

REGISTRATION OF CAPITAL MARKET TIED AGENTS, OTHER INTERMEDIARIES AND INTERMEDIARIES AND OTHER INTERMEDIARIES UNDER THE CITA

Pursuant to the provisions in subparagraph aa) of paragraph a) of Section 9 (1) of Act CCXXII of 2015 on the general rules of trust services and electronic transactions (“**EAA**”), 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 of an organisation (economic operator) or an applicant (client) obliged to apply electronic communication must 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 purpose of 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.

According to Section 9 (3) of the EAA, natural persons may be obliged for electronic administration only by an act. Section 58 (2) of the MNB Act provides that natural persons who are not obliged to apply electronic communication may submit their application, notification or other petition by using the prescribed electronic form introduced for the purpose of the application, notification or other petition concerned that is available in the ERA System or the ÁNYK form introduced for the purpose of the application, notification or other petition concerned available on the dedicated storage space in the Central Client Registration Database (which is available on the following link: <http://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes-az-engedelyezesi-eljarasokban/2018-januartol-hatalyos-szabalyok/a-termeszetes-szemelyek-elektronikus-ugyintezese-anyk>) or the form available on the website of the MNB

(https://alk.mnb.hu/bal_menu/formanyomtatvanyok?mid=570), simultaneously uploading the documents defined by the law and/or other documents required by the MNB as attachments.

Information materials concerning electronic administration are available on the MNB’s website:

<http://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/engedelyezes/e-ugyintezes-az-engedelyezesi-eljarasokban/2018-januartol-hatalyos-szabalyok>

GENERAL RULES

Based on Section 111 (1) of Act CXXXVIII of 2007, on investment firms and commodity dealers and on the regulations governing their activities (“**IRA**”), investment firms and commodity dealers may carry out investment service activities or provide commodity exchange services through intermediaries. Such mediators may be dependent agents and investment enterprises. And Section 115 (4) of the IRA provides that a tied agent may employ another intermediary for the pursuit of its activities. The provisions on tied agents apply to the procedure for the registration of other intermediaries.

Investment firms and commodity dealers bear full responsibility for the activities of the agents they employ and compliance with provisions contained in IFA.

Furthermore, Section 112 of Act XVI of 2014 on collective investment trusts and their managers and on the amendment of financial regulations (“**CITA**”) sets out that distributors of investment units may carry out the marketing and redemption of investment units through intermediaries. The provisions of Sections 111-116, paragraph e) of Section 123 (1), paragraph a) of Section 123 (4), and Sections 159 (2)-(4) of the IRA apply to intermediaries. Distributors bear full and unlimited liability to the investors for the services provided by their intermediaries.

The amendment of the IRA of 7 July 2015 terminated the possibility of the registration of an intermediary without a principal, so paragraph e) of Section 114 (4) sets forth that tied agents/other intermediaries/intermediaries and other intermediaries under the IRA must enclose the agreement concluded with the principal in the authorisation for registration. The submission of the agreement will replace the notification by the principal of the fact of the first

contract, as the intermediary agreement concluded proves the intermediary relationship between the parties, so the previous two-stop procedure (agent's registration, followed by notification by the principal) became a one-stop procedure and the principal is registered together with the registration of the intermediary. Based on the amendment of the IRA, effective of 1 January 2016, investment firms and commodity dealers acting as the principal must report the termination of the agreement made with the intermediary to the MNB under paragraph e) of Section 123 (1) of the IRA.

The following Subsection (22) was inserted in Section 182 of the IRA from 1 January 2016:

Intermediaries shown in the Authority's register as unattached at the time of Act CCXV of 2015 on the amendment of certain acts affecting members of the financial intermediary system (hereinafter referred to as "**Amendment**") entering into force must submit to the Authority an intermediary agreement within six months from the entry into force of the Amendment. On this basis, the Authority enters the order and the principal's person in its records. If the intermediary fails to meet this obligation in time, its status as a registered capital market intermediary ceases by virtue of the law without further action by the Authority and the data of capital market intermediary will be cancelled from the register by the Authority.

So, if a tied agent/other intermediary/intermediary and other intermediary under the IRA, which is listed in the MNB's register without a principal wants to maintain its registered status, it must submit an agency contract for intermediation to the MNB by 1 July 2016. Otherwise, that is, if the agency contract is not submitted by 1 July 2016, the MNB will automatically cancel the intermediary from the register.

