

Act XV of 2014
on trustees and the rules governing their activities

The National Assembly, for improving international competitiveness, for ensuring the transparency of fiduciary asset management activities and fiduciary asset management relationships, and for protecting public funds, settlors, beneficiaries, their creditors and other third parties; as well as for monitoring the sector effectively, adopts the following Act:

CHAPTER I

INTRODUCTORY PROVISIONS

1. Scope of the Act

Section 1 The scope of this Act shall cover

- a) the requirements for the operation and economic management of fiduciary asset management companies concluding fiduciary asset management contracts as regulated in the Act on the Civil Code (hereinafter “Ptk.”),
- b) the procedures of the Hungarian National Bank (hereinafter “Authority”) for licensing and registering the activities of fiduciary asset management companies, and the assessment of the requirements for licensing,
- c) the Authority’s procedure for notifying and registering fiduciary asset management relationships,
- d)
- e) the fiduciary asset management activities of fiduciary asset management companies.

2. Interpretative provisions

Section 2 For the purposes of this Act:

1. *person concerned* means
 - a) the fiduciary asset management company,
 - b) the person in a senior position at the fiduciary asset management company,
 - c) the member of the fiduciary asset management company with legal personality,
 - d) the employee of the member of the fiduciary asset management company or of the undertaking with legal personality or a natural person who is acting in the interest of the member of the fiduciary asset management company or the undertaking with legal personality, and participates in the fiduciary asset management activities of these entities,
 - e) the person who participates directly in providing fiduciary asset management services on the basis of a contract for the outsourcing of fiduciary asset management services by the fiduciary asset management company, or
 - f) relatives of the persons referred to in points a) to e) defined in the Ptk.
2. *person in a senior position* means
 - a) an executive officer and a member of the supervisory board,
 - b) the person appointed by a foreign undertaking to manage its branch, and the direct deputy of this person,
 - c) for law offices, the office manager and the person providing organisational representation; and
 - d) the person designated as such by the instrument of incorporation or by the internal rules of operation.

CHAPTER II

OPERATING REQUIREMENTS OF FIDUCIARY ASSET MANAGEMENT COMPANIES

3. Organisational requirements for the operation of fiduciary asset management companies

Section 3 (1) The trustee carries out fiduciary asset management activities in a professional manner if it performs its activities on the basis of at least two fiduciary asset management relationships. Professional fiduciary asset management activities may be carried out with a licence issued by the Authority (hereinafter “licence”).

(2) Professional fiduciary asset management activities may be carried out by:

a) limited liability companies or private companies limited by shares having their seat in Hungary,

b) the branch registered in Hungary of an undertaking having its seat in another State that is a party to the Agreement on the European Economic Area (hereinafter “branch”), and

c) law offices

(hereinafter jointly “fiduciary asset management company”).

(3) The fiduciary asset management company

a) shall meet the requirements of a transparent organisation as defined in the Act on national assets,

b) shall have a good business reputation,

c) shall, with the exception of law offices, perform only fiduciary asset management as its main activity and, as a secondary activity, perform activities that are required for the fulfilment of its fiduciary asset management duty are directly linked thereto

d) shall, with the exception of law offices, indicate this capacity in Hungarian in its short company name,

e) shall appear in the taxpayers’ database as free of tax arrears, or have no debt towards the tax authority,

f) shall not be an undertaking with an activity licence revoked *ex officio* by its supervisory authority within ten years prior to submitting its request for a licence to be issued.

(4) The member (owner) of the fiduciary asset management company shall not carry out fiduciary asset management activities in a professional or in an *ad hoc* manner.

4. Personal requirements for the operation of fiduciary asset management companies

Section 4 (1) A person in a senior position at or a member of the fiduciary asset management company may be a person

a) who has a clean criminal record,

b) who is not under the effect of prohibition from practising a profession, disqualifying him from

ba) carrying out fiduciary asset management activities,

bb) carrying out the activities of an organisation (hereinafter “financial institution”) subject to the supervisory authority of the Hungarian National Bank on the basis of the Act on the Hungarian National Bank,

c) who has not worked in a senior position at a fiduciary asset management company, or has not been a member with sole or majority controlling interest in a fiduciary asset management company, the activity licence of which has been revoked, excluding revocation upon request, within ten years prior to the submission of its request,

d) who has not worked in a senior position at a financial institution, or has not been a member with sole or majority controlling interest in a fiduciary asset management company,

the activity licence of which has been revoked for the violation of legal provisions by the authority exercising prudential supervision over financial institutions, within ten years prior to the submission of its request,

e) upon whom, within ten years prior to the submission of its request, no personalised supervisory fine had been imposed by the Hungarian National Bank or its legal predecessor acting within its supervisory powers on the basis of the Act on the Hungarian National Bank, and

f) the good business reputation of whom is beyond doubt.

(2) A person may engage in employment relationship or another employment-related relationship with the fiduciary asset management company if he meets the requirements defined in paragraph (1) *a)* to *e)*.

(3) The good business reputation shall be proved by the requesting party or the person having an interest in the Authority's accepting it. The method of proving a good business reputation may be chosen by the requesting party; however, the Authority may require the submission of other records (documents), determined by it. To establish the existence of a good business reputation, the Authority may contact the competent foreign authority directly.

