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189/2004 Coll.

ACT

of 1 April 2004

on collective investment

Amendment: 377/2005 Coll.

Amendment: 57/2006 Coll., 70/2006 Coll.

Amendment: 224/2006 Coll.

Amendment: 296/2007 Coll.

Amendment: 126/2008 Coll., 230/2008 Coll.

Amendment: 230/2009 Coll.

Amendment: 227/2009 Coll.

Amendment: 281/2009 Coll.

The Parliament has passed this Act of the Czech Republic:

PART ONE

GENERAL PROVISIONS

Article 1

Subject

This Act implements the relevant regulations of the European Communities 1) and regulates collective investment.

Article 2

Definitions

(1) For the purposes of this Act:

- a) collective investment shall mean a business whose object consists in collecting financial means through the subscription of shares of an investment fund or issue of unit certificates of a unit trust, investment according to the principle of risk spreading, and further management of these assets;
- b) foreign investment company shall mean an investment company with the registered office in some other Member State of the European Union that is authorised to perform activities of an investment company in the Member States of the European Union on the basis of a license issued in accordance with the law of the European Communities;2)
- c) collective investment fund shall mean an investment fund or unit trust;
- d) standard fund shall mean a collective investment fund that complies with the requirements of the law of the European Communities;
- e) special fund shall mean a collective investment fund that does not comply with the requirements of the law of the European Communities;

- f) assets of a collective investment fund shall mean the assets of an investment fund and, for a unit trust, the assets in the unit trust;
- g) sub-fund shall mean part of the assets of a collective investment fund whose accounts are kept separately;
- h) current value of a share of an investment fund or a unit certificate of a unit trust shall mean the portion of the equity capital per share or per unit certificate;
- i) equity capital of a unit trust shall mean internal resources of the unit trust for financing of the assets in the unit trust;
- j) personal information shall mean
 1. for a legal entity, the business name or designation, registered office and identification number of the entity, if assigned;
 2. for a natural person, the name and surname, date of birth, and place of residence; for an entrepreneur registered in the Commercial Register, the business name, place of business, if applicable, and identification number of the entity, if assigned;
- k) assets for the purposes of calculation of the limit set for investments by a collective investment fund shall mean assets less accumulated depreciation and provisions;
- l) supervisory authority shall mean an institution authorised by the State to perform supervision over collective investment;
- m) revenue method shall mean a method of determining the fair value of real estate on the basis of sustainable revenues from rent after deduction of the costs of administration of the real estate and the considered risk of loss from rent;
- n) open positions shall mean the aggregate of liabilities posted in off-balance accounts following from derivative transactions that are not negotiated, acquired and held for the purpose of reduction of risk.

(2) In this Act, investment security shall mean a share or similar security representing an interest in a company, a bond or similar security representing the right to payment of an outstanding amount, and a security giving rise to the right to acquire the above securities. Investment securities shall not include techniques and instruments specified in Article 27.

(3) In this Act, money market instrument shall mean an instrument that is normally traded in a money market, is liquid and has a value that can be accurately determined at any time.

Article 2a

(1) Collection of financial means from general public for the purpose of their common investment or investment of the thus-acquired financial means shall be prohibited if

- a) the return of the investment or the profit of the investor is to be even partly conditional on the value of or revenues on the assets in which the financial means were invested; and
- b) it is not performed pursuant to this Act.

(2) Assisting some other person in activities referred to in paragraph 1 above by promoting participation in common investment shall be prohibited.

(3) The prohibitions stipulated in paragraphs 1 and 2 above shall not apply, in particular, to collection of financial means from general public

- a) by banks, branches of foreign banks and savings and credit cooperatives 2a);
- b) by pension funds within supplementary pension insurance with State contribution 2b);
- c) by insurance companies 2c);

- d) by foundations and endowment funds 2d);
 - e) within organization of public collections 2e);
 - f) within organization of lotteries and other similar games 2f);
 - g) within offering of securities to general public pursuant to the special legal regulation 3);
- if performed in accordance with the laws.

(4) The prohibitions stipulated in paragraphs 1 and 2 above shall also not apply to collection of financial means from general public whose main purpose lies in financing of activities that have the nature of production, trade, research or provision of other than financial services and are financed predominantly from own funds of the person who collects the financial means.

Article 3

- (1) Each collective investment fund must have its depositary (Article 20 et seq.).
- (2) The duties imposed by this Act on a unit trust or rights granted by this Act to a unit trust shall be the duties and rights of an investment company.

PART TWO

COLLECTIVE INVESTMENT FUNDS

TITLE I

INVESTMENT FUND

General Provisions

Article 4

(1) An investment fund is a legal entity whose objects of business consist in collective investment and that has a license of the Czech National Bank for activities of an investment fund.

(2) Only the founders of a joint stock company that is yet to be incorporated may apply for a license to perform activities of an investment fund. The company must not be established on the basis of an initial public offering.

(3) The business name of an investment fund shall include the designation “closed-end investment fund”.

(4) A person who does not have a license to perform activities of an investment fund may not use the designation “investment fund”.

(5) An investment fund other than a qualified investor fund may be established for a fixed term only, not exceeding 10 years, that must be specified in the statute.

(6) An investment fund may entrust the management of its assets to an investment company on the basis of a contract for management of the assets of an investment fund pursuant to Article 17 (hereinafter a “management contract”).

(7) A change in the objects of business of an investment fund shall not be permissible.

Article 5

(1) Transferability of shares of an investment fund may not be limited unless this Act stipulates otherwise (Article 56 (2)).

(2) An investment fund may only issue shares of the same nominal value.

(3) An investment fund may not

- a) issue scrip;
- b) issue preferred shares;
- c) issue shares to its employees under privileged conditions,
- d) conclude a contract on the transfer of profit;
- e) conclude a controlling contract;
- f) issue bonds.

(4) The provisions of the Commercial Code on election of the members of the supervisory board by employees, on a takeover bid and on the right to the repurchase of participating securities shall not apply to an investment fund.

(5) An investment fund shall be obliged to notify the Czech National Bank of establishment of an organisational unit of its enterprise (hereinafter an “organisational unit”).

(6) An investment fund that has an organisational unit located in a country other than a Member State of the European Union shall notify the Czech National Bank of a remedial measure or fine that has been imposed thereon by a supervisory body of that country, together with the reasons for imposing the measure or fine.

TITLE II

UNIT TRUST

Article 6

General Provisions

(1) An investment company shall collect financial means in a unit trust by means of issue of unit certificates of the unit trust.

(2) A unit trust shall be the aggregate of assets belonging to all holders of unit certificates of the unit trust (hereinafter “unit-holders”), *pro rata* according to the number of unit certificates held by each. A unit trust shall not be a legal entity.

(3) A unit trust may be either open-ended or closed-ended.

(4) A license from the Czech National Bank shall be required for establishment of a unit trust. The license to establish a unit trust shall be applied for by an investment company.

(5) A person who does not have a license to establish a unit trust may not use the designation “unit trust” in his business activities.

Article 7

Assets in a Unit Trust

(1) An investment company shall manage the assets in a unit trust on its own behalf and on the account of the unit-holders.

(2) Where a special legal regulation or legal act requires information on the holder, information on all the unit-holders shall be substituted by the name of the unit trust and information on the investment company that manages the unit trust.

(3) The investment company shall be entitled from and bound by legal acts performed in connection with the management of the assets in a unit trust. The investment company shall

fulfil an obligation following from the management of the assets of a unit trust from the assets in the unit trust.

(4) Neither a unit-holder nor any other person shall be entitled to request the distribution of the assets in a unit trust or dissolution of a unit trust.

(5) The provisions of the Civil Code on co-ownership shall not apply to unit trusts, assets in unit trusts, management of assets of unit trusts, or any other matters pertaining to unit trusts.

Article 8

Unit Certificate

(1) A unit certificate is a security that represents the interest of the unit-holder in the assets of a unit trust and that carries other rights arising from this Act or the statute.

(2) A unit certificate shall contain

- a) the name of the unit trust;
- b) the nominal value of the unit certificate, if stipulated;
- c) specification of the form of the unit certificate;
- d) the date of issuance or issue of the unit certificate;
- e) for unit certificates that are not book-entered, also the numerical designation of the unit certificate, the signatures or copies of signatures of persons authorised to act on behalf of the investment company as of the date of issue and, for registered unit certificates, also the name of the first unit-holder.

(3) Unit certificates of a single unit trust having the same nominal value shall give rise to the same rights of the unit-holders.

(4) The transfer of an order unit certificate shall become effective in relation to the investment company upon its registration in the list of unit-holders kept by the investment company.

Article 9

Recordkeeping

(1) An investment company shall provide for keeping of

- a) records of book-entered unit certificates of an open-end unit trust in the central records of securities or in separate records of investment instruments pursuant to the special regulation governing undertaking on the capital market;
- b) separate records of unit certificates issued by a collective investment fund that are not book-entered and that have been entrusted by the clients to the investment company for safe-keeping or administration.

(2) The records pursuant to paragraph 1 above shall be kept in electronic form.

TITLE III

OPEN-END UNIT TRUST

Article 10

General Provisions

- (1) The number of unit certificates issued by an open-end unit trust is not limited.
- (2) The holder of a unit certificate of an open-end unit trust shall also have the right to have his unit certificate repurchased by the investment company at his request.
- (3) A unit certificate of an open-end unit trust need not have a nominal value.
- (4) The name of an open-end unit trust shall contain the business name of the investment company that manages the unit trust and the designation “open-end unit trust”.

Article 11

Issue of Unit Certificates of an Open-End Unit Trust

- (1) An investment company shall issue a unit certificate of an open-end unit trust for an amount equal to its current value announced on the decisive date. This amount may be increased by the surcharge specified in the statute. The statute shall also stipulate which date shall be considered to the decisive date in issue of a unit certificate.
- (2) An investment company may issue unit certificates of an open-end unit trust for an amount equal to the nominal value thereof or unit certificates without a nominal value for the amount set out in the statute of an open-end unit trust for a period not exceeding 3 months of the date when it commenced issuing unit certificates. This amount may be increased by the surcharge specified in the statute.
- (3) An investment company shall not issue a unit certificate of an open-end unit trust until an amount pursuant to paragraph 1 or 2 is paid into the fund’s account.

Article 12

Repurchasing Unit Certificates of an Open-End Unit Trust

- (1) An investment company shall repurchase a unit certificate of an open-end unit trust for an amount equal to its current value announced as of the date when it received a request from the unit-holder for the repurchase of the unit certificate. This amount may be decreased by the deduction specified in the statute.
- (2) An investment company shall repurchase, with the use of the assets in the unit trust, a unit certificate of an open-end unit trust without undue delay after receiving a request for its repurchase, but no later than within 15 business days, unless repurchasing of unit certificates is suspended. A special real estate fund or a special qualified investor fund may stipulate a different deadline in their statute for repurchasing their unit certificates; however, this deadline may not exceed 6 months. The statute of a special real estate fund or a special qualified investor fund may also stipulate dates for lodging applications for repurchase of unit certificates where the time interval between the individual dates for lodging applications may not exceed 6 months.
- (3) During the period when an investment company issues unit certificates of an open-end unit trust pursuant to Article 11 (2) for an amount equal to their nominal value or for the amount set out in the statute of the open-end unit trust, the company shall repurchase the unit certificates for the same amount as for which they are issued.
- (4) An investment company may suspend issuing or repurchasing of unit certificates of an open-end unit trust for a period not exceeding 3 months if this is required for the protection of the rights or legally protected interests of the unit-holders. The decision to suspend issuing or repurchasing of unit certificates shall be made by the board of directors of the investment company, which shall be obliged to draw up a protocol of this decision. The protocol shall specify the date and exact time of the decision on suspension, the reasons for the suspension, and the period of time for which issuing or repurchasing of unit certificates is suspended. A special real estate fund or a special qualified investor fund may stipulate a different period of

suspension of issuing or repurchasing of unit certificates in their statute; however, this deadline may not exceed 2 years.

(5) The issuing or repurchasing of unit certificates of an open-end unit trust shall be suspended as of the decision to suspend their issuing and repurchasing. From this time, the investment company may not issue or repurchase unit certificates of the open-end unit trust. The prohibition of issuing or repurchasing unit certificates shall also apply to unit certificates whose issuance or repurchasing had been requested by the unit-holder

- a) prior to the suspension of issuing or repurchasing of unit certificates if the transaction is yet to be settled, or
- b) during the period of suspension of issuing or repurchasing of unit certificates.

(6) An investment company shall deliver a protocol of the suspension of issuing or repurchasing of unit certificates of an open-end unit trust without delay to the Czech National Bank and shall simultaneously publish, in a manner allowing for remote access, the date and exact time of the decision to suspend issuing or repurchasing of unit certificates, the reasons for the suspension and the period of time for which the issuing or repurchasing of unit certificates is suspended.

(7) An investment company shall notify the Czech National Bank of adopted measures and any other facts aimed at eliminating the causes of the suspension of issuing or repurchasing of unit certificates of an open-end unit trust within 3 business days of the date of the suspension. With respect to a special real estate fund, the investment company shall also notify the Czech National Bank of the course of elimination of the causes of the suspension once every 6 months until the date of resumption of issuing or repurchasing of unit certificates. This date shall be the date following after the date of expiry of the period for which the issuing or repurchasing of unit certificates was suspended or the date of legal force of a decision of the Czech National Bank whereby a decision of the investment company on suspension of issuing or repurchasing of unit certificates is cancelled.

(8) If the suspension of issuing or repurchasing of unit certificates of an open-end unit trust jeopardizes the interests of the unit-holders, the Czech National Bank shall cancel the decision.

(9) The Czech National Bank shall commence administrative proceedings pursuant to paragraph 8 above by issuing a decision, which it shall send to the investment company and publish by means of a public decree. An appeal against the decision shall not have a suspensory effect.

(10) An investment company shall publish, without delay, in a manner allowing for remote access, the information that the Czech National Bank has cancelled the suspension of issuing or repurchasing of unit certificates of an open-end unit trust.

(11) From the date of resumption of issuing or repurchasing of unit certificates, the investment company shall issue or repurchase unit certificates whose issuing or repurchasing had been suspended for an amount equal to the current value determined as of the date of the resumption of issuing or repurchasing of unit certificates. This amount may be increased by the surcharge or decreased by the deduction specified in the statute.

(12) A unit-holder shall not be entitled to a default interest for the period of suspension of issuing or repurchasing of unit certificates of an open-end unit trust unless the investment company had been in delay with payment of the amount for the repurchase on the date of suspension or if the Czech National Bank has cancelled the decision to suspend issuing or repurchasing of unit certificates. The investment company shall pay the default interest from its own assets.

TITLE IV CLOSED-END UNIT TRUST

Article 13

(1) An investment company shall not repurchase unit certificates of a closed-end unit trust from the unit-holders with the use of the assets of the closed-end unit trust unless this Act stipulates otherwise (Article 100 (6) and Article 101 (6)).

(2) The name of a closed-end unit trust shall contain the business name of the investment company that manages the unit trust and the designation “closed-end unit trust”.

(3) An investment company shall issue a unit certificate of a closed-end unit trust for an amount equal to its current value announced on the decisive date. This amount may be increased by the surcharge specified in the statute. The statute shall stipulate which date shall be considered to the decisive date in purchase of a unit certificate.

(4) An investment company may issue a unit certificate of a closed-end unit trust for an amount equal to the nominal value of the unit certificate for a period not exceeding 3 months of the date of commencement of issuing of unit certificates. This amount may be increased by the surcharge specified in the statute.

(5) An investment company shall not issue a unit certificate of a closed-end unit trust until the amount corresponding to its current value or nominal value, including a possible surcharge, is paid.

(6) A closed-end unit trust shall be established for a fixed term. After expiry of this term, the fund shall enter into liquidation or be transformed (Article 101a) into an open-end unit trust. The term for which the closed-end unit trust is established must be specified in the statute, including information as to whether, upon expiry of this term, the fund will enter into liquidation or be transformed into an open-end unit trust.

PART THREE

INVESTMENT COMPANY

General Provisions

Article 14

(1) An investment company is a joint stock company whose objects of business include collective investment consisting in:

- a) establishment and management of unit trusts; or
- b) management of investment funds on the basis of a management contract (Article 17).

(2) A license from the Czech National Bank shall be required for activities of an investment company.

(3) The business name of an investment company shall include the designation “investment company”.

(4) A person who does not have a license to perform activities of an investment company may not use the designation “investment company”.

(5) An investment company may not issue bonds.

Article 15

(1) An investment company may also manage assets in a unit trust of another investment company or assets of an investment fund that has not concluded a management contract (Article 78).

(2) An investment company may provide services to another investment company, or an investment fund that has not concluded a management agreement, consisting in activities connected with management of a collective investment fund, including, without limitation

- a) keeping the accounts of the collective investment fund;
- b) providing legal services for the collective investment fund;
- c) dealing with inquiries and complaints of unit-holders or shareholders of the collective investment fund;
- d) valuating the assets and liabilities of the collective investment fund and determining the current value of a unit certificate of or a share of the collective investment fund;
- e) ensuring the fulfilment of tax liabilities of the collective investment fund;
- f) keeping records of unit certificates or shares of the collective investment fund and keeping a list of unit-holders or shareholders of the collective investment fund;
- g) distributing and paying yields from the assets of the collective investment fund, if the yields are paid;
- h) issuing and repurchasing unit certificates or shares of the collective investment fund;
- i) concluding and settling agreements on the issue or repurchase of unit certificates or shares of the collective investment fund;
- j) creating and providing for a business strategy of the collective investment fund;
- k) offering the unit certificates or shares of the collective investment fund;
- l) promoting the services of the investment company and the offered products.

(3) In addition to collective investment, an investment company may manage client assets provided that the assets include an investment instrument, based on discretion within a contractual arrangement (portfolio management), and provided that this activity is set out in the license of the company.

(4) An investment company that manages the client assets, may, if this is set out in its license:

- a) provide for safe-keeping and administration of securities issued by a collective investment fund, including related services; or
- b) provide investment consultancy relating to investment instruments.

(5) An investment company may not apply, in relation to the collective investment fund that it manages, any surcharges or deductions stipulated in the statute if it purchases securities issued by the collective investment fund into the assets of some other collective investment fund or sells these securities from the assets of some other collective investment fund whose

- a) assets or part of assets it manages itself; or
- b) assets or part of assets are managed by some other investment company that is part of a consolidation unit for which consolidated financial statements are compiled.

(6) The activities referred to in paragraph 2 above may also be performed by an investment company for a foreign investment company or foreign collective investment fund.

Article 16

Keeping Accounts of Assets in a Unit Trust

(1) An investment company shall keep accounts of the status and movements of property and other assets, obligations and other liabilities, as well as of the expenses and revenues and of the profit and loss following from the management of the assets of a unit trust separately from the subject of the accounts of the investment company and of other unit trusts.

(2) In accordance with the accounting methods stipulated in a special legal regulation governing accounting, an investment company shall ensure keeping of accounts on the subject of accounting in books that are kept separately for each individual unit trust whose assets it manages, in a manner enabling it to compile financial statements for each individual unit trust.

(3) The financial statements of a unit trust must be audited.

Article 17

Contract for Management of Assets of an Investment Fund

(1) By virtue of a management contract, an investment company undertakes to manage the assets of an investment fund, without instructions from the fund, and the investment fund undertakes to pay to the investment company consideration for these activities. The essential elements of a management contract shall include

- a) the manner of determining and payment of the consideration for the provided services;
- b) an agreement on whether and under what terms and conditions the investment company may entrust the management of the assets of the investment fund or the performance of activities associated with the management of the assets of the fund to a third person (Article 78).

(2) A management contract shall be concluded for an indefinite term and the notice period shall be at least 6 months. Should the investment fund apply for a change in the statute pursuant to Article 101b, the notice period shall not expire before a decision of the Czech National Bank regarding this matter becomes final and conclusive.

Article 18

Consideration for Management of Assets of a Collective Investment Fund

(1) The consideration for management of assets of a collective investment fund shall be determined

- a) as a ratio of the average value of the equity capital of the collective investment fund during the relevant accounting period;
- b) as a ratio of the profits of the collective investment fund before tax;
- c) on the basis of the inter-annual growth of the value of the equity capital per unit certificate or per share of the collective investment fund; or
- d) in combination of the methods set out in subparagraphs a) to c) above.

(2) Expenses of a collective investment fund shall not include fines or other penalties affecting property that are imposed on the investment company or expenses on marketing and advertising and the distribution of securities of a collective investment fund.

Article 19

Reporting Duties of an Investment Company

(1) An investment company shall notify the Czech National Bank that it has

- a) established a legal entity as the sole founder;
- b) established an organisational unit, or
- c) acquired a qualified holding 3) in a legal entity.

(2) An investment company that has an organisational unit located in a country other than a Member State of the European Union shall notify the Czech National Bank of a remedial

measure or fine that has been imposed thereon by a supervisory body of that country, together with the reasons for imposing the measure or fine.

(3) An investment company shall notify the Czech National Bank of

- a) dissolution of an organisational unit, or
- b) loss of a qualified holding 3) in a legal entity.

PART FOUR

DEPOSITARY OF A COLLECTIVE INVESTMENT FUND

Article 20

General Provisions

(1) A depositary of a collective investment fund (hereinafter a “depositary”) shall keep records of the assets of the collective investment fund and control whether the collective investment fund disposes of the assets in accordance with this Act and with the statute

(2) Only a bank with its registered office in the territory of the Czech Republic (hereinafter a “bank”) or a foreign bank that has a branch located in the territory of the Czech Republic (hereinafter a “branch of a foreign bank”), whose banking license includes the authorisation to perform activities of a depositary, may be a depositary.

(3) A depositary shall perform its activities on the basis of a contract on performance of activities of a depositary concluded with an investment company or investment fund (hereinafter a “depositary contract”).

(4) In the depositary contract, the depositary and the investment company or investment fund shall agree on the terms and conditions of the performance of the duties of the depositary.

(5) A depositary contract shall be concluded for an indefinite term. The notice period shall be 6 months.

(6) The obligation under the depositary contract shall also cease to exist upon the legal force of a decision through which

- a) the depositary’s banking license is revoked; or
- b) the depositary’s banking license is amended in that the activities of the depositary or activities that are essential for the performance of activities of a depositary are either excluded or limited.

(7) The depositary shall notify the Czech National Bank and the collective investment fund without delay of any legal fact that results in the cessation of the obligation under the depositary contract.

(8) Without delay after the cessation of the obligation under the depositary contract, a collective investment fund shall

- a) suspend the disposal of its assets and issuing of its shares or issuing and repurchasing of its unit certificates, with the exception of payment of obligations that had arisen prior to the cessation of the obligation under the depositary contract and payment of the essential operating and salary expenses, until a new depositary contract comes into effect;
- b) send to the Czech National Bank the information on the suspension of disposal of the assets and issuing of shares or issuing and repurchasing of unit certificates, and publish this information in a manner allowing for remote access.

(9) A bank or a branch of a foreign bank that has ceased to perform the activities of a depositary for a collective investment fund may not allow any disposal of the financial means in the account of that fund; this shall not apply to payment of obligations that had arisen prior to

the cessation of the depositary contract and payment of the essential operating and salary expenses.

(10) A bank or a branch of a foreign bank that has ceased to perform the activities of a depositary for a collective investment fund shall submit the financial means and assets of the collective investment fund that it has in safe-keeping or of which it keeps records, exclusively to the new depositary.

(11) The provisions of paragraphs 9 and 10 above shall not apply if the Czech National Bank revokes the license of the investment company to establish a unit trust or the license of the investment fund to perform its activities.

Article 21

Activities of a Depositary

(1) A depositary shall, in particular

- a) provide for safe-keeping of the assets of a collective investment fund or, if this is excluded by the nature of the matter, for some other custody; it may perform these activities through a third person;
- b) keep records of the movement of all financial means of a collective investment fund;
- c) control whether the shares or unit certificates of a collective investment fund are issued and repurchased in accordance with this Act and the statute of the collective investment fund;
- d) control whether the current value of a share or unit certificate of a collective investment fund has been calculated in accordance with this Act and the statute of the collective investment fund;
- e) execute instructions of an investment fund, investment company or some another entity that manages the assets of a collective investment fund, unless these instructions are at variance with this Act or the statute of the collective investment fund;
- f) provide for settlement of transactions in the assets of a collective investment fund within usual deadlines;
- g) control whether the yield from the assets of a collective investment fund is used in accordance with this Act and the statute of the collective investment fund;
- h) control whether the assets of a collective investment fund are acquired and alienated in accordance with this Act and the statute of the collective investment fund;
- i) control whether the method of valuation of the assets of a collective investment fund is in accordance with this Act and the statute of the collective investment fund.

(2) A contribution to the Guarantee Fund of Investment Firms shall not be paid for the financial means and investment instruments of a collective investment fund entrusted to the depositary for safe-keeping or other custody pursuant to paragraph 1 (a) above.

(3) The details concerning the performance of the duties of a depositary as specified in paragraph 1 above shall be stipulated in an implementing regulation.

