

AUTHORISING THE ACTIVITIES OF FIDUCIARY ASSET MANAGEMENT COMPANIES

Pursuant to the provisions of Section 19 (1)a aa) and b) of Act CIII of 2023 on the Digital State and on the Provisions for Supplying Digital Services, Sections 17 (1) and 19 (1) of Government Decree 451/2016 (XII. 19.) on the Detailed rules of electronic services, and Section 3 (1) of MNB Decree 36/2017 (XII. 27.) on the Rules of electronic communication in official matters in progress before the Magyar Nemzeti Bank ("**Decree**"), the legal representative of the enterprise and the applicant (client) obliged, pursuant to Section 58 (2) of Act CXXXIX Of 2013 on the Magyar Nemzeti Bank ("**MNB Act**"), to apply electronic communication, shall submit its application, notification or other petition by using the prescribed form available in the information system supporting the electronic administration of the MNB ("ERA System") and introduced for the procedure related to the submission in question, in the manner and with content specified therein, simultaneously uploading the attachments specified by the law and other documents required by the MNB.

In the licensing procedures, the applications and notifications must be submitted by using the prescribed electronic form available in the *E-administration/Licensing* service on the ERA interface on the MNB's website, attaching the certified electronic copies of the appendices. The resolutions, requests for clarification, notices and other communications of the MNB are delivered to the financial organisations or their legal representatives by sending them to the delivery storage space.

The "Good Business Reputation Questionnaire", which must be submitted as an annex to the application, is available on the MNB website under the heading Authorisation, Approval, Registration and Notification Procedures Forms, as a pdf file. The filled in and electronically signed questionnaire can be attached to the prescribed electronic form as an annex. The questionnaire is available at:

<https://era.mnb.hu/ERA.WEB/PublicServices/Current?code=eraformanyomtatvany>

The website of the MNB includes information materials on electronic administration and the submission of annexes to be attached in authorisation procedures (electronic documents) at:

<https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes>

Further information related to certain aspects of the licensing procedures (e.g. Ascertaining Good Business Reputation) is available at: <https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/tajekoztatok>

I. GENERAL RULES

Act V of 2013 on the Civil Code (**Civil Code**), which entered into force on 15 March 2014, introduced the regulation of fiduciary activities as a new legal institution in the Hungarian legal system, the purpose of which is to separate the positions of management and ownership of assets and to regulate the activities of trustees.

Pursuant to Section 6:310 (1) of the Civil Code, trustees are obliged to pay a fee to the settlor for the management of the property, rights and claims (hereinafter: "the assets managed") entrusted to him by the settlor in his own name and for the benefit of the beneficiary.

The essence of a fiduciary relationship is that, under this relationship, one entity (the settlor) transfers the ownership of certain things, rights and claims that constitute its property to another entity (the trustee), who must use the property thus transferred for the benefit of a third person (the beneficiary) by exercising the decision-making power thus obtained.

Pursuant to Section 3 (1) of Act XV of 2014 on Trustees and the rules governing their activities (**Trustee Act**), fiduciary activities may be conducted in a professional and non-professional form. On 23 June 2017, Act LXI of 2017 on the amendment of certain acts for the purpose of enhancing the legal competitiveness of the business environment (**Amendment Act**) entered into force and amended certain provisions of the Trustee Act as well.

As a result of the Amendment Act, the definition of trust has also been amended as of 23 June 2017, according to which "Section 3 (1) A fiduciary who carries out his/her activity on the basis of at least two fiduciary relationships shall be a fiduciary engaged in professional fiduciary activities. A professional fiduciary activity may be carried out subject to a licence issued by the Authority (hereinafter referred to as "the licence").

