

**OFFICIAL INFORMATION
OF THE CZECH NATIONAL BANK**
of 17 January 2014

**regarding the conditions of admissibility of inducements in the distribution of certain
products on the financial market**

I. Applicability and purpose

1. Through this Official Information the Czech National Bank provides information on the conditions of admissibility of inducements
 - a) in the provision of investment services pursuant to Article 15(1) and (3) of Act No. 256/2004 Coll., on Capital Market Undertakings, as amended (hereinafter referred to as the “AoCMU”) and Article 15 of Decree No. 303/2010 Coll., on the details of certain rules in the provision of investment services (hereinafter referred to as “Decree No. 303/2010 Coll.”),¹⁾
 - b) in the area of management companies and investment funds²⁾ pursuant to Article 22(2)(h) and Article 49(3)(f) of Act No. 240/2013 Coll., on Management Companies and Investment Funds (hereinafter referred to as the “AoMCIF”) and Article 41 of Decree No. 244/2013 Coll., on more detailed regulation of some rules set out by the Act on Management Companies and Investment Funds (hereinafter referred to as “Decree No. 244/2013 Coll.”)³⁾ and pursuant to Article 24 of Commission Delegated Regulation No. 231/2013 of 19 December 2012 supplementing Directive 2011/61/EU of the European Parliament and of the Council with regard to exemptions, general operating conditions, depositaries, leverage, transparency and supervision (hereinafter referred to as the “Regulation”),⁴⁾ and
 - c) in the area of pension products pursuant to Articles 76 and 77 of Act No. 426/2011 Coll., on Retirement Savings, as amended (hereinafter referred to as the “AoRS”), and pursuant to Articles 127 and 128 of Act No. 427/2011 Coll., on Supplementary Pension Savings, as amended (hereinafter referred to as the “AoSPS”).⁵⁾
2. The conditions of admissibility of inducements in the distribution of certain products on the financial market pursuant to this Official Information are based primarily on

¹⁾ These regulations transpose into Czech law primarily Article 26 of Commission Directive 2006/73/EC of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards organisational requirements and operating conditions for investment firms and defined terms for the purposes of that Directive (hereinafter referred to as “Directive 2006/73/EC”)

²⁾ The regulation of inducements shall not apply to managers of funds for qualified investors who are not authorised to exceed the reference limit and to administrators of the funds they manage unless those managers or administrators provide investment services.

³⁾ These regulations transpose into Czech law primarily Article 29 of Commission Directive 2010/43/EU of 1 July 2010 implementing Directive 2009/65/EC of the European Parliament and of the Council as regards organisational requirements, conflicts of interest, conduct of business, risk management and content of the agreement between a depositary and a management company.

⁴⁾ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:083:0001:0095:EN:PDF>.

⁵⁾ The regulation of inducements shall not apply to the distribution of private pension plans; this area is governed by Official Information of the Czech National Bank No. 20/2009 CNB Bull. of 4 November 2009 regarding certain rules of conduct towards private pension scheme participants and persons interested in entering into a private pension policy.

documents of the European Securities and Markets Authority and its predecessor the Committee of European Securities Regulators (hereinafter referred to as the “CESR”) relating to the regulation of investment services,⁶⁾ and on the experience gained by the Czech National Bank in the supervision of investment services providers, management companies, investment funds with legal personality and pension management companies.

3. The conditions of admissibility of inducements in the distribution of certain products on the financial market are given in the Annex to this Official Information.

II. Final provisions

1. This Official Information describes the legal situation as of 1 January 2014. The Official Information contains principles for the regulation of inducements but does not contain an exhaustive list of all the situations that can arise in connection with inducements. The practical application of the conditions of admissibility of inducements in the provision of investment services and in the area of management companies, investment funds and pension products must always be based on the letter of the law and on the spirit of the regulation of inducements as a potential source of conflicts of interests.
2. This Official Information shall take effect on the date of its promulgation in the CNB Bulletin. Official Information of the Czech National Bank No. 21/2011 CNB Bull. of 16 December 2011 regarding the conditions for admissibility of inducements in providing investment services and in collective investment shall expire on the date of effect of this Official Information.