(4) A qualified investor fund may negotiate a limitation or an exclusion of the control referred to in paragraph 1 (d), (e), (g), (h) and (i) in a depositary contract provided that details of such derogations are specified in the fund's statute.

Article 22

Obligations of a Collective Investment Fund towards a Depositary

(1) A collective investment fund

- a) shall request that the depositary establish the accounts required for keeping records of all its financial means;
- b) shall submit to the depositary its statute and other documentation required for the performance of activities of the depositary;
- c) shall deposit the acquired financial means in the account kept by the depositary without delay;
- d) shall effect all payments and withdrawals or transfers of financial means through the depositary;
- e) with the consent of the depositary, may establish an account with a bank, branch of a foreign bank or foreign bank with the registered office in a country requiring compliance with the rules of prudence pursuant to the law of the European Communities or rules considered by the Czech National Bank to be equivalent, provided that the depositary's consent to disposal of financial means kept in the account has been obtained and if the depositary has information on movements of these financial means;
- f) shall entrust all its assets to a depositary for safe-keeping or, if excluded by the nature of the matter, other custody;
- g) shall submit to the depositary the documents required for the keeping of records of its assets in a manner stipulated in the depositary contract or at request of the depositary;
- h) shall inform the depositary of any intended purchase or sale of a movable asset except for securities or real estate for the purposes of collective investment within a deadline stipulated in the depositary contract, and submit the respective draft contract to the depositary prior to its execution;
- i) shall submit to the depositary a valuation of a movable asset except for securities or real estate that it intends to acquire into its assets for the purpose of collective investment, prior to execution of the purchase contract;
- j) shall submit to the depositary a contract for purchase of a movable asset except for securities or real estate acquired by the fund, into its assets, for the purpose of collective investment, without undue delay after its execution;
- k) shall submit to the depositary a valuation of a movable except for securities or real estate belonging to its assets that it has purchased for the purposes of collective investment;
- l) shall enable the depositary to properly carry out its control obligations;
- m) shall demonstrate to the depositary, at its request, compliance with the terms and conditions of collective investment stipulated by Act and the statute.

(2) All collective investment funds that are managed by the same investment company must have the same depositary; this shall not apply to a special qualified investor fund, a special real estate fund, a unit trust of some other investment company and an investment fund.

Article 23

Rules of Conduct of a Depositary

(1) If a depositary, within the performance of its activities, establishes a fact indicating that an investment company or investment fund has violated this Act, the statute, the depositary contract or a management contract, it shall discuss this fact without delay with the investment company or the investment fund, unless there is a danger of delay.

(2) If a depositary comes to a conclusion, on the basis of the discussion pursuant to paragraph 1 above or without that discussion in case of danger of delay, that an investment company or investment fund has violated this Act, the statute, the depositary contract or a management contract, it shall notify the Czech National Bank of this fact without delay.

(3) If a depositary, within the performance of its activities, establishes a fact that could significantly influence the value of shares or unit certificates of a collective investment fund or that could lead to a significant deterioration of the economic position of a collective investment fund, it shall notify the Czech National Bank of this fact without delay.

(4) If an investment company or an investment fund fails to demonstrate compliance with the terms and conditions of making an investment as stipulated by the Act and the statute at request of the depositary, the depositary shall not execute the instruction.

(5) If a depositary, within the performance of its activities, establishes a fact indicating that an instruction given by an investment company or an investment fund is at variance with this Act, the statute, the depositary contract or a management contract, the depositary shall suspend this instruction for a period not exceeding than 3 business days and shall discuss the reasons for not executing the instruction with the investment company or investment fund without delay.

(6) If a depositary comes to the conclusion, on the basis of the discussion pursuant to paragraph 5 above, that an investment company or an investment fund has significantly violated this Act, the depositary contract or a management contract through its instruction, it shall not execute this instruction and shall notify the Czech National Bank of this fact without delay. Conduct that may be a reason for not executing an instruction shall be stipulated in an implementing regulation.

(7) If a depositary has a justified suspicion of a potential harm to the interests of the shareholders or unit-holders of a collective investment fund, it shall request, for a period not exceeding 3 business days

a) that the central depositary³) or a person authorised to keep records connected with the central records of securities kept by the central depositary, a person authorised to keep separate records of investment instruments or a person authorised to keep records based on separate records of investments instruments, suspend the exercise of the rights of a party to the operation, which could harm the interests of the shareholders or unit-holders of the collective investment fund, to dispose of the securities kept in the account of that party;

b) that a person providing for settlement of transactions in securities 3) suspend the settlement of a transaction that could harm the interests of shareholders or unit-holders of the collective investment fund.

(8) The depositary shall send a copy of a request pursuant to paragraph 7 above to the Czech National Bank.

(9) The specified persons must comply with a request pursuant to paragraph 7 above.

(10) Within 3 business days of the date when it received a copy of a request pursuant to paragraph 8 above, the Czech National Bank shall cancel the suspension or make a decision on a preliminary measure.

(11) In its activities, a depositary shall proceed with professional care and exclusively in the interest of the shareholders or unit-holders of a collective investment fund.

(12) A depositary shall be liable to the investment company and the shareholders or unit-holders of a collective investment fund for any damage caused by breach of a duty of the depositary, pursuant to the Commercial Code. This liability of the depositary shall also apply if it performs activities through a third person pursuant to Article 21 (1) (a). This shall in no way prejudice the liability of an investment company for damage incurred in the management of the assets of a unit trust or the liability of an investment fund for damage incurred in the management of its assets.

PART FIVE

COLLECTIVE INVESTMENT BY A STANDARD FUND

TITLE I
GENERAL PROVISIONS

Article 24

(1) A standard fund collects financial means from general public and it may only have the form of an open-end unit trust.

(2) A standard fund shall

- a) invest the collected financial means in assets set out in Article 26 while complying with the principles of spreading the risk connected with investment pursuant to this Act;
- b) repurchase unit certificates at request of unit-holders using its own assets; conduct of a standard fund through which the fund ensures that the rate or price of a unit certificate of the fund in a regulated market 3) does not substantially differ from its current value shall be deemed to be equivalent to the repurchase of unit certificates.

Article 25

A depositary of a standard fund may consist in

- a) a bank whose banking license includes the authorisation to perform the activities of a depositary; or
- b) a branch of a foreign bank with its registered office in some other Member State of the European Union whose banking license includes the authorisation to perform the activities of a depositary or similar activities performed by the depositary pursuant to this Act.

TITLE II
MANNER OF INVESTMENT BY A STANDARD FUND

Article 26

Composition of Assets

(1) A standard fund shall only invest in liquid

- a) investment securities and money market instruments that
 - 1. have been admitted to trading or are traded in a regulated market; 6)
 - 2. are traded in a regulated market in some other Member State of the European Union;or
 - 3. have been admitted to trading in an official market in a country other than a Member State of the European Union or are traded in a regulated market with a seat in a country other than a Member State of the European Union provided that these markets are included in the list of foreign regulated markets;
- b) investment securities from a new issue, if
 - 1. the terms and conditions of the issue include the commitment to lodge an application for the admission to trading in markets referred to in subparagraph a) above and if these markets are included in the list of foreign regulated markets kept by the Czech National Bank; and
 - 2. an application for the admission thereof to trading in markets set out in subparagraph a) above will be lodged in a manner ensuring that the security in question will be admitted to trading within 1 year from the last date of issuance thereof;

c) securities issued by a standard fund provided that, according to the statute of the standard fund, a maximum of 10% of the value of its assets may be invested in securities issued by a standard fund or securities issued by a special fund that complies with the conditions stipulated in subparagraph d) (1) to (3) hereof and invests in the same types of assets as a standard fund, spreads the risk connected with investment, and repurchases securities that it has issued or ensures that the rates or prices of such securities in a regulated market do not significantly vary from their current value;

d) securities issued by a special fund that invests in the same types of assets as a standard fund, spreads the risk connected with investment, and repurchases the securities that it has issued or ensures that the rates or prices of these securities in a regulated market do not significantly vary from their current value provided that

1. it has a license issued by the supervisory authority of the country of its registered office and is subject to supervision that is considered by the Czech National Bank to be equivalent to the supervision in a Member State of the European Union, and that collaboration between the Czech National Bank and that supervisory authority is ensured;

2. the protection of the holders of securities issued by that special fund is equivalent to the protection provided to the holders of securities issued by a standard fund; the special fund must, in particular, comply with the provisions concerning the prohibition of borrowing, lending, and sales of assets (Articles 33 to 35) and accounts of its assets must be kept separately within the meaning of Article 16 (1);

3. it draws up and publishes a semi-annual report and annual report in a manner similar to a standard fund;

4. its statute allows for investment of a maximum of 10% of the value of its assets in securities issued by a standard fund and securities issued by a special fund that complies with the conditions stipulated in subparagraphs (1) to (3) above and invests in the same types of assets as a standard fund, spreads the risk connected with investment, and repurchases securities that it has issued or ensures that the rates or prices of such securities on a regulated market do not significantly vary from their current value;

e) deposits that can be freely disposed of, or term deposits with a period of maturity not exceeding 1 year kept by a bank or a foreign bank with its registered office in a country that requires compliance with the rules of prudence pursuant to the law of the European Communities or rules that the Czech National Bank considers to be equivalent;

f) financial derivatives including equivalent instruments that carry the right of settlement and that have been admitted to trading in markets referred to in subparagraph a) above;

g) financial derivatives that have not been admitted to trading in markets referred to in subparagraph a) above provided that

1. the underlying assets of these derivatives consist in instruments referred to in subparagraphs a) to i) hereof, financial indices, interest rates, foreign currency exchange rates, or currencies that the standard fund may acquire into its assets pursuant to the statute;

2. the counterparty is an institution that is subject to supervision and falls within one of the categories of institutions approved by the Czech National Bank and included in a list kept by the Czech National Bank;

3. these derivatives are valued on a daily basis in a reliable and verifiable manner and the standard fund is able to realize them at any time at a price that can be reached between informed parties under usual market conditions;

h) money market instruments other than those referred to in subparagraph a) above provided that the regulation of their issue or of their issuer ensures protection of investors or savings, and that

1. they were issued or secured by a central, regional, or local administrative unit of a Member State of the European Union, the central bank of a Member State of the European

Union, the European Central Bank, the European Union, the European Investment Bank, a country or a member of a federal country other than a Member State of the European Union, or an international organisation whose members include one or more Member States of the European Union;

2. they were issued by an issuer whose securities have been admitted to trading in markets set out in subparagraph a) above;

3. they were issued or secured by a person that is subject to supervision performed by a supervision authority of a Member State of the European Union, or by a person that, in the opinion of the Czech National Bank is subject to similar supervision; or

4. they were issued by an issuer who falls within one of the categories of issuers approved by the Czech National Bank and included in a list kept by the Czech National Bank, provided that the person who invests in these instruments is provided with similar protection as a person investing in a monetary market instrument set out in subparagraph 1, 2 or 3 above, if the issuer is a company whose equity capital equals at least EUR 10,000,000, that publishes financial statements corresponding to the requirements of a special regulation governing accounting, and that is part of a group of companies of which at least one is an issuer of securities admitted to trading in a regulated market with its seat in a Member State of the European Union and ensures the funding of that group or ensures, through the issue of securities, the funding of companies, contractual relations or similar structures established for the purpose of securitisation that use a bank service or product ensured by a financial institution that is the person referred to in item 3;

i) investment securities that do not meet the conditions pursuant to subparagraph a) above, and money market instruments that do not meet the conditions pursuant to subparagraphs a) and h) above, up to 10% of the value of the assets of the standard fund.

(2) The assets of a standard fund may not include precious metals, certificates representing precious metals or commodity derivatives.

(3) Qualitative requirements for investment securities and money market instruments, in which a standard fund may invest pursuant to paragraph 1, shall be stipulated by an implementing regulation.

Spreading and Limiting the Risk Connected with Investment

Article 27

(1) A standard fund must

a) use procedures that enable it to monitor, at any time, the risk rate of the positions and their influence on the overall risk connected with investment;

b) use procedures for accurate and objective assessment of the risk connected with investment in financial derivatives pursuant to Article 26 (1) (g);

c) notify the Czech National Bank, on a half-yearly basis, of the types of financial derivatives in which it has invested and the risks connected therewith, of the quantity limitations and the methods selected for the assessment of the risks connected with the operations using such financial derivatives.

(2) A standard fund may use techniques and instruments related to investment securities and money market instruments provided that they serve for efficient management of its assets.

(3) In using the techniques, and instruments pursuant to paragraph 2 above, a standard fund may not diverge from the manner of investment stipulated in the statute.

(4) A standard fund must ensure that the open positions pertaining to financial derivatives do not exceed its equity capital.

(5) For the purposes of calculating the limits pursuant to Article 28, account shall be taken of the underlying assets of financial derivatives; this shall not apply to the underlying assets of index derivatives subject to compliance with the rules stipulated by the implementing regulation pursuant to paragraph 8 hereof.

(6) The risks connected with investment pursuant to paragraphs 4 and 5 above shall be calculated with respect to the current value of the underlying assets, to the risk connected with the counterparty, to the expected future trends in the market and to the term within which the positions must be closed.

(7) If an investment security or money market instrument contains a derivative, a standard fund shall take the derivative into consideration in monitoring the risk rate connected with the investment. In acquisition of such investment securities and money market instruments, a standard fund shall comply with the rules for acquisition of derivatives stipulated by an implementing regulation pursuant to paragraph 8 hereof.

(8) An implementing regulation shall set out

- a) the types, limits, manner of use of and qualitative requirements for the techniques and instruments that a standard fund may use for efficient management of its assets;
- b) the procedure for the evaluation of the risk rate connected with investment, and the manner of fulfilment of the reporting duty concerning
 1. the types of financial derivatives that have not been admitted to trading in markets set out in Article 26 (1) (a) and that are owned by the standard fund and the risks that are connected therewith;
 2. the quantity limitations and methods selected for the assessment of the risks connected with the operations using those financial derivatives;
- c) qualitative requirements for an investment security or a money market instrument containing a derivative in which a standard fund may invest.

Article 28

(1) Investment securities and money market instruments issued by a single issuer may constitute a maximum of 5% of the value of the assets of a standard fund unless this Act stipulates otherwise.

(2) A standard fund may, if stipulated in its statute, increase the limit pursuant to paragraph 1 above and invest

- a) in investment securities and money market instruments issued by a single issuer up to 10% of the value of its assets provided that the sum of investments for which the standard fund uses this exemption does not exceed 40% of the value of its assets;
- b) in investment securities and money market instruments issued by a single issuer up to 35% of the value of its assets provided that those securities were issued or are guaranteed by a Member State of the European Union, a regional or local administrative unit of a Member State of the European Union, a country other than a Member State of the European Union, or an international organisation whose members include one or more Member States of the European Union;
- c) in bonds or similar securities representing the right to payment of an outstanding amount, issued by a single bank of a foreign bank that has its registered office in a Member State of the European Union and is subject to the supervision by that State ensuring the protection of the interests of the bondholders, up to 25% of the value of its assets; a standard fund may use this exemption if the financial means acquired through the issue of these bonds are invested in such types of assets that cover the obligations of the issuer connected with the issue thereof until the date of maturity of the bonds, and that, in the event of insolvency of the issuer, can be preferentially used for the repayment of the principal of the bond and the interest accrued

thereon; the sum of investments for which the standard fund uses this exemption must not exceed 80% of the value of its assets.

(3) Investments pursuant to paragraph 2 (b) and (c) above shall not be included in the 40% limit pursuant to paragraph 2 (a) above.

(4) Deposits kept by a single bank or a foreign bank that meets the conditions stipulated in Article 26 (1) (e) must not exceed 20% of the value of the assets of a standard fund.

(5) The counterparty risk in operations in financial derivatives pursuant to Article 26 (1) (g) must not exceed

a) 10% of the value of the assets of a standard fund if the counterparty is a bank or a foreign bank with its registered office in a country requiring compliance with the rules of prudence pursuant to the law of the European Communities or rules considered by the Czech National Bank to be equivalent; or

b) 5% of the value of the assets of a standard fund if the counterparty is an entity other than a bank or a foreign bank pursuant to subparagraph a) above.

(6) The sum of investments in investment securities or money market instruments issued by a single issuer, of the deposit kept by that issuer, and of the risks connected with that issuer as the counterparty in operations in financial derivatives pursuant to Article 26 (1) (g) may not exceed 20% of the value of the assets of the standard fund. This shall in no way prejudice the provisions of paragraph 2 (b) and (c) above.

(7) The limits stipulated in paragraphs 1 to 6 above cannot be added together and the investments pertaining to a single issuer must not exceed 35% of the value of the assets of a standard fund.

(8) For the purposes of calculating the limits pursuant to paragraphs 1 to 7 above, issuers that belong to a group for which consolidated financial statements are compiled shall be deemed to be a single issuer. In case of investments in investment securities and money market instruments issued by a group of issuers for which consolidated financial statements are compiled, the limit pursuant to paragraph 2 (a) above may be increased up to 20%.

(9) Shares or similar securities representing an interest in a company, and bonds or similar securities representing the right to payment of an outstanding amount, issued by a single issuer, may constitute up to 20% of the value of the assets of a standard fund that, pursuant to the Statute, copies the composition of the index of shares or bonds recognised by the Czech National Bank, provided that this index

a) comprises a sufficient number of issuers of shares and/or bonds;

b) is sufficiently representative for the market which uses it;

c) is published in the same manner as the rates of the shares or bonds that constitute the index.

(10) A standard fund may increase the limit stipulated in paragraph 9 above up to 35% if permitted by the statute and if this is justified by exceptional conditions of the market on which the trading in securities set out in paragraph 9 above is predominant. An increase in the limit may be permitted only for securities issued by a single issuer.

(11) Qualitative requirements for the conditions under which a standard fund shall replicate the composition of the index of shares or bonds recognised by the Czech National Bank shall be set out by an implementing regulation.

Article 29

(1) A standard fund may, if stipulated in its statute, invest up to 100% of the value of its assets in investment securities and money market instruments that were issued or are guaranteed by a Member State of the European Union, a regional or local administrative unit of a Member State of the European Union, a country other than a Member State of the European Union, or an

international organisation whose members include one or more Member States of the European Union. The Czech National Bank shall permit this exemption if it considers the protection of the shareholders or unit-holders of this standard fund equivalent to the protection of shareholders or unit-holders of a standard fund that complies with the limits pursuant to Article 28. The assets of a standard fund that has been granted this exemption by the Czech National Bank must include securities issued within at least 6 various issues, where securities from a single issue must not exceed 30% of the value of the assets of the standard fund.

(2) A standard fund that has been granted an exemption pursuant to paragraph 1 above shall clearly and comprehensibly state in its statute and promotional materials what exemption it has been granted by the Czech National Bank, including specification of the country, regional or local administrative unit or the international organisation that issued the securities or provided guarantee for the securities, which may constitute more than 35% of the value of the assets of this standard fund.

Article 30

(1) A standard fund may invest up to 20% of the value of its assets in securities issued by a single standard fund or a single special fund.

(2) Investments in securities issued by special funds may not exceed a total of 30% of the value of the assets of the investing standard fund.

Article 31

(1) In total, an investment company may acquire into its assets and into the assets of managed standard funds shares or similar securities representing an interest in a company carrying a maximum of 5% interest in the registered capital of or voting rights in the issuer thereof.

(2) A standard fund whose assets include shares or similar securities representing an interest in a company, whose issuer has his registered office in some other Member State of the European Union, shall comply with the limitations for acquiring a significant influence over the management of the issuer, as stipulated by the legal regulations of that Member State.

(3) A standard fund may not acquire into its assets

a) more than 10% of the total nominal value or of the overall number of shares or similar securities representing an interest in a company, issued by a single issuer and carrying no voting rights;

b) more than 10% of the total nominal value of bonds or similar securities representing the right to payment of an outstanding amount, issued by a single issuer;

c) more than 25% of the total nominal value or total number of securities issued by a single standard fund or issued by a single special fund;

d) more than 10% of the total nominal value or the total number of money market instruments issued by a single issuer.

(4) The limits pursuant to paragraph 3 (b) to (d) above need not be complied with, for the essential period of time, in acquisition of securities to the assets of a standard fund if it is not possible to ascertain their total nominal value or total quantity at that time.

(5) The provisions of paragraphs 1 to 3 above need not be complied with if they pertain to

a) investment securities or money market instruments issued or guaranteed by a Member State of the European Union or its regional or local administrative unit;

- b) investment securities or money market instruments issued or guaranteed by a country other than a Member State of the European Union; or
- c) investment securities or money market instruments issued by international organisations whose members include at least one Member State of the European Union.

Article 32

(1) A standard fund need not comply with the composition of its assets pursuant to Articles 26 to 31 when exercising its priority right to subscribe for investment securities and money market instruments that are in the assets of the fund.

(2) The Czech National Bank may approve a statute that enables a standard fund to deviate from the limitations stipulated in Articles 28 to 30 while complying with the principle of spreading the risk connected with investment, for a period not exceeding 6 months from the date of legal force of the decision on granting a license to establish a unit trust.

(3) If a standard fund fails to comply with the composition of its assets pursuant to Articles 26 to 31 for reasons beyond its control or as a result of exercising its priority right to subscribe for investment securities or money market instruments that are in the assets of the fund, it must ensure the conformity of the composition of its assets with Articles 26 to 31, without undue delay, taking account of the interests of its unit-holders.

Article 33

A standard fund may accept credit or a loan with a period of maturity not exceeding 6 months. The sum of all accepted credits and loans may not exceed 10% of the assets of the fund. This shall be without prejudice to the limit pursuant to Article 27 (4).

Article 34

(1) The assets of a standard fund must not be used to provide a loan, credit, donation, security for a liability of a third party or payment of an obligation that is not related to its management. This provision shall in no way prejudice the provisions of Articles 26 and 27.

(2) A standard fund may acquire investment securities, securities issued by another collective investment fund, financial derivatives, and money market instruments pursuant to Article 26 (1) (b) and (h) even if they have not been fully paid up.

Article 35

A standard fund may not conclude contracts for sale of investment securities and money market instruments, securities issued by another collective investment fund and financial derivatives that are not in its assets.

TITLE III

PROVISION OF SERVICES OF AN INVESTMENT COMPANY IN ANOTHER MEMBER STATE OF THE EUROPEAN UNION

Article 36

(1) An investment company that intends to provide a service in another Member State of the European Union (hereinafter the “host country”) through an organisational unit shall be obliged to notify the Czech National Bank in advance of this fact.

(2) A notification pursuant to paragraph 1 above shall contain specification of

- a) the host country where the organisational unit is to be located;
- b) the business plan including, in particular, the types and scope of services that are to be provided in the host country;
- c) the organisational structure of the organisational unit;
- d) the address of the organisational unit where information and documents may be requested;
- e) details on the head of the organisational unit.

(3) If the Czech National Bank has no objections against the establishment of an organisational unit of an investment company in the host country, it shall be obliged to provide the competent supervisory authority of the host country, within 3 months from the delivery of the notification pursuant to paragraph 1 above, with the information pursuant to paragraph 2 above, and if the investment company intends to provide a service pursuant to Article 15 (3) and (4) (a), it shall also notify the supervisory authority of the host country of the conditions for the provision of compensation from the Guarantee Fund of Investment Firms. The Czech National Bank shall notify the investment company without undue delay that it has submitted the above information to the supervisory authority of the host country.

(4) An investment company may commence providing its services in the host country as of the date when the supervisory authority of the host country notifies the company of its reporting duties and the rules of conduct in relation to the clients or after expiry of 2 months from the date when the supervisory authority of the host country receives the information pursuant to paragraph 2 above from the Czech National Bank.

(5) If the Czech National Bank does not consider the establishment of an organisational unit in the host country to be suitable for the reason of its organisational structure or the financial position of the investment company in relation to the business plan of the organisational unit, within 2 months from the delivery of the notification pursuant to paragraph 1 above, it shall send to the investment company a decision on rejecting the provision of the information pursuant to paragraph 2 above to the supervisory authority of the host country. This decision shall not be subject to appeal.

(6) An investment company that has an organisational unit in the territory of a host country shall notify the Czech National Bank and the competent supervisory authority of the host country of every change in the facts set out in paragraph 2 (b) to (e) above no later than 1 month prior to implementation of the change; if the investment company cannot comply with this deadline for objective reasons, it shall notify the change without undue delay. Paragraph 3 above shall apply to the consideration of changes analogously.

(7) The Czech National Bank shall notify the competent supervisory authority of the host country without undue delay of every change concerning the conditions for the provision of compensations from the Guarantee Fund of Investment Firms.

Article 37

(1) An investment company that intends to provide services in a host country without establishing an organisational unit shall be obliged to notify the Czech National Bank in advance of this fact.

(2) A notification pursuant to paragraph 1 above shall contain specification of

- a) the host country where the investment company intends to provide services;
- b) the business plan including, in particular, the types and scope of services that the notifier intends to provide.

