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## **Resolution number: H-PIF-I-B-307/2019**

Based on the conclusion of the supervisory procedure against the OTP Bank Plc. (registered office: 1051 Budapest, Nádor utca 16.) ("**Bank**") the National Bank of Hungary (registered office: 1054 Budapest, Szabadság tér 9., established: 1013 Budapest, Krisztina krt. 39.) ("**MNB**") passes the following

### **Resolution**

- I. **The MNB obliges the Bank** to fulfil until 31 March 2020 at latest and thereafter continuously grant the followings:
  1. to fulfil its obligations in relation to the provision of information in a precise and clear manner with regards to the rules on liability and on the terms of repayment in case of clients classified as consumers or micro-enterprises according to par. 10. § (1) e), ec) - ef) and prescribed in par. 45. § for the fulfilment of Par. 8. § (2) of Act LXXXV of 2009 on the Pursuit of the Business of Payment Services in (from hereinafter: Pft.) prior to the conclusion of the frame agreement (from hereinafter: Frame Agreement) whilst – for ensuring compliance with par. 14. § (1) o) of Pft. in light of par. 3. § (2) of Pft. - also recording these data in the Frame Agreement in a clear and precise manner in case of clients classified as consumers or micro-enterprises;
  2. to ensure that the account holder may freely dispose of its account – with the exceptions contained in par. 21. § (2) of Pft. - for ensuring compliance with par. 21. § (1) of Pft.;
  3. to ensure not to authorize transactions initiated with cash substitute payment instrument after the submission of a notification according to par. 40. § (2) in light of par. 41. § (3) of Pft. to ensure compliance with par. 41. § (5) of Pft. Moreover to bear the responsibility for damages incurred after the notification in line with par. 40. § (2) by clients classified as consumers or micro-enterprises in relation to transactions initiated with cash substitute payment instruments stolen or being no longer in the possession of the payer or stemming from its unauthorized use;
  4. to ensure (in order to comply with par. 43. § (2) and 45. § (3) of Pft. in light of par. 34. § of Pft.) that the provision of evidence in relation to fraudulent use of a cash substitute payment instrument or the failure with intent or gross negligence to fulfil its obligations prescribed in par. 40. § (1) and (2) by the client and the passing of responsibility in connection with damages stemming from transactions initiated with cash substitute payment instruments stolen or being no longer in the possession of the client shall only be initiated after par. 45. § (1), (2) and (4) have been proven – taking into account that the sole fact of the initiation of a transaction with a cash substitute payment instrument is insufficient to prove that the client acted fraudulently, or made its consent in relation to the transaction or that it failed with intent or gross negligence to fulfil its obligations prescribed in par. 40. § (1) and (2) - ;

5. after it was notified or gained knowledge of an unauthorized transaction to compensate – with the exception of cases when the Bank suspects fraudulent use on reasonable grounds and notified the MNB accordingly - the amount of the transaction and to restore the account to its state prior to its deduction without delay, until the end of the following business day the latest in a manner that the value date of the payment shall be no later than the date on which the unauthorized transaction occurred in order to ensure compliance with par. 44. § (1) of Pft.;
6. to ensure that the execution of official transfer orders shall have priority over other payment transactions and that the review of the match of the payer indicated in the transfer order with the bank account number shall commence (after the official transfer order was received) without delay in connection with the official transfer orders where the accounts of the payer and the payee are being held by the Bank (inner circle transactions) in order to comply with par. 62. § (3) of Pft. and par. 34. § (4) of Decree 35/2017 (XII. 14.) MNB on Payment Services Activities (from hereinafter: MNBr.);
7. to ensure to record and contain the data of the orders as well as the date/time (year, month, day, hour, minute) of the orders in relation to and concurrently with the reception of the post vouchers to ensure compliance with par. 7. § (7) of MNBr.;
8. to ensure the rejection of automatic debit transfers based on authorization letters – except as otherwise provided in law agreed with the account holder on having the payment orders placed in queues - due to insufficient funds in compliance with par. 9. § (3) of MNBr. and the placement in queues of payment orders based on authorization letters which cannot be fulfilled due reason of insufficient funds but not rejected according to law or in line with an agreement concluded with the account holder for the period prescribed in the agreement in compliance with par. 10. § (1) of MNBr.;
9. to ensure (in compliance with par. 21. § (1) of MNBr) that a value date is added without delay to the transactions initiated in either HUF, EUR, or other currencies of EEA states concurrently after they were credited on own account and also to ensure that such crediting shall be done in a manner enabling the payee to utilize its right of disposal without delay;

