

## CONSOLIDATED VERSION

### DECREE 247/2013 Coll. of 24 July 2013

#### **on applications pursuant to the Act on Management Companies and Investment Funds**

The Czech National Bank stipulates pursuant to Article 297(4), Article 314(6), Article 316(6), Article 318(6), Article 319(6), Article 320(3), Article 322(5), Article 324(4), Article 325(6), Article 454(1) and (2), and Article 532 of Act No. 240/2013 Coll., on Management Companies and Investment Funds, the following:

as amended by Decree No. 344/2014 Coll.

**as amended by Decree No. 201/2020 Coll.**

### PART ONE

#### GENERAL PROVISIONS

##### Article 1

#### Subject of regulation

(1) This Decree, in addition to the general essential elements pursuant to the Code of Administrative Procedure, stipulates the essential elements of an application, its form and the manner of lodging.

(2) In the area of management, performance of administration and related activities, the Decree regulates applications for

- a) an authorisation to perform the activities of a management company, of an autonomous investment fund and of a foreign entity pursuant to Article 481 of the Act on Management Companies and Investment Funds (hereinafter the “Act”), and to perform the activities of a primary administrator;
- b) a change in an authorisation to perform the activities of a management company or of an investment fund pursuant to Article 647 of the Act;
- c) a subsequent authorisation to perform activities corresponding to investment services;
- d) a consent to the conduct of business pursuant to other legal regulations; and
- e) a consent to the performance of duties pursuant to Article 515 of the Act.

(3) In the area of qualified holdings and control, the Decree regulates applications for

- a) a consent to the acquisition of or increase in a qualified holding in a management company, in an autonomous investment fund or in a primary administrator, or a consent to control such entities; and
- b) a consent to the acquisition of or increase in a qualified holding by a management company authorised to manage a collective investment fund in another legal entity

(4) In the area of investment funds, the Decree regulates applications for

- a) a consent to a change of the manager of a standard fund, of the depository of a standard fund and in the statute of a standard fund;
- b) an entry in the lists maintained by the Czech National Bank, and changes in the information contained in such lists;
- c) a consent to each material change in the notification of the marketing of investments in another Member State;

- d) the determination of comparability of a foreign investment fund with a special fund; and
- e) an authorisation for the purposes of designation of a unit trust and a trust fund.

(5) In respect of transformations and termination of activities, the Decree regulates applications for

- a) a permit for the transformation of a management company, a primary administrator and an investment fund;
- b) the revocation of an authorisation to perform the activities of a management company, an autonomous investment fund, a foreign entity pursuant to Article 481 of the Act and of a primary administrator, and the revocation of an authorisation to perform the activities of a management company or an investment fund pursuant to Article 646(1) of the Act; and
- c) the appointment of a liquidator of a management company.

## Article 2

### Definition of terms

For the purposes of this Decree, the following definitions shall apply:

- a) *document on a business licence* means a full extract, or some other document, from the register of entrepreneurs or from another register pursuant to some other legal regulation<sup>1)</sup>, or from similar registers abroad, containing data valid at the time of lodging an application, including information on a motion for registration in the relevant register that has been filed, but not yet executed as of the date of lodging an application;
- b) *document for an assessment of trustworthiness* means an affidavit of a person which containing personal data for the purposes of obtaining an extract from the Criminal Register and information on the professional and entrepreneurial integrity of the person in the last ten years and which relates in particular to
  1. a final decision on the imposition of a sanction for an administrative offence, or a comparable foreign final decision relating to the performance of employment, the position, or the business activity of such person,
  2. a final decision on insolvency or dismissal of an insolvency petition due to lack of assets,
  3. a decision on the suspension or withdrawal of an authorisation to perform business or other activities, unless it is on the basis of an application by the person holding such an authorisation,
  4. a refusal by a court or an administrative authority to grant a consent to the election, nomination or appointment to a position, or a consent to the acquisition of a qualified holding, or a consent to control an entity, if such a consent is required; and
  5. a decision on expulsion from a professional association or chamber;
- c) *document on having no criminal record issued by a foreign country* means a document similar to an extract from the Criminal Register<sup>2)</sup>, not more than 3 months old, issued by the foreign country
  1. of which the natural person is a national, as well as by the foreign country where the natural person (has) resided for a period of more than 6 consecutive months during the last 3 years; or
  2. where the legal entity has or during the last 3 years had its registered office, as well as by the foreign country where the legal entity has or during the last 3 years had

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<sup>1)</sup> For instance, Act No. 455/1991 Coll., on Trade and Entrepreneurial Activities (the Trades Act), as amended; Act No. 111/2009 Coll., on Basic Registers, as amended.

<sup>2)</sup> Act No. 269/1994 Coll., on the Criminal Register, as amended.

- a **branch**, if the laws of this country provide for criminal liability of legal entities;
- d) *financial statements* mean
1. the annual reports and financial statements either for the last 3 accounting periods or for the period during which the applicant has been carrying on business, if the latter period is shorter than 3 accounting periods; if the applicant is part of a consolidated group, the consolidated annual reports and financial statements for the same period shall also be submitted; if, pursuant to some other legal regulation on accounting<sup>3)</sup>, the financial statements must be verified by an auditor, the audited financial statements shall be submitted; and
  2. documents on the income earned for the last 3 years and summary information on assets and liabilities, provided that a natural person is concerned;
- e) *identification data* means
1. the first name(s), surname, date of birth, residence address or, as the case may be, registered office address (if different from the residence address) and identification number (if assigned), provided that a natural person is concerned;
  2. the firm or corporate name, registered office address and identification number (if assigned), provided that a legal entity is concerned; and
  3. the name or designation, provided that a unit trust or a trust fund is concerned;
- f) *information on closely related persons*<sup>4)</sup> means
1. **identification data of each closely related person; if a closely related person is a person having its registered office in another Member State, also information on whether this person is authorised by the supervisory authority of another Member State to operate as a regulated entity on the financial market or is the controlling entity of such an entity and, if a closely related person is a person having its registered office in a country that is not a Member State, an attestation that the laws of that country and the manner of their application, including their enforceability, do not impede the conduct of effective supervision of the company being authorised;**
  2. **a description of the structure of the group and the manner of relatedness, including a graphic representation of relations between the individual closely related persons, indicating their line of business; and**
  3. **if a closely related person is a legal entity, identification data of the 10 largest partners according to their share of voting rights, or of all partners if the legal entity comprises fewer than 10 shareholders, and information on their share of voting rights, expressed as a percentage;**
- g) *regulated entity on the financial market* means a legal entity that has its registered office in a Member State and that performs the activities of a bank, an investment firm, a management company, a pension management company, an insurance company, a reinsurance company, a payment institution, an electronic money institution or some other activities on the financial market that are subject to supervision by the competent authority of the Member State;
- h) *strategic plan* means the plan of an applicant who applies for a consent to the acquisition of or increase in a qualified holding in a legal entity, or for a consent to control the same, as regards
1. the period for which the qualified holding is to be held or controlled;
  2. estimated changes in the extent of the qualified holding in the short term and in the long term;
  3. the estimated degree of involvement in the strategic management of the legal entity;

<sup>3)</sup> Act No. 563/1991 Coll., on Accounting, as amended.

<sup>4)</sup> Article 624 of Act No. 240/2013 Coll., on Management Companies and Investment Funds.

4. any potential support for the legal entity using the applicant's own additional funds, if necessary for the development of activities or for the maintenance of operations;
  5. agreements with other partners or members of the legal entity; and
  6. the estimated development of the activities of the legal entity with respect to the existing business plan, and also the profit distribution and/or loss settlement policy, including the dividend policy, the manner of financing the further development of the legal entity, the management and control system, and any potential personnel changes and changes in the strategic development of the legal entity, if the qualified holding exceeds 20 % of the registered capital or voting rights of the legal entity or if the legal entity is to be controlled;
- i) *information on professional experience* means
1. information on the type of professional experience;
  2. an identification of the entity where the professional experience has been or was obtained;
  3. the designation of the working assignment and, if the experience is relevant to activities on the financial market, also a description of the activities performed, including the extent of powers and responsibilities;
  4. a specification of the period of time during which the activities pursuant to subparagraph 3 above have been or were performed; and
  5. a consent to the performance of the working assignment required pursuant to other legal regulations, if such a consent was necessary;
- j) *information on education* means
1. the name and category or type of educational institution, the learning programme and its focus (field of study), the learning programme's duration, the manner and date of the learning programme's completion and any academic degrees obtained; and
  2. a summary of training courses, short-term attachments and learning stays relevant to activities on the financial market, including their year of completion, focus, duration and any academic degrees obtained;
- k) ***document relating to the acquisition of or increase in a qualified holding* means a declaration by a person whether**
1. **the person owns or acquires the holding in own name and on own account;**
  2. **the person exercises or is to exercise voting rights in favour of a third party;**
  3. **the person has transferred or intends to transfer the exercise of voting rights to another person under an agreement already entered into or some other arrangement;**
  4. **there is or is to be a fact on the basis of which the person is or is to become a controlled entity;**
  5. **the person acts in concert with another person to which the exercise of voting rights has been transferred or who is to exercise significant influence over the management; and**
  6. **the person has liabilities exceeding 5% of the equity capital or assets of the entity acquiring or increasing the qualified holding; the same shall apply mutatis mutandis to sureties, guarantees and other liabilities from which such liabilities may arise.**

## PART TWO

### APPLICATION FOR AN AUTHORISATION TO PERFORM ACTIVITIES, FOR A CONSENT TO A CHANGE IN AN AUTHORISATION TO PERFORM ACTIVITIES PURSUANT TO ARTICLE 647 OF THE ACT, FOR A CONSENT TO THE

**PERFORMANCE OF OTHER BUSINESS ACTIVITIES, AND FOR A CONSENT TO  
THE PERFORMANCE OF DUTIES PURSUANT TO ARTICLE 515 OF THE ACT**

**Management company**  
(Article 479(1) and (2) of the Act)

Article 3

(1) The essential elements of an application for an authorisation to perform the activities of a management company shall include

- a) the applicant's identification data;
- b) information on the amount of the applicant's initial capital and registered capital, and on the placement of the capital;
- c) the scope of activities pursuant to Article 485(1)(b) to (e) of the Act in respect of which the applicant applies for the authorisation;
- d) a specification of whether the applicant applies for an authorisation to exceed the assets under management threshold;
- e) a specification of the day as of which the authorisation to manage pursuant to Article 13(1) of the Act or, as the case may be, the authorisation to administer pursuant to Article 43(1) of the Act (if the applicant intends to perform administration) is to come into existence; and
- f) annexes pursuant to paragraphs 2 to 6 below or, as the case may be, also pursuant to Article 4 hereof, if the applicant intends to perform activities corresponding to investment services.

