Positive changes in RIC regulations
Legal newsletter

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Positive changes in RIC regulations

Deloitte Legal Szarvas, Erdős and Partners Law Firm provides its clients with a monthly newsletter on the most recent changes and newly adopted regulations in economic law and the most notable legal cases.

No regulated investment companies ("RICs") have been founded since the promulgation of the Act on Regulated Investment Companies ("RIC Act") in July 2011. The main reason for this is that the regulations included several provisions that caused practical difficulties and so made the foundation and operation of RICs surrounded by uncertainty.

The most important changes of the amendment

The bill recently presented to the Parliament on the amendment of various tax and related laws, and of Act CXXII of 2010 on the National Tax and Customs Administration **removes the obstacles real estate market players criticized**. The Bill modifies several provisions of the RIC Act, so **potentially encouraging the foundation of RICs and also reviving the capital market.**

The Bill includes the following changes:

- The minimum capital requirement for RICs will be lower. **Instead of the current ten-million-forint minimum** capital requirement, the new regulations allow RICs to be founded with a starting capital of **only five million forints**.

- Free-float restrictions will also change. Pursuant to current regulations, RICs must have one series of shares representing 25% of the total capital where no shareholder owns more than 5% of the series (free float). The new law would maintain the above **25% and 5%restrictions while it would allow the RIC status to be preserved even in the case of ownership shares of over 5% if the voting right each smallholder of the share series may practice is not higher than 5%.** This amendment would make it possible for regulated investment companies to **restrict the voting rights of smallholders of free-float share series** and so avoid losing the RIC status in cases where the 5% threshold applying to smallholders is exceeded. With respect to this provision and to those below restricting voting rights concerning insurance companies and credit institutions, the Bill sets forth that the rule defined in the Civil Code saying that shares ensure voting rights proportionate to their nominal value shall not apply in this context. The amendment, furthermore, clarifies that the free-float share series defined in this section is treated identically to other ordinary share series of RICs.

- The restrictions on the share insurance companies and credit institutions may hold will also change. According to the Bill**, shares owned in a proportion of over 10% by insurance companies and credit institutions will neither**

remove the RIC status if such companies exercise not more than 10% of the total voting rights.

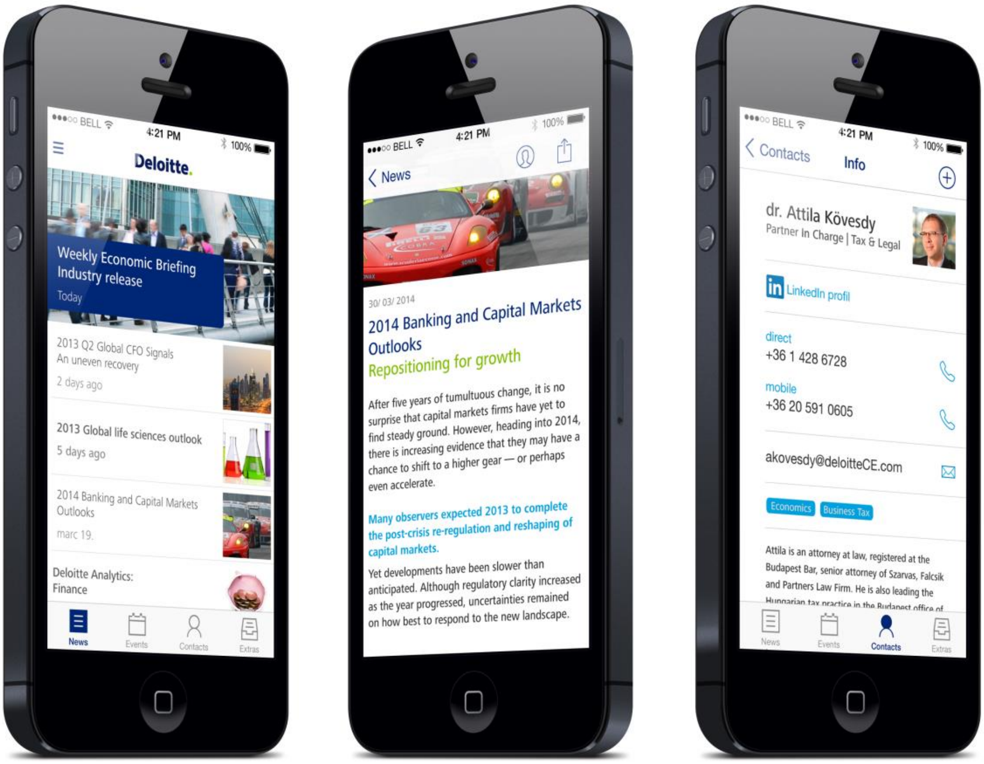
- The Bill also sets forth that the asset portfolio of RICs may include, apart from types currently allowed, further types of assets **directly related to the core activity that may be carried out by the RIC**.

- According to the Bill, RICs would have to distribute dividends **within 15 business days**—as defined in the Act on Capital Markets—following endorsement of the financial statements. As a result, the amendment would so ensure the practical fulfilment of the deadline, taking into account the restrictions **stipulated by KELER's terms of business as well as official holidays.**

- The rules of dividend distribution of RICs' project companies have also been clarified. Among others, the Bill **extends the definition of free liquid assets** and expected dividend applying also to the project company. As a result of the changes, dividend payment will be commensurate **with the value of liquid assets available to the project company** and other liquid assets. The proposed change is also designed to make it clear that the RIC's project company would have to pay the difference between dividends paid and those expected later in subsequent years.

At the same time, the favourable rules currently applying to RICs, e.g. the favourable tax rules, will not change: the property transfer tax payable by RICs and their project companies must be calculated using the 2% rate while RICs are not subject to corporate income or local business tax.

We believe that this amendment appropriately corrects the most criticized provisions of the RIC Act and so will make it easier to found regulated investment companies.



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