The conduct of professional activities is subject to a licence issued by the Magyar Nemzeti Bank upon the application of the fiduciary asset management company pursuant to Section 9(1), prior to the commencement of the activity. Pursuant to Section 9(2), the licence is valid for an unlimited period of time, until revoked. It is to be noted that pursuant to Section 6:326 (3) of the Civil Code, a fiduciary relationship established for an indefinite term or for a fixed term of more than fifty years shall terminate after fifty years. Any clause to the contrary is void.

It should be noted that – in the absence of any express provision to this effect in the Trustee Act – the foundation of a fiduciary asset management company is not subject to a foundation licence but only the commercial fiduciary activities it intends to carry out are subject to authorisation, thus the procedure related to the foundation of the company may be conducted at the Court of Registration also before the issuance of the activity licence, with the proviso that the company may commence its activity subject to an official licence only after the issuance of the activity licence.

II. ADMINISTRATION DEADLINE

Pursuant to Section 11/A of the Trustee Act in force since 1 January 2018, “In the Office’s procedures for granting authorization the **administrative time limit shall be 9 months.**”

Pursuant to Section 18(1) of the Trustee Act, in proceedings for the issue and withdrawal of authorization, and for the registration of a fiduciary asset management company, the Office shall proceed in accordance with Section 46, Subsection (1) of Section 47, Sections 49-49/C, Sections 50-50/A, Subsection (1) of Section 51, Section 53, and Sections 57/B-58 of the MNB Act, unless otherwise provided for in this Act.

Pursuant to Section 46 (1) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank (**MNB Act**), “in the administrative proceedings and inspections conducted by the MNB, concerning the matters not regulated in this Act, the provisions of Act CL of 2016 on General Public Administration Procedures (hereinafter referred to as “Administrative Procedure Act”) provided for in Subsection (2) hereof shall be applied accordingly”.

On the basis of the above, the time limit for the administration of the case is set by the Trustee Act itself. Other rules governing the MNB's procedures are set by the MNB Act, and the provisions of the Administrative Procedure Act of the MNB Act apply to matters not regulated by these laws.

Subject to Section 49(4) of the MNB Act, the **procedure and the time limit for the processing of the application shall start on the working day following the day on which the application is received by the MNB.** Pursuant to Section 49 (3), “**If the application fails to comply with the requirements set out in the relevant legislation, or if deemed necessary for ascertaining the relevant facts of the case, the MNB shall advise the applicant client within forty-five days to remedy deficiencies, indicating also the legal ramifications of non-compliance. In its administrative proceedings the MNB may issue a notice to the applicant for remedying deficiencies on more than one occasion. If the MNB has requested the applicant client to remedy deficiencies, the administrative time limit shall be calculated starting from the time when the deficiencies are remedied in full.**”

III. ACTIVITIES THAT MAY BE PURSUED BY FIDUCIARY ASSET MANAGEMENT COMPANIES

Pursuant to Section 3 (3) c) of the Trustee Act, a fiduciary asset management company, other than law firms, may engage in the pursuit of fiduciary asset management exclusively as its main business, and may perform services directly related to fiduciary asset management, as an activity ancillary to its main activities.

IV. ORGANISATIONAL RULES

Pursuant to Section 3(1) of the Trustee Act, fiduciary asset management activities may be carried out by a limited liability company or a private limited company with a licence issued by the Magyar Nemzeti Bank prior to the commencement of the activity, which qualifies as a transparent organisation as defined in the Act on National Resources, and which is domiciled in Hungary, or by a branch registered in Hungary of an enterprise domiciled in another state party to the Agreement on the European Economic Area, or, pursuant to the Amendment Act, by a law firm as of 23.06.2017.