(2) Annexes containing basic information on the applicant shall include

- a) the memorandum of association<sup>5)</sup> to the extent set out by legislation;
- b) documents on the origin of the initial capital, including the registered capital or, as the case may be, of other financial resources of the applicant; and
- c) provided that an already existing legal entity pursuant to Article 15(1) of the Act is concerned, also
  1. a document on a business licence;
  2. the applicant's financial statements;
  3. a list of proposals to declare any resolutions of a general meeting invalid, where the court proceedings have not been concluded through a final decision by the date of lodging the application, if any such proposals have been raised;
  4. a document for an assessment of the applicant's trustworthiness and a document on the applicant's having no criminal record issued by a foreign country; and
  5. detailed information on the circumstances in which the assets under management threshold was exceeded, including a calculation of the value of the assets managed or administered pursuant to Article 16 of the Act, with a specification of the day as at which the exceeding of the assets under management threshold was ascertained; **and**
- d) information on closely related persons.**

(3) Annexes containing information on the applicant's senior officers<sup>4)</sup> and on persons performing duties pursuant to Article 21(5) of the Act shall include

- a) a list of senior officers and of persons performing duties pursuant to Article 21(5) of the Act, including their identification data and a specification of the position that they are to perform and of the powers and responsibilities associated with the relevant position; for

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<sup>5)</sup> Article 629 of Act No. 240/2013 Coll.

- a person that is to actually manage the applicant in a different manner, the applicant shall also specify the fact on the basis of which the person is to actually manage the applicant;
- b) for each of the persons specified in subparagraph a) above
1. a document for an assessment of trustworthiness;
  2. a professional curriculum vitae, containing information on education and information on professional experience;
  3. a document on having no criminal record issued by a foreign country;
  4. an affidavit of legal capacity;
  5. **a summary of positions in elected bodies and positions in other legal entities to which that person was appointed or otherwise named in the last 10 years and, for each of those legal entities, identification data, their line of business, the designation of the position and the term of the performance of the duties, and also a specification as to whether a senior officer or a person pursuant to Article 21(5) of the Act intends to perform the given position in that legal entity concurrently with the position of a senior officer of the applicant or a person pursuant to Article 21/5 of the Act and whether this position is that of an executive or non-executive member;**
  6. **a description of financial and personnel relations between a senior officer and the applicant and the other senior officers of the applicant, the controlling entity of the applicant and the entity controlled by the applicant, and between the senior officers of those entities if they are legal entities, and the shareholders or members with a qualified holding in the applicant; and**
  7. **the proposed position of that person in the organisational structure of the applicant and a brief description of the performance of duties in terms of the powers and responsibilities entrusted.**

(4) Annexes containing information on persons with a qualified holding,<sup>4)</sup> on persons that are to acquire a qualified holding in the applicant through acting in concert with another person and on the controlling entity shall include

- a) **a list of persons with a qualified holding in the applicant and of persons who are to acquire a qualified holding in the applicant through acting in concert with another person, and of the controlling entity, and a graphic representation of relations between those persons; for persons acting in concert also a specification of the fact on the basis of which they act in concert and, if the applicant is to become controlled, a description of the fact on the basis of which a person becomes the entity controlling the applicant;**
- b) for each of the persons specified in subparagraph a) above
1. **identification data;**
  2. **information on the share of registered capital or share of voting rights expressed as a percentage and information on the amount of the contribution (hereinafter “information on the share”), or a description of some other form of exercising significant influence over the applicant’s management, including specifying whether an interest is acquired directly or indirectly; in the case of an indirect holding, identifying the person through which the interest is to be acquired;**
  3. **if a person specified in subparagraph a) above is a legal entity, identification data of the 10 largest shareholders according to their share of voting rights, or of all the shareholders if the entity has fewer than 10 shareholders, and information on their shares;**
  4. **a business licence certificate;**

5. financial statements and other documents attesting to the origin of the financial resources from which the acquisition of a qualified holding was or is to be financed, unless previously stated in an annex pursuant to subparagraph b) of paragraph 2 above;
  6. assessment of trustworthiness documents and a document on having no criminal record issued by a foreign country;
  7. a document relating to the acquisition of or increase in a qualified holding;
  8. a strategic plan relating to the acquisition of or increase in a qualified holding;
  9. a summary of legal entities, of which a person pursuant to subparagraph a) above is the controlling entity or over the management of which it exercises significant influence, and identification data for each of those legal entities, their line of business and information on their shares, or a description of some other form of exercising significant influence over the management of that legal entity;
  10. a summary of positions held in elected bodies and of positions in other legal entities, to which a person pursuant to subparagraph a) above was appointed or otherwise named in the last 10 years, and identification data for each of those legal entities, their line of business and the designation of the position held in that legal entity and the term of the performance of the duties; and
  11. a description of financial and personnel relations between this person and the applicant and, if applicable, the members of the group to which the applicant belongs, the applicant's senior officers and the applicant's other shareholders;
- c) a list of persons who are members of a statutory body or other persons with similar competence that actually manage the activities of a legal entity pursuant to subparagraph a) above, and for each of these persons
1. identification data;
  2. a description of the position held in the legal entity's organisational structure;
  3. assessment of trustworthiness documents and a document on having no criminal record issued by a foreign country;
  4. a summary of positions currently held in elected bodies and positions in other legal entities, to which the person was appointed or otherwise named and identification data for each of those legal entities, their line of business and the designation of the position which the senior officer performs in that legal entity; and
  5. a description of financial and personnel relations between that person and the applicant and the applicant's senior officers, and shareholders with a qualified holding in the applicant, unless this information has previously been stated in an annex pursuant to item 11 of subparagraph b) above;
- d) if a person pursuant to subparagraph a) above is a regulated entity on the financial market, the supervisory authority supervising it in the country in which that person has its registered office shall be specified;
- e) if a person pursuant to subparagraph a) above has its registered office in a country that is not a Member State;
1. basic information on the system of regulation to which the person referred to subparagraph a) above is subject to in the country where this person has its registered office and information on whether and the extent to which the regulation of anti-money laundering and combating the financing of terrorism complies with the recommendations issued by the Financial Action Task Force (FATF); and

2. **if a person pursuant to subparagraph a) above is a person whose line of business is similar to the business of a regulated entity on the financial market, the opinion of the competent authority which supervises it regarding the person's intention to hold an ownership interest in the business activities of the management company in the Czech Republic in respect of which authorisation is being applied for, and on the possible exchange of information necessary for the supervision of the management company in respect of which an authorisation is being applied for.**

(5) Annexes containing information on the activities of a management company shall include

- a) the applicant's business plan<sup>6)</sup> for the first 3 accounting periods of activities to the extent of the data that is to be contained in financial statements pursuant to some other legal regulation<sup>3)</sup>, along with comments on the individual items of the business plan, always containing the fundamental assumptions that the business plan is based on, and a description of the manner of ensuring that the activities are performed to the planned extent, including the focus of the investment strategy of the investment funds and of the foreign investment funds that the applicant intends to manage;
- b) a draft agreement on the performance of administration, if the applicant is not to perform the administration of an investment fund or of a foreign investment fund itself, including identification data of the administrator, unless contained in the draft agreement;
- c) the applicant's draft internal regulations containing, in particular,
  1. the management and control system<sup>7)</sup>;
  2. rules of conduct in performing activities and in providing other services<sup>8)</sup>; and
  3. rules for and the extent of making information and data accessible to investors<sup>9)</sup>;
- d) if the applicant intends to entrust a third party with the performance of activities, the applicant shall also specify the identification data of such a third party and enclose a draft agreement on its entrusting with the performance of activities **and draft procedures for entrusting third parties with the performance of some activities, which include the management or administration of an investment fund, and for inspecting the activities of the entrusted persons;**
- e) documents attesting to compliance with the requirements pursuant to the directly applicable regulation of the European Union governing European venture capital funds<sup>10)</sup>, if the applicant intends to manage qualified venture capital funds pursuant to Article 3(b) of the said regulation or comparable foreign investment funds; and
- f) documents attesting to compliance with the requirements pursuant to the directly applicable regulation of the European Union governing European social entrepreneurship funds<sup>11)</sup>, if the applicant intends to manage qualified social entrepreneurship funds pursuant to Article 3(b) of the said regulation or comparable foreign investment funds.

(6) Annexes containing information on the personnel and organisational preconditions for the performance of activities shall include

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<sup>6)</sup> Article 479(1)(d) of Act No. 240/2013 Coll.

<sup>7)</sup> Article 20 of Act No. 240/2013 Coll.

<sup>8)</sup> Article 22(2)(a) to (i) of Act No. 240/2013 Coll.

<sup>9)</sup> Article 241(1) or Article 293 of Act No. 240/2013 Coll.

<sup>10)</sup> Article 14 of the Regulation (EU) No. 345/2013 of the European Parliament and of the Council of 17 April 2013 on European venture capital funds.

<sup>11)</sup> Article 15 of the Regulation (EU) No 346/2013 of the European Parliament and of the Council of 17 April 2013 on European social entrepreneurship funds.



- a) a list of persons who will ensure, as heads of organisational departments or as independent persons,
  - 1. the performance of the activities of a management company consisting in the management of investment funds or foreign investment funds;
  - 2. the performance of the activities of a management company consisting in the performance of administration;
  - 3. the compliance function;
  - 4. the management of risks; and
  - 5. the performance of internal audit;
- b) a curriculum vitae of each of the persons specified in the list pursuant to subparagraph a) above, containing information on education and information on professional experience; and
- c) the proposed manner of processing and keeping records of information, communication with owners of securities and dematerialized securities issued by investment funds or by foreign investment funds, of keeping accounts and economic records, of keeping other records pursuant to the decree stipulating the details of certain rules according to the Act on Management Companies and Investment Funds, and the proposed method of technical support for the performance of activities.

#### Article 4

If the applicant intends to perform activities corresponding to investment services pursuant to Article 11(1)(c) to (f) of the Act, annexes to the application shall also include

- a) the applicant's intention in the field of performance of such activities, and the scope of such activities in respect of the individual types of investment instruments;
- b) information on whether and what activities pursuant to Article 11(1)(c) to (f) of the Act the applicant intends to perform for a third party;
- c) rules for the preparation of investment strategies in managing client assets, possibilities for changing investment strategies, and opportunities for clients to affect such strategies;
- d) a description of the substantive, organisational and personnel measures aimed to ensure such activities;
- e) a list of persons who will ensure the performance of such activities as heads of organisational departments or as independent persons;
- f) a curriculum vitae of each of the persons specified in the list pursuant to subparagraph e) above, containing information on education and information on professional experience; and
- g) rules for the internal control and management of risks in respect of the performance of such activities.

#### Article 5

**A person with a qualified holding in the applicant that is a regulated entity on the financial market may submit, instead of the documents specified in Article 3(4)(b) item 6 and Article 3(4)(c) item 3 above, a confirmation issued by the supervisory authority of the country in which it has its registered office to the effect that this authority supervises this person whose trustworthiness it has verified and that it has no recent findings indicating its untrustworthiness.**

#### Article 6

In the case of an application for an authorisation to perform the activities of a management company which only intends to manage qualified venture capital funds pursuant to Article 3(b) of the directly applicable regulation of the European Union governing European venture capital funds, or qualified social entrepreneurship funds pursuant to Article 3(b) of the directly applicable regulation of the European Union governing European social entrepreneurship funds, or comparable foreign funds, and whose registered and actual office is or is to be situated in the Czech Republic, annexes to the application shall – depending on the type of the qualified fund concerned – only include the annexes pursuant to Article 3(5)(e) and (f) hereof.