(3a) For determining the existence of a good business reputation, upon the request of the Authority, the national tax and customs administration authority shall provide to the Authority the data in order to disclose information affecting the good business reputation, of the applicant, its member or a person in a senior position. The Authority may manage the data until the final closure of the proceedings.

(4) The Authority shall establish in a decision that a good business reputation was proved. Those shall have a good business reputation

a) who are free of control jeopardising the careful, prudent and reliable operation of the fiduciary asset management company; furthermore, who are able to ensure the reliable and diligent control, monitoring and operation of the fiduciary asset management company,

b) whose business network and ownership structure is transparent.

(5) The fiduciary asset management company shall be obliged to employ full-time and at least one economist with a master's degree in economics and one lawyer who has passed the bar exam, as well as to hire one independent auditor under an agency contract.

Section 5 (1) A person in senior position at a fiduciary asset management company, or the relative of such a person under the Ptk. shall not be

a) a natural person having a direct or indirect shareholding in another fiduciary asset management company,

b) an organisation or a person in senior position at that organisation having a direct or indirect shareholding in another fiduciary asset management company,

c) a person in a senior position at another fiduciary asset management company,

d) a person engaged in an employment relationship or another employment-related relationship with the legal entities listed in points *a)* to *c)*.

(2) The person in a senior position at a fiduciary asset management company or the relative of such a person shall not be

a) a natural person who has a direct or indirect shareholding in an undertaking as per the Ptk. which belongs to the trust property,

b) an organisation or a person in a senior position at that organisation, who has a direct or indirect shareholding in an undertaking as per the Ptk. which belongs to the trust property,

c) a person in a senior position at an undertaking as per the Ptk. which belongs to the trust property,

d) a person who is engaged in an employment relationship or another employment-related relationship with the legal entities listed in points *a)* to *c)*.

(3) It shall not constitute a conflict of interest under paragraph (2) if the person in a senior position at the fiduciary asset management company or his relative is the settlor or the beneficiary and the fiduciary asset management company has no other settlors or beneficiaries.

(4) The prohibition set forth in paragraphs (1) and (2) shall not apply if the fiduciary asset management company is granted exemption in writing

a) with regard to the reasons for conflict of interest set out in paragraph (1), by all of its settlors, and the beneficiary mentioned in the contract (hereinafter jointly “client”),

b) with regard to the reasons for a conflict of interest set out in paragraph (2), by the client concerned

after they were notified of such grounds in advance.

(5) The person in a senior position at a fiduciary asset management company shall disclose without delay any reason for a conflict of interest arising on his behalf towards the fiduciary asset management company concerned.

5. Material conditions for the operation of fiduciary asset management companies

Section 6 The fiduciary asset management company shall be obliged to maintain a website and publish its

a) instrument of incorporation,

b) company registration number or bar registration number,

c) tax number,

d) organisational and operating rules,

e) financial results under the Act on accounting,

f) list of direct and indirect owners and, for legal persons, their company registration number and seat, and

g) registration number in the register of fiduciary asset management companies.

Section 7 (1) For the compensation for damage caused by its activities and for the payments of grievance awards, the fiduciary asset management company shall be obliged to conclude a contract for the establishment of a financial security, in addition to its equity capital, in an amount proportionate to the total value of the trust properties, but amounting to at least HUF 70 million, as defined by a government decree, and shall keep it available for the duration of its fiduciary asset management activities. The Government shall determine in a decree the compulsory ratio between the financial security and the trust property, and may determine the circumstances in which the establishment of an additional financial security becomes necessary, and the type and minimum amount of the financial security to be established under such circumstances.

(2) The fiduciary asset management company shall, at the time of the submission of the request and during its operation, constantly maintain an equity capital of at least HUF 70 million, consisting of registered capital, reserve capital and retained earnings. A government decree may determine the circumstances requiring the increase of equity capital and the minimum amount of the required equity upon those circumstances.

Section 8 (1) The fiduciary asset management company shall develop and maintain an IT system, internal rules and a register that ensure the

a) fulfilment,

b) verifiability of fulfilment, and

c) prevention of violations

of the obligations of the fiduciary asset management company, with particular regard to its obligations arising from fiduciary asset management contracts.

(2) With regard to the trust property, the fiduciary asset management company shall fulfil its accounting and reporting obligations.

CHAPTER III

THE AUTHORITY'S LICENSING AND REGISTRATION PROCEDURE

6. Issue of the licence

Section 9 (1) The licence shall be issued by the Authority upon the request of the fiduciary asset management company.

(2) The effectivity of the licence is not limited in time; it shall be valid until revoked.

Section 10 (1) The request shall be submitted to the Authority in writing, and shall contain the data of the requesting fiduciary asset management company (in this sub-chapter hereinafter "applicant") as defined in section 13 (3) *a) aa) to ae)*, as well as its request for a licence to be issued.