Vice-Governor
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Annex: Conditions of admissibility of inducements in the distribution of certain products on the financial market

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⁶⁾ The CESR recommendations “Inducements under MiFID” of 29 May 2007 (CESR 07-228b) and “Inducements: Report on Good and Poor Practices” of 10 April 2010 (CESR 10-295).

Conditions of admissibility of inducements in the distribution of certain products
on the financial market

I. General rules

1. Basic definition of inducements

“Inducement” shall mean any fee, commission or non-monetary benefit (hereinafter also referred to as “payment”) accepted, offered or provided (hereinafter also “made”) in the provision of investment services and in the area of management companies, investment funds and pension products¹⁾ in the following relationships:

- a) between an investment services provider²⁾ (hereinafter referred to as the “provider”) and a client,
- b) between the provider and a third party,
- c) between a manager of an investment fund (hereinafter referred to as the “manager”) or an administrator of an investment fund (hereinafter referred to as the “administrator”) and a fund they manage or administer,³⁾
- d) between the manager or the administrator and a unit-holder, a shareholder or a beneficiary (hereinafter also an “investor”) of a fund they manage or administer,
- e) between the manager or the administrator and a third party,
- f) between a pension management company or a distributor of pension products and a fund managed by the pension management company,
- g) between a pension management company or a distributor of pension products and a retirement savings participant or a supplementary pension savings participant in a fund managed by the pension management company (hereinafter referred to as the “participant”) and
- h) between a pension management company or a distributor of pension products and a third party.

The acceptance, offering or provision of an incentive must not give rise to a breach of the duty of the provider, the management company, the pension management company or the

¹⁾ “Pension product” shall mean a participation in a retirement savings or supplementary pension savings plan. “Distributor of pension products” shall mean, in addition to a pension management company itself, a registered investment firm authorised under a different legal rule to provide the investment services of reception and transmission of orders relating to investment instruments and investment advice relating to investment instruments, an investment intermediary, a tied agent of an investment intermediary, a tied agent of an investment firm and a tied agent of a pension management company (Article 91 of the AoRS and Article 29(3) and Article 74(1) of the AoSPS).

²⁾ “Investment services provider” shall mean an investment firm, an investment intermediary, a bank or a management company authorised to provide (certain) investment services and a foreign entity authorised to provide investment services in the Czech Republic (acting either directly or via tied agents). A management company shall observe either the investment services regulations or the regulations in the area of management companies and investment funds (cf. Article 33(1) of the AoMCIF).

³⁾ The regulation of inducements shall not apply to a manager or an administrator that manages only itself (an autonomous investment fund) or administers only itself.

distributor of pension products to act honestly, fairly and professionally and in the best interests of its clients, investors and participants.⁴⁾

The third party may be either a person entirely independent of the provider, the manager, the pension management company or the distributor of pension products, or another member of the same financial group. The same criteria must be applied to intra-group payments as to extra-group payments. The third party may also be another client, investor or participant who pays an inducement to the provider, the manager, the administrator, the pension management company or the distributor of pension products.

Example 01:

An investment firm receives remuneration from an issuer of investment instruments for placing those investment instruments and simultaneously offers the same investment instruments to its other clients as part of the investment service of reception and transmission of orders or execution of orders, or acquires them into the portfolios it manages at its own discretion. In this case, the remuneration from the issuer is an inducement which must be considered from the perspective of the other clients of the provider even though the issuer itself is also a client of the provider.

Non-monetary benefits shall include, for example, advice, technical and information support, training and study materials.

In the provision of investment services, the obligation laid down in Article 15(1) of the AoCMU applies to conduct relating to the provision of services to non-professional clients and certain professional clients under Article 2d of the AoCMU (existing and potential).