#### Article 7

##### **Change in an authorisation to perform the activities of a management company pursuant to Article 647 of the Act**

In the case of an application for a change in an authorisation to perform the activities of a management company pursuant to Article 642 of the Act, which only manages a special fund that is a fund of qualified investors or a comparable foreign investment fund, the essential elements of the application shall include

- a) identification data of the applicant and of the funds managed by the applicant; and
- b) an annex containing information and data to substantiate that the applicant does not exceed the assets under management threshold, including a calculation of the value of the assets managed or administered pursuant to Article 16 of the Act, with a specification of the day as at which this data and information was obtained.

#### Article 8

##### **Autonomous investment fund** (Article 480 of the Act)

(1) The essential elements of an application for an authorisation to perform the activities of an autonomous investment fund shall include

- a) the applicant's identification data;
- b) the type of investment fund pursuant to Article 486(1)(b) of the Act in respect of whose activities the authorisation is being applied for;
- c) information on the amount of the applicant's initial capital and registered capital, and on the placement of the capital;
- d) a specification of whether the applicant is to perform its own administration;
- e) a specification of whether the applicant applies for an authorisation to exceed the assets under management threshold;
- f) a specification of the day as of which the authorisation to manage pursuant to Article 13(1) of the Act or, as the case may be, the authorisation to administer pursuant to Article 43(1) of the Act (if the applicant intends to perform its administration) is to come into existence; and
- g) annexes pursuant to paragraphs 2 to 6 below.

(2) Annexes containing basic information on the applicant shall include

- a) the memorandum of association;
- b) documents on the origin of the initial capital, including the registered capital or, as the case may be, of other financial resources of the applicant, and on the extent to which the registered capital has been paid up; and

- c) provided that an already existing legal entity **pursuant to Article 480(1) and (2) of the Act** is concerned, also
  1. **a draft memorandum of association of the autonomous investment fund in respect of which an authorisation is being applied for;**
  2. a document on a business licence;
  3. a document for an assessment of trustworthiness; and
  4. a document on having no criminal record issued by a foreign country.

#### Article 9

In the case of an application for an authorisation to perform the activities of an autonomous investment fund that is to be a qualified venture capital fund pursuant to Article 3(b) of the directly applicable regulation of the European Union governing European venture capital funds, or a qualified social entrepreneurship fund pursuant to Article 3(b) of the directly applicable regulation of the European Union governing European social entrepreneurship funds, annexes to the application shall include

- a) the memorandum of association;
- b) a document on a business licence of a legal entity pursuant to Article 15(1) of the Act, if the applicant who applies for the authorisation is such an entity;
- c) information on the applicant's registered office;
- d) documents attesting to compliance with the preconditions pursuant to Article 14(1) of the directly applicable regulation of the European Union governing European venture capital funds, if the applicant is to be a qualified venture capital fund pursuant to Article 3(b) of this regulation;
- e) documents attesting to compliance with the preconditions pursuant to Article 15(1) of the directly applicable regulation of the European Union governing European social entrepreneurship funds, if the applicant is to be a qualified social entrepreneurship fund pursuant to Article 3(b) of this regulation; and
- f) documents on compliance with the preconditions pursuant to Article 533(2) of the Act, if the applicant is a legal entity pursuant to Article 15(1) of the Act that is to exceed the assets under management threshold.

#### Article 10

##### **Change in an authorisation to perform the activities of an investment fund pursuant to Article 647 of the Act**

In the case of an application for a change in an authorisation to perform the activities of an investment fund pursuant to Article 643(2) of the Act, whose assets are not to be managed on the basis of an agreement, the essential elements of the application shall include

- a) the applicant's identification data; and
- b) an annex containing information and data to substantiate that the applicant does not exceed the assets under management threshold, including a calculation of the value of the assets managed or administered pursuant to Article 16 of the Act, with a specification of the day as at which this data and information was obtained.

#### Article 11

##### **Foreign entity as a manager** (Article 481 of the Act)

(1) The essential elements of an application for an authorisation to perform activities for a foreign entity having its registered office in a country that is not a Member State, consisting

in the management of special funds, comparable foreign investment funds, funds of qualified investors or comparable foreign investment funds, and in the marketing of investments in such funds, shall include

- a) the applicant's identification data;
- b) information on the amount of the applicant's registered capital and equity capital, and on the placement of the capital;
- c) a specification of whether the applicant is or is not comparable with an autonomous investment fund;
- d) the scope of activities pursuant to Article 485(1)(b) to (e) of the Act in respect of which the applicant applies for the authorisation;
- e) identification data of the person who is to perform for the applicant the activities pursuant to Article 38(1)(d), (n) and (o) of the Act, including a confirmation of this person's preparedness to perform such activities;
- f) identification data of the administrator, if different from the applicant;
- g) a specification of whether the applicant applies for an authorisation to exceed the assets under management threshold;
- h) a specification of the day as of which the authorisation to manage pursuant to Article 13(1) of the Act or, as the case may be, the authorisation to administer pursuant to Article 43(1) of the Act (if the applicant intends to perform administration) is to come into existence; and
- i) annexes pursuant to paragraphs 2 to 5 below.

(2) Annexes containing basic information on the applicant shall include

- a) a document on a business licence and an authorisation issued by the supervisory authority of the country where the applicant has its registered office, to manage a foreign investment fund comparable with the investment fund that the applicant intends to manage in the Czech Republic, unless the data specified in this authorisation is implied by the document on a business licence;
- b) a decision of the applicant's competent body regarding the intention to perform activities in the Czech Republic;
- c) a justification throughout the Czech Republic as the reference country<sup>12)</sup>;
- d) financial statements; and
- e) a document for an assessment of the applicant's trustworthiness and a document on the applicant's having no criminal record issued by a foreign country.

(3) Annexes containing information on the applicant's senior officers<sup>4)</sup>, on persons performing duties pursuant to Article 21(5) of the Act, and on the personnel and substantive preconditions for the performance of activities shall include annexes to the extent specified in Article 3(3) and (6) hereof.

(4) Annexes containing information on persons with a qualified holding<sup>4)</sup> in the applicant, on persons acting in concert and on closely related persons shall include annexes

(5) specified Article 3(4) hereof.

(6) Annexes containing information on the applicant's activities shall include

- a) information pursuant to Article 3(5)(a) to (d) hereof;
- b) a strategy for the marketing of investments in the investment funds and foreign funds managed by the applicant;

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<sup>12)</sup> Article 493 of Act No. 240/2013 Coll.

- c) if the applicant intends to perform activities pursuant to Article 11(c) to (f) of the Act, also
    - 1. documents pursuant to Article 4 hereof;
    - 2. an authorisation issued by the supervisory authority of the country where the applicant has its registered office, to perform activities corresponding to investment services;
    - 3. information on the manner of protecting investors;
    - 4. information on the manner of ensuring observance of capital requirements<sup>13)</sup>; and
    - 5. a description of the guarantee system in which the applicant participates and from which compensations are paid out to clients; and
  - d) the proposed manner of making data accessible to investors pursuant to Article 241 of the Act or pursuant to Article 293 of the Act in the case of managing a special fund or a fund of qualified investors.
- (7) If the applicant intends to proceed
- a) pursuant to Article 481(2) of the Act, the applicant shall submit a confirmation issued by the supervisory authority of the country where the applicant has its registered office, of compliance with the preconditions pursuant to Article 481(1)(b) and (c) of the Act, and the applicant shall not submit annexes pursuant to paragraphs 2 to 4 above;
  - b) pursuant to Article 492 of the Act, the applicant shall enclose with the application documents to substantiate the facts pursuant to Article 492(1)(a) and (b) of the Act.

## Article 12

### **Primary administrator** (Article 482 of the Act)

(1) The essential elements of an application for an authorisation to perform the activities of a primary administrator shall include

- a) the applicant's identification data;
- b) information on the amount of the applicant's registered capital and equity capital;
- c) the scope of activities comprising the performance of administration pursuant to Article 487 of the Act, in respect of which the applicant applies for the authorisation;
- d) a specification of the day as of which the authorisation to administer pursuant to Article 43(1) of the Act is to come into existence; and
- e) annexes pursuant to paragraphs 2 to 6 below.

(2) Annexes containing basic information on the applicant shall include information to the extent pursuant to Article 3(2) hereof, and also information on further business activities that the applicant is to perform or performs, unless this is implied by the document on a business licence.

(3) Annexes containing information on the applicant's senior officers<sup>4)</sup>, on persons with a qualified holding<sup>4)</sup> in the applicant, on persons acting in concert and on closely related persons shall include information to the extent pursuant to Article 3(3) and (4) hereof.

(4) Annexes containing information on the activities of a primary administrator shall include

- a) the applicant's business plan<sup>14)</sup> for the first 3 accounting periods of activities to the extent of the data that is to be contained in financial statements pursuant to some other legal

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<sup>13)</sup> Article 28(2)(h) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended.

<sup>14)</sup> Article 482(d) of Act No. 240/2013 Coll.

regulation, along with comments on the individual items of the business plan, always containing the fundamental assumptions that the business plan is based on, and a description of the manner of ensuring that the activities are performed to the planned extent;

- b) the applicant's draft internal regulations containing, in particular,
  - 1. the management and control system<sup>15)</sup>; and
  - 2. rules of conduct in performing activities and in providing other services<sup>16)</sup>; and
- c) if the applicant intends to entrust a third party with the performance of activities, the applicant shall also specify the identification data of such a third party and enclose a draft agreement on its entrusting with the performance of activities.

(5) Annexes containing information on the personnel and substantive preconditions for the performance of activities shall include

- a) a list of persons who will ensure, as heads of organisational departments or as independent persons,
  - 1. the performance of administration;
  - 2. the compliance function;
  - 3. the management of risks; and
  - 4. the performance of internal audit;
- b) a curriculum vitae of each of the persons specified in the list pursuant to subparagraph a) above, containing information on education and information on professional experience; and
- c) documents on the manner of ensuring administration and of keeping other records pursuant to the decree stipulating the details of certain rules according to the Act on Management Companies and Investment Funds, and the method of technical support for the performance of activities.

(6) If the person with a qualified holding in a primary administrator is a regulated entity on the financial market, Article 5 hereof shall apply *mutatis mutandis*.

## Article 13

### **Subsequent authorisation to perform activities corresponding to investment services** (Article 507 of the Act)

(1) The essential elements of an application for a subsequent authorisation to perform activities corresponding to investment services pursuant to Article 11(1)(c) to (f) of the Act, for a management company or for a foreign entity pursuant to Article 481 of the Act that is not comparable with an autonomous investment fund, shall include

- a) the applicant's identification data;
- b) activities transfer; and
- c) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes containing information relating to the performance of the activities referred to in subparagraph b) of paragraph 1 above shall include

- a) the applicant's business plan<sup>6)</sup> for the first 3 accounting periods of activities to the extent of the data that is to be contained in financial statements pursuant to some other legal regulation<sup>3)</sup>, along with comments on the individual items of the business plan, always containing the fundamental assumptions that the business plan is based on, and a

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<sup>15)</sup> Article 47 of Act No. 240/2013 Coll.

<sup>16)</sup> Article 49(2) and (3) of Act No. 240/2013 Coll.

description of the manner of ensuring that the activities are performed to the planned extent; and

b) annexes pursuant to Article 4 hereof.

