



Dear CEO letter No. 9/2009

on the risks arising from the issuance of bank certificates with wrong data content, as well as the statutory adequacy of the data contents of the bank certificates issued by the credit institutions

The Hungarian Financial Supervisory Authority (hereinafter referred to as: the Supervisory Authority), acting in its supervisory power assigned to it in Act CXXXV of 2007 on the Hungarian Financial Supervisory Authority (hereinafter referred to as: Pszfv), has conducted a representative survey on the contents of the certificates of the financial data of bank clients issued by the financial service providers to third parties (hereinafter referred to as: bank certificates), as well as the practice of producing these. The preparation of the survey was necessary in order to get familiar with the data contents, accuracy and reliability of the bank certificates and to disclose the risks arising from the production of such certificates.

The Supervisory Authority has conducted the survey at a total of ten (randomly selected) credit institutions. The conclusions made on the basis of the survey are as follows:

- The certificates that the banks are entitled to issue can basically be put in two categories: *the official enquiries* based on a statutory authorization, and the *enquiries* made by *clients or other* persons. According to the position taken by the Supervisory Authority, in the case of the official enquiries, the scope of the data and the entitlement of the user are specifically defined by the law in most cases, so bank certificates whose data content is potentially inaccurate or incomplete are issued less frequently, this is why they carry lower risks. However, in the case of client enquiries, the adequacy of the bank certificates issued by the banks under review has been deemed by the Supervisory Authority as concerning, as these certificates are issued inaccurately, non-comprehensively, or with untruthful data contents in many cases.
- The banks receive questionnaires from clients, auditors, and many other legal or official entities in large amounts, which are, however, handled as a mass and routinely, fundamentally by paying utmost attention to accounting accuracy, not focusing on other account information or individual features in each case. Thus, when answering the questions, it may happen that such wrong/erroneous data contents are recorded which may render the answer given by the bank non-comprehensive, inaccurate or expressly incomplete.

Bank certificates issued with partial or erroneous data contents may result in serious risks in the opinion of the Supervisory Authority, as the applicants coming to possess any certificates issued with partial or erroneous data contents may, as the case may be, record or perform an erroneous economic act as a result.

With regard to the fact that the bank certificates in question often have data contents that cannot be obtained from anywhere else, consequently they carry information that cannot be controlled from any other source, the production of the certificates imposes increased responsibility on the credit institutions.

By taking the above into account, the Supervisory Authority finds it highly justified that the credit institutions:

- should apply administrative, control and accounting procedures in line with the laws in order to fully comply with the statutory requirements of prudent operations as stipulated in Note d), Paragraph (1), Section 13/C of Act CXII of 1996 (Hpt, i.e. the Act on Credit Institutions and Financial Enterprises);
- in the context of which, they should endeavor to issue the *bank certificates* that qualify as unilateral statements accurately (truthfully), completely (answering all the questions asked by the applicants), and comprehensively (indicating all information and data that come up in relation to the question asked by the applicants) at all times.

The certificates should be issued in such a way that, by possessing them, the applicants should become able to meet the requirements set forth for them in the relevant laws, with special regard to the basic principles defined in Act C of 2000 on Accountancy (hereinafter referred to as: the Accountancy Act) such as:

- *the principle of “authenticity”* (Paragraph (3), Section 15 of the Accountancy Act), according to which the items recorded in the books and represented in the financial statements should be available and provable in reality, and identifiable by outsiders as well, and their evaluation should comply with the evaluation principles required by the Accountancy Act, as well as the related evaluation procedures,
- *the “content over form” principle* (Paragraph (3), Section 16 of the Accountancy Act), according to which in the financial statements and the supporting bookkeeping, the economic events and transactions should be represented and accounted in accordance with their actual economic contents, and in line with the principles and relevant requirements of this law,
- *the principle of “materiality”* (Paragraph (4), Section 16 of the Accountancy Act), according to which all such information will qualify as material for the financial statements whose omission or false representation may influence the decisions to be made by the users of the data represented in the financial statements, within the limits of reasonability.

By taking this into account, the Supervisory Authority finds it necessary for the internal audit units of the financial institutions to perform regular audits on this subject, besides the executive controls incorporated into their processes.

The contents of this Dear CEO letter have no binding force on the organizations that fall under the scope of the laws indicated in Section 4 of Psztv, the letter is aimed at facilitating prudent operations, but in the course of its audits, the Supervisory Authority will take the fulfillment of these requirements into account.

This Dear CEO letter will be disclosed by the Supervisory Authority on its homepage, under the title of “[Regulation/CEO letters](#)”.

Dated at: Budapest, on 3 July 2009

Yours sincerely,

Csaba Varga
Director General