(3) Within 1 month from the date of delivery of a notification pursuant to paragraph 1 above, the Czech National Bank shall provide the competent supervisory authority of the host

country with the information contained in the notification and, if the investment company performs activities pursuant to Article 15 (3) and (4) (a), it shall also submit information on the conditions for the provision of compensation from the Guarantee Fund of Investment Firms.

(4) An investment company may commence providing its services in the host country as of the date when the supervisory authority of the host country receives a notification from the Czech National Bank pursuant to paragraph 1 above or after expiry of the deadline pursuant to paragraph 3 above.

(5) An investment company that provides services in the territory of a host country shall notify the Czech National Bank and the competent supervisory authority of the host country of every change in the facts set out in paragraph 2 (b) above no later than 1 month prior to implementation of the change; if the investment company cannot comply with this deadline for objective reasons, it shall notify the change without undue delay.

(6) An investment company that intends to publicly offer unit certificates of a standard fund in a host country through another person authorised thereto shall notify the Czech National Bank in advance of this fact.

Article 38

The Czech National Bank shall be obliged to notify the supervisory authority of the host country without undue delay of revoking a license to perform activities of an investment company.

TITLE IV

PROVISION OF SERVICES IN THE CZECH REPUBLIC BY A FOREIGN INVESTMENT COMPANY

Article 39

(1) The Czech National Bank shall provide a foreign investment company that intends to provide its services in the Czech Republic through an organisational unit

a) without delay, with information on that it has received information concerning the intended provision of services by that entity in the Czech Republic from the supervisory authority that has granted a license for collective investment to the foreign investment company;

b) within 2 months of the date when it received information pursuant to subparagraph a) above, with information on the reporting duties and the rules of conduct in relation to the clients.

(2) A foreign investment company may commence providing services in the Czech Republic through an organisational unit as of the date when the Czech National Bank provides the company with information on the reporting duty and the rules of conduct in relation to the clients, or after expiry of the deadline pursuant to paragraph 1 (b) above.

Article 40

(1) The Czech National Bank shall notify a foreign investment company that intends to provide services in the Czech Republic without establishment of an organisational unit, without delay, of the fact that it has received information concerning the intended provision of services by that entity in the territory of the Czech Republic from the supervisory authority that has granted a license for collective investment to the foreign investment company.

(2) A foreign investment company may commence providing services in the Czech Republic without establishment of an organisational unit

a) as of the date when the Czech National Bank receives information concerning the provision of services by the foreign investment company in the Czech Republic from the supervisory authority that has granted a license for collective investment to the foreign investment company;
or

b) after expiry of 1 month from the date when the supervisory authority that has granted a license for collective investment to the foreign investment company received information concerning the provision of services by the foreign investment company in the Czech Republic.

Article 41

(1) A foreign investment company that provides services in the Czech Republic shall be obliged to

a) publish in the Czech Republic the documents and information that it publishes according to the law of the European Communities in the country where it has its registered office;

b) fulfil the reporting duties of an investment firm pursuant to the Act on Capital Market Undertakings if the investment company provides an investment service consisting in management of client assets;

c) notify the Czech National Bank, at least 1 month in advance, of every change in the information on the organisational unit or the organisational structure thereof, if an organisational unit has been established in the Czech Republic, and also of every change in the business plan.

(2) Information pursuant to paragraph 1 (b) above shall be published for each investment service and shall be accompanied by information for the Czech Republic.

(3) If a foreign investment company that provides services in the Czech Republic cannot meet the deadline pursuant to paragraph 1 (c) above for objective reasons, it shall notify the change without undue delay.

(4) The Czech National Bank shall notify a foreign investment company that provides services in the Czech Republic of every change in the reporting duties.

Article 42

When providing services in the Czech Republic, a foreign investment company shall use the same designation as it uses in the country where it has its registered office. If there is a possibility of confusion, the Czech National Bank may impose on the company the duty to add a distinguishing designation.

TITLE V

PUBLIC OFFERING OF SECURITIES OF A FOREIGN STANDARD FUND IN THE CZECH REPUBLIC

Article 43

(1) A foreign standard fund that intends to publicly offer its securities in the Czech Republic shall notify the Czech National Bank of this fact and shall deliver to the Czech National Bank

a) a document proving the authorisation to perform collective investment by a standard fund granted by the supervisory authority of the country where the standard fund has its registered office;

b) the by-laws or a similar document;

- c) the statute and simplified statute;
- d) the last annual report and the subsequent semi-annual report if it has incurred the duty to draw up these reports;
- e) details on the manner of public offering of securities in the Czech Republic;
- f) an officially authenticated copy of an agreement with a bank pursuant to paragraph 2 hereof;
- g) the organisational rules of an organisational unit, if established.

(2) A foreign standard fund that intends to publicly offer securities in the Czech Republic must have entered into an agreement with a bank or branch of a foreign bank. The agreement must provide for

- a) payment of the yield from securities issued by the standard fund;
- b) issuing and repurchasing of securities of the standard fund;
- c) publishing information that the standard fund is obliged to publish;
- d) payment of interests to the holders of securities issued by the standard fund in case of dissolution of the fund.

(3) A foreign standard fund shall notify the Czech National Bank without undue delay of any amendment to the agreement pursuant to paragraph 2 above.

Article 44

A foreign standard fund may commence to publicly offer securities in the Czech Republic from the date when it receives a notice of the Czech National Bank that it meets the conditions for public offering of securities in the Czech Republic or after expiry of 2 months from the date when the Czech National Bank received documents pursuant to Article 43 (1), unless it receives a decision from the Czech National Bank within this deadline to the effect that the duties pursuant to Article 43 (2) are not secured. This decision shall not be subject to appeal.

Article 45

(1) A foreign standard fund that publicly offers securities in the Czech Republic shall publish

- a) the statute and simplified statute;
- b) the annual report and semi-annual report;
- c) other information that it publishes pursuant to the law of the European Communities in the country where it has its registered office and whose supervisory authority has granted a license to the fund (hereinafter the “home country”), in a manner set out in the statute.

(2) Information pursuant to paragraph 1 (c) above shall be published summarily for each foreign standard fund, or each sub-fund of a foreign standard fund, as appropriate, and shall be accompanied by information for the Czech Republic. Information pursuant to paragraph 1 (a) and (b) shall be published in a manner allowing for remote access.

(3) Within 1 month of the end of each calendar quarter, a foreign standard fund shall publish information on its activities in the territory of the Czech Republic in a manner allowing for remote access. The outline of the information shall be stipulated in an implementing regulation.

Article 46

In public offering of securities in the Czech Republic, a foreign standard fund shall use the same designation as it uses in the country where it has its registered office. If there is a

possibility of confusion, the Czech National Bank may impose on the foreign standard fund the duty to add a distinguishing designation.

TITLE VI

COOPERATION OF THE CZECH NATIONAL BANK WITH THE COMMISSION OF THE EUROPEAN COMMUNITIES

Article 47

(1) The Czech National Bank shall send to the Commission of the European Communities a decree that stipulates the manner of using techniques and instruments for the efficient management of the assets of a standard fund, the assessing of the risk rate connected with investment and the manner of performing the reporting duties concerning the risk rate connected with investment, and shall notify it of any amendments to the decree.

(2) The Czech National Bank shall notify the Commission of the European Communities, through the Ministry of Finance (hereinafter the “Ministry”), that

- a) it has granted a license to perform activities of an investment company to a person that is controlled by a person with its registered office in a country other than a Member State of the European Union; or
- b) a person with its registered office in a country other than a Member State of the European Union has taken control over the investment company.

(3) The information pursuant to paragraph 2 above shall include information on the investment company, on the person controlling the investment company and on the manner of their interconnection.

(4) The Czech National Bank shall notify the Commission of the European Communities, through the Ministry, of the number and nature of cases where it refused, through a decision pursuant to Article 36 (5), to provide the supervisory authority of a Member State of the European Union with information on an investment company that was interested in providing services in its territory through an organisational unit.

(5) The Czech National Bank shall notify the Commission of the European Communities, through the Ministry, of the problems encountered by

- a) standard funds in public offering of their shares or unit certificates in countries other than Member States of the European Union; or
- b) investment companies in the provision of their services in countries other than Member States of the European Union.

Article 48

The Czech National Bank shall send to the Commission of the European Communities any prepared amendments to the list of categories of bonds including specification of the categories of banks in which a standard fund may invest pursuant to Article 28 (2) (c), and the details concerning the guarantees offered.

PART SIX

COLLECTIVE INVESTMENT BY A SPECIAL FUND

TITLE I

GENERAL PROVISIONS

Article 49

(1) Special funds are either funds that collect financial means from general public or funds that collect financial means from qualified investors (Article 56 (1)).

(2) Funds that collect financial means from general public are as follows:

- a) special securities fund;
- b) special real estate fund;
- b) special funds fund.

(3) A special fund may have the form of an investment fund, open-end unit trust or closed-end unit trust unless this Act stipulates otherwise (Article 53 (1)).

General Provisions on Investment by Special Funds Collecting Financial Means from General Public

Article 49a

(1) A special fund may invest in supplementary liquid assets, consisting in deposits that may be freely disposed of or term deposits with a period of maturity not exceeding 1 year, provided that these are deposits with a bank, branch of a foreign bank or foreign bank that comply with the rules of prudence pursuant to the law of the European Communities or rules considered by the Czech National Bank to be equivalent.

(2) Unless this Act stipulates otherwise (Article 53i and Article 49b (3)), a special fund shall not use its assets to provide a loan, credit or donation, or use these assets to secure or pay an obligation of a third party or an obligation not related to management of the assets of the fund.

(3) A special fund may accept credit or a loan with a period of maturity not exceeding 6 months where a sum of all accepted credits and loans may not exceed 30% of the value of the assets of the fund, unless this Act stipulates otherwise (Article 53i (4) and (5)). This shall be without prejudice to the limit pursuant to Article 49b (6).

(4) A special fund may not conclude contracts for sale of investment securities and money market instruments, securities issued by another collective investment fund and derivatives that are not in its assets.

(5) An investment company may not apply, in relation to a special fund that it manages, any surcharges or deductions stipulated in the statute of the collective investment fund if it purchases securities issued by the fund into the assets of the special fund or sells these securities from the assets of the special fund if

- a) it manages itself the assets or part of the assets of this collective investment fund; or
- b) the assets or part of the assets of the collective investment fund are managed by some other investment company belonging to the same group for which consolidated financial statements are compiled.

(6) A special fund that collects financial means from general public may not be transformed into a special qualified investor fund.

Article 49b

(1) The sum of values of investments in investment securities or money market instruments issued by a single issuer, of the deposit kept by that issuer and of the risks connected with that issuer as the counterparty in operations in financial derivatives may not exceed 35% of the value of the assets of the special fund.

(2) For the purposes of calculating the investment limits, account shall be taken of the underlying assets of financial derivatives; this shall not apply to the underlying assets of index derivatives provided that the conditions stipulated by the implementing regulation pursuant to paragraph 7 hereof are fulfilled.

(3) A special fund may use techniques and instruments related to investment securities and money market instruments only for the purpose of efficient management of its assets.

(4) A special fund may conclude transactions concerned with a derivative only for the purpose of efficient management of its assets.

(5) A special fund must

a) use procedures that enable it to monitor, at any time, the risk rate of the positions and their influence on the overall risk connected with investment;

b) use procedures for accurate and objective assessment of the risk connected with investment in derivatives referred to in Article 26 (1) (g);

c) notify the Czech National Bank, on a half-yearly basis, of the types of derivatives in which it has invested and the risks connected therewith, of the quantity limitations and of the methods selected for the assessment of the risks connected with the operations using such derivatives.

(6) A special fund must ensure that the open positions pertaining to financial derivatives do not exceed its equity capital.

(7) The types, limits and manner of use of the techniques and instruments that a special fund may use for efficient management of its assets, the procedure for the evaluation of the risk rate connected with investment, and the manner of fulfilment of the reporting duty concerning the types of financial derivatives set out in Article 26 (1) (g) that are owned by the special fund, the risks that are connected therewith and the quantity limitations and methods selected for the assessment of the risks connected with the operations using those financial derivatives shall be stipulated in an implementing regulation.

Article 50

Reporting Duties of a Special Fund with Respect to Public Offering of Shares or Unit Certificates Abroad

A special fund shall notify the Czech National Bank of its intention to publicly offer shares or unit certificates abroad.

TITLE II

TYPES OF SPECIAL FUNDS AND THEIR INVESTMENT

Article 51

Heading deleted

(1) A special securities fund shall invest primarily in

a) investment securities and money market instruments referred to in Article 26 (1) (a), investment securities referred to in Article 26 (1) (b), investment securities and money market instruments meeting the conditions set out in Article 26 (1) (a), investment securities meeting the conditions set out in Article 26 (1) (b), admitted to trading in a multilateral trading facility, in relation to a multilateral trading facility or money market instruments referred to in Article 26 (1) (h);

b) government bonds or bonds guaranteed by the government, including equivalent foreign securities;

c) bonds or similar securities representing the right to payment of an outstanding amount, issued by a single bank or a foreign bank that has its registered office in a Member State of the European Union and is subject to the supervision by that State ensuring the protection of the interests of the bondholders, if the financial means acquired through the issue of these bonds are invested in such types of assets that cover the obligations of the issuer connected with the issue thereof until the date of maturity of the bonds, and that, in the event of insolvency of the issuer, can be preferentially used for the repayment of the principal of the bond and the interest accrued thereon;

d) bonds issued by the central bank or other bonds or foreign securities issued by a bank or foreign bank other than bonds referred to in subparagraph c) above;

e) securities issued by a collective investment fund that has a license from the supervisory authority of the country where the fund has its registered and head office, where it is subject to supervision, and where it repurchases the interests of investors at their request;

f) financial derivatives pursuant to Article 26 (1) (f) and (g).

(2) A special securities fund may acquire, into its assets, a maximum of 10% of the total nominal value of investment securities issued by a single issuer and 10% of the total nominal value of money market instruments issued by a single issuer; if these investment securities or money market instruments do not have a nominal value, the mentioned limit shall be determined on the basis of their number.

(3) The sum of values of investment securities and money market instruments issued by a single issuer may not exceed 20% of the value of the assets of a special securities fund.

(4) A special securities fund may, if so stipulated in its statute, invest

a) up to 25% of the value of its assets in bonds or similar securities referred to in paragraph 1 (c) above;

b) up to 35% of the value of its assets in securities and money market instruments issued by a single issuer provided that they were issued or are guaranteed by a Member State of the European Union, a regional or local administrative unit of a Member State of the European Union, a country other than a Member State of the European Union, or an international organisation whose members include one or more Member States of the European Union.

(5) A special securities fund may, if so stipulated in its statute, invest up to 100% of the value of its assets in securities or money market instruments that are issued or are guaranteed by a Member State of the European Union, a regional or local administrative unit of a Member State of the European Union, a country other than a Member State of the European Union, or an international organisation whose members include one or more Member States of the European Union, provided that the investment is distributed into at least 6 different issues, where securities from a single issue must not exceed 30% of the value of the assets of the special fund.

(6) A special securities fund may not invest in securities issued by a collective investment fund which is not intended for general public or in securities issued by a collective investment fund that may invest, according to the applicable legislation or the statute, more than 10% of the value of its assets in securities issued by some other collective investment fund.

(7) Securities issued by a single collective investment fund may not exceed 20% of the value of the assets of a special securities fund.

(8) The sum of investments in securities issued by collective investment fund may not exceed 49% of the value of the assets of a special securities fund.

Article 52

Heading deleted

(1) A special securities fund need not comply with the rules for spreading and limiting the risk connected with investment in assets pursuant to Article 51 (2) to (5) and (7) and (8) when exercising its priority right to subscribe for investment securities and money market instruments that are in the assets of the fund.

(2) If a special securities fund fails to comply with the rules for spreading and limiting the risk connected with investment in assets pursuant to Article 51 (2) to (5) and (7) and (8) for reasons beyond its control or as a result of exercising its priority right to subscribe for investment securities or money market instruments that are in the assets of the fund, it must ensure the conformity of the composition of its assets with this Act without undue delay, taking account of the interests of its unit-holders.

(3) The Czech National Bank may approve a statute that enables a special securities fund to deviate from the limitations stipulated in Article 51 (2) to (5) and (7) and (8) while complying with the principle of spreading the risk connected with investment, for a period not exceeding 6 months from the date of legal force of the decision on granting a license to establish a unit trust.

Article 53

Special Real Estate Fund

(1) A special real estate fund may only have the form of an open-end unit trust.

(2) A special real estate fund shall invest primarily in

a) real estate including accessories which it acquires, operates or sells for the purpose of attaining profit;

b) interests in real estate companies (Article 53c) under the terms stipulated by this Act (Article 53d).

(3) A special real estate fund may acquire, into its assets, real estate only

a) for the purpose of its operation, provided that the real estate may yield regular and long-term revenues if it is duly managed and that its price may be determined by the revenues method;

a) for the purpose of its further sale, provided that the real estate may yield profit in its sale and that its price may be determined by the comparison method.

(4) With prior consent of the depositary, a special real estate fund may

a) acquire, into its assets, real estate charged with a mortgage right;

b) charge real estate in its assets with a mortgage right,

but solely for the purpose of accepting credit.

(5) A special real estate fund may charge real estate in its assets with an easement, a pre-emption right as a right *in rem* or a third-party right of use or acquire real estate subject to such a charge into its assets, only if the charge directly relates to the operation or use of the real estate and with the prior consent of the depositary.

(6) A special real estate fund may acquire, into its assets, real estate located in the territory of some other country only if

a) the statute of the fund allows investment in real estate in the territory of the given country and stipulates the maximum limit for such investment;

b) a land registry is maintained in the given country, registering ownership titles and other rights *in rem* to real estate;

c) there are no statutory limitations for the transfer of real estate in the given country;

d) in the given country, the depositary is able to provide for exercise of the rights and performance of the duties of the depositary within the scope stipulated by this Act.

Article 53a

(1) The value of real estate acquired into the assets of a special real estate fund may not exceed 20% of the value of the assets of the fund at the time of acquisition.

(2) The total value of real estate that cannot be valued by the revenues method may not exceed 25% of the value of the assets of the special real estate fund. If the fund has an interest in a real estate company, the aforementioned limit shall also include the value of the real estate owned by the real estate company, in the ratio following from the interest.

(3) If the value of real estate exceeds the limits stipulated in paragraphs 1 and 2 above by more than 10% after the acquisition of real estate into the assets of a special real estate fund, the fund shall be obliged to bring the distribution of its assets into conformity with this Act at the latest within 3 years from such excess.

(4) For a period of no more than 3 years from the date of granting the license for establishment of a unit trust, a special real estate fund need not comply with the investment limits, except for

- a) the limit stipulated in paragraph 1 above, which may be increased up to 60% for this period;
- b) the limit stipulated in paragraph 2 above.

(5) The period for which the fund does not comply with the investment limits must be stipulated in the statute. For this period, the fund shall not be obliged to repurchase unit certificates.

(6) For the purposes of this Act, items of real estate whose economic utilisation is mutually interconnected shall be considered to be a single item of real estate.

Article 53b

(1) A special real estate fund may not acquire, into its assets, real estate for a price that exceeds by more than 10% the lower of the prices following from the expert reports (Article 53e) or sell real estate for a price that is more than 10% lower than the higher of the prices following from the expert reports, unless it demonstrates to the depositary economic justification of such acquisition or such sale and the depositary grants its prior consent to this acquisition or sale.

- (2) A special real estate fund may not acquire, into its assets, real estate from the assets of
- a) the investment company managing this fund;
 - b) its depositary.

(3) Real estate may be acquired into the assets of a special real estate fund or sold from the assets of the fund only with the prior consent of the depositary. The prior consent of the depositary shall also be required for all legal acts of a special real estate fund resulting in registration of the right to real estate pursuant to the law providing for registration of ownership titles and other rights *in rem* to real estate in the Land Registry. Foreign real estate may be acquired only if comparable protection of the investment is ensured.

Article 53c

Real Estate Company

For the purposes of this Act, real estate company means a joint-stock company, limited liability company or a similar legal entity pursuant to foreign laws whose objects of business include particularly acquisition of real estate including accessories, operation of real estate or

transfer or the ownership title to real estate for consideration, all the above with the aim of attaining profit.

Article 53d

Acquisition of Interest in a Real Estate Company

(1) A special real estate fund may acquire and hold an interest only in a real estate company

- a) that permits only monetary contributions of the shareholders;
- b) whose shareholders have paid up their contributions to the full extent;
- c) that invests only in real estate in the territory of the country where it has its registered office;
- d) that meets the conditions stipulated in Article 49a (2) and in Article 53 (3) to (5);
- e) that invests exclusively in real estate or, in addition to investments in real estates, in assets stipulated by this Act for the purposes of ensuring liquidity of a special real estate fund (Article 53j (1) (a) to (d));
- f) that does not own more than 10 items of real estate;
- g) that has no interest in other companies.

(2) The condition stipulated in paragraph 1 (f) need not be fulfilled with regard to an interest in another real estate company provided that

- a) it complies with the requirements pursuant to paragraph 1 (a) to (e);
- b) it has no interest in other companies;
- c) it complies with the requirements pursuant to paragraph 3;
- d) by acquiring an interest in such real estate company, the limit pursuant to paragraph 5 is not exceeded;
- e) the statutory bodies of involved companies decide on the preparation of a merger of these companies not later than 3 months of acquiring an interest in such real estate company, with the decisive date being stipulated not later than on the first day of the following accounting period of these companies; and
- f) the merger will take effect within 18 months of acquiring the interest; provisions of paragraphs 7 to 9 shall apply to the acquisition and interest of a real estate company in the other real estate company.

(3) A special real estate fund may acquire and hold an interest in a real estate company provided that

- a) this interest represents a majority of votes or capital required for amendment to the articles of association;
- b) the real estate acquired by the real estate company into its assets or sold by the real estate company from its assets is valued in the manner stipulated by this Act for determining the value of assets of a special real estate fund (Article 53e) and is acquired and sold for a price determined pursuant to Article 53b (1);
- c) the real estate company submits a list of real estate in its assets once every month and audited financial statements once a year to the fund and its depositary;
- d) preconditions have been created for proper performance of the duties of the depositary in relation to the real estate company;
- e) it has a pre-emption right to purchase the interest of any shareholder of the real estate company in case of reduction or cessation of the latter's interest.

(4) The preconditions stipulated in paragraph 1 (c), (e) and (f) and in paragraph 3 (e) above need not be fulfilled as of the date of acquisition of the interest by a special real estate fund in a real estate company if the fund provides for their fulfilment within 6 months of the date of acquisition of the interest. If the preconditions are not fulfilled within the mentioned deadline, the special real estate fund must sell its interest in the real estate company within 6 months of the date of its expiry.

(5) The value of an interest of a special real estate fund in a single real estate company may not exceed 30% of the value of the assets of the fund at the time of its acquisition.

(6) If the value of an interest in a real estate company exceeds 40% of the value of the fund's assets after acquisition of the interest, the special real estate fund shall be obliged to bring the distribution of its assets into conformity with this Act at the latest within 3 years from such excess.

(7) Prior to acquisition of an interest by a special real estate fund in a real estate company, the interest must be valued and the fund must be provided with

- a) audited financial statements of the real estate company which may not be more than 3 months old as of the date of valuation of the interest;
- b) audited up-to-date survey of the assets and liabilities of the real estate company;
- c) valuation of the real estate that is in the assets of the real estate company; the valuation shall be carried out in a manner stipulated by this Act for determining the value of assets of a special real estate fund (Article 53e).

(8) A special real estate fund may acquire, increase, decrease or alienate an interest in a real estate company only with the prior consent of the depositary. Prior consent of the depositary shall also be required

- a) for amendment to the foundation deed or memorandum of association and articles of association of the real estate company; without this consent, the amendment to the foundation deed or memorandum of association and articles of association shall not be effective;
- b) for acquisition or real estate into the assets or sale of real estate from the assets of a real estate company; prior consent of the depositary shall also be required for all other legal acts of the real estate company resulting in registration of the right to real estate pursuant to the law providing for registration of ownership titles and other rights *in rem* to real estate in the Land Registry.

(9) An interest in a real estate company may not be based on an agreement on silent partnership.

Article 53e

Determination of the Value of Assets

(1) Real estate that a special real estate fund intends to acquire into its assets or sell must be valued by two independent experts. One expert shall be appointed by the investment company that manages the special real estate fund and one by the depositary. The expert report must not be more than 3 months old as of the date of acquisition or alienation of the ownership title.

(2) The expert report shall contain

- a) identification of the real estate;
- b) price of the real estate;
- c) the manner of current use of the real estate and the degree of occupancy;
- b) a brief description of the real estate;
- e) the rights and obligations associated with the real estate and its defects;

- f) basic information on the lease agreements related to the real estate;
- g) the property-law, technical and financial status of the real estate;
- h) the current and anticipated net profits from the real estate;
- i) further material information affecting the price of real estate.

