

# **KELER Zrt.- Depository Announcement No 9-02**

**Finality of settlements  
in payment and securities settlement systems**

**Effective date: September 1, 2023**

## Table of contents

1. Introductory provisions.....	3
2. KELER, as the Tvt. Obligations and rights of the designated system operator pursuant to Section 3 (1) (c) of Paragraph 3 .....	5
2.1. Liaison with the court and the authority entitled to take action, in the framework of which	5
3. The obligation of KELER as the performing party .....	5
4. Obligations of participants.....	6
5. Procedural rules for the notice of initiating a procedure for insolvency .....	7
5.1. Date of receipt of the notice of initiating the insolvency procedure .....	7
5.2. Informing T2S of initiating the insolvency procedure .....	7
5.3. Informing KELER participants of initiating the insolvency procedure .....	7
5.4. Information from the MNB on initiating the insolvency procedure .....	8
5.5. Informing other actors about initiating the insolvency procedure and the measures.....	8
6. Procedural rules in the case of proceedings against a direct participant for insolvency ...	9
6.1. Upon receipt of the notice of initiating the insolvency procedure, KELER as the performing party shall.....	9
6.2. Satisfaction from collateral .....	10
7. Procedural rules in the case of proceedings against an indirect participant for the restriction of payments .....	11
8. Procedural rules in the case of proceedings against a participant established in the UK for insolvencys .....	11
9. Periodic testing and review of rules on payment limitation procedures .....	11
Annex 1 .....	13
Annex 2 .....	14
Annex 3 .....	16
Annex 4 .....	18

## 1. Introductory provisions

Pursuant to Act XXIII of 2003 on the Finality of Settlement in Payment and Securities Settlement Systems (hereinafter referred to as the "Act"), subject to its General Business Rules, for securities settlement systems, including the securities settlement platform<sup>1</sup> of the Eurosystem Target2-Securities (hereinafter referred to as "T2S"), KELER Central Depository Ltd. (hereinafter referred to as "KELER") as the designated System Operator, has been authorised to conduct proceedings to restrict payments, to act as a liaison with the court and other authorities entitled to take action (hereinafter referred to as "Authorities", such as the Central Bank of Hungary) regarding T2S, as well as with direct and indirect Participants.

KELER aims to achieve the following objectives in the course of the development of its procedures in connection with the insolvency procedures of participants:

- Common, uniform and consistent application of the provisions set out in Article 41 of the CSDR<sup>2</sup>
- Effective information sharing with key stakeholders and interested parties as identified in Section 1.2.
- Minimise the impact on other participants.
- Preventing systemic risk (e.g. mitigating disputes on settled transactions).

This Depository Announcement ("Announcement") sets out the principles and procedures that KELER applies(s) in its insolvency procedures.

The terms used in the Depository Announcement shall have the same meaning as in the General Business Rules.

### 1.1. Scope of the Announcement

The following procedures, in particular, are deemed to be procedures restricting payment pursuant to Section 2 (1) (d) of the Act:

- bankruptcy and liquidation proceedings under Act XLIX of 1991 on bankruptcy and liquidation proceedings and the appointment of a receiver,
- supervisory measure pursuant to Article 55 (2) and the Article 185 (2) c) cf) of Act CCXXXVII of 2013 on Credit Institutions and Financial Undertakings (hereinafter: Hpt.), as well as the decision under Article 48. § (1) of the Hpt, and, if a payment

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<sup>1</sup> As a supranational securities settlement system, T2S is designed to link the central securities depositories and central banks of the European Union by enabling cross-border settlement on a DVP basis, which is settled on cash accounts held by participating central banks and securities accounts held by participating CSDs.

<sup>2</sup> Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement within the European Union and on CSDs and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012

prohibition or a measure pursuant to Article 185(2)(c)(cf) of the Hpt was ordered before or at the same time, an temporary measure pursuant to Article 189(1)(e) of the Hpt,

- payment prohibition under Article 128 (1) of- Act CXXXVIII of 2007 on Investment Firms and Commodity Exchange Service Providers and the Rules of their Activities (hereinafter: Bszt.), supervisory measure pursuant to Article 164(1)(h), and insolvency pursuant to the Article 135(1)(h), (i), (ii), (iii) and (iv) of the same Act,
- supervisory measures pursuant to Article 400 (1) (h) and (j) and (4) of Act CXX of 2001 on the Capital Market,
- the temporary restriction on enforcement measures ordered by the court in proceedings governed by the Reorganization Act (hereinafter referred to as the Act)<sup>3</sup>,

if the competent authority has taken action in accordance with Article 5(1) of the Tvt. as a procedure for restricting payment.

