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OXFORD

HUNGARY: Hungarian Asset Management Foundation—a contemporary solution for family offices

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ABSTRACT

Family offices serve as important vehicles for high-net-worth individuals to ensure privacy, safeguard wealth, and establish governance structures for multigenerational assets. In this realm, Hungary's Asset Management Foundation (AMF) stands out as a uniquely designed entity, offering robust legal protections, comprehensive tax exemptions, and unparalleled governance features. The AMF is a testament to Hungary's legal ingenuity, drawing on both continental and common law traditions to deliver innovative wealth management solutions. This article explores the structural advantages and regulatory frameworks of the Hungarian AMF, with a specific focus on its combination with trust arrangements.

INTRODUCTION

The global wealth management industry is undergoing a significant transformation, driven by increasing regulatory scrutiny, growing demand for transparency, and the need to balance privacy with compliance. These changes have led high-net-worth individuals (HNWIs) and their families to re-evaluate traditional jurisdictions for asset protection, wealth management, and tax optimization. While traditional offshore havens such as the Cayman Islands, the British Virgin Islands, and Switzerland have dominated this space for decades, global transparency initiatives like the OECD's Common Reporting Standard (CRS) and the European Union's Anti-Money Laundering Directives (AMLD) have made these jurisdictions less attractive.

Amid these shifts, Hungary has emerged as a compelling alternative, offering innovative solutions through its Asset Management Foundation (AMF). The AMF combines the privacy and asset protection benefits traditionally associated with offshore jurisdictions while adhering to EU regulatory standards. By enabling the seamless transfer and management of wealth over generations, AMFs provide a modern and sustainable approach to wealth preservation.

The origins of Hungarian foundations are deeply rooted in history, dating back to the Middle Ages when they primarily served as instruments for religious, charitable, and educational purposes. Inspired by the Roman legal principle of *fideicommissum*, these early foundations allowed property to be entrusted for specific uses beyond the lifetime of its owner. Over time, Hungarian foundation law evolved under the influence of the German and Austrian legal systems, incorporating principles of clarity, stability, and long-term purpose.[1]

The 2014 Civil Code reform marked a critical milestone, introducing private foundations that may be used for family wealth management.[2] However, its scope is limited to immediate family members, and its main activity must not be an economic activity, which restricts its wider application. The legislation went a step further by integrating principles from English trust law into the Hungarian legal system in 2014 during the same Civil Code reform.[3] Recognizing the need for a more versatile framework, the Hungarian legislature enacted the Asset Management Foundation Act in 2019.[4] This ground-breaking legislation introduced the AMF as a dynamic entity capable of serving both public and private purposes while offering unmatched flexibility and security.[5] The

[1] B. Szabó, A Menyhei, I Sándor, The foundation (Az alapítvány) (HVG-Orac 2021) 21–32.
[2] A Menyhei "The use of the Hungarian Foundation for asset protection and private purposes", 3(6) Trusts & Trustees (2017) 673–677.
[3] The concept of trust was introduced in 2014, and the Asset Management Foundation Act 2019 created a new type of foundation—the Asset Management Foundation—and provides special rules for trust assets managed by AMF. See in detail the concept: A Menyhei, "The new Hungarian asset management foundation", 25(6) Trusts & Trustees (2019) 599–610.
[4] Act XIII of 2019 on Asset Management Foundations, available at: https://uj.jogtar.hu/#doc/db/62/id/A1900013.TV/; last visited: 25 January 2025. Note: The English translation of the Act wrongly uses trust as a synonym of the AMF. It is wrong, and it is probably due to the lack of legal understanding of the translator.
[5] See the AMF structure and basic set up rules in details: A Menyhei, "The new Hungarian asset management foundation", 25(6) Trusts & Trustees (2019) 599–610.

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incorporation of trust elements and their combination with the AMF's governance structure have allowed for the creation of the hybrid trust that integrates the strengths of both civil law and common law systems.

COMPARATIVE CONTEXT: A GLIMPSE INTO GLOBAL FAMILY OFFICE STRUCTURES

Although a detailed comparative analysis of the various jurisdictions offering family office or family office-like solutions is beyond the scope of this article, the following provides a brief overview of the global landscape for a better understanding of the topic discussed.