The Amendment Act also set out additional new operating conditions for fiduciary asset management companies, so under Section 3 (3) of the Trustee Act, a fiduciary asset management company

- a) shall meet the requirements set out in the Act on National Assets on transparent organizations;
 - b) shall have good business reputation;
 - c) - other than law firms, may engage in the pursuit of fiduciary asset management exclusively as its main business, and may perform services directly related to fiduciary asset management, as an activity ancillary to its main activities;
 - d) - other than law firms, shall include in its corporate name a lead word, indicating the company's such activity in Hungarian;
 - e) shall be listed in the register of taxpayers free of tax debt obligations, or shall have no debt owed to the state tax authority; and
 - f) may not be a company whose operating license had been revoked by its supervisory organ within ten years before the date of submission of the application for authorization.
- (4) A member (owner) of a fiduciary asset management company may not pursue fiduciary asset management activities professionally or otherwise.

The MNB shall obtain the certificate pursuant to Section 3(3)(e) of the Trustee Act directly from the state tax authority in accordance with Section 11(4).

Pursuant to Section 3 (3) (d), the fiduciary asset management company shall include in its corporate name a lead word, indicating the company's such activity in Hungarian.

V. GENERAL REQUIREMENTS FOR A FIDUCIARY ASSET MANAGEMENT COMPANY

Sections 6–8 of the Trustee Act define the material conditions necessary for the operation of a fiduciary asset management company.

According to § 6, a fiduciary asset management company shall have its own website and shall publish on that website:

- a) its instrument of constitution;
- b) its company registry number or bar association registration number;
- c) tax number,
- d) its organizational and operational regulations;
- e) the financial report prepared according to the Accounting Act;
- f) a list of its owners, direct or indirect, or the registered number and registered office for legal persons; and
- g) its register number in the register of fiduciary asset management companies.

Section 7(1) of the Trustee Act, as amended by the Amendment Act, stipulates that "Fiduciary asset management companies shall enter into a contract setting up a financial guarantee – provided for by government decree – above and beyond its equity capital, sufficient to cover damages caused within the realm of their such activity, as well as for restitutions, in an amount commensurate with the total value of the trust funds they manage, but not less than seventy million forints, and shall keep such policy active for the duration of their fiduciary management activities." The Trustee Act therefore explicitly states that the **fiduciary asset management company shall meet the conditions for both equity and financial security at the same time.**

Pursuant to Section 8(1), the fiduciary asset management company shall have in place at all times IT systems, internal policies and records so as to ensure that the fiduciary asset management company's obligations, specifically those arising out of or in connection with fiduciary asset management contracts:

- a) are fulfilled;
- b) are fulfilled and verified; and
- c) cannot be breached.

Pursuant to Section 8(2), the fiduciary asset management company shall satisfy the bookkeeping and reporting obligations relating to the trust funds they manage.

VI. DOCUMENTS TO BE SUBMITTED AS ANNEXES TO THE APPLICATION FOR AN AUTHORIZATION

Pursuant to Section 10(1) of the Trustee Act, the application shall be submitted in writing to the Magyar Nemzeti Bank and shall contain the particulars provided for in Subparagraphs aa)-ae) and ag) of Paragraph a) of Subsection (3) of Section 13 of the applicant fiduciary asset management company, along with a plea for authorization

Pursuant to Section 13(3) a), the register shall contain:

- aa) company name
- ab) the address of its registered office
- ac) telephone, fax number, e-mail and website address
- ad) the address of the administrative office where they conduct activities
- ag) name, birth name, mother's name, place and date of birth of its senior executives, members and beneficial owners, in the case of legal persons, organizations lacking the legal status of legal persons, name, head office, register number

The Amendment Act has also changed the documents to be submitted with the application for an authorization, so as of 23.06.2017 the following documents must be attached to the application.

