

CZECH REPUBLIC

ACT ON SUPERVISION IN THE CAPITAL MARKET AND ON AMENDMENT TO OTHER ACTS

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15/1998 Coll.,

ACT

of 13 January 1998

**on Supervision in the Capital Market Area
and on the Amendment of other Acts**

Amendment: 30/2000 Coll., 362/2000 Coll., 370/2000 Coll.

Amendment: 308/2002 Coll.

Amendment: 308/2002 Coll. (part)

Amendment: 257/2004 Coll.

Amendment: 626/2004 Coll.

Amendment: 381/2005 Coll.

Amendment: 56/2006 Coll.

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

Amendment: 224/2006 Coll.

Amendment: 342/2006 Coll.

Amendment: 296/2007 Coll.

Amendment: 104/2008 Coll.

Amendment: 230/2008 Coll.

Amendment: 250/2008 Coll.

Amendment: 254/2008 Coll.

Parliament has passed this Act of the Czech Republic:

PART ONE

SUPERVISION IN THE CAPITAL MARKET AREA

TITLE I

**COMPETENCE AND POWERS OF THE CZECH NATIONAL BANK IN THE CAPITAL
MARKET AREA**

Heading deleted

Article 1

Subject

This Act governs the competence and powers of the Czech National Bank in the exercise of supervision of the capital market and lays down certain rights and obligations of the entities operating on this market.

Article 2
Heading deleted

In the exercise of capital market supervision the Czech National Bank shall strengthen the confidence of investors and issuers of investment instruments in the capital market, in particular by contributing to the protection of investors and the development of the capital market and by promoting public education in this area.

Article 3
Competence of the Czech National Bank in capital market supervision

In the capital market area, the Czech National Bank shall:

- a) perform supervision to the extent set forth in this Act and in special legal rules governing the areas of capital market undertakings, collective investment, bonds, company law and investment of resources of pension funds¹⁾,
- b) make decisions on the rights, legally protected interests and obligations of legal entities and natural persons where this Act or special legal rules governing the areas of capital market undertakings, collective investment, bonds, company law and investment of resources of pension funds so provide¹⁾,
- c) check the discharge of disclosure duties of the entities subject to supervision by the Czech National Bank as laid down in this Act and special legal rules governing the areas of capital market undertakings, collective investment, bonds, company law and investment of resources of pension funds¹⁾,
- d) perform other activities pursuant to this Act.

Article 4
Repealed

Article 5
Basic definitions

(1) “Institutional investor” shall mean:

- a) a bank trading on its own account in investment instruments on the capital market, an investment company, an investment fund, a pension fund or an insurance company,
- b) a foreign person entitled to carry on business in the Czech Republic in the same categories as

persons referred to in (a).

(2) “Provider of services on the capital market” shall mean an investment firm, a foreign investment firm that provides investment services in the Czech Republic through a branch, a person who accepts and transmits instructions relating to investment instruments under the conditions laid down in a special legislative act^{4a)}, an institutional investor, a depository, a regulated market operator, a person responsible for the settlement of securities, the central depository⁵⁾ and the Czech National Bank in the scope of keeping the register of securities.

(3) “Capital market participant” shall mean, in particular, a provider of services on the capital market, an investor on the capital market, an issuer of securities, persons bound by such securities, an owner of securities, an issuer or an owner of another investment instrument.

Article 6 Proceedings before the Czech National Bank

(1) In proceedings in matters regulated by this Act, the general legal rules⁷⁾ shall apply unless stipulated otherwise by individual provisions of this Act or special legislative acts. The provisions of the Administrative Procedure Code regarding the possible manner of terminating appeal proceedings^{7a)} shall not apply.

(2) Before opening proceedings in the capital market supervision area (Article 3(a)) the Czech National Bank shall consider whether it will open proceedings to impose remedial measures or sanctions for breach of obligations detected pursuant to this Act or a special legislative act. In so doing, the Czech National Bank shall mainly consider the nature, seriousness, length and effects of the breach and the approach of the person suspected of breaching a legal duty in remedying consequences of an illegal conduct, if applicable. If the Czech National Bank decides not to open the proceedings, it shall make a record to this effect and discontinue the proceedings. A decision on discontinuing the proceedings shall not be issued.

(3) An appeal may be filed against a decision of the Czech National Bank in the capital market supervision area. The Bank Board of the Czech National Bank shall decide on the appeal. The Bank Board of the Czech National Bank shall also take a decision on a remedial action against a decision of a regulated market operator or the Stock Exchange Chamber pursuant to a special legal rule^{24e)}.

(4) In proceedings involving more than 30 people, documents may be served by the posting of a public notice.

Heading deleted

Article 7 Subject of capital market supervision

The following shall be subject to supervision by the Czech National Bank:

- a) the discharge of duties by natural persons or legal entities as laid down in this Act,
- b) the discharge of duties laid down in special legislative acts^{1), 8), 9)},
- c) the discharge of duties and conditions laid down in the enforceable decisions of the Czech National Bank and
- d) the discharge of duties laid down by directly applicable regulations of the European Communities.^{9a)}

Article 7a

(1) The discharge of duties laid down in the Commercial Code, Act on Take-over Bids and the Act on Capital Market Undertakings shall be subject to capital market supervision by the Czech National Bank:

- a) within a public proposal for purchase or barter of participating securities pursuant to Article 183a of the Commercial Code, if these participating securities have been admitted to trading in a regulated market, within the procedure pursuant to Article 186a or Article 183n of the Commercial Code,
- b) in respect of the acquisition or reduction of a share in the voting rights of a company whose shares are listed,
- c) in respect of the acquisition of own shares by a joint-stock company or a person controlled by such a company,
- d), in respect of a take-over bid

(2) In the exercise of supervision pursuant to paragraph 1, the Czech National Bank shall proceed pursuant to this Act and shall be entitled to impose measures and sanctions set out in this Act, the Act on Capital Market Undertakings and the Commercial Code.

(3) Even without a petition the Czech National Bank shall be entitled to suspend the exercise of the voting rights of any person who did not duly and in time fulfil the obligation to report its share of voting rights or did not make an offer of a takeover even though the Act so orders, for a period of up to one year from the date the decision comes into effect if this is necessary to protect the interests of other shareholders, creditors or company employees. An appeal against this decision shall not have suspensory effect. The Czech National Bank shall send the enforceable decision to suspend the exercise of the voting rights also to the company in which the exercise of the voting rights of the relevant person has been suspended and to the central depository, and shall publish it in a manner allowing remote access.

(4) (repealed)

Article 8
Heading deleted

(1) The Czech National Bank shall be entitled for the purposes of performance of supervision over the capital market:

- a) to request information from everyone, including auditors,

- b) to request an explanation of the facts from any person; the provisions of a special legal rule regulating administrative proceedings on summoning, producing and examining a witness shall apply in a similar manner,

- c) to request the submission of records, messages or related data transmitted via electronic communication networks from a person that is subject to its capital market supervision and that has rightfully acquired them,

- d) to request, the provision of operational and localisation information from a person operating a public communication network or providing a publicly available electronic communication service^{9b)},

- e) to conduct an on-site inspection pursuant to a special legislative act in a person that is subject to its capital market supervision; the Czech National Bank may invite an auditor, audit company or expert to the performance of the inspection.

