

DECREE

No. 319/2017

of 21 September 2017

on professional qualification for distribution on the capital market

The Czech National Bank stipulates, pursuant to Article 199(2) of Act No 256/2004, on Capital Market Undertakings, as amended by Act No 204/2017 (the “Act”), for the implementation of Article 14h(a), (b), (f) to (h) of the Act:

Article 1

Subject of regulation

This Decree shall regulate

- a) the scope of professional knowledge and skills pursuant to Article 14b(4) of the Act,
- b) the minimum scope of requirements for the material, qualification, organizational and personnel prerequisites pursuant to Article 14c(3)(b) of the Act,
- c) the requirements for the course, form, scope and method of evaluation, and the minimum standard of the professional examination pursuant to Article 14f of the Act,
- d) the rules for the provision of a set of prepared test questions pursuant to Article 14f(1) of the Act to accredited persons, their handling and updating, and
- e) the requirements of the examination code pursuant to Article 14f(2) of the Act, and the method of deliberation and composition of the commission pursuant to Article 14f(3) of the Act.

Article 2

Scope of professional knowledge

[Re Article 14b(4)(a) of the Act]

(1) The scope of the professional knowledge of a person referred to in Article 14a of the Act shall correspond to the material content of this person’s activities when dealing with the client during the provision of investment services in order to ensure their qualified performance.

(2) A more detailed scope of professional knowledge pursuant to Article 14b(4)(a) of the Act is set out in an annex to this Decree.

Article 3

Scope of skills

[Re Article 14b(4)(b) of the Act]

The persons referred to in Article 14a of the Act shall have professional skills for dealing with clients during the provision of investment services, comprising the ability

- a) to obtain, in a qualified manner, information from the client about their expert knowledge and experience in the field of investment, their financial background and investment objectives,
- b) to provide, in a qualified and comprehensible manner, information when communicating with the client so that the client can assess whether the financial instrument offered corresponds to their financial background and investment objectives,

- c) to properly evaluate the client's expertise and experience in the field of investment, and their financial background and investment objectives, and to offer them an appropriate financial instrument or investment service, and
- d) to properly carry out on behalf of the client the activities covered by the investment service provided.

Article 4

Material assumptions

[Re Article 14c(3)(b) of the Act]

(1) The accredited person shall have available premises suitable for organising professional examinations, with the appropriate number of testing rooms with sufficient capacity.

(2) The accredited person shall have available the technical and software means for holding the professional examinations.

Article 5

Organizational assumptions

[Re Article 14c(3)(b) of the Act]

(1) The accredited person must have an organisational structure with a proper, transparent, clear and comprehensive definition of activities and associated competences and decision-making powers, which it regulates through an internal regulation.

(2) The accredited person shall regulate in the internal regulation at least

- a) the security and control measures for the processing and recording of information relating to the professional examinations,
- b) the rules for the appointment of the commission chairperson and other commission members,
- (c) the rules governing the remuneration of a commission member, which must not be derived from the success of the professional examinations.

(3) The accredited person shall ensure that at least one commission is established at the time of the professional examinations.

(4) A professional examination shall be held under the direct supervision of a commission.

Article 6

Qualification and personnel assumptions

[Re Article 14c(3)(b) of the Act and Article 14f(3) of the Act]

(1) An accredited person shall ensure that a commission has at least three members.

(2) A commission member shall be trustworthy and have completed at least tertiary education in a master's degree program¹⁾.

(3) Where the accredited person is an investment services provider or such a person is another member of the business group²⁾ of which the accredited person is also a member, the

¹⁾ Article 46 of Act No 111/1998, on higher education institutions and on the amendment and supplement of other Acts (Higher Education Act), as amended.

²⁾ Article 71 and seq. of Act No 90/2012, on business corporations.

majority of the commission members must be independent of the accredited person, the business group of which the accredited person is a member, and of other members of this business group.