Pursuant to Article 10(2), the application shall have enclosed:

- a) the applicant's instrument of constitution, including all amendments thereof, or the consolidated version of the instrument of constitution;
- b) the applicant's:
 - ba) register of members, if a private limited-liability company,
 - bb) register of shareholders, if a private limited company;
- c) the applicant's decision-making and governance system, and organizational and operational regulations covering internal records and the means to achieve the goals shown among material resources;
- d) the applicant's statement declaring that it is recognized as a transparent organization under the Act on National Assets;
- e) the following in the case of persons holding, directly or indirectly, a 25 per cent share, participation or voting right in the fiduciary asset management company:
 - ea) certificate of incorporation – issued within thirty days to date – of a legal person, foreign company lacking the legal status of a legal person, and the certified Hungarian translation thereof, or if no certificate of incorporation is available, a certificate in proof that the foreign company has been registered under national law, including the certified Hungarian translation thereof,
 - eb) name, mother's name and home address in the case of natural persons;
 - f) proof of availability of the financial guarantee;
 - g) document evidencing payment of the equity capital, and proof of the legality of the funds used for paying up the equity capital;

Pursuant to Section 7(2), a fiduciary asset management company shall have at the time of submission of the application and also throughout their existence own funds of at least seventy million forints, comprised of subscribed capital, capital reserve and profit reserve. On this basis, the company must have the full amount of paid-up share capital/shareholders' equity at its disposal at the time of authorisation. Proof of the legal origin of the amount is provided by the submission of annual accounts in the case of legal persons.

- h) a declaration stating the name, company registration number, registered office and scope of activity of the company in which the applicant has any shareholding, indicating the rate of the shareholding,
- i) the description of the applicant's accounting policies and accounting regime,
- j) the declaration on the adoption of the Rules on the Prevention and Combating of Money Laundering and Terrorist Financing and on the Enforcement of Restrictive Measures on Financial and Property Transactions by the European Union and the United Nations Security Council,

Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing (AML Act) that entered into force on 26 June 2017. The MNB has prepared the new model rules under the new AML Act, as required by law, on the basis of which a declaration of acceptance of the rules under the Trustee Act can be made (the rules do not need to be submitted with the application).

- k) the applicant's internal regulations for the handling of money and valuables,

- l) an expert's confirmation stating that the fiduciary asset management company's IT system has sufficient facilities to achieve the goals shown among material resources;
- m) as regards conflict of interest:
 - ma) if there are no grounds for exclusion, a statement from the applicant's senior executive to that effect,
 - mb) if there is any ground for exclusion, a statement from the applicant's senior executive to that effect, together with a document on the clients' consent for being exonerated;
- n) in the case of law firms, proof of admission into the register of law firms;
- q) a certificate of clean criminal record for the applicant's senior executive, natural person member, beneficial owner, employee to evidence that the ground for exclusion under Paragraph a) or b) of Subsection (1) of Section 4 does not apply to them;
- r) contract of employment concluded with at least one economist holding a degree in economic sciences obtained in masters training, and with one legal counsel holding a law degree, and a contract for the employment of a certified auditor;

According to Section 4(5), the employment of the above lawyers and economists shall be on a full-time basis. For proof of employment, a valid employment contract must be submitted, and for proof of qualifications, a notarised copy of the documents certifying the qualifications (diplomas) must be submitted.

- s) a statement by the entity that is a data subject in relation to the fiduciary asset management company that it consents to the processing and transfer of personal data provided to the fiduciary asset management company for the purpose of the fiduciary asset management company's control,
- t) any other document proving that the personal condition laid down in this Act is fulfilled, and
- u) proof of payment of the administrative service fee for the submission of the application.

Pursuant to Section 11(3) of the Trustee Act, **if the fiduciary asset management company failed to enclose the certificate of clean criminal record** referred to in Paragraph q) of Subsection (2) of Section 10, **the MNB** shall consult the body operating the penal register, indicating the details provided for in Subsection (2) of Section 69 of Act XLVII of 2009 on the Penal Register, on the Register of Judgments Delivered by the Courts of Member States of the European Union Against Hungarian Nationals, and on the Register of Biometric Data Related to Criminal Prosecution and Law Enforcement (hereinafter referred to as "PRJ Act"), **for requesting data** in accordance with Subsection (2) of Section 71 of the PRJ **to determine** whether the ground for exclusion under Paragraph a) or b) of Subsection (1) of Section 4 apply to the applicant's senior executive, natural person member, beneficial owner, employee.