(3) For the purposes of the valuation pursuant to paragraph 1 above, the real estate shall be valued by the comparison method or revenues method, taking into consideration

- a) permanent characteristics of the real estate and its characteristics that are sustainable in the long term;
- b) the revenues attainable by a third party in proper management of the real estate;
- c) the defects of the real estate and the rights and obligations associated with the real estate;
- d) the local conditions in the real estate market and its anticipated development.

Article 53f

(1) A special real estate fund shall appoint an expert committee. The expert committee shall be a body of the investment company.

(2) The expert committee shall

- a) monitor the value of the real estate in the assets of the fund and the real estate in the assets in the real estate company in which the fund has an interest;
- b) monitor the value of the fund's interest in the real estate company;
- a) at least once annually, determine the value of the real estate in the assets of the fund and the real estate in the assets in the real estate company in which the fund has an interest;
- d) at least once annually, determine the value of the fund's interest in the real estate company.

(3) The members of the expert committee shall proceed with professional care.

(4) The expert committee must have at least three members and the number of its members must always be odd. One member of the expert committee shall be appointed by the depositary and the others by the board of directors of the investment company.

(5) The term of office of the members of the expert committee may not exceed 3 years; a member may again be appointed to the committee of the same fund after expiry of 3 years from the date of expiry of the preceding membership.

(6) Only an independent (Article 53h), credible and professionally qualified person with experience in determining the value of real estate may be a member of the expert committee of a special real estate fund. If the given person does not comply with the mentioned preconditions, its appointment to the office shall be not be considered to be invalid. If a certain member does not or ceases to fulfil the mentioned preconditions, the fund or, in case of a member appointed by the depositary, the depositary shall recall him and appoint a new member. Invalidity of the legal act whereby a member of the expert committee is appointed or recalled may be claimed only by the Czech National Bank, the investment company, the depositary or the appointed or recalled person, within 3 months of the date when it learnt of the appointment or recalling, but no later than within one year of the date of the appointment or recalling.

(7) A special real estate fund shall notify the Czech National Bank of appointment of the expert committee and, simultaneously, shall demonstrate the fulfilment of the preconditions pursuant to paragraph 6 above.

(8) The manner of acting and decision-making by the expert committee, the rules for monitoring and determining the values of the real estate in the assets of the special real estate fund or in the assets of the real estate company, and the facts reported by the expert committee

to the supervisory board of the investment company and the depositary shall be stipulated by the statute of the fund.

(9) A member of the expert committee shall be liable to the investment company, the depositary and the unit-holders of the special real estate fund for damage caused by breach of the duties of the member of the expert committee, pursuant to the Commercial Code. This shall in no way prejudice liability of the investment company and depositary for damage incurred in management of assets in a unit trust.

Article 53g

(1) For the purposes of monitoring and determining the value of real estate in the assets of a special real estate fund or in the assets of a real estate company, the expert committee shall base its considerations on the acquisition price or the latest expert report.

(2) In justified cases, the expert committee or the depositary may recommend to the special real estate fund that it provide for new valuation of the real estate by one independent expert.

(3) In justified cases, the Czech National Bank may request that a special real estate fund provide for new valuation of the real estate by one independent expert.

(4) The annual and semi-annual reports of a special real estate fund must contain information on the current value of the real estate in the assets of the fund.

Article 53h

Independence of an Expert and Member of Expert Committee

An expert or member of the expert committee shall be considered to be independent unless he is

- a) a senior officer of the investment company or employee employed by the investment company for which he performs his activity;
- b) a senior officer of a real estate company or employee employed by a real estate company where an interest is held by a special real estate fund managed by the investment company for which he performs his activity;
- c) a senior officer of an entity that is a member of a group for which consolidated financial statements are compiled and that includes the investment company for which he performs his activity, or an employee employed by such an entity;
- d) a unit-holder of a special real estate fund managed by the investment company for which he performs his activity.

Article 53i

Credit and Loans

(1) A special real estate fund may provide credit from its assets only to a real estate company in which it has an interest. The credit must be secured and the credit agreement must stipulate that, in case of loss of the interest in the real estate company, the credit is payable within 6 months of the date of loss of the interest.

(2) The sum of all credits provided from the assets of the special real estate fund to a single real estate company may not exceed 50% of the value of all real estate in the assets of the real estate company.

(3) The sum of all credits provided from the assets of the special real estate fund to real estate companies may not exceed 25% of the value of the assets of the special real estate fund.

(4) A special real estate fund may accept credit or a loan with a period of maturity not exceeding 1 year in the amount of up to 20% of its assets.

(5) A special real estate fund may accept a loan secured by a lien on real estate solely for the purpose of acquiring real estate into its assets or maintaining or improving its state. The total amount of the loan may not exceed 70% of the value of the real estate being acquired.

(6) The sum of all credit and loans accepted by a special real estate fund may not exceed 50% of the value of the fund's assets.

Article 53j

Ensuring Liquidity

(1) A special real estate fund shall invest at least 20% and no more than 49% of the value of its assets in

- a) supplementary liquid assets (Article 49a (1));
- b) securities issued by a standard fund or an open-end special securities fund or an open-end special funds fund;
- c) State treasury bonds and similar foreign securities;
- d) bonds and similar foreign securities that comply with the requirements stipulated in Article 26 (1) (a) and have a residual period of maturity not exceeding 3 years;
- e) warrants of the Czech National Bank and similar foreign securities.

(2) When investing in assets pursuant to paragraph 1 above, the special real estate fund shall comply with the rules for spreading and limiting the risk connected with investment analogously to a special securities fund. These rules need not be complied with in exercising the priority right to subscribe for investment securities and money market instruments that are in the assets of the fund.

(3) If, in its investments in assets pursuant to paragraph 1 above, a special real estate fund fails to comply with the rules for spreading and limiting the risk connected with investment for reasons beyond its control or as a result of exercising its priority right to subscribe for investment securities or money market instruments that are in the assets of the fund, it must ensure the conformity of the composition of its assets with this Act without undue delay, taking account of the interests of its unit-holders.

(4) If there is a danger that, due to repurchasing of unit certificates, the total value of the assets pursuant to paragraph 1 above will decrease under 20% of the value of the assets in the special real estate fund, the fund shall suspend the repurchasing of the unit certificates.

Article 54

repealed

Article 55

Special Funds Fund

(1) A special funds fund shall invest predominantly in securities issued by some other collective investment fund that has a license from the supervisory authority of the country where the fund has its registered office and head office and where it is subject to supervision.

(2) A special funds fund may not invest in securities issued by a collective investment fund which is not intended for general public or in securities issued by a collective investment fund that invests more than 10% of the value of its assets in securities issued by some other collective investment fund.

(3) A special funds fund may acquire, into its assets, no more than 25% of the nominal value or number of securities issued by a single collective investment fund.

(4) A special funds fund may invest no more than

a) 20% of the value of its assets in securities issued by a single collective investment fund;

b) 35% of the value of its assets in securities issued by a single collective investment fund provided that the relevant collective investment fund is expressly set out or sufficiently characterized in the statute; this exemption may apply only to one collective investment fund.

(5) The manner of application of the limits stipulated for spreading and limiting the risk connected with investments by a special funds fund in securities issued by a collective investment fund to a collective investment fund whose assets are divided to several sub-funds shall be stipulated by an implementing regulation.

(6) Assets that are not invested in securities issued by some other collective investment fund or in supplementary liquid assets may be invested by a special funds fund only in assets in which investments may be made by a special securities fund.

(7) When investing in assets pursuant to paragraph 6 above, the special funds fund shall comply with the rules for spreading and limiting the risk connected with investment analogously to a special securities fund. These rules need not be complied with in exercising the priority right to subscribe for investment securities and money market instruments that are in the assets of the fund.

(8) If, in its investments in assets pursuant to paragraph 6 above, a special funds fund fails to comply with the rules for spreading and limiting the risk connected with investment for reasons beyond its control or as a result of exercising its priority right to subscribe for investment securities or money market instruments that are in the assets of the fund, it must ensure the conformity of the composition of its assets with this Act without undue delay, taking account of the interests of its unit-holders.

(9) The Czech National Bank may approve a statute that enables a special funds fund to deviate from the limitations stipulated in paragraph 6 above while complying with the rules for spreading and limiting the risk connected with investment, for a period not exceeding 6 months from the date of legal force of the decision on granting a license to establish a unit trust.

(10) The annual report of a special funds fund must also contain

a) information on management and financial results of each collective investment fund whose securities the fund has in its assets;

b) a warning concerning a potential conflict of interests between senior officers 3) of the investment company that manages the fund or senior officers 3) of the fund, if the fund is an investment fund, or persons providing the fund with advisory services, and the interests of the investors;

c) information on the amount of profit or loss recorded for the accounting period in the sale of securities issued by a collective investment fund that the special funds fund had in its assets; the information shall be specified for each collective investment fund.

Special Qualified Investor Fund

Article 56

Heading deleted

(1) Securities issued by a special qualified investor fund may be acquired, on the basis of a contract, by

a) a bank;

b) a savings and credit cooperative;

- c) an investment firm;
- d) an investment company, into its assets;
- e) an investment company, into the assets in a unit trust that it manages, unless this Act stipulates otherwise (Article 51 (6), Article 53j (1) (b), Article 55 (2));
- f) an investment fund;
- g) a pension fund;
- h) an insurance company;
- i) a reinsurance company;
- j) a foreign entity corresponding to one of the entities referred to in subparagraphs a) to i) above;
- k) an entity that neither provides investment services nor is a bank and whose predominant activity consists in acquisition of interests in other legal entities or performance of a certain activity of banks;
- l) a State or a member state of a federation;
- m) a central bank;
- n) the European Central Bank;
- o) international financial institutions;
- p) a legal entity or a natural person provided that it/he declares that it/he has experience in trading in securities.

(2) The statute of a special qualified investor fund shall

- a) stipulate the scope of investors for whom the fund is intended;
- b) make transferability the securities issued by the fund conditional on the consent of the fund;
- c) stipulate that, in the event of passage of the ownership title to a security issued by the fund, the acquiror must inform the fund of the change in the owner without undue delay.

(3) A special qualified investor fund may have no more than 100 shareholders or unit-holders; the Czech National Bank may permit an exemption from this limit.

(4) The initial investment by a single investor in shares or unit certificates of the special qualified investor fund may not be less than CZK 1,000,000.

(5) Securities issued by a special qualified investor fund may not publicly offered or promoted. However, a promotional spot may be published upon establishment of the fund.

(6) A special qualified investor fund may accept or provide a loan or credit if so stipulated in its statute.

(7) The types of assets in which a special qualified investor fund invests, the limits for risk spreading and the rules for provision and acceptance of credit and loans shall be stipulated in the statute.

Article 57

Heading deleted

(1) The implementing regulation stipulating the reporting duty of a collective investment fund and investment company 4) shall not apply to a special qualified investor fund; but if a special qualified investor fund fulfils the reporting duty to the Czech National Bank under this Act, it shall send it information in a form and manner designated for annual and half-yearly reports of an investment company or collective investment fund set out in the above mentioned implementing regulation.

(2) If the number of investors in a special qualified investor fund exceeds the limit pursuant to Article 56 (3), the fund shall notify the Czech National Bank without delay of this fact and shall apply for a permission to exceed the limit.

(3) A special qualified investor fund shall send to the Czech National Bank, at the latest within 2 months of expiry of each 6 months of the accounting period, information

- a) on the volume of managed assets;
- b) on the current value of a security issued by it;
- c) on the number of investors, classified to investors with the registered office or place of residence in the Czech Republic, investors with the registered office or place of residence abroad and investors belonging to a group for which consolidated financial statements are compiled;
- d) on the value of assets attributable to investors with their registered office or place of residence in the Czech Republic and on the value of assets attributable to investors with their registered office or place of residence abroad;
- e) on the volume of issued and repurchased unit certificates.

TITLE III

PUBLIC OFFERING OF SECURITIES OF A FOREIGN SPECIAL FUND IN THE CZECH REPUBLIC

Article 58

License to Publicly Offer Securities

(1) A foreign special fund may publicly offers securities in the Czech Republic if it has

- a) concluded an agreement analogously pursuant to Article 43 (2);
- b) a license issued by the Czech National Bank for public offering of securities in the Czech Republic.

(2) The Czech National Bank shall issue a license to a foreign special fund for public offering of securities in the Czech Republic if

- a) the fund has its registered office and head office in the same country;
- b) the fund presents a certificate issued by the supervisory authority of the country where it has its registered office and head office confirming that the supervisory authority has issued to the fund a license for collective investment and that it has no objections against the public offering of securities of this fund in the Czech Republic;
- c) the fund repurchases securities that it has issued, at request of a unit-holder, under conditions that are not less favourable than the conditions specified in Article 12, or it ensures that the price of the securities that it has issued, in the regulated market, does not significantly differ from their current value;
- d) the country where the fund has its registered office and head office guarantees a level of protection of the investors comparable to the protection stipulated in this Act;
- e) the head of the organisational unit of the fund, if an organisational unit is to be established in the Czech Republic, is credible, professionally qualified and has sufficient experience in investing in assets at which the fund's investment policy is aimed; if the requirement for sufficient experience in investment is met by at least 2 senior officers, the Czech National Bank may also grant the consent to a person who has sufficient experience to perform the relevant position in relation to the activities stipulated in Article 15.

(3) An application for a license for public offering of securities of a foreign special fund in the territory of the Czech Republic must include information, and documents attached thereto must demonstrate the facts, set out in paragraph 2 above. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(4) The provisions on approving the senior officers 3) of an investment company or investment fund (Article 72) shall apply analogously to the head of an organisational unit of a foreign special fund.

(5) In the license to publicly offer securities of a foreign special fund in the territory of the Czech Republic, the Czech National Bank may stipulate conditions that the fund is obliged to meet prior to commencing the licensed activities or comply with during the performance of the licensed activities.

(6) A foreign special fund that has a license for public offering of securities in the Czech Republic shall notify the Czech National Bank without undue delay

- a) of any changes in the facts on the basis of which the license was issued;
- b) of any changes in the agreement pursuant to paragraph 1 (a) above.

(7) In public offering of securities in the Czech Republic, a foreign special fund shall use the same designation as it uses in the country where it has its registered office and head office. If there is a possibility of confusion, the Czech National Bank may impose on the fund the duty to add a distinguishing designation.

(8) The Czech National Bank shall revoke a license of a foreign special fund for public offering of securities in the Czech Republic, at its request, if the fund

- a) informs all the investors of this fact, offers them the repurchase of securities and provides them with an adequate period of time for making a request for the repurchase;
- b) demonstrates to the Czech National Bank that it has performed the duties set out in subparagraph a) above and settled all requests for repurchase.

(9) The provisions of paragraphs 1 to 8 above shall apply analogously to a foreign investment company that intends to offer securities of a special collective investment fund in the Czech Republic.

Article 59

Reporting Duties

A foreign special fund shall publish in the Czech Republic

- a) information that it publishes in the country where it has its registered office, in a manner set out in the statute;
- b) information pursuant to this Act that is not included in information pursuant to subparagraph a) above, in a manner set out in the statute.

PART SEVEN

LICENSE TO PERFORM ACTIVITIES OF AN INVESTMENT COMPANY, LICENSE TO PERFORM ACTIVITIES OF AN INVESTMENT FUND, AND LICENSE TO ESTABLISH A UNIT TRUST

TITLE I

LICENSE TO PERFORM ACTIVITIES OF AN INVESTMENT COMPANY

Article 60

Grant of License

(1) The Czech National Bank shall grant a license to perform activities of an investment company only to a joint-stock company

- a) that issues only registered shares;
- b) that has its registered office and head office in the territory of the Czech Republic;
- c) if the origin of its registered capital is transparent and faultless;
- d) that submits a business plan and draft organisational structure of the investment company;
- e) that has the material, personnel and organisational prerequisites for collective investment, in particular
 - 1. its registered capital has been paid up;
 - 2. its senior officers 3) meet the preconditions for approval pursuant to Article 72;
- f) whose registered capital allows for proper performance of the activities set out in the application for a license to perform activities of an investment company;
- g) in which a qualified holding 3) is borne by persons suitable from the viewpoint of sound and prudent management of the investment company;
- h) whose close interconnection with another entity does not impede the performance of supervision over the investment company; in case of close interconnection with an entity that has its registered office or head office in a country other than a Member State of the European Union, the legal regulations of this country and the manner of application thereof, including law enforcement, must not impede the performance of supervision over the investment company.

(2) The Czech National Bank shall permit an investment company to provide a service consisting in safe-keeping and administration of securities issued by a collective investment fund or a service consisting in investment consultancy concerning an investment instrument provided that the investment company's license to perform activities of an investment company includes management of client assets.

(3) The operative part of the decision on granting a license to perform activities of an investment company shall include approval of the senior officers 3) of the investment company and a list of activities that the investment company may perform. Any change in a senior officer of the investment company or any change in the activities that the investment company may perform shall be subject to prior approval by the Czech National Bank.

(4) The Czech National Bank shall grant an investment company a license to manage client assets if the investment company demonstrates compliance with the same preconditions as an investment firm in providing an investment service consisting in management of client assets, appropriately to the scope of the provided service.

(5) A license to perform activities of an investment company shall be issued for an indefinite term.

(6) The objects of business of an investment company may include only activities set out in the license to perform activities of an investment company or registered by the Czech National Bank pursuant to paragraphs 7 to 10.

(7) An investment company may carry on other business activities only after such business activities have been registered by the Czech National Bank. Other business activities of an investment company may only consist in activities directly relating to the management of own assets.

(8) The Czech National Bank shall register the applicant's other business activities and issue a certificate of registration. In cases where there are no reasons deserving special consideration for the registration of other business activities, which the Czech National Bank

shall assess, taking into special account whether the registration of such other activities shall help to improve the quality of the activities of the investment company, whether the refusal of the registration would inflict a substantial loss on the investment company, or the scope, complexity and nature of these other activities, the Czech National Bank shall refuse the registration.

(9) The Czech National Bank may limit the scope of registered activities, or where appropriate, specify the conditions an investment company must meet before launching any of the registered activities, or which must be observed when carrying on such registered activities, in the decision on registration of other business activities.

(10) The Czech National Bank shall cancel the registration if the investment company requests the Czech National Bank to cancel it in writing.

Article 61

An application for a license to perform activities of an investment company must include information, and the documents attached thereto must prove the facts, set out in Article 60 (1). The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

Article 62

(1) Prior to granting a license to perform activities of an investment company, the Czech National Bank shall request the opinion of the competent supervisory authority of another Member State of the European Union if the investment company is

a) controlled by

1. a foreign person that has a license for collective investment issued by this supervisory authority;
2. a foreign person that has a license to provide investment services issued by this supervisory authority;
3. a foreign bank; or
4. an insurance company that has a license issued by the supervisory authority of that Member State of the European Union; or

b) controlled by the same entity that controls a person set out in subparagraph a) above.

(2) The Czech National Bank shall proceed analogously pursuant to paragraphs 1 and 2 above where an investment company is to become a controlled entity.

Article 63

Revoking of License

(1) The Czech National Bank shall revoke a license of an investment company to perform activities of an investment company, at its request, provided that the investment company does not manage any collective investment fund and has settled its liabilities to its clients.

(2) The requisites of a request for revoking a license to perform activities of an investment company and schedules thereto shall be stipulated by an implementing regulation.

TITLE II

LICENSE TO PERFORM ACTIVITIES OF AN INVESTMENT FUND

Grant of License

Article 64

Heading deleted

(1) The Czech National Bank shall grant a license to perform activities of an investment fund whose assets will not be managed under a management contract, at request of the founder(s) of a joint-stock company prior to the date of its registration in the Commercial Register if

- a) they demonstrate that the joint-stock company has been founded;
- b) the registered office and head office of the joint-stock company are to be in the territory of the Czech Republic;
- c) the registered capital of the joint-stock company has been paid up and the origin of the registered capital is transparent and faultless;
- d) the envisaged senior officers 3) meet the preconditions stipulated by this Act for approval of a senior officer of an investment fund (Article 72);
- e) they submit a business plan of the joint-stock company, on the basis of which it can be justifiably anticipated that the joint-stock company will have the material, personnel and organisational prerequisites for collective investment within the deadline stipulated in paragraph 4 above;
- f) the joint-stock company was not established on the basis of an initial public offering;
- g) the registered capital allows for proper performance of activities of an investment fund and was paid up solely by monetary contributions; the prohibition of non-monetary contributions shall not apply to a qualified investor fund;
- h) a qualified holding 3) in the joint-stock company will be borne by persons suitable from the viewpoint of sound and prudent management of the investment fund;
- h) close interconnection 3) with another entity does not impede the performance of supervision over the investment fund; in case of close interconnection with an entity that has its registered office and head office in a country other than a Member State of the European Union, the legal regulations of this country and the manner of application thereof, including law enforcement, must not impede the performance of supervision over the investment fund;
- j) the proposed statute of the investment fund has all the prescribed requisites;
- k) it is likely that the investment fund will be suitable for investors, especially taking into consideration the risks involved in the investment strategy;
- l) the entity that will be the depositary has created the preconditions for the performance of duties stipulated by this Act.

(2) The operative part of the decision on granting a license to perform activities of an investment fund shall include approval of the senior officers 3), depositary, by-laws and statute.

(3) The authorisation to perform activities of an investment fund shall arise for the joint-stock company on the date of its registration in the Commercial Register.

(4) Within 2 months of the date of registration in the Commercial Register, the investment fund shall demonstrate to the Czech National Bank that its conditions are in conformity with the assumptions that formed the basis for granting the license, in particular, that it has the material, personnel and organisational prerequisites for performance of collective investment. If the fund is a fund that may collect financial means from general public, it shall also apply to the Czech National Bank for consent to commencement of collection of means from general public; the Czech National Bank shall grant the consent if the fund meets the preconditions pursuant to the first sentence. Until the consent is granted, the fund may not collect means from general public.

(5) The objects of business of an investment fund may consist only in collective investment.

Article 64a

Grant of Licence to an Investment Fund of which Assets Will Be Managed by an Investment Company

(1) The Czech National Bank shall grant a licence for the activities of an investment fund that has concluded a management contract, at request of the founder(s) of a joint-stock company prior to the date of its registration in the Commercial Register if

- a) conditions pursuant to Article 64 (1) were met, except for conditions pursuant to subparagraphs (d), (e), (h) and (i);
- b) the application is accompanied by the management contract, a programme of operations of the investment company describing the intents of the founder(s);
- c) the investment company which shall manage the assets of the investment fund confirms that the proposed senior officers have knowledge, experience and trustworthiness necessary for the management of such investment fund;
- d) the investment company which shall manage the assets of the investment fund has material, personnel and organisational prerequisites for the management of assets in an investment fund.

(2) Article 64 (2), (3) and (5) shall apply *mutatis mutandis*.

(3) An investment company which shall manage the assets of the investment fund shall be also a party to the administrative proceeding to grant a licence for the activities of an investment fund.

Article 65

An application for a license to perform activities of an investment fund must include information, and the documents attached thereto must prove the facts, set out in Article 64 (1). The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

TITLE III

LICENSE TO ESTABLISH A UNIT TRUST

Article 66

Grant of License

(1) The Czech National Bank shall grant a license to establish an open-end unit trust or a closed-end unit trust if

- a) the equity capital of the investment company allows for proper management of the unit trust and proper performance of other activities of the investment company;
- b) the investment company has the material, personnel, and organisational prerequisites for management of the unit trust;
- c) the senior officers 3) of the investment company meet analogous conditions for approval of persons (Article 72);
- d) the depositary has created the preconditions for the performance of its duties;
- e) the proposed statute of the unit trust has all the prescribed requisites;

f) it is likely that the unit trust will be suitable for investors, especially taking into consideration the risks involved in the investment strategy.

(2) The Czech National Bank shall not permit establishment of an open-end unit trust that is a standard fund whose unit certificates may not be offered and issued in the Czech Republic.

(3) An application for a license to establish an open-end unit trust or a closed-end unit trust must include information, and the documents attached to the application must prove the facts, set out in paragraph 1 above. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(4) A license to establish an open-end unit trust shall be granted for an indefinite or fixed term.

(5) A license to establish a closed-end unit trust shall be granted only for a fixed term not exceeding 10 years.

(6) The operative part of the decision on granting a license to establish an open-end unit trust or a closed-end unit trust shall include approval of the depositary and the statute. Any change in the depositary of a unit trust and any amendment to the statute shall be subject to prior approval by the Czech National Bank.

Article 67

Transfer of a Unit Trust to Management of Another Investment Company

(1) The Czech National Bank may permit that an investment company transfer a unit trust managed by it to management of another investment company (hereinafter a “transfer of management of a unit trust”): the transfer of management of a unit trust in no way affects the responsibility for violation of the law in management of the unit trust.

(2) An application for a permit to transfer management of a unit trust shall be lodged by the investment company that manages the unit trust. The application shall include information and documents essential for the assessment of the protection of the interests of the unit-holders. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(3) The Czech National Bank shall permit a transfer of management of a unit trust provided that it does not jeopardize the interests of the unit-holders.

(4) The investment companies involved and their depositaries shall be the parties to the proceedings on a permit to transfer management of a unit trust.