It should be stressed that the provisions of this Announcement are specifically applicable in the event of the insolvency of a participant, but are also suitably adapted to other supervisory measures against participants, such as the handling of the withdrawal of authorisation.

Interested parties involved in the insolvency of a participant in the settlement system:

- KELER
- External stakeholders:
  - supervisory authorities, liquidators and receivers
  - Authorities:
    - Central Bank of Hungary as the supervisory authority for financial institutions
    - Central Bank of Hungary as the institution involved in the operation of the settlement system
    - Courts
    - the competent authority of the participant subject to the insolvency procedure
  - participants in the settlement system
  - trading venues
  - central counterparties
  - depositories

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<sup>3</sup> This point shall take effect from 1 July 2022.

- other actors defined by law or by a supervisory regulatory instrument.

## **2. Right and obligations of KELER, as the system operator designated pursuant to Article 3 (1) c) of the Tvt.**

### **2.1. Liaison with the court and competent authorities, including**

- a) KELER, as the designated System Operator, shall notify in writing the court, the Authority and T2S (ECB) of any decision to impose a insolvency procedure pursuant to the provisions of the Tvt., indicating their position and contact details.

The notified person authorised to receive notices at the court and at the Authority and T2S:

The current CEO of KELER Zrt.

[\(https://english.keler.hu/Contacts/Contact%20us/\)](https://english.keler.hu/Contacts/Contact%20us/)

Contact:

- [elszamolohazusers@keler.hu](mailto:elszamolohazusers@keler.hu)

- [T2S-SettlementManager@keler.hu](mailto:T2S-SettlementManager@keler.hu) (for notices received from the ECB)

**Mailing address:**

KELER Central Depository Ltd.

H-1074 HUNGARY, BUDAPEST, RÁKÓCZI ÚT 70-72..

Central telephone number: +36-1-483-6100

- b) KELER, as the designated System Operator, shall notify the court and the competent Authorities within 15 days of the data of the direct and indirect participants subject to Article 3(1) (cb) of the Tvt. and pursuant to Section 4.1(b) and (c) of this Valuation Announcement and of any changes thereto.

In order to comply with the provisions of the Act, in its relations with direct and indirect participants, KELER is entitled to request and record the data and information referred to in Sections 4.1 b) and c) of this Announcement, and, if it deems necessary, to request the documents supporting them.

KELER shall keep, and retain for ten years, a record which is suitable to subsequently ascertain the content and date of receipt of the notice of the competent court or authority or of initiating the T2S insolvency procedure.

## **3. The obligation of KELER as the performing party**

Upon receipt of a notice of the initiation of a procedure for the restriction of payments

against a direct or indirect participating member, KELER shall proceed as set out in Sections 5-6.

#### **4. Obligation of participants**

The obligations of the participants to file the documents are set out in the General Terms and Conditions of KELER in force from time to time.

Direct participants shall be required in writing to

- a) to sign the Authorisation ([Annex 1](#)) provided for in the KELER General Business Rules to connect to the system,
- b) provide the following information listed in the Gen General Business Rules of KELER on the Form ([Annex 2](#)) provided by KELER at the same time as signing the authorisation:
  - name,
  - principal office,
  - company registration number,
  - tax number,
  - the name(s) and deputy(s) of the contact person(s) authorised and designated as entitled to act,
  - title, name of the department,
  - telephone and fax numbers,
  - mailing and e-mail address,
  - BIC code,
  - LEI code.
- c) to notify the indirect participant with whom the direct participant has a contractual relationship for the purpose of having its transfer orders executed through the system by that participant, using the Form ([Annex 3](#)) provided by KELER, on which the direct participant is required to provide the data of the indirect participant listed in Subsection (b).
- d) to notify KELER of any changes in the data pursuant to the previous sub-paragraphs b) and c) by means of a completed and duly signed Form within 5 days of the change and to submit to KELER within this period the documents (company certificate, certificate of incorporation and the Contractor's master data) supporting the data, which must not be older than 30 days.

The Participant shall, if it becomes aware of it, immediately notify KELER if any proceedings for insolvency are initiated against it or its indirect participant.