Therefore, in order to prove the absence of criminal record of a senior executive, a natural person member or employee of the applicant, a Hungarian citizen and the absence of prohibition from engaging in the occupation referred to in Section 4 (1) (b) of the Act, the applicant shall either submit the relevant official certificate of clean criminal record or the MNB shall obtain it. If the applicant wishes the MNB to procure the certificate of clean criminal record, it is advisable to make a declaration to this effect in the application.

The MNB reminds the applicants that in respect of those **persons where the Trustee Act also prescribes the confirmation of good business reputation** (e.g. **senior executives** in a fiduciary asset management company, **natural persons**), the certificate of clean criminal record shall also **cover information with regard to a ban from exercising civil rights**. The Ministry of the Interior (Moi) issuing the official certificate of clean criminal record issues the certificate with the content of the official certificate obtained by the MNB, on behalf of the client, within the scope specified by the relevant legislation, in this case the Trustee Act, i.e. in respect of the clean criminal record and the specified prohibition on exercising a profession. **Therefore, if the applicant wishes the MNB to obtain the necessary certificate of clean criminal record, the applicant must also submit the official certificate of clean record of the person concerned for the ban from exercising civil rights.**

Pursuant to Section 63 (4a) and (5) of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing (AML Act), the application must be accompanied by a document containing the results of the assessment of the suitability of the designated responsible manager (or the senior manager performing this function) and the compliance manager, approved by the board of directors/supervisory board/other body. If the compliance manager, as detailed in MNB Recommendation 3/2024¹:

¹ On compliance officers, their duties and responsibilities, and related internal procedures and controls to combat money laundering and terrorist financing. <https://www.mnb.hu/letoltes/3-2024-aml-compliance-officer-ajanlas.pdf>

- is not appointed on the basis of proportionality,
 - the related tasks are carried out by the designated responsible manager,
 - only one compliance manager is appointed within the group, or
 - his or her tasks are outsourced,
- the relevant decision of the Board and the reasons for it.

VII. PERSONNEL CONDITIONS

In the case of fiduciary asset management company, the group of persons designated by the Trustee Act includes the relevant person, the senior executive, the owner (member) of the fiduciary asset management company, lawyers, economists and auditors.

VII.1. The relevant person

Relevant person pursuant to Section 2(1) of the Trustee Act shall mean:

- a) a fiduciary asset management company,
- b) the senior executive of a fiduciary asset management company,
- c) any fiduciary asset management company that is a member of a legal person,
- d) any employee of a fiduciary asset management company or of a member of a business entity with legal personality, or any natural person who performs activities for the benefit of such company or member of the business entity with legal personality, and who participates in the company's fiduciary asset management activity,
- e) any person who directly participates under outsourcing arrangements in the provision of fiduciary asset management services, to be provided by the fiduciary asset management company, or
- f) relatives provided for in the Civil Code of the persons referred to in Paragraphs a)-e).

Pursuant to Section 10 (2) s) of the Trustee Act, the fiduciary asset management company shall attach to the application a declaration by the legal entity that is a related person of the fiduciary asset management company that it consents to the processing, and disclosure, of his personal data made available to the fiduciary asset management company for the purpose of supervision over the fiduciary asset management company;

VII.2. Senior executive

Pursuant to Section 2(2) of the Trustee Act, senior executive shall mean:

- a) executive officers and supervisory board members,
- b) the person appointed by the foreign-registered company to lead the branch, his deputy,
- c) the office manager in law firms, or the person who provides representation at the organizational level, and
- d) any person so designated in the instrument of constitution or in the internal policy on operations.

