AUTHORISATION OF THE ACTIVITIES OF INVESTMENT FUND MANAGERS

Pursuant to the provisions in subpoint aa) of point a) and point b) of Section 9 (1) of Act CCXXII of 2015 on the general rules of trust services and electronic transactions, 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**"), on grounds of Section 58 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank ("**MNB Act**"), the legal representative economic operator or an applicant (client) obliged to apply electronic communication shall submit his application, notification or other petition by using the prescribed form available in the information system ensuring the electronic transactions of the MNB ("**ERA System**") and introduced for the procedure related to the petition 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 is a mandatory appendix that must be submitted together with the application, is available as fillable PDF on the MNB's website under the Printed forms of licensing, authorization and registration procedures and notifications title. The filled and electronically signed questionnaire can be attached to the prescribed electronic form as an appendix. The questionnaire is available at https://alk.mnb.hu/bal_menu/formanyomtatvanyok?mid=871

The website of the MNB includes information materials on electronic transactions and the submission of appendices to be attached in licensing procedures (electronic documents):
http://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes-az-engedelyezesi-eljarasokban/2018-januartol-hatalyos-szabalyok

Further information related to certain aspects of licensing procedures (e.g. establishing good business reputation) is available under the following menu item:
https://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/gyakran-ismetelt-kerdesek

I. Introduction

Act XVI of 2014 on Collective Investment Trusts and Their Managers, and on the Amendment of Financial Regulations ("**CITA**"), which continues to require the authorisation of the MNB for the operation and activities of investment fund managers, came into effect on 15 March 2014. However, a significant change is that, following the relevant legislative changes in the EU, the new act makes a distinction between two forms of investment fund managers: UCITS fund managers and alternative investment fund managers ("**AIFM**"). Both are called as investment fund managers by the CITA.

Out of the licensing subjects, the prior authorisation of acquiring a qualifying interest in an investment fund manager applies only to the UCITS fund managers, but the act does not require such an authorisation procedure in the base of an AIFM. However, acquiring a qualifying interest in an AIFM must be reported to the MNB based on Section 167 (12) of the CITA. There are differences in the prior authorisation of the election and appointment of certain senior executives depending on the types of investment fund managers. In fact, the licensing conditions of the latter subjects can be found in other parts of the licensing guide. This part of the guide contains the licensing conditions investment fund managers newly entering the market and investment fund managers that wish to carry out new activities.[1]

[1] In the licensing procedures of the activities of investment fund managers, verification of the conditions for the authorisation or registration of the senior executives (and other persons filling certain positions) is also mandatory. The rules on the authorisation and notification procedures regarding the personnel of investment fund managers are set out in the guide titled "Authorisation and notification of the senior executives of investment fund managers and notification of other persons", which is available on the MNB's website.

II. General rules

Most important terms and definitions under Section 4 (1) of the CITA:

Investment fund management
investment fund management/collective portfolio management: investment management activities performed for a collective investment trust, including the performance of the tasks relating to the organization and operation of the collective investment trust;

Investment fund managers
Investment fund manager: an AIFM or UCITS manager authorised to engage in the pursuit of investment fund management activities;
AIFM: alternative investment fund manager, that is, an investment fund manager whose regular business is managing one or more AIFs;
UCITS manager: an investment fund manager whose regular business is managing one or more UCITS;
Venture capital fund manager: an AIFM whose regular business is managing venture capital funds and/or private equity funds exclusively (the CITA knows the terms 'venture capital fund' and 'venture capital fund manager' but, in legal terms, they qualify as an AIF or AIFM).

Two things are clear from the above definitions. One is that every investment fund manager must have supervisory authorisation and the other is that the law basically defines two investment fund manager forms, which are as follows: UCITS fund manager and AIFM.

