



CREATING VALUE ACROSS GENERATIONS

THINKING OUT OF THE BOX

**TRUST AND ASSET
MANAGEMENT
FOUNDATION IN HUNGARY**



OPTIONS FOR WEALTH MANAGEMENT AND ESTATE PLANNING IN HUNGARY

1.1

Traditional trust

Few knows that Hungary introduced the structure of trust in its legal system more than 6 years ago to provide a solution in helping long-term family wealth protection and estate planning. The Hungarian trust has many similarities with the Anglo-Saxon concept given that this legal instrument was drawn up on the basis of the English trust model.

Both legal structures provide the same level of protection for the beneficiaries. The difference between the two types of trust lies in the means of providing this protection.

Hungarian trust is a contractual agreement between the settlor and the trustee, with its validity strongly bound to a written contract or statement, whereas the Anglo-Saxon trust relies on the law of equity. Additionally, while trusts are only a set of obligations and rights in common law countries, in civil law countries they are rather treated as if they were entities with all of the advantages of such treatment.

Since the first draft of the trust rules in 2008, the Hungarian legal and business community has actively been dealing with the trust and its application in Hungary. As a result of such a professional interest shown, international organizations like STEP, the global professional association for practitioners who specialize in family inheritance and succession planning also could take a firm stand in Hungary.



THINKING OUT OF THE BOX

Trust and asset management foundation in Hungary



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1. OPTIONS FOR WEALTH MANAGEMENT AND ESTATE PLANNING IN HUNGARY

1.2

Hybrid trust - the new Hungarian asset management foundation

In 2019 the Hungarian legislator provided another solution for wealth planning over generations and five years after the implementation of the trust into the Hungarian Civil Code ("Civil Code") in 2014, introduced the asset management foundation ("AMF"), for both public and private purposes.

The AMF is a unique hybrid vehicle mixing the trust's and the foundation's concept, meaning that the AMF is a special form of foundation that may perform asset management including trust relationship as its main activity.

This hybrid trust is able to provide an even greater flexibility compared to the traditional trust relationship.

- The AMF act exempts the trust relationship performed by the AMF from the general rule of the Civil Code limiting the maximum duration of the trust relationship in 50 years. Therefore, the trust relationship performed by an AMF may be without any time limit.
- The Civil Code excludes the settlor's and the beneficiaries' power to give instruction to the trustee and renders any different arrangement null and void. However, the AMF act allows the parties to derogate from this prohibition if the trust relationship is provided by an AMF. Therefore, a founder transferring assets to an AMF for trust relationship may reserve the right to give instruction to the board of foundation, even in the scope of desired distributions to persons or entities to be defined by him later.
- The trustees operating in the frame of a traditional trust are subject to professional confidentiality required by the Civil Code, however, they are exempted from confidentiality in the case of public authorities' inquires. If the trust relationship is performed by an AMF (hybrid trust), it remains subject to the strict confidentiality requirement provided by the Civil Code without such exemptions.

The establishment of the AMF is completely accepted and supported by the Government of Hungary. The Hungarian State itself has already established 8 AMFs for the purpose of managing few of its prestigious universities with significant amount (billions of Euro) of assets.



THINKING OUT OF THE BOX

Trust and asset management foundation in Hungary

2. WHY HUNGARY?

No dual ownership concept

Under an Anglo-Saxon type of trust the trustee holds the legal title in the form of legal ownership over the trust assets, while the beneficiary holds the beneficial title in the form of equitable ownership over the trust assets creating a dual ownership structure.

The Hungarian legal regime does not recognize the dual ownership concept and it creates competitive advantage for the Hungarian trust as ultimate asset protection vehicle. In Hungary, there cannot be two different – legal and beneficial – owners of one asset, the ownership is absolute and cannot be split. Under the Hungarian regulation only the trustee obtains ownership over the trust assets. The lack of the dual ownership structure radically limits the circumstances whereby a creditor of the settlor may lay claim on the trust assets.

One of the main goals of the trust relationship is to structure the ownership of the settlor's assets in such a way as to protect them from any prospective claims. This can be best achieved by turning the assets the settlors own into assets that they do not own, while at the same time ensuring that the settlor still has the appropriate level of control over the assets.