(2) The Czech National Bank may apply an entitlement referred to in paragraph 1 if this is necessary to find out the information required by a foreign financial market supervisory authority, on condition that this is necessary for the fulfilment of its tasks in the financial market supervision area, that this information can be provided to such authority in compliance with Article 26 and that it can exert analogous powers within the territory of its state in the case of an analogous request submitted by the Czech National Bank.

(3) In connection with the performance of an on-site inspection, a person subject to capital market supervision by the Czech National Bank shall be obliged to provide the Czech National Bank or a person authorised by it with necessary co-operation, in particular to provide, on request, access to its premises without delay. The person from which the Czech National Bank is entitled to request information, documents, explanation of facts, records, reports or related data pursuant to paragraphs (1) or (2) shall be obliged to provide this information or documents or records and data at the earliest opportunity unless the Czech National Bank stipulates a longer deadline.

(4) If there is danger of delay, the Czech National Bank or a person authorised by it may commence an on-site inspection in respect of persons subject to supervision pursuant to Article 7 also by means of concurrent notification of commencement of that inspection and performance of

the first action of the inspection. A similar procedure to that described in Article 10(2) and (3) may be applied when delivering the notification of commencement of the inspection.

(5) The Czech National Bank or a person authorised by it shall be entitled to inspect persons in respect of which there is reasonable suspicion that they are carrying on an activity without the appropriate licence or consent of the Czech National Bank where such activity requires the licence or consent of the Czech National Bank, in the scope necessary to ascertain the actual facts regarding such activity, and the inspected person shall be obliged to co-operate.

(6) The Czech National Bank shall be entitled to perform an inspection with respect to a person authorised by an investment firm to perform certain activities pursuant to the special regulation 2) within the scope in which this person was authorised to perform the activity and the inspected person shall be obliged to co-operate.

Article 9 Remedial Measures

(1) Where the Czech National Bank is performing capital market supervision pursuant to this Act, it shall be entitled to take the following remedial measures:

a) to require a person subject to this supervision to undertake the remedy within the time limit set down in the measure and report of the measures undertaken within the required time limit,

b) to stipulate the manner in which a person subject to this supervision is obliged to eliminate a shortcoming.

(2) The Czech National Bank may impose a public admonition instead of a fine. At the same time, the Czech National Bank shall, depending on the circumstances and at the expense of the person being publicly admonished, decide on the scope, form and manner of publication of the public admonishment.

Article 9a

Procedural fine

(1) The Czech National Bank may impose a procedural fine of up to CZK 5,000,000 on a legal entity or natural person that is subject to supervision by the Czech National Bank and that breaches the duty to provide co-operation pursuant to Article 8 (3), (5) or (6).

(2) The procedural fine pursuant to paragraph 1 above may be imposed repeatedly. The aggregate of the fines imposed for the same breach of a duty may not exceed CZK 20,000,000.

(3) A procedural fine may be imposed within 1 year of the date when the illegal conduct occurred.

(4) Procedural fines shall be collected and enforced by a customs office. Revenue from fines shall constitute revenue of the state budget.

Article 9b

Administrative offences of legal entities and natural persons who are entrepreneurs

(1) A legal entity or a natural person who is an entrepreneur shall be deemed to have committed an administrative offence if:

- a) it fails to provide the information, documents, explanation of facts, records, reports or related data pursuant to Article 8 (3), or
- b) it breaches the duty pursuant to Article 7a (1) (a) or (c).

(2) A fine of up to CZK 5,000,000 shall be imposed for an offence paragraph 1 (a) above and a fine of up to CZK 50,000,000 shall be imposed for an offence pursuant to paragraph 1 (b) above.

Article 9c

Misdemeanours

(1) A natural person shall be deemed to have committed a misdemeanour if

- a) he fails to provide the information, documents, explanation of facts, records, reports or related data pursuant to Article 8 (3), or
- b) he breaches the duty pursuant to Article 7a (1) (a) or (c).

(2) A fine of up to CZK 5,000,000 may be imposed for a misdemeanour pursuant to paragraph 1 (a) above and a fine of up to CZK 50,000,000 may be imposed for a misdemeanour pursuant to paragraph 1 (b) or (c) above.

Article 9d

Common Provisions on Administrative Offences

(1) A legal person shall not be liable for an administrative offence if it proves that it made every effort that could possibly have been required to prevent the breach of its legal duty.

(2) The gravity of the administrative offence, particularly the manner in which it was committed and its consequences and circumstances, and the approach of the legal entity to remedying the consequences of the illegal conduct, shall be taken into account in determining the amount of the fine to be imposed on a legal entity.

(3) A legal entity shall cease to be liable for an administrative offence and a misdemeanour committed by a natural person cannot be heard if the administrative body fails to open proceedings on the offence or misdemeanour within 1 year of the day the offence came to

its knowledge, but no later than 5 years from the day the offence was committed.

(4) Administrative offences under this Act shall be heard by the Czech National Bank.

(5) The provisions of the Act regarding liability of, and sanctions against, legal entities shall apply to liability for conduct arising from or directly related to the business activity of a natural person.¹⁰⁾

(6) The fines shall be collected and enforced by the competent customs office. Revenue from fines imposed on investment firms shall constitute a revenue of the Guarantee Fund of Investment Firms, and revenue from other fines imposed under this Act shall constitute a revenue of the state budget.

Article 10

Proceedings in matters of remedial measures

(1) Administrative proceedings in which remedial measures are imposed pursuant to this Act may be opened within one year of the day the facts which were decisive for their imposition came to the knowledge of the Czech National Bank, but no later than ten years from the day on which the obligation for which they were imposed was last breached.

(2) If there is a danger of delay or irrevocable encroachment upon the rights of other persons, the proceedings in which the Czech National Bank imposes remedial measures and sanctions pursuant to this Act or special legislative acts may be opened by serving of a Czech National Bank decision on a preliminary measure.

(3) If at least one of the conditions referred to in paragraph 2 applies and if it was not possible to deliver the decision and the circumstances continue to indicate that the person concerned will avoid delivery of the decision, and the delay in the establishment of the legal effect of the delivery may considerably hinder or make impossible the implementation of remedial measures or sanctions, the Czech National Bank shall be entitled to open proceedings also by the delivery of a public announcement. In such case the decision of the Czech National Bank shall be deemed delivered at the moment of the posting of the announcement on the Czech National Bank's official notice board.

(4) When imposing remedial measures pursuant to this Act, the Czech National Bank shall consider in particular the nature, seriousness, manner, length and effects of the breach. When choosing a remedial measure pursuant to this Act, the Czech National Bank shall take into consideration the nature of the business and other gainful activities of the person upon which the remedial measures or sanctions are being imposed.

(5) A person authorised to keep a register of investment instruments shall be bound by the decision of the Czech National Bank regarding the register kept by it immediately on the delivery of the decision, unless stated otherwise in the decision. A regulated market operator shall be bound by the decision of the Czech National Bank on the suspension of trading in securities and by the decision of the Czech National Bank on a preliminary measure regarding securities immediately on the delivery of the decision, unless stated otherwise in the decision.

Article 11
Preliminary measures

(1) Apart from cases in which it is possible to impose preliminary measures pursuant to the general regulations on administrative proceedings, the Czech National Bank shall also, in the exercise of capital market supervision, be entitled to impose preliminary measures if this is necessary to ensure protection of the rights and legally protected interests of persons that are not parties to the administrative proceedings, or if the execution of the final decision were to be frustrated or seriously threatened. The Czech National Bank shall be entitled to impose a preliminary measure pursuant to paragraph 2 also if this is requested by a supervisory authority of some other Member State of the European Union or the European Economic Area.