2. Internal policies and procedures

Rules for accepting, offering or providing inducements in the provision of investment services, in the area of management companies and investment funds or pension products, shall be part of the internal policies of the provider, the manager, the administrator, the pension management company or the distributor of pension products.⁵⁾ Those rules shall supplement the rules for identifying and managing conflicts of interest,⁶⁾ although compliance with the rules for identifying and managing conflicts of interest shall not on its own mean that an inducement is admissible.

Control of compliance of the obligations connected with inducements arising from the AoCMU, the AoMCIF, the Regulation, the AoRS, the AoSPS, decrees and from the internal policies of the provider, the manager, the administrator, the pension management company or the distributor of pension products shall be part of the compliance function.⁷⁾

The provider, the pension management company or the distributor of pension products shall keep records of inducement-related documents and any communications with the

⁴⁾ Article 15(1) of the AoCMU, Article 22(1)(c) and Article 49(1)(b) of the AoMCIF, Articles 17 and 21 of the Regulation, Article 75 of the AoRS and Article 126 of the AoSPS.

⁵⁾ Article 2(1) of Decree No. 303/2010 Coll., Article 3(1) of Decree No. 244/2013 Coll., Article 18(3) and (4) of the Regulation and Article 3(1) of Decree No. 117/2012 Coll., on more detailed regulation of the activities of a pension management company, a retirement fund and a participation fund (hereinafter referred to as “Decree No. 117/2012 Coll.”), Article 92(3) of the AoRS and Article 75(3) of the AoSPS.

⁶⁾ Articles 11–14 of Decree No. 303/2010 Coll., Articles 26–28 of Decree No. 244/2013 Coll., Articles 30–36 of the Regulation and Articles 21–23 of Decree No. 117/2012 Coll., Article 92(3) of the AoRS and Article 75(3) of the AoSPS.

⁷⁾ Article 12a(1)(c) item 2 of the AoCMU, Article 32(4)(e) of the AoCMU, Article 32 of Decree No. 123/2007 Coll., stipulating the prudential rules for banks, credit unions and investment firms, as amended, Article 20(1)(d) item 2 and Article 47(1)(d) item 2 of the AoMCIF, Article 18 of Decree No. 244/2013 Coll., Article 61 of the Regulation, Article 50(1)(c) item 2 of the AoSPS and Article 17 of Decree No. 117/2012 Coll., Article 92(3) of the AoRS and Article 75(3) of the AoSPS.

client or the participant.⁸⁾ Managers or administrators are advised to keep records of inducement-related documents and any communications with the fund they manage or administer or with the investor under similar conditions.

II. Inducement assessment procedure

This procedure shall be followed by the provider before negotiating a new contract with a client relating to the provision of investment services or amending an existing contract with a client. The contract with the client should be negotiated or changed subject to compliance with the rules for accepting, offering or providing inducements in the provision of investment services. The same procedure shall be used before:

- agreeing a new type of trade on the basis of an existing contract, i.e. a trade to which inducements relate,
- accepting a new type of inducement provided by a third party, or
- concluding an agreement with a third party to change the nature or method of calculation of an existing inducement provided on a long-term basis.

In the area of management companies, investment funds and pension products, the assessment of an inducement by the manager, the administrator, the pension management company or the distributor of pension products shall be performed before the performance of their activity⁹⁾ or before the transmission of the instruction or the performance of the activity by another person for the account of the fund under management.

The above rules do not prevent the provider, the manager, the administrator, the pension management company or the distributor of pension products acting on the basis of an assessment of an inducement that they performed earlier under the same conditions (the same contractual terms, investment service, investment instrument and inducement).

1. Assessment of whether a payment is an inducement

The provider, the manager, the administrator, the pension management company or the distributor of pension products shall first assess whether the payment is an inducement, i.e. (i) whether it is made in direct connection with an investment service, management, administration, retirement savings or supplementary pension savings or the distribution thereof, (ii) whether it is made outside the framework of the provider, the manager, the administrator, the pension management company or the distribution of pension products¹⁰⁾ and (iii) whether it is not a standard benefit.