It is important to note, however, that further distinction can be between the investment fund managers within the category of the AIFM under Section (2) of the CITA based on whether the value of the AIF assets managed by them exceeds the statutory limits or the AIFM submits itself to the CITA as a whole. Section 2 (2) of the CITA defines a specific scope of persons to which the provisions concerning AIFMs, except for remuneration and certain rules of risk management and liquidity management, also apply even if:
a) The AIFM, either directly or indirectly through a company with which the AIFM is linked by common management or control or by a substantive direct or indirect holding, manage portfolios of AIFs whose assets under management,
aa) In total do not exceed a threshold of 100 million Euro (including any assets acquired through the use of leverage), or
ab) In total do not exceed a threshold of 500 million Euro when the portfolios of AIFs consist of AIFs that are unleveraged and have no redemption rights exercisable during a period of five years following the date of initial investment in each AIF; and
b) The AIFM did not choose to opt in under the CITA in its entirety.
Therefore, AIFMs consist of supra-limit AIFMs and sublimit AIFMs (that do not provide for voluntary submission) depending on whether or not the limits above are exceeded. The application of this exception will be of significance in respect of the personal authorisation to be described later.
On top of that, the AIFM category also involves venture capital fund managers. Section 2 (6) of the CITA provides that Section 16 (capital requirement), Section 18 (3) (rules on records) and Section 38 (evaluation) of the CITA do not apply to the venture capital fund managers provided for in Section 2 (2).

Forms of collective investment
Forms of collective investment:
all collective investments that collect capital from more investors in order to invest for the benefit of the investors according to specific investments policy (UCITS, AIF);
AIF:
Alternative investment fund, that is, non-UCITS collective investment scheme, including investment compartments thereof;
UCITS:
a) Publicly available open-ended investment funds that comply with the provisions relating to UCITS set out in Government Decree 78/2014. (III. 14.) on the Investment and borrowing policies of collective investment trusts, adopted by authorization of the CITA, or
b) Publicly available open-ended collective investment trusts created upon the national transposition of the provisions of the UCITS Directive into the laws of another EEA Member State.

According to Section 5 of the CITA, the collective portfolio management activities of investment fund managers are subject to prior official authorization to be granted by the MNB. Unless otherwise provided for in the CITA, only investment fund managers may be authorized to perform the activities specified under paragraph a) of Section 6 (1) and paragraph a) of Section 7 (1). It should be noted that, due to the lack of any express provision in the CITA to that effect, the foundation of an investment fund manager is not subject to a foundation authorisation, but only the activities it intends to carry out is subject to authorisation, so the procedure before the court of registration concerning the foundation of the company may be conducted before the issue of the authorisation, provided, that the company may obviously commence any activity subject to authorisation only after such authorisation has been issued.

III. Activities that may be pursued by UCITS managers

Pursuant to Section 6 (1) of the CITA, UCITS managers may pursue the following activities in possession of the official authorisation referred to in Section 5 of the CITA,
a) Investment management (decisions relating to investment strategies and asset allocation exercises in connection with the investment policy, including the implementation thereof);
b) Performing functions of administration relating to collective portfolio management, fully or partially, such as:
ba) Performing accounting and legal duties,
bb) Providing information to investors,
bc) Valuation and pricing of assets, management of tax issues,
bd) Regulatory compliance monitoring,
be) Keeping of records related to investors,
bf) Yield payment.
bg) Functions of administration connected to the marketing and distribution of collective investment instruments,
bh) Execution of the concluded transactions, including also the sending of the documents,
bi) Record keeping,
c) Marketing collective investment instruments and distribution of collective investment instruments managed by the UCITS manager.

Section 6 (2) gives an exhaustive of additional investment services activities that UCITS managers may pursue in addition to the provision of collective portfolio management, that is:
a) Portfolio management,
b) Investment advice,
c) Safekeeping and management of collective investment instruments, covering also securities account services for dematerialized securities, as well as client account services where appropriate according to the activities performed, covering also administration services related to collective investment instruments. When carrying out the activities listed in paragraphs a) to c), the provisions of Act CXXXVIII of 2007 on investment enterprises and commodity exchange service providers and the rules of their activities ("**IRA**"), relevant to the activity concerned (authorisation and operating conditions), must also be applied.

Section 6 (3) of the CITA includes the following restrictions on the performance of activities:
UCITS managers are required to perform the activity specified in paragraph a) of Subsection (1). UCITS managers are not authorised to perform the activities defined in Subsection (2) individually (activities under the IRA), without authorisation for the activities provided for in Subsection (1), moreover authorisation for the activities specified in paragraphs b) and c) of Subsection (2) is granted only if possessing the authorisation required to perform the activity provided for in paragraph a) of Subsection (2). UCITS managers are allowed to perform the activities provided for in paragraph c) of Subsection (1) acting as an intermediary.

UCITS managers may provide the collective portfolio management services defined in Section 5 to resident and, by way of outsourcing or in the form of cross-border services, non-resident investment fund managers alike.

The MNB must be notified of cross-border activities.