## **5. Procedural rules for the notice of the initiating a procedure restricting payment**

### **5.1. Date of receipt of the notice of initiation of the insolvency procedure**

KELER and the direct and indirect participants agree that the date specified in Article 5. § (1) of the Tvt. shall be deemed and accepted as the date of receipt of a notice, irrespective of the means of transmission, of the initiating a insolvency procedure against a direct or indirect participant by the competent court or the Authority or the competent authority of the participant subject to the insolvency procedure, or, alternatively, from T2S, of the first officially signed written notice or the corresponding electronic notice, provided that it has been confirmed to have been received or downloaded by KELER, by the department designated to receive notices or by one of the persons designated to receive notices at the central address.

The decision of the competent court shall mean the following:

- (a) a court order suspending the restriction on individual enforcement measures in the event of restructuring,
- b) in the case of bankruptcy proceedings, the court order on the restriction on payments and its extension,
- (c) in the case of winding-up proceedings, the court order appointing the provisional administrator and ordering the winding-up.

The fact that a participant is subject to a insolvency procedure must also be communicated to KELER by any other person who is aware of the existence of such a restriction, such as the CCP, the trading venue, the connected CSD or the operator of the settlement infrastructure used by the CSD. In this case KELER will verify the information from an official source.

### **5.2. T2S information on initiating the insolvency procedure**

If the notice of the initiating a insolvency procedure is not received from the ECB, KELER, as the institution responsible for the insolvency procedure pursuant to Article 5.1. § 3(1)(c) of Tvt, shall immediately notify the T2S Service Desk by telephone or electronically of the fact that the procedure has been initiated, the content of the notice and the date of receipt, in the case of T2S involvement

The T2S Service Desk, in cooperation with the ECB, provides information to T2S participants.

### **5.3. Information to KELER participants on initiating a insolvency procedure**

After receipt of the notice of initiating the insolvency procedure pursuant to Article 5.1, KELER, as the System Operator pursuant to Section 3 (1) c), shall immediately notify the

person(s) authorised to receive this notice from direct and indirect participants pursuant to Article 4 b) and designated as authorised to take action, in electronic form.

- a) the fact of initiating the procedure, the content of the notice and the date of its receipt,
- b) the specific date from which the System has stopped accepting orders from the direct or indirect participants subject to the procedure, in accordance with Article 5.1(a)
- c) In the case of a T2S partner, activate the Case 2 and Case 4 restrictions for suspension in T2S.

Notice of the initiation of a insolvency procedure received from the ECB shall be forwarded by KELER to the Participants even if the notice is not received in respect of a participant in a system operated by the KELER.

#### **5.4. Information from the MNB on initiating the insolvency procedure**

After receipt of the notice of initiating the insolvency procedure pursuant to Article 5.1, KELER, as the system administrator pursuant to Article 3(1)(c) of the Tvt., shall immediately forward to the MNB the information at its disposal and the details and source of such information, as specified in its internal policies.

If KELER is not informed of initiating the insolvency procedure by the MNB but from other sources, KELER will contact the Central Bank of Hungary in order to.

- transmit the available information, its details and source in accordance with the relevant internal policies,
- be informed of all details affecting and influencing the settlement system (if this has not been done previously),
- receive further information on the situation and
- agree on the sharing of information and processes in the course of the insolvency procedure.

#### **5.5. Informing other actors of initiating the insolvency procedure and of the measures**

KELER shall promptly notify the following persons and entities of any action taken after initiating the insolvency procedure:

- a) the authorities concerned;
- b) ESMA;
- c) participants not subject to a insolvency procedure;
- d) the trading venues and CCPs served by the CSD;



- e) the operator of the common settlement infrastructure used by the CSD;
- f) the interconnected central depositories.

If the recipients of the information are persons and institutions referred to in Paragraphs c) to f), the information shall be sent without personal data pursuant to Article 3(2) of Act CXII of 2011 on the Right to Informational Self-Determination and Freedom of Information.

## **6. Procedural rules in the case of an insolvency procedure against a direct participant**

### **6.1. Upon receipt of the notice of initiating the insolvency procedure, KELER as the performing party**

- (a) stop accepting further orders from the participant subject to the proceedings immediately, but within 30 minutes at the latest, and thereafter accept orders only in accordance with the rules for the conduct of the relevant insolvency proceedings laid down in other legislation (such as the approval of the liquidator, receiver his or her representatives),
- (b) suspend the trading rights of a clearing member or a sub-clearing member which is a direct or indirect participant in the proceedings.