(3) If the applicant who applies for an authorisation to perform the activities referred to in subparagraph b) of paragraph 1 above is a foreign entity pursuant to Article 481 of the Act that is not comparable with an autonomous investment fund, the applicant shall also submit

- a) an authorisation issued by the supervisory authority of the country where the applicant has its registered office, to perform activities corresponding to investment services;
- b) information on the manner of ensuring observance of capital requirements<sup>13)</sup>; and
- c) a description of the guarantee system in which the applicant participates and from which compensations are paid out to clients.

#### Article 14

##### **Consent to the performance of other business activities**

(Article 508(1) of the Act)

(1) The essential elements of an application for a consent to the conduct of business pursuant to other legal regulations, for a management company, **a primary administrator and** for a foreign entity with an authorisation pursuant to Article 481 of the Act that is not comparable with an autonomous investment fund, shall include

- a) the applicant's identification data;
- b) a specification of such other business activities in respect of which the applicant applies for the consent; and
- c) annexes pursuant to paragraph 2 below.

(2) Annexes containing information relating to the performance of other business activities pursuant to other legal regulations shall include

- a) estimated impacts of the further business activities on the due and prudent performance of the applicant's activities;
- b) draft internal regulations reflecting the performance of the further business activities, particularly internal regulations stipulating the procedures for the management and evaluation of risks and the measures to reduce such risks; and
- c) an analysis of the individual types of crisis situations in performing the further business activities that might have an unfavourable impact on the due performance of the applicant's activities, and the procedures for the resolution of such situations.

#### Article 15

##### **Consent to the performance of duties pursuant to Article 515 of the Act**

(1) The essential elements of an application for a prior consent to the performance of duties pursuant to Article 515 of the Act shall include

- a) identification data of the person who is to be granted the consent, including a a) specification of whether the person is
  - 1. a senior officer; or
  - 2. a person pursuant to Article 21(5) of the Act;
- b) identification data of the entity at which the duties are to be performed; and
- c) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to the application for the person referred to in subparagraph a) of paragraph 1 above shall include

- a) a document for an assessment of trustworthiness;
- b) a curriculum vitae, containing information on education and information on professional experience;
- c) a document on having no criminal record issued by a foreign country;
- d) an affidavit of legal capacity.
- e) **a summary of positions in elected bodies and positions in other legal entities, to which this person was appointed or otherwise named in the last 10 years and identification data for each of those legal entities, their line of business, the designation of the position and the term of the performance of the duties, and also a specification as to whether a senior officer or a person pursuant to Article 21(5) of the Act intends to hold the given position in that legal entity concurrently with the position of the applicant's senior officer or a person pursuant to Article 21(5) of the Act in a legal entity pursuant to subparagraph b) of paragraph 1 above, and whether this position is that of an executive or non-executive member; and**
- f) **a description of financial and personnel relations between a senior officer and a legal entity pursuant to subparagraph b) of paragraph 1 above and other senior officers of that legal entity, the controlling entity of that legal entity and the person controlled by that legal entity, and the senior officers of those companies if they are legal entities, and partners with a qualified holding in that legal entity.**

(3) Other annexes relating to the application pursuant to paragraph 1 above shall include

- a) a description of the duties that the person referred to in subparagraph a) of paragraph 1 above is to perform, including the powers and responsibilities associated with these duties and the expected date of appointment to the relevant position; in respect of a person that is to actually manage the entity referred to in subparagraph b) of paragraph 1 above in a different manner, the applicant shall also provide a justification of the fact on the basis of which the entity is managed;
- b) identification data and position of the person whom the person referred to in subparagraph a) of paragraph 1 above is to replace; and
- c) the organisational structure of the entity referred to in subparagraph b) of paragraph 1 above, if it is to be altered in connection with the change of the senior officer.

### **PART THREE**

#### **CONSENT TO ACQUISITION OF A QUALIFIED HOLDING OR TO CONTROL**

**Consent to the acquisition of or increase in a qualified holding in a management company, in an autonomous investment fund or in a primary administrator, or consent to control such entities**

##### Article 16

(Article 520(1)(a) to (c) of the Act)

**(1) The essential elements of an application for consent to the acquisition of or increase in a qualified holding so that it reaches or exceeds 20%, 30% or 50% in a**



management company, an autonomous investment fund or a primary administrator, or to taking control of those entities shall include

- a) identification data of the applicant;
- b) identification data of the legal entity, in which the applicant is to acquire or increase a qualified holding or which is to be controlled;
- c) information on the share which the applicant holds on the date of application, information on the newly acquired and the resulting extent of interest or a description of some other form of exercising significant influence over the management of a legal entity pursuant to subparagraph b) above, including specification of whether the interest is acquired directly or indirectly; in the case of an indirect holding, identification of the entity through which the interest is to be acquired;
- d) if the applicant is a legal entity, identification data of the 10 largest partners according to their share of the voting rights or of all partners, if it has fewer than 10, and information on their shares;
- e) an extract from the commercial register or from some other similar register of entrepreneurs not older than 3 months if the applicant is a legal entity or a natural person who is an entrepreneur;
- f) the applicant's financial statements and other documents attesting to the origin of the financial resources from which the acquisition of or increase in a qualified holding is to be financed;
- g) documents for an assessment of the applicant's trustworthiness and a document on the applicant's having no criminal record issued by a foreign country;
- h) a document relating to the acquisition of or increase in a qualified holding by the applicant;
- i) a strategic plan relating to the acquisition of or increase in a qualified holding;
- j) a summary of legal entities of which the applicant is a controlling entity or over the management of which it exercises significant influence, and identification data for each of those legal entities, their line of business and information on their shares, or a description of some other form of exercising significant influence over the management of that legal entity;
- k) a summary of positions in elected bodies and positions in any other legal entities to which the applicant was appointed or otherwise named in the last 10 years and identification data for each of those legal entities, their line of business, the designation of the position held and the term of the performance of the duties in that legal entity;
- l) a description of financial and personnel relations between the applicant and a legal entity referred to in sub-paragraph b) above or with the individual members of the group to which the applicant belongs, and the senior officers and the current partners of that legal entity;
- m) a list of persons who are members of a statutory body or other persons with similar competence that actually manage the activities of a legal entity referred to in subparagraph a) above, and for each of those persons
  1. identification data;
  2. a description of the position held in the applicant's organisational structure;
  3. documents for an assessment of trustworthiness and a document on the applicant's having no criminal record issued by a foreign country;
  4. a summary of positions currently held in elected bodies and positions in any other legal entities to which the person was appointed or otherwise named in the last 10 years and identification data for each of those legal entities, their line of

- business and the designation of the position held; and
5. a description of financial and personnel relations between the person and a legal entity referred to in subparagraph b) above and the senior officers of that legal entity, and partners with a qualified holding in that legal entity, unless this information has previously been given in the description pursuant to subparagraph l) above;
- n) if acting in concert, a list of persons with which through acting in concert the applicant acquires a qualified holding or exceeds 20%, 30% or 50% in a legal entity pursuant to subparagraph b) above, a graphic representation of relations between those persons, a specification of the fact on the basis of which they act in concert and for each person with which the applicant acts in concert
    1. identification data; and
    2. information on the share of a legal entity pursuant to subparagraph b) above for the individual persons acting in concert and for these persons as a whole;
  - o) if a legal entity referred to in subparagraph b) above is to be controlled, a specification of the fact on the basis of which control is to be taken and a document attesting to the origin of the financial resources to be used to purchase the interest of a partner that is not the controlling entity;
  - p) if the applicant is a regulated entity on the financial market, a specification of the supervisory authority supervising it;
  - q) if the applicant is part of a consolidated group, a description of the structure of the consolidated group in which a legal entity pursuant to subparagraph b) above is to be included, including a specification of the entities which are to be subject to supervision on a consolidated basis within the group;
  - r) if the applicant has its registered office in a country that is not a Member State,
    1. basic information on the system of regulation to which the applicant is subject in the country where it has its registered office and information on the extent to which the system of regulation of that country complies in the area of anti-money laundering and combating the financing of terrorism with the recommendations issued by the Financial Action Task Force (FATF); and
    2. if the applicant is an entity whose line of business is similar to the business of a regulated entity on the financial market, an opinion issued by the competent supervisory authority supervising the applicant in respect of the applicant's intention to hold an ownership interest in the business activities of a legal entity in the Czech Republic pursuant to subparagraph b) above and on the possible exchange of information necessary for the supervision of that entity.
- ↳ (2) If a senior officer or a person pursuant to Article 21(5) of the Act of a legal entity pursuant to subparagraph b) of paragraph 1 above is to change in connection with the acquisition of or increase in a qualified holding or taking control pursuant to paragraph 1, the application shall also include annexes containing information on the proposed person, including
- a) identification data, including a specification of the position in the organisational structure of a legal entity pursuant to subparagraph b) of paragraph 1 above and a brief description of the position that the person is to hold, and of the powers and responsibilities relating to the position held;
  - a) information on whether a change in the number of executive managers or a replacement of the existing executive manager is concerned; in the event of a change in the number of executive managers, it shall be stated whether and to what extent it is to be accompanied

- by a change in the powers and competence; and in the event of a replacement of the existing executive manager, the executive manager who is to be replaced shall be stated;
- b) information for an assessment of trustworthiness;
  - c) a curriculum vitae, containing information on education and information on professional experience; and
  - d) a document on having no criminal record issued by a foreign country;
  - e) **a summary of positions in elected bodies and positions in other legal entities to which that person was appointed or otherwise named in the last 10 years and for each of those legal entities identification data, their line of business, a designation of the position held, the term of the performance of the duties and a specification as to whether a senior officer or a person pursuant to Article 21(5) of the Act intends to hold the given position in that legal entity concurrently with the position of a senior officer or a person pursuant to Article 21(5) of the Act in a legal entity pursuant to subparagraph b) of paragraph 1 above and whether this position is that of an executive or non-executive member; and**
  - f) **a description of financial and personnel relations between a senior officer and a legal entity pursuant to subparagraph b) of paragraph 1 above and other senior officers of that legal entity, the controlling entity of that legal entity and the person controlled by that legal entity, the senior officers of those companies if they are legal entities, and partners with a qualified holding in that legal entity.**

(3) If the applicant is a person that only applies for a consent by reason of administration, management and custody of client assets, the applicant shall not be obliged to enclose the documents pursuant to **subparagraph f) of paragraph 1 above**.

Article 17 is cancelled

### **Article 18**

**An applicant who is a regulated entity on the financial market may submit instead of the documents specified in Article 16(1)(g) and (m) item 3 confirmation issued by the supervisory authority of the country where it has its registered office to the effect that this authority supervises the applicant whose trustworthiness it has verified and that it has no recent findings indicating its untrustworthiness.**

Article 19

### **Owning a qualified holding in another legal entity by a management company authorised to manage a collective investment fund**

(Article 509 of the Act)

(1) The essential elements of an application for a consent to the acquisition of or increase in a qualified holding in another legal entity (hereinafter a “target entity”) by a management company authorised to manage a collective investment fund shall include

- a) identification data of the applicant and of the target entity in which a qualified holding is to be acquired or increased;
- b) the existing, the newly acquired and the resulting total extent of a qualified holding in the target entity expressed as a percentage; and
- c) annexes pursuant to paragraph 2 below.