(2) By imposing a preliminary measure the Czech National Bank may require:

a) those who keep securities accounts for persons against whom remedial measures or sanctions are being taken, not to undertake any registration of a transfer of securities from that account to any other account belonging to that person or any other person or the registration of a contractual lien,

b) those who keep securities accounts not to undertake any act leading to the transfer of securities from that account to any other account belonging to that person or any other person or the registration of a contractual lien where this is an account to which securities have been transferred by the person against whom the remedial measures or sanctions are being taken or by other parties to the proceedings from their accounts,

c) those who have in their custody or administration the securities of persons against whom remedial measures or sanctions are being taken or other parties to the proceedings, not to undertake any act leading to the transfer of these securities to any other person,

d) a bank, foreign bank branch or credit union that keeps a deposit or other account for a person against whom remedial measures or sanctions are being taken or for any other party to the proceedings, not to pay out any money from that account and not to credit anything to it or otherwise deal with it in any other way,

e) a bank, foreign bank branch or credit union that keeps a current, deposit or other account, not to pay any money from that account and not to credit anything to it or otherwise deal with it in any other way where this is an account to which a person against whom remedial measures or sanctions are being taken or another party to the proceedings has transferred money from their accounts.

(3) A decision on a preliminary measure shall be delivered to the parties to those proceedings and to persons upon whom the decision on the preliminary measure imposes an obligation pursuant to paragraph 2(a) to (e); an appeal filed against this decision shall not have suspensory effect. The person upon whom the decision imposes obligations referred to in paragraph 2(a) to (e) shall not be a party to the proceedings on the preliminary measure pursuant to paragraph 2.

(4) A preliminary measure shall lapse upon the expiry of five days from the date it was ordered. If the reasons for the order do not cease to exist, the Czech National Bank shall file a petition with the Court against the party so as to impose the obligations pursuant to paragraph 2 given in the decision on the preliminary measure. The petition must be filed with the court within five days of the date of order of the preliminary measure, in which case the preliminary measure shall expire on the date of enforcement of the ruling of the Court that made the decision on that petition.

(5) A decision on a preliminary measure must also contain advice on when and under what circumstances the preliminary measure expires. If the Czech National Bank files a petition with a court pursuant to the third sentence of paragraph 4, it shall notify the parties concerned that same day.

(6) The same obligation as may be imposed in a decision on a preliminary measure pursuant to this Act, may be imposed by the Czech National Bank in the exercise of capital market supervision as a remedial measure pursuant to this Act or special legal rules referred to in Article 3. An appeal filed against the decision referred to in the first sentence shall not have suspensory effect. In its decision the Czech National Bank may state the duration of the obligation imposed or a condition whose fulfilment will cause the decision to expire. This condition may be delivery of notification by the Czech National Bank of the cancellation of the remedial measures to the relevant person.

Article 12
Repealed
Heading deleted

Keeping of lists and documentation and publication thereof

Article 13

(1) The Czech National Bank shall keep lists of:

- a) investment firms to which it has granted licences under the Act regulating capital market undertakings,
- b) regulated market operators to which it has granted licences under the Act regulating capital market undertakings,
- c) persons performing settlement of transactions in securities to which it has granted licences under the Act regulating capital market undertakings,
- d) investment companies, unit trusts and investment funds operating pursuant to the Act regulating collective investment, 16)
- e) receivers and liquidators, 5)
- f) depositaries of collective investment funds, 18)

- g) pension funds and depositaries of pension funds, 19)
- h) insurance companies, 20)
- i) investment intermediaries,
- j) investment companies having their registered office in a Member State of the European Union and providing services within the territory of the Czech Republic, giving data on any organisational units located within the territory of the Czech Republic,
- k) foreign standard funds offering their securities to the public within the territory of the Czech Republic, giving data on the bank with which they have concluded a contract pursuant to a special legal rule regulating collective investment, 10c)
- l) foreign special funds which may offer their securities to the public within the territory of the Czech Republic, giving data on the bank with which they have concluded a contract analogous to that referred to in (k),
- m) settlement systems and participants therein,
- n) participants in settlement systems kept in the list of the Commission of the European Communities which have their registered office or place of business in the Czech Republic,
- o) participants in the central depositary,
- p) rating agencies,
- s) persons authorized to maintain separate registers of investment instruments,
- r) regulated markets with a seat in a country other than a Member State of the European Union,
- s) categories of institutions given in the statutes of standard funds under the Act regulating collective investment, 20a)
- t) security prospectuses approved by the Czech National Bank, including an electronic link to a security prospectus published in a manner allowing remote access on the website of the issuer or regulated market operator for at least 12 months after approval,
- u) companies and natural persons that, at their request, are registered as qualified investors under the Act regulating capital market undertakings,
- v) financial holding companies; these lists are sent by the Czech National Bank via the Ministry to the Commission of the European Communities and the competent authorities of Member States of the European Union or the European Economic Area,
- w) investment firms having their registered office in a Member State of the European Union and

providing services within the territory of the Czech Republic, giving data on any organisational units located within the territory of the Czech Republic,

x) tied agents of investment firms and foreign entities having their registered office in a country other than a Member State of the European Union that provide investment services in the Czech Republic through an organisational unit,

y) tied agents of investment companies,

z) tied agents of investment intermediaries,

za) investment firms that carry out systematic internalisation, 20b)

zb) listed shares classified into groups according to the average volume of transactions with specification of the standard volume of transactions for each group, 20c)

zc) liquid listed shares.20c)

(2) The Czech National Bank shall publish:

a) the list of regulated markets having their seat in a Member State of the European Union published in the Official Journal of the European Union,

b) the list of settlement systems registered in the list of the Commission of the European Communities.

(3) The Czech National Bank shall publish the lists referred to in paragraphs 1 and 2 in a manner allowing remote access.

Article 13a

(1) At the Czech National Bank's request, the Ministry of the Interior shall provide the Czech National Bank for the exercise of the competence pursuant to this Act with data on residents from the information system of the population register^{20d)}; a resident shall mean a natural person^{20e)} pursuant to a special legal rule.

(2) The data referred to in paragraph 1 shall be data on:

a) nationals of the Czech Republic^{20f)}

1. first name/names, surname, maiden surname,
2. date of birth,
3. birth certificate number,
4. permanent residence address,

b) foreigners who are residents

1. first name/names, surname, maiden surname,
2. date of birth,
3. nationality/nationalities,
4. type and address of residence,
5. commencement of residence or, where appropriate, date of termination of residence.

(3) Of the data provided, only such data that are necessary for the fulfilment of the specific task may be used in the particular case.

Heading deleted

Article 14

(1) The Czech National Bank shall publish in a manner allowing remote access or in the form of Official Information of the Czech National Bank in the Bulletin of the Czech National Bank (hereinafter referred to as the “Bulletin”):

a) final or enforceable decisions made by the Czech National Bank pursuant to this Act or special legal rules in the capital market area (Article 3) which are fundamental in nature, with the exception of those containing information to which a special law applies,²¹); these decisions may be published in an anonymous form if their full publication could jeopardize the capital market or cause inappropriate harm to the affected parties and these decisions shall always be published with the data of third parties rendered anonymous,

b) statements of final or enforceable decisions made by the Czech National Bank in matters pursuant to this Act or special legal rules in the capital market area (Article 3),

c) opinions of the Czech National Bank regarding the capital market,

d) other information or announcements of the Czech National Bank which are relevant to the capital market.