Pursuant to Article 4(1) of the Tvt., orders accepted in accordance with Article 5.3(b) shall be executed by KELER as the performing party by the time and in the manner specified in the General Business Rules of KELER and the current Announcement No. 9-11 on the deadlines for receipt, performance and cancellation (hereinafter: "9-11 Announcement"), if the direct participant subject to the procedure has made such a request in accordance with the General Business Rules of KELER and the current Announcement, and by the time and in the manner specified in the KELER General Terms and Conditions and in the Announcement No 9 and 9.2.

After the date referred to in Section 5.3(b), i.e. after receipt of the notice of the insolvency procedure, the following orders shall be deemed accepted by KELER:

- **for transfer orders that are not settled in T2S (i.e. in the KELER) and not in T2S currency, the KELER will consider an order received electronically or in paper form for the same value date as accepted on that day if the order**
  - has been submitted in the manner and with the content specified in the General Business Rules of KELER, is correct in form and content, and has been accepted by KELER (i.e. it has not been rejected for logical, formal or substantive reasons),
  - **successfully matched and funded transfer order.**

- Upon receipt of an insolvency procedure against a participant, KELER will not accept unmatched or unfunded transactions and will delete them from the settlement process.
- **in relation to transfer orders in T2S and settled in T2S foreign currency, KELER** will consider an order received electronically or in paper form for the same value date as accepted on that day if the order
  - has been submitted in the manner and with the content specified in the General Business Rules of KELER, is correct in form and substance, and has been accepted by KELER (i.e. it has not been rejected for logical, formal or substantive reasons)
  - **a matched transfer order which KELER will attempt to settle by the end of the settlement day. If this fails, the order will be cancelled at the end of the settlement cycle.**
- Credit transactions for the benefit of a partner subject to an insolvency procedure will continue to be performed after initiating the insolvency procedure.

The settlement of a T+2 cleared exchange transaction settled by KELER CCP Central Counterparty Ltd. is not affected by the insolvency procedure.

The revocability of orders is regulated by KELER in its General Business Rules and in the Announcement 9-11.

KELER sets out in its internal rules the criteria it takes into account when choosing the measures listed in the rules on insolvency procedures.

## **6.2. Satisfaction from collateral**

Funds and securities held in the client's settlement account on the business day corresponding to the day on which the insolvency procedure was initiated may not be cancelled until the performance of a legally accepted transfer order, and after performance, funds and securities may be cancelled, such as

- a) the unrestricted cash and securities accounts of a Participant subject to an insolvency procedure, and
- b) the balances of the sub-accounts of the guarantee on the business day corresponding to the day on which the insolvency procedure has been initiated,
- c) the balance of credits booked on the date of initiating the insolvency procedure,

which are **intended to meet the participant's obligations** to the System or any related system on the day when the insolvency procedure has been initiated.

## **7. Procedural rules for insolvency procedures against an indirect participant**

In the case of an indirect participant, KELER shall immediately, but no later than thirty minutes after receipt of the notice, stop accepting orders from the relevant account holder (Direct Participant) until the Direct Participant has declared in writing that the orders sent by it for settlement and performance do not contain orders from an indirect participant subject to the insolvency procedure. The form of the declaration is available on the KELER website under the Forms section "Finality of payment".

If the form is correctly completed, signed and sent electronically to KELER, the suspension of the direct participant will be immediately cancelled by KELER.

Thereafter, if the indirect participant has a pending transaction in the settlement system, the direct participant shall immediately cancel it. The direct participant shall request its counterparty to cancel its transaction with a matched status.

## **8. Procedural rules for insolvency procedures against a participant established in the UK**

Following the United Kingdom's exit from the European Union, protection may be provided by a recognition regime established by separate legislation passed by the United Kingdom legislature subject to the European Union's Settlement Finality Directive 1998 on settlement finality in payment and securities settlement systems under Directive 98/26/EC of the European Parliament and of the Council of 19 May 1998 on settlement and clearing and settlement systems in the European Union, including the protection of direct or indirect participants in a settlement system in the event of a participant being subject to an insolvency procedure, such as a participant of the KELER or a participant established in the United Kingdom. The Bank of England (BoE) is the supervisory authority of this system.

KELER has joined the Temporary Designation Regime (TDR) and has applied to join the steady state Permanent Designation (PD), under which the BoE will send KELER immediate notice if a UK resident is subject to an insolvency proceeding.<sup>4</sup>

If the KELER receives a notice from the BoE, KELER will treat it as a notice from a competent authority and will accordingly, upon receipt of the notice, proceed as set out in Chapters 5, 6 and 7 of this Announcement and notify the BoE within 7 days of the data and of any changes thereto, of the direct and indirect participants established in the United Kingdom as set out in out in Article 3(1)(cb) of the Tvt and Section 4(b) and (c) of this Announcement.