(2) Annexes to the application pursuant to paragraph 1 above shall include

- a) a document on a business licence of the target entity in which a qualified holding is to be acquired or increased or, as the case may be, information on the line of business of the target entity where no document on a business licence of such an entity is available;
- b) a decision of the applicant's competent body to hold or increase an ownership interest in the target entity;
- c) the target entity's financial statements;
- d) a description of relations between the applicant and the target entity in which the applicant intends to acquire or increase a qualified holding, and of relations between the applicant and persons with a special relationship to this target entity; that is, at least with respect to the persons who are senior officers or members of the supervisory body of the target entity;
- e) a list and identification data of persons who own, will acquire or increase a qualified holding in the target entity through acting in concert with the applicant, with a specification of the extent of interest or other form of participation in the target entity, and a specification of the fact on the basis of which they act in concert; and
- f) the strategic plan in connection with the acquisition of or increase in a qualified holding in the target entity.

**PART FOUR**  
**CHANGE OF THE MANAGER, OF THE DEPOSITORY AND IN THE**  
**STATUTE OF A STANDARD FUND**

Article 20

**Change of the manager of a standard fund**

(Article 525 of the Act)

(1) The essential elements of an application for a consent to a change of the manager of a standard fund shall include

- a) identification data of
  - 1. the applicant;
  - 2. the standard fund the management of which is to be transferred to another manager;
  - 3. the manager to which the management of the standard fund is to be transferred, if it is not the applicant; and
  - 4. the depository of the standard fund specified in item 2 above; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a description of the conditions under and manner in which the standard fund is to be transferred to the management of another manager;
- b) the future manager's financial statements, prepared as at the last day of the calendar month preceding the lodging of the application;
- c) a statement of the standard fund's depository regarding the change of the manager;
- d) a document on a business licence, if the applicant is a foreign entity; and
- e) a statement of a foreign supervisory authority to the effect that the applicant is authorised to manage standard funds, unless this fact is implied by the document on a business licence.

Article 21

**Change of the depository of a standard fund**

(Re: Article 527 of the Act)

(1) The essential elements of an application for a consent to a change of the depository of a standard fund shall include

- a) identification data of
  - 1. the applicant;
  - 2. the standard fund the depository of which is to be changed; and
  - 3. the future depository; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) the depository agreement or, as the case may be, a draft thereof, along with a written promise of the future depository to enter into this agreement or, as the case may be, the agreement on a future agreement;
- b) a document on termination of the existing depository agreement; and
- c) a confirmation of the depository of the standard fund that the preconditions for the performance of the duties of a depository of a standard fund arising from the Act have been ensured, if the future depository has not yet been the depository of a standard fund.

## Article 22

### **Change in the statute of a standard fund**

(Article 529, Article 380 and Article 433 of the Act)

(1) The essential elements of an application for a consent to a change in the statute of a standard fund shall include

- a) identification data of the applicant and of the standard fund;
- b) annexes pursuant to paragraph 2 below; and
- c) annexes pursuant to paragraphs 3 to 5 below, depending on the nature of the change in the statute of the standard fund.

(2) Annexes to the application shall include

- a) the applicable and unabridged text of the statute of the standard fund with an indication of the proposed changes, along with their justification; and
- b) the new unabridged text of the statute of the standard fund.

(3) If the reason for a change in the statute of a standard fund is to enable the standard fund to invest as a feeder fund pursuant to Article 246 of the Act, or to change the master fund of an already existing feeder fund, annexes to the application pursuant to paragraph 1 above shall, in addition to the annexes specified in paragraph 2 above, also include

- a) an agreement pursuant to Article 251(1) of the Act, or a draft thereof, made between the manager of the feeder fund and the manager and administrator of the master fund regarding the rules of conduct between them, if required by legislation;
- b) an agreement pursuant to Article 257(1) of the Act, or a draft thereof, made between the depository of the feeder fund and the depository of the master fund regarding the rules of conduct between them, unless they are the same person;
- c) an agreement pursuant to Article 261(1) of the Act, or a draft thereof, made between the auditor of the feeder fund and the auditor of the master fund regarding the rules of conduct between them, unless they are the same person;
- d) an attestation of the competent authorities of the country where the master fund has its registered office, unless based in the Czech Republic, to the fact that this master fund or its investment compartment neither invests as a feeder fund nor invests in securities or dematerialized securities issued by feeder funds;

- e) the memorandum of association of the master fund, if based in another Member State;
- f) documents comparable with the statute of a master fund and with the notification of key information to investors of this master fund, if based in another Member State; and
- g) a draft notification to investors regarding the commencement of making investments as a feeder fund pursuant to Article 249 of the Act.

(4) If a change in the statute of a feeder fund occurs in connection with the dissolution of its master fund with liquidation or in a manner comparable to liquidation pursuant to the laws of a foreign country, the manager of such a feeder fund shall enclose with the application for a consent pursuant to Article 380 of the Act, in addition to the annexes specified in paragraph 2 above, also a decision of the manager on whether it intends to invest the assets in this feeder fund in securities or dematerialized securities issued by another master fund, or whether it intends to invest the assets in this feeder fund thenceforth as the manager of a standard fund that is not a feeder fund.

(5) If a change in the statute of a feeder fund occurs in connection with the involvement of its master fund in a merger by acquisition or in a consolidation, or in some other type of transformation permitted by the laws of a foreign country, or in connection with the dissolution of its master fund pursuant to the laws of a foreign country without liquidation, the manager of such a feeder fund shall enclose with the application for a prior consent pursuant to Article 433 of the Act, in addition to the annexes specified in paragraph 2 above, also a decision of the manager on whether it intends to invest the assets in this feeder fund in securities or dematerialized securities issued by the existing master fund or by another master fund, or whether it intends to invest the assets in this feeder fund thenceforth as the manager of a standard fund that is not a feeder fund.

## **PART FIVE**

### **ENTRY IN THE LISTS MAINTAINED BY THE CZECH NATIONAL BANK AND CHANGE IN THE INFORMATION CONTAINED IN SUCH LISTS**

#### **Article 23**

#### **Entry in the list of foreign investment funds in which investments may be marketed in the Czech Republic**

(Article 597(d) or (e) of the Act in conjunction with Article 316(6), Article 318(6), Article 319(6), Article 320(3), Article 322(5), Article 324(4) and Article 325(6) of the Act)

**The essential elements of an application for an entry in the list of foreign investment funds pursuant to Article 597(d) and (e) of the Act shall include**

- a) identification data of**
  - 1. the applicant;**
  - 2. the foreign investment fund in which investments may be marketed in the Czech Republic; and**
  - 3. the depository of the foreign investment fund;**
- b) a document attesting to the creation of a manager of a foreign investment fund and its authorisation to manage such a fund and exceed the assets under management threshold, unless an authorisation granted pursuant to the Act by the Czech National Bank is concerned; in the case of a manager who is not authorised to exceed the assets under management threshold, documents**

**attesting to the fact that the manager actually does or does not exceed the assets under management threshold shall be enclosed by means of, for example, submitting information on the total volume of assets managed by the manager, including a statement on whether or not it is a manager exceeding the assets under management threshold.**

- c) a document attesting to the creation of a foreign investment fund and the statute of a foreign investment fund or a document comparable to the statute; and**
- d) annexes depending on the foreign investment fund pursuant to item 2 of subparagraph a) above, which shall include**
  - 1. an agreement pursuant to Article 316(2)(b) of the Act or some other document attesting to existence of such an agreement, provided that a marketing of investments in a foreign investment fund pursuant to Article 316(1) of the Act is concerned;**
  - 2. an agreement pursuant to Article 319(2)(a) of the Act or some other document attesting to existence of such an agreement, provided that a marketing of investments in a foreign investment fund pursuant to Article 319(1) of the Act is concerned;**
  - 3. agreements pursuant to Article 319(2)(a) and Article 322(2)(b) of the Act or some other document attesting to existence of such agreements, provided that a marketing of investments in a foreign investment fund pursuant to Article 322(1) of the Act is concerned; or**
  - 4. agreements pursuant to Article 325(3)(a) and (b) of the Act or some other document attesting to existence of such agreements, provided that investments in a foreign investment fund pursuant to Article 325(3) of the Act are concerned.**

#### Article 24

##### **Entry of a standard fund**

(Article 511(1) of the Act, in conjunction with Article 597(a) and (b) of the Act)

(1) The essential elements of an application for an entry of a collective investment fund as a standard fund in the lists of investment funds pursuant to Article 597(a) or (b) of the Act shall include

- a) identification data of
  - 1. the applicant;
  - 2. the depository; and
  - 3. the standard fund;
- b) the actual registered office of the standard fund, provided that an investment fund with legal personality is concerned; and
- c) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to the application shall include

- a) the statute of the standard fund, or a draft thereof;
- b) a confirmation of the person that is to be the depository of the standard fund, of the fact that the preconditions for the performance of the duties pursuant to the Act and pursuant to its implementing legal regulation have been ensured;
- c) in the case of a standard feeder fund, also documents on compliance with the preconditions pursuant to Article 248(1) of the Act;

- d) **documents attesting to compliance with the requirements pursuant to Article 511(1)(d) of the Act; and**
- e) annexes pursuant to Article 3 (5) and (6), which are affected by changes in connection with the management of a standard fund, for which entry is applied.

(3) If the depository of an investment fund is to be a person that is not entered in the list of depositories maintained by the Czech National Bank pursuant to **Article 596(d)** of the Act, annexes to the application shall also include the information specified in Article 29(1)(b) and in Article 29(2) hereof.

## Article 25

### **Entry of information on an investment compartment of a standard fund**

(Article 511(2) of the Act, in conjunction with Article 597(a) of the Act)

(1) The essential elements of an application for an entry of information on an investment compartment of a standard fund in the list of investment funds pursuant to Article 597(a) of the Act shall include

- a) identification data of the applicant and of the depository;
- b) the designation of the investment compartment pursuant to Article 166 of the Act; and
- c) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to the application shall include

- a) the statute of the investment compartment, or the statute of the investment fund where the statute of the investment compartment is incorporated into the statute of this investment fund, or drafts thereof;
- b) a confirmation of the person that is to be the depository of the investment compartment, of the fact that the preconditions for the performance of the duties pursuant to the Act and pursuant to its implementing legal regulation, in terms of the fact that the investment fund may create investment compartments, have been ensured;
- c) documents on compliance with the preconditions pursuant to Article 248(1) of the Act, provided that an entry of information on an investment compartment that is to be a standard feeder fund is concerned; and
- d) **documents on compliance with the preconditions pursuant to Article 511(2)(e) of the Act.**

(3) If the depository of an investment compartment is to be a person that is not entered in the list of depositories maintained by the Czech National Bank pursuant to **Article 596(d)** of the Act, annexes to the application shall also include the information specified in Article 29(1)(b) and in Article 29(2) hereof.