Example 02:

A payment that is made in no direct connection with the provision of investment services, management, administration, retirement savings or supplementary pension savings or the distribution thereof (for example, payment for the rental of office premises; if the lessor has a business relationship with the provider, the manager, the administrator, the pension management company or the distributor of pension products, the rent must correspond to the usual market conditions) is not an inducement.

⁸⁾ Article 17 and Article 32(6) of the AoCMU, Article 16 of Decree No. 303/2010 Coll., Article 31 and Article 92(6) of the AoRS and Article 55 and Article 75(6) of the AoSPS.

⁹⁾ Article 5(1) and Article 38(1), (2) and (3) of the AoMCIF, Article 25(1) and Article 91(1) of the AoRS and Article 29(1) and Article 74(1) of the AoSPS.

¹⁰⁾ A payment made between a tied agent and the provider or the pension management company it represents shall be seen as an internal payment within the provider or pension management company. With the exception of the aforesaid relationship, the acceptance or provision of an inducement by a tied agent shall be ascribed to the represented party.

Example 03

A payment made to a provider by a third party is an inducement if it in fact represents part of a payment made to the third party by a client (for example, a share of an entry fee on top of the current value of a mutual fund unit, or a share of a commission paid to an investment firm by a client).

Example 04:

Payments made to third parties for activity directed at concluding a contract on the provision of investment services between a provider and a client (introducing broker activity) are payments made in direct connection with an investment service if the amount of the payment is at least partly dependent on the volume of future trades executed by the client.

Example 05:

Standard benefits that are not inducements include occasional small gifts or hospitality that cannot give rise to a conflict of interests.

Example 06:

Internal payments within a single company that are not inducements include, for example, staff bonuses and office equipment.

2. Categorisation of inducements

If a payment is an inducement, the provider, the manager, the administrator, the pension management company or the distributor of pension products shall classify that payment into one of the following categories:

(A) client inducement, i.e. an inducement provided by a client (a fund under management, an investor, a participant) or a third party on behalf of a client (a fund under management, an investor, a participant) as well as an inducement paid to a client by a provider or to a fund under management, an investor or a participant by a manager, an administrator, a pension management company or a distributor of pension products.

Where a representative (for example a lawyer or tax adviser) acts on behalf of and for the account of a client, an investor or a participant, a payment made by or to him shall be deemed a payment made by or to the client, the investor or the participant. Where a representative of a client, an investor or a participant accepts an inducement for himself from a provider, such inducement shall be assessed in accordance with the conditions laid down in categories B and C.

Example 07:

This category includes payments of remuneration for the provision of a service (for example, a commission paid to a provider by a client or an entry fee on top of the current value of a mutual fund unit paid to a manager by a unit-holder) and conversely various benefits and discounts provided to clients (for example, a discount on an entry fee on top of the current value of a mutual fund unit, or a rebate of part of a fee charged by a manager for the management of an investment fund).

(B) operational inducement, i.e. an inducement that enables or is necessary for the provision of investment services, management, administration, retirement savings and supplementary pension savings or the distribution of pension products.

Example 08:

Inducements that are necessary for the provision of an investment service or management, administration, retirement savings and supplementary pension savings include:

- payments for audits, accountancy, legal and tax services or strategic consulting,
- the fees of a regulated market, a settlement system and a person maintaining a register of investment instruments,
- payment for performing the activity of a depository or for the safekeeping and administration of securities,
- costs associated with fulfilling the obligations of a depository to the Czech National Bank (administrative fees, reporting system costs, etc.) and to clients (printing of information etc.),
- contributions to the Securities Traders Guarantee Fund,
- underwriting fees,
- postal and other communication fees, including SWIFT,

- bank account maintenance fees,
- fees for the use of paid information services (e.g. Bloomberg, Beck on-line),
- payments made in connection with attendance at shareholders meetings, dividend distribution, etc.,
- training prescribed by law (e.g. AML).