Europe and North America

Family offices in Europe and North America are primarily structured around private foundations and trusts. These entities provide families with mechanisms to manage wealth, protect assets, and minimize tax liabilities. However, recent developments in these regions have highlighted vulnerabilities in the traditional structures, prompting families to explore alternative solutions.

In the UK, traditionally, trusts have been a popular vehicle for wealth management, offering tax planning opportunities, asset protection, and the ability to transfer wealth across generations. However, successive reforms have tightened the rules on how trusts are taxed, particularly in the context of inheritance. Recent legislative changes to inheritance tax rules have introduced stricter regulations for trusts, adding significant complexity and cost for families.[6]

Furthermore, the introduction of additional reporting requirements and administrative obligations has added to the burden on trustees. For instance, trustees must now report more detailed information to HM Revenue & Customs, including regular valuations of the trust assets and declarations of distributions to beneficiaries.[7] This level of scrutiny has not only increased compliance costs but also diminished the privacy traditionally associated with trusts.

Austrian private foundations (Privatstiftungen) and German family foundations (Familienstiftungen) have long been popular choices for HNWIs and families seeking to establish a family office. Both are highly regarded for their ability to preserve wealth, support philanthropic efforts, and facilitate multigenerational wealth planning. Family foundations, acting as independent legal entities, protect assets from personal claims, inheritance disputes, and the risks of fragmentation often seen in the distribution of wealth among heirs. This makes them particularly valuable for families with substantial company holdings, real estate, or other illiquid assets, requiring centralized management to retain value and ensure continuity across generations.

However, despite their appeal, Austrian foundations face a significant challenge in the form of a transfer tax of currently 2.5% on the market value of assets contributed to the foundation. This tax applies regardless of the type of asset being transferred, it is irrelevant whether it is cash, securities, or other investments, although real estate enjoys an exemption.[8]

German family foundations are significantly burdened by transfer tax and inheritance tax obligations, which can substantially diminish their financial efficiency and appeal as wealth management tools. The initial transfer of assets to a foundation is treated as a taxable event under German inheritance tax law (*Erbschaftssteuer*). The tax rate applied to such transfers varies between 7% and 50%, depending on the value of the assets and the familial relationship between the founder and the beneficiaries.[9]

In addition to this initial burden, German family foundations are subject to a recurring inheritance tax every 30 years, known as the *Erbersatzsteuer*.[10] This tax is calculated as if the foundation assets were newly bequeathed and is typically levied at a rate of 15%–30%. The recurring nature of this tax creates a long-term financial obligation that requires the foundation to allocate significant resources to tax payments, diverting funds that could otherwise support its intended goals.

In the USA, the once-reliable trust structures for wealth management and asset protection are facing significant challenges due to evolving legal dynamics. The US legal system has increasingly scrutinized trusts, with courts taking a more proactive role in piercing their protective barriers.[11] Historically, trusts provided a robust shield against creditors and legal claims, ensuring that assets were preserved for beneficiaries. However, recent court decisions[12] have weakened their inviolability, which reduces their usefulness as an instrument for long-term wealth preservation.

One key factor is the growing trend of courts invoking equitable doctrines, such as the doctrine of 'alter ego'[13] to bypass trust protections when they perceive that the trust was established primarily to evade legal obligations. For instance, in cases of bankruptcy, divorce settlements, or creditor disputes, courts have increasingly ruled in favor of claimants, allowing trust assets to be accessed. This undermines the historical premise of trusts as sacrosanct entities independent of the settlor's personal liabilities.

