Gazdasági Versenyhivatal

9,5 billion HUF fine in the “full prepayment loan banking case”

The Gazdasági Versenyhivatal (GVH, the Hungarian Competition Authority) in its decision delivered on 19 November 2013 imposed a fine of 9.488.200.000 (cca 31,6 million Euro) on 11 financial institutions due to their concerted practice aimed at limiting the full prepayment of foreign currency loans.

In its proceeding initiated on 23 November 2011, the GVH found that the undertakings under investigation had violated the Competition Act by coordinating their strategies between 15 September 2011 and 30 January 2012 through the exchange of information qualified as a business secret in order to reduce the full prepayment of foreign currency based mortgages on fixed exchange rates by limiting access to loans which would have been suitable to redeem these loans.

Fines imposed on the individual financial institutions are as follows:

	HUF	Euro
Budapest Bank Zrt.	283.500.000	≈ 945.000
CIB Bank Zrt.	835.400.000	≈ 2.785.000
Citibank Europe plc., Hungarian branch office	800.000	≈ 2.700
Erste Bank Hungary Zrt.	1.725.700.000	≈ 5.752.300
Kereskedelmi és Hitelbank Zrt.	983.300.000	≈ 3.278.000
Magyar Takarékszövetkezeti Bank Zrt.	1.000.000	≈ 3.300
MKB Bank Zrt.	783.000.000	≈ 2.610.000
OTP Bank Nyrt.	3.922.400.000	≈ 13.074.700
Raiffeisen Bank Zrt.	583.600.000	≈ 1.945.300
UCB Ingatlanhitel Zrt.	63.200.000	≈ 210.700
UniCredit Bank Zrt.	306.300.000	≈ 1.021.000

On the basis of information which was available, and in particular based on written evidences (emails, internal notes), the GVH stated that in order to diminish the intensity of loan replacement and to reduce the full prepayment of loans on fixed exchange rates, the financial institutions involved coordinated their practices in the framework of a uniform, comprehensive scheme. As part of this activity, they shared information about their strategies relating to full prepayment and about interested clients. Additionally, bilateral consultations also took place between certain banks. These actions were sufficient to enable the undertakings to coordinate their strategies concerning the limitation of full prepayment.

The fines were calculated in accordance with Notice No. 1/2012 of the President of the GVH and the Chairman of the Competition Council, which provides information about the factors which must be taken into consideration when fines are being imposed. Concerning the individual banks, the GVH took, as a basic amount, the income of the banks stemming from interests, fees and commissions on real estate mortgage loans in 2011. The differences in the fines imposed derive from the fact that the incomes gained by the banks as a result of the violation significantly differed, as did the participation of the individual banks in the violation.

When calculating the fines the GVH considered it to be an aggravating factor that the majority of the financial institutions involved had *de facto* implemented the concerted strategy. It also took into account the fact that these undertakings represent the largest market players of the domestic banking system – their joint market share exceeds 90%. Moreover, it could be clearly established that the behaviour of the undertakings in question had substantially differed from what could be reasonably expected as it had significantly restricted competition among the financial institutions.

Factors such as the losses which had been suffered by these banks due to the full prepayment of foreign currency based mortgages on fixed exchange rates and – as a consequence of the short time period – the fact that the banks were faced with liquidation, human resource and capacity problems, were taken into account by the GVH as mitigating factors in the calculation of the fines.

While the GVH found that FHB Jelzálogbank Nyrt. had violated competition law, it did not impose a fine on this financial institution for two reasons. On the one hand, FHB had been a passive participant in the violation and on the other hand, FHB had not been condemned by the GVH before, while the other banks had already been sanctioned by the GVH in a proceeding focusing on interchange fees.

As it became clear during the proceeding that at the meeting aimed at coordinating their actions (at the so-called "retail risk breakfast meetings") Magyar Cetelem Bank Zrt made statements not on its own behalf, but in the name of UCB Ingatlanhitel Zrt. (with which it belongs to the same group of undertakings), the GVH held that the latter undertaking had violated the law and terminated its proceeding against Magyar Cetelem Bank Zrt.

In this case the GVH proceeded under two legal bases, i.e. under both the Hungarian Competition Act and – considering that the violation had an effect on trade between EU Member States – under EU competition law.

The public version of the resolution may be found on the website of the GVH (www.gvh.hu). The case number is: **Vj-74/2011.**

Background information to the case:

From the mid 2000s to 2008 mortgages based on foreign currencies became more popular in Hungary. This was due to the fact that these loans had better interest rates than those based on the HUF. Due to the financial crisis the whole mortgage market became three times smaller than it was prior to 2008. As a result of a ban on foreign currency based mortgages from 2010, the HUF based mortgages rose in popularity. From the autumn of 2011 the conditions attached to mortgages in Hungary significantly deteriorated. Continuous changes in the regulatory and economic environment resulted in higher financing expenses, weaker exchange rates and increased the costs associated with risk taking.

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Due to the increased exchange rate in 2010-2011 the Hungarian Government aimed to ease the burdens placed on the foreign currency based mortgage debtors (in particular those which were based on CHF). A new law was introduced on 29 September 2011, which allowed the debtors to pay back their real estate mortgage in Hungary at a fixed, preferential exchange rate of 180 HUF, at a time when the market rate was around 230-240 HUF. It was intended that the resulting incurred losses would be borne by the banks. The new law stipulated the following fixed exchange rates: 180 HUF/CHF, 250 HUF/Euro, 200 HUF/100 JPY.

Consumers were permitted to repay their loans via two methods: a) they could repay the full amount of their loan using their own resources or b) they could apply for a refinancing HUF loan.

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Hungarian Competition Authority

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