(2) The following shall be attached to the request:

a) the applicant's instrument of incorporation and all of its amendments, or its consolidated version,

b) the applicant's

ba) up-to-date register of members in the case of limited liability companies,

bb) register of shareholders in the case of companies limited by shares,

c) the applicant's system of decision-making and control, its organisational and operating rules, including the rules of internal record-keeping and ensuring the fulfilment of results listed among the material conditions,

d) the applicant's declaration that it qualifies as a transparent organisation in accordance with the Act on national assets,

e) if a legal or natural person has more than 25% of direct or indirect ownership, control or voting rights in the fiduciary asset management company,

ea) for legal persons and foreign undertakings without legal personality, their company extracts and their certified Hungarian translations; in the absence of a company extract, a certificate and its certified Hungarian translation certifying that the foreign undertaking has been registered in accordance with its personal law,

eb) for natural persons, their names, mother's names and addresses,

f) the certificate of available financial security,

g) the document certifying the paid-up capital and a certificate of the legitimate origin of the amount of the paid-up capital,

h) declaration stating the name, company registration number, seat and scope of activities of companies in which the applicant has ownership, specifying the proportion of ownership,

i) description of the accounting policies and procedures of the applicant,

j) declaration on the establishment of its rules under the Acts on the prevention of money laundering and terrorist financing and on the enforcement of financial and asset restraint measures adopted by the European Union and the United Nations Security Council,

k) the applicant's rules on its management of cash and valuables,

l) expert's confirmation stating that the IT system of the fiduciary asset management company is capable of ensuring the fulfilment of the results listed among the material conditions,

m) with regard to conflict of interest:

ma) in the absence of it, the corresponding statement of the person in a senior position at the applicant,

mb) if there is a reason for conflict of interest, the corresponding statement of the person in a senior position at the applicant, and the statement of the clients granting exemption from such conflict of interest,

n) for law offices, the certificates proving their registration in the bar register,

o)

p)

q) the certificates of criminal records of persons in a senior position at the applicant and the applicant's natural person members and employees, proving that the requirements set forth in section 4 (1) *a)* and *b)* are not met,

r) the employment contracts concluded with at least one economist with a master's degree in economics and one lawyer who has passed the bar exam, as well as the contract for hiring one certified auditor,

s) the statement of the legal entity qualifying as a person concerned in relation to the fiduciary asset management company that includes the consent of that person to the management and transmission of its personal data provided to the fiduciary asset management company for the purpose of ensuring the monitoring of the fiduciary asset management company,

t) other documents specified in this Act for the purpose of proving the fulfilment of the personal conditions,

u) the certificate of the payment of the administrative service fee due for the submission of the request.

Section 11 (1) If, on the basis of the request, it can be established that the applicant meets the operating requirements for fiduciary asset management companies, its request contains the data described in section 10 (1) and the applicant has attached the annexes as per section 10 (2), the Authority shall issue the licence.

(2) The Authority shall obtain the company extract of the applicant from the company register electronically, by means of a direct query.

(3) If the fiduciary asset management company failed to attach the certification of criminal record referred to in section 10 (2) *q)*, the Authority shall assess, by providing the data referred to in section 69 paragraph (2) of Act XLVII of 2009 on criminal records, records of court sentences issued against Hungarian nationals by courts of European Union Member States, and on biometric criminal and law enforcement records (hereinafter "Bnytv."), by means of data request under section 71 (2) of the Bnytv., whether data providing grounds for disqualification as per section 4 (1) *a)* and *b)* exist with respect to the person holding a senior position at the applicant, the applicant's natural person member or employee.

(4) The Authority shall obtain the certificate referred to in section 3 (3) *e)* directly from the national tax authority.

(5) The Authority shall be entitled to know and manage confidential tax information arising in connection with the fiduciary asset management's licensing procedure.

Section 11/A The administrative time limit for the Authority's licensing procedure shall be 9 months.

7. Revocation of the licence

Section 12 (1) The Authority shall revoke the licence if

a) the requirements of issuing the licence are not fulfilled and the fiduciary asset management company failed to remedy those when called upon so and within the time limit set by the Authority,

b) the licence was obtained as a result of deceiving the Authority or via other unlawful means, or

c) the fiduciary asset management company has so requested.

(2) The Authority shall revoke the licence if the fiduciary asset management company has fulfilled its acknowledged obligations towards the creditors and clients of the trust properties managed by it, or if those obligations had been assumed by another fiduciary asset management company; in its request, the fiduciary asset management company shall make a declaration on the fulfilment of such obligations.

(3) Despite the failure to comply with the requirement set forth in paragraph (2), the Authority may revoke the licence of the fiduciary asset management company if it sees no chance of this requirement being fulfilled.

(4) In order to facilitate compliance with the obligation laid down in paragraph (2), the Authority may determine requirements and conditions, via the fulfilment of which the licence can be revoked; in that case, the fiduciary asset management company is obliged to continue with its activity in accordance with the applicable rules.

(5) If the fiduciary asset management company fails to meet the requirements and conditions determined by the Authority under paragraph (4) then, upon establishing this fact, the Authority shall immediately revoke the licence of the fiduciary asset management company.

8. Register of fiduciary asset management companies

Section 13 (1) For the purpose of providing information to current and prospective clients of fiduciary asset management companies, of assessing whether the requirements for carrying out fiduciary asset management activities are fulfilled, the Authority shall keep a register of fiduciary asset management companies.

(2) If the decision on the issue of the licence has reached administrative finality, the Authority shall enter the fiduciary asset management company's data set out in paragraph (3) into the register of fiduciary asset management companies.