According to the Minister's explanation of the CITA, UCITS managers may obviously carry out duties of the kind directly related to their activities although these activities do not appear in the list of activities, such as training of salespersons and the regular provision of written and oral information to them, as well as sales support. Similarly, there is no need to mention some of the techniques in the list of activities, which the fund managers may use, e.g. securities lending under the CMA.

IV. Activities that may be pursued by AIFMs

Based on Section 7 (1) of the CITS, AIFMs must at least perform the following activities in possession of the official authorisation referred to in Section 5 of the CITA:
a) Investment management (decisions relating to investment strategies and asset allocation exercises in connection with the investment policy, including the implementation thereof);
b) Risk management.
While, in accordance with Subsection (2), AIFMs may additionally perform in the course of the management of an AIF:
a) Administration:
  aa) Performing accounting and legal duties,
  ab) Providing information to investors,
  ac) Valuation and pricing of assets, management of tax issues,
  ad) Regulatory compliance monitoring,
  ae) Keeping of records related to investors,
  af) Yield payment,
  ag) Functions of administration connected to the marketing and distribution of collective investment instruments managed by the AIFM,
  ah) Execution of the concluded transactions, including the sending of certificates,
  ai) Record keeping;
b) Marketing collective investment instruments and distribution of collective investment instruments managed by the AIFM;
c) Activities related to the assets of AIFs, namely, services necessary to meet the fiduciary duties of the AIFM, facility management, real estate administration activities, advice to companies on capital structure, industrial strategy and related matters, advice and services relating to mergers and the purchase of companies and other services connected to the management of the AIF and the companies and other assets in which the AIF has invested.

On the basis of Section 7 (3), AIFMs may engage only in the following additional activities as part of their regular business in addition to the activities listed in Subsections (1) and (2) and fund management performed for UCITS subject to special authorisation:
a) Portfolio management, including management of the portfolio of an institution for occupational retirement provision,
b) Investment advice,
c) Safekeeping and management of collective investment instruments, covering also securities account services for dematerialized securities, as well as client account services where appropriate according to the activities performed, covering also administration services related to collective investment instruments,
d) Receiving and transmitting client orders relating to financial instruments.
When carrying out the activities listed in Subsection (3), the provisions of the IRA (concerning the authorisation and operating conditions), relevant to the given activity must also be applied.

An important requirement is that AIFMs are required to perform both activities defined in paragraphs (1) a) and b) (investment management, risk management). AIFMs are not authorised to perform the activities defined in Subsections (2) and (3) individually without an authorisation for the activities provided for in Subsection (1), moreover authorisation for the additional activities specified in paragraphs b) to d) of Subsection (3) is granted only if possessing the authorisation required to perform the activity provided for in paragraph a) of Subsection (3). AIFMs are allowed to perform the activities provided for in paragraph b) of Subsection (2) also acting as an intermediary.

AIFMs, except for the AIFMs under Section 2 (2), may provide the collective portfolio management services defined in Section 5 to resident and, by way of outsourcing or in the form of cross-border services, non-resident investment fund managers alike. The MNB must be notified of cross-border activities. Under the CITA, AIFMs that have opted for the exemption under Section 2 (2) of the CITA, which is optional under the AIFM Directive, are not eligible for the provision of cross-border services or the establishment of a branch.

According to the Minister's explanation of the CITA, AIFMs, similar to UCITS managers, may obviously carry out duties of the kind directly related to their activities although these activities do not appear in the list of activities, such as training of salespersons and the regular provision of written and oral information to them, as well as sales support. Similarly, there is no need to mention some of the techniques in the list of activities, which the fund managers may use, e.g. securities lending under the CMA.

a) Investment management (decisions relating to investment strategies and asset allocation exercises in connection with the investment policy, including the implementation thereof);
b) Risk management.
While, in accordance with Subsection (2), AIFMs may additionally perform in the course of the management of an AIF:
a) Administration:
  aa) Performing accounting and legal duties,
  ab) Providing information to investors,
  ac) Valuation and pricing of assets, management of tax issues,
  ad) Regulatory compliance monitoring,
  ae) Keeping of records related to investors,
  af) Yield payment,
  ag) Functions of administration connected to the marketing and distribution of collective investment instruments managed by the AIFM,
  ah) Execution of the concluded transactions, including the sending of certificates,
  ai) Record keeping;
b) Marketing collective investment instruments and distribution of collective investment instruments managed by the AIFM;
c) Activities related to the assets of AIFs, namely, services necessary to meet the fiduciary duties of the AIFM, facility management, real estate administration activities, advice to companies on capital structure, industrial strategy and related matters, advice and services relating to mergers and the purchase of companies and other services connected to the management of the AIF and the companies and other assets in which the AIF has invested.

