



MINISTRY
FOR NATIONAL ECONOMY

Financial Services Department

NGM/37158/2017

27 November 2017

Mr. Tilman Lueder
Head of Unit
C3 Securities Markets
DG for Financial Stability, Financial Services
and Capital Markets Union
European Commission

Rue de Spa 2 1000 Brussels
Belgium

Dear Mr. Lueder,

I am writing in accordance with paragraph 12 of Article 24 of Directive 2014/65/EU to notify you about the additional requirement imposed on investment firms.

Please find enclosed a detailed notification of this requirement.

Yours sincerely,



dr. Alíz Zsolnai
Head of Department

Enclosure

Notification and justification of additional requirements under Article 24(12) of Directive 2014/65/EU (MiFID II)

Description of the additional requirement

This notification relates to an additional requirement the investment firms have to meet. Investment firms are required to send a monthly statement to each client on their financial instruments or funds, in writing or in a durable medium. The statement shall include – beyond the information of the financial instruments or funds held by the investment firm and belonging to the client on the last day of the month – a password enabling the client to access certain information on the website of the Hungarian Central Bank (MNB).

This password is individually generated by the methodology provided for in Decree of the MNB 36/2015. (IX. 24.). In accordance with this methodology service providers managing securities accounts shall issue to the account holder a permanent user ID and a new password every month for logging on to the client account and to the securities held on the account holder's securities account.

The other leg of the data reporting is that service providers managing securities accounts are obliged to send the balance of the client accounts – together with the list of the securities held on the account – to the MNB every month. These reports do not contain the name of the clients, i.e. the institutions report anonymous data.

Reasoning and aim of the requirement

The service providers provide their customers with their private login ID and their monthly changing password. With this the securities account-holders can enquire electronically on the data related to them using the online balance enquiry application operated by the MNB. Thus the securities account-holders performing the enquiry have the opportunity to compare the statement sent to them by their service provider with the data reported to the MNB. Any discrepancy may be reported to MNB, even anonymously, through the online interface. These reports can provide the MNB with important information in respect of the supervision of the financial service providers.

By checking the on-line balance on regular basis clients can make sure that their service provider manages their securities account correctly, i.e. it transfers the same information to the MNB and to them.

About the online securities account balance enquiry you can find more information on the following link: https://eszlaweb.mnb.hu/GYIK_EN.pdf

Background

In 2015 there were more scandals around investment firms in Hungary. The most significant case was the so-called Quaestor scandal, where 150 billion HUF worth fictitious bonds were sold. Quaestor Financial Hrvirra Kft. (one of the Quaestor Group companies) publicly “issued” bonds in worth of 210 billion HUF, and from this amount 150 billion HUF worth bonds were fake or “fictive”. Quaestor Értékpapír Zrt. (an investment firm) sold the bonds to clients. And when the Quaestor Értékpapír Zrt. could not redeem the bonds – since the money

that came from the sale of bonds were transferred to the parent company where it “disappeared” –, everything got known, the firm went bankrupt. In order to prevent the possibility of selling fictive bonds in the future and to strengthen the investors’ confidence a special scheme, the above detailed online securities account balance enquiry was set up.

Legal measures

Measures that enable the operation of this scheme were introduced by the Hungarian legislator into the Investment Act (Act CXXXVIII of 2007) and Capital Market Act (Act CXX of 2001). Taking into account the experienced misuse with the fake bonds these provisions are objectively justified and proportionate; and they intended to address specific risks to investor protection.

Relevant legal provisions (points a) and b) are attached in English in the Annex, point c) is available only in Hungarian):

- a) Section 69/A of Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities
- b) Section 142/A of Act CXX of 2001 on Capital Market
- c) Decree of the MNB 36/2015. (IX. 24.) on the methodology for creating user IDs and passwords of the securities accounts and client accounts, on data reporting and on the mandatory contents of regulations laying down data security requirements
https://net.jogtar.hu/jr/gen/hjegy_doc.cgi?docid=a1500036.mnb

Annex

a) Section 69/A – Act CXXXVIII of 2007 on Investment Firms and Commodity Dealers, and on the Regulations Governing their Activities

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 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 other legislation, enabling the client to access certain information on the MNB website.

b) Section 142/A – Act CXX of 2001 on Capital Market

(1) The securities account manager shall issue to the account holder a user ID and a new password every month, generated by the methodology prescribed by the Authority¹, for logging on to the account comprising the balances and data provided for in paragraph (3) relating to the client account and to the securities held on the account holder's securities account. The user ID and the password is intended to allow the account holder access to the appropriate link on the MNB website to check the balance on his securities account and client account on the last day of the previous month. Accessing account information using the user ID and the password shall not relieve the securities account manager of its obligation set out in specific other legislation to provide information to clients, furthermore, in the event of dispute, the securities account manager shall not be excused on the grounds that the client had occasion to identify the difference.

(2) The securities account manager shall give the user ID and password created for the securities account and the client account to the client, and shall send it to the Authority as well. The user ID and password may not be created from the account holder's personal data processed by the securities account manager, if a natural person, or if the account holder is other than a natural person, from the account holder's identification data processed by the securities account manager, and it may not be linked to such data.

(3) The securities account manager shall disclose to the Authority the balances on the last day of each month and other particulars of the securities account and client account to which the user ID belongs in an anonymized form, by the fifth working day of the following month, in the data structure prescribed by the Authority. The Authority shall obtain to provide access - on a continuous basis - to the balances and other particulars of the securities account and client account supplied from the tenth working day after the date when received until the tenth working day of the second month following the given month, as provided for in paragraph (1).

(4) The Authority shall be allowed to process the user ID and the password only for the purpose of ensuring access to information and for monitoring eligibility for ensuring access to

¹ i.e. MNB.

information, and shall provide the technical means for safeguarding the data and information aforementioned.

(5) The securities account manager shall draw up regulations laying down data security requirements for processing user IDs and passwords, and for delivering them to account holders, and shall send it to the Authority for approval at least sixty days before the date appointed for those regulations to come into force, or before the proposed date of any subsequent amendment thereof. The Authority shall approve the regulations and its entry into force if it contains appropriate procedural and technical facilities to prevent unauthorized persons to access the user ID and the password.

(6) The Authority shall check the securities account balances reported by the securities account manager as under paragraph (3) by cross-referencing the aggregated balance of the securities accounts maintained by the securities account manager with information at the Authority's disposal relating to the securities account manager's portfolio shown in the central securities depository.

(7) The Authority shall obtain to provide customer services relating to access to information provided for in paragraph (1) through the body operating the national call centre. In providing such services, the body operating the national call centre shall not be allowed to process the particulars of the securities account manager and the account holder, information about the balance and other particulars of the securities accounts and client accounts, or the account holder's user ID and password.

(8) The provisions of this Section shall not apply to the activities of the central securities depository performed under Section A of the Annex to Regulation 909/2014/EU.