2.1

Asset protection

There are three layers of the asset protection in Hungary: (a) domestic, (b) federal (EU) and (c) international investment treaty protection.

A) Domestic asset protection: narrow opportunity on laying claim against the trust assets

It is extremely burdensome for a creditor to lay claim on the trust assets with the present regulation of the Hungarian trust. The trust assets are highly secured against all sorts of claims against the settlor, the trustee or the beneficiary.

- **Claims against the settlor in relation to the trust assets**

According to the Civil Code, for a creditor of the settlor to successfully submit a claim against the trust assets, the creditor must prove beyond reasonable doubt that the asset transfer was a fraudulent one by which the basis for satisfying a third person's claim has been deprived entirely or in part. This is not easily established given that there are several further requirements which need to be met at the same time:



THINKING OUT OF THE BOX

Trust and asset management foundation in Hungary



-it has to be established that the creditor already had a valid claim against the settlor at the time of entering into the contract,

-it must also be proven that other assets of the settlor are insufficient to satisfy the claim of the creditor,

-the creditor must also prove that the trustee acted in bad faith or had a gratuitous advantage originating from the contract,

-all of the above must be done in Hungary and in Hungarian language.

No creditor of the settlor may have any claim successfully enforceable against the trust assets other than a fraudulent transfer claim. This is also valid if the creditor is a state authority or agency.

- **Claims against the trustee in relation to the trust assets**

The trust assets are separated from the personal assets of the trustee and may not be mixed with other trust assets managed by the trustee. The trustee's spouse or domestic partner, personal creditors and creditors of other trust assets managed by the trustee are not entitled to lay claim to any part of the trust assets.

- **Claims against the beneficiary in relation to the trust assets**

Creditors of the beneficiary may only submit a claim against the trust assets from the point in time when the trust assets are due to be distributed to the beneficiary in accordance with the provisions of the trust deed. What provides further protection is that the timing of the distribution can be exactly specified by the settlor or may depend on the discretion of the trustee or the protector or both who are obliged to act for the utmost benefit of the beneficiary.

- **B) Federal layer of asset protection: the trust assets are under the protective shelter of the EU law**

The investments in Hungary are under the protective shelter of the EU law. The domestic law shall comply with the EU law. The EU law is supreme in Hungary, and the only forum allowed to interpret it is the European Court of Justice ("ECJ") in Luxemburg. ECJ is the most powerful legal forum to enforce the EU law and its principles. The judges of ECJ are chosen from among individuals whose independence is beyond doubt and possess the predetermined qualifications required for the appointment in their respective countries to the highest judicial offices or able to present a recognized competence.

EU law protects the personal rights, privacy, ownership rights and the taxpayer's rights to enjoy the freedom of establishment, among others. The latter is strongly connected to the right to choose the



business structure which is the most favorable from taxation perspective.

It is important to point out that in offshore countries, like the Cayman Islands, BVI, Jersey, etc. this type of secure investment protection system does not exist.

C) *International investment treaty protection*

Hungary has been a prominent Member of the EU, OECD, NATO, MIGA (Multilateral Investment Guaranty Agency), ICSID and it also has a vast double taxation treaty and investment protection treaty network. Hungary has concluded 87 treaties against double taxation, the majority of which follow the OECD model treaty's terminology and structure. On top of the EU investment protection scheme, Hungary also has 34 bilateral investment protection treaties with third countries outside of the EU. All these treaties are approved by the EU. It is important to note that the EU itself is entering into investment protection treaties which are directly applicable in Hungary.

2.2

Enforcement of foreign judgements in Hungary

In Hungary the recognition and enforcement of foreign judgments is governed by domestic law and the principles of comity, reciprocity and res judicata. The protection provided by law for Hungarian trusts does not only extend to domestic affairs, but also to many interferences that may come from abroad. Provided that there is no express agreement on the enforcement of civil court judgments between Hungary and the relevant foreign country, a judgment of a court of the foreign country relating to a claim on the trust assets of a Hungarian trust will simply not be recognized and therefore will not be enforceable in Hungary. In such a case, the creditor of the settlor must take legal action in Hungary against the settlor and the trustee and must prove that the transfer of the trust asset was a fraudulent one. As pointed out above, proving the fraudulent nature of the transfer can be extremely difficult for the creditor.