## Article 26

### **Entry of an investment fund that is not an autonomous investment fund**

(Article 513(1) and Article 514 of the Act in conjunction with Article 597(a) of the Act)

(1) The essential elements of an application for an entry of an investment fund that is not an autonomous investment fund in the list of investment funds pursuant to Article 597(a) of the Act shall include

- a) identification data of
  - 1. the applicant;
  - 2. the person entered in the list pursuant to **Article 596(e)** of the Act, that manages the applicant's assets at the time of lodging the application, if the applicant is an already existing legal entity;



3. the applicant's individual statutory body;
  4. the depository;
  5. the administrator, unless the administration of the investment fund is performed by the applicant's individual statutory body pursuant to item 3 above, that is or is to be the person authorised to manage the investment fund; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) the applicant's memorandum of association;
- b) the statute of the investment fund;
- c) a confirmation by the depository pursuant to item 4 of subparagraphs a) of paragraph 1 above, the content of which is a promise to enter into a depository agreement; and**
- d) document on a business licence, if the applicant is an already existing legal entity.

#### Article 27

##### **Entry in the list of investment funds having the legal form of a trust fund (Article 597(c) of the Act)**

The essential elements of an application for an entry in the list of investment funds having the legal form of a trust fund shall include

- a) identification data of
  1. the applicant;
  2. the depository; and
  3. the investment fund having the legal form of a trust fund; and
- b) the annexes which shall include
  4. the statute of the trust fund; and
  5. the agreement of the establishment of the trust fund pursuant to Article 148 (1) of the Act.

#### Article 28

##### **Entry in the lists of investment funds pursuant to Article 597 of the Act**

(1) The essential elements of an application for an entry in the lists pursuant to Article 597 of the Act in the cases to which Articles 23 to 27 hereof do not apply, shall include

- a) the designation of the subject of entry pursuant to Article 597(a) to (d) of the Act;
- b) the applicant's identification data;
- c) identification data of
  1. the manager, unless the entity specified in subparagraph b) above is concerned;
  2. the investment fund to be entered, unless the entity specified in subparagraph b) above is concerned;
  3. the depository; and
  4. the administrator, unless the administration of the investment fund is performed by its manager;
- d) the type of entity and the legal form of the investment fund, unless it is clear from the identification data of the investment fund to be entered; and
- e) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) document from which it is clear that the manager is authorised to manage the fund whose entry is being applied for;
- b) an authorisation to perform activities or a similar document from which it is clear whether the manager of the investment fund to be entered is or is not authorised to exceed the assets under management threshold, unless a manager with an authorisation granted by the Czech National Bank is concerned;
- c) the statute of the investment fund or a similar document;
- d) a document similar to an extract from the commercial register or from a similar register in respect of a foreign investment fund;
- e) a document containing information for investors based in the Czech Republic within the meaning of Article 296 of the Act; and
- f) annexes specified in Article 312(2) of the Act, if marketing of investments in a foreign investment fund pursuant to Article 309 of the Act is concerned.

## Article 29

### **Entry in the list of depositories of an investment fund (Article 510, in conjunction with Article 596(d) of the Act)**

(1) The essential elements of an application for an entry in the list of depositories of an investment fund pursuant to **Article 596(d)** of the Act shall include

- a) the applicant's identification data;
- b) information on whether the applicant intends to perform the activities of a depository for a standard fund, for a special fund or for a fund of qualified investors; and
- c) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a document on a business licence;
- b) an authorisation to perform activities, which implies that the applicant is authorised to perform the activities of a depository or to provide the investment services of custody and management of investment instruments, including related services, unless it is implied by the document pursuant to subparagraph a) above;
- c) the applicant's intention in relation to the performance of the activities of a depository and, if the applicant is a person that is subject to supervision by the Czech National Bank, also the estimated impacts of the performance of the activities of a depository on the applicant's business plan;
- d) the applicant's substantive and organisational measures aimed to ensure the activities of a depository, particularly the duties relating to the ensuring of the individual services which the applicant is to provide as a depository;
- e) a curriculum vitae, containing information on education and information on professional experience, of
  1. the head of the organisational department, within the competence of which the activities of a depository fall, if the applicant is a legal entity; or
  2. the applicant, if the applicant is a natural person; and
  3. other persons who are to ensure the activities of a depository;
- f) internal regulations stipulating the procedures for the management and reduction of conflicts of interest pursuant to Article 64 of the Act, and the separation of the performance of other activities from the performance of the activities of a depository pursuant to Article 65 of the Act;

- g) a draft agreement on the entrusting of a third party with the performance of activities, if the applicant that is to become the depository of an investment fund intends to entrust a third party with the performance of the activities referred to in Article 71(1) of the Act, and the procedures for the control of the performance of the activities which such a third party is to be entrusted with; and
- h) other documents attesting to compliance with the preconditions for the performance of the duties of a depository arising from the Act and from directly applicable regulations of the European Union, if such regulations apply to depositories.

#### Article 30

#### **Entry in the list of entities performing asset administration comparable with management (Article 596(e) of the Act)**

(1) The essential elements of an application for an entry in the list of entities performing asset administration comparable with management pursuant to Article 15 of the Act that are obliged to have themselves entered in the list pursuant to **Article 596(e)** of the Act shall include

- a) the applicant's identification data;
- b) information on the value of the assets for each trust fund or similar institution that the applicant administers or intends to administer;
- c) basic information on the determined strategy pursuant to Article 598(2) of the Act; and
- d) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a document on the applicant's business licence;
- b) a list of the trust funds or similar institutions that the applicant administers or intends to administer;
- c) a description of the activities from which it is clear that the applicant performs or intends to perform activities that meet the definition of asset administration comparable with management pursuant to Article 15(1) of the Act and simultaneously do not constitute other regulated activities; and
- d) more detailed information on the determined strategy pursuant to subparagraph c) of paragraph 1 above.

#### Article 31

#### **Entry in the list of liquidators and receivers (Article 596(f) and (g) of the Act, in conjunction with Article 519 of the Act)**

(1) The essential elements of an application for an entry in the list of persons who may be appointed as liquidators of a management company, of a collective investment fund with legal personality and of a primary administrator, and for an entry in the list of persons who may be appointed as receivers of a management company that manages a collective investment fund or a comparable foreign investment fund and of a collective investment fund with legal personality, shall include

- a) the applicant's identification data;
- b) a specification of whether an entry in the list of liquidators or an entry in the list of receivers is concerned;

- c) an affidavit of legal capacity; and
- d) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to the application shall include

- a) a curriculum vitae of the applicant, containing information on education and information on professional experience;
- b) a document on having no criminal record issued by a foreign country; and
- c) a document for an assessment of trustworthiness.

(3) If the liquidator or receiver is a foreign entity, annexes to the application shall also include an authorisation issued by the competent authority of another Member State, to act as a liquidator or receiver.

#### Article 32

##### **Change in the information entered in the lists**

The essential elements of an application for a change in the information entered in a list maintained by the Czech National Bank pursuant to Article 596 and Article 597 of the Act shall include the applicant's identification data and the information that is to be changed in the list.

### **PART SIX**

#### **CHANGES IN A NOTIFICATION OF THE MARKETING OF INVESTMENTS IN ANOTHER MEMBER STATE, DETERMINATION OF COMPARABILITY OF A FOREIGN INVESTMENT FUND WITH A SPECIAL FUND, AND AUTHORISATION FOR THE PURPOSES OF DESIGNATING A UNIT TRUST AND A TRUST FUND**

#### Article 33

##### **Changes in a notification of the marketing of investments in another Member State (Article 314(6) of the Act)**

(1) The essential elements of an application for a consent to each material change in the facts contained in a notification, or in annexes thereto, pursuant to Article 312 of the Act shall include

- a) the applicant's identification data; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) the facts contained in the notification pursuant to Article 312(2) of the Act that are to be changed; and
- b) information and documents pursuant to Article 314(5) of the Act.

#### Article 34

##### **Determination of comparability of a foreign investment fund with a special fund (Article 297(4) of the Act)**

(1) The essential elements of an application for an assessment of comparability of a foreign investment fund with a special fund shall include

- a) identification data of the applicant that is the manager of this fund, with a specification of whether it is authorised to exceed the assets under management threshold, and identification data of the foreign investment fund; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a document comparable with the statute of the fund;
- b) the current annual report of this fund;
- c) a document comparable with the memorandum of association;
- d) an agreement pursuant to Article 306(1) of the Act, or a draft thereof;
- e) the wording of the legal regulations governing the foreign investment fund and its manager, administrator and depository, to the extent necessary for an assessment of comparability, and a basic description of any amendments to such legislation being in progress or pending;
- f) an analysis of comparability of the foreign investment fund's rules for asset offering, management, administration, investing and protection with the rules applicable to a special fund; in addition to the legal regulations significant for an assessment of comparability, this analysis shall also consider other relevant rules, and shall contain a conclusion regarding comparability within the meaning of Article 626(1) of the Act, and a description of the reasons why the applicant regards the individual rules as comparable; **and**
- g) **a confirmation issued by the competent supervisory authority of another Member State on the extent of the manager's authorisation and on the manager's compliance with the requirements pursuant to Articles 6 to 8 of the directive of the European Parliament and of the Council governing alternative investment fund managers.<sup>19)</sup>**

**Article 35 is cancelled**

## **PART SEVEN**

### **PERMIT FOR TRANSFORMATION**

(Article 356(1), Article 360(1), Article 366(1), Article 370(1), Article 386(1), Article 402(1), Article 418(1), Article 427(1), Article 431(1), Article 441(1) and Article 449(1) of the Act)

Article 36

#### **Transformation of a management company**

(Article 356 of the Act)

(1) The essential elements of an application for a permit for merger or demerger of a management company that manages a collective investment fund, or for a permit for transfer of the assets to a partner that is a management company managing a collective investment fund, shall include

- a) the applicant's identification data;
- b) a specification of the type of transformation; and
- c) annexes pursuant to paragraphs 2 to 4 below.

(2) Annexes containing basic information on the persons involved in the transformation shall include

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<sup>20</sup> Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No 1060/2009 and (EU) No 1095/2010.

- a) a list of persons involved in the transformation, including the persons that are to be formed as a result of the transformation, and their identification data, with a specification of whether a successor person, a terminating person, a demerged person or an acquiring person is concerned; and
- b) a document on a business licence for the persons involved in the transformation.

(3) Annexes containing information on the manner of implementation of the transformation shall include

- a) a project for the transformation pursuant to the act governing transformations<sup>18)</sup>, which is to be drawn up in the form of a notarial record, in the wording deposited in the Collection of Deeds of the Commercial Register, also containing
  - 1. the intention and reasons for the transformation;
  - 2. changes that are to be made in the business plan of the successor or acquiring persons, including the ensuring of a sufficient amount of capital;
  - 3. the time and substantive schedule of implementation of the transformation, including a plan for the organisational, technical, operational and personnel integration or separation of the persons involved in the transformation;
  - 4. a description of the impact of the transformation on the performance of activities by the successor or acquiring persons;
  - 5. the draft organisational structure of the successor or acquiring person;
  - 6. information on which of the successor or acquiring persons is to manage collective investment funds or the client assets managed by the terminating or demerged person; and
  - 7. information on which person is to perform the administration of collective investment funds and the activities of a depository of collective investment funds following the transformation;
- b) insider report(s) reviewing the project for the transformation, prepared pursuant to the act governing transformations or, as the case may be, consents to such report(s) not being prepared;
- c) expert opinion(s) prepared pursuant to the act governing transformations, if required and unless they are part of the insider report(s);
- d) financial statements of the persons involved in the transformation; and
- e) closing financial statements of the persons involved in the transformation and the opening balance sheet of the successor or acquiring persons and the auditor's reports on their verification, if required; and interim financial statements and the auditor's reports on their verification, if required.