Article 7

Examination code (Re Article 14f(2) of the Act)

(1) An accredited person shall have an examination code that meets at least the following requirements:

- a) an objective and impartial approach to all those being tested; in the event the capacity of the examination date is exceeded, the persons being examined must be invited to the examination through objective and impartial selection,
- b) proper identification of the examined person before the commencement of the professional examination,
- c) the security of the personal data of the examined persons,
- d) an objective and impartial course of the professional examination,
- e) objective and impartial selection of the examination variant for the given date and the method of creating the examination,
- f) confidentiality of the content of the individual examination variants,
- g) thematically balanced content of the professional examination,
- h) reviewable records of the results of a professional examination and their verification by the commission,
- i) a possibility and procedure for appeal and review of the results of the professional examination, and
- j) the opportunity for an examined person to inspect the evaluated test or test report and obtain a copy thereof.

(2) The examination code shall contain at least

- a) an elaboration of the requirements pursuant to paragraph 1 into specific procedures and sample documentation,
- b) the rules for setting and publishing examination dates; the accredited person will ensure at least one examination date quarterly if at least 10 persons register for the date in question,
- c) the content and scope of the professional examination,
- d) the number of commission members and the method for their decision-making,
- e) the rules for the exclusion of an examined person from a professional examination, and the possibility of reviewing a decision to exclude an examined person,
- f) an indication of the amount of the remuneration connected with passing a professional examination,
- g) an indication of whether the professional examination is written, oral, or combined,
- h) the rules governing the procedure in the event of bias of a member of the commission, and
- i) the rules governing withdrawal from a professional examination and the failure of an examined person to participate.

Article 8

Minimum standard of a professional examination (Re Article 14f of the Act)

(1) A professional examination for negotiating with a client during the provision of

investment services related only to the financial instruments referred to in Article 29(3) of the Act shall last a total of 135 minutes. A total of 60 exam questions intended to test professional knowledge shall be presented to the examined person. The expertise of the examined person shall be examined through 3 case studies; each of these shall contain 5 test questions aimed at demonstrating expertise pursuant to Article 3.

(2) A professional examination for negotiating with a client during the provision of investment services related to all the financial instruments referred to in Article 3(1) of the Act shall last a total of 180 minutes. A total of 92 exam questions intended to test professional knowledge shall be presented to the examined person. The expertise of the examined person shall be examined through 3 case studies; each of these shall contain 5 test questions aimed at demonstrating expertise pursuant to Article 3.

(3) Each of the test questions shall have 4 possible answer choices. Three quarters of the test questions intended to examine expertise, and all the test questions intended to examine skills, shall have a single correct answer. One quarter of the exam questions intended to examine expertise shall have 1 or more correct answers; any incorrectly chosen answer option shall result in the entire question being marked as incorrectly answered. Correctly answered questions that have 1 correct answer option shall be allocated 1 point, and correctly answered questions that have 1 or more correct answer options, and questions from the expertise-testing range, shall be allocated 2 points.

(4) Successful completion of the professional examination shall require that the examined person gets at least

- (a) three quarters of the achievable points from all the exam questions,
- (b) three fifths of achievable points from the examination questions relating to expertise, and
- (c) three fifths of achievable points from the examination questions relating to professional skills.

Article 9

Rules for updating questions, their provision to accredited persons and their handling

(Re Article 14f of the Act)

(1) The set of test questions shall be updated at least once each year. The number of prepared test questions examining expertise shall not fall below 600 after an update, and the number of case studies below 40. Professional examinations may be held pursuant to the wording of the set of questions prior to an update no later than one month after the publication of this update by the Czech National Bank, unless the Czech National Bank stipulates a longer period of time with regard to the scope of the update.

(2) The Czech National Bank shall publish the set of test questions with the correct answers on its website. The set of test questions with the correct answers shall be sent by the Czech National Bank to accredited persons via a data box every time it is changed.

(3) The accredited person shall create individual test variants shortly before the examination is held. The order of the correct answers for the individual test questions shall be determined randomly for each test variant. Every examined person shall receive their own test variant. The accredited person shall take all necessary measures to keep the individual test variants confidential.