(C) other inducements, i.e. inducements paid directly or indirectly to or accepted directly or indirectly from a third party which do not fall within category B.

Example 09:

This category of inducements includes, for example, fees or commissions paid by an investment firm to an investment intermediary or to another investment firm carrying on intermediary activity as an introducing broker, fees paid by a manager or an administrator to distributors of securities issued by an investment fund (a share of an entry fee on top of the current value of a mutual fund unit or a share of a management fee charged by a manager or an administrator out of assets in the investment fund).

3. Assessment of inducements

A category A inducement (client inducement) shall always be admissible.

A category B inducement (operational inducement) shall be admissible only if¹¹⁾

- a) *it enables or is necessary for the provision of investment services, management, administration or distribution of pension products, and*
- b) *it does not conflict with the duty of the investment firm, the manager, the administrator, the pension management company or the distributor of pension products to act honestly, fairly and professionally and in the best interests of the client, the fund under management, the investor or the participant.*

It is therefore necessary to examine what the aim of the inducement is and whether that aim might have a negative effect on the client, the fund under management, the investor or the participant.

A category C inducement (other inducements) shall be admissible only if (conditions to be fulfilled cumulatively)¹²⁾

- a) *it contributes to enhancing the quality of the service or activity provided,*

The assessment of the quality of the service or activity provided shall be performed by the provider, the manager, the administrator, the pension management company or the distributor of pension products from the perspective of all clients, funds under management, investors or participants to which the same investment service is provided or the same activity is carried on under the same conditions (abstract assessment). For the purposes of this assessment, it shall be immaterial whether the inducement supports the activity of the provider, the manager, the administrator, the pension management company or the distributor of pension products, for example whether it helps it gain more clients, sell an investment product to more clients or achieve higher sales of an investment product.

Example 10:

The acceptance of an inducement from a third party that enables a distribution channel with better and easier access for clients, investors or participants to be created or the range of services offered to be expanded can contribute to enhancing the quality of a service or activity offered.

¹¹⁾ Article 15(2) of Decree No. 303/2010 Coll., Article 41(2) of Decree No. 244/2013 Coll., Article 24(1)(c) of the Regulation, Article 77(2) of the AoRS and Article 128(2) of the AoSPS.

¹²⁾ Article 15(1)(b) of Decree No. 303/2010 Coll., Article 41(1)(b) of Decree No. 244/2013 Coll., Article 24(1)(b) of the Regulation, Article 77(1)(b) of the AoRS and Article 128(1)(b) of the AoSPS.

Example 11:

Likewise, the provision of advice and technical and information support to a provider, a manager, an administrator, a pension management company or a distributor of pension products, including skills-enhancing training (to the extent, and in the form, necessary for achieving that objective; this applies especially to foreign training or training organised at tourist destinations) can contribute to enhancing the quality of a service or activity offered.

Example 12:

The same conditions need not apply to all classes of clients, funds under management, investors or participants. For example, obtaining current information on the capital market situation can constitute enhancement of the quality of a service provided to a professional client (free transfer of current data from capital markets or analyses of investment opportunities can constitute provision of an inducement of a foreign investment firm to a provider). By contrast, facilitating access to investment services or instruments, for example by enabling the reception of orders and complaints for a foreign investment firm in its mother tongue, can constitute enhancement of the quality of service provided to a normal non-professional client (a provider's share in a foreign investment firm's commission derived from the volume of trades executed by the client can constitute an inducement).

b) it does not conflict with the duty to act in the best interests of the client (the fund under management, the investor or the participant),

As in the case of category B, it is necessary to examine whether the inducement pursues aims that might be disadvantageous to the client (the fund under management, the investor or the participant).

Example 13:

An inducement aimed at influencing a provider to unilaterally encourage a client to purchase a particular investment instrument from a range of products offered or to encourage a client to trade too often, for example in such a way that the size of the inducement increases disproportionately to the scale of services provided to clients, is inadmissible.