(4) Annexes containing the necessary consents and statements shall include

- a) (joint) reports of the statutory bodies of the persons involved regarding the transformation or, as the case may be, consents to such reports not being prepared;
- b) decisions of the general meetings of the persons involved regarding the transformation;
- c) information on the lodging of an application for an authorisation to perform the activities of a management company pursuant to Article 479 of the Act by the successor or acquiring person, provided that a person that is to be formed as a result of the transformation is concerned or if the authorisation to perform activities by the successor or acquiring person is to change in connection with the transformation;

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<sup>18)</sup> Act No. 125/2008 Coll., on Transformations of Commercial Companies and Cooperatives, as amended.

- d) a consent pursuant to Article 515 of the Act to the performance of the duties of a senior officer, or of a person performing duties pursuant to Article 21(5) of the Act, in the successor or acquiring person; and
- e) a consent to the acquisition of or increase in a qualified holding in the successor or acquiring person, or a consent to control such a person, pursuant to Article 520 of the Act.

#### Article 37

### **Change of the legal form of a primary administrator** (Article 360(1) of the Act)

The essential elements of an application for a permit for a change of the legal form of a primary administrator shall include the applicant's identification data and a project for the change of the legal form pursuant to the act governing transformations, which is to be drawn up in the form of a notarial report, in the wording deposited in the Collection of Deeds of the Commercial Register.

#### Article 38

### **Transformation of a collective investment fund with legal personality** (Article 366(1) of the Act)

(1) The essential elements of an application for a permit for merger or demerger of a collective investment fund with legal personality, or for a permit for transfer of the assets to a partner that is a collective investment fund with legal personality, shall include

- a) identification data of the applicant and of the collective investment fund that is to be transformed;
- b) a specification of the type of transformation; and
- c) annexes pursuant to paragraphs 2 to 5 below.

(2) Annexes containing basic information on the persons involved in the transformation shall include

- a) a list of persons involved in the transformation, including the persons that are to be formed as a result of the transformation, and their identification data, with a specification of whether a terminating person, a successor person, a demerged person or an acquiring person is concerned;
- b) a document on a business licence for the persons involved in the transformation; and
- c) identification data of the manager, of the administrator and of the depository of all the collective investment funds involved in the transformation.

(3) Annexes containing information on the manner of implementation of the transformation and the necessary consents and statements shall include

- a) annexes specified in Article 36(3) hereof, except for Article 36(3)(a)(6) hereof;
- b) annexes specified in Article 36(4) hereof, except for Article 36(4)(c) hereof;
- c) information on the lodging of an application for an authorisation to perform activities by the successor or acquiring collective investment fund, provided that an autonomous fund that is to be formed as a result of the transformation is concerned;
- d) a statement of the depository of the collective investment fund regarding the transformation in respect of each of the collective investment funds involved in the transformation, containing a declaration regarding the result of the verification of compliance of the information specified in the project for the transformation with the

legislation, with the statute and with the memorandum of association of the collective investment funds involved in the transformation; and

- e) draft agreements between the administrator, the depository and the manager and the successor or acquiring collective investment fund with legal personality, if such agreements are to be made.

(4) If collective investment funds with legal personality that are standard funds, or foreign investment funds with legal personality that are comparable with standard funds, are involved in the transformation, annexes to the application shall include

- a) a list of Member States where the collective investment funds or foreign investment funds that are to be dissolved as a result of the transformation are authorised to market the securities or dematerialized securities issued by them; and
- b) a notification, addressed to the Czech National Bank, of the fact in which Member States investments in the successor fund are to be marketed, if this successor fund is to be a standard fund.

(5) In the case of transformation of a collective investment fund that is not an autonomous investment fund, the annexes pursuant to Article 36(4)(d) hereof may be replaced by a confirmation of the manager that is to manage the assets of the investment fund, of the fact that the senior officers of the investment fund are trustworthy and have the experience and knowledge necessary to manage such an investment fund.

#### Article 39

#### **Transformation of a collective investment fund having the legal form of a joint-stock company into a joint-stock company with variable registered capital**

(Article 370(1) of the Act)

(1) The essential elements of an application for a permit for transformation of a collective investment fund having the legal form of a joint-stock company into a joint-stock company with variable registered capital shall include

- a) identification data of
  1. the applicant;
  2. the fund that is to be transformed;
  3. the manager of the fund that is to be transformed; and
  4. the depository of the fund that is to be transformed; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) the draft memorandum of association of the joint-stock company with variable registered capital;
- b) the decision of the general meeting of the fund that is to be transformed regarding the change of the type of shares;
- c) a consent of all the shareholders of the fund that is to be transformed, whose shares are to become founders' shares following the transformation;
- d) a statement of the manager regarding the transformation, provided that a fund that is not an autonomous collective investment fund is concerned; and
- e) a statement of the depository of the fund that is to be transformed regarding the transformation.



## Article 40

### **Consolidation of unit trusts**

(Article 386(1) of the Act)

(1) The essential elements of an application for a permit for consolidation of collective investment funds having the legal form of unit trusts shall include

- a) identification data of
  - 1. the applicant;
  - 2. the unit trust that is to be transformed;
  - 3. the manager of the unit trust that is to be transformed; and
  - 4. the depository of the unit trust that is to be transformed;
- b) a specification of the manner of consolidation pursuant to Article 382(1) of the Act; and
- c) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to the application shall include

- a) the decision of the manager regarding the consolidation of the unit trusts;
- b) the agreement on consolidation, if more persons than one are to decide about the consolidation;
- c) a list and identification data of the unit trusts or foreign investment funds comparable with a standard fund that are involved in the consolidation and that are to be dissolved, and identification data of the unit trust or foreign investment fund comparable with a standard fund that is to be formed as a result of the consolidation;
- d) a project for the consolidation pursuant to Article 384 of the Act;
- e) a document on an approval of the project for the consolidation by all the administrators of the unit trusts that are to be dissolved as a result of the consolidation;
- f) a draft notification of consolidation pursuant to Article 389 of the Act, provided that a unit trust that is to be dissolved as a result of the consolidation is concerned; and, unless a consolidation in respect of which no notification of consolidation is to be prepared is concerned, a draft notification of a right to purchase a unit, provided that a unit trust that is to be dissolved is concerned;
- g) a statement of the depository of the unit trust regarding the consolidation in respect of each of the unit trusts involved in the consolidations, containing a declaration regarding the result of the verification of compliance of the information specified in the project for the transformation with the legislation and with the statute of this unit trust that is to be formed as a result of the consolidation;
- h) identification data of the manager, of the administrator and of the depository of the unit trust or foreign investment fund comparable with a standard fund that is to be formed as a result of the consolidation;
- i) draft agreements between the administrator, the depository and the manager of the unit trust or foreign investment fund comparable with a standard fund that is to be formed as a result of the consolidation; and
- j) information on the current amount of the equity capital of the manager that is to manage the unit trust or foreign investment fund comparable with a standard fund that is to be formed as a result of the consolidation, and on the current value of the assets of the investment funds managed by this manager.

(3) If unit trusts that are a standard fund, or foreign investment funds comparable with a standard fund, are involved in a transformation, and if such funds are to be dissolved as a result of a consolidation, annexes to the application shall include

- a) a list of Member States where these funds are authorised to market the securities or

- dematerialized securities issued by them; and
- b) a notification, addressed to the Czech National Bank, of the fact in which Member States investments in the fund that is to be formed as a result of the consolidation are to be marketed, if this fund is to be a standard fund.

#### Article 41

#### **Merger of unit trusts by acquisition**

(Article 402(1) of the Act)

(1) The essential elements of an application for a permit for merger of collective investment funds having the legal form of unit trusts by acquisition shall include

- a) identification data of
  - 1. the applicant;
  - 2. the unit trust that is to be transformed;
  - 3. the manager of the unit trust that is to be transformed; and
  - 4. the depository of the unit trust that is to be transformed;
- b) a specification of the manner of merger by acquisition pursuant to Article 398(1) of the Act; and
- c) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to the application shall include

- a) the decision of the manager regarding the merger of the funds by acquisition;
- b) the draft agreement on merger by acquisition, if more persons than one are to decide about the merger by acquisition;
- c) a list and identification data of the unit trusts or foreign investment funds comparable with a standard fund that are involved in the merger by acquisition;
- d) a project for the merger by acquisition pursuant to Article 400 of the Act;
- e) a document on an approval of the project for the merger by acquisition by all the administrators of the unit trusts involved in the merger by acquisition;
- f) a draft notification of merger by acquisition pursuant to Article 405 of the Act, provided that a unit trust that is to be dissolved as a result of the merger by acquisition is concerned;
- g) a statement of the depository of the unit trust regarding the merger by acquisition in respect of each of the unit trusts that are to be affected by the merger by acquisition, containing a declaration regarding the result of the verification of compliance of the information specified in the project for the merger by acquisition with the legislation and with the statute of this unit trust;
- h) identification data of the manager, of the administrator and of the depository of the acquiring unit trust or foreign investment fund comparable with a standard fund;
- i) draft agreements between the administrator, the depository and the manager of the acquiring unit trust or foreign investment fund comparable with a standard fund; and
- j) information on the current amount of the equity capital of the manager that is to manage the acquiring unit trust or the acquiring foreign investment fund comparable with a standard fund, and on the current value of the assets of the investment funds managed by this manager.

(3) If unit trusts that are a standard fund, or foreign investment funds comparable with a standard fund, are involved in a transformation, and if such funds are to be dissolved as a result of a merger by acquisition, annexes to the application shall include

- a) a list of Member States where these funds are authorised to market the securities or dematerialized securities issued by them; and

- b) a notification, addressed to the Czech National Bank, of the fact in which Member States investments in the acquiring fund are to be marketed, if this acquiring fund is to be a standard fund.

#### Article 42

##### **Transformation of a unit trust into a joint-stock company**

(Article 418(1) of the Act)

(1) The essential elements of an application for a permit for transformation of a collective investment fund having the legal form of a unit trust into a joint-stock company shall include

- a) identification data of
  1. the applicant;
  2. the unit trust that is to be transformed;
  3. the manager of the unit trust that is to be transformed;
  4. the depository of the unit trust that is to be transformed; and
  5. the persons that are to subscribe the founders' shares, provided that a transformation of a unit trust into a joint-stock company with variable registered capital is concerned; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) the decision of the manager regarding the transformation of the unit trust into a joint-stock company;
- b) a project for the transformation of the unit trust into a joint-stock company pursuant to Article 416 of the Act, supplemented with the changes that are to be made in the business plan and in the organisational structure of the joint-stock company;
- c) the current amount of the equity capital of the manager that is to manage the collective investment fund that is to be formed as a result of the transformation, and the current value of the assets of the investment funds managed by this manager;
- d) the memorandum of association of the joint-stock company that is to be formed as a result of the transformation, with a specification of the type of shares, provided that a transformation into a joint-stock company with variable registered capital is concerned;
- e) the obligation of the manager to subscribe the founders' shares of the future joint-stock company with variable registered capital, provided that a transformation into a joint-stock company with variable registered capital is concerned; and
- f) a statement of the depository of the unit trust that is to be transformed regarding the transformation.