II. In order to provide satisfactory evidence of compliance with the obligations prescribed in article I. of the operative part MNB obliges the Bank within the framework of extraordinary reporting to

1. provide a report substantiated with relevant documents on the measures or actions taken until 15 May 2020 in connection with sections I.1.-I.8.
2. submit the data charts PIF18, PIF21 and PIF33 related to April 2020 until May 15 2020 set out in the document request decision (num. 2356-3/2018) and data charts PIF01 és PIF03 for the period of 1-10 April 2020 in connection with sections I.6. and I.9..

The Bank shall comply with its obligation to provide the aforementioned evidence through Electronic System for Accepting Data (hereinafter: ERA System) in connection with section II.1.. as set out in document request decision (num. 2356-3/2018) and through the Integrated supervisory statistical reception system (hereinafter: STEFI) within the ERA System in connection with the data charts set out in section II.2.

The Bank shall have access to the data charts set out in section II.2. through STEFI after choosing the options Services/Provision of data/Continue. Afterwards the data charts shall be available in STEFI through Provision of data/Credit Institution subsystem/Case-by-case provision of data. The data charts completed with the data of the corresponding timeframe according to Annex 1. decision num. 2356-3/2018 must be submitted through the same system and through the same certification path by choosing the option "Submit".

Failure to comply with the obligations set out in sections I. and II. or a repeated breach of the official decisions of the MNB or any acts falling within its competence shall entitle MNB to impose further fines/measures/extraordinary measures against the Bank according to par. 75 § of Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter: MNB tv.) and par. 183-198. § of Act CCXXXVII of 2013 on Credit Institutions and Financial Enterprises (hereinafter: Hpt.). The amount of fines may range from hundred thousand forints to two billion forints or (if the amount exceeds two billion forints) to two percent of the annual supervisory fee (total amount of the initial fee and variation fee) laid down for the bank. MNB may impose fines related to consumer protection or measures prescribed in par. 88. § of the MNB tv. in case it finds that a breach of the consumer protection provisions set out in Pft. occurred.

### III. MNB finds that the Bank

1. breached par. 18. § (1) a) of Pft. by opening a payment account for a registered company without properly ascertaining through data or relevant documents stemming from the registration authority not older than 30 days that the company is entered in the register.
2. breached par. 15. § (1) a) of Fszvr. by failing to provide information to its clients in July 2018 in relation to services connected to change of accounts about the role of the new payment service provider in connection with the procedure of changing payment accounts held abroad to payment accounts held in Hungary as set out in par. 12 § of Gov. regulation 263/2016. (VIII. 31.)

### IV. The MNB obliges the Bank to pay a fine in the amount of sixty million (60.000.000,- Ft) forints.

The imposed supervisory fine has to be paid to the account number 19017004-01678000-30900002 of the MNB within 30 days after the resolution becoming enforceable by indicating "supervisory fine" as a comment and the number of the resolution. In the absence of the voluntary payment of the fine, the rules of administrative enforcement are applied. In the event the deadline for the payment of the supervisory fine is missed, default interest will be charged, the extent of which will be calculated at the rate of 365th of the double of the central bank rate in effect on the date of imposition after every calendar day following the date of imposition. After the late payment of default interest, no further default payment can be charged. The default interest has to be paid to the cited account of the MNB by indicating the number of the resolution and the comment "default interest".

No procedural costs were incurred during the procedure.

No appeal can be made against the resolution in administrative proceedings, at the same time, the Client, or other party of the proceedings with respect the provision applicable to him/her, may initiate administrative proceeding against the resolution within 30 days of the publication of the decision citing

violation of law. Legal representation is mandatory. The application shall be submit to the MNB addressed to the Budapest-Capital Regional Court. (The assistance service of form's submission: <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/hatarozatok-es-vezzesek-keresese>.)The submission of the application has no suspensory effect on the entry into force of the decision, but the plaintiff can request immediate legal protection. The court will, in principle, decide the trial out of court. The hearing will be taken, if the plaintiff requests in the application. There is no place for excuse, if the request is not be taken.

Budapest, 2019.