Example 14:

If the aim of an inducement is to influence a manager or its senior officer to use a particular investment firm or depository even though a different one would be more advantageous to the fund it manages, the inducement concerned is inadmissible.

Example 15:

If an inducement leads to or is directed at limiting the mobility of investors in some other way than on the basis of economic considerations reflecting the costs and benefits of investing in the securities issued by the investment fund (for example, by means of a share in a maintenance fee, for the retention of which an investment firm convinces a client to maintain an investment that is disadvantageous to him or the investment firm itself holds such an investment in the portfolio it manages), such an inducement is inadmissible.

Example 16:

If an inducement is paid to a provider by a third party for a service that is already charged to a client without the client gaining any benefit by paying twice (for example, a discount on other payments), such practice does not fulfil the requirement to act in the best interests of the client. Typically, if an investment intermediary has negotiated payment for investment advice in a contract with a client and simultaneously accepts an inducement from an investment firm derived from the volume of trades executed by that client without providing the client with a service other than investment advice (for example, reception and transmission of orders), such an inducement is inadmissible.

Example 17:

The mere fact that the construction of an inducement is completely standard and widely used on the market is not sufficient to fulfil the condition that the inducement should not conflict with the provider's duty to act in the best interests of the client. A situation can be imagined where a particular type of inducement will be assessed as admissible for one provider and inadmissible for another owing to the absence of sufficient control mechanisms or because the inducement is unusually constructed. For example, an inducement for an investment intermediary will be set as a percentage of the commission, as is the norm on the market, but if the configuration of the inducement will, in the case of an investment firm, support the sale of one type of product (a higher commission without the service provision costs being higher), that specific inducement may be seen as inadmissible (see also Example 13).

The provider, the manager, the administrator, the pension management company or the distributor of pension products shall assess the inducement on an ongoing basis to determine whether the assumptions on the basis of which it concluded that the conditions under (a) and (b) were fulfilled still apply. The provider, the manager, the administrator, the pension management company or the distributor of pension products has an obligation to cease providing or accepting an inadmissible inducement or to take remedial action over the entire duration of provision or acceptance of the inducement and not only before concluding or amending the relevant contract.

c) prior to the provision of the service, the client (the fund under management, the investor or the participant) must be clearly, understandably and fully informed about the existence and nature of the inducement and the amount or value of the inducement or the method used to calculate the inducement if it cannot be determined in advance.

The provider, the manager, the administrator, the pension management company or the distributor of pension products shall disclose its own inducement to the client, the fund it manages, the investor or the participant; it may do so through an investment intermediary or a distributor of pension products, which shall state the inducement together with its own inducements.

This information may be provided in the form of a summary disclosure of the essential terms of the inducement (hereinafter referred to as the “summary disclosure”). The summary disclosure must define the amount or value of the inducement at least using a reasonably wide band range that enables the client to have a picture of the level of the inducement. Third parties must be mentioned in such a way that it is clear at the very least what type of third party is involved.

Example 18:

Generic information such as “the provider will pay a third party an inducement” or “the manager provides an inducement to a third party” is wholly insufficient. Where the provider gives information on inducements in the form of a summary disclosure and uses a band range, the band may not be narrowed to information such as “the inducements represent between 0% and 80% of the management fee” when the provider regards it as likely, based on past experience, that it will receive between 20% and 30% of the management fee as an incentive from a specific third party. This fact must also be stated explicitly in the summary disclosure.

Example 19:

It is not admissible for information on inducements to contain the inducement amount or value defined only selectively using a single criteria (such as the amount invested) if the amount or value is dependent on more than one criteria (for example, the investment duration or the manner of payment of the related client inducement at the start of the contractual relationship).