(2) The Czech National Bank may publish in a manner allowing remote access pursuant to paragraph 1 final or enforceable decisions under this Act or special legal rules in the area of the capital market (Article 3), also other than those pursuant to paragraph 1 (a). These decisions may be published in an anonymous form if their full publication could jeopardize the capital market or cause inappropriate harm to the affected parties and these decisions shall always be published with the data of third parties rendered anonymous.

(3) The Czech National Bank shall announce in the Bulletin the place where the following will be publicly available for inspection:

a) approved prospectuses of listed securities, including statutes of investment funds and unit trusts, statutes of pension funds and insurance companies and bond issue conditions,

b) information on the financial results of issuers of listed securities pursuant to a special

13), 16), 17), 22)
legislative act .

Heading deleted

Article 15
Repealed

Heading deleted

Article 16
Repealed

Article 17
Repealed

Article 18
Repealed

Article 19
Co-operation with the Chamber of Auditors of the Czech Republic

The Czech National Bank shall co-operate with the Chamber of Auditors of the Czech Republic especially in the establishment of internationally recognised audit procedures in relation to providers of services on the capital market and issuers and in regulating the activities of auditors in the application of these procedures.

Article 20
Repealed

Heading deleted

Article 21
Repealed

Article 22
Repealed

Article 23
Repealed

Article 24
Repealed

Article 25
Repealed

Article 26
Confidentiality duty and international co-operation

(1) Employees of the Czech National Bank performing capital market supervision and persons whose services the Czech National Bank uses in performing capital market supervision and their employees and members of advisory bodies of the Czech National Bank for the capital market area shall keep confidential any information acquired in connection with the performance of their activities, office or employment in the area of capital market supervision. A person who has a duty of confidentiality may use information referred to in the first sentence only in the manner and scope necessary for the fulfilment of tasks or the performance of office in the area of capital market supervision or in judicial proceedings concerning decisions or the exercise of capital market supervision or in like international proceedings. This information may also be used for purposes other than those under the second sentence if agreed by the person that provided the information. Providing information to a third party in summarised form so that it is not possible to identify the specific entity to which the information relates shall not be a breach of the duty of confidentiality. The duty of confidentiality shall persist even after termination of the activity, employment or office which gave rise to this duty.

(2) The provision of information to the following entities shall not be deemed a breach of the duty of confidentiality pursuant to paragraph 1:

a) employees of the Czech National Bank participating in the exercise of financial market supervision in the Czech Republic,

b) an authority in a Member State of the European Union or in another country of the European Economic Area which works in the exercise of supervision of the financial market,

c) a person having his registered address or permanent residence in the Czech Republic, a Member State of the European Union or another country of the European Economic Area, who is:

1. a liquidator, receiver, insolvency trustee or a person holding a similar office in an entity operating on the financial market and subject to supervision,
2. an auditor of the statutory financial statements of an entity operating on the financial market and subject to supervision,
3. the European Central Bank or another central bank responsible for monetary policy,
4. an operator of a securities trading settlement system who offers settlement services for a regulated market operator in the Czech Republic, if the provision of information is essential to the due discharge of office of this person in the case of default or danger of default on the part of a participant or participants in the regulated market to which this person provides services,
5. an operator of a compensation scheme for investors or of a deposit-guarantee scheme,

d) an authority in the Czech Republic or in a Member State of the European Union or another country of the European Economic Area which works in the exercise of supervision of persons referred to in letter (c) points 1 and 2; the Czech National Bank shall also provide information to authorities in the Czech Republic or in Member States of the European Union or other countries of the European Economic Area which work in the exercise of supervision of settlement and payment systems and compliance with company law,

e) legislative bodies of central administrative authorities dealing with legislation in the area of the financial market,

f) law enforcement authorities in the Czech Republic or in Member States of the European Union or other countries of the European Economic Area or authorities dealing with combating money laundering or imposing international sanctions for the purposes of maintaining international peace and security, protecting fundamental human rights and combating terrorism; information may also be provided to international organisations active in combating criminal activities or money laundering,

g) the courts in connection with insolvency proceedings or analogous foreign proceedings held in the case of bankruptcy of a person subject to supervision by the Czech National Bank; however, data concerning third persons may not be provided,

h) the Ombudsman in connection with investigations pursuant to a special legislative act.

(3) Information shall be provided to entities and authorities pursuant to paragraph 2 in the manner and scope necessary to perform their tasks or to discharge their office and if they have in place a confidentiality duty regime at least comparable in scope to that under this Act.

(4) Information obtained in connection with supervision of the capital market may also be provided to bodies of the European Union if this is necessary for the fulfilment of an international treaty that is binding on the Czech Republic and has been duly promulgated.

(5) Information provided to the Czech National Bank by a foreign authority working in the exercise of financial market supervision may not be used for any other purpose than that for which it was provided and may not be passed on to anyone else without the consent of the provider.

(6) Information obtained by the Czech National Bank in the performance of an inspection within the territory of a foreign country may not be passed on to anyone else without the consent of the authority supervising the financial market of that country.

(7) Information may be provided to an authority that provides for supervision over the financial market in a country other than a Member State of the European Union or the European Economic Area for the purposes of fulfilment of its tasks only on the basis of an agreement if it has in place a confidentiality duty regime at least comparable to that under this Act. This shall in no way prejudice the duties stipulated by the Personal Data Protection Act.26)

(8) If a confidentiality duty regime is in place with respect to them that is at least comparable with the regime under this Act, information may also be provided, on the basis of an agreement, for the purposes of fulfilment of their tasks, to

a) persons with permanent residence or registered office in a country other than a Member State of the European Union or the European Economic Area that perform, in an entity operating in the financial market and being subject to supervision, duties that are similar, in their contents and

character, to the duties of a liquidator, receiver, insolvency trustee, preliminary insolvency trustee or auditor,

b) an authority with its seat in a country other than a Member State of the European Union or the European Economic Area, performing supervision of persons pursuant to subparagraph a),

c) a person with its registered office or permanent residence in a country other than a Member State of the European Union or the European Economic Area, operating a guarantee system for the protection of investors,

d) a prosecuting body with its seat in a country other than a Member State of the European Union or the European Economic Area, and

e) a body with its seat in a country other than a Member State of the European Union or the European Economic Area, engaged in combating legalisation of proceeds of crime or implementing international sanctions with the aim of maintaining international peace and security, protection of human rights and fight against terrorism; this shall in no way prejudice the duties stipulated by the Personal Data Protection Act.²⁶⁾

Article 27
Repealed

TITLE III
Repealed

Article 28
Repealed

(1) Expenditure on the activities of the Commission shall be covered from the state budget of the Czech Republic.

(2) The Commission shall have a separate budgetary chapter in the state budget of the Czech Republic.

TITLE IV TRANSITIONAL PROVISIONS

Article 29

(1) Any proceedings initiated by the Ministry pursuant to special legislative acts before 1 April 1998 will continue before the Commission pursuant to this Act.

(2) The Commission shall define a specimen certificate of state supervision of the capital market in a legal rule.