(3) The register shall contain

a) the fiduciary asset management company's

aa) company name,

ab) seat,

ac) telephone number, email address and website,

ad) place of administration where it carries out activities,

ae) company registration number or bar registration number,

af) registration number,

b) the date on which the decision on the issue of the activity licence of the fiduciary asset management company has reached administrative finality,

c) the date on which the decision revoking the licence reached administrative finality,

d) the circumstances as per section 31 (1) and in connection with the assessment of the requirements for registration.

(4) The data described in paragraph (3), with the exception of data listed in point *d)*, shall be public.

(5) The register officially certifies the data described in paragraph (3) *a) af)* and points *b)* to *d)*, and in respect to such data the register shall be considered a publicly certified public register.

Section 14 (1) The fiduciary asset management company shall be obliged to notify the Authority of changes in its data kept in the register within eight days following the occurrence of the circumstance giving rise to the change.

(1a)

(2) The Authority shall enter the data change into the register.

Section 15 The Authority shall delete the data of the fiduciary asset management company from the register if

- a) the decision on revoking the licence has reached administrative finality, or
- b) the fiduciary asset management company terminated without succession.

Section 16 (1) The Authority shall store the registered data for ten years following the deletion of the fiduciary asset management company's data and then shall destroy them.

(2) With regard to fiduciary asset management activities carried out by the branch, registered in Hungary, of an undertaking having its seat in an EEA Member State, the Authority, for the purpose of assessing whether the licensing requirements are met, shall cooperate with the competent authorities carrying out the registration, licensing or supervision of the undertaking having its seat in an EEA Member State and, in this context, the may request the provision of data referred to in section 10, and may transmit such data to these authorities.

(3) Specific data obtained in the framework of cooperation may only be used by the Authority for the purpose of performing its licensing, registration and monitoring duties as defined in this Act.

9. Fees related to the licensing and registration of the activities of fiduciary asset management companies

Section 17 An administrative service fee, as determined by the decree of the Governor of the Hungarian National Bank, shall be payable to the Authority

- a) for the submission of the request for a licence to be issued,
 - b) for registering changes in the data of the fiduciary asset management company in the register,
 - c) for issuing a certification on the data of the fiduciary asset management company kept in the register,
- which shall constitute the revenue of the Authority.

10. The procedure of the Authority

Section 18 In procedures for issuing or revoking a licence, and for the registration of fiduciary asset management companies, the Authority shall proceed in accordance with the provisions of the Act on the Code of General Administrative Procedure (hereinafter "Ákr.").

CHAPTER IV

REGISTRATION OF FIDUCIARY ASSET MANAGEMENT RELATIONSHIPS ESTABLISHED WITH AD HOC TRUSTEES

11. The fiduciary asset management relationship and its notification

Section 18/A (1) Fiduciary asset management contracts concluded by *ad hoc* trustees shall be drawn up in a notarial deed or a private deed countersigned by an attorney-at-law or in-house legal counsel registered with the Bar Association.

(2) If the economic operator carries out the fiduciary asset management activities in an *ad hoc* manner,

- a) it has to meet the requirements of a transparent organisation laid down in the Act on national assets, and

b) its member (owner), its affiliated undertaking as defined in the Act on corporate tax and dividend tax, a person in a senior position at the economic operator and their relatives under the Ptk. shall not carry out fiduciary asset management activities.

Section 19 The *ad hoc* trustee shall notify the Authority of the data relating to the fiduciary asset management contract concluded with it within 30 days following its conclusion for the purpose of the registration of such data.

Section 20 (1) The notification shall be submitted to the Authority in writing and shall contain the following data related to the *ad hoc* trustee (in this sub-title hereinafter “notifier”), the settlor, and the beneficiary specified in the contract:

a) for legal persons or organisations without legal personality:

aa) name and type,

ab) seat,

ac) company registration number and other registration numbers,

ad) telephone number and email address,

b) for natural persons:

ba) name and birth name,

bb) mother’s birth name,

bc) address,

bd) place and date of birth, and

c) contractual status.

(2) The notifier shall declare in its notification, with at least in a private deed of full probative value as provided in the Act on the Code of Civil Procedure, that it pursues its fiduciary asset management activities in an *ad hoc* manner and that it meets the requirements set forth in section 18/A.

(3) The following shall be attached to the notification

a) the document containing the concluded (modified, terminated) fiduciary asset management contract,

b) the certificate on the payment of the administrative service fee due for making the notification,

c) the declaration on the establishment of its rules in accordance with the Acts on the prevention of money laundering and terrorist financing and on the enforcement of financial and asset restraint measures adopted by the European Union and the United Nations Security Council.

Section 21 (1) If, on the basis of the notification, it can be established that the trustee carries out its activities in an *ad hoc* manner, the notification contains the data referred to in section 20 (1), and the notifier has attached the annexes as per section 20 (3), the Authority shall enter the data in the register of fiduciary asset management relationships.

(1a) The administrative time limit for the Authority’s registration procedure shall be 60 days.

(2) The Authority may assess the fulfilment of the requirements of the notification at the time of making the notification and under the duration of the legal relationship as well.