Hungary does not have bilateral treaty or multilateral convention in force regarding the recognition and enforcement of judgments in Hungary in contract related matters among others with the United States, Kazakhstan, Uzbekistan, Indonesia, Malaysia, India, Hongkong etc.

2.3

Privacy protection regime/no reporting obligation



The 4th amendment of the Anti-money Laundering Directive introduced the Beneficial Owner Registry in the EU. Therefore, from the 10th of January 2020 the EU member states had to implement a register which contains the beneficial owner (“UBO”) of EU companies. It results in a situation that the beneficial owner of any EU company is freely and online available for anyone without any obstacles or limitation.

The Hungarian privacy protection regime is uniquely designed to protect the UBO’s identity even though the EU beneficial ownership register leaves very little room for maneuver for those who prefer to maintain their privacy in present times. The regulation regarding the AMF includes a legal presumption with a special view to the beneficiary of the AMF which results in an unconventional outcome in determining the beneficial ownership of a hybrid trust managed by the AMF, given that only the trustee (in this case the board of foundation) is classified as the UBO. It results in that due to the lack of cross-border relationship CRS rules are not applicable, there is no reporting obligation.

2.4

Tax benefits

The Hungarian taxation regime provides for a tax-free treatment of the asset transfers to a trustee. There is no any hidden taxation or transfer duty. The trust’s income is taxed independently from the trustee’s other income. The trust is a Hungarian corporate taxpayer, whose registered seat must be maintained in Hungary. Given their status, the trust assets are entitled to all the tax benefits of the corporate income tax system, making the trust suitable for tax planning purposes.

Hungary provides the lowest corporate incomes tax rates in the EU. The corporate income tax rate is 9% flat. However, a vast range of tax benefits are applicable.

Incoming dividend and capital gain are tax exempt on corporate, trust and AMF levels in Hungary. Personal income tax rate is 15% flat. Certain qualified royalty income enjoys 50% tax deduction, resulting in a 4,5% effective corporate income tax rate. Capital distributions are tax-free for Hungarian tax resident private individuals. Hungary does not impose WHT on Hungarian sourced income if the recipient is a legal entity.

2.5

Licensed trustee, safety and accounting transparency

Hungarian banks treat licensed professional trustees as financial institutions. Therefore, opening a separated bank account for a trust takes just one banking day. The trustee is obliged to file an annual tax return on behalf of the trust to the Hungarian tax authority and for that reason every trust has accurate accounting. The accounting benefits include the quick and easy (automatic) tax registration and the automatic provision of an EU VAT number, full tax compliance and fully proved source of the funds due to the annual reporting.

2.5

Overall highlights of the Hungarian trust

- No dual ownership concept
- Flexibility
- Strict fiduciary duties
- The trustee is subject to a duty of confidence
- Licensed trustee
- Several types of trust
- Possibility to set up an irrevocable trust
- Possibility to appoint a protector
- Asset tracing
- Right to revoke the trustee at any time
- Right to change the governing law at any time
- Tax neutral treatment
- Tax compliance
- Tax free asset transfer
- Segregated trust assets
- Segregated bank and security accounts for every trust
- No publicly available information about the settlors and beneficiaries
- Developed and solid financial and banking background

3. HUNGARIAN TRUST COMPARED TO TRUSTS IN COOK ISLANDS, NEVIS, ST. VINCENT

The Hungarian trust shows many similarities with Cook Island, Nevis and St. Vincent trusts regarding the high level of protection of the settlor's and the beneficiaries' interest. Such high level of protection derives partly from the fact that if a creditor does wish to pursue claims against assets held in these trusts based on fraudulent transfer claims the standard of proof is beyond reasonable doubt and not on a standard of probabilities.