PART TWO

AMENDMENT OF CZECH NATIONAL COUNCIL ACT NO. 2/1969 COLL., ON THE ESTABLISHMENT OF MINISTRIES AND OTHER CENTRAL BODIES OF STATE ADMINISTRATION OF THE CZECH REPUBLIC, AS AMENDED

Article 30

CNC Act No. 2/1969 Coll., on the establishment of ministries and other central bodies of state administration of the Czech Republic, as amended by CNC Act No. 34/1970 Coll., CNC Act No. 147/1970 Coll., CNC Act No. 125/1973 Coll., CNC Act No. 25/1976 Coll., CNC Act No. 118/1983 Coll., CNC Act No. 60/1988 Coll., CNC Act No. 173/1989 Coll., legal measure of the Board of the CNC No. 9/1990 Coll., CNC Act No. 93/1990 Coll., CNC Act No. 126/1990 Coll., CNC Act No. 203/1990 Coll., CNC Act No. 288/1990 Coll., legal measure of the Board of the CNC No. 305/1990 Coll., CNC Act No. 575/1990 Coll., CNC Act No. 173/1991 Coll., CNC Act No. 283/1991 Coll., CNC Act No. 19/1992 Coll., CNC Act No. 23/ä/1992 Coll., CNC Act No. 103/1992 Coll., CNC Act No. 167/1992 Coll., CNC Act No. 239/1992 Coll., legal measure of the Board of the CNC No. 350/1992 Coll., CNC Act No. 358/1992 Coll., CNC Act No. 359/1992 Coll., CNC Act No. 474/1992 Coll., CNC Act No. 548/1992 Coll., CNC Act No. 21/1993 Coll., Act No. 166/1993 Coll., Act No. 285/1993 Coll., Act No. 47/1994 Coll., Act No. 89/1995 Coll., Act No. 289/1995 Coll., Act No. 135/1996 Coll., Act No. 272/1996 Coll. and Act No.152/1997 Coll., shall be amended as follows:

1. In Article 2(1) after point 8 the full stop shall be replaced by a comma and a point 9 shall be added, which shall read:

“9. Securities Commission.”.

2. In Article 2(3) the following sentence shall be inserted after the first sentence: “The Chairman and members of the Presidium of the Securities Commission shall be appointed and dismissed by the President of the Republic at the proposal of the Government.”.

3. In Article 4(1) the following words shall be inserted after the words “financial market”: “with the exception of supervision of the capital market in the scope of competence of the Securities Commission”.

PART THREE

AMENDMENT OF CZECH NATIONAL COUNCIL ACT NO. 591/1992 COLL., ON SECURITIES, AS AMENDED

Article 31

CNC Act No. 591/1992 Coll., on securities, as amended by Act No. 89/1993 Coll., Act No.

331/1993 Coll., Act No. 259/1994 Coll., Act No. 61/1996 Coll., and Act No. 152/1996 Coll., shall be amended as follows:

1. In Article 11(4) the words “Ministry of Finance of the Czech Republic (hereinafter referred to as the “Ministry”)” shall be replaced by the words “Securities Commission (hereinafter referred to as the “Commission”)” and elsewhere in the text of the Act the word “Ministry” shall be replaced by the word “Commission”, with the exception of Article 49(7), Article 55(1), Article 79(4), Article 83(1)(b), Article 97(1)(b) and Article 99.

2. In Article 1(4) after the letter “(d)” the conjunction “and” shall be replaced by a comma, and a comma and the letter “(f)” shall be inserted after the letter “(e)”.

3. In Article 8(1)(a) the words “on own account” shall be inserted after the word “security”.

4. After Article (8) a new Article 8a shall be inserted, which shall read:

“Article 8a
Derivatives

(1) For the purposes of this Act, derivatives shall mean money exchangeable and transferable rights and commitments derived from securities or related to goods which are the subject of trading on commodities markets, from Czech currency and foreign currencies, interest rates and exchange rate indices and from agreements on them.

(2) For the purposes of this Act, the following activities shall be deemed trading in derivatives:

- a) purchase and sale of derivatives on one’s own account for another,
- b) arranging the purchase and sale of derivatives.”.

5. In Article 14 after paragraph 3 a new paragraph 4 shall be inserted, which shall read:

“(4) When the right of option is transferable, the rights and obligations arising from the contract of sale of the securities to which the right of option relates shall be transferred together with the right of option. The consent of the creditor is not required for the transfer of obligations arising from the contract of sale of securities which are transferred together with the right of option. Derivatives trading on a public market shall be governed by stock exchange rules and market codes.”.

The previous paragraph 4 shall be denoted paragraph 5.

6. In Article 28 after paragraph 1 a new paragraph 2 shall be inserted, which shall read:

“(2) The contract referred to in paragraph 1 must be made in writing.”.

The previous paragraph 2 shall be denoted paragraph 3.

7. In the first sentence of Article 31(2) the words “If the commission contract does not provide otherwise,” shall be deleted; the words “is a commissioner” shall be replaced by “The commissioner is”.

8. In Article 33 after paragraph 2 a new paragraph 3 shall be inserted, which shall read:

“(3) Contracts referred to in paragraphs 1 and 2 must be made in writing.”.

The previous paragraph 3 shall be denoted paragraph 4.

9. After Article 45 a new Article 45a shall be inserted, which shall read:

“Article 45a

(1) The minimum registered capital of an investment firm shall be CZK 10 million.

(2) If the investment firm is to carry on activities referred to in Article 46(2), its registered capital shall be greater than the amount given in paragraph 1.

(3) The registered capital referred to in paragraph 2 shall be determined by the capital adequacy which the investment firm is obliged to maintain.

(4) Capital adequacy, the manner of determination thereof and the amount of registered capital in relation to capital adequacy shall be defined in a legal rule issued by the Ministry of Finance (hereinafter referred to as the “Ministry”) on the basis of a proposal made by the Commission. The Ministry shall issue this legal rule within three months of the date of effect of Act No. 15/1998 Coll., on the Securities Commission and on the amendment of other acts.”.

10. Article 46(2) shall read:

“(2) Provided that the licence issued pursuant to Article 45 so allows, an investment firm may, apart from trading in securities, carry on the following activities:

a) arranging the issuance of securities for an issuer and providing related services,

b) carrying on activities on the basis of contracts pursuant to Article 33(2),

c) carrying on activities on the basis of contracts pursuant to Articles 34 and 35,

d) carrying on activities on the basis of contracts pursuant to Article 36,

e) carrying on activities on the basis of contracts pursuant to Article 37,

f) trading in derivatives,

g) arranging the repayment and return of securities and the payment of dividends thereon for the issuer,

h) providing consulting activities in matters of the issuance of securities and the repayment thereof, as well as in matters of investment in securities and other investment instruments, in matters of capitalisation, reorganisation, changes in organisation structure (mergers, divisions and amalgamations of companies), business takeovers and the public offers of contracts for the purchase of shares.”.

11. Article 46(3) shall read:

“(3) Activities referred to in Article 45 and Article 46(2)(a) to (f), provided they display the characteristics of doing business pursuant to a special legislative act, may only be carried on by an investment firm.”.

12. In Article 46, paragraphs 5, 6 and 7 shall be added, which shall read:

“(5) When deciding on a licence to carry on activities referred to in Article 46(2), the Commission shall also investigate whether the concurrent performance of all or some of these activities by one person would lead to a conflict of interests, particularly from the point of view of investor protection. For the purposes of this paragraph, a conflict of interests shall mean a situation where the carrying on of one type of activity for an investor is in objective conflict with the carrying on of another type of activity for him because it does not allow the investment firm to devote full professional care to both types of activities and/or the information gained by the investment firm from one type of activity may be misused against the justified interests of the investor while carrying on the other type of activity.