[6] One of the most impactful changes is the application of periodic and exit charges, which subject trusts to ongoing tax obligations rather than a one-time inheritance tax event. Trusts are now required to pay a periodic charge every 10 years, calculated as a percentage of the value of trust assets above the nil-rate band. Additionally, exit charges are levied when assets are distributed to beneficiaries. The scope of inheritance tax (IHT) in the UK is fundamentally changing from a domicile-based system to a system based on residence. From 6 April 2025, if the settlor is a long-term UK resident, the value of all the assets of an offshore trust will be subject to periodic 10-year and exit IHT charges, thereby bringing non-UK assets (which were previously excluded property) within the IHT charge. See in detail: https://kpmg.com/uk/en/home/insights/2024/11/tmd-budget-the-new-look-inheritance-tax.html https://kpmg.com/uk/en/home/insights/2024/11/tmd-budget-major-changes-to-inheritance-tax-reliefs.html; https://www.gov.uk/trusts-taxes/trusts-and-inheritance-tax: https://www.gov.uk/government/publications/inheritance-tax-nil-rate-band-and-residence-nil-rate-bands-from-6-april-2028/inheritance-tax-nil-rate-band-residence-nil-rate-band-from-6-april-2028; last visited: 25 January 2025.

[7] See in detail: https://www.gov.uk/trusts-taxes/trustees-tax-responsibilities; last visited: 25 January 2025.

[8] See in detail: https://www.ifcreview.com/articles/2024/april/the-austrian-private-foundation/; last visited: 25 January 2025.

[9] See in detail: https://wwkn.de/en/blog/family-foundations-in-germany/; last visited: 25 January 2025.

[10] See in detail: https://wwkn.de/en/blog/family-foundations-in-germany/; last visited: 25 January 2025.

[11] See various cases: https://calawyers.org/trusts-and-estates/spears-v-spears/https://www.trustontrial.com/category/creditor-claims/https://www.probatetrial.com/contradictions-in-nh-law-claims-of-deceased-settlors-creditors-links-to-new-sample-notices/https://www.dentons.com/en/insights/articles/2021/april/14/settlors-self-settled-trust-liable-for-his-debts-post-death https://keystone-law.com/new-case-expands-creditors-access-to-funds-held-by-a-spendthrift-trust; last visited: 25 January 2025.

[12] See the court cases and articles on this topic in footnote 10.

[13] https://www.lexology.com/library/detail.aspx?g=6c38697d-877c-42a4-8ef7-84494875a974; last visited: 25 January 2025.

Moreover, offshore trust arrangements have come under attack in the USA in the context of asset protection planning.[14] Creditors, especially in high-risk legal disputes, are now leveraging sophisticated legal strategies to challenge trust structures. The Uniform Voidable Transactions Act (UVTA),[15] adopted by several states, further complicates matters by allowing creditors to challenge asset transfers to trusts if they are deemed fraudulent or intended to hinder creditors.

Asia

Asia has emerged as a global hub for family office solutions, with jurisdictions like Singapore and Hong Kong leading the way. These financial centers offer sophisticated legal frameworks, favorable tax regimes,[16] and strong confidentiality protections, making them attractive to HNWIs across the region and beyond.

Singapore's family office ecosystem is particularly well-developed and has positioned itself as one of the leading global hubs for wealth management. The jurisdiction offers robust tax incentives under schemes like the Enhanced Tier Fund Scheme[17] and the Family Office Incentive Scheme.[18] These frameworks allow family offices to enjoy tax exemptions on income derived from qualifying overseas investments, including dividends, capital gains, and interest income.

Similarly, Hong Kong has been a preferred destination for family offices due to its low tax rates, stable and transparent legal framework, and unrivalled access to mainland China's markets. Its simple tax regime, absence of capital gains tax,[19] and robust financial infrastructure attract HNWIs.

However, both jurisdictions have recently faced significant challenges stemming from high-profile money laundering scandals, which have tarnished their reputations as safe and reliable wealth management hubs.

In Singapore, authorities uncovered a massive money laundering network in 2023 involving over SGD 3 billion in illicit funds.[20] The scandal revealed that criminals had exploited the family office framework, using it as a vehicle to launder billions of dollars through investments, property acquisitions, and financial transactions. This incident exposed significant gaps in Singapore's regulatory oversight, particularly in monitoring the activities of family offices, which traditionally operated under lighter regulatory scrutiny compared to other financial institutions. The Monetary Authority of Singapore responded by increasing compliance requirements, mandating stricter due diligence measures, and enhancing the reporting obligations of family offices.[21] While these steps are aimed at enhancing the reputation of the jurisdiction and preventing future abuse, they have increased complexity and costs for legitimate investors.