12. Register of fiduciary asset management relationships

Section 22 (1) For the purpose of facilitating the traceability of data related to trust properties transferred under fiduciary asset management contracts, the Authority shall keep a register of *ad hoc* trustees, settlors in a contractual relationship with such trustees, beneficiaries specified in the contracts concluded between them and the fiduciary asset management relationships.

(2) The register shall contain

- a) the data referred to in section 20 (1) and (2),
- b) the date of notification and registration,
- c) the fact of deletion from the register, its reason and its date,
- d) the circumstances as per section 31 (1) related to assessing the requirements of registration.

(3) The register shall not prove or certify the existence of any right or fact beyond those referred to in paragraph (2). The notifier shall be liable for the veracity of the fiduciary asset management contract and the accuracy of the data included in the notification.

Section 23 Failure to provide the data specified in this chapter, except for the cases specified by law, shall not affect the legal effects arising from the fiduciary asset management contract.

Section 24 (1) The notifier shall be obliged to notify the changes in its data kept in the register within eight days following the occurrence of the circumstance giving rise to the change.

(1a)

(2) The Authority shall enter the data change into the register.

Section 25 The Authority shall delete the data related to the fiduciary asset management contract from the register if

- a) it is notified of the termination of the fiduciary asset management contract,
- b) the Authority establishes that the registration should not have taken place because the requirements of registration had not been met at the time of the notification,
- c) the Authority establishes that the requirements of registration are no longer fulfilled.

Section 26 The Authority shall store the registered data for ten years following the deletion of the data related to the fiduciary asset management contract from the register, and shall subsequently destroy them.

13. Fees related to the registration of fiduciary asset management relationships

Section 27 An administrative service fee, as determined by the decree of the Governor of the Hungarian National Bank, shall be payable to the Authority

- a) for the notification submitted for the registration of data related to the conclusion of the fiduciary asset management contract,
- b) for registering changes in the data entered into the register of fiduciary asset management relationships, and
- c) for issuing a certification on the data entered into the register of fiduciary asset management relationships,

which shall constitute the revenue of the Authority.

14. Certification of the registration of the fiduciary asset management relationship

Section 28 If the Authority registers the fiduciary asset management relationship, it shall issue a certification of the registration of the fiduciary asset management contract to the notifier with respect to the registered data (hereinafter “certification of notification”), and this certification shall qualify as an official administrative certification.

15. Access to the register of fiduciary asset management relationships

Section 29 (1) The data kept in the register may be learnt by the following organisations in the performance of their duties determined in an Act or in other laws adopted upon the authorisation of an Act:

- a) tax authority,
- b) the Hungarian Competition Authority,
- c) the supervisory government organ monitoring the regular and appropriate utilisation of central budget funds,
- d) the national security service,
- e) the organ specified in the Act on the police and charged with the domestic prevention and uncovering of crimes and the organ of counter-terrorism,
- f) the authority acting as a financial information unit, and
- g) in the course of settling the debts of natural persons, the main creditor, the Family Insolvency Service and the family property supervisor.

The listed organisations shall manage personal data only to the extent and for the period of time necessary for carrying out their duties.

(2) The data kept in the register may be learnt, to the extent necessary and relating to the case forming the subject matter of the procedure, by the following organisations in the performance of their duties determined in an Act or in other laws adopted upon the authorisation of an Act:

- a) the prosecution service acting within the scope of its duties, as well as the investigating authority in the course of criminal procedures,
- b) in criminal or civil cases, the court,
- c) in the course of judicial enforcement, the court bailiff,
- d) in an administrative case, the administrative authority, and
- e) in monitoring the appropriate use of European Union funds, the European Anti-Fraud Office (OLAF).

The listed organisations shall manage personal data only to the extent and for the period of time necessary for carrying out their duties.

(3) On the basis of paragraph (2), data from the register may be provided for organs which certify, by reference to statutory provisions, to be entitled, by virtue of an Act, to learn the data in order to assess the case, as well as to check the existence of rights and obligations. The data-requestor shall indicate in its request or data request the case number and subject matter of the procedure within which it is entitled to learn the requested data on the basis of an Act.

16. The procedure of the Authority

Section 30 In procedures for the registration of fiduciary asset management relationships and for the issue or revocation of the certification of notification, the Authority shall proceed in accordance with the provisions of the Ákr.

CHAPTER V

ASSESSMENT OF THE FULFILLMENT OF THE REQUIREMENTS RELATING TO FIDUCIARY ASSET MANAGEMENT ACTIVITIES

17. General rules on assessment

Section 31 (1) In accordance with the provisions of the Ákr. on administrative audit, the Authority shall assess whether the requirements of registration are met concerning

- a) the fiduciary asset management companies and

b) the fiduciary asset management relationships.

(2) The Authority shall assess whether the statements made on fulfilling the requirements for licensing and registration set forth in this Act, correspond to the truth, in the event that there are substantiated indications of their untrue nature.

(3) The Authority shall revoke the licence or delete the fiduciary asset management relationship from the register if the requirements for issuing the licence or the requirements of registration are no longer fulfilled.

18. Assessment of fulfilling the licensing requirements

Section 32 (1) The fiduciary asset management company shall certify towards the Authority on an annual basis, without being called upon and no later than 30 of July in the year concerned, the fulfilment of the requirements for the issue of the licence. For that purpose, it shall forward to the Authority the documents (not older than thirty days from the repeated submission of the certificate) that are to be attached to the request for licence, as well as the fiduciary asset management company's accounts as per the Act on accounting, audited by an auditor.