Article 10

Effect

This Decree shall come into effect on 3 January 2018.

Governor:

per pro. Hampl, duly signed

Vice-Governor

Scope of professional knowledge

I. The thematic areas of necessary knowledge for negotiating with a client during the provision of investment services related only to the financial instruments referred to in Article 29(3) of the Act shall include:

- a) the professional minimum about the financial market
 - 1. the financial market, its definition, its role and its importance,
 - 2. the fundamentals of finance theory (time value of money, the relationship between yield, risk and liquidity),
 - 3. financial mathematics (interest),
 - 4. the financial market structure (primary and secondary market, money and capital market, stock market, bond market, financial derivatives market, commodity derivatives market),
 - 5. financial market participants (issuers, investors, financial intermediaries),
 - 6. regulation and supervision of the financial market,
- b) the structure, entities, and operation of the capital market
 - 1. investment service providers (investment firm, investment intermediary, management company, tied agent, foreign person who provides investment services in the Czech Republic through or without a branch),
 - 2. settlement system operator, the Central Securities Depository, regulated market operator, multilateral trading system operator and organised trading system operator,
- c) the regulation of the provision of investment services
 - 1. the legislation related to business on the capital market for investment services, protection from market abuse, and measures against money laundering and the financing of terrorism (AML),
 - 2. the basics of related bond regulations and capital market supervision,
 - 3. the basics of civil law and commercial law,
- d) investment funds
 - 1. investment funds (open and closed, with legal personality, mutual funds, standard funds, special funds, qualified investor funds such as hedge funds, private equity, venture capital funds, real estate funds, Exchange-traded Fund),
 - 2. investment fund manager (management company), investment fund administrator,
 - 3. the investment strategy, the risk profile of an investment fund, the yield distribution method,
 - 4. the basic rules for the operation of investment funds, admissible assets, risk diversification, portfolio management, portfolio performance and risk measurement,
 - 5. the statute of an investment fund, sharing key information, the regular reporting duty to investors,
 - 6. securities issued by investment funds (shares, participation certificates, interests), the mechanism for issuing and redeeming participation certificates and investment shares,
 - 7. the rules of conduct for a manager and administrator regarding distribution on the capital market, and the rules governing the management of investment fund assets, the depository,

8. fees or other charges associated with investing in an investment fund (management fee, entry surcharge, redemption fee, total expense ratio – TER),
- e) financial instruments and their issue
1. financial instruments
 - 1.1 types and characteristics, the concept of a security, and the distribution of securities,
 2. bonds and comparable securities representing the right to the repayment of the owed amount
 - 2.1 bond classes (state, municipal, corporate, mortgage bond, priority, exchangeable, subordinate), bond types (registered, bearer), bond forms (physical, book-entry),
 - 2.2 the bond program, separation of right to the bond yield, bondholder meeting, collective bond,
 - 2.3 comparable securities to bonds (such as a warrant, an investment certificate that is not a derivative),
 3. shares and comparable securities representing an interest in the issuer
 - 3.1 the concept of a share,
 - 3.2 similar securities representing an interest in the issuer (for example, interim certificate, GDR);
 4. derivatives
 - 4.1 the concept of derivatives, types,
 - 4.2 the basic concepts of derivatives trading, use of derivatives (speculation, hedging, arbitrage), the leverage effect,
 5. the basic characteristics relating to some other types of financial instruments (such as money market instruments),
 6. methods of securities valuation
 - 6.1 methods of bonds valuation (nominal price, discount, premium), interest rates, and formation of their market prices, redemption before maturity, credit rating,
 7. the basic tax issues related to investments in financial instruments
 - 7.1 the basic tax issues related to investments in the financial instruments referred to in Article 29(3) of the Act,
 8. issues of securities
 - 8.1 methods for placing securities on the market, public offering, sale to a small group of investors (private placement), primary issues,
 - 8.2 the prospectus (its objectives, function and structure), the issue conditions of bonds,
 - 8.3 the reporting obligations of securities issuers towards investors,
- f) investment services
1. accepting and forwarding instructions, executing instructions on behalf of the client, trading for own account, portfolio management, investment advice, operating a multilateral trading system, operating an organised trading system, placing or subscription of financial instruments,
 2. additional investment services,
 3. procedures for identifying and managing conflicts of interest,
 4. measures to protect client assets,
 5. rules for creating a financial instrument offered to a client, offering a financial instrument created by another person,
 6. the rules of conduct of an investment firm, investment intermediary, and tied agent in relation to a client and among themselves,