Hong Kong has faced similar challenges. Investigations revealed that legal structures were being misused for laundering proceeds from organized crime and corruption.[22] The cases have brought renewed attention to Hong Kong's regulatory framework, particularly its reliance on trust and company service providers for compliance. Although Hong Kong's regulatory authorities, including the Securities and Futures Commission, have initiated reforms to strengthen AML measures,[23] concerns remain about the effectiveness of enforcement and the potential for systemic risks.

The entrance costs for establishing family offices in Singapore and Hong Kong present a significant barrier for many potential investors, particularly smaller family offices or those with mid-tier asset bases. Both jurisdictions are designed to cater to ultra-HNWIs and families with substantial wealth, which is reflected in the high financial thresholds and ongoing expenses required to operate within their frameworks.[24]

These developments in Europe, North America, and Asia represent a broader change in the legal and regulatory landscape, where traditional structures are no longer as reliable for safeguarding wealth. The growing vulnerabilities of the classic solutions have left many affluent families and their advisors exploring alternative solutions that offer stronger protections and greater regulatory clarity.

HUNGARIAN ASSET MANAGEMENT FOUNDATION

Building upon the overview of family offices in different regions, this section will provide a detailed examination of the legal framework governing Hungarian asset management foundations, exploring their regulatory structure and practical applications in wealth management.

The ownership concept—independent legal entity

One of the key features of Hungarian law is its rejection of the dual ownership concept central to common law trusts, where

[14] https://www.emalegal.com/wp-content/uploads/2018/10/NEW-DATE-November-December-1999-Asset-Protection-Trusts-Impact-of-Recent-Case-Law-.pdf; last visited: 25 January 2025.

[15] https://www.uniformlaws.org/committees/community-home/librarydocuments?communitykey=64ee1ccc-a3ae-4a5e-a18f-a5ba8206bf49&LibraryFolderKey=&DefaultView=&5a583082-7c67-452b-9777-e4bdf7e1c729=eyJsaWJyYXJ5ZW50cnkiOiI3YjMwZDBjZi1jYzNhLTQxMGUtODQzNS05NWQwZjA2NjM2NzcifQ%3D%3D; last visited: 25 January 2025.

[16] Key tax incentives in Singapore include the Enhanced-Tier Fund Tax Incentive Scheme (Section 13U) and the Onshore Fund Tax Incentive Scheme (Section 13O), along with the Global Investor Program Family Office Option (GIP—FO Principals profile). https://fl.sg/resource/tax-incentives-for-setting-up-family-offices-in-singapore/; last visited: 31 January 2025. Tax Concessions for Family-owned Investment Holding Vehicles in Hong Kong https://www.ird.gov.hk/eng/tax/bus_fihv.htm; last visited: 31 January 2025.

[17] https://www.iras.gov.sg/media/docs/default-source/uploadedfiles/pdf/extending-and-refining-tax-incentive-schemes-for-qualifying-funds.pdf?sfvrsn=2fea677d_0; last visited: 31 January 2025.

[18] https://www.mas.gov.sg/schemes-and-initiatives/fund-tax-incentive-scheme-for-family-offices; last visited: 31 January 2025.

[19] https://www.ird.gov.hk/eng/pdf/dipn43.pdf; last visited: 31 January 2025.

[20] https://en.wikipedia.org/wiki/2023_Singapore_money_laundering_case; last visited: 31 January 2025.

[21] https://www.mas.gov.sg/regulation/anti-money-laundering; last visited: 31 January 2025. https://www.acra.gov.sg/docs/default-source/default-document-library/corporate-service-providers/2024-money-laundering-risk-assessment-report.pdf?sfvrsn=e696f7d4_3; last visited: 31 January 2025.

[22] To see the extent of the uncovered cases, visit website of Hong Kong police: https://www.police.gov.hk/ppp_en/04_crime_matters/aml.html; last visited: 31 January 2025.

[23] https://cgj.hkcgi.org.hk/amlcft-update-part-one-0; last visited: 31 January 2025.