On the basis of Section 7 (3), AIFMs may engage only in the following additional activities as part of their regular business in addition to the activities listed in Subsections (1) and (2) and fund management performed for UCITS subject to special authorisation:
a) Portfolio management, including management of the portfolio of an institution for occupational retirement provision,
b) Investment advice,
c) Safekeeping and management of collective investment instruments, covering also securities account services for dematerialized securities, as well as client account services where appropriate according to the activities performed, covering also administration services related to collective investment instruments,
d) Receiving and transmitting client orders relating to financial instruments.

When carrying out the activities listed in Subsection (3), the provisions of the IRA (concerning the authorisation and operating conditions), relevant to the given activity must also be applied.

An important requirement is that AIFMs are required to perform both activities defined in paragraphs (1) a) and b) (investment management, risk management). AIFMs are not authorised to perform the activities defined in Subsections (2) and (3) individually without an authorisation for the activities provided for in Subsection (1), moreover authorisation for the additional activities specified in paragraphs b) to d) of Subsection (3) is granted only if possessing the authorisation required to perform the activity provided for in paragraph a) of Subsection (3). AIFMs are allowed to perform the activities provided for in paragraph b) of Subsection (2) also acting as an intermediary.

AIFMs, except for the AIFMs under Section 2 (2), may provide the collective portfolio management services defined in Section 5 to resident and, by way of outsourcing or in the form of cross-border services, non-resident investment fund managers alike. The MNB must be notified of cross-border activities. Under the CITA, AIFMs that have opted for the exemption under Section 2 (2) of the CITA, which is optional under the AIFM Directive, are not eligible for the provision of cross-border services or the establishment of a branch.

According to the Minister's explanation of the CITA, AIFMs, similar to UCITS managers, may obviously carry out duties of the kind directly related to their activities although these activities do not appear in the list of activities, such as training of salespersons and the regular provision of written and oral information to them, as well as sales support. Similarly, there is no need to mention some of the techniques in the list of activities, which the fund managers may use, e.g. securities lending under the CMA.

V. Authorisation requirements relating to UCITS managers

The authorisation requirements relating to UCITS managers are set out in Sections 8-9 of the CITA. Pursuant to Section 8 (1) of the CITA, also having regard to Subsection (1a), the applications for the authorisation to perform the activities referred to in paragraph a) of Section 6 (1) must have enclosed the following:
a) The UCITS manager's instrument of constitution, a description of the activity for which the authorisation is requested and the activity programme setting out the organizational structure and the rules of operation under Annex 2;
b) Proof of payment of the initial capital in the amount prescribed in Section 16 (1), and evidence concerning the legitimacy of the financial means used to pay up the initial capital;
c) A risk management policy for managing the risks associated with transactions in derivative instruments, if the fund manager is involved in operations in derivatives as well;
d) Documents in proof of compliance with the infrastructural, organisational and personnel requirements, apart from compliance with the requirement of having no prior criminal record;
e) The identities of the shareholders, whether direct or indirect, of the fund manager, natural or legal persons, with a qualifying interest in the investment fund manager;
f) A statement on compliance with the provisions of Section 9, or on the lack thereof (see in detail below);
g) For any investment fund manager that is engaged in the pursuit of activities covered by the IRA as well, the related internal policy designated to avoid conflicts of interests that may arise stemming from portfolio management and investment fund management services provided to several investors or collective investment trusts along different investment strategies; and
h) The auditor's confirmation stating that the fund manager's IT system is suitable for satisfying the requirements laid down in Sections 29 and 30;
i) A detailed description of the ownership structure, except for actions for the amendment of the scope of activities, supported by documentary evidence and, if possible, information about the beneficial owners.