7. methods for resolving disputes arising from the provision of investment services (for example, through a claim or the financial arbitrator),
 8. the investor compensation system (the Guarantee Fund of Investment Firms),
- g) investments, investment strategies, the portfolio and related risks
1. investment strategy,
 - 1.1 basic investment strategies,
 2. the risks of financial instruments,
 - 2.1 the risks of the financial instruments referred to in Article 29(3) of the Act, and the possibilities of hedging against them,
 3. basic information about alternative products (such as supplementary pension savings, capital and investment life insurance).

II. The thematic areas of necessary knowledge for negotiating with a client during the provision of investment services related to all the financial instruments referred to in Article 3(1) of the Act shall include:

- a) the professional minimum about the financial market,
 1. the financial market, its definition, its role and its importance,
 2. the fundamentals of finance theory (time value of money, the relationship between yield, risk and liquidity),
 3. financial mathematics (interest),
 4. the financial market structure (primary and secondary market, money and capital market, stock market, bond market, financial derivatives market, commodity derivatives market),
 5. financial market participants (issuers, investors, financial intermediaries),
 6. regulation and supervision of the financial market,
- b) the structure, entities, and operation of the capital market
 1. investment service providers (investment firm, investment intermediary, management company, tied agent, foreign person who provides investment services in the Czech Republic through or without a branch),
 2. settlement system operator, the Central Securities Depository, regulated market operator, multilateral trading system operator and organised trading system operator,
- c) the regulation of the provision of investment services
 1. the legislation related to business on the capital market for investment services, protection from market abuse, and measures against money laundering and the financing of terrorism (AML),
 2. the basics of related bond regulations and capital market supervision,
 3. the basics of civil law and commercial law,
- d) investment funds
 1. investment funds (open and closed, with legal personality, mutual funds, standard funds, special funds, qualified investor funds such as hedge funds, private equity, venture capital funds, real estate funds, Exchange-traded Fund),
 2. investment fund manager (management company), investment fund administrator,
 3. the investment strategy, the risk profile of an investment fund, the yield distribution method,
 4. the basic rules for the operation of investment funds, admissible assets, risk diversification, portfolio management, portfolio performance and risk measurement,