It is an extremely important benefit with respect to the Hungarian trust that if there is no reciprocity between Hungary and the creditor's jurisdiction and a creditor aims to challenge the settlement to a Hungarian trust on the grounds that the settlement was fraudulent, the creditor must bring proceedings in front of the Hungarian courts. As highlighted above, Hungary does not have bilateral treaty or multilateral convention in force regarding the recognition and enforcement of judgments in Hungary in contract related matters among others with the United States, Kazakhstan, Uzbekistan, Indonesia, Malaysia, India, Hongkong etc. In complex cases it could take 5-7 years for the creditor to receive a final and binding judgement. On average, cases take between 18 to 25 months only in the first instance. However, complex cases which require extensive expert evidence, such as cases relating to trust assets may last significantly longer. Appeals are typically resolved within another 8 to 18 months after the notice of appeal of the first instance judgment is filed. Additionally, Hungarian court proceedings are conducted in Hungarian language, creating a significant barrier and high amount of additional costs for the creditor.

It also needs to be highlighted that there are significant differences between Hungary and these highly preferred destinations like Cook Island, Nevis and St. Vincent, with Hungary offering exceptional political and legal stability, infrastructure and sophistication for wealth management and estate planning.



THINKING OUT OF THE BOX

Trust and asset management foundation in Hungary

3.1

Historical stability



Cook Islands is a self-governing state in free association with New Zealand located in the middle of the Pacific Ocean. It has very limited independence with New Zealand being responsible for the Cook Islands' defense, foreign affairs and many other areas.

The Federation of St. Kitts and Nevis achieved its independence from Great Britain only in 1983, just as Saint Vincent and Grenadines which was colonized and disputed between France and the UK for many decades and was gaining its independence only in 1979.

As it can be clearly seen from these historical data, these destinations are not able to show that kind of long-term stability and reliability which can be presented in case of Hungary, which identifies the foundation of its state in A.D. 895. Hungary is the second oldest country in Europe, it was founded even before France and Germany became separate entities and before the unification of Anglo-Saxon Kingdoms.

3.2

Accounting in accordance with international and EU standards

As opposed to Cook Island, Nevis and St. Vincent, as a member of the EU, Hungary's law is in accordance with European Commission (EC) Regulation No. 1606/2002, which requires the application of IFRS in the preparation of consolidated financial statements. As of 1 January 2018, all listed companies and financial institutions are obliged to prepare non-consolidated financial statements according to IFRS standards.

The Trustees Act and the Accounting Act contain detailed rules regarding the separation and administration of the trust. The most important among these rules is that the trust is a separate and independent entity from accounting perspective. Therefore, the trust assets must be separately accounted in HUF or EUR, but these records, contrary to the corporate loss and profit statements, are not publicly accessible.

As a result of such a regulated and strict accounting system in Hungary, full tax compliance and fully proved source of the funds are completely guaranteed.

3.3

Sophisticated legal and judicial system – rule of law



The legal system of Cook Island, Nevis and St. Vincent are based upon the English Common Law which is partly codified and partly based on case law which leads to many uncertainties in respect of the application of the law. Generally, their judicial system consists of 2 levels in certain cases with the possibility of final appeal to her Majesty's Privy Council.

Hungary is an independent, democratic, constitutional State governed by the rule of law. Hungary's legal system is based on the Fundamental Law of Hungary.

Justice is administered in a four-level system by the Curia, the Regional Court of Appeal, the Regional Court, and the District Court. Judges are independent and subordinated only to law and shall not be instructed in relation to their judicial activities.

As discussed in detail above, the investments, assets and citizens in Hungary are also under the protective shelter of the EU law and the ECJ. In case if EU law is involved, the final Hungarian forum must submit the case to the ECJ asking for the EU law interpretation. The ECJ's ruling is obligatory to be followed by the Hungarian courts.

3.4

Economic substance

Compared to Cook Island, Nevis and St. Vincent, Hungary has a highly developed financial and banking system. Hungary's banking sector is led by banks which are highly integrated into the banking system of the EU. The Hungarian banking sector consists of 60 institutions. Among them are 26 commercial banks, nine foreign bank branches, five mortgage banks, four building societies, three specialized banks and – as a result of massive consolidation – 13 credit or saving cooperatives. The banking sector has 2,235 branches and employs around 40,000 people.

