

## **INFORMATIONAL NOTICE**

for the member institutions of the Resolution Fund

### **The procedure to be followed due to the difference between the European Union regulations and Hungarian national regulations on the payment of fees**

Commission Delegated Regulation (EU) 2015/63 (hereinafter: '**Regulation**') supplements Directive 2014/59/EU of the European Parliament and of the Council with regard to ex ante contributions to resolution financing arrangements and is directly applicable in Hungary.

Article 12(2) of the Regulation provides that "a change in the status of the institution during the contribution period, including small institutions, shall not affect the annual contribution to be paid in that year".

An interpretation of the above rule of the Regulation can be found in reply of 1925 (Q&A) of the European Banking Authority (hereinafter: '**EBA**'), according to which: "Institutions that cease to exist / be supervised in a particular year in which the annual contributions are raised before the contribution is determined and notified towards the institution as stipulated by Article 13 do not contribute."

The currently effective Article 139 of Act XXXVII of 2014 on the Further Development of the Institutional System Strengthening the Security of Certain Participants of the Financial Intermediary System (hereinafter: '**Resolution Act**') is not yet in line with Article 12(2) of the directly applicable Decree, since while the Resolution Act prescribes a time-proportionate fee payment in the event of a change in the status of the member institution during the year, in accordance with the general rule of the Decree it has no effect and the determined annual fee applies to the institutions. This interpretation of EBA is further elaborated stating that if an institution ceases to exist or ceases to be a supervised institution before receiving a decision/notification of the annual regular fee for the current year, then that institution does not pay a fee at all, as opposed to an institution that ceases to exist or loses the status of being a supervised institution after receiving a decision/notification of the annual regular fee for the current year.

As EU regulations are directly applicable in the member states and are considered to be superior to the national laws and regulations of the member states in the so-called hierarchy of the sources of law, in the event of a conflict with national laws, the EU regulation shall prevail. Accordingly, in Article 3.3 of the Fee Payment Rules of the Resolution Fund the higher-level EU rules have been taken into account.

In view of the above, we draw the attention of the member institutions to the fact that if there is a change of status after the determination of their annual fee to be paid to the Resolution Fund, the member institution is obliged to pay the full amount of the annual fee for the given year.

Failing the above, the Resolution Fund shall notify the Central Bank of Hungary (MNB) acting in its capacity as the resolution authority, which shall establish the infringement and may apply the sanctions provided for in the Resolution Act against the member institution.

Please kindly take note of the above.

RESOLUTION FUND