Taking into account the fact that the scope of senior executives has been extended under the Amendment Act, **if the applicant is a law firm, the applicant must declare who in the law firm qualifies as a senior executive under the Trustee Act and must provide evidence of the personal conditions.**

Pursuant to Section 4(1) of the Trustee Act, the senior executive, member and beneficial owner of a fiduciary asset management company may be a person

- a) who has no prior criminal record,
- b) who is not restrained by court order
 - (ba) from practicing the profession required for the pursuit of fiduciary asset management activities,
 - bb) from practicing the profession required for the pursuit of activities to be performed by an organization falling under the supervisory competence of Magyar Nemzeti Bank as provided for in Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter referred to as "financial organization");
- c) who did not work as a senior executive in a fiduciary asset management company, or did hold a share embodying exclusive or majority control in a fiduciary asset management company whose operating license was withdrawn within a period of ten years prior to the date of submission of the application for authorization, except if the operating license was withdrawn upon request;

- d) who did not work as a senior executive in a financial organization, or did hold a share embodying exclusive or majority control in a fiduciary asset management company whose activity license was withdrawn within a period of ten years prior to the date of submission of the application by the authority exercising prudential supervision over financial organizations for the infringement of regulations;
- e) who has not been penalized by the Magyar Nemzeti Bank, or its predecessor, acting in its supervisory competence under the MNB Act within a period of ten years prior to the date of submission of the application; and
- f) whose good business reputation is beyond reproach. (see point VIII for the detailed rules on proof of good business reputation).

In addition, pursuant to Section 5 (1) of the Trustee Act, the senior executive must also declare the following conflicts of interest in relation to him/herself and his/her relatives under the Civil Code:

- a) a natural person holding a direct or indirect share in another fiduciary asset management company
- b) an organization that holds any share, whether directly or indirectly, in another fiduciary asset management company, or the senior executive of such organization
- c) senior executive of another fiduciary asset management company
- d) any person in the employment of the entities referred to in Paragraphs a)-c) under contract of employment or any other form of employment relationship

Pursuant to Section 5(2), the senior executive of a fiduciary asset management company and any family member of such senior executive within the meaning of the Civil Code may not be

- a) a natural person holding any share, whether directly or indirectly, in a company provided for in the Civil Code, comprising part of the trust fund
- b) an organization that holds any share, whether directly or indirectly, in a company provided for in the Civil Code, comprising part of the trust fund, or the senior executive of such organization
- c) the senior executive of a company provided for in the Civil Code, comprising part of the trust fund
- d) any person in the employment of the entities referred to in Paragraphs a)-c) under contract of employment or any other form of employment relationship

Pursuant to Section 5(3), conflict of interest as provided for in Subsection (2) shall not apply where the senior executive of the fiduciary asset management company, or his family member, is the principal or the beneficiary, and the fiduciary asset management company has no other principal or beneficiary.

Pursuant to Section 5(4), the prohibition provided for in Subsections (1) and (2) shall not apply if the fiduciary asset management company is exonerated in writing:

- a) by all principals and beneficiaries provided for in the contract (hereinafter referred to collectively as "client") with respect to the grounds for exclusion provided for in Subsection (1)
- b) by the client affected with respect to the grounds for exclusion provided for in Subsection (2), upon the prior and complete information of the clients.

Pursuant to Section 5(5), the senior executive the fiduciary asset management company shall – without delay – notify the relevant fiduciary asset management company of any grounds for exclusion that arise with respect to the senior executive.

VII.3. Beneficial owner

According to Section 2(3) of the Trustee Act, beneficial owner shall mean the beneficial owner provided for in Paragraphs a) and b) of Point 38 of Section 3 of Act LIII of 2017 on the Prevention and Combating of Money Laundering and Terrorist Financing.

VII.4. Lawyer, economist and auditor

Pursuant to Section 10(2) r) of the Trustee Act, the fiduciary asset management company shall enclose with the application a contract of employment concluded with at least one economist holding a degree in economic sciences obtained in masters training, and with one legal counsel holding a law degree, and a contract for the employment of a certified auditor.