The domestic FinTech sector has shown dynamic growth in recent years, which has been reflected in an increase in the number of employees and revenue, in addition to rises in the number of customers. Hungary can even provide certain mobile banking features that are innovative compared to the EU average.

3.5

E-Administration in Hungary

It was an important strategic purpose of the Hungarian government to modernize the public administration and to increase the use of modern information and communication technologies in the interactions between state institutions themselves as well as between state institutions and citizens. During the last five years considerable measures have been taken by the Hungarian government in this respect.

Many procedures can be administered entirely online via the client gate, such as:

- personal and company annual tax returns
- VAT returns
- company registration (via an attorney-at-law)
- statistical data provision
- customs declaration, etc.

	Hungary	US	Cook Islands	St. Kitts and Nevis	Singapore	Saint Vincent	New Zealand	Guernsey/ Jersey	Isle of Man
Dual ownership	X	✓	✓	✓	✓	✓	✓	✓	✓
EU law protection	✓	X	X	X	X	X	X	X	X
Access to EU Investment Compensation Scheme	✓	X	X	X	X	X	X	X	X
Automatic recognition of the US civil judgments	X	✓	X	X	X	X	X	X	X
Language barrier in legal procedures brought by	✓	X	X	X	X	X	X	X	X
Publicly accessible records	X	X	X	X	X	X	X	X	X
Economic substance	✓	✓	X	X	✓	X	✓	X	X
Creditor's access	X	X	X	X	X	X	X	X	X
Statute of limitation	5 years	1-4 years	2 years	2 years	6 years	2 years	3 years	6 years	6 years

4. TIME TO REASSESS? HISTORY IS NO LONGER A GUARANTEE

Many countries with great history in wealth management faced unprecedented scandals in the last decades which has had serious impact on their reputation regarding their frequently mentioned reliability, sustainability and stability.

Just to mention few of the many countries to be reevaluated, Switzerland, Lichtenstein, UK or Singapore, maybe the most preferred destinations for high net worth individuals for finding a proper solution to manage their assets had to face scrutiny continuously when their questionable client base and internal controversies came to light.

4.1

Questionable client base

- What do Mobutu Sese Seko, (Zaire) Ferdinand Marcos (Philippines), Muammar Gaddafi (Libya), Jean Claude Duvalier (Haiti), Hosni Murabak, (Egypt), Ben Ali (Tunezia) have in common, besides being ruthless dictators? The fact that they held accounts in Switzerland, fueled by money taken from their people. After facing serious international pressure even Swiss Development Agency admitted that “things could have been done better”. (https://www.corriere.it/english/15_settembre_29/switzerland-set-to-clean-up-dictators-bank-accounts-b4627b06-66ab-11e5-ba5a-ab3e662cdc07.shtml, <https://www.reuters.com/article/us-swiss-assets/swiss-to-ease-seizure-repatriation-of-dictators-funds-idUSKCN0YG29Z>).
- Julius Bear Bank failed to collect KYC data with respect to a case where Venezuela state owned oil company (PDVSA)’s employees embezzled USD 200 million. Irregularities were discovered in approximately 150 transactions. The bank carried out transactions even though it knew that the client is facing accusation of corruption. (Julius Bear Bank - corruption case - February 2020) (<https://www.finews.com/news/english-news/40026-julius-baer-money-laundering-pdsv-a-finma-sanctions-venezuela-criminal>, <https://www.finma.ch/en/news/2020/02/20200220-mm-jb/>)
- Companies funneled hundreds of millions in bribes to Brazilian oil firm’ employees via Swiss banks. Private bank former deputy director earned USD 2,65 million. Financial institutions have failed to



THINKING OUT OF THE BOX

Trust and asset
management
foundation in Hungary



identify wrongdoings and stop transactions. Bank chose to turn a blind eye and carried out transactions in spite of strong evidences of money laundering. (Petrobras - bribery + money laundering - October 2019) (https://www.swissinfo.ch/eng/money-laundering_switzerland-hands-down-first-petrobras-conviction/45582982, <https://www.finews.com/news/english-news/31506-petrobras-switzerland-banking-legal-assistance-brazil>.)