Article 68

Revoking of License at Request

(1) The Czech National Bank shall revoke a license of an investment company to establish a unit trust at request of the investment company provided that this does not jeopardize the interests of the unit-holders.

(2) An application for revoking the license to establish a unit trust must include information, and the documents attached to the application must prove the facts, required for assessment of protection of the unit-holders. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

PART EIGHT

RULES GOVERNING THE ACTIVITIES OF AN INVESTMENT COMPANY AND AN INVESTMENT FUND

TITLE I
EQUITY CAPITAL

Article 69

Equity Capital of an Investment Company

(1) The equity capital of an investment company must equal, at the time of granting a license to perform activities of an investment company, an amount in Czech crowns corresponding at least to EUR 125,000. The equity capital may not decrease under the above-specified amount during the entire existence of the investment company.

(2) If an investment company manages the assets of collective investment funds whose aggregate value in Czech crowns exceeds an amount corresponding to EUR 250,000,000, it shall increase its equity capital pursuant to paragraph 1 above by at least an amount equal to 0.02% of the value of the managed assets of the collective investment funds exceeding an amount in Czech crowns corresponding to EUR 250,000,000, up to a maximum amount in Czech crowns corresponding to EUR 10,000,000.

(3) The assets managed by an investment company pursuant to paragraph 2 above, without respect to whether management of these assets has been entrusted to some other investment company, shall mean

- a) the assets in unit trusts established by the investment company;
- b) the assets of investment funds that the investment company manages on the basis of a management contract.

(4) Without respect to the amounts specified in paragraphs 1 and 2 above, an investment company must have a minimum equity capital in the amount of one quarter of its administrative costs and one quarter of the depreciation of its long-term tangible and intangible assets recorded in the accounting books in the previous year, taking into consideration any changes in the scope of its activities. If an investment company did not perform its activities during the entire previous year, the calculation of its minimum equity capital shall be based on the projected costs according to the business plan. That part of the registered capital may be covered by a guarantee provided by a bank, foreign bank with its registered office in a Member State of the European Union, an insurance company with its registered office in the Czech Republic or an insurance company with its registered office in a Member State of the European Union up to 50% of its value.

(5) An investment company that provides a service pursuant to Article 15 (3) and (4) (a) shall comply with the rules for capital adequacy of a an investment firm that is not a bank.

Article 70

Equity Capital of a Collective Investment Fund

(1) The equity capital of an investment fund that has not concluded a management contract must equal, at the time of granting the license for performance of its activities, an amount in Czech crowns corresponding at least to EUR 300,000. When granting the license, the Czech National Bank shall assess the compliance with this requirement for a newly established joint-stock company as for an existing company.

(2) Within one year of the date of granting a license to perform activities of an investment fund or a license to establish a unit trust, the equity capital of a collective investment fund must attain at least the amount of CZK 50,000,000.

(3) If the equity capital of a collective investment fund does not attain at least CZK 50,000,000 within one year of the date of granting a license to perform activities of an

investment fund or a license to establish a unit trust, the collective investment fund shall notify the Czech National Bank of this fact without undue delay.

TITLE II

APPROVAL OF INTEREST IN AN INVESTMENT COMPANY OR INVESTMENT FUND AND APPROVAL OF SENIOR OFFICERS OF AN INVESTMENT COMPANY OR INVESTMENT FUND

Article 71

Acquisition of Interest in an Investment Company or Investment Fund

(1) A person or persons acting in concert must obtain a prior consent of the Czech National Bank

- a) to acquire a qualified holding 3) in an investment company or investment fund, unless the holding is acquired by passage of the ownership title to a security;
- b) to attain or exceed a holding of 20%, 33% or 50% in an investment company or investment fund, unless the holding is attained or exceeded by passage of the ownership title to a security; or
- c) to become persons controlling an investment company or investment fund, unless they become such persons by passage of the ownership title to a security.

(2) For the purposes of calculation of a holding pursuant to paragraph 1 above in an investment company or investment fund, voting rights shall also be included that are associated with securities

- a) that are held on the account of the person referred to in paragraph 1 above by another person on its own behalf;
- b) that are held by a person controlled by the person referred to in paragraph 1 above;
- c) that are held by another person that has concluded an agreement with the person referred to in paragraph 1 above or a person controlled by the person referred to in paragraph 1 above, in which the parties agreed to promote common policies in the long term in relation to management of an investment company or investment fund by means of exercising their voting rights associated with the securities held by them in concert;
- d) that are held by a third person on the basis of an agreement with the person referred to in paragraph 1 above or a person controlled by the person referred to in paragraph 1 above if the agreement contemplates temporary assignment of the voting rights to the person referred to in paragraph 1 above or a person controlled by the person referred to in paragraph 1 above for consideration;
- e) that have been provided by the person referred to in paragraph 1 above as collateral; this shall not apply if the disposal of the voting rights has been entrusted to a person who has the securities in safe-keeping, in administration or in its assets, and who has publicly declared that it would exercise these voting rights; in this case, the voting rights attached to these securities shall be borne by the person that has the securities in safe-keeping, in administration or in its assets;
- f) that are the property of some other person if the latter exercises the voting rights attached to these securities on its own behalf according to instructions of the person referred to in paragraph 1 above on the basis of an agreement on exercise of voting rights.

(3) If a person, persons acting in concert or persons referred to in paragraph 2 above have their registered office in a Member State of the European Union, are subject to supervision by a supervisory authority of the Member State and intend to acquire a holding pursuant to paragraph

1 above, prior to making a decision, the Czech National Bank shall request an opinion from the supervisory authority.

(4) An application for consent pursuant to paragraph 1 above must include information pursuant to paragraph 1 above and the documents attached thereto must prove the facts essential for assessment of the suitability of the applicant from the viewpoint of sound and prudent management of an investment company or investment fund and for assessment whether close interconnection of the applicant with the investment company or investment fund does not impede effective performance of supervision over the investment company or investment fund. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(5) The Czech National Bank shall grant the consent pursuant to paragraph 1 above if the applicant is a person suitable from the viewpoint of sound and prudent management of an investment company or investment fund and if his close interconnection with the investment company or investment fund does not impede effective performance of supervision.

(6) If the Czech National Bank fails to send a decision on an application pursuant to paragraph 1 above within 3 months of the date of delivery of the application, it shall hold that the acquisition of a holding has been approved.

(7) The consent pursuant to paragraph 1 above may also be granted subsequently.

(8) A person who acquires or increases a qualified holding 3) pursuant to paragraph 1 above by passage of the ownership title to a security shall be obliged to notify the Czech National Bank without delay of this fact.

(9) A person, persons acting in concert or persons referred to in paragraph 2 above shall be obliged to notify the Czech National Bank of the fact that

- a) they are ceasing to control an investment company or investment fund;
- b) they are reducing their qualified holding 3) in an investment company or investment fund below 50%, 33%, or 20%, or that they are losing the holding; or
- c) they are transferring to another person a qualified holding in an investment company or investment fund.

(10) The notification pursuant to paragraph 9 above must include information on the notifier and information on the investment company or investment fund, including the amount of the holding of the notifier in the investment company or investment fund after the reduction; the notification pursuant to paragraph 9 (c) above shall also include information on the person to whom the qualified holding is being transferred.

(11) The acquisition of or increase in a holding pursuant to paragraph 1 above in an investment company or investment fund without the consent of the Czech National Bank shall not render the legal act void; however, the voting rights attached to the holding may not be exercised until the consent is obtained.

(12) Paragraphs 1 to 11 shall not apply in the case of a holding in an investment fund that has concluded a management contract.

Senior Officers of an Investment Company or Investment Fund

Article 72

Heading deleted

(1) The performance of duties of a senior officer 3) of an investment company or investment fund requires prior consent of the Czech National Bank.

(2) An application for consent pursuant to paragraph 1 above must include information, and the documents attached thereto must prove the facts, set out in paragraph 3 hereof. The

requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(3) The Czech National Bank shall grant the consent pursuant to paragraph 1 above to a person

- a) who has reached 18 years of age;
- b) who enjoys legal capacity;
- c) with respect to whom no fact has occurred that would impede the operation of a trade pursuant to the law regulating business in trade;
- d) who is credible;
- e) who is professionally qualified;
- f) who has sufficient experience in collective investing, investing in assets at which the investment policy of the investment fund or unit trust of an investment company is aimed; or experience in performing a relevant position in relation to the activities stipulated in Article 15; (3) and (4); it shall also apply that sufficient experience in collective investing shall be met by at least 1 senior officer and sufficient experience in investing in assets at which the investment policy of the investment fund or unit trust of an investment company is aimed shall be met by at least 2 senior officers;
- g) who meets the condition of incompatibility of offices (Article 73);
- h) who is not prevented from proper performance of the duties by some other activity.

(4) A senior officer of an investment fund that has concluded a management contract shall not be required to have a consent to the performance of his office pursuant to paragraph 1 if the managing investment company expressed a prior consent in writing to the performance of his office; the condition of such consent is that the assessed person has knowledge, experience and trustworthiness necessary for the management of such investment fund. Should there be a substantial change in the facts based on which the consent has been granted, the investment company shall withdraw the consent in writing. The investment company shall send both the grant and withdrawal of the consent to the Czech National Bank for information.

Article 73

Heading deleted

The following persons may not be a senior officer 3) of an investment company or investment fund

- a) a Member of the Chamber of Deputies or a Senator of the Parliament of the Czech Republic;
- b) an employee of the Czech National Bank;
- d) an investment intermediary or a senior officer or employee of an investment intermediary or a foreign entity with similar objects of activities or business; this shall not apply if the investment company or investment fund and the investment intermediary or the foreign entity with similar objects of business are part of the same holding;
- d) a senior officer, employee or broker of an investment firm, or a person carrying out a similar activity for a foreign entity with a license to provide investment services; this shall not apply if the investment company or investment fund and the investment firm or the foreign entity with a license to provide investment services are part of the same holding;
- e) a senior officer or employee of a bank or a head or employee of a branch of a foreign bank that acts as a depositary for the relevant investment company or investment fund; this shall not apply if the investment company or investment fund and the bank or branch of a foreign bank are part of the same holding;

f) a senior officer or employee of another investment company or investment fund or a person carrying out a similar activity for a foreign entity with a license for collective investment; this shall not apply if the investment company or investment fund and the other investment company or investment fund or the foreign person with a license for collective investment are part of the same holding; or

*) Note: ASPI – Act No. 224/2006 Coll., Art. I (121) reads as follows:

“121. In Article 73 (g), the word “employee” shall be replaced by the word “person”.”

however, subparagraph g) was designed by Act No. 57/2006 Coll. as subparagraph f).

g) a senior officer or employee of a pension fund or a person carrying out a similar activity for a foreign pension fund; this shall not apply if the investment company or investment fund and the pension fund are part of the same holding.

TITLE III

RULES OF CONDUCT OF AN INVESTMENT COMPANY OR INVESTMENT FUND

Article 74

Rules of Prudent Operation of Business

(1) An investment company or investment fund that has not concluded a management contract shall

- a) adopt its organisational rules;
- b) stipulate, in its internal regulation
 1. administrative procedures and an accounting system within the applicable accounting regulations;
 2. control and security measures for processing and keeping records of data;
 3. the internal control system;
 4. the procedures to limit the potential for a conflict of interests in the provision of services;
 5. measures to prevent the use of the managed assets for transactions on one’s own account;
 6. measures for the protection of inside information;
 7. measures to prevent market manipulation and the risk management system.

(2) An investment company or investment fund that has not concluded a management contract shall comply with the rules pursuant to paragraph 1 above accordingly with respect to the volume of the managed assets, the manner of collective investment and the scope of the services provided.

(3) The manner of compliance with the rules of prudent operation of business of an investment company or investment fund that has not concluded a management contract, and the manner of implementation thereof shall be stipulated in an implementing regulation.

Rules of Conduct in Management of Assets of a Collective Investment Fund

Article 75

(1) When managing the assets of a collective investment fund, an investment company or investment fund that has not concluded a management contract shall

- a) manage the assets of the collective investment fund with professional care;
- b) prefer the interests of the shareholders or unit-holders of the collective investment fund and other persons whose assets it manages to its own interests and the interests of third parties;
- c) have the material and personnel resources required for proper management of the assets of a collective investment fund and shall use them efficiently.

(2) Exercising professional care shall mean qualified, honest and responsible action pursued in the best interest of the shareholders or unit-holders of the collective investment fund, in particular

- a) effecting of payments by means of a bank transfer, unless this is excluded by the nature of the matter;
- b) avoiding market manipulation;
- c) avoiding misuse of inside information and restricting access to such inside information;
- d) avoiding dissemination of inaccurate or misleading information;
- e) avoiding disruption of the integrity of the market;
- f) avoiding offering advantages whose reliability cannot be guaranteed;
- g) performing all transactions under the best conditions that must be demonstrably documented;
- h) comparing the rates or prices in the individual buy and sell transactions mutually and with the development of rates and prices published in regulated markets;
- i) documenting the manner of performing transactions, controlling the objectiveness of the recorded data and preventing the risk of financial loss;
- j) performing analyses of economic profitability of transactions using publicly accessible information;
- k) avoiding redundant transactions aimed at attaining own profit without respect to the best interests of the investors.

(3) The duties pursuant to paragraph 1 (a) and (b) above shall also apply to senior officers 3) and the liquidator of an investment company or an investment fund that has not concluded a management contract.

(4) An investment company or investment fund that has not concluded a management contract shall stipulate in its internal regulation the procedure for dealing with the complaints and claims of investors.

(5) If a dispute arises in proceedings on compensation for damage caused by breach of a duty in management of assets of a collective investment fund as to whether an investment company or investment fund exercised professional care, the burden of proof shall be borne by that investment company or investment fund.

Article 76

(1) An investment company undertaking activities pursuant to Article 15 (3) and (4) shall be subject to the provisions of special legal regulations governing the daybook of an investment firm, expertise of the persons through whom the investment firm performs its activities, rules of conduct of an investment firm in relation to clients and the reporting duties of an investment firm, except for reporting transactions. An investment company undertaking activities pursuant to Article 15 (3) or (4) shall, in relation to these activities, introduce rules of prudent provision of investment securities, including the rules for performance of activities of an investment firm

by some other entrusted person and the rules for protection of the client assets pursuant to the special regulation providing for activities of an investment firm.

(2) An investment company that manages client assets may not, without the expressed consent of the client, invest his assets in shares or unit certificates issued by a collective investment fund that the company manages.

(3) An investment company that manages the assets of a client and performs the activities pursuant to Article 15 (4) (a), if appropriate, shall be obliged to pay contributions to the Guarantee Fund of Investment Firms and its clients shall be entitled to payment of a compensation, under similar conditions stipulated by the special legal regulation on capital market undertakings.³⁾ The special legal regulation on capital market undertakings ³⁾ shall apply analogously to submission of client assets in case of bankruptcy of the investment company.

(4) An investment company whose license includes an activity pursuant to Article 15 (3) or (4) (b) shall be entitled, with respect to this activity, to use a tied agent. The provisions of a special law on capital market undertakings related to a tied agent shall apply analogously.⁵⁾

Article 77

(1) An investment company may not control another business company, unless it holds an interest on the account of the unit trust that the investment company manages, or a holding in an investment fund held not longer than a year after the licence for the activities of an investment fund was granted. .

(2) An investment company may not be an unlimited partner in a public partnership or limited partnership or a similar company according to foreign law.

Article 78

Rules for Managing the Assets of a Collective Investment Fund

(1) On the basis of a management contract, for the purpose of more efficient management of the assets of a collective investment fund, an investment company may entrust management thereof to a person who has experience with collective investment or investment in assets specified in the statute of the fund and is an investment company, investment firm or a foreign person that has a similar license for management of client assets and is subject to supervision by the supervisory authority of the country where it has its registered office (hereinafter a “person managing the assets of a collective investment fund”) provided that

- a) the Czech National Bank has been notified thereof in advance;
- b) the depositary has been notified thereof in advance and agrees with this;
- c) this does not impede effective performance of supervision over the investment company;
- d) this is set out in the statute of the collective investment fund;
- e) this does not prevent management of the assets of the collective investment fund in the best interest of the investors;
- f) the person managing the assets of the collective investment fund undertakes to comply with the statute of the collective investment fund;
- g) cooperation is ensured between the Czech National Bank and the authority that performs supervision over the person managing the assets of the collective investment fund if this person has his registered office in a country other than a Member State of the European Union;
- h) the entrusting of management of the assets of a collective investment fund does not lead to a danger of a conflict of interests of the investment company or owners of securities issued by the

collective investment fund and interests of the person managing the assets of the collective investment fund;

i) the investment company and the depositary of the collective investment fund are able to continuously control the activities of the person managing the assets of the collective investment fund;

j) the investment company is able to influence the activities of the person managing the assets of the collective investment fund through its instructions;

k) the investment company may cancel an instruction of the entity managing the assets of a collective investment fund with immediate effect or may withdraw from a contract on entrusting the management of the assets of the collective investment fund with immediate effect, if this is in the interest of the shareholders or unit-holders of the collective investment fund.

(2) The depositary of a collective investment fund may not be the person managing the assets of the collective investment fund.

(3) The investment company may also entrust an activity connected with collective investment to another person that is authorised to perform such an activity as a business provided that the requirements pursuant to paragraph 1 above are met accordingly.

(4) In case of entrusting the management of the assets of a collective investment fund to another person or entrusting the performance of an activity connected with collective investment to another person, the investment company must retain management of at least part of the assets of the collective investment fund or an activity connected with collective investment.

(5) The provisions of paragraphs 1 to 4 above shall apply to an investment fund that has not concluded a management contract accordingly. Article 18 (1) shall apply to the determination of the consideration for an activity pursuant to paragraphs 1 and 3 above accordingly.

(6) Entrusting management of part of the assets of a collective investment fund to another person or entrusting an activity connected with collective investment to another person shall in no way prejudice the liability of the investment company or investment fund for any damage incurred in management of the assets of the collective investment fund and the liability of the depositary of the collective investment fund for any damage incurred due to breach of the duties of the depositary in the performance of activities of a depositary.

Rules for Public Offering of Shares or Unit Certificates of a Collective Investment Fund

Article 79

(1) Every public offering of shares or unit certificates of a collective investment fund must include specification of the place where an interested party can obtain a copy of the statute and simplified statute of the collective investment fund or peruse these documents, free of charge, or it must include specification of how the statute and simplified statute are generally accessible.

(2) All the parties interested in collective investment must have the same access to information concerning the offered investments. The information must be true, undistorted, and allow for the evaluation of the quality of the share or unit certificate of the collective investment fund.

(3) Every important statement and warning that could influence the decision-making by an investor must be sufficiently emphasised in the offer of shares or unit certificates of a collective investment fund and must not be concealed by a fact that diverts attention from it.

Article 80

(1) A public offering of shares or unit certificates of a collective investment fund must include a warning that

- a) every investment entails a risk and, simultaneously, either specific information on the risk or indication where such information can be obtained must be specified;
- b) recovery of the investment is not guaranteed.

(2) Where a public offering of shares or unit certificates of a collective investment fund mentions the profitability of an investment, it must also contain

- a) complete information on the expected or possible yield from or the properties of the investment; it shall not be permissible to provide information only for a selected period or periods of time during which extraordinary profitability was achieved;
- b) information on the expected or possible yield from or the properties of the investment such that this yield or properties cannot be considered secured; if the investment or yield is secured, the manner and scope of security in relation to the investor must be explained;
- c) a warning that the yield obtained in the past does not guarantee any future yield.

(3) Where a public offering of the shares or unit certificates of a collective investment fund mentions tax exemptions, it must include all important pieces of information concerning such exemptions, in particular, the conditions under which and to what investors they are applicable.

(4) All provisions of the special law on contracts concluded exclusively with the use of one or more means of distant communication must be complied with during public offering of shares or unit certificates of a collective investment fund.

Article 81

Promotional materials of a collective investment fund must include a clear warning related to

- a) the types of assets pursuant to Article 26 (1) (c) to (g) in which the collective investment fund may invest or of the potential replicating of the index of shares or bonds pursuant to Article 28 (9);
- b) the possibility of greater fluctuations in the current value of a share or unit certificate of a collective investment fund, if applicable with respect to the composition of the assets of the collective investment fund or the technique of their management.

Article 81a

All persons authorised to publicly offer securities issued by a collective investment fund in the territory of the Czech Republic shall be obliged to comply with the provisions of Articles 79 to 81; the same duties shall also be borne by the persons to whom these activities have been delegated by the mentioned entities.

Article 82

Valuation of Assets and Liabilities of a Collective Investment Fund

(1) The investment instruments in the assets of a collective investment fund must be regularly valued within the intervals specified in the statute. This interval must not exceed 2 weeks unless the fund is a qualified investor fund or a special real estate fund. A special real estate fund that has set dates for submission of an application for repurchase of unit certificates (Article 12 (2)) must set the interval so that the valuation is carried out as of the mentioned dates.

(2) Real estate, movable assets, rights and other values in the assets of a collective investment fund and liabilities must be regularly valued within the intervals specified in the statute, but no less than once annually. A special real estate fund that has set dates for submission of an application for repurchase of unit certificates (Article 12 (2)) must set the interval so that the valuation is carried out as of the mentioned dates.

(3) During an accounting period, a collective investment fund shall value the assets and liabilities as of the date of determining the current value of a share or unit certificate without compiling financial statements.

(4) The assets and liabilities following from investment activities of a collective investment fund shall be valued at fair value. The manner of determining the fair value of the assets and liabilities of a collective investment fund in cases that are not covered by a special legal regulation governing accounting, and the manner of determining the current value of a share or unit certificate of a collective investment fund shall be stipulated by an implementing regulation.

PART NINE

REPORTING DUTIES OF A COLLECTIVE INVESTMENT FUND

Article 83

General Provisions

A collective investment fund shall publish, unless this Act stipulates otherwise

- a) the statute;
- b) the simplified statute;
- c) the by-laws;
- d) the annual report;
- e) the semi-annual report for the first 6 months of an accounting period.

Article 84

Statute and Simplified Statute

(1) The statute of a collective investment fund shall be a document that contains information on the manner of investment by the collective investment fund and other information required for the investors for accurate and correct assessment of the investment, drawn up in a form that is comprehensible to a normal investor or, in the case of a special qualified investor fund, in a form comprehensible to a qualified investor. The simplified statute shall contain selected information from the statute.

(2) The statute of a collective investment fund shall also include explanation of the risks connected with investment in a manner that is comprehensible to investors.

(3) The statute of a standard fund must allow for offering of unit certificates in the Czech Republic and, if it allows for their offering in some other country, the unit certificates must be simultaneously offered in a Member State of the European Union.

(4) The rules for adopting the statute and simplified statute and changes therein shall be stipulated by the by-laws of the investment fund or investment company.

(5) The by-laws of the investment fund shall be enclosed with its statute. The by-laws need not be enclosed if the statute contains information

- a) that these documents will be provided to the investors at their request; or

b) on the place where these documents can be inspected; this information shall be stated for each Member State of the European Union where the securities issued by the collective investment fund are publicly offered.

Article 84a

(1) A collective investment fund must publish the statute, the simplified statute and every amendment thereto in a manner allowing for remote access. This shall not apply to a special qualified investor fund.

(2) The general meeting of an investment fund or the meeting of unit-holders, if established, shall approve amendments to the statute of a collective investment fund that are concerned with

- a) the manner of investment and the investment objectives of the collective investment fund;
- b) the deductions in repurchasing of unit certificates of the collective investment fund;
- c) the consideration payable to the investment company or depositary of the collective investment fund;
- d) the expenses connected with management of the assets of the collective investment fund;
- e) the remuneration of the senior officers³⁾ of the investment fund; or
- f) the manner of convening, the substantive competence, or the manner of decision-making of the meeting of unit-holders, if established.

(3) The information set out in the statute or simplified statute must be continuously updated.

(4) An amendment to the statute shall be subject to prior approval by the Czech National Bank; otherwise, it shall be invalid. The Czech National Bank shall not approve an amendment to the statute that could endanger the interests of the unit-holders or shareholders of this fund.

(5) An amendment to the statute shall not be subject to prior approval by the Czech National Bank if the amendment is concerned with

- a) information following directly from changes related to the investment company, investment fund, unit trust or depositary;
- b) information on the performance or actual or anticipated profit or loss of the collective investment fund that requires regular updating;
- c) a simple change that does not affect the position or interests of the unit-holders or shareholders of the collective investment fund.

Details on the character of amendments to the statute that are not subject to prior approval by the Czech National Bank shall be stipulated by an implementing regulation.

(6) The minimum requisites of the statute, including details on the information set out in paragraph 2 above and the mandatory requisites of the simplified statute shall be stipulated by an implementing regulation.

(7) Each subscriber of a share or unit certificate of a collective investment fund must be

- a) offered a free copy of the simplified statute in the latest wording prior to concluding a contract of subscription;
- b) provided, free-of charge and at request, with a copy of the statute in the latest wording, the last published annual of the collective investment fund and the semi-annual report of the collective investment fund, if drawn up by the collective investment fund.