According to Section 4(5) of the Trustee Act, the employment of the above lawyers and economists shall be on a full-time basis. For proof of employment, a valid employment contract must be submitted, and for proof of qualifications, an original electronic copy or a notarised copy of the documents certifying the qualifications (diplomas) must be

submitted. The auditor must be employed on a contract basis, and his/her qualifications must also be certified as described above.

Furthermore, according to Section 4(2) of the Trustee Act, a person in the employ of a fiduciary asset management company under contract of employment or any other form of employment relationship must meet the requirements set out in Paragraphs a)-e) of Subsection (1), i.e.:

- a) who has no prior criminal record,
 - b) who is not restrained by court order
 - (ba) from practicing the profession required for the pursuit of fiduciary asset management activities,
 - bb) from practicing the profession required for the pursuit of activities to be performed by an organization falling under the supervisory competence of Magyar Nemzeti Bank
- as provided for in Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter referred to as "financial organization");
- c) who did not work as a senior executive in a fiduciary asset management company, or did hold a share embodying exclusive or majority control in a fiduciary asset management company whose operating license was withdrawn within a period of ten years prior to the date of submission of the application for authorization, except if the operating license was withdrawn upon request;
 - d) who did not work as a senior executive in a financial organization, or did hold a share embodying exclusive or majority control in a fiduciary asset management company whose activity license was withdrawn within a period of ten years prior to the date of submission of the application by the authority exercising prudential supervision over financial organizations for the infringement of regulations;
 - e) who has not been penalized by the Magyar Nemzeti Bank, or its predecessor, acting in its supervisory competence under the MNB Act within a period of ten years prior to the date of submission of the application.

VII.5. The owner (member) of the fiduciary asset management company

Pursuant to Section 4(1) of the Trustee Act, the member and beneficial owner of a fiduciary asset management company may be a person

- a) who has no prior criminal record,
 - b) who is not restrained by court order
 - (ba) from practicing the profession required for the pursuit of fiduciary asset management activities,
 - bb) from practicing the profession required for the pursuit of activities to be performed by an organization falling under the supervisory competence of Magyar Nemzeti Bank
- as provided for in Act CXXXIX of 2013 on the National Bank of Hungary (hereinafter referred to as "financial organization");
- c) who did not work as a senior executive in a fiduciary asset management company, or did hold a share embodying exclusive or majority control in a fiduciary asset management company whose operating license was withdrawn within a period of ten years prior to the date of submission of the application for authorization, except if the operating license was withdrawn upon request;
 - d) who did not work as a senior executive in a financial organization, or did hold a share embodying exclusive or majority control in a fiduciary asset management company whose activity license was withdrawn within a period of ten years prior to the date of submission of the application by the authority exercising prudential supervision over financial organizations for the infringement of regulations;
 - e) who has not been penalized by the Magyar Nemzeti Bank, or its predecessor, acting in its supervisory competence under the MNB Act within a period of ten years prior to the date of submission of the application; and
 - f) whose good business reputation is beyond reproach. (see point VIII for the detailed rules on proof of good business reputation).

Pursuant to Section 3(4) of the Trustee Act, a member (owner) of a fiduciary asset management company may not pursue fiduciary asset management activities professionally or otherwise.

VIII. GOOD BUSINESS REPUTATION

According to the Trustee Act, the **fiduciary asset management company** (Section 3(3) b), the **owner (member)** and the **senior executive** in the fiduciary asset management company (Section 4(1) f) **must have a good business reputation.**

According to Section 4(4) of the Trustee Act, good business reputation of a person is considered to exist if

- a) independent of any influences which may endanger the fiduciary asset management company's sound, diligent and reliable operation, and have the capacity to provide reliable and diligent guidance and control of the fiduciary asset management company
- b) able to demonstrate transparency in business connections and ownership structure.

