

Interpretation of independent Board of Directors membership

Regulation EU 648/2012 on OTC derivatives, central counterparties and trade repositories requires¹ central counterparties, and thus KELER CCP Ltd. (hereinafter: KELER CCP) also, regardless of ownership structure, to have senior management of sufficiently good repute and sufficient experience in financial services, risk management and clearing services to ensure sound and prudent management, and to have independent members on the Board of Directors also. As a further requirement, Article 27 (2) of EMIR requires that at least one third, but no less than two, of the members of the Board of Directors should be independent.

Article 2 (28) of EMIR defines independent Board of Directors member as *„a member of the board who has no business, family or other relationship that raises a conflict of interests regarding the CCP concerned or its controlling shareholders, its management or its clearing members, and who has had no such relationship during the five years preceding his membership of the board”*

In view of the fact that EMIR and its applicable technical standards do not regulate conflict of interest in detail, but require only the elimination of conflict of interest, KELER CCP considers applicable the conflict of interest rules stated in Act CXX of 2001 on the Capital Market (hereinafter: Tpt.) (Sections 356-357), apart from the clear case of family relationship.

In the opinion of KELER CCP, if the Board of Directors member meets the provisions of the Tpt. (and the valid regulatory requirements applicable to KELER CCP, see the general conditions of conflict of interest of Act V of 2013 on the Civil Code), the Board of Directors member is to be considered independent for the purposes of business and other relationships raising conflict of interest under EMIR.

The requirement of Section 356 of the Tpt. referred to earlier ensures compliance with the EMIR requirement that the senior management of KELER CCP should be of sufficiently good repute and have sufficient professional experience.

Point 3.2. of the Organizational and Operational Regulation of KELER CCP (KELER CCP OOP) defines the requirement applicable to and the responsibilities of the management bodies

¹ 648/2012 (61) A CCP should have robust governance arrangements, senior management of good repute and independent members on its board, irrespective of its ownership structure. At least one-third, and no less than two, members of its board should be independent. However, different governance arrangements and ownership structures may influence a CCP's willingness or ability to clear certain products. It is thus appropriate that the independent members of the board and the risk committee to be established by the CCP address any potential conflict of interests within a CCP. Clearing members and clients need to be adequately represented as decisions taken by the CCP may have an impact on them.

of the Company, i.e. the management bodies stated in the Civil Code and the Articles of Association of the Company, i.e. the Board of Directors of KELER CCP; *„The Board of Directors is the managing body of the Company; the shareholders’ meeting elects and calls back its members. Pursuant to the Articles of Association and the shareholders’ meeting resolutions, it is in charge of the comprehensive governance of the Company.*

One third of the Board of Directors, but at least two members are required to be independent. The Board of Directors members are elected in line with the following principles:

- each shareholder is entitled to nominate one member, the shareholder with qualified majority is entitled to nominate two members, at least two of the nominees must be independent persons,*
- at least two Board of Directors members will be elected from among the independent nominees recommended by the shareholders.”*

In line with the requirement² stated in EMIR Article 27 (2), the remuneration of the KELER CCP Board of Directors members is not linked to the central counterparty business activity of the Company.

In the interest of compliance with the requirements above referred to, KELER CCP considers the following persons as independent Board of Directors members:

- László Berényi
- Dániel Körmöczi

Furthermore, in the interest of compliance with the requirement stated in EMIR Article 28 (1)³, the independent Board of Directors members of KELER CCP are also members of the Risk Committee established by the Company.

² Article 27 (2) of 648/2012 At least one third, but no less than two, of the members of that board shall be independent. Representatives of the clients of clearing members shall be invited to board meetings for matters relevant to Articles 38 and 39. The compensation of the independent and other non-executive members of the board shall not be linked to the business performance of the CCP.

³ Article 28 (1) of 648/2012 A CCP shall establish a risk committee, which shall be composed of representatives of its clearing members, independent members of the board and representatives of its clients.