(8) An investment company or investment fund shall be obliged to comply with the statute of the collective investment fund.

Article 85

Annual Report of an Investment Company and Annual Report of a Collective Investment Fund

(1) Within 4 months of the end of an accounting period, an investment company shall be obliged to send the Czech National Bank its annual report and consolidated annual report and an annual report for each unit trust managed by it, and publish these reports in a manner allowing for remote access; an annual report or consolidated annual report shall include audited financial statements or consolidated financial statements. If the license of an investment company includes an activity pursuant to Article 15 (3) or (4), its annual report or consolidated annual report shall encompass information on the amount of the base for calculation of the contribution to the Guarantee Fund pursuant to the special law regulating capital market undertakings. The obligation to publish the annual report for a unit trust shall not apply to a special qualified investor fund. If the general meeting of the investment company does not approve the financial statements or consolidated financial statements within the above-specified deadline or if a court makes a decision on invalidity of the general meeting, that approved the financial statements or consolidated financial statements, the investment company shall notify the Czech National Bank of this fact and publish it in a manner allowing for remote access; in the notification, it shall also specify the manner of dealing with the comments of the general meeting.

(2) Within 4 months of the end of an accounting period, an investment fund shall be obliged to send the Czech National Bank its annual report and consolidated annual and publish these reports in a manner allowing for remote access; an annual report or consolidated annual report shall include audited financial statements or consolidated financial statements. The obligation to publish the annual report and consolidated annual report shall not apply to a special qualified investor fund. If the general meeting of the investment fund does not approve the financial statements or consolidated financial statements within the above-specified deadline or if a court makes a decision on invalidity of the general meeting, that approved the financial statements or consolidated financial statements, the investment company shall notify the Czech National Bank without undue delay of this fact and publish it in a manner allowing for remote access; in the notification, it shall also specify the manner of dealing with the comments of the general meeting.

(3) The provisions of paragraphs 1 and 2 above shall in no way prejudice the duties of a joint-stock company connected with publishing financial statements and annual reports pursuant to the special regulations.

(4) An investment company may pay a share of profit resulting from management of the assets in a unit trust to its unit-holders only after the ordinary financial statements of the unit trust are audited. An investment company may not pay advances on the yields from management of the assets in a unit trust.

(5) If a unit trust records a loss for an accounting period, the investment company, when approving the financial statements of the unit trust for the accounting period during which the loss was incurred, shall make a decision on the manner of payment of the loss from the resources of the unit trust.

(6) If an investment fund records a loss for an accounting period, when approving the financial statements for the accounting period during which the loss was incurred, the fund shall make a decision on the manner of payment of the loss from the resources of the investment fund.

Article 86

Semi-Annual Report of a Collective Investment Fund

A collective investment fund and an investment company shall be obliged to draw up and send to the Czech National Bank their semi-annual report in an electronic form and publish it in a manner allowing for remote access within 2 months of expiry of the first 6 months of an accounting period; the duty to draw up a semi-annual report shall not apply to a special qualified investor fund.

Article 87

Where this Act requires that the annual report or semi-annual report of a collective investment fund be drawn up, this report must be available to the shareholders or unit-holders at the registered office of the fund and must be sent to them at request without undue delay and free of charge.

Further Information

Article 88

(1) An open-end unit trust shall make public in a manner allowing for remote access

- a) at least once every 2 weeks, information on the current value of the equity capital of the collective investment fund and information on the current value of a unit certificate; in case of a special real estate fund or a special qualified investor fund that has set repurchase dates (Article 12 (2)), this information must be published at least one day before the date set for submitting a request for repurchase of unit certificates;
- b) for each calendar month, information on the number of unit certificates issued and repurchased and on the amounts for which the unit certificates were issued and repurchased;
- c) for each calendar month, information on the structure of the assets in the open-end unit trust as of the last day of the month.

(2) At least once every 2 weeks, an investment fund or closed-end unit trust shall publish in a manner allowing for remote access information on the current value of its equity capital and on the current value of a share or unit certificate and, at least once a month, information on the structure of the assets in the investment fund or close-ended unit trust.

(3) At request of a collective investment fund, the Czech National Bank may permit that information pursuant to paragraph (1) (a) and paragraph 2 above be published only once a month provided that this does not jeopardize the interests of the shareholders or unit-holders.

(4) The investment company or investment fund shall publish and send the information pursuant to paragraphs 1 and 2 above to the Czech National Bank without undue delay. Information about the facts stipulated in paragraphs 1 (a) and 2 shall be sent once a month; the information shall contain data relating to the last day of the relevant month.

*) Note: ASPI – Act No. 224/2006 Coll., Art. I (142) reads as follows:

“142. In Article 88 (4), the words “send to the Czech National Bank without undue delay” shall be replaced by the words “publish without undue delay and, simultaneously, send to the Czech National Bank”.”

(5) A special qualified investor fund need not publish the information pursuant to paragraphs 1 and 2 above if it provides it within the same scope to all its unit-holders or shareholders.

Article 89

An implementing regulation shall stipulate

- a) information contained in the annual report of a collective investment fund over and above the framework of a special regulation governing accounting;
- b) information contained in the semi-annual report of an investment company or collective investment fund;
- c) data contained in information pursuant to Article 88 (1) and (2);
- d) details on the structure of the reports referred to in subparagraphs a) to c) above;
- e) details on the form of reporting duties of an investment company and collective investment fund;
- f) the manner of publishing reports and information referred to in subparagraphs a) to c) above and the manner of sending them to the Czech National Bank.

Article 90

At request of an investor, a collective investment fund shall provide, together with the statute, additional information on the quantity limitations applicable in management of the risks connected with investment and on the trends in these risks and yield classified according to the individual types of assets.

Article 91

Notification to the Czech National Bank

(1) An investment company or investment fund shall notify the Czech National Bank without undue delay of every change

- a) in the facts on the basis of which a license to perform activities of an investment company, a license to perform activities of an investment fund or a license to establish a unit trust was issued; in case of amendment to the statute, the investment company or investment fund shall submit to the Czech National Bank the new consolidated version;
- b) that could significantly influence the value of a share or unit certificate of a collective investment fund; or
- c) that could lead to significant deterioration of the economic position of the investment company or investment fund.

(2) An investment company or investment fund shall be obliged to submit to the Czech National Bank, no later than within 1 month of the date of an ordinary general meeting, a list of persons that had a qualified holding in or that were closely interconnected with the investment company or investment fund in the previous year, in the form and manner set for the sending of the annual and half-yearly reports of an investment company or a collective investment fund.

(3) A collective investment fund shall notify the Czech National Bank without undue delay of exceeding the investment limit stipulated by this Act or of any other material violation of this Act or the statute of a collective investment fund.

(4) If the average value of equity in an open-end unit trust was less than CZK 50,000,000 during the preceding 6 calendar months, the investment company shall notify the Czech National Bank of this fact.

PART TEN

DISSOLUTION AND TRANSFORMATION OF AN INVESTMENT COMPANY OR INVESTMENT FUND AND DISSOLUTION OF A UNIT TRUST

TITLE I
DISSOLUTION AND TRANSFORMATION OF AN INVESTMENT COMPANY OR
INVESTMENT FUND

Section 1

Dissolution of an Investment Company or Investment Fund with Liquidation

Article 92

Dissolution through a Decision of the General Meeting

(1) If the general meeting makes a decision on the dissolution of an investment company or investment fund with liquidation, it shall simultaneously nominate a liquidator of the company. The decision to dissolve an investment company or investment fund with liquidation and the nomination of a liquidator of the company must be delivered to the Czech National Bank without undue delay.

(2) The nomination of a liquidator shall include information on the liquidator and enclosed shall be a counterpart of a notarial record of the resolution of the general meeting whereby the investment company or investment fund was dissolved with liquidation and the liquidator was nominated, and a document proving compliance with the requirements stipulated by this Act.

(3) The liquidator of an investment company or investment fund shall be appointed and recalled by the Czech National Bank.

(4) Without undue delay after receiving the nomination pursuant to paragraph 1 above, the Czech National Bank shall

a) appoint the liquidator, or

b) reject the nomination if the nominated liquidator does not meet the requirements stipulated by this Act (Article 134) or if it has justified reservations in relation to the nominated liquidator, and it shall simultaneously appoint a liquidator at its own instigation.

(5) A liquidator may resign from the office by means of a written notice of resignation which must be delivered to the Czech National Bank. The resignation from the office of liquidator shall come into effect on the date stated in the resignation, but not earlier than 30 days after the date of delivery of the notice to the Czech National Bank.

(6) The Czech National Bank shall recall a liquidator of an investment company or investment fund who has repeatedly or materially breached a legal regulation or ceased to meet the requirements stipulated for the discharge of the office of liquidator by this Act.

(7) If the liquidator of an investment company or investment fund resigns from his office, is recalled, deleted from the list of liquidators, or for any other reasons fails to discharge or is unable to discharge this office, the Czech National Bank shall appoint a new liquidator without undue delay.

(8) An appeal against a decision of the Czech National Bank on the appointment, rejection, or recalling of a liquidator shall not have a suspensory effect.

(9) The proposal for permitting registration of a liquidator in the Commercial Register and a proposal for deletion of a liquidator from the Commercial Register shall be submitted by the liquidator appointed by the Czech National Bank.

(10) The reimbursement of the cash expenditures of the liquidator of an investment company or investment fund and the remuneration of the liquidator shall be paid out of the assets of the investment company or investment fund; if the assets of the investment company or investment fund are insufficient to cover the reimbursement of the cash expenditures of the

liquidator and the remuneration of the liquidator, they shall be paid by the State. The manner of determining the reimbursement of the cash expenditures and remuneration of a liquidator, their maximum amount paid by the State, and the manner of their payment shall be stipulated by an implementing regulation.

(11) Third parties shall be obliged to provide collaboration to a liquidator appointed by the Czech National Bank within the scope in which they are obliged to provide such collaboration to an insolvency trustee pursuant to the special legal regulation.

Article 93

Dissolution by the Court

If a court makes the decision on the dissolution of an investment company or investment fund with liquidation, it shall appoint a liquidator on the basis of nomination by the Czech National Bank.

Article 94

Termination of an Investment Fund by Expiry of its Term

(1) At the latest 2 months prior to expiry of the term for which it was established, an investment fund shall deliver to the Czech National Bank a nomination of a liquidator approved by the general meeting of the company.

(2) The nomination of a liquidator shall include information on the liquidator and enclosed shall be a counterpart of a notarial record of the resolution of the general meeting that approved the nomination of the liquidator, and a document proving compliance with the requirements stipulated by this Act.

(3) The provisions of Article 92 (3) to (11) shall apply to an investment fund in relation to other matters.

Article 95

Joint Provision

If an investment company is dissolved with liquidation, its liquidator shall ensure the dissolution of the managed unit trusts and the payment of the interests to the unit-holders unless the Czech National Bank makes a decision to transfer the management thereof to another investment company.

Section 2

Transformation of an Investment Company or Investment Fund, and Transfer, Pledge or Lease of the Enterprise of an Investment Company or the Enterprise of an Investment Fund

Article 96

Transformation of an Investment Company or an Investment Fund

(1) A merger or division of an investment company or investment fund shall require a permission of the Czech National Bank.

(2) An application for a permission to merge or divide an investment company or investment fund shall contain information and documents required for the assessment of the reasons for the merger or division, and the protection of the interests of the investors. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(3) The Czech National Bank shall not permit

- a) a merger or division of an investment company or investment fund unless the protection of the interests of the unit-holders of a unit trust or the shareholders of the investment fund is ensured;
- b) a merger of an investment company with an entity that does not have a license to perform activities of an investment company; this shall not apply to a merger of an investment company that has a license to manage client assets with an investment firm whose exclusive object of business consists in the activity set out in Article 15 (3);
- c) a merger of an investment fund with an entity that does not have a license to perform activities of an investment fund, should the investment fund cease to exist as a result of the merger
- d) division of an investment company into entities that are not investment companies;
- e) division of an investment fund into entities that are not investment funds; or
- f) a merger of investment funds that have a considerably different manner of investment.

(4) A transfer of the corporate assets of an investment company or investment fund to their shareholders shall not be permissible.

(5) An investment fund that collects financial means from general public and ensures that the rate of the securities issued by it does not substantially differ in the regulated market from their current value may not be involved in a cross-border merger.

Article 97

A transfer of the enterprise or part of the enterprise of an investment company or investment fund, pledge of the enterprise or part of the enterprise of an investment company or investment fund, or lease of the enterprise or part of the enterprise of an investment company or investment fund shall not be permissible.

TITLE II

DISSOLUTION OF A UNIT TRUST

Article 98

General Provisions

(1) A unit trust shall be dissolved by

- a) revoking a licence to establish a unit trust;
- b) consolidation or merger of unit trusts;
- c) expiry of the term for which the unit trust was established unless a closed-end unit trust transforms into an open-end unit trust upon expiry of the term for which it was established (Article 13 (6)); or
- d) dissolution of the investment company with liquidation unless the Czech National Bank makes a decision to transfer the management of the unit trust to another investment company.

(2) An investment company shall be obliged to compile extraordinary financial statements of the unit trust pursuant to a special regulation governing accounting as of the date of dissolution of the unit trust.

Article 99

Dissolution of a Unit Trust with Liquidation

(1) If a unit trust is dissolved pursuant to Article 98 (1) (a), the investment company shall sell the assets in the unit trust and settle its claims and liabilities within 6 months of the date of legal force of the decision on revoking the license to establish a unit trust.

(2) If a unit trust is dissolved pursuant to Article 98 (1) (c), the investment company shall sell the assets in the unit trust and settle its claims and liabilities within 6 months of the date of expiry of the term for which the unit trust was established.

(3) If a unit trust is dissolved pursuant to Article 98 (1) (d), the liquidator of the investment company shall sell the assets in the unit trust and settle its claims and liabilities within 6 months of the date when the investment company enters into liquidation.

(4) Within 3 months of the date of settlement of the claims and liabilities following from management of the assets in the unit trust, the investment company shall pay to the unit-holders their interests and place the unpaid interests in court custody. If the fee associated with commencement of custody proceedings exceeds the amount of the deposited sum, the unpaid interests shall not be placed in court custody and the amount that has not been withdrawn shall devolve on the State.

(5) If a unit trust is dissolved pursuant to Article 98 (1) (a) or (c) and a decision has been issued on insolvency of the investment company, the insolvency trustee shall ensure the sale of the assets in the unit trust, the settlement of the claims and liabilities in connection with the management of the assets in the unit trust and the payment of the interests to the unit-holders; paragraphs 1 and 4 above shall apply analogously.

(6) For the activities pursuant to paragraph 5 above, the insolvency trustee shall be entitled to reimbursement of cash expenditures and remuneration, which shall constitute a receivable from the estate of the insolvent investment company; in the event that the estate is not sufficient to cover the payment of the reimbursement of the cash expenditures and remuneration, it shall be paid by the State. The manner of determining the reimbursement of the cash expenditures and remuneration of an insolvency trustee, their maximum amount paid by the State, and the manner of their payment shall be stipulated by an implementing regulation.

Article 100

Consolidation of Unit Trusts

(1) An investment company may make a decision on consolidation of the unit trusts managed by it into a single new unit trust. On the basis of agreement, it shall also be possible to consolidate unit trusts managed by different investment companies.

(2) Consolidation of unit trusts shall require a permission of the Czech National Bank.

(3) An application for a permission to consolidate unit trusts shall be lodged by the investment company that is to manage the unit trust created by the consolidation. The application shall include information and documents essential for the assessment of the reasons for consolidation and the protection of the interests of the unit-holders. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(4) The Czech National Bank shall not permit consolidation

- a) of an open-end unit trust with a closed-end unit trust;
- b) of a standard fund with a special fund if a special fund is to be created by the consolidation;
- c) of unit trusts with considerably different manners of investment; or
- d) if the interests of the unit-holders would be jeopardized by the consolidation;
- e) of a special qualified investor fund with a special collective investment fund that collects financial means from general public.

(5) The investment companies that manage the unit trusts that are to be terminated by the consolidation and their depositaries shall be the parties to the proceedings on consolidation of unit trusts.

(6) An investment company that manages a unit trust that is to be dissolved by consolidation shall publish, in a manner allowing for remote access, the decision of the Czech National Bank pursuant to paragraph 2 above and the statute of the unit trust that will be created by the consolidation, within 1 month of the date of the legal force of the decision. Simultaneously, it shall publish, in a manner allowing for remote access, a notice of the arising of the right to have unit certificates repurchased if a closed-end unit trust is being dissolved. By publishing this notice, the unit-holders of the consolidated unit trusts shall incur the right to have their unit certificates repurchased without a deduction. This right shall expire after 2 months. Article 12 shall apply to the procedure in repurchasing.

(7) The consolidated unit trusts shall be dissolved and their unit-holders shall become unit-holders of the newly established unit trust upon expiry of 3 months of the date of legal force of the decision of the Czech National Bank on permitting the consolidation.

(8) Within 3 months of the date of dissolution of the consolidated unit trusts, the investment company that manages the unit trust established by the consolidation shall be obliged to replace the unit certificates of the unit-holders of the dissolved unit trust with unit certificates of the newly created unit trust in the ratio determined according to the amount of the equity capital in the unit trust connected with a unit certificate of the dissolved unit trust as of the date of the dissolution thereof.

Article 101

Merger of Unit Trusts by Acquisition

(1) An investment company may make a decision on merger by acquisition amongst the unit trusts managed by it. The unit trust that is dissolved by the merger by acquisition shall be dissolved without liquidation and its assets shall become part of the successor unit trust. On the basis of agreement, it shall also be possible to merge by acquisition unit trusts managed by different investment companies.

(2) A merger of unit trusts by acquisition shall require a permission of the Czech National Bank.

(3) An application for a permission to merge unit trusts by acquisition shall be lodged by the investment company that manages the successor unit trust. The application shall include information and documents essential for the assessment of the reasons for the merger by acquisition and the protection of the interests of the unit-holders. The requisites of an application and schedules thereto shall be stipulated by an implementing regulation.

(4) The Czech National Bank shall not permit a merger by acquisition

- a) of an open-end unit trust with a closed-end unit trust;
- b) of a standard fund with a special fund if a special fund is to be created by the merger by acquisition;
- c) of unit trusts with considerably different manners of investment; or
- d) if the interests of the unit-holders would be jeopardized by the merger by acquisition;
- e) of a special qualified investor fund with a special collective investment fund that collects financial means from general public.

(5) The investment companies that manage the unit trusts that are merged and their depositaries shall be the parties to the proceedings on merger of unit trusts by acquisition.

(6) An investment company that manages a unit trust that terminates through merger by acquisition shall publish, in a manner allowing for remote access, the decision of the Czech

National Bank on permitting the merger by acquisition and the statute of the successor unit trust, within 1 month of the date of the legal force of the decision. Simultaneously, it shall publish, in a manner allowing for remote access, a notice of the arising of the right to have unit certificates repurchased if a closed-end unit trust is being dissolved. By publishing this notice, the unit-holders of the unit trust that is terminated through the merger by acquisition shall incur the right to have their unit certificates repurchased without a deduction. This right shall expire after 2 months. Article 12 shall apply to the procedure in repurchasing.

(7) The unit-holders of the unit trust that is terminated through the merger by acquisition shall become unit-holders of the successor unit trust upon expiry of 3 months of the date of legal force of the decision of the Czech National Bank on permitting the merger by acquisition.

(8) Within 3 months of the date of dissolution of the unit trust that is terminated through the merger by acquisition, the investment company that manages the successor unit trust shall be obliged to replace the unit certificates of the unit-holders of the unit trust that is terminated through the merger by acquisition with unit certificates of the successor unit trust in the ratio determined according to the amount of the equity capital connected with a unit certificate of the dissolved unit trust as of the date of dissolution thereof.

Article 101b

The Czech National Bank shall approve a change to the statute of an investment fund in connection with which the previous management contract shall expire only if the investment fund proves compliance with the prerequisites

a) pursuant to Article 64(1)(d), (e), (h) and (i) where no new management contract is concluded with another investment company, or

b) pursuant to Article 64a(1)(b) and (c) where a new management contract is concluded with another investment company.

TITLE III

CHANGE IN THE STATUTE

Article 101a

(1) Pursuant to Article 84a (4), the Czech National Bank may approve a change in the statute of a collective investment fund whereby the collective investment fund is transformed from

a) special securities fund into a standard fund or special funds fund;

a) special funds fund into a standard fund or special securities fund;

c) a closed-end unit trust into an open-end unit trust, in the case referred to in Article 13 (6) (hereinafter the “transformation”).

(2) A change in the statute whereby an open-end unit trust is transformed into a closed-end unit trust, an investment fund is transformed into an open-end unit trust or a closed-end unit trust, an open-end unit trust or a closed-end unit trust is transformed into an investment fund, a closed-end unit trust is transformed into an open-end unit trust, the type of fund is changed pursuant to Article 49 (1) or (2) or a standard fund is changed into a special fund shall not be permissible. A change in the statute whereby a special fund is changed into a standard fund shall not be permissible, subject to the exemption set out in paragraph 1 above.

(3) An application for permitting a change in the statute whereby a transformation is to be effected shall also be accompanied by substantiation of the proposed transformation, the

transformation project including evaluation of the impact of the transformation on the fund and interests of the unit-holders, and also the opinion of the depositary.

(4) If it cannot be reasonably anticipated that the affairs of the collective investment fund will be in conformity with the rules stipulated by this Act and the statute for the type of fund into which the collective investment fund is being transformed as of the date of the transformation, the collective investment fund shall stipulate, in the statute, transitory provisions including

- a) the duration of the transitional period; and
- b) exemptions from the rules for investment that are required during the transitional period for implementing the transformation in the best interests of all the unit-holders.

(5) In the permission whereby a change in the statute is approved, the Czech National Bank may impose further conditions on the collective investment fund, which the fund is obliged to fulfil in relation to the transformation.

(6) During the transitional period, the simplified statute must contain a warning regarding the existence of exemptions from the statute during the transitional period and their basic characteristics. From the date of lodging the application for approval of a change in the statute pursuant to paragraph 3 above, an investment company shall publish the information on the contemplated change and its consequences for the unit-holders, as regards their investments.

PART ELEVEN

SUPERVISION, REMEDIAL MEASURES, REVOKING OF LICENSE, MISDEMEANORS AND OTHER ADMINISTRATIVE TORTS

TITLE I

SUPERVISION

Article 102

Subject of Supervision

(1) The Czech National Bank shall perform supervision over compliance with this Act, the conditions stipulated in a decision issued pursuant to this Act, the statute of a collective investment fund, a management contract, a depositary contract and an agreement pursuant to Article 43 (2) or Article 58.

(2) The supervision by the Czech National Bank shall apply to

- a) investment companies;
- b) investment funds;
- c) the founders of an investment company or investment fund from the date of legal force of a decision on granting a license to perform activities of an investment company or a license to perform activities of an investment fund to the registration of the objects of business specified in the license in the Commercial Register;
- d) depositories to the extent of the duties imposed thereon by this Act;
- e) banks or a branches of foreign banks that have ceased to act as a depositary for a collective investment fund and on which this Act imposes a duty;
- f) liquidators of investment companies or investment funds;
- g) receivers of investment companies or investment funds;
- h) foreign investment companies during the provision services in the Czech Republic;
- i) foreign collective investment funds during public offering of securities in the Czech Republic;

j) banks or branches of foreign banks with which a foreign collective investment fund has concluded an agreement pursuant to Article 43 (2) or Article 58.

(3) Supervision by the Czech National Bank shall also apply to an entity that performs an activity for which this Act requires a license or consent without such license or consent, to the extent of such an activity.

(4) In the performance of supervision over the activities of an investment company in the host country, the Czech National Bank may

a) request that the supervisory authority of the host country carry out control of activities of the investment company performed in the territory of the host country, stating the extent of the requested control; or

b) carry out control in the host country after notifying the supervisory authority of the host country thereof.

(5) The Czech National Bank shall

a) at request of the supervisory authority of the home country of a foreign investment company or foreign standard fund, carry out control of activities of the investment company or standard fund in the Czech Republic to the extent specified in the request, or

b) on the basis of notification by a supervisory authority of the home country of a foreign investment company or foreign standard fund, allow the supervisory authority of the home country of the foreign investment company or foreign standard fund to carry out control of the foreign investment company or foreign standard fund either itself or through some other authorised entity.

TITLE II

REMEDIAL MEASURES AND REVOKING OF LICENSE

Article 103

(1) The Czech National Bank may impose on a person who is subject to supervision and that has violated this Act, the statute of a collective investment fund, a management contract, a depositary contract, an agreement pursuant to Article 43 (2) or Article 58, or a decision issued pursuant to this Act, or jeopardized the interests of shareholders or unit-holders, a measure for a remedy of the established shortcoming corresponding to the nature and gravity of the violation. The Czech National Bank may also

a) order an extraordinary audit of a collective investment fund at the expense of the investment company or investment fund;

b) order a change in the auditor;

c) order the suspension of issuing and repurchasing of shares and unit certificates of a collective investment fund;

d) order a change in the depositary;

e) introduce receivership; or

f) revoke a license granted pursuant to this Act.