According to Section 4(3), "burden of proof for good business reputation shall lie with the applicant, or shall be adduced by the party bearing a vested interest in persuading the Office to recognize it as being true. The applicant may provide proof of good business reputation in any manner he desires, however, the Office may prescribe that other specific credentials (documents) be provided. The Office shall be entitled to contact the competent foreign authority directly as part of its procedure to resolve a person's good business reputation."

Pursuant to Article 4 (3a) "At the request of the Office made with a view to determining good business reputation the state tax and customs authority shall disclose data for the purpose of providing information from its records, relating to the applicant, and any member and senior executive of the applicant, that may have an impact on their good business reputation. The Office shall be allowed to process such data until the definitive conclusion of the proceedings. Pursuant to Section 11 (5) of the Trustee Act, the MNB shall be given access to, and shall be entitled to process the tax secrets obtained in connection with the authorization of the fiduciary asset management company."

The good business reputation is demonstrated by the applicant by filling in the good business reputation questionnaire and, in the case of natural persons, by the official certificate of good conduct with extended content (including a clean criminal record, ban from exercising a profession and from exercising civil rights).

A mandatory annex to the application, the "Good Business Reputation Questionnaire" relating to the owner, the senior executive and the fiduciary asset management company is available, without registration or logging in, on the ERA interface (Public Services/Forms/Select Forms/Good Business Reputation Questionnaire), as a pdf file to be filled in, saved and validated.

The filled in and electronically signed questionnaire can be attached to the prescribed electronic form as an annex. The questionnaire is available at: <https://era.mnb.hu/ERA.WEB/PublicServices/Current?code=eraformanyomtatvany>

IX. REQUIREMENTS FOR EU SANCTIONS RELATED TO FIDUCIARY ASSET MANAGEMENT ACTIVITIES

Article 5m of the Council Regulation [\(EU\) No 833/2014](#) of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine in view of the conflict between Russia and Ukraine, which entered into force on 9 April 2022, contains restrictions on fiduciary asset management. The Regulation is directly in force and directly applicable. In relation to the prohibitions on fiduciary asset management companies, the MNB has published information, which can be read [here](#). Taking into account the fact that the fiduciary asset management company is the applicant for the authorisation procedure and thus the client of the official procedure pursuant to Section 9 of the Trustee Act, he/she must make a separate declaration for himself/herself and for the other parties to the legal relationship, covering the provisions of the Regulation.

- a declaration that the Applicant is not subject to the restrictive measures provided for in Article 5m of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine in view of the conflict between Russia and Ukraine (declaration to be made on a form/electronic form, if the Applicant is acting through a legal representative, the declaration must be attached separately);
- a declaration that, as a fiduciary asset management company, it will not engage in any future legal relationship prohibited by Article 5m of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine in view of the conflict between Russia and Ukraine;
- a declaration that, as a fiduciary asset management company, it will not enter into a contract with any trustee or beneficiary who is subject to the prohibition imposed by Article 5m of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine in view of the conflict between Russia and Ukraine;

- a certificate that the Applicant concerned by the prohibitions set out in Article 5m of Council Regulation (EU) No 833/2014 of 31 July 2014 concerning restrictive measures in view of the destabilising Russian measures in view of the conflict in Ukraine is exempted pursuant to Article 5m(3) to (6).

X. ADMINISTRATIVE SERVICE FEE

Pursuant to Section 18 (1) of MNB Decree 32/2023 (VII. 19.) of the Governor of the Magyar Nemzeti Bank on the administrative service fees of the Magyar Nemzeti Bank applied in certain licensing and registration procedures in the context of the supervision of the financial intermediary system and with respect to fiduciary asset management companies, the conduct of the authorisation procedure is subject to the payment of administrative service fee of HUF 1,000,000.

Further information about the administrative service fee is available in the following link:

<https://www.mnb.hu/letoltes/tajekoztatas-a-magyar-nemzeti-bank-atal-egy-es-engedelyezesi-es-nyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgaltatasi-dijrol.pdf>

Last amendment: November 2024