The register of registered tied agents/other intermediaries/intermediaries and other intermediaries under the IRA is searchable at the following path on the MNB's website:

<http://www.mnb.hu/felugyelet/engedelyezes-es-intezmenyfelugyeles/piaci-szereplok-keresese>

A tied agent may contract at any given time with only one investment firm or commodity dealer for the intermediation of investment service activities, ancillary services or commodity exchange services. So, as a rule, a tied agent may not be contracted with two investment firms simultaneously. Nevertheless, the IRA makes an exception from the general rule above in a narrow circle. Section 115 (2) of the IRA provides that "the restriction prescribed in Subsection (1) relating to tied agents:

- a) does not apply in connection with any agency or intermediary activities governed under specific other legislation, if that other legislation fails to provide otherwise; and
- b) does not apply in the case where the tied agent ba) is not involved in handling client financial instruments and client funds,
- bc) is involved solely in carrying out investment service activities specified under paragraphs a) and e) of Section 5 (1) relating to collective investment instruments issued by collective investment trusts, and bc) is involved in mediating services under paragraph a) of Section 5 (1) solely to investment firms, non-resident investment firms, credit institutions, non-resident credit institutions or to collective investment trusts whose securities had been admitted to trading in a regulated market.

More than one principal may be employed only in case all three restrictive conditions apply to all principals.

The rules on the payment of the supervisory fee applicable to tied agents, other intermediaries and intermediaries/other intermediaries under the CITA are included in the Notice titled "Information on the legal basis and due date of the fees payable by tied agents and other intermediaries active in the capital market" posted on the website of the MNB. (<http://www.mnb.hu/letoltes/tajekoztato-tokepiac-dijfizetes-2.pdf>)

ATTACHMENTS OF THE APPLICATION FOR REGISTRATION

A natural person tied agent/other intermediary or intermediary/other intermediary under the CITA, who is applying for registration, must enclose the following to his application under Sections 114 (4) and 116 (1) of the IRA:

- Identification data (personal identification data, nationality, home address, type and number of official certificate suitable for identification (subparagraph a) of paragraph 6 of Section 4 (2) of the IRA)),
- A description of the investment service activities, ancillary services or commodity exchange services to which the intermediary activity pertains,
- For tied agents and other intermediaries under the CITA, where the principal is an AIFM, the activity defined in paragraph b) and subparagraph ag) of paragraph a) of Section 7 (2) of the IRA, to which the intermediary activity pertains,
- For intermediaries and other intermediaries under the CITA, where the principal is a UCITS manager, the activity defined in paragraph c) and subparagraph bg) of paragraph b) of Section 6 (1) of the IRA, to which the intermediary activity pertains,
- A statement declaring his intention to function as a tied agent/other intermediary,
- Official certificate and declaration in proof of having no prior criminal record with respect to the criminal offences specified in Section 22 (5), namely, that he is not restrained by final court order from practising the profession corresponding to his activity.

Section 22 (6) of the IRA, effective from 01.01.2018, provides that “where having no prior criminal record is prescribed mandatory by this Act, it applies with respect to the criminal offences provided for in Subsection (5), and it must be verified:

a) in the case of Hungarian citizens, by means of an official certificate made out according to Section 71 (1) of Act XLVII of 2009 on the penal register, on the register of judgements delivered by the courts of the Member States of the European Union against Hungarian nationals, and on the register of biometric data related to criminal prosecution and law enforcement, obtained by the Authority or supplied by the client,

b) in the case of non-Hungarian citizens, by means of a document, under the national law of the non-Hungarian citizen, that qualifies as an official instrument provided for in paragraph a), obtained by said non-Hungarian citizen and made available to the Authority enclosed with the application.”

Accordingly, an applicant who is a Hungarian national must either submit his official certificate of having no prior criminal record or it will be obtained by the MNB. If the applicant wishes the MNB to obtain the official certificate of having no prior criminal record, this should be declared in the application.

- A statement that neither the MNB, nor any competent supervisory authority of another EEA Member State has found him guilty, during the past three years,
- of any misconduct or infringement of any legal regulation pertaining to investment service activities or ancillary services, or commodity exchange services, or statutory internal policies,
- The agreement made with the principal.