(2) If the content of the annexes to be submitted by the fiduciary asset management company, except for the accounts as per the Act on accounting, remain unchanged, it shall suffice to make a statement to this effect.

(3) The Authority shall obtain the company extract of the applicant from the company register electronically, through a direct query.

Section 33 If justified, the Authority shall be allowed to oblige the fiduciary asset management company to extraordinary data provision with a content as per section 32 (1) or including other data, as determined by the Authority, required for carrying out the assessment.

Section 34 If, despite being called upon, by the Authority, the fiduciary asset management company is unable to prove that the requirements for issuing the licence are still met, the Authority shall revoke the licence of the fiduciary asset management company.

Section 35 The assessment carried out by the Authority under this title shall not qualify as supervisory activity exerted over the fiduciary asset management company.

CHAPTER VI

RULES ON THE FIDUCIARY ASSET MANAGEMENT ACTIVITIES OF FIDUCIARY ASSET MANAGEMENT COMPANIES

19.

Section 36

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Section 37

21.

Section 38

22. Internal registers of the fiduciary asset management company

Section 39 (1) For the purpose of enabling fiduciary asset management relationships to be traceable and of facilitating asset tracing carried out by the authorities, the fiduciary asset management company shall keep a register of its fiduciary asset management relationships.

Section 40 (1) In order to facilitate the provision of information to clients and the exercise of their inspection rights, and for the fulfilment of the fiduciary asset management contracts,

the fiduciary asset management company shall keep a register of fiduciary-related juridical acts made with respect to the trust property.

Section 41 (1) On the basis of its inspection right, the client shall be entitled to have access to the sections of the registers of fiduciary asset management relationships and fiduciary asset management-related legal statements of concern to it.

(2) The fiduciary asset management company shall manage the data entered into the registers of fiduciary asset management relationships and fiduciary asset management-related juridical acts for ten years following the termination of the fiduciary asset management contract concluded with the client concerned.

(3) The fiduciary asset management company shall obtain the client's consent to the management of its personal data prior to entering it into the registers of fiduciary asset management relationships and fiduciary asset management-related juridical acts.

23. Confidentiality

Section 42 (1) The confidentiality obligation, as determined in the Ptk., of the fiduciary asset management company, including third parties employed by means of outsourcing, shall not apply to the following organisations in the performance of their duties set out in an Act or in other laws adopted upon the authorisation of an Act:

- a) the Authority,
- b) tax authority,
- c) the Hungarian Competition Authority,
- d) the supervisory government organ monitoring the regular and appropriate utilisation of central budget funds,
- e) the national security service,
- f) the organ specified in the Act on the police and charged with domestic prevention and uncovering of crimes and the organ for counter-terrorism, and
- g) the authority acting as a financial information unit.

The listed organisations shall manage personal data only to the extent and for the period of time necessary for carrying out their duties.

(2), The confidentiality obligation shall not apply to the following organisations in the performance of their duties as determined in an Act or in other laws adopted upon the authorisation of an Act with respect to the case forming the subject matter of the procedure:

- a) the prosecution service acting within the scope of its duties, as well as the investigating authority in the course of criminal procedures,
- b) in criminal, civil or administrative cases, the court,
- c) in the course of judicial enforcement, the court bailiff,
- d) in an administrative case, the administrative authority, and
- e) in monitoring the appropriate use of European Union funds, the European Anti-Fraud Office (OLAF).

The listed organisations shall manage personal data only to the extent and for the period of time necessary for carrying out their duties.

(3) On the basis of paragraph (2), data falling under the confidentiality obligation of the fiduciary asset management company may be provided for organs, which certify, by reference to statutory provisions, to be entitled, by virtue of an Act, to learn the data in order to assess the case, as well as to check the existence of rights and obligations. The data requestor shall indicate in its request or data request the case number and subject matter of the procedure within which it is entitled to know the requested data on the basis of an Act.

24.

Section 43

25. Outsourcing

Section 44 (1) In order to fulfil its fiduciary asset management duties with increased efficiency, the fiduciary asset management company may employ third parties (hereinafter “outsourcing”).

(2)

(3) Contracts on outsourcing shall only be concluded with legal entities, the interests of which are not contrary to the interests of the fiduciary asset management company or those of the clients, and which have an issued licence for carrying out activities subject to licensing, and which undertakes the contractual obligation of confidentiality applicable to the fiduciary asset management company.

(4) The conclusion of a contract on outsourcing

a) shall not obstruct the efficiency of monitoring exerted over the fiduciary asset management company,

b) shall not affect the liability of the trustee,

c) shall not obstruct the trustee’s

ca) right to instruct and monitor the person carrying out the outsourced activity, and

cb) right to unilaterally terminate with immediate effect the contract on outsourcing in the event of the breach of the outsourcing contract.