Section 8 (1a) of the CITA sets forth that if the applicant is a non-natural person established in Hungary, the documents for verifying the details specified in paragraphs a) and e) of Subsection (1) are obtained by the MNB.
According to Section 9 of the CITA, the MNB seeks the opinion of the supervisory authorities of other EEA Member States concerned prior to issuing an authorisation to a UCITS manager to engage in investment fund management activities if the applicant fund manager:
a) Is a subsidiary of an investment firm, credit institution, investment fund manager, insurance company or collective investment trust established in another EEA Member State;
a) Is a subsidiary of an investment firm, credit institution, investment fund manager, insurance company or collective investment trust established in another EEA Member State;
c) Has a shareholder, whether a natural or legal person, with controlling influence in an investment firm, credit institution, investment fund manager, insurance company or collective investment trust that is established in another EEA Member State.
Where investment service activities and/or auxiliary services pursuant to Section 6 (2) are provided, the relevant provisions of the IRA, in particular, Section 28 thereof, which lists the appendices to be enclosed to the application for authorisation, must by applied *mutatis mutandis*.
Under Section 20 of the CITA, the acquisition of interest by owners holding a qualifying interest is also subject to authorisation during the licensing procedures of UCITS managers.[2]

Section 8 (3) of the CITA provides that a UCITS manager may commence business as soon as the investment fund management authorisation has been granted. In pursuing their activity, UCITS managers must constantly meet the requirements of the legislation and demonstrate at the MNB's request that they fulfil the operational requirements defined by the legislation issued under the authorisation of the CITA.

Government Decree 79/2014. (III.14.) on the organisational, conflicts of interest, business conduct and risk management requirements concerning UCITS managers ("**Government Decree**") sets out additional requirements for the pursuit of the activities, of which the following must be demonstrated in the authorisation procedure:
General risk management policy under Section 22 of the Government Decree,

[2] Detailed rules on the authorisation procedures for the acquisition of a qualifying interests in UCITS managers are laid down in the guide titled "Authorisation of the acquisition of qualifying interest in UCITS managers", which is available on the MNB's website.

Business continuity policy under Section 3 of the Government Decree,
Conflict of interest policy under Section 11 of the Government Decree.

The introduction of the control functions under the Government Decree must also be demonstrated: permanent compliance function (Section 7), permanent internal audit function (Section 8) and permanent risk management function (Section 9).

VI. Authorisation requirements concerning AIFMs

Pursuant to Section 11 (1) of the CITA, also having regard to Subsection (1a), the applications for the authorisation to perform the activities referred to in paragraph a) of Section 7 (1) must have enclosed the following:
a) The instrument of constitution of the AIFM, proof that its head office and registered office provided for in the instrument of constitution are both in Hungary, a description of the activity for which the authorisation is requested, and the rules of operation under Annex 2;
b) Proof of payment of the initial capital in the amount prescribed in Section 16 (1), and evidence concerning the legitimacy of the financial means used to pay up the initial capital;
c) A description of the remuneration policies and practices that are consistent with the principles laid down in Annex 13;
d) Documents in proof of compliance with the infrastructural, organisational and personnel requirements, apart from compliance with the requirement of having no prior criminal record;
e) The identities of the shareholders, whether direct or indirect, of the AIFM, natural or legal persons, with a qualifying interest in the investment fund manager, showing also the percentage of the qualifying interest;
f) Details of any outsourcing arrangements made for the activities as provided for in Section 41;
g) A detailed description of the ownership structure, except for actions for the amendment of the scope of activities, supported by documentary evidence and, if possible, information about the beneficial owners.

According to Subsection (2), the applicant must inform the MNB regarding the investment strategy proposed for the AIFs that it intends to manage (classification according to the type of primary category of assets). Please note that the AIFM should clearly state in its AIFM investment strategy and/or its application the types of funds it wants to manage according to the primary category of assets, as it will be specified by the MNB in the licensing resolution and the investment fund manager will be authorised to manage the types of investment funds specified therein. If the investment fund manager subsequently intends to manage other types of investment funds, which are not named in its authorisation, it should apply for the modification of its scope of activities.

The applicant must provide to the MNB the following information, where such information is available at the time of submission of the application:
a) Information about the AIFM's policy as regards the use of leverage, and the risk profiles and other characteristics of the AIFs it manages or intends to manage, including information about the EEA Member States or third countries in which such AIFs are established or are expected to be established;
b) Information on where the master AIF is established if the AIF is a feeder AIF;
c) Information about the AIFM's management policy;
d) Information on the appointment of the depositary;
e) Any additional information to be provided to investors, which are not contained in paragraphs a)-d).
The application for authorisation is considered complete if the AIFM has at least submitted the information referred to in paragraphs a)-d) of Subsection (1), and in Subsection (2).