[24] In Singapore, for instance, the Monetary Authority of Singapore typically requires family offices to manage at least SGD 10 million (approximately USD 7.5 million) in assets under management (AUM) at the time of setup, with a commitment to increase the AUM to SGD 20 million (approximately USD 15 million) within 2 years. Additionally, family offices must employ a minimum of two investment professionals and meet eligibility criteria for tax incentives under schemes like the Enhanced Tier Fund Scheme. https://www.mas.gov.sg/contact-us/faqs/faqs-on-the-schemes-for-family-offices; last visited: 31 January 2025.

legal ownership remains with the trustee and equitable ownership with the beneficiaries. The AMF simplifies this by ensuring a clear separation of assets from the founder and beneficiaries or any other individuals involved.[25] The AMF is established as a fully independent legal entity without owners, requiring court approval and registration. Once assets are transferred to an AMF, they are no longer the property of the founder or beneficiaries but are solely owned by the AMF, which manages them in accordance with its established purpose and governance framework. This structure effectively protects the assets from creditors and external risks. If the AMF is registered, the founder only retains the founder's rights. Under the AMF legislation, the founder has exclusive authority to define the foundation's objectives, governance structure, and the composition of key oversight bodies, such as the board of trustees, supervisory board, and where necessary, the protector. The legal framework also provides the founder with powers to shape the foundation's governance, including determining the beneficiaries, leadership roles, eligibility criteria, control mechanisms, and the investment policy. However, these rights do not confer ownership over the AMF. The foundation operates autonomously under its deed, which outlines its purpose, governance framework, and operational guidelines.[26]

AMF's distinct ownership structure—legal entity without owners—guarantees that the foundation's purpose remains intact and protected from external influence. Once the founder transfers the founder's rights, any subsequent holder of the rights is not permitted to change the foundation's purpose.[27] AMF regulation prioritizes the preservation of the founder's intent across generations,[28] ensuring that the assets are managed in strict accordance with the purpose defined in the foundation deed. After assets are transferred to the AMF, neither the board of trustees nor the beneficiaries can alter its purpose, safeguarding the foundation's long-term objectives.

Board of trustees

The foundation's governance is entrusted to a board of trustees, which serves as the executive arm of the AMF, tasked with the critical responsibility of managing its day-to-day operations and ensuring the effective oversight of its assets.[29] While the board makes decisions collectively, individual trustees also have representational authority. This authority may be granted by the founder via joint or sole signature rights, enabling the trustees to act on behalf of the foundation in accordance with the governance structure.

As a central pillar of the AMF's governance, the board ensures that the foundation's activities are carried out in alignment with its stated objectives and long-term purpose. Trustees play a crucial role in investment decision-making, including the allocation of assets across various instruments. This responsibility requires a careful balance of risk and return to meet the AMF's investment goals while adhering to the investment policy set by the founder.

Beyond investment management, the board also oversees the operational aspects of the AMF, ensuring compliance with relevant laws, regulations, and the provisions of the foundation deed. Trustees are bound by fiduciary duties to act in the best interests of the AMF, safeguarding its long-term sustainability and mission.

The board may consist of a single member; however, this is not ideal for long-term operation. Therefore, the general practice is to establish a three-member board of trustees, although a larger number of members is also possible. As a supplementary rule, the majority of the board members must be individuals with a registered address in Hungary, regardless of their nationality.

The board of trustees is appointed by the founder. However, the AMF Act provides rules that enable the founder to establish long-term covenants and guidelines for the election of board members.[30] Furthermore, founders have the option to transfer their founder's rights to the AMF itself or the board of trustees, either during their lifetime or in the event of incapacity or death, ensuring that the board—and consequently the AMF—remains self-sustaining and operational in the long run without external interference.[31]

The founders hold significant power in shaping the composition of the board of trustees. They may define a specific pool of eligible candidates, even restricting potential board members to relatives, while setting criteria based on age, education, professional experience, or other qualifications. Furthermore, the founder may impose conditions that result in the automatic termination of board membership, such as reaching a specified age or failing to meet certain obligations. If the founder has transferred their founder's rights to the AMF or board of trustees, the board itself is responsible for appointing new members in cases where a trustee's mandate expires.[32] This highlights the extraordinary importance of the founder's ability to define the criteria for board membership, as these conditions will continue to shape the governance and composition of the foundation long into the future.