#### Article 43

##### **Transformation of a closed-end unit trust into an open-end unit trust**

(Article 427(1) of the Act)

(1) The essential elements of an application for a permit for transformation of a collective investment fund having the legal form of a closed-end unit trust into a collective investment fund having the legal form of an open-end unit trust shall include

- a) identification data of
  1. the applicant;

2. the unit trust that is to be transformed;
  3. the manager of the unit trust that is to be transformed; and
  4. the depository of the unit trust that is to be transformed; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a document on the decision of the manager regarding the transformation of the closed-end unit trust into an open-end unit trust;
- b) a project for the transformation, the content of which shall be appropriate to the essential elements pursuant to Article 416 of the Act;
- c) the statute of the transformed unit trust, provided that a standard fund is concerned; and
- d) a statement of the depository of the closed-end unit trust regarding the transformation.

#### Article 44

##### **Transformation of a special fund into a standard fund**

(Article 431(1) of the Act)

(1) The essential elements of an application for a permit for transformation of a special fund into a standard fund shall include

- a) identification data of
  1. the applicant;
  2. the special fund that is to be transformed;
  3. the manager of the special fund that is to be transformed; and
  4. the depository of the special fund that is to be transformed; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a document on the decision of the manager regarding the transformation of the fund, or a consent of the manager of the fund that is to be transformed to the transformation;
- b) reasons for the transformation and the likely impacts on the interests of the unit-holders of the fund;
- c) the statute of the transformed standard fund;
- d) the memorandum of association of the transformed standard fund, provided that a joint-stock company with variable registered capital is concerned; and
- e) a statement of the depository of the fund that is to be transformed regarding the transformation.

#### Article 45

##### **Transformation of an investment fund with legal personality into a foreign investment fund with legal personality**

(Article 441(1) of the Act)

(1) The essential elements of an application for a permit for transformation of an investment fund that is a collective investment fund with legal personality into a foreign investment fund with legal personality shall include

- a) identification data of
  1. the applicant;
  2. the investment fund that is to be transformed;
  3. the manager of the investment fund that is to be transformed; and
  4. the depository of the investment fund that is to be transformed; and

b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) a project for the transformation, containing the essential elements pursuant to Article 447 of the Act;
- b) a document comparable with the statute and a document comparable with the memorandum of association of the transformed fund; and
- c) identification data of the manager, of the administrator and of the depository of the transformed fund, if such persons are to be changed in connection with the transformation or if the transformed collective investment fund is not to be an autonomous fund.

#### Article 46

### **Transformation of a collective investment fund without legal personality into a foreign investment fund without legal personality**

(Article 449(1) of the Act)

(1) The essential elements of an application for a permit for transformation of a collective investment fund without legal personality into a foreign investment fund without legal personality shall include

- a) identification data of
  - 1. the applicant;
  - 2. the collective investment fund that is to be transformed;
  - 3. the manager of the collective investment fund that is to be transformed; and
  - 4. the depository of the collective investment fund that is to be transformed; and
- b) annexes pursuant to paragraph 2 below.

(2) Annexes to the application shall include

- a) the decision of the manager regarding the transformation;
- b) a project for the transformation pursuant to Article 447 of the Act;
- c) a document on the permissibility of the transformation pursuant to the laws of the foreign country that is to be the country where the transformed foreign investment fund is to have its registered office;
- d) identification data of the manager, of the administrator and of the depository of the transformed fund, if such persons are to be changed in connection with the transformation;
- e) information on the current amount of the equity capital of the manager that is to manage the transformed fund, and on the current value of the assets of the investment funds managed by this manager, unless the existing manager of the fund that is to be transformed is concerned; and
- f) a statement of the depository of the collective investment fund that is to be transformed regarding the transformation.

## **PART EIGHT**

### **REVOCATION OF AUTHORISATION**

#### Article 47

### **Revocation of an authorisation to perform activities**

(Article 551(1)(d) of the Act)

(1) The essential elements of an application for the revocation of an authorisation to perform the activities of a management company or of a foreign entity pursuant to Article 481 of the Act shall include

- a) the applicant's identification data; and
- b) annexes pursuant to paragraphs 2 and 3 below.

(2) Annexes to an application for the revocation of an authorisation shall include

- a) the decision of the competent body regarding the termination of activities for the performance of which an authorisation is required pursuant to the Act, including a justification;
- b) the applicant's financial statements, prepared as at the last day of the calendar month preceding the lodging of the application;
- c) a list of all investment funds and foreign investment funds the management and administration of which the applicant is to terminate in connection with the lodging of the application for the revocation of an authorisation;
- d) documents on
  1. the transfer of the investment fund or foreign investment fund specified in the list pursuant to subparagraph c) above to the management of another manager or to the performance of administration by another administrator; or
  2. the merger by acquisition, or the consolidation, of the investment fund or foreign investment fund specified in the list pursuant to subparagraph c) above with an investment fund or foreign investment fund managed by another manager or administered by another administrator; or
  3. the liquidation of the dissolved investment fund or foreign investment fund specified in the list pursuant to subparagraph c) above;
- e) a list of all clients to whom the applicant provided services specified in Article 11(1)(c) to (f) of the Act prior to the lodging of the application, unless the performance of the said activities was obviously not terminated in connection with the preparation for the termination of the applicant's activities and any liabilities with respect to such clients were settled at least 1 year prior to the lodging of the application pursuant to paragraph 1 above;
- f) documents attesting to the fact that the applicant settled its liabilities with respect to the clients specified in the list pursuant to subparagraph e) above; and
- g) the applicant's declaration to the effect that, as at the day of the lodging of the application pursuant to paragraph 1 above, the applicant manages no investment fund or foreign investment fund and performs no administration.

(3) Documents on the liquidation of the assets of a dissolved investment fund pursuant to item 3 of subparagraph **d)** of paragraph 2 above shall include

- a) a report on the course of the liquidation of the dissolved investment fund, containing information on the commencement of the liquidation, on the time and manner of the sale of the assets in the investment fund or foreign investment fund, information on the proceeds from the sale of such assets and on the proceeds from the sale of such assets after the settlement of any receivables and liabilities arising from the management of the assets in the investment fund or foreign investment fund, and information on the day when the settlement of any receivables and liabilities arising from the management of the assets in the investment fund or foreign investment fund was completed;
- b) extraordinary financial statements, prepared as at the day of the dissolution of the investment fund;

- c) a list of receivables and liabilities arising from the management of the assets in the investment fund, which were to be settled within the scope of the liquidation, including information on their settlement;
- d) a list of partners or unit-holders of the dissolved investment fund or foreign investment fund, including information on the paying out of units after any receivables and liabilities arising from the management of the assets in the investment fund have been settled, and including information on any units that were deposited into a judicial custody;
- e) a document attesting to the fact that the units pursuant to subparagraph d) above were deposited into a judicial custody, or a document attesting to the fact that any uncollected units were handed in to the State where such units shall fall upon the State; and
- f) a summary and features of any investors' complaints addressed to the applicant, and a summary and features of any legal actions brought in connection with the liquidation of the investment fund.

(4) The essential elements of an application for the revocation of an authorisation to perform the activities of an autonomous investment fund shall include the applicant's identification data and the annexes pursuant to subparagraphs a) and b) of paragraph 2 above.

(5) The essential elements of an application for the revocation of an authorisation to perform the activities of a primary administrator shall include

- a) the applicant's identification data;
- b) annexes pursuant to subparagraphs a) and b) of paragraph 2 above, and also
  1. a list of all investment funds and foreign investment funds for which the applicant performed administration; and
  2. the applicant's declaration to the effect that, as at the day of the lodging of the application, the applicant performs no administration.

#### Article 48

#### **Revocation of an authorisation to perform activities pursuant to Article 646 of the Act**

(1) In the case of an application for the revocation of an authorisation to perform activities lodged by a management company pursuant to Article 642 of the Act, which only manages a special fund that is a fund of qualified investors, or a comparable foreign investment fund, the essential elements of the application shall include

- a) identification data of the applicant and of the investment funds managed by the applicant; and
- b) an annex containing information and data to substantiate that the applicant does not exceed the assets under management threshold.

(2) In the case of an application for the revocation of an authorisation to perform activities lodged by an investment fund pursuant to Article 643(2) of the Act, the assets of which are not to be managed on the basis of an agreement, the essential elements of the application shall include

- a) the applicant's identification data; and
- b) an annex containing information and data to substantiate that the applicant does not exceed the assets under management threshold.

### PART NINE

#### **APPLICATION FOR THE APPOINTMENT OF A LIQUIDATOR**

#### Article 49

(Article 346(2) of the Act)

The essential elements of an application for the appointment of a liquidator pursuant to Article 346(2) of the Act shall include

- a) identification data of the applicant and of the liquidator whose appointment is being applied for; and
- b) annexes which shall include
  - 1. the decision of the applicant's body to dissolve the company with liquidation and to lodge an application for the appointment of a liquidator; and
  - 2. the applicant's declaration that the liquidator complies with the preconditions for the performance of duties pursuant to Article 349(2) of the Act.

## **PART TEN**

### **FORM AND MANNER OF LODGING AN APPLICATION**

#### Article 50

(1) Applications, including required annexes, pursuant to this Decree shall be lodged in electronic form

- a) through the public data network to the data box;
- b) to the electronic address of the mail room of the Czech National Bank; or
- c) through the Internet application of the Czech National Bank for the registration of entities.

(2) Annexes to applications shall be in the Portable Document Format (.pdf suffix) or, if the Portable Document Format (.pdf suffix) is impossible to use, in some other data format commonly used in electronic communication that does not make it possible to alter the contents.

## **PART ELEVEN**

### **COMMON AND FINAL PROVISIONS**

#### Article 51

(1) If the nature of the matter makes it impossible to submit any annex required by this Decree to an application, the applicant shall state this fact in a separate annex to the application along with the reasons why such an annex cannot be submitted or why such information cannot be stated, which reasons shall be appropriately substantiated by the applicant.

(2) Where no extracts from the Criminal Register or equivalent documents are issued by a foreign country,

- a) a natural person shall submit an affidavit of having no criminal record, which is to be taken before a notary or an authority of the country of which the natural person is a national, or of the country where the natural person (has) resided for a period of more than 6 consecutive months during the last 3 years; and
- b) a legal entity shall submit an affidavit of having no criminal record, which is to be taken before a notary or an authority of the country where the legal entity has its registered office, or of the country where the legal entity has or during the last 3 years had a branch.

(3) The document pursuant to paragraph 2 above must not be older than 3 months.



**(4) The applicant is not required to submit the information or documents required by this Decree, provided that they are publicly available in their current form in public administration information systems.**

Article 52

**Effect**

This Decree shall become effective on **1 May 2020**.

**Deputy Governor:**

**Marek Mora**