Commission Delegated Regulation (EU) No 231/2013 of 19 December 2012 ("**AIFM Regulation**") requires the existence of additional conditions for carrying out the activity. Of these, proof of the existence of the following conditions is mandatory in the authorisation procedure:
- Conflicts of Interest policy (Articles 30-38 of the AIFM Regulation)
To prove the personnel conditions, it is essential to make the declaration on the absence of conflicts of interest under paragraph d) of Section 19 (2) of the CITA. Such a declaration can obviously be made only if the conflicts of interest rules are laid down in the conflict of interest policy.
- Business continuity policy (Article 57 of the AIFM Regulation)
It is essential to have a business continuity policy for the establishment and maintenance of an electronic portfolio records system listed among the material conditions.
Proof of the existence of the following control functions is necessary to fully comply with the organisational and personnel requirements under paragraph d) of Section 11 (1) of the CITA:

- Permanent risk management function (Article 39 of the AIFM Regulation), - Internal control mechanism (Article 57 (1) c) and Article 62 of the AIFM Regulation), and
- Permanent compliance function (Article 61 of the AIFM Regulation).
It is not necessary to submit the following documents listed in the AIFM Regulation, however, they must be developed as an operational requirement:
- Professional indemnity insurance policy (Article 15 (5) of the AIFM Regulation),
- Risk management policy (Articles 40 of the AIFM Regulation),
- Accounting policy (Article 57 (4) and Article 59 of the AIFM Regulation).

It is an important requirement that, in pursuing their activity, AIFMs must constantly meet the requirements of the legislation and the AIFM Regulation, and demonstrate at the MNB's request that they fulfil the operational requirements defined by the legislation issued under the authorisation of the CITA.

Section 11 (5) of the CITA provides that where an authorised UCITS manager applies for authorisation as an AIFM, the documents that the UCITS manager has already provided when applying for authorisation for the management of UCITS and are required for authorisation as an AIFM need not be resubmitted, provided that such information or documents remain up-to-date.

VII. Cases of refusal of authorisation in the case of UCITS managers and AIFMs

Cases of refusal of authorisation in the case of UCITS managers

Section 10 (1) gives an itemized list of the cases that result in refusal by the MNB of an application for authorisation to perform investment fund management activities.

The MNB will refuse the application if:
a) The applicant fails to comply with the requirements set out in the CITA or in specific other legislation adopted by authorization of the CITA,
b) The applicant fails to provide sufficient proof of compliance with the requirements set out in paragraph a),
c) The applicant has provided misleading or false information; or
d) The applicant has close ties with a person or body established or domiciled in a third country where there are legal impediments liable to prevent the effective exercise and successful supervisory functions over the investment fund manager, or where there are impediments involved in their enforcement,
e) There are reasonable grounds to suspect that, in connection with the activity of the applicant, money laundering or terrorist financing within the meaning of the relevant legislation is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

The applicant must supply to the MNB information that the MNB considers necessary for verifying compliance with the condition set out in paragraph d). The MNB publishes on its website regularly updated information as to the names of organs that are parties to the international cooperation agreement, based on mutual recognition of supervisory authorities, which covers the supervision of branches, including a list of the States where they are established.

Cases of refusal of authorisation in the case of AIFMs

Pursuant to Section 14 of the CITA, the MNB refuses authorisation for the activity referred to in Section 7 (1) of the CITA where the effective exercise of its supervisory functions is prevented by any of the following:
a) Close links between the AIFM and other natural or legal persons;
b) The laws, regulations or administrative provisions of a third country governing natural or legal persons with which the AIFM has close links;
c) Difficulties involved in the enforcement of the laws, regulations and administrative provisions provided for in paragraph b).

VIII. Extension of the authorisation of AIFMs related to funds planned to be managed

The cases of the extension of authorisations occurring most typically in the licensing practice are presented below.

Extension of the collective portfolio management activities of venture capital fund managers to other AIFs

Venture capital funds that already hold another authorisation under Section 2 (2) of the CITA must initiate an authorisation procedure for the modification of its scope of activities in case they want to manage AIFs in addition to venture capital funds and/or private equity funds. In this case, the MNB requires proof of the following authorisation requirements:

- Proof of the initial capital under Section 16 (1) of the CITA, and evidence concerning the legitimacy of that amount;
- Amendment of the instrument of constitution, based on which the fund manager changes its name;
- Proof of the existence of the portfolio records system under Section 18 (3) of the CITA;
- Submission of the business continuity policy (Article 57 (3) of the AIFM Regulation);
- In the case of senior executives, proof that their professional practice reaches three years even without the practice in paragraph d) of Section 19 (8) (business association engaged in business consulting);
- Proof of the professional and managerial practice of supervisory board members;
- Proof of the compliance of persons holding a qualifying interest with the requirements under Section 167 (12) of the CITA concerning the initial capital increase;
- Proof of the requirements in Section 38 of the CITA (asset valuation policy, see as part of the rules of operation under Clause 12 of Annex 2 of the CITA).