Investment policy

The founder retains influence over the asset management via the investment policy, which serves as an obligatory guiding framework for the board of trustees.[33] It plays a crucial role in defining the AMF's long-term strategy by establishing clear parameters for asset management, ensuring that the investment strategy aligns with the founder's vision and the foundation's objectives. It typically defines permissible investment categories, such as equities, bonds, real estate, or alternative assets, and outlines acceptable risk levels, balancing the need for asset growth with capital preservation.

[25] The same is true to the Hungarian trust, where the trustee is the sole owner of the trust assets, and the beneficiaries do not have ownership title.
[26] See the AMF rules in detail: A Menyhei, "The new Hungarian asset management foundation", 25(6) Trusts & Trustees (2019) 599–610.
[27] Act V of 2013 on the Civil Code Section 3:393 and Act XIII of 2019 on the AMF Section 9 (7).
[28] The modification of the AMF's purpose can only be carried out through an amendment of the foundation deed, which undergoes judicial review. Therefore, the regulatory system places external control, acting as a protective line to safeguard the foundation's purpose.
[29] Act XIII of 2019 on the AMF Section 6.
[30] Act XIII of 2019 on the AMF Section 5 (3).
[31] Act XIII of 2019 on the AMF Section 5 (1).
[32] Act XIII of 2019 on the AMF Section 5 (3).
[33] Act XIII of 2019 on the AMF Section 9 (2).

The investment policy must be submitted at the time of the foundation's registration; however, the founder has the option to postpone this submission for up to 6 months.[34] The significance of this provision is that if the policy is submitted later, it does not become a public document, preventing external individuals from accessing its details. This provides an additional layer of confidentiality, ensuring that the foundation's investment strategy remains private and protected from external scrutiny.

By establishing a comprehensive investment framework, the investment policy ensures that the AMF's investment management remains aligned with the founder's vision, even after their passing. However, alongside this precision, it should also provide flexibility for trustees to adjust to changing economic conditions, helping to avoid situations where the foundation's assets become locked in low-return investments due to rigid control. Striking the right balance between clear guidance and flexibility is essential for the foundation's long-term success, ensuring that its assets continue to perform effectively and meet its objectives across generations, rather than being constrained by dead hand control.

SUPERVISORY OVERSIGHT—SUPERVISOR BOARD AND PROTECTOR

The governance framework of an AMF is strengthened by the presence of a supervisory board or protector, or both, whose primary function is to oversee the activities of the board of trustees in monitoring compliance with the foundation deed and investment policy, fostering accountability, and acting as a safeguard against conflicts of interest, mismanagement, or decisions that could undermine the foundation's purpose.[35]

The role of the supervisory board or protector becomes particularly important when the founder defines only the potential pool of beneficiaries in the foundation deed, leaving it to the board of trustees to determine specific beneficiaries and the details of distributions. In such cases, it is crucial that the board follows the guidelines laid out in the foundation deed or in a special distribution policy to ensure that allocations align with the founder's intent. The supervisory board or protector enforces compliance, preventing any discretionary decisions by the trustees that could deviate from the established framework.

In addition to its monitoring and accountability functions, the protector is entrusted with the responsibility of safeguarding the founder's original vision. Should the board of trustees deviate from the foundation's stated purpose or act contrary to the founder's intent, the protector has the authority to intervene and take corrective action.[36]

The supervisory board must have at least three members, but the founder has the discretion to appoint a larger number if deemed necessary. Similar to the board of trustees, the founder may grant the supervisory board the authority to elect its new members in cases where a member's mandate expires or is otherwise terminated. In such instances, the election of a new supervisory board member also requires the approval of the majority of the board of trustees, ensuring a balanced and controlled decision-making process.[37] Furthermore, the founder has the power to define the eligibility criteria for supervisory board members, including specifying who can be appointed and setting age, educational, or other professional qualifications as prerequisites for membership.