However, it must always disclose further details if the client, the investment fund under management or the investor so requests. The client, the investment fund under management or the investor must be explicitly notified of the option of detailed disclosure in advance.¹³⁾ Neither the AoRS nor the AoSPS explicitly stipulates this obligation for a managed pension management fund, a participation fund, a transformed fund or a participant, but given the spirit of the regulation of inducements in those laws, the Czech National Bank expects a pension management company or a distributor of pension products to act analogously to a provider, a manager or an administrator. The detailed information cannot contain just a band range; the amount or value of the inducement must be stated exactly. Where this information cannot be determined exactly in advance, the method used to calculate the inducement must at least be disclosed. In the case of complicated calculation methods, it is also appropriate to estimate the result. Exact

¹³⁾ Article 15(3) of Decree No. 303/2010 Coll., Article 41(3) of Decree No. 244/2013 Coll. and Article 24(2) of the Regulation.

information should then be disclosed in this case after provision of the service or performance of the activity.

Example 20:

If the band range, amount or value of an inducement cannot be determined in advance, the percentage or share of the amount of the trade in the investment instrument should be stated.

Example 21:

If the amount of an inducement (commission) paid to a third party by a manager or an administrator equals a certain (clearly defined) share in the entry fee paid to the administrator by the investor, it is not sufficient for the information on inducements to contain only general information stating that the amount of the inducement paid to the third party by the manager or the administrator depends on the amount of units the unit-holder subscribes for. It is appropriate to state that the third party will receive a certain percentage for intermediating an investment of a certain amount.

Information on inducements must not be unclear, untruthful, misleading or false.¹⁴⁾ The method for disclosing information on inducements in the area of investment services and pension products is not laid down explicitly in legal regulations. However, the Czech National Bank recommends that the provider, the pension management company or the distributor of pension products should disclose information on inducements to the client or the participant in a manner similar to that given in Article 15e of the AoCMU;¹⁵⁾ the agreement of the client or the participant to the provision of information in this way is not required. In the case of a summary disclosure published via the Internet, the Czech National Bank expects the provider, the pension management company or the distributor of pension products to explicitly refer the client or the participant to the information on inducements given on the Internet, because otherwise it would not fulfil the general requirement laid down in Article 15(1) of the AoCMU, Article 75 of the AoRS and Article 126 of the AoSPS.

Example 22:

An appropriate disclosure method is to create a single document where the client or the investor can find all information on inducements that relate to him or her.

Example 23:

Where the provider deals with the client in person, the provider is advised to disclose information on inducements to the client on a separate sheet so that the information on inducements does not get mixed up, for example, with the information on the investment services and instruments being provided.

Example 24:

Where the provider communicates with the client by e-mail, it is appropriate to attach information on the inducement to the email or to insert a link to its website and state explicitly where the information on inducements can be found on that site.

A manager that manages a mutual fund or a unit trust may provide a summary disclosure to unit-holders in the statutes of the fund, where the nature of the inducement so allows. It should inform unit-holders about inducements which it does not want to disclose, or cannot disclose owing to the nature of the inducement, in the statutes of the mutual fund or the unit trust by means of a disclosure on its website; this information must also be accessible at the manager's head office. In the case of an investment fund with legal personality the summary disclosure should be issued by agreement with the fund. The manager should provide detailed information in a manner similar to that given in

¹⁴⁾ Article 15a(1) sentence 1 of the AoCMU, Article 22(1)(b), Article 49(1)(a) and Article 49(3)(d) of the AoMCIF, Article 75 and Article 79(1) of the AoRS and Article 126 and Article 130(1) of the AoSPS.

¹⁵⁾ If the information on the inducement is disclosed on an Internet site, it must be accessible for download for the time during which contractual negotiations were conducted with the client, the period during which the contract is in force and, to the extent necessary, the period after the contract has lapsed (cf. the EFTA Court Judgement in Case E-4/09 (Inconsult Anstalt)).

Article 15e of the AoCMU;¹⁵⁾ the agreement of the investment fund or the investor to the provision of information in this way is not required.¹⁶⁾

¹⁶⁾ Article 41(3) and (4) of Decree No. 244/2013 Coll.