Please note that, having regard to the proportionality criteria, it is justified to provide for the independent internal audit function as an operating requirement of the management of securities and/or real estate funds.

Extension of the collective portfolio management activities of securities fund managers to real estate funds

A securities fund manager AIFM already holding an authorisation, which intends to create a real estate fund, must initiate an authorisation procedure for the modification of its scope of activities. In this case, the MNB requires proof of the following authorisation requirements:

- Capital increase to 300 thousand Euros under Section 16 (1) of the CITA and evidence concerning the legitimacy of that amount (paragraph b) of Section 11 (1) of the CITA);
- If, in the course of the capital increase, any member or a new members acquires a qualifying interest, proof that the holder of the qualifying interest has good business reputation and submission of its declaration concerning Section 21 (1) of the CITA (Section 167 (12) of the CITA and paragraph e) of Section 11 (1) of the CITA);
- Modification of the investment strategy under Section 11 (2) of the CITA and extension thereof to real estate funds;
- When available at the time of filing the application, submission of information under Section 11 (3) of the CITA, in particular, the management policy concerning AIFs and the appointment of the depositary.

IX. Capital and organisational requirements of investment fund managers

Section 16 (1) of the CITA sets out that an investment fund manager may be authorised to pursue investment fund management activities if having, subject to the provisions in Subsection (2), an initial capital of at least one hundred and twenty-five thousand Euros or, for real estate funds, at least three hundred thousand Euros. According to paragraph 53 of Section 4 (1), 'initial capital' means the combined total of the capital subscribed at the time of foundation of the company and capital and profit reserves. The initial capital determined in the Euro should be converted into Forints by using the official MNB exchange rate in effect on the last day of the calendar month preceding the time when the authorisation for investment fund management activities was granted. It is important that the CITA does not distinguish between the two forms of fund managers in respect of the initial capital, so both UCITS managers and AIFMs must comply with the capital requirements set out in Section 16 (1).

Sections 16 (2)-(8) set forth the following provisions:
If the value of the portfolios managed by the investment fund manager exceeds two hundred and fifty million Euros, it must provide an additional amount of own funds. The amount of the additional own funds is equal to 0.02 per cent of the amount by which the value of the portfolios of the investment fund manager exceeds two hundred and fifty million Euros. If the total of the own funds and the additional capital reaches ten million Euros, the own funds need not to be increased further. The amount to be used for the calculation must include the portfolios managed by third parties under an outsourcing agreement made with the investment fund manager excluding, however, portfolios that the investment fund manager is managing under outsourcing agreements as an agent.

In order to maintain the continuity of its operations and protect its investors, investment fund managers must have sufficient own funds to cover any and all risks associated with their activities, which may not be less than:
a) The amount specified in Subsection (1); or

b) The sum equivalent to 25 per cent of the previous year's fixed overheads provided for in Article 97 of Regulation 575/2013/EU.
In determining the own funds referred to above the higher of the values calculated under paragraphs a) and b) must be applied.

According to Section 17 (1) of the CITA, as a rule, investment fund managers must operate in the form of companies limited by shares, provided, that the rules of the Civil Code on legal persons apply subject to the derogations in the CITA.

Chapter VIII (Sections 52-61) regulate the establishment of branches by investment fund managers and the rules on the cross-border provision of services in the EEA Member States. Investment fund managers operating as a branch are governed by the provisions of the FCA subject to the derogations in the CITA.

Pursuant to Section 2 (6) of the CITA, the capital requirements under Section 16 of the CITA do not apply to venture capital fund managers falling under Section 2 (2) of the CITA.

X. Material conditions concerning investment fund managers

Common rules on AIFMs and UCITS managers

Management requirements or investment funds

Based on Section 18 (1) of the CITA, investment fund managers must have a head office in Hungary from which to direct their operations.

Pursuant to Section 2 (6) of the CITA, Section 18 (3) of the CITA (electronic portfolio records system) does not apply to venture capital fund managers falling under Section 2 (2) of the CITA.

