of the MNB Act, nor the basic objectives as determined in Acts defined by Article 39 of the MNB Act, and if it would not breach the provisions of laws or EU legal acts,

b) the financial entity wishes to provide an innovative solution which matches the objective of FITE,

c) the financial entity undertakes a commitment towards the MNB according to which

ca) it shall make available for the clients or apply the innovative solution in the domestic market after participating in FITE if this is in line with the legislative provisions,

cb) for the duration of participating in FITE, it shall immediately notify the MNB in writing in case of a technical departure from the request that was the basis of the resolution concerning the innovative solution, which is either substantial or does not qualify as substantial, may become necessary,

cc) it applies procedures and measures with regard to the innovative solution which manage the legal fate of the client contract according to the relevant laws even in the case of the expiry or withdrawal of the authorisation,

cd) it shall inform the client in a comprehensible way and in writing about the innovative solution, the deviation of the innovative solution from the legislative provisions, the related specificities, especially regarding the possible risks affecting the client, the procedures and measures aiming at the management of the risks, the extent and way of client compensation under paragraph (2)(d) by the financial entity, should such risks eventually materialise, the related procedures, and the consequences of the termination of the service and an eventual amendment of the client contract in this regard following the expiry or withdrawal of the authorisation, and the management of these risks, informing the MNB about the provision of such information in writing, supported by documents, upon the request of the latter,

ce) it shall require its client to declare in writing with regard to the innovative solution that the client is aware of and has understood the risks of the service provision contract, and that the client accepts the conditions of the client contract on its basis, and it shall inform the MNB about the delivery of such a declaration by the client in writing, supported by documents, upon the request of the MNB, and

cf) it shall provide data to the MNB in accordance with the resolution,

d) the financial entity shall undertake responsibility for compliance with points ca) and cb) with regard to the implementation of the innovative solution also for the activity of a company in a contractual relationship with it,

e) upon submitting the request, the innovative solution is of a readiness level appropriate for practical application and substantial assessment by the MNB, and

f) the financial entity supports compliance with the contents of points a) to e) with documents according to the information published by the MNB on its website.

(2) The request of the financial entity shall contain the following as a minimum:

a) a detailed description of the innovative solution, including detailed functional and security specifications of the technology of the innovative solution,

b) certain provisions determined in Articles 4(2) and 4(3) with regard to which the financial entity requests the authorisation of the deviation,

c) reasons supporting the granting of the authorisation, with a special regard to the way the innovative solution would serve the objective of FITE,

d) a full risk analysis of the innovative solution and the way the financial entity would manage the risks identified in it, and the extent and method of client compensation by the financial entity, should the risks would eventually emerge, together with the related procedure,

e) the maximum planned number of clients and transactions related to the innovative solution and the criteria based on which the financial entity would determine the clients and transactions with regard to which it will apply the innovative solution,

f) the sample document informing the clients according to point (1)(cd) and

g) documents stipulated in point 3(1)f).

Article 4 (1) If the MNB declares that the financial entity complies with the conditions as provided for in Article 3(1), it shall authorise the financial entity in its resolution to comply with its obligations under an MNB decree while deviating from certain provisions as determined in paragraph (2) in accordance with the contents of the resolution, from the date determined by it, with regard to the maximum number of clients concerned as indicated in the resolution, up to the period as indicated in the resolution. The 12-month period according to Article 2(2) may be extended by a maximum of 6 months once, upon the justified request of the financial entity.

(2) By its resolution, the MNB may authorise the financial entity to comply with the following with a deviation:

a) the provisions of the MNB Decree on detailed rules of the implementation of the Act on the prevention of money laundering and the financing of terrorism and the minimum requirements of the elaboration and operation of the filtering system according to the Act on the implementation of financial and property limiting measures related to service providers supervised by the MNB and ordered by the European Union and the UN Security Council (hereinafter: AML Decree) related to conducting customer due diligence using an audited electronic means of communication if it is guaranteed by the financial entity that

aa) the clients and real owners subject to customer due diligence do not have residence or registered address in a third country with strategic deficiencies representing a special risk,

ab) the clients, including their authorized representatives, agents or proxies subject to customer due diligence cannot carry out – except a maximum HUF 300,000 monthly cash withdrawal – cash transactions or transfers towards non-EU member countries, until the client, the authorized representative, agent or proxy appears by way of physical presence for customer identification and verification in accordance with the provisions of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing, or the real-time customer due diligence in accordance with the provisions of the AML Decree occurs;

ac) the clients, including their authorized representatives, agents or proxies subject to customer due diligence cannot carry out transfers exceeding HUF 10,000,000, until the client, the authorized representative, agent or proxy appears by way of physical presence for customer identification and verification in accordance with the provisions of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing, or the real-time customer due diligence in accordance with the provisions of the AML Decree occurs;

b) the provisions of Articles 1, 2 and 5 of the MNB Decree on the regulation of the debt-service-to-income ratio and the loan-to-value ratio with regard to clients whose residence is not in a third country with strategic deficiencies representing a special risk,

c) the provisions of Articles 3, 4(1) and (8), 6(3) and 14(12) of the MNB Decree on payment services activities,

d) the provisions of Articles 1(1) to (4), 2 to 4, and 6 to 8 of the MNB Decree on the calculation and publication of the annual cost rate,

e) the provisions of Articles 4 and 6 of the MNB Decree on requirements on professional skills and competences related to natural persons who provide investment advice or information about financial instruments, investment service activities or ancillary services to clients,

f) the provisions of the MNB Decree on rules on the complaint management by financial entities, excluding requirements on the content and the deadline of response to the complaint,

g) the provisions of Articles 5 and 15 of the MNB Decree on the prudential requirements of client and partner rating and collateral management.

(3) Along with the deviation authorised under paragraph (2), the MNB may authorise in its resolution the financial entity to comply with the following with a deviation:

a) the provisions of the MNB Decree on the reporting obligations to the central bank's information system primarily to enable Magyar Nemzeti Bank to perform its core functions,

b) the provisions of the MNB Decree on the reporting obligations of money and credit market institutions to the central bank's information system primarily to enable Magyar Nemzeti Bank to perform its supervisory functions,

c) the provisions of the MNB Decree on the reporting obligations of insurance market organisations to the central bank's information system primarily to enable Magyar Nemzeti Bank to perform its supervisory functions,

d) the provisions of the MNB Decree on the reporting obligations of capital market organisations to the central bank's information system primarily to enable Magyar Nemzeti Bank to perform its supervisory functions, and

e) the provisions of the MNB Decree on the reporting obligations of funds and occupational pension providers to the central bank's information system primarily to enable Magyar Nemzeti Bank to perform its supervisory functions.

(4) The MNB may require the financial entity to comply with further obligations and conditions in its resolution.

Article 5 The MNB may check compliance with the obligations required in the resolution in the framework of continuous supervision, during which it may directly apply the measures as determined in Article 75(1) of the MNB Act based on the acquired facts.

Article 6 The MNB shall revoke the authorisation if the financial entity

a) breached the contents of the resolution several times or in a serious manner,

b) fails to apply the innovative solution,

c) fails to comply with the conditions of Article 3.

Article 7 This Decree shall enter into force on the first day following the date of its promulgation.