As for the protector, the AMF Act provides that only specific professionals can be appointed to this role. Eligible individuals or entities include licensed lawyers or law firms, auditors or audit firms, as well as any individual who meets the qualifications set by the founder. The latter provision offers significant flexibility, as the founder may define custom qualification requirements beyond the legal minimum.[38] This means that, in practice, the founder can set alternative expertise or experience requirements, even if they differ from the standard regulatory expectations. This allows for a high degree of customization in selecting a protector who aligns best with the foundation's long-term interests and governance philosophy.

JUDICIAL OVERSIGHT

Hungarian law ensures a robust framework for AMFs by providing a mechanism for judicial intervention in two specific cases where governance must be upheld within the legal and regulatory boundaries.

The first instance of judicial involvement occurs when the foundation deed is modified. In such cases, the court examines whether the amendment remains within the legal framework and does not conflict with any mandatory legal provisions. Additionally, if the founder's rights are no longer exercised by the original founder, the court ensures that the AMF's purpose remains unchanged, as only the founder has the authority to modify it. This judicial review acts as a safeguard to prevent unauthorized or excessive alterations that could compromise the AMF's intended mission.

The second instance of judicial intervention arises when the board of trustees violates the foundation deed or any mandatory internal regulations, including the beneficiary distribution policy. If the protector has formally called upon the board to correct its actions and the trustees fail to comply, the protector may seek an extraordinary legal remedy through non-contentious judicial proceedings, requesting the court's intervention.[39] In this scenario, the court has the authority to enforce compliance, ensuring that the foundation operates in accordance with its governing documents.

ASSET MANAGEMENT IN THE AMF AND HYBRID TRUST

The AMF specializes in structured wealth management, focusing on preservation, growth, and controlled distribution. They

[34] Act XIII of 2019 on the AMF Section 9 (4).
[35] Act XIII of 2019 on the AMF Sections 7 and 8.
[36] Act XIII of 2019 on the AMF Section 8 (3).
[37] Act XIII of 2019 on the AMF Section 5 (3).
[38] Act XIII of 2019 on the AMF Section 7 (3).
[39] Act XIII of 2019 on the AMF Section 8 (3).

oversee a broad spectrum of assets, including real estate (private or commercial), active or passive companies, bankable assets, intellectual property, alternative investments, precious metals, and various collections of valuable tangibles, ensuring financial stability and seamless intergenerational wealth transfer. HNW families often have publicly known assets, such as actively managed businesses (family enterprises). However, a significant portion of their wealth, including collections, real estate, and bankable assets, remains private. While safeguarding these assets, it is essential to maintain tax-efficient structures and ensure smooth generational transitions without compromising the family's privacy.

The asset allocation to the AMF, along with any modifications, is documented in the foundation deed. Although this document is difficult to access, and it is publicly available only in Hungarian by visiting the courthouse in person, it remains a publicly accessible document. This does not align with the interests of HNW families, as it could compromise their right to privacy. Recognizing this need, the AMF Act introduced the hybrid trust[40]—a specialized structure that integrates with the AMF while remaining a separate corporate tax and accounting entity. Unlike direct AMF asset ownership, the hybrid trust allows the placement of assets into a distinct management entity, thereby ensuring confidentiality while maintaining operational efficiency.

Hybrid trusts offer a level of privacy that surpasses that of many traditional trust arrangements, primarily due to their governance under Hungary's Civil Code rather than the Trustee Act. This distinction significantly reduces the disclosure obligations typically associated with trust structures, providing founders and beneficiaries with an enhanced degree of confidentiality.[41]

A key characteristic of the hybrid trust is its status as a distinct corporate tax and accounting entity. The hybrid trust is not a legal person, and its trustee and exclusive beneficiary is the AMF. This structure allows the founder to decide which assets should be directly owned by the AMF—thus becoming publicly visible—and which should be held within the hybrid trust, ensuring confidentiality. This selective asset allocation enhances privacy in wealth management.

The hybrid trust operates under the same decision-making body as the AMF, ensuring continuity in asset management. It can follow the same or an adapted investment policy as the AMF, providing flexibility in wealth management. Unlike traditional Hungarian trusts, which have a 50-year maximum duration, hybrid trusts can remain in existence indefinitely, as long as the AMF continues to function.[42] This extended duration eliminates the need for trust renewals and guarantees stable long-term asset management.