## **9. Periodic testing and review of rules on insolvency procedures**

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<sup>4</sup> The Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (SFRs and Statutory Instrument 2019/341) apply to schemes recognised under the TDR and subsequently the PD, with equivalent regulation to the SFD in relation to finality of settlements in payment and settlement systems.

In order to verify the effectiveness and practical feasibility of the procedure detailed in this Announcement, KELER will test and review the procedure with the participants and other stakeholders at least annually, and will conduct new tests if specifically requested by the MNB or if there are material changes to the rules on insolvency procedures.

The external parties involved in the testing will be appointed by KELER to participate in the test. In all cases, the parties involved in the test shall be notified in advance of the planned date of the test, its specific purpose, the expected course of the test and other relevant information. Participation in the testing is mandatory in accordance with Recommendation No 15/2018 (IV.3) of the Magyar Nemzeti Bank on the rules and procedures of CSDs for the handling of insolvency proceedings against participants. If the designated party fails to participate in the testing, KELER shall report this to the MNB, and KELER shall be entitled to apply the legal sanction provided for in the KELER General Business Rules. In the event that the customer fails to cooperate with KELER in such a case despite KELER's request, if the client's cooperation is necessary for the fulfilment of a statutory obligation or a task of KELER based on a statutory requirement, KELER is entitled to suspend the right of the party involved in the testing to dispose of the account.

The parameters and process of the testing are recorded in the internal policies of KELER.

The testing will be carried out by KELER for each securities settlement system it operates regarding the following entities:

- participants,
- the relevant market infrastructures (CSDs, CSD-settled cash-side settlement organisations, CCPs and trading venues),
- and, where appropriate, other entities (e.g. the operator of the common settlement infrastructure used by the CSD, third parties to whom the provision of services is outsourced, etc.), along an appropriate sample of parameters set out in the relevant internal rules.

If KELER detects any deficiencies in the process during the testing, it will take the necessary action.

KELER will share a summary of the results of the tests carried out with the test participants and the MNB through the contact details provided.

In all cases, KELER will notify its participants of planned changes to its rules on payment limitation procedures by means of a notice and through the KID system.

Budapest, September 1, 2023.

KELER Zrt.

## 2. sz. melléklet / ANNEX 1

**Meghatalmazás/Authorization**

Alulírott(ak)/The undersigned

Név/Name: .....

Lakcím/Address: .....

és

Név/Name: .....

Lakcím/Address: .....

a/in representation of

Cégnév/Company name: .....

Székhely/Registered seat: .....

Cégjegyzékszám/Company registry number: .....

Adószám/Tax number:.....

BIC kód/BIC code:.....

LEI kód/LEI code: .....

Levelezési cím/Mailing Address:.....

Központi e-mail cím/Central email address: .....

Központi telefonszám/Central phone number: .....

Központi telefaxszám/Central fax number: .....

képviselésében, a „A fizetési, illetve értékpapír-elszámolási rendszerekben történő teljesítés véglegességéről” szóló, 2003. évi XXIII. törvény 3. § (1) bekezdés d) pontja alapján meghatalmazzuk a KELER Központi Értéktár Zártkörűen Működő Részvénytársaságot (1074 Budapest, Rákóczi út 70-72.), hogy a fent megjelölt törvény 3. § (1) bekezdése c) pontjában meghatározott feladatokat ellássa. / Pursuant to Article 3, Section. (1) point d) of Act XXIII of 2003 „On the *finality of settlement in payment and securities settlement systems*” authorize the KELER Központi Értéktár Zártkörűen Működő Részvénytársaság (H-1074 Budapest, Rákóczi út 70-72.), to perform the tasks set forth in Article 3, para. (1) para. c) of the above mentioned act.

A feladat ellátásával összefüggő szabályokat, részletes rendelkezéseket a KELER Központi Értéktár Zrt. Általános Üzletszabályzata tartalmazza. / The rules and detailed provisions pertaining to the performance of the task are defined in the General Business Rules of KELER Központi Értéktár Zártkörűen Működő Részvénytársaság.