(2) The Czech National Bank may change the scope of a licence granted to an investment company pursuant to this Act.

(3) The Czech National Bank may order that an investment fund must change the investment company.

(4) The Czech National Bank may decide on a forced transfer of management of a unit trust.

(5) A person on whom the Czech National Bank has imposed a remedial measure shall notify the Czech National Bank of removal of the shortcomings and the manner of providing for a remedy.

(6) The Czech National Bank shall prohibit a person or group of persons acting in concert, to whom it has granted consent to acquire an interest in an investment company or investment fund pursuant to Article 71 and who have ceased to meet the preconditions for granting the consent, from exercising the voting rights in the investment company or investment fund or otherwise exercise a substantial influence on the management thereof.

(7) Administrative proceedings on imposing a remedial measure for the established shortcomings may also be commenced by delivery of a decision on a preliminary injunction if there is a danger of delay or irreversible infringement on the rights of third parties.

Article 104

Ordering an Extraordinary Audit

(1) The Czech National Bank may make a decision on an extraordinary audit of a collective investment fund at the expense of the collective investment fund if

- a) it establishes material shortcomings in the audit of financial statements of the collective investment fund; or
- b) the auditor fails to perform his reporting duty pursuant to a special legal regulation governing the activities of auditors.

(2) A collective investment fund shall communicate to the Czech National Bank, within 30 days of the date of the decision on an extraordinary audit, information on the auditor who will carry out the audit. The auditor must be a person other than the auditor who performed the audit of the annual financial statements.

(3) The Czech National Bank may reject the auditor communicated to it by the investment company, and appoint a different auditor within 30 days of the date of communication of the information pursuant to paragraph 2 above.

Article 105

Ordering a Change in Investment Company

(1) The Czech National Bank may order that an investment fund must change its managing investment company if it establishes that the managing investment company has materially or repeatedly violated a duty stipulated by this Act or following from the management contract.

(2) The management contract shall expire 1 month after the legal force of the decision on ordering a change in the investment company.

(3) The investment fund shall be obliged to conclude a management contract with another investment company within the deadline pursuant to paragraph 2 above, unless it will manage its assets itself.

Article 106

Ordering a Change in Depositary

(1) The Czech National Bank may order that an investment company or investment fund must change its depositary if the depositary has materially or repeatedly violated this Act or the depositary contract or if receivership is introduced in the depositary.

(2) The obligation following from the depositary contract shall expire 1 month after the legal force of the decision on ordering a change in the depositary. The investment company or investment fund shall be obliged to conclude a depositary contract with another depositary within this deadline.

Article 107

Forced Transfer of Management of a Unit Trust

(1) The Czech National Bank may make a decision on transfer of management of a unit trust to another investment company if

- a) significant changes have occurred in the facts that are decisive for issuing a license to establish a unit trust; or
- b) it is revoking the license to perform activities of an investment company from the investment company.

(2) The consent of the investment company to which the management of a unit trust is to be transferred shall be required for a transfer of management of a unit trust pursuant to paragraph 1 above.

(3) The investment company to which the management of a unit trust has been transferred shall publish the amendment to the statute of the unit trust that pertains to the change in the investment company and the reasons for the forced transfer, within 30 days of the date of legal force of the decision pursuant to paragraph 1 above, in a manner allowing for remote access.

Receivership

Article 108

The Czech National Bank may impose receivership on an investment company or investment fund if

- a) the investment company or investment fund has repeatedly or materially violated this Act, the statute of the collective investment fund, the bylaws, or a condition or authorisation set out in a decision pursuant to this Act, and previous measures for a remedy of the established shortcomings or imposing of a fine have not led to a remedy; or
- b) the interests of the unit-holders or shareholders of the investment fund are jeopardized and there is a danger of delay.

Article 109

(1) The decision on imposing receivership on an investment company or investment fund shall include

- a) specification of and details on the receiver;
- b) the amount of remuneration of the receiver or the manner of determination thereof, and the date of maturity thereof;
- c) if appropriate, any limitations for the disposal of the assets of the collective investment fund or limitations for other activities of the investment company or investment fund.

(2) The proceedings on imposing receivership may also be commenced by issuing a decision on imposing receivership.

(3) A decision on imposing receivership shall be delivered to the company on which the receivership is imposed, and to the receiver. Receivership is imposed upon delivery of the decision to the receiver.

(4) The Czech National Bank shall publish the decision on introducing receivership in a manner allowing for remote access.

(5) The discharge of the offices of members of the board of directors of an investment company or investment fund shall be suspended upon the imposing of receivership on the investment company or investment fund; this shall not apply in case of an administrative action against a decision on imposing receivership pursuant to a special regulation governing administrative justice.

(6) The competence of the board of directors of an investment company or investment fund shall pass to the receiver upon the imposing of receivership; this shall not apply in case of an administrative action against a decision on imposing receivership.

(7) If the decision on imposing receivership limits the disposal of assets pursuant to paragraph 1 (c) above, this shall in no way prejudice the rights and obligations following from financial collateral 8a) pursuant to the special regulation 8b) or pursuant to a foreign legal regulation that has been provided by or to the investment company or investment fund. This shall also in no way prejudice the possibility of performing final settlement pursuant to the special legal regulation on capital market undertakings.8c)

(8) The receiver shall

a) take measures for a remedy of the established shortcomings in the activities of the investment company or investment fund without delay;

b) ensure the protection of the rights of the unit-holders or shareholders of the investment fund;

c) within 6 months of the date of imposing the receivership, convene the general meeting of the investment company or investment fund and

1. present it with a proposal for recalling of the current members from and election of new members to the bodies that are elected by the general meeting, and a proposal for measures for a remedy of the established shortcomings in the activities of the investment company or investment fund; or

2. propose dissolution of the company.

(9) The deadline for convening the general meeting pursuant to paragraph 7 (c) may be extended by the Czech National Bank, on the basis of a proposal of the receiver and for reasons deserving attention, up to a maximum of 1 year.

(10) With prior consent of the Czech National Bank, the receiver may

a) suspend issuing and repurchasing of unit certificates of a unit trust or shares of an investment fund; or

b) lodge an insolvency petition in relation to the assets of an investment company or assets of an investment fund if he establishes that it is insolvent.

(11) The reimbursement of the cash expenditures of the receiver of an investment company or investment fund and the remuneration of the receiver shall be paid out of the assets of the investment company or investment fund; if the assets of the investment company or investment fund are insufficient to cover the reimbursement of the cash expenditures of the receiver and the remuneration of the receiver, they shall be paid by the State. The manner of determining the reimbursement of the cash expenditures and remuneration of a receiver, their maximum amount paid by the State, and the manner of their payment shall be stipulated by an implementing regulation.

Article 110

(1) The discharge of the office of receiver shall expire upon

a) resignation of the receiver;

- b) removal of the receiver;
- c) termination of the receivership;
- d) deletion of the receiver from the list of liquidators and receivers; or
- b) death of the receiver.

(2) The receiver shall notify the Czech National Bank of his resignation from the office of receiver at least 30 days in advance.

(3) The Czech National Bank shall remove the receiver, particularly if he has materially or repeatedly violated his duty or ceased to meet the requirements for the discharge of this office stipulated by this Act.

(4) An appeal against the decision on removal of a receiver shall not have a suspensory effect.

(5) If the discharge of the office of receiver expires pursuant to paragraph 1 (a), (b), (d) and (e) above, the Czech National Bank shall appoint another receiver without undue delay.

Article 111

(1) Receivership shall expire

- a) on the date specified in the decision of the Czech National Bank on termination of the receivership;
- b) upon declaring of bankruptcy in relation to the assets of the company on which receivership was imposed; or
- c) upon appointment of a liquidator.

(2) Dissolution of an investment company that is subject to receivership or of an investment fund that is subject to receivership with liquidation, on which a decision is made by the general meeting of the company, shall require prior consent of the Czech National Bank.

(3) An investment company that is subject to receivership or an investment fund that is subject to receivership shall be dissolved with liquidation as of the date of appointment of a liquidator.

Article 112

(1) The following information shall be registered in the Commercial Register:

- a) the date of imposing receivership;
- b) details on the receiver; details on the new receiver shall also be registered if another receiver has been appointed;
- c) any limitations for the disposal of the assets of the collective investment fund or limitations for other activities of the investment company or investment fund;
- d) the date of termination of receivership.

(2) The receiver shall lodge a proposal for permitting registration of the imposing of receivership, appointment of a receiver, and limitations for the disposal of the assets of a collective investment fund or the limitations for other activities of an investment company or investment fund in the Commercial Register without delay after the delivery of the decision on imposing receivership.

(3) An investment company or investment fund shall lodge a proposal for permitting registration of the termination of receivership in the Commercial Register without delay after termination of the receivership; if the company fails to do so, the proposal for permitting the

registration shall be lodged by the board of directors of the company whose receivership is terminated.

(4) The newly appointed receiver shall lodge a proposal for permitting registration of deleting the current receiver and registration of a new receiver without delay after delivery of the decision on his appointment.

Article 113

Change in the Scope of License

(1) The Czech National Bank may revoke a license of an investment company to perform an individual activity if it establishes

- a) material violation of a law in the performance of this activity; or
- b) material or repeated non-compliance with the preconditions under which the license was granted.

(2) The Czech National Bank shall change the scope of a license pursuant to paragraph 1 above or change the scope of a license at request by issuing a new decision on cancelling the former license and specifying the new scope of the licensed activities.

(3) The Czech National Bank shall change the scope of a license of a foreign special fund for offering of securities in the Czech Republic at its request by issuing a new decision on cancelling the former license and specifying the new scope of the licensed activities.

Article 114

Revoking of License or Consent

(1) The Czech National Bank shall revoke a license for activities of an investment company or a license for activities of an investment fund if a decision has been issued on insolvency of the investment company or investment fund or if an insolvency petition has been dismissed because the assets of the investment company or investment fund would not suffice to pay the costs of the insolvency proceedings.

(2) The Czech National Bank may revoke a license for activities of an investment company or a license for activities of an investment fund if

- a) a remedial measure or a penalty has not led to a remedy;
- b) this is required in the interest of the protection of investors;
- c) further receivership in an investment company or investment fund cannot satisfy the objective thereof;
- d) a license to perform activities of an investment company or a license to perform activities of an investment fund was issued on the basis of false or incomplete information;
- e) significant changes have occurred in the facts decisive for issuing a license to perform activities of an investment company or a license to perform activities of an investment fund;
- f) an investment company or investment fund fails to comply with the provisions on capital adequacy;
- g) an investment company or investment fund fails to commence the collection of financial means within 12 months from the date of granting a license to perform activities of an investment company or a license to perform activities of an investment fund;
- h) an investment company or investment fund does not perform collective investment for a period exceeding than 6 months; or

i) an investment fund fails to fulfil the duties stipulated in Article 64 (4) or the Czech National Bank has not granted its consent to commence collection of financial means from general public pursuant to Article 64 (4), if such consent is required.

(3) If an investment company manages the assets in a unit trust, the Czech National Bank shall also decide, in the decision on revoking of a license to perform activities of an investment company, on revoking a license to establish a unit trust or on a transfer of management of the unit trust to another investment company. When making a decision on a transfer of management of a unit trust, the Czech National Bank shall take into consideration an agreement, if any, between the investment company whose license to perform activities of an investment company is being revoked and the investment company that agrees with taking over management of the unit trust.

(4) If a person whose license to perform activities of an investment company has been revoked manages client assets and, as the case may be, also performs an activity pursuant to Article 15 (4) (a), this person shall be obliged to settle his claims and liabilities following from the provided investment services without delay.

(5) A person whose license to perform activities of an investment company has been revoked shall be considered to be an investment company until

- a) the payment of the interests to the unit-holders of dissolved unit trusts or the transfer of management of the unit trusts to another investment company; and
- b) the settlement of claims and liabilities following from the provided investment services, if he provides such services.

(6) The Czech National Bank shall also revoke a license to perform activities of an investment fund if

- a) the equity capital of the fund did not attain the amount of CZK 50,000,000 within 1 year of the date of granting a license to perform activities of an investment fund; or
- b) an investment fund does not have a depositary for a period exceeding 3 months.

(7) The Czech National Bank may revoke a license to perform activities of an investment fund that is a special qualified investor fund if it violates the provisions on the permitted number of shareholders (Article 56 (3)).

(8) A person whose license to perform activities of an investment fund has been revoked shall be dissolved with liquidation and the liquidator shall be appointed by the Czech National Bank; Article 92 (3) and (5) to (11) shall apply analogously. A person whose license to perform activities of an investment fund has been revoked shall be considered to be an investment fund until it is deleted from the Commercial Register.

(9) The Czech National Bank may revoke consent granted pursuant to this Act in case of a significant change in the facts on the basis of which the consent was granted.

Article 115

Revoking of Licence to Establish a Unit Trust

(1) The Czech National Bank shall revoke a license of an investment company to establish a unit trust if

- a) the equity capital of the unit trust did not attain the amount of CZK 50,000,000 within 1 year of the date of granting a license to establish a unit trust; or
- b) the unit trust does not have a depositary for a period exceeding 3 months;
- c) the unit trust does not amend its statutes so as to comply with this Act within 1 year of its coming into effect.

(2) The Czech National Bank may revoke a license of an investment company to establish a unit trust if

- a) the average amount of the equity capital in the unit trust has been less than CZK 50,000,000 during the previous 6 calendar months; or
- b) it does not consider the measures pursuant to Article 12 (7) adequate;
- c) a special qualified investor fund violates the provisions on the permitted number of unit-holders (Article 56 (3)).

Article 116

Supervision over a Foreign Person with Registered Office in another Member State of the European Union

(1) A foreign investment company that has its registered office in another Member State of the European Union and provides services in the Czech Republic and that fails to fulfil the reporting duties or rules of conduct in relation to the clients pursuant to this Act shall be notified of this fact by the Czech National Bank.

(2) If a person pursuant to paragraph 1 above fails to provide for a remedy, the Czech National Bank shall notify the supervisory authority of the home country of this fact.

(3) If the measures adopted in relation to a person pursuant to paragraph 1 above by the supervisory authority of the home country have not led to a remedy, after notifying the supervisory authority of the home country, the Czech National Bank may impose a remedial measure pursuant to Article 103 or penalty pursuant to Article 122.

(4) If the interests of the investors could be jeopardized, the Czech National Bank may impose a remedial measure on a person pursuant to paragraph 1 above without the prior notice. The Czech National Bank shall notify the Commission of the European Communities and the competent supervisory authorities of the Member States of the European Union without undue delay of the imposing of a remedial measure. If the Commission of the European Communities decides, after consulting the competent supervisory authorities of the Member States of the European Union, that the remedial measure imposed should be changed or cancelled, the Czech National Bank shall be bound by this decision.

(5) A person pursuant to paragraph 1 above whose license for collective investment has been revoked by the supervisory authority of the home country may not provide services in the Czech Republic and must settle its liabilities to the investors without delay. The Czech National Bank shall publish this fact in a manner allowing for remote access.

(6) Instead of the procedure pursuant to paragraphs 1 to 4 above, the Czech National Bank may impose a remedial measure pursuant to Article 103 or a penalty pursuant to Article 122 on a foreign person pursuant to paragraph 1 above who fails to comply with its duties pursuant to this Act.

(7) The Czech National Bank may impose a remedial measure pursuant to Article 103 on a foreign standard fund that publicly offers its securities in the Czech Republic for breach of the duties stipulated by this Act.

Article 117

Supervision over a Special Fund that Publicly Offers its Securities in the Czech Republic

(1) The Czech National Bank may impose, on a foreign special fund that publicly offers its securities in the Czech Republic, for breach of a duty stipulated by this Act or for violation of a condition stipulated in the license to publicly offer securities in the Czech Republic, a measure for a remedy of the established shortcomings; the Czech National Bank shall notify the

competent supervisory authority of the country where the foreign special fund has its registered office, without undue delay, of the imposed remedial measure.

(2) If the supervisory authority of the country where the foreign special fund has its registered office revokes this fund's license for collective investment, the Czech National Bank shall also revoke the fund's license to publicly offer securities in the Czech Republic.

Article 118

Supervision over an Investment Company that Provides Services in another Member State of the European Union

On the basis of notification by the supervisory authority of the host country, the Czech National Bank may impose a remedial measure pursuant to this Act on an investment company that provides services in the host country and has violated a legal regulation of that country; the Czech National Bank shall notify the supervisory authority of the host country without undue delay of the imposed remedial measure.

TITLE III

ADMINISTRATIVE TORTS

Article 119

Administrative Torts of an Investment Company

(1) An investment company commits an administrative tort by

- a) violating the objects of business specified in the license (Article 60 (6));
- b) failing to properly keep records of investment instruments (Article 9);
- c) violating the conditions for issuing unit certificates (Article 11 or Article 13 (3) and (4));
- d) breaching an obligation in repurchasing a unit certificate of an open-end unit trust or an obligation in suspending the repurchasing of unit certificates of an open-end unit trust (Article 12);
- e) issuing bonds (Article 14 (5));
- f) violating the accounting rules (Article 16);
- g) violating the rules for determining the remuneration for management of assets in a collective investment fund (Article 18),
- h) breaching the reporting duties (Articles 19, 57, 83 to 91);
- i) breaching the duties in case of expiry of the depositary contract (Article 20 (8));
- j) breaching the duties towards the depositary (Article 22);
- k) breaching the duty to provide notification (Article 36 (1), (4) or (6), or Article 37 (1), (5) or (6)),
- l) violating the provisions of Article 37 (4) or Article 56 (2);
- m) breaching the duty to notify the Czech National Bank of its intention to publicly offer shares or unit certificates of special funds managed by it abroad (Article 50);
- n) changing the depositary of a unit trust without the prior approval by the Czech National Bank (Article 66 (6));
- o) violating the rules for public offering of securities issued by a collective investment fund (Articles 79 to 81);

- p) violating the rules for valuation of the assets and liabilities of a collective investment fund (Article 82);
- q) violating the rules for determining the value of assets (Articles 53e and 53f);
- r) breaching a duty in dissolution of a unit trust with liquidation (Article 99), consolidation of unit trusts (Article 100), or merger of unit trusts by acquisition (Article 101);
- s) lodging a proposal for registration of a merger or division of the company in the Commercial Register without the permission of the Czech National Bank (Article 96 (1));
- t) violating the rules of conduct of an investment company (Articles 74 to 78) unless this constitutes illegal conduct pursuant to subparagraph w) or x);
- u) failing to comply with the composition of assets or the rules for spreading and limiting the risk connected with investment by a standard fund (Articles 26 to 35) or special fund (Articles 49a, 49b, 51, 52, 53, 53a, 53b, 53d, 53i, 53j and 55);
- v) violating the rules of conduct in management of the assets of a collective investment fund (Article 75 (1)) or the statute of a collective investment fund (Article 84a (6));
- w) breaching the obligations set out in Article 76 in management of client assets (Article 15 (3));
- x) failing to perform a remedial measure (Article 103);
- y) failing to fulfil the duties related to members of an expert committee (Article 53f (6) and (7));
or
- z) failing to fulfil the duties following from the simplified statute during the transitional period (Article 101a (6)).
- za) confirming competence of a senior officer of an investment fund that has concluded a management contract without examining compliance with the conditions for the grant of the consent before the consent was granted or without withdrawing the consent although it has learned about facts which justify such withdrawal.

(2) A fine shall be imposed for an administrative tort of an investment company in an amount up to

- a) CZK 10,000,000 in case of an administrative tort pursuant to paragraph 1 (a) to (p), (r) to (t), (y) or za) above;
- b) CZK 20,000,000 in case of an administrative tort pursuant to paragraph 1 (q) or (u) to (x) above.

Article 120

Administrative Torts of an Investment Fund

(1) An investment fund commits an administrative tort by

- a) violating the objects of business specified in the license (Article 64 (4));
- b) violating the provisions of Article 5 (2), (3), (5) or (6), Article 20 (8), Article 22, Article 56 (3), Articles 79 to 82, or Article 96 (1);
- c) breaching the reporting duties (Articles 83 to 91);
- d) changing the depositary without the prior approval by the Czech National Bank (Article 64 (2));
- e) violating the rules of conduct of an investment fund (Article 74 and Article 75 (1) (a) and (c) and (2) to (4)) or the statute of an investment fund (Article 84a (7));
- f) failing to comply with the composition of assets or rules for spreading and limiting the risk connected with the investment by a special fund (Articles 49a, 49b, 51, 52 and 55);

- g) violating the rules of conduct (Article 75 (1) (b));
- h) failing to perform a remedial measure (Article 103); or
- i) breaching the duty to notify the Czech National Bank of its intention to publicly offer its shares abroad (Article 50).

(2) A fine shall be imposed for an administrative tort of an investment fund in an amount up to

- a) CZK 10,000,000 in case of an administrative tort pursuant to paragraph 1 (a) to (e) or (i) above;
- b) CZK 20,000,000 in case of an administrative tort pursuant to paragraph 1 (f) to (h) above.

Article 121

Administrative Torts of a Depository and Bank or a Foreign Bank with a Branch in the Territory of the Czech Republic That Have Ceased to Perform Activities of a Depository

(1) A fine of up to CZK 10,000,000 shall be imposed on a depository that

- a) fails to notify the Czech National Bank and the collective investment fund of expiry of obligations under a depository contract (Article 20 (7));
- b) violates the rules for activities of a depository (Article 21);
- c) violates the rules of conduct of a depository (Article 23); or
- d) fails to perform a remedial measure (Article 103);

(2) A fine of up to CZK 10,000,000 shall be imposed on a bank or a branch of a foreign bank that has ceased to act as a depository for a collective investment fund and fails to perform the duty pursuant to Article 20 (9) and (10).

Article 122

Administrative Torts of a Foreign Investment Company and a Foreign Collective Investment Fund

(1) A fine of up to CZK 10,000,000 shall be imposed on a foreign investment company that provides services in the Czech Republic and that

- a) breaches the reporting duties (Article 41); or
- b) fails to comply with the rules of conduct in relation to clients or with a measure adopted in public interest.

(2) A fine of up to CZK 10,000,000 shall be imposed on a foreign standard fund that publicly offers securities in the Czech Republic and that

- a) materially breaches the reporting duties (Article 45);
- b) violates the rules for public offering of securities (Articles 43, 44, 46 or 81a); or
- c) fails to perform a remedial measure (Article 103).

(3) A fine of up to CZK 10,000,000 shall be imposed on a foreign special fund that publicly offers securities in the Czech Republic and that

- a) violates the rules for public offering of securities (Articles 58 (1), (5) or (7), Article 81a);
- b) breaches the reporting duties (Article 58 (6), Article 59); or
- c) fails to perform a remedial measure (Article 103).

Article 123

Administrative Torts of a Bank or a Foreign Bank with a Branch in the Territory of the Czech Republic and That Has Concluded an Agreement with a Foreign Collective Investment Fund

A fine of up to CZK 5,000,000 shall be imposed on a bank or a foreign bank with a branch in the territory of the Czech Republic that has concluded an agreement with a foreign collective investment fund (Article 43 (2) and Article 58 (1) (a)) and that materially breaches the provisions of the agreement.

Article 124

Other Administrative Torts

A fine of up to CZK 5,000,000 shall be imposed on a legal entity or a natural person operating a business that

- a) performs activities that are subject to a license pursuant to Article 6 (4) or Article 14 (2) without a license or breaches a prohibition pursuant to Article 2a (1) and (2);
- b) publicly offers securities of a foreign special fund for whose public offering the issuer does not have a license (Article 58) or securities of a foreign standard fund that has failed to meet the requirements stipulated in Article 43;
- c) uses the designation “investment fund”, “unit trust”, or “investment company” without authorisation;
- d) fails to perform the duty to request approval of an interest in an investment company or investment fund pursuant to Article 71 (1) or the duty to notify the acquisition of an interest in an investment company or investment fund pursuant to Article 71 (8), or fails to notify the cessation of an interest pursuant to Article 71 (9); or
- e) publicly offers securities issued by a collective investment fund in the territory of the Czech Republic without authorisation.

Misdemeanours

Article 125

- (1) A receiver of an investment company or investment fund commits a misdemeanour by
- a) proceeding at variance with this Act or a decision on imposing receivership; or
 - b) failing to request the prior consent of the Czech National Bank to his decision (Article 109 (8) and (9)).

(2) A fine of up to CZK 5,000,000 may be imposed for a misdemeanour pursuant to paragraph 1 above.

Article 126

(1) A liquidator in an investment company commits a misdemeanour by breaching the duty pursuant to Article 75 (3) or failing to fulfil the duty pursuant to Article 95.

(2) A fine of up to CZK 5,000,000 may be imposed for a misdemeanour pursuant to paragraph 1 above.