(5) Legal consulting, tax expert and tax consulting activities, delivery, IT system development, IT operation and maintenance, training and continued training of employees, invoicing, payroll accounting, accounting services and activities ensuring the security of the premises and the safety of the trustee’s employees, as well as activities carried out in the context of employment relationship or other employment-related relationships, shall not qualify as outsourced activities under paragraph (1) if the fiduciary asset management company proves beyond doubt that their costs are not included in any other fees or expenses to be paid to the fiduciary asset management company or a third person by a client in connection with the conclusion and fulfilment of the fiduciary asset management contract.

26. The fiduciary asset management company’s duty of utilisation

Section 45 (1) Unless the parties agree otherwise, within the scope of its duty of utilisation, the fiduciary asset management company shall

a) refrain from making juridical acts in the course of utilising the trust properties, on the basis of which the chance of an increase in the value of the trust property does not significantly exceed the risk of its decrease or sustaining damage (prudent utilisation),

b) assess at regular intervals the necessity of maintaining, modifying or terminating legal relationships established on the basis of the juridical acts on utilisation,

c) allocate the risk of loss or of damage in the trust property that may occur in connection with the juridical acts made for the purpose of utilising the trust property,

d) make use of expert consultancy services with regard to the utilisation of the trust property if, based on the size and characteristics of the trust property, it not in possession of the knowledge necessary for its efficient and prudent utilisation.

(2) Paragraph (1) *c)* and *d)* shall not be applied

a) if the size of the trust property is so small that making the juridical acts would obviously be contrary to the requirement of reasonable management,

b) with respect to certain assets belonging to the trust property, which are required to be at disposal for their transfer or use by the beneficiary, or for the settlement of debts encumbering the trust property, or the utilisation of which would otherwise prevent the trustee from fulfilling its other obligations related to the trust property,

c) if there are other circumstances, based on which the juridical acts would obviously be contrary to the requirement of reasonable management.

(3)

(4)

CHAPTER VII

SPECIFIC PROCEDURES APPLICABLE IN THE EVENT OF THE FIDUCIARY ASSET MANAGEMENT COMPANY'S TERMINATION WITHOUT SUCCESSION

27. Rules on termination without succession

Section 46 (1) Subject to the derogations set forth in this Act, the provisions of the Act on public company information, company registration and winding-up (hereinafter "Ctv.") and the Act on bankruptcy and liquidation procedures (hereinafter "Cstv.") shall apply to the winding-up and liquidation proceedings of fiduciary asset management companies operating in the form of company limited by shares or limited liability company, the provisions of the Ctv. and Cstv. and of the Act on Hungarian branches and commercial agencies of undertakings which have their seat abroad (hereinafter "Fkt.") shall apply to the winding-up and liquidation proceedings of fiduciary asset management companies operating in the form of branches, and the provision of the Cstv. shall apply to the liquidation proceedings of law offices.

(2) Only non-profit companies engaged in the liquidation of organisations specified in the Act on the Hungarian National Bank may be appointed the administrator or liquidator of a fiduciary asset management company.

(3) No bankruptcy procedure or forced strike-off procedure shall be carried out against a fiduciary asset management company.

CHAPTER VIII

FINAL PROVISIONS

28. Authorising provisions

Section 47 (1) The Government shall be authorised to determine in a decree the following:

a) the type of financial security to be provided and maintained by the fiduciary asset management company, the rate of financial security as compared to the total value of the trust properties, specific terms of the contracts establishing financial securities, as well as the circumstances under which the establishment of additional financial security becomes necessary, and the minimum value of the additional financial security,

b) the circumstances under which it becomes necessary for the fiduciary asset management company to increase its equity capital, and the minimum amount of the equity capital under those circumstances.

(2) The Governor of the Hungarian National Bank shall be authorised to determine in a decree the following:

a) the amount of administrative service fees to be paid under this Act, and the detailed rules on their collection, management, registration and reimbursement, and

b) the detailed rules on providing data from the register of fiduciary asset management companies and the register of fiduciary asset management relationships.

29. Entry into force

Section 48 (1) With the exceptions specified in paragraphs (2) to (5), this Act, shall enter into force on the day following its promulgation.

(2) Section 70, section 72 (1) and sections 81, 86 and 87 shall enter into force on 14 March 2014.

(3) Sections 1 to 52, section 53 (1), (2) and (3) *a*) and *c*), sections 54 to 58, section 59 (1), (2), (4), (5), (6) and (7), sections 60 to 69 and 71, section 72 (2), section 73 (2), (4) to (14), (16) and (20) to (27), section 74 *a*), sections 75 and 76, section 77 (1) *b*) to *e*) and (2), sections 78 to 80 and sections 82 to 84 shall enter into force on 15 March 2014.

(4) Section 73 (1), (3), (15) and (17) to (19) shall enter into force on 1 April 2014.

(5) Section 59 (3) shall enter into force on 1 May 2014.

29/A. Transitional provisions

Section 48/A (1) With respect to professional fiduciary asset management activities under section 3 (1), in addition to the fiduciary relationship established following the entry into force of Act LXI of 2017 amending certain Acts for the purpose of increasing the legal competitiveness of the business environment (hereinafter “Amending Act”), the fiduciary asset management relationship established prior to the entry into force of the Amending Act shall also be taken into account.

(2) The fiduciary asset management contract shall be null and void if its conclusion, on the basis of the application of paragraph (1), would constitute the performance of professional fiduciary asset management activities.