And Sections 18 (2)-(5) of the CITA provide as follows:
Investment fund managers are required to have sufficient office space available at their disposal, as well as sufficient communications facilities (telephone, fax, Internet connection, electronic mail address; investment fund managers managing public investment funds must have their own website as well). Investment fund managers must have in place rules of organisation and operation to ensure compliance with the operational arrangements defined in Sections 22-26 of the CITA in the case of UCITS managers, and in Section 32 in the case of AIFMs.

Portfolio records system

Investment fund managers must have in place an electronic portfolio records system with facilities to provide accurate and up-to-date information concerning changes in the assets contained in the various portfolios and also in subscription and redemption orders, and which has facilities for the mandatory disclosure of information and conforms with the requirements of internal control and supervision by the MNB. Investment fund managers must ensure a high level of security during electronic data processing as well as the integrity and confidentiality of the recorded information.

Investment fund managers involved in the distribution of collective investment instruments are required to have in place a register of investors that ensures that the particulars of the investors are kept up-to-date and can be retrieved at all times and that the securities secret is continuously maintained.

Investment fund managers are required to meet the requirements set out in Sections 355, 364 and 368-371 of Act CXX of 2001 ("**CMA**").

Data safety policy

If the UCITS manager applies for the authorisation of the safekeeping and management of collective investment instruments, covering also securities account services for dematerialized securities, as well as client account services where appropriate according to the activities performed, under paragraph c) of Section 6 (2) of the CITA, respectively if the AIFM applies for the authorisation of the safekeeping and management of collective investment instruments,

covering also securities account services for dematerialized securities, as well as client account services where appropriate according to the activities performed, under paragraph c) of Section 7 (3) of the CITA, it must enclose to its application the policy setting out the data safety requirements concerning the handling of user IDs and passwords and the delivery thereof to the account holder, as required in Section 142/A (5) of the CMA (Regulations).

Based on Section 142/A (5) of the CMA, the Regulations must be sent to the Authority for approval at least 60 days before the proposed effective date of the amendment. The Authority approves the Regulations if it contains appropriate procedural and technical measures to prevent unauthorized persons to access the user IDs and the passwords.

The mandatory content elements of the Regulations are regulated by MNB Decree 36/2015. (IX. 24.).

Regulations on preventing and combating money laundering

Pursuant to paragraph b) of Section 1 (1) of Act CXXXVI of 2017 on the prevention and combating of money laundering and terrorist financing ("**AML**"), the scope of the AML extends to financial service providers as well. According to sub-paragraph l) of paragraph 28 of Section 3, investment fund managers are considered as financial services institutions in respect of the marketing of investment units. This means that investment fund managers that intend to pursue marketing activities must prepare and submit a policy on the prevention and combating of money-laundering in the course of the authorisation of its activities (extension of the scope of activities).

Declaration on completeness

Section 59 (2) of Act CXXXIX of 2013 on the Magyar Nemzeti Bank requires the submission in every authorisation procedure a declaration of the investment fund manager that it has disclosed to the MNB all material facts and data required for granting the authorisation.

XI. Administrative service fee

Pursuant to Section 10 of MNB Decree 14/2015. (V. 13.) 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 trustee enterprises, the conduct of the authorisation procedure is subject to the payment of administrative service fee of 1,100,000 Forints.

Further information about the administrative service fee is available in the following link:
Tajekoztatas-a-magyar-nemzeti-bank-altal-egyes-engedelyezesi-es-nyilvantartasba-veteli-eljarasokban-alkalmazott-igazgatasi-szolgaltatasi-dijrol.pdf

XII. Other procedures

Investment fund managers must also comply with Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 ("**CRR**") as follows.

Under paragraph 91 of Section 4 (1) of the CITA, 'own funds' means the own funds referred to in Regulation (EU) No. 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No. 648/2012.

Preamble (24) of the CRR provides that "this Regulation does not prevent Member States from imposing, where appropriate, equivalent requirements on undertakings that do not fall within its scope".

Since the definition of own funds of the CITA refers to the term used in the CRR and given that the CRR allows the Member States to apply the relevant provisions also beyond the scope of institutions defined in Article 1, the MNB considers it necessary that investment fund managers also comply with the CRR, in particular, the provisions of the CRR regarding own funds.

In all cases, the MNB will process applications submitted under the CRR as separate authorisation procedures, independent of the other matters of the investment fund managers.

In addition, applicants must also pay attention to the following information published on the MNB's website: “Information on certain issues most frequently arising in certain licensing and registration procedures affecting the practice of the MNB”.