(6) Should the Commission come to the conclusion that a conflict of interests exists pursuant to paragraph 5, it shall decide on a licence to carry on only those activities set out in paragraph 2(a) to (i), the concurrent performance of which guarantees that the aforementioned conflict of interests will not arise.

(7) The appointment or election of natural persons to the office of a statutory body or as members of a statutory body or supervisory board of an investment firm shall be subject to approval by the Commission. The procedure for approving the election or appointment of such natural persons is subject to the relevant provisions of the Act on Investment Companies and Investment Funds which regulate this matter. Where a bank acts as an investment firm only that natural person referred to in the first sentence who will be responsible for the activities of the investment firm will be subject to approval by the Commission.”.

13. In Article 47 after paragraph 2 a new paragraph 3 shall be inserted, which shall read:

“(3) The obligations referred to in paragraphs 1 and 2 shall also apply to instructions accepted for arranging the purchase and sale of derivatives.”.

The previous paragraph 3 shall be denoted paragraph 4.

14. After Article 47 new Articles 47a and 47b shall be inserted, which including footnote 42 shall read:

“Article 47a
Rules for the organisation of internal operations

(1) Apart from other obligations relating to the organisation of internal operations, the investment firm shall:

- a) introduce administrative procedures, control and security measures for processing and recording data and an appropriate internal control mechanism, including rules for transactions executed by its employees on their own account or the account of someone close to them,
- b) keep client funds which have been entrusted to it in bank accounts separate from the bank account in which it keeps funds belonging to its own assets,
- c) keep accounts on client funds and securities which have been entrusted to it separately from the remainder of its assets,
- d) take appropriate precautions so that entrusted funds and securities belonging to clients cannot be used for trading on its own account,
- e) set up within its own operations such procedures and information and organisation barriers so as to limit the possibility of a conflict of interests between itself and its clients or between its clients mutually,
- f) have the necessary material and personnel setup for its trading activities and have employees who are suitable and professionally qualified for the activities that they carry on.

(2) Client funds and securities that are entrusted to the investment firm for the purpose of carrying out the client’s instructions shall not be included in the assets of the investment firm.

(3) The Ministry, on the basis of a proposal made by the Commission, shall stipulate in a legal rule detailed rules for discharging the duties referred to in paragraph 1.

(4) The Commission shall inspect compliance with the duties referred to in paragraph 1 and in the case of a breach thereof shall adopt remedial measures and sanctions pursuant to this Act or a special legislative act⁴²⁾

Article 47b
Rules of conduct towards clients

(1) An investment firm shall:

- (a) behave in a professional, honest and fair manner and in the best interests of its clients when providing services,
- b) perform its activities so that there is no violation of the transparency of the capital market; in

particular it shall not take any actions aimed at manipulating securities prices,

c) not use client funds and securities which have been entrusted to it for the purpose of carrying out services for trading on its own account, unless the client has given his written consent,

d) depending on the type and range of the services requested by the client, request information regarding the client's financial situation, his experience in the area of securities investment and the aims that he wishes to achieve by means of the requested services,

e) notify the client of important facts relating to trading, in particular the potential risks, request the client's written consent if further financial obligations will arise from carrying out an order, and inform the client accurately and without delay of any transactions it has executed for him,

f) disclose key information about its transactions,

g) refuse to provide services for a client if this could lead to a conflict of interests between it and its client or mutually between its clients; if, when providing services, such a conflict of interests arises, it shall give priority to the interests of the client over its own interests,

h) ensure that it has sufficient funds to meet its obligations to clients.

(2) The Ministry, on the basis of a proposal made by the Commission, shall stipulate in a legal rule detailed rules for discharging the duties referred to in paragraph 1.

(3) The Commission shall inspect compliance with the duties referred to in paragraph 1 and in the case of a breach thereof shall adopt remedial measures and sanctions pursuant to this Act or a special legislative act.⁴²⁾

⁴²⁾ Act No. 15/1998 Coll., on the Securities Commission and on the amendment of other acts.”.

15. In Article 49(1) the following sentence shall be inserted after the first sentence:

“The range of professional trading activities performed with the help of a broker shall be set out by the Ministry in a legal rule.”.

16. The previous second sentence of Article 49(1) shall read:

“If a broker acts for an investment firm, he may only act for one investment firm, in which he must be employed.²⁷⁾”.

17. Article 49(7) shall read:

“(7) The range and manner of carrying out brokers' examinations and the issuance of a permit to act as a broker shall be set out by the Ministry in a legal rule on the basis of a proposal made by the Commission.”.

18. In Article 50(1) the words “rights pursuant to Articles 14 and 15” shall be replaced by the words “other investment instruments defined in a special legislative act⁴³⁾”.

Footnote 43 shall read:

“43) Article 5(1) of Act No. 15/1998 Coll.”.

19. Part Three shall be supplemented by a Title V, which shall read:

“TITLE V

PERSONS CARRYING OUT SETTLEMENT OF SECURITIES TRANSACTIONS

Article 70b

(1) Settlement of transactions in securities and other investment instruments (hereinafter referred to as “settlement of securities transactions”) may only be carried out by a person who has a licence for such activity from the Commission, and by the Czech National Bank (hereinafter referred to as the “person carrying out settlement of securities transactions”). This shall be without prejudice to the provisions of Article 54(4) of this Act. For the purposes of this Act, settlement of securities transactions shall mean a service which displays the characteristics of doing business pursuant to a special legislative act¹³⁾ and which consists of arranging the discharge of obligations arising from a securities transaction for at least two or more parties to such transaction. A transaction in investment instruments shall be deemed a securities transaction pursuant to a special legislative act.⁴²⁾

(2) A licence referred to in paragraph 1 shall not be necessary for the activity of an investment firm consisting in settlement of securities transactions executed off the public markets.

(3) A licence referred to in paragraph 1 shall be granted upon application. In the application, the applicant shall state:

- a) the business name or title or the name, identification number or birth certificate number and place of business or address of the applicant,
- b) the amount of net business assets and registered capital of the applicant and any participation of foreign persons in his business,
- c) the proposed scope and manner in which the applicant will carry on settlement of securities transactions and related activities, and information on any other business activities of the applicant,
- d) the material, staffing and organisational prerequisites for the activities of the person carrying out settlement of securities transactions.

Article 70c

(1) The Commission shall make a decision on a licence referred to in Article 70b within 60 days of receiving the application, doing so based on an assessment of the material, staffing and organisational prerequisites for the activities of a person carrying out settlement of securities transactions while taking into account any previous experience of the applicant with settling securities transactions, if such activity was carried on under special legislative acts prior to the date this Act took effect, and the needs of the capital market, especially for ensuring the settlement of publicly tradable securities. This licence shall be granted for an indefinite period and shall not be transferable.

(2) The provisions of Article 48 shall apply mutatis mutandis to the withdrawal of a licence granted pursuant to Article 70b.

(3) A person carrying out settlement of securities transactions shall only be entitled to carry on other activities on condition that such activities are connected with the settlement of securities transactions. If such other activities display the characteristics of an activity which otherwise requires a licence from the Commission pursuant to this Act, it shall be assumed that the person carrying out settlement of securities transactions is so authorised as long as the conditions mentioned in sentence 1 have been met.”.