(3) If the economic operator designated in the fiduciary asset management contract concluded prior to the entry into force of the Amending Act carries out *ad hoc* fiduciary asset management activities and does not meet the requirements of a transparent organisation set forth in the Act on national assets, it shall fulfil these requirements by 31 December 2017, otherwise, on the day following the expiry of the time limit, its mandate as a trustee shall terminate. The fulfilment of the requirements of a transparent organisation shall be reported to the Authority.

(4) The fiduciary asset management company having an activity-licence at the time when the Amending Act enters into force shall submit, in the context of its verification obligation determined in section 32 (1), the documents certifying its fulfilment of the licensing requirements established by the and its accounts under the Act on accounting, in the year following the entry into force of the Amending Act.

30. Compliance with the requirement of the Fundamental Law on cardinality

Section 49 Provisions of this Act qualify as cardinal as follows:

- a*) section 1 *b*) on the basis of Article 41 (5) of the Fundamental Law,
- b*) section 69 on the basis of Article 4 (5) of the Fundamental Law.

31. Compliance with the law of the European Union

Section 50 (1) Provisions of this Act serve the purpose of compliance with the law of the European Union as follows:

- a*) sections 3 to 30 with Directive 2006/123/EC of the European Parliament and Council of 12 December 2006 on services in the internal market,
- b*) section 83 with Directive 2004/17/EC of the European Parliament and Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sector,

c) section 83 with Directive 2004/18/EC of the European Parliament and Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts,

d) section 83 (9) and (10) with Article 7 (1) b) of Directive 2009/52/EC of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally resident third-country nationals.

(2) The preliminary notification of the draft of this Act had been performed in accordance with Article 15 (7) and Article 39 (5) of Directive 2006/123/EC of the European Parliament and Council of 12 December 2006 on services in the internal market.

32. Amending provisions

Sections 51 to 52

Section 53 (1) to (2)

(3)

Sections 54 to 58

Section 59 (1) to (2)

(3)

(4) to (7)

Sections 60 to 69

Section 70 (1) Section 5 and section 11 d) of Act CCIV of 2013 on the amendment of Act CXLI of 1997 on real estate registration in connection with Act V of 2013 on the Civil Code shall not enter into force.

(2) Section 135 (5) of Act CCXII of 2013 on certain provisions and transitional rules in connection with Act CXXII of 2013 on agricultural and forestry land trade shall not enter into force.

Section 71

Section 72 (1)

(2)

Section 73 (1)

(2)

(3)

(4) to (14)

(15)

(16)

(17) to (19)

(20) to (27)

Section 74

Sections 75 to 76

Section 77 (1)

(2)

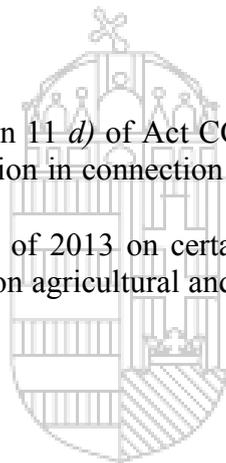
Sections 78 to 80

Section 81 Section 1 of Act CXXXVIII of 2013 on the amendment of Act XLIII of 1999 on cemeteries and burial shall not enter into force.

Sections 82 to 84

Section 85

Section 86



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Section 87 (1) The following sections of Act CCLII of 2013 amending certain Acts related to the entry into force of the new Civil Code (hereinafter the “Amending Act”), shall enter into force with the following texts:

a) its provisions of section 131 (1) amending section 31 (3) of Act C of 2012 on the Criminal Code, instead of the text “The victim, if having limited capacity to act, shall be entitled to submit the private motion independently, except for victims of full legal age whose capacity to act was partially limited by the court in the administration of their personal affairs or in the right to turn to the court or other authorities, for in such cases, the consent of the statutory representative shall be required to submitting the private motion. The private motion may be submitted by the statutory representative of the victim of minor age having limited capacity to act.” with the text “The victim of minor age having limited capacity to act shall be entitled to independently submit the private motion and so shall be his statutory representative. If the victim is of full legal age whose capacity to act was partially limited by the court in the administration of his own affairs or in the right to turn to the court or other authorities, the consent of his statutory representative shall be required for submitting the private motion.”,

b) its provision in section 118 (4) setting forth section 38 g) of Act XLV of 2008 on certain notarial procedures, instead of the text “for the registration” with the text “for the registration and the queries therefrom”.

(2)

(3) The following provisions of the Amending Act shall not enter into force:

a) section 29 (4) *e)*,

b) section 32 (2) *g)*,

c) section 73 *c)*,

d) section 92,

e) section 94 (20) *i)*,

f) section 30 (18).

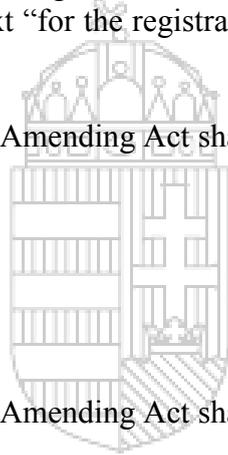
(4) The following provisions of the Amending Act shall be repealed:

a) section 77 (5),

b) section 191 (2),

c) in section 191 (4) the text „, , section 100 (4), (5) and (7)”.

Annex I to Act XV of 2014



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