- Three former Credit Suisse employees each faced four serious charges of conspiracy: to commit money laundering; to violate the US Foreign Corrupt Practices Act; to commit wire fraud; and to commit securities fraud. The subject of the matter was the provision of 2 billion USD government guaranteed loans to state owned companies in Mozambique, half of it came from Swiss banks, the said Credit Suisse employees pledged guilty at a New York court. (Mozambique “Tuna Bonds” - April 2019) (https://www.swissinfo.ch/eng/tuna-bonds_credit-suisse-faces-complaint-over-mozambique-loan/44927724, https://www.swissinfo.ch/eng/tuna-bonds_credit-suisse-should-write-off-mozambique-debt---aid-agencies/44876568.)
- French citizens moved funds to undeclared Swiss accounts to avoid taxes. Court found evidence that UBS provided services to conceal such fraudulent funds. In February 2019 French court imposed a hefty fine of EUR 3,7 billion. (UBS in France - illicit solicitation and laundering of the proceeds of tax fraud - 2004-2012) (<https://www.reuters.com/article/us-ubs-trial-fraud/ubs-to-appeal-after-fined-4-5-billion-euros-in-french-tax-fraud-case-idUSKCN1Q91DR>, <https://www.nytimes.com/2019/02/20/business/ubs-france-tax-evasion.html>.)

4.2

Internal controversies

On top of having continuous scandals in respect of their clients and their assets, Switzerland's, UK's, Singapore's and also Lichtenstein's long-lasting reputation regarding their stability and reliability suffered significantly due to numerous internal issues and controversies.



- Philipp Hildebrand, former chairman of the Swiss Central Bank (SNB) allegedly carried out large scale currency exchange transactions just as SNB started to intervene heavily in the forex markets to stabilize the frank. Even though he was cleared of insider trading suspicions after he blamed his wife for making the suspicious trades, Hildebrand resigned because it was not possible to provide conclusive and final evidence that his wife did the transactions without Hildebrand's knowledge. The scandal, as Hildebrand admitted, had revealed shortcomings in the SNB's internal regulations. (Philipp Hildebrand - insider trading - 2012) (<https://www.reuters.com/article/us-switzerland-hildebrand/swiss-central-bank-chief-quits-over-wifes-currency-deal-idUSTRE8080RK20120109>)
- One of the leading Swiss bank's CEO carried out insider trading transactions through deposit accounts held in his wife's name at other banks, unlawfully generating a profit of USD 752 000 through the repeated and systematic violation of the bank's internal directives and supervisory laws. (Insider trading January 2020) (<https://www.swissinfo.ch/eng/-serious-case-swiss-watchdog-bans-former-bank-ceo-over-insider-trading/45515274>)
- Credit Suisse' lack of professionalism showed when personal differences were included in an internal employment related matter, a story of spying, scandal and suicide in Switzerland, where professional discretion and restraint should be a key element. The leader of Switzerland's second-biggest bank ordered surveillance over Iqbal Khan, a 43-year-old Swiss and Pakistani banker and successful former wealth manager of Credit Suisse when he joined rival UBS. The board of directors acknowledged that the two-week spying was "wrong and disproportionate and has resulted in severe reputational damage to the bank". Unfortunately, as many experts noted at the time the case has rocked the Swiss banking world in a much deeper level than it was expected. (Credit Suisse - corporate espionage - October 2019) (<https://www.theguardian.com/business/2019/oct/01/credit-suisse-spying-scandal-investigation>, <https://www.nytimes.com/2019/10/01/business/dealbook/credit-suisse-spy-scandal.html>)
- Zurich based BSI, an almost 150-year-old bank, one of the oldest in Switzerland and the sixth largest was taken over by private banking group Zurich-based EFG International, on the condition that the BSI group would be dissolved within the next 12 months as a result of the Swiss Financial Market Supervisory Authority (FINMA) proceedings against the BSI group for failing to prevent suspected