20. In the first sentence of Article 73(2) the words: “, which was not issued in a member state of the OECD,” shall be inserted after the word “security”.

21. In the first sentence of Article 75(3) the words “, the financial policy of the state or would not meet the needs of the financial market” shall be deleted after the word “investors”.

22. In Article 78 the following words shall be added at the end: “and other securities where this Act so provides”.

23. Article 79(2) shall read:

“(2) Financial market participants providing services to clients shall carry out the instructions of their clients with professional care and may not give precedence to transactions on their own account.”.

24. After Article 79 a new Article 79a shall be inserted, which including footnote 44 shall read:

“Article 79a
Incompatibility of activities and offices

(1) A member of the board of directors or supervisory board, procurator (in Czech “prokurista”) or broker of an investment firm may only be a person who is not a Deputy or Senator of Parliament, a member of the Government, the Supreme Audit Office or the Bank Board of the Czech National Bank, a statutory body or a member thereof or a member of the supervisory board or broker or procurator of another investment firm or company with similar objects of business or an investment company or investment fund. This shall be without prejudice to the provisions of a special legislative act.⁴⁴⁾

(2) An investment firm or founder thereof shall to request an affidavit from the persons referred to in paragraph 1 stating that they meet the conditions of paragraph 1 before they are elected or appointed to office or before their employment begins.

44) Act No. 248/1992 Coll., on Investment Companies and Investment Funds, as amended.”.

25. Article 80 shall be supplemented by a paragraph 7, which shall read:

“(7) The Ministry may specify the scope of the disclosure duties depending on the kind of issuer or types of publicly tradable securities in a legal rule on the basis of a proposal made by the Commission.”.

26. In Article 82(1)(a), the conjunction “and” shall be replaced by a comma, the comma at the end shall be deleted and the following words shall be added: “and discharge of the duties laid down in Articles 79 to 81,”.

27. In Article 82(1)(b) the words “and derivatives” shall be inserted after the words “settlement of securities transactions”.

28. In Article 83(1)(b) the words “on the basis of a proposal made by the Commission” shall be inserted after the words “which the Ministry issued”.

29. Article 85 shall read:

“Article 85

Unless stipulated otherwise in a special legislative act⁴²⁾ for a specific case, the Commission shall proceed pursuant to this Act when performing state supervision.”.

Article 32

Transitional provisions

1. In respect of persons carrying on activities on the basis of a licence pursuant to Articles 45 and 50 in accordance with the previous legal rules before 1 April 1998, the Securities Commission shall, up to 31 March 1999, be entitled to open administrative proceedings whose purpose is to check the prerequisites for the further performance of this activity by the said person. In these proceedings, the Securities Commission shall be entitled to decide whether licences granted before 1 April 1998 shall be repealed, amended or remain valid.

2. The person shall present the information required in Article 45(3) or Article 50(3) and (4) within the time limit laid down in the Securities Commission act whereby proceedings referred to in the preceding paragraph are opened. When taking decisions in such proceedings the Securities Commission shall consider the material, staffing, organisational and economic prerequisites for the performance of the activity which is subject to licence and the compatibility of the concurrent performance of activities referred to in Article 46(2) from the point of view of preventing any

conflict of interests.

3. Persons who carry on any of the activities referred to in Article 46(2) or Article 70b of this Act on the basis of the conditions of special legislative acts may continue in this activity until the Securities Commission decides on their application pursuant to Article 45 or Article 70b, filed no later than 1 July 1998. If the application is not filed within this time limit, the authorisation to carry on activities pursuant to Article 46(2) or Article 70b ceases when this time limit expires. However, this shall not apply to the Czech National Bank in respect of its activities consisting in settlement of securities transactions recorded in accordance with Article 98(2) of this Act.

4. A investment firm shall bring its registered capital into line with Article 45a(1) and (2) by 1 April 2000.

PART FOUR

Repealed

Article 33

Repealed

Article 34

Repealed

PART FIVE

Repealed

Article 35

Repealed

PART SIX

AMENDMENT OF ACT NO. 513/1991 COLL., THE COMMERCIAL CODE, AS AMENDED

Article 36

Act No. 513/1991 Coll., the Commercial Code, as amended by Act No. 264/1992 Coll., CNC Act No. 591/1992 Coll., Act No. 600/1992 Coll., Act No. 286/1993 Coll., Act No. 156/1994 Coll., Act No. 84/1995 Coll., Act No. 94/1996 Coll., Act No. 142/1996 Coll. and Act No. 77/1997 Coll., shall be amended as follows:

1. Article 66a shall be supplemented by a paragraph 5, which shall read:

“(5) The Ministry of Finance (hereinafter referred to as the “Ministry”) shall, in a legal rule on the basis of a proposal made by the Securities Commission, set out detailed rules for calculating the share in the voting rights.”.

2. The previous text of Article 66b shall be denoted paragraph 1 and shall be supplemented by a

new paragraph 2, which shall read:

“(2) The Ministry shall, in a legal rule on the basis of a proposal made by the Securities Commission, set out detailed rules for the assessment of actions which are regarded as acting in concert pursuant to paragraph 1.”.

3. Article 183b shall be supplemented by a paragraph 9, which shall read:

“(9) The Ministry shall, in a legal rule on the basis of a proposal made by the Securities Commission, set out detailed rules for discharging the duty of drawing up a public offer of a contract, including the other essential elements of such an offer of a contract.”.

4. In Article 183c(3) the following sentence shall be added at the end:

“The Ministry shall, in a legal rule on the basis of a proposal made by the Securities Commission, set out detailed rules for determining the minimum prices and shall specify which transactions executed on public markets shall be used to calculate the average price.”.

5. In the first sentence of Article 183d(2) the full stop at the end shall be deleted and the following words shall be added: “or they knew of his gain or could have known of it.”.

6. In the second sentence of Article 183d(2) the full stop at the end shall be replaced by a semi-colon and the following words shall be added: “otherwise he may not exercise the rights attached to these shares during the period of default.”.

7. Article 183d shall be supplemented by a paragraph 5, which shall read:

“(5) The Ministry shall, in a legal rule on the basis of a proposal made by the Securities Commission, set out detailed rules for discharging the duty of notifying the share in the voting rights.”.

8. In Article 186(3) the words “of the votes” shall be inserted after the words “three quarters”.

9. In the second sentence of Article 186(4) the words “of the votes” shall be inserted after the words “three quarters”.

10. The previous text of Article 771 shall be denoted paragraph 1 and shall be supplemented with a new paragraph 2, which shall read:

“(2) The Ministry shall, in a legal rule on the basis of a proposal made by the Securities Commission, set out:

a) detailed rules for calculating the share in the voting rights pursuant to Article 66a,

b) detailed rules for assessing actions which are regarded as acting in concert pursuant to Article 66b,

- c) detailed rules for discharging the duty of drawing up a public offer of a contract pursuant to Article 183b, including the other essential elements of such an offer of a contract,
- d) detailed rules for determining the minimum prices pursuant to Article 183c(3) and shall specify which transactions executed on public markets shall be used to calculate the average price,
- e) detailed rules for discharging the duty of notifying the share in the voting rights pursuant to Article 183d.”.