.....  
(Helység/Place, Dátum/Date)(Cégszerű aláírás/Authorised signature)

**2. sz. melléklet /ANNEX 2****Adatlap/Data Sheet**

A fizetési, ill. értékpapír-elszámolási rendszerekben történő teljesítés véglegességéről szóló, 2003. évi XXIII. törvény rendelkezéseinek végrehajtásához /

**For the execution of the provisions of Act XXIII of 2003 on the finality of settlement in payment and securities settlement systems**

Az értékpapír-elszámolási rendszer Rendszerrésztevői részére /  
**For securities settlement system Participants**

**1. A Rendszerrésztevő adatai/System Participant's data:**

Cégnév/Company name:	
Székhely/Registered seat:	
Cégjegyzékszám/Company registry	
Adószám/Tax number:	
BIC kód/BIC code:	
LEI kód/LEI code:	
Levelezési cím/Mailing address:	
Központi e-mail cím/Central email	
Központi telefonszám/Central phone	
Központi telefaxszám/Central fax	

**2. A Rendszerrésztevő kapcsolattartóinak adatai (az értesítés fogadására kijelölt személy és helyettesei) /  
Data of the System Participant contact persons (the person designated to receive the notice and his/her substitutes):**

Név/Name:	
Beosztás/Position:	
Szervezeti egység/Organisational unit:	
Telefonszám/Phone number:	
E-mail cím/Email address:	

Név/Name:	
Beosztás/Position:	
Szervezeti egység/Organisational unit:	
Telefonszám/Phone number:	

E-mail cím/Email address:	
---------------------------	--

Név/Name:	
Beosztás/Position:	
Szervezeti egység/Organisational unit:	
Telefonszám/Phone number:	
E-mail cím/Email address:	

.....  
(Helység/Place, Dátum/Date)(Cégszerű aláírás/Authorised signature)

**3. sz. melléklet /ANNEX 3****Adatlap közvetett résztvevő bejelentéséhez/Data Sheet for notification of Indirect participant**

A fizetési, ill. értékpapír-elszámolási rendszerekben történő teljesítés véglegességéről szóló, 2003. évi XXIII. törvény rendelkezéseinek végrehajtásához /  
**For the execution of the provisions of Act XXIII of 2003 on the finality of settlement in payment and securities settlement systems**

Az értékpapír-elszámolási rendszer Közvetett résztvevői részére /  
**For securities settlement system Indirect participants**

**1. A Rendszerrésztvevő adatai/System Participant's data:**

Cégnév/Company name:	
Székhely/Registered seat:	
Cégjegyzékszám/Company registry	
Adószám/Tax number:	
BIC kód/BIC code:	
LEI kód/LEI code:	
Levelezési cím/Mailing address:	
Központi e-mail cím/Central email	
Központi telefonszám/Central phone	
Központi telefaxszám/Central fax number:	

**2. A Közvetett résztvevő adatai/Indirect participant's data:**

Cégnév/Company name:	
Székhely/Registered seat:	
Cégjegyzékszám/Company registry	
Adószám/Tax number:	
BIC kód/BIC code:	
LEI kód/LEI code:	
Levelezési cím/Mailing address:	
Központi e-mail cím/Central email	
Központi telefonszám/Central phone	
Központi telefaxszám/Central fax number:	



3. A Közvetett résztvevő kapcsolattartóinak adatai /  
Data of the Indirect Participant contact persons:

Név/Name:	
Beosztás/Position:	
Szervezeti egység/Organisational unit:	
Telefonszám/Phone number:	
E-mail cím/Email address:	

.....

(Helység/Place, Dátum/Date)

.....

(Közvetlen Rendszerrésztvevő cégszerű  
aláírás/Authorised signature of System  
Participant)

4. sz. melléklet

/ ANNEX 4

## NYILATKOZAT / DECLARATION

Közvetett Résztevő ellen indított fizetést korlátozó eljárásban érintett  
Képviselőtében  
/ In the representation of a company affected by an insolvency proceeding  
against Indirect Participant

Cégnév / Company name: .....

Székhely / Registered seat: .....

Cégjegyzékszám / Company registration number: .....

Adószám / Tax number: .....

A Közvetett Résztevő ellen indított fizetést korlátozó eljárásban érintett (cégnév) / The company affected by insolvency proceeding against Indirect Participant (Company name):

.....

képviselőtében ezennel kijelentem, hogy a fizetést korlátozó eljárás alá került Közvetett Résztevő  
transzfer megbízásait elkülönítetten kezelem. / In the representation of the above, I hereby  
declare that the transactions of the Indirect Participant subject to insolvency proceedings  
handled separately.

.....  
helység, dátum / Place, Date

.....  
bankszerű aláírás(ok) / Client authorized signature