money laundering and bribery in its dealings with 1MDB. 1MDB was a Malaysian state-run development fund from where money was funneled out via a close friend of the PM, Nijab Razak. The US Department of Justice also filed civil forfeiture complaints in 2016 and 2017 seeking to recover about US\$1.7 billion tied to 1MDB - the largest action brought under the US Kleptocracy Asset Recovery Initiative. The Monetary Authority of Singapore (MAS) announced in July that it had withdrawn BSI's status as a merchant bank. Even Singapore banking heavyweight DBS entered into various transactions that link it to 1MDB's shenanigans. Other financial institutions involved are Standard Chartered Bank's Singapore branch, UBS of Switzerland and Falcon PBS, another Swiss bank. (1MDB - corruption - August 2018) (<https://asiatimes.com/2020/05/swiss-bank-folds-under-1mdb-corruption-cloud/>, <https://theconversation.com/how-a-swiss-bank-was-toppled-by-a-financial-scandal-in-malaysia-and-what-can-be-learned-from-it-100130>, <https://sbr.com.sg/source/zuu-online/heres-how-singapore-banks-are-involved-in-1mdb-scandal>)

- A £1.3bn fraud claim has been filed by 371 investors against HSBC UK Bank for losses caused as a result of their Eclipse Partnerships film investment scheme, which they said they were induced to invest in on "false promises". (<https://www.investmentweek.co.uk/news/4016801/gbp-3bn-fraud-claim-filed-hsbc-uk-bank-sham-investment-scheme>)

5. END OF THE LONG-LASTING BANK SECRECY ERA

Contrary to popular belief, the long-lasting era of Swiss banking secrecy with its intact reputation has come to an end partly as a result of increasing international pressures to make banking information more transparent but partly due to the many leaks affecting their high-profile clients.

- The first domino in the collapse of bank secrecy was the Bradley Birkenfeld case, a US whistle-blower helping US authorities prosecute Swiss banks for tax fraud in exchange of a USD 104 million record award from the IRS whistleblower program. (<https://www.nytimes.com/2012/09/12/business/whistle-blower-awarded-104-million-by-irs.html>)
- Many more followed Birkenfeld, like Herve Falciani former software engineer of HSBC private bank Geneva who allegedly stole data from his employer, containing the names of customers from several countries and attempted to sell them to several governments. In January 2009 the police raided the French home of Falciani and found computer files on 130,000 potential tax evaders and began investigating them. (<https://www.reuters.com/article/us-hsbc-tax-spain-falciani/hsbc-whistleblower-defends-tax-leak-as-he-fights-extradition-idUSKCN1LROGL>)
- Few years later, NRW's finance ministry paid €2.5 million (CHF2.7 million) for CDs containing tax details of Credit Suisse clients and Lichtenstein state-owned LGT bank's clients. (https://www.swissinfo.ch/eng/long-legal-battle_swiss-awarded-stolen-tax-cd-payment/43177376)

After these incidents, many more followed resulting in Switzerland's reputation regarding its outstanding banking secrecy regulation and policies being severely damaged.



THINKING OUT OF THE BOX

Trust and asset management foundation in Hungary

6. STATE OF THE HUNGARIAN FINANCIAL SECTOR AND FINANCIAL INSTITUTIONS' SECRECY

- Healthy and solid financial system which fulfilled the latest stress test of the European Banking Association with flying colors, with no supervisory intervention, nor additional capital needed.
- The professional trust providers are financial institutions and do not share client data with the banks.
- In the case of a hybrid trust, the only UBO is the trustee (board of the foundation), neither the settlor nor the beneficiary are classified as UBO.
- The trustee of the hybrid trust is subject to full confidentiality, ensuring the absolute privacy.

7. SUMMARY

All things considered, it may be said that although many times it is easy to follow the old and tested path, in relation to wealth management it is worth to start thinking out of the box.

The Hungarian legislation's liberal approach which gives the parties the opportunity to deviate from the rules to a great extent, as well as the government's supportive attitude towards the wealth management vehicles and their privacy needs allows Hungary to provide a unique solution taking into account the personal needs and circumstances of the individuals involved, and providing all this in a jurisdiction with exceptional stability, sophistication and professionalism.



THINKING OUT OF THE BOX

Trust and asset management foundation in Hungary