Article 127

(1) A natural person commits a misdemeanour by

- a) performing activities that are subject to a license pursuant to this Act (Article 6 (4), Article 14 (2)) without a license;
- b) publicly offering securities of a foreign special fund for whose public offering the issuer does not have a license (Article 58) or securities of a foreign standard fund that has failed to meet the requirements stipulated in Article 43;
- c) using the designation “investment fund”, “unit trust”, or “investment company” without authorisation;
- d) failing to perform the duty to request approval of an interest in an investment company or investment fund pursuant to Article 71 (1) or the duty to notify the acquisition of an interest in an investment company or investment fund pursuant to Article 71 (8), or fails to notify the cessation of an interest pursuant to Article 71 (9);
- e) discharging the office of senior officer 3) of an investment company or investment fund or head of an organisational unit of a foreign special fund while failing to meet the precondition of incompatibility of offices (Article 58 (4) and Article 73) or not having prior consent of the Czech National Bank to the discharge of this office (Article 58 (4) and Article 72) or without a prior consent of the managing investment company (Article 72 (4));
- f) stating false information or concealing a fact in the basic documents required for an application for prior consent to the discharge of the office of senior officer 3) or head of an organisational unit of a foreign special fund;
- g) breaching, as a senior officer 3) of an investment company or investment fund, the duty pursuant to Article 75 (3) or, as a member of the expert committee, the duty pursuant to Article 53f (3); or
- h) breaching the confidentiality duty pursuant to Article 133.

(2) A fine of up to CZK 5,000,000 may be imposed for a misdemeanour pursuant to paragraph 1 above.

(3) Where this Act refers to real estate, it shall mean real estate including its appurtenances.

Article 128

Administrative Torts in Provision of Investment Services Abroad

(1) A fine of up to CZK 10,000,000 shall be imposed on the basis of a notification by the supervisory authority of the host country on an investment company that violates the rules for public offering of securities or the reporting duties imposed by the supervisory authority of the host country in providing services in the host country.

(2) The Czech National Bank shall notify the supervisory authority of the host country without undue delay of a fine imposed pursuant to paragraph 1 above.

Article 129

Joint Provisions

(1) A legal entity shall not be liable for an administrative tort if it demonstrates that it used all efforts that could be requested to prevent the breach of the legal duty.

(2) The gravity of the administrative tort and, in particular, the manner of committing thereof and its consequences, and the circumstances under which it was committed, shall be taken into account in determining the amount of the fine imposed on a legal entity.

(3) The liability of a legal entity for an administrative tort shall expire if the Czech National Bank fails to commence proceedings thereon within 1 year of the date when the Czech National Bank learnt of the tort and, at the latest, 5 years after the date of committing thereof.

(4) Administrative torts pursuant to this Act shall be discussed by the Czech National Bank.

(5) The provisions of the Act on liability and punishment of legal entity shall apply to liability for an administrative tort committed within business activities of a natural person or in direct relation thereto.

(6) The revenues from fines imposed on investment firms pursuant to this Act shall be an income for the Guarantee Fund of Investment Firms; for the purpose of administration of their payment, these revenues shall be regarded as public budget funds 8b). The revenues from other fines imposed pursuant to this Act shall be an income for the State budget.

TITLE IV

COOPERATION OF THE CZECH NATIONAL BANK WITH SUPERVISORY AUTHORITIES OF OTHER MEMBER STATES OF THE EUROPEAN UNION

Article 130

(1) The Czech National Bank shall notify the supervisory authorities of Member States of the European Union where an investment company provides its services, without undue delay, of revoking a license to perform activities of an investment company or of imposing any significant penalty on the investment company.

(2) The Czech National Bank shall notify the supervisory authorities of Member States of the European Union where an investment company publicly offers unit certificates of a standard fund, without undue delay, of revoking a license to establish the unit trust, of suspending issuing and repurchasing of unit certificates, or of imposing any significant penalty on the unit trust.

PART TWELVE

JOINT, TRANSITORY AND FINAL PROVISIONS

TITLE I

JOINT PROVISIONS

Article 131

(1) Any reference in this Act to a Member State of the European Union shall include reference to other countries within the European Economic Area.

(2) Where this Act refers, in Articles 26 to 35 or in Articles 49 to 55, to a collective investment fund, standard fund, special fund, investment fund or unit trust, this shall also include analogous foreign persons.

(3) Where this Act refers to real estate, it shall mean real estate including its appurtenances.

Article 132

Publication of Information

(1) Where this Act requires information to be published in the territory of the Czech Republic, such information shall be published in the Czech language.

(2) Where this Act requires information to be published in a manner allowing remote access, this information must be published for at least 3 years.

Article 133

Confidentiality

(1) A person who is or has been a senior officer 3) of an investment company, investment fund, or depositary of a collective investment fund, liquidator, receiver, insolvency trustee or employee of an investment company, investment fund or depositary of a collective investment fund, shall be obliged to maintain confidentiality of business matters that pertain to the interests of the investment company or investment fund or the shareholders or unit-holders of the collective investment fund.

(2) The persons pursuant to paragraph 1 above shall be relieved of the duty to maintain confidentiality for the purposes of

- a) civil court proceedings;
- b) administrative court proceedings;
- c) criminal proceedings;
- d) administration of taxes and fees;
- e) supervision over the financial market;
- f) provision of information to the Ministry in performance of duties pursuant to a special legal regulation on combating legalisation of proceeds of crime or a special legal regulation on implementing international sanctions with the aim of maintaining international peace and security, protection of human rights and fight against terrorism;
- g) the banking information system of the Czech National Bank pursuant to a special legal regulation that regulates the activities of the Czech National Bank;
- h) the balance of payments of the Czech Republic drawn up by the Czech National Bank;
- i) distress proceedings;
- j) insolvency proceedings;
- k) provision of information to the Security Intelligence Service in the performance of duties pursuant to the special regulation governing the activities of the Security Intelligence Service.

(3) The duty to maintain confidentiality shall survive the termination of activities of persons set out in paragraph 1 above.

Article 134

Liquidator and Receiver

A liquidator or receiver of an investment company or investment fund may only be a person entered in the list of liquidators and receivers kept by the Czech National Bank pursuant to a special regulation governing capital market undertakings

- a) whose interests are not in conflict with the interests of the investors of the investment company or investment fund;
- b) who is not interconnected with the investment company or investment fund through personnel or property; or
- c) who has not been involved in an audit of the investment company or investment fund during the last 3 years.

Article 135

Relation to Legal Regulations

(1) Unless this Act stipulates otherwise, the proceedings pursuant to this Act shall be governed by general regulations on administrative proceedings.

(2) Unless this Act stipulates otherwise, the legal relationships of an investment company and investment fund shall be governed by the Commercial Code.

(3) Unless this Act stipulates otherwise, investment companies and investment funds shall proceed pursuant to the Act on Accounting.

TITLE II

TRANSITORY AND CONCLUDING PROVISIONS

Article 136

(1) An investment company pursuant to Act No 248/1992 Coll., on investment companies and investment funds, as amended by Act No. 61/1996 Coll., Act No. 151/1996, Act No. 15/1998 Coll., Act No. 124/1998 Coll., Act No. 362/2000 Coll., Act No. 308/2002 Coll. and Act No. 438/2003 Coll. (hereinafter the “former law”) shall be considered to be an investment company pursuant to this Act.

(2) A license to establish an investment company pursuant to the former law shall be a license to perform activities of an investment company to the following extent:

a) activities pursuant to Article 5a (1) (a) of the former law shall be activities pursuant to Article 14 of this Act, and shall also include activities pursuant to Article 15 (2) and (3) of this Act in relation to a unit trust;

b) activities pursuant to Article 5a (1) (a) of the former law shall be activities pursuant to Article 14 of this Act, and shall also include activities pursuant to Article 15 (2) and (3) of this Act in relation to a unit trust;

c) activities pursuant to Article 5a (1) (c) of the former law shall be activities pursuant to Article 15 (4) of this Act.

(3) An investment fund pursuant to the former law, whose transformation to an open-end unit trust pursuant to Articles 35j to 35l of the former law has not yet been completed, shall be considered to be a special securities fund until the transformation is completed.

(4) An open-end unit trust pursuant to the former law shall be an open-end unit trust falling within the category of special securities funds pursuant to this Act. The investment company shall bring the statute of the open-end unit trust into conformity with this Act within 1 year of the effect of this Act.

(5) A closed-end unit trust pursuant to the former law shall be an closed-end unit trust falling within the category of special securities funds pursuant to this Act. The investment company shall bring the statute of the closed-end unit trust into conformity with this Act within 1 year of the effect of this Act.

(6) A foreign entity that has a license pursuant to Article 35n of the former law shall be an entity that has a license pursuant to Article 58 of this Act.

7) A member of the board of directors of an investment company or investment fund approved by the Commission pursuant to the former law shall be a senior officer 3) approved pursuant to this Act.

(8) An investment company pursuant to the former law shall bring its conditions and the conditions of the managed collective investment fund into conformity with this Act by June 30,

2005. Until an investment company brings its conditions and the conditions of the managed collective investment fund into conformity with this Act, it may not provide services in Member States of the European Union.

(9) An investment fund pursuant to the former law shall bring its conditions into conformity with this Act by June 30, 2005.

(10) A senior officer 3) on whom this Act imposes the duty to have the prior consent of the Commission to discharge his office, shall be obliged to apply to the Commission for this consent within 6 months of the date of effect of this Act; if the Commission does not grant the consent, the authorisation to discharge the office shall expire.

(11) A controlling agreement or an agreement on the transfer of profit whose party is an investment fund pursuant to the former law shall expire as of December 31, 2004.

(12) A foreign collective investment fund that publicly offers securities in the territory of the Czech Republic shall bring its conditions into conformity with this Act by the date of legal force of the Treaty of Accession of the Czech Republic to the European Union.

(13) If, prior to the legal force of this Act, the Commission has made a decision on the basis of Act No. 284/1992 Coll., on revoking a licence to act as an investment fund and on the granting of a licence to issue unit certificates for the purpose of creating an open-end unit trust (Article 35j of Act No. 248/1992 Coll.) and this decision has come into legal force, and the investment fund has not been deleted the Companies Register or the transformation from an investment fund to an open-end unit trust pursuant to the former legal regulations 9) has not become effective by the date of effect of this Act, the effects of the transformation of an investment fund to an open-end unit trust shall occur on the date of delivery of the court decision permitting the deletion to the investment fund. On this date, the former shareholders of the investment fund shall become unit-holders of the open-end unit trust and the assets of the investment fund that may be the assets of the unit trust shall pass to the unit-holders of the open-end unit trust and become their joint property. The unit-holders of the open-end unit trust that was created by transformation from an investment fund pursuant to the previous sentence shall not be liable for any possible obligations of the investment fund that had not been settled by the date of transformation from the investment fund into the open-end unit trust or for any obligations of the investment fund that had arisen prior to this transformation and may appear in the future. Liability for these obligations shall be borne by the investment company that manages the transformed open-end unit trust and the investment company may use the assets of the relevant fund to pay these obligations. After the decision of the court permitting deletion of the investment fund from the Commercial Register comes into legal force, this decision may not be cancelled nor may the resolution of the general meeting that approved the transformation of the investment fund to the open-end unit trust be declared invalid. Proceedings on invalidity of the decision of the general meeting may be continued after the court decision permitting deletion of the investment fund from the Commercial Register comes into legal force only if the subject of the proceedings is changed to proceedings on indemnification pursuant to paragraph 14.

(14) A unit-holder of an open-end unit trust that was created by transformation of an investment fund shall have the right to indemnification for any damage that he incurs as a result of breach of duties associated with the transformation of an investment fund to an open-end unit trust vis-à-vis the investment company that manages the assets of the open-end unit trust and vis-à-vis the members of the board of directors and the supervisory board of the investment fund that breached their legal duties in connection with the transformation. The court decision whereby the unit-holder is granted the right to indemnification shall also be binding with respect to other unit-holders as regards the substance of the granted right. The right to indemnification shall become time-barred 5 years from the date of deletion of the investment fund from the Commercial Register.

(15) The provisions of paragraphs 13 and 14 shall also apply in cases where, prior to the effect of this Act, a court decision permitting deletion had been delivered to the investment fund in relation to the transformation to an open-end unit trust; if the investment fund has already

been deleted from the Commercial Register, the period of limitation for exercising the right to indemnification pursuant to paragraph 14 above shall commence on the date of deletion.

(16) If an investment company or investment fund had incurred the duty to transform a closed-end unit trust or investment fund into an open-end unit trust pursuant to Article 35i of Act No. 248/1992 Coll. before this Act came into effect and, by the date of effect of this Act, the investment company or general meeting of the investment fund had not made a decision on this transformation, the investment company or investment fund must make all acts required for the transformation to an open-end unit trust without undue delay after this Act comes into effect. The provisions of Article 35h of Act No. 248/1992 Coll. shall apply to transformation of a closed-end unit trust to an open-end unit trust and the provisions of paragraphs 13 and 14 and the provisions of Article 35j (1) to (7) and (9) of Act No. 248/1992 Coll. shall apply analogously to transformation of an investment fund to an open-end unit trust.

(17) If an investment company or investment fund fails to fulfil its duty pursuant to paragraph 16 above, the Commission shall revoke the licence granted to the investment company or investment fund pursuant to the former law. If an investment fund cannot fulfil the duty pursuant to paragraph 16 above, although the general meeting of the investment fund has made a decision on its transformation to an open-end unit trust and the Commission has made a decision on permitting the transformation pursuant to Article 35j (3) of Act No. 248/1992 Coll., the board of directors of the investment fund may apply to the Commission for extension of the deadline for transformation; for serious reasons, this application may be lodged repeatedly. On the basis of this application, the Commission may appropriately extend the deadline for transformation.

Article 137

(1) Proceedings on imposing a remedial measure or proceedings on imposing a penalty that were commenced pursuant to the former law shall be completed pursuant to the former law where the remedial measure or penalty shall be imposed pursuant to this Act. Other proceedings commenced pursuant to the former law shall be completed pursuant to this Act.

(2) Violation of the former law, statute, depositary contract, management contract or conditions stipulated in a license issued pursuant to a former regulation that had occurred before this Act came into effect shall be judged pursuant to the former law.

Article 138

(1) By June 1, 2004, the Commission shall publish in the Journal of the Commission

- a) a list of the regulated markets 3) of Member States of the European Union that are licensed by the competent supervisory authority of a Member State of the European Union;
- b) a list of the categories of bonds, specifying the categories of banks of Member States of the European Union, in which a standard fund may invest pursuant to Article 28 (2) (c).

(2) As of the date of effect of this Act, the Commission shall notify the Commission of the European Communities of the supervisory authority competent to perform State supervision pursuant to this Act.

(3) As of the date of effect of this Act, the Commission shall deliver to the Commission of the European Communities a list of categories of bonds, specifying the categories of banks in the Czech Republic, in which a standard fund may invest pursuant to Article 28 (2) (c) and the details on the manner of covering the liabilities of the issuer connected with the issue of such bonds.

Article 139

Authorisation

The Czech National Bank shall stipulate in a decree

- a) the manner of determining the fair value of assets and liabilities of a collective investment fund and the manner of determining the current value of a share or a unit certificate of a collective investment fund pursuant to Article 82 (4);
- b) the minimum requisites of a statute and the mandatory requisites of a simplified statute and details on the character of changes in the statute that are not subject to prior approval by the Czech National Bank pursuant to Article 84a (5) and (6);
- c) the details of fulfilment of the duties of a depositary and cases where these activities may be performed by some other person;
- d) the conduct of an investment company or investment fund that may be a reason for the depositary not executing an instruction;
- e) the types, limits and manner of use of the techniques and instruments that a special fund collecting financial means from general public may use for efficient management of its assets, the procedure for the evaluation of the risk rate connected with investment and the manner of fulfilment of the reporting duty concerning the types of financial derivatives that have not been admitted to trading in markets set out in Article 26 (1) (a) and that are owned by the fund, the risks that are connected therewith and the quantity limitations and methods selected for the assessment of the risks connected with the operations using those financial derivatives, pursuant to Article 49b (7);
- f) information contained in the annual report of an investment company or a collective investment fund over and above the framework of the special legal regulation governing accounting; information contained in a semi-annual report of an investment company or a collective investment fund; data contained in the information pursuant to Article 88 (1) and (2); information provided on its activities in the territory of the Czech Republic by a foreign standard fund and a foreign special fund; the manner of publishing these reports and the manner of sending thereof to the Czech National Bank; details on the structure of these reports and details on the form of reporting duties of an investment company and a collective investment fund;
- g) the manner of application of the limits stipulated for spreading and limiting the risk connected with investments by a special funds fund in securities issued by a collective investment fund to a collective investment fund whose assets are divided to several sub-funds pursuant to Article 55 (5);
- h) the manner of compliance with the rules of prudent operation of business and the internal organisational rules of an investment company or investment fund that has not concluded a management contract, and the manner of implementation thereof pursuant to Article 74 (3);
- i) the requisites and schedules of an application pursuant to Article 58 (3), Article 61, Article 63 (2), Article 65, Article 66 (3), Article 67 (2), Article 68 (2), Article 71 (4), Article 72 (2), Article 96 (2), Article 100 (3) and Article 101 (3), including the rules for the case where the requirement for submitting a schedule to an application or its translation may be waived;
- j) the manner of determining remuneration of a liquidator, insolvency trustee and receiver, reimbursement of their cash expenditures, their maximum amount paid by the State and the manner of their payment (Article 92 (10), Article 99 (6) and Article 109 (10));
- k) types, limits, manner of use and qualitative requirements for techniques and instruments that a standard fund may use for effective management of the assets, the procedure for assessing the level of risk associated with investment and the manner of fulfilling the reporting duty regarding the types of financial derivatives not accepted for trading on markets specified in Article 26(1)(a) that a standard fund has in its assets, regarding the related risks, regarding the quantitative limitations and methods selected for the assessment of risks associated with operations using these financial derivatives, and qualitative requirements for an investment

security or a money market instruments containing a derivative in which a standard fund may invest, pursuant to Article 27 (8);

l) qualitative requirements for investment securities and money market instruments in which a standard fund may invest pursuant to Article 26 (3);

m) qualitative requirements for conditions under which a standard fund replicates the composition of the index of shares or bonds recognised by the Czech National Bank pursuant to Article 28 (11).

Article 140

Repealing Provisions

The following shall be repealed:

1. Act No. 248/1992 Coll., on investment companies and investment funds;
2. Act No. 151/1996 Coll., amending and supplementing Act No. 248/1992 Coll., on investment company and investment fund, as amended;
3. Act No. 124/1998 Coll., amending and supplementing Act No. 248/1992 Coll., on investment company and investment fund, as amended;
4. Decree No. 207/1998 Coll., on the calculation of the value of securities included in the assets of a unit trust or investment fund;
5. Decree No. 177/1998 Coll., amending Decree No. 207/1998 Coll., on the calculation of the value of securities included in the assets of a unit trust or investment fund;
6. Decree No. 362/2001 Coll., stipulating detailed rules for determination and payment of the remuneration for the performance of the office of receiver and liquidator of an investment company or investment fund.

Article 141

Effect

This Act shall enter into effect on the date when the Treaty of Accession of the Czech Republic to the European Union comes into legal force.

Zaorálek, signed

Klaus, signed

Špidla, signed

Selected provisions of amendments

Art. XXXIV of Act No. 57/2006 Coll.

Transitory Provisions

Decrees issued by the Commission on the basis of Act No. 189/2004 Coll., on collective investment, as amended by the date of effect of this Act, shall be considered to be Decrees issued by the Czech National Bank on the basis of Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act. Where these Decrees refer to the Commission, this shall mean the Czech National Bank and where these Decrees refer to supervision (*dozor*) or State supervision, this shall mean supervision (*dohled*).

Transitory Provisions

1. Collective investment funds that have a license issued prior to the date of effect of this Act shall be obliged, at the latest 6 months from the date of effect of this Act, to bring their conditions into conformity with Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act.

2. An investment fund or investment company that has been granted a license pursuant to Act No. 248/1992 Coll., on investment companies and investment funds, as amended, and that meets the condition of collection of financial means from a limited scope of persons pursuant to Article 49 (1) of Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act, may be transformed, on the basis of a change in the statute, to a special qualified investor fund, where the application for approval of the change in the statute must be submitted to the Czech National Bank within 6 months of the date of effect of this Act. Article 101a of Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act, shall apply to the transformation analogously.

3. Transformation of collective investment funds pursuant to Act No. 248/1992 Coll., on investment companies and investment funds, as amended, shall not constitute a transformation pursuant to Article 101a of Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act.

4. An investment company that has been granted a license to perform activities pursuant to Article 5a (1) (c) of Act No. 248/1992 Coll., on investment companies and investment funds, as amended by Act No. 151/1996 Coll., and Act No. 124/1998 Coll., may also perform, from the date of effect of this Act, the activity pursuant to Article 15 (3) of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act.

5. A foreign standard fund established in the home state by February 13, 2002 which has established new sub-funds not adapted to the requirements of the law of the European Communities in the period from February 13, 2002 and that fails to adapt the sub-funds to the requirements of the law of the European Communities by December 31, 2005, shall lose the authorisation to publicly offer securities of its sub-funds in the territory of the Czech Republic pursuant to Article 43 of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act, and may continue this activity only if it obtains a license of the Czech National Bank for public offering of securities of a foreign special fund pursuant to Article 58 of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act.

6. A foreign standard fund established in the home state in the period from February 13, 2002 to February 13, 2004 which fails to adapt to the requirements of the law of the European Communities by December 31, 2005, shall lose the authorisation to publicly offer its securities of in the territory of the Czech Republic pursuant to Article 43 of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act, and may continue this activity only if it obtains a license of the Czech National Bank for public offering of securities of a foreign special fund pursuant to Article 58 of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act.

7. A foreign standard fund established in the home state by February 13, 2002 which fails to adapt to the requirements of the law of the European Communities by February 13, 2007, shall lose the authorisation to publicly offer securities of in the territory of the Czech Republic pursuant to Article 43 of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act, and may continue this activity only if it obtains a license of the Czech National Bank for public offering of securities of a foreign special fund

pursuant to Article 58 of Act No. 189/2004 Coll., on collective investment, in the wording effective by the date of effect of this Act.

Art. VIII of Act No. 230/2008 Coll.

Transitory Provisions

An investment company shall bring its conditions and the conditions of the collective investment fund managed by it into conformity with Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act, at the latest within 5 months of the date of effect of this Act. Until that time, it shall comply with the rules of activities and management of an investment company stipulated in Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act, analogously.

Art. IX of Act No. 230/2009 Coll.

Transitory Provision

An investment company shall bring investment policies of collective investment funds managed by it into conformity with Act No. 189/2004 Coll., on collective investment, in the wording effective as of the date of effect of this Act, at the latest within 6 months of the date of effect of this Act.

1) Council Directive 85/611/EC of 20 December 1985 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), as amended by Council Directive 88/220/EES, Directive 95/26/EC of the European Parliament and of the Council, Directive 2000/64/EC of the European Parliament and of the Council, Directive 2001/107/EC of the European Parliament and of the Council, Directive 2001/108/EC of the European Parliament and of the Council, Directive 2004/39/EC of the European Parliament and of the Council, Directive 2005/1/EC of the European Parliament and of the Council, and Directive 2008/18/EC of the European Parliament and of the Council.

Commission Directive 2007/16/EC of 19 March 2007, implementing Council Directive 85/611/EEC on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS) as regards the clarification of certain definitions.

2) Article 5 of Directive 85/611/EEC, as amended by Directive 2001/108/EC of the European Parliament and of the Council.

2a) Act No. 21/1992 Coll., on banks, as amended. Act No. 87/1995 Coll., on savings and credit cooperatives and certain measures connected therewith and on supplementation of Czech National Council Act No. 586/1992 Coll., on income taxes, as amended.

2b) Act No. 42/1994 Coll., on supplementary pension insurance with State contribution and on amendment to some laws related to its implementation, as amended.

2c) Act No. 363/1999 Coll., on insurance companies and amending some related laws (Insurance Companies Act), as amended.

2d) Act No. 227/1997 Coll., on foundations and endowment funds and amending and supplementing some related laws (the Foundations and Endowment Funds Act), as amended.

2e) Act No. 117/2001 Coll., on public collections and on amendment to some laws (Act on Public Collections).

- 2f) Act No. 202/1990 Coll., on lotteries and other similar games, as amended.
- 3) Act on Capital Market Undertakings.
- 4) Decree No. 603/2006 Coll., on the reporting duty of a collective investment fund and an investment company.
- 5) Articles 32a to 32d of Act No. 256/2004 Coll., on capital market undertakings, as amended.
- 6) Act on Capital Market Undertakings.
- 8) Directive 2002/47/EC of the European Parliament and of the Council of 6 June 2002 on financial collateral arrangements.
- 8b) The Commercial Code.
- 8c) Act No. 256/2004 Coll., on capital market undertakings, as amended by Act No. 635/2004 Coll.
- 8d) Article 2 (2) of Act No. 280/2009 Coll., the Tax Code.
- 9) Article 35j (10) of Act No. 248/1992 Coll., on investment companies and investment funds, as amended.