5. the statute of an investment fund, sharing key information, the regular reporting duty to investors,
 6. securities issued by investment funds (shares, participation certificates, interests), the mechanism for issuing and redeeming participation certificates and investment shares,
 7. the rules of conduct for a manager and administrator regarding distribution on the capital market, and the rules governing the management of investment fund assets, the depository,
 8. fees or other charges associated with investing in an investment fund (management fee, entry surcharge, redemption fee, total expense ratio - TER),
- e) financial instruments and their issue
1. financial instruments
 - 1.1 types and characteristics, the concept of a security, and the distribution of securities,
 2. bonds and comparable securities representing the right to the repayment of the owed amount
 - 2.1 bond classes (state, municipal, corporate, mortgage bond, priority, exchangeable, subordinate), bond types (registered, bearer), bond forms (physical, book-entry),
 - 2.2 the bond program, separation of right to the bond yield, bondholder meeting, collective bond,
 - 2.3 comparable securities to bonds (such as a warrant, an investment certificate that is not a derivative),
 3. shares and comparable securities representing an interest in the issuer
 - 3.1 the concept of a share,
 - 3.2 similar securities representing an interest in the issuer (for example, interim certificate, GDR);
 - 3.3 the characteristics of shares, classes (priority and ordinary), type (registered and bearer), form (warrant and book-entered), separately transferable rights,
 4. derivatives
 - 4.1 the concept of derivatives, types,
 - 4.2 the basic concepts of derivatives trading, use of derivatives (speculation, hedging, arbitrage), the leverage effect,
 - 4.3 settlement of transactions with derivatives, margins and collateral, trading in derivatives, the regulation of transactions with derivatives,
 - 4.4 options – the concept, exercising an option, call and put options, short and long positions, American and European options, internal and time value, reversal point, option standardization (realisation price, maturity date, types, contract size, premium), basic option position, option strategy, covered and uncovered options, option pricing,
 - 4.5 forwards and futures – the concept, exercising, types (for example currency futures, stock and bond futures, stock exchange futures, FRA), margin trading, settlement,
 - 4.6 swaps – the concept, application, types (interest rate swap, currency swap, cocktail swap, stock swap), settlement,
 - 4.7 Contract for Difference (CFD),
 - 4.8 commodity derivatives (such as derivatives for raw materials, industrial and agricultural products),
 - 4.9 exotic derivatives (such as derivatives for climate indicators, transport tariffs, emissions permits),
 - 4.10 combined instruments (for example, futures options, swap options, forward swaps, an investment certificate that is a derivative),

- 4.11 the fundamentals of derivatives valuation,
- 5. the basic characteristics relating to some other types of financial instruments (such as money market instruments),
- 6. methods of securities valuation
 - 6.1 methods of bonds valuation (nominal price, discount, premium), interest rates, and formation of their market prices, redemption before maturity, credit rating,
 - 6.2 methods of share valuation (nominal, issue and market value), share premium, expressing their yields,
- 7. the basic tax issues related to investments in financial instruments
 - 7.1 the basic tax issues related to investments in the financial instruments referred to in Article 29(3) of the Act,
 - 7.2 the basic tax issues related to investments in other financial instruments,
- 8. issues of securities
 - 8.1 methods for placing securities on the market, public offering, sale to a small group of investors (private placement), primary issues,
 - 8.2 the prospectus (its objectives, function and structure), the issue conditions of bonds,
 - 8.3 the reporting obligations of securities issuers towards investors,
- f) investment services
 - 1. accepting and forwarding instructions, executing instructions on behalf of the client, trading for own account, portfolio management, investment advice, operating a multilateral trading system, operating an organised trading system, placing or subscription of financial instruments,
 - 2. additional investment services,
 - 3. procedures for identifying and managing conflicts of interest,
 - 4. measures to protect client assets,
 - 5. rules for creating a financial instrument offered to a client, offering a financial instrument created by another person,
 - 6. the rules of conduct of an investment firm, investment intermediary, and tied agent in relation to a client and among themselves,
 - 7. methods for resolving disputes arising from the provision of investment services (for example, through a claim or the financial arbitrator),
 - 8. the investor compensation system (the Guarantee Fund of Investment Firms),
- g) investments, investment strategies, the portfolio and related risks
 - 1. investment strategy,
 - 1.1 basic investment strategies,
 - 1.2 advanced investment strategies,
 - 2. the risks of financial instruments,
 - 2.1 the risks of the financial instruments referred to in Article 29(3) of the Act, and the possibilities of hedging against them,
 - 2.2 the risks of other financial instruments, and the possibilities of hedging against them,
 - 3. basic information about alternative products (such as supplementary pension savings, capital and investment life insurance),
 - 4. basic macroeconomic indicators, indexes of regulated markets, basic technical principles, fundamental and other analyses, and the application of their results,
 - 5. portfolio theory, capital market theory, arbitration valuation theory, effective market theory, the impact of psychology on financial markets,

h) financial analysis

1. the fundamentals of financial analysis of an enterprise and financial accounting (balance sheet, profit and loss account),
2. the fundamentals of financial statements analysis (equity and foreign capital, indebtedness, profitability),
3. the main financial indicators (profitability, liquidity, indebtedness).