A notable legal advantage of hybrid trusts in Hungary is the extent of control retained by the settlor. In many jurisdictions, excessive control by the settlor can invalidate a trust as a sham. However, Hungarian law permits the founder of the AMF to issue binding instructions to the AMF, acting as trustee if this power is specified in advance in the foundation deed.[43]

Additionally, since the AMF is the exclusive beneficiary of the hybrid trust,[44] all trust assets follow the same regulatory and operational guidelines as those held directly by the foundation. This seamless integration enhances governance efficiency and regulatory compliance, ensuring that trust assets are managed strictly according to the foundation's objectives and beneficiaries' interests.

Importantly, the accountability of hybrid trusts is not compromised. The control mechanisms embedded within the AMF structure, including the supervisory board and the protector, ensure that the trustee remains aligned with the founder's intent and the trust's stated objectives.

TAX ADVANTAGES AND EXEMPTIONS

One of the most significant benefits of AMFs is their highly favorable tax treatment, making them particularly attractive for multigenerational wealth preservation and planning.[45] The allocation of assets into an AMF or a hybrid trust does not constitute a taxable event at the time of transfer.[46] This unique exemption allows founders to allocate assets into these structures without incurring any immediate tax liability, setting them apart from similar arrangements in other jurisdictions. To ensure tax compliance, the founder must document the fair market value of the transferred assets, supported by a professional valuation.

The PIT Act[47] further stipulates that if the assets or their consideration have not been distributed from the foundation or hybrid trust for at least five years from the date of transfer, the deemed capital gain—calculated as the difference between the original acquisition cost and the fair market value at the time of transfer—becomes fully tax-exempt, even when the assets are distributed to the founder or beneficiaries.

Additional tax benefits are available to qualified AMFs and hybrid trusts. The specific qualifying criteria are that the AMF or hybrid trust must be established by an individual, have only private individual beneficiaries, and generate exclusively financial income during the tax year. Under these conditions, all financial income, including dividends, capital gains, and interest, is fully exempt from corporate income taxation.[48] If the foundation or trust does not meet these criteria, dividends and declared company participation remain tax-exempt, while other forms of income, such as rental or royalty income, are subject to Hungary's favorable corporate tax rate of 9%. For beneficiaries, distributions

[40] Act XIII of 2019 on the AMF Section 2 (2).
[41] The third paragraph of the second section of the Act on Asset Management Foundations stipulates that trust management performed by an asset management foundation does not fall under the scope of the law governing trustees and their activities. Consequently, the confidentiality obligations of the trustee, as outlined in the Civil Code, apply in full without the restrictions set forth in the law on trustees. Furthermore, Government Decree 588/2022 exempts trust management carried out by asset management foundations from the scope of the anti-money laundering legislation.
[42] Act XIII of 2019 on the AMF Section 2 (3) b.
[43] Act XIII of 2019 on the AMF Section 2 (4).
[44] Act XIII of 2019 on the AMF Section 2 (3) a.
[45] See the taxation in detail: A Menyhei, Taxation of the Hungarian asset management foundation, trust and hybrid trust, Oxford Journals, 29(6) Trusts & Trustees (2023) 561–568.
[46] Act CXVII of 1995 on Personal Income Tax Section 9 (3).
[47] Act CXVII of 1995 on Personal Income Tax Section 65/C.
[48] Act LXXXI of 1996 on Corporate Tax and Dividend Tax Section 20 (1) b.

classified as capital are completely tax-free, whereas income distributions are subject to a flat 15% personal income tax rate. This tax structure reduces administrative burdens while maximizing the wealth retained by beneficiaries, making AMFs an ideal vehicle for multigenerational wealth transfer.

CONCLUSION

Hungary's AMFs and hybrid trusts represent a modern and efficient approach to wealth management. By combining robust legal frameworks, perpetual governance, and tax advantages, they offer HNWIs a secure and compliant solution for preserving family wealth across generations. As global regulatory pressures increase, Hungary's innovative approach positions it as a leading jurisdiction in the wealth management landscape.

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