Tied agents/other intermediaries or intermediaries/other intermediaries under the CITA incorporated as a sole proprietor should enclose the same attachments as the natural person dependent tied agent/intermediaries, so they are also required to submit/have the MNB obtain an official certificate of having no criminal records, in addition to the other conditions.

A tied agent/other intermediary or intermediary/other intermediary under the CITA, which is a company applying for registration, must enclose the following to its application under Sections 114 (4) and 116 (2) of the IRA:

- Identification data (name, abbreviated name, registered office, address of the Hungarian branch of a non-resident company, registered number, name and position of authorised representatives (subparagraph b) of paragraph 6 of Section 4 (2) of the IRA),
- A description of the investment service activities, ancillary services or commodity exchange services to which the intermediary activity pertains,
- For tied agents and other intermediaries under the CITA, where the principal is an AIFM, the activity defined in paragraph b) and subparagraph ag) of paragraph a) of Section 7 (2) of the IRA, to which the intermediary activity pertains,
- For intermediaries and other intermediaries under the CITA, where the principal is a UCITS manager, the activity defined in paragraph c) and subparagraph bg) of paragraph b) of Section 6 (1) of the IRA, to which the intermediary activity pertains,

- A statement declaring his intention to function as a tied agent/other intermediary/intermediary under the CITA,
- A statement that it has not been found guilty of any misconduct or infringement of any legal regulation pertaining to investment service activities or ancillary services, or commodity exchange services, or statutory internal policies by the MNB or any competent supervisory authority of another EEA Member States during the past three years,
- The agreement made with the principal.

The MNB will only accept contracts with principals submitted in original or as certified copies. Following the terminology of Section 5 of the IRA, the contract should include, in accordance with the application, the investment services, ancillary services or commodity exchange services or, in the case of intermediaries or other intermediaries, the activities under paragraph b) of Section 8 (2), subparagraph ag) of paragraph a) of Section 7 (2), paragraph c) of Section 6 (1) or paragraph bg) of paragraph b) of Section 6 (1) of the CITA, in respect of which the intermediary intends to carry out activities. In addition, the MNB accepts only the submission of service contract or contracts, which show(s) the service relationship between the investment firm acting as the principal and the tied agent/other intermediary or, in the case of an intermediary/other intermediary under the CITA, the service relationship between the investment fund manager acting as the principal and the intermediary/other intermediary.

Additional requirements for cross-border EEA Member State principals

According to paragraph 14 of Section 4 (2) of the IRA, 'EEA Member State' means any Member State of the European Union and any State that is a party to the Agreement on the European Economic Area.

If the applicant intends to act as an intermediary for a principal engaged in cross-border activities, it is an additional requirement due to the principal's status that the supervisory authority competent for the principal's registered office sends the MNB the notification under Directive 2014/65/EU of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (MiFID II). Accordingly, sending the notification is a condition for making the entry into the register and registering the service relationship.

TERMINATION OF THE REGISTRATION OF TIED AGENTS, OTHER INTERMEDIARIES AND INTERMEDIARIES AND OTHER INTERMEDIARIES UNDER THE CITA

A tied agent/other intermediary or intermediary/other intermediary under the CITA that intends to terminate its registration in the MNB's directory of tied agents should submit a separate application to the MNB for its cancellation from the register. It should be noted that the tied agent/other intermediary or intermediary/other intermediary under the CITA will be cancelled from the register after the termination of the service relationship of the tied agent/other intermediary or intermediary/other intermediary under the CITA (if notified by the principal).

REGISTRATION FEE OF TIED AGENTS, OTHER INTERMEDIARIES AND INTERMEDIARIES AND OTHER INTERMEDIARIES UNDER THE CITA

Based on Section 17 (7) of MNB Decree 14/2015. (V. 13.) on the administrative service fees of certain authorisation and registration procedures conducted by the Magyar Nemzeti Bank in the framework of the supervision of the financial intermediary system and fiduciary managers, the administrative service fee payable for the registration of a tied agent/other intermediary or intermediary/other intermediary under the CITA is **30,000 Forints**.

According to Section 20 (1) of the Fee Decree, applicants are required to verify payment of the administrative service fee in the registration procedure, so the document in proof of payment of the fee must be enclosed with the application.