PART SEVEN

AMENDMENT OF ACT NO. 455/1991 COLL., ON TRADES AND ENTREPRENEURIAL ACTIVITIES (THE TRADES LICENSING ACT), AS AMENDED

Article 37

Act No. 455/1991 Coll., on Trades and Entrepreneurial Activities (Trades Licensing Act), as amended by Act No. 231/1992 Coll., CNC Act No. 591/1992 Coll., Act No. 600/1992 Coll., Act No. 273/1993 Coll., Act No. 303/1993 Coll., Act No. 38/1994 Coll., Act No. 42/1994 Coll., Act No. 136/1994 Coll., Act No. 200/1994 Coll., Act No. 237/1995 Coll., Act No. 286/1995 Coll., Act No. 94/1996 Coll., Act No. 95/1996 Coll., Act No. 147/1996 Coll., Act No. 19/1997 Coll., Act No. 49/1997 Coll., Act No. 61/1997 Coll., Act No. 79/1997 Coll., Act No. 217/1997 Coll. and Act No. 280/1997 Coll., shall be amended as follows:

In Article 3(3)(a) the words “and the activities of persons carrying out settlement of securities transactions^{13a)}” shall be inserted after the words “administration of collective asset shares¹³⁾”.

Footnote No. 13a) shall read:

“13a) Article 70b of CNC Act No. 591/1992 Coll.”.

PART EIGHT

Repealed

Article 38

Repealed

Article 39

Repealed

PART NINE

AMENDMENT OF ACT NO. 42/1994 COLL., ON PRIVATE PENSION INSURANCE AND THE AMENDMENT OF CERTAIN ACTS RELATED TO ITS INTRODUCTION, AS

AMENDED BY ACT NO. 61/1996 COLL.

Article 40

Act No. 42/1994 Coll., on Private Pension Insurance and the Amendment of Certain Acts Related to its Introduction, as amended by Act No. 61/1996 Coll., shall be amended as follows:

1. In the second sentence of Article 5(1), the words “and the Securities Commission” shall be inserted after the words “Ministry of Labour and Social Affairs”.
2. In Article 8(2) the words “by agreement with the Securities Commission” shall be inserted after the word “, Ministry”.
3. In Article 9(2) the following sentence shall be attached at the end: “The change of status shall be approved by the Ministry by agreement with the Securities Commission.”.
4. In Article 34(5) the words “and the Securities Commission” shall be inserted after the word “Ministry”.
5. In Article 36(3) the words “and the Securities Commission” shall be inserted after the word “Ministry”.
6. In Article 39(4) the words “by agreement with the Securities Commission” shall be inserted after the word “Ministry”.
7. In Article 42(1) the words “and the Securities Commission (Article 45a)” shall be inserted after the word “Ministry”.
8. After Article 45 a new Article 45a shall be inserted, which shall read:

“Article 45a

(1) The activities of a pension fund under this Act when investing its funds pursuant to Article 33 shall be subject to state supervision by the Securities Commission in the scope of its duties laid down in this Act. The provisions of Article 42(2), (4) and (5) and Article 43(1)(a),(b) and (c) shall apply mutatis mutandis to the state supervision procedure carried out by the Commission. A decision on the suspension of the Board’s authorisation pursuant to Article 43(1)(c) shall be taken by the Securities Commission in agreement with the Ministry.

(2) The activities of a depository pursuant to this Act shall be subject to state supervision by the Securities Commission in the scope of its duties to inspect the investment of funds by a pension fund pursuant to Article 33. The provisions of Article 43(1)(a) and (b) shall apply mutatis mutandis to the state supervision procedure carried out by the Commission.”.

PART TEN

AMENDMENT OF CNC ACT NO. 6/1993 COLL., ON THE CZECH NATIONAL BANK, AS

AMENDED BY ACT NO. 60/1993 COLL.

Article 41

CNC Act No. 6/1993 Coll., on the Czech National Bank, as amended by Act No. 60/1993 Coll., shall be amended as follows:

1. Article 3 shall be supplemented by paragraphs 3, 4 and 5, which including footnotes 17, 18 and 19 shall read:

“(3) The Czech National Bank shall send a copy or transcript of any decision made pursuant to a special legislative act¹⁷⁾ to the Securities Commission.

(4) Pursuant to a special legislative act,¹⁸⁾ the Czech National Bank shall inform the Securities Commission of any trades in investment instruments, and if asked, carry out an inspection of any financial transfers connected with such trades.

(5) Pursuant to a special legislative act,¹⁹⁾ the Czech National Bank shall inform the Securities Commission and the Ministry of Finance of the initiation and course of any proceedings the subject of which is the imposition of remedial measures and penalties.

17) Article 16(2) of Act No. 15/1998 Coll., on the Securities Commission and on the amendment of other acts.

18) Article 17 of Act No. 15/1998 Coll.

19) Article 16(1)(c) of Act No. 15/1998 Coll.

2. After Article 60 a new Article, 60a, shall be inserted, which including footnote 20 shall read:

“Article 60a

In co-operation with the Ministry of Finance and the Securities Commission, the Czech National Bank shall, within three months of the date a special legislative act²⁰⁾ takes effect, prepare a system of mutual cooperation in the capital market area.

20) Act No. 15/1998 Coll.”.

PART ELEVEN

AMENDMENT OF ACT NO. 61/1996 COLL., ON SOME MEASURES AGAINST MONEY LAUNDERING AND ON THE AMENDMENT OF RELATED ACTS

Article 42

Repealed

PART TWELVE
AMENDMENT OF ACT NO. 99/1963 COLL., THE CIVIL PROCEDURE CODE, AS
AMENDED.

Article 43

Act No. 99/1963 Coll., Civil Procedure Code, as amended by Act No.36/1967 Coll., Act No. 158/1969 Coll., Act No. 49/1973 Coll., Act No. 20/1975 Coll., Act No. 133/1982 Coll., Act No. 180/1990 Coll., Act No. 328/1991 Coll., Act No. 519/1991 Coll., Act No. 263/1992 Coll., CNC Act No. 24/1993 Coll., Act No. 171/1993 Coll., Act No. 117/1994 Coll., Act No. 152/1994 Coll., Act No. 216/1994 Coll., Act No. 84/1995 Coll., Act No. 118/1995 Coll., Act No. 160/1995 Coll., Act No. 238/1995 Coll., Act No. 247/1995 Coll., Constitutional Court Ruling No. 31/1996 Coll., Act No. 142/1996 Coll., Constitutional Court Ruling No. 269/1996 Coll., Act No. 202/1997 Coll. and Act No. 227/1997 Coll., shall be amended as follows:

1. In Article 9(3)(b) point qq) the semi-colon at the end shall be replaced by a comma and a new point ss) shall be added, which including footnote 13a shall read:

“ss) in matters of the capital market pursuant to a special legislative act;^{13a)}

^{13a)} Act No. 15/1998 Coll., on the Securities Commission and on the amendment of other acts.”.

2. Article 75 shall be supplemented by a paragraph 4, which shall read:

“(4) The proposal for preliminary measures pursuant to a special legislative act^{13a)} shall be decided upon no later than five days after the date it was filed.”.

PART THIRTEEN

Article 44
Effect

This Act shall take effect on 1 April 1998, with the exception of Articles 2, 21 to 28 and 30(1) and (2), which shall take effect on the date of promulgation.

Selected provisions of amendments

Article II of Act No. 308/2002 Coll.
Transitional provision

Proceedings opened before the date this Act takes effect will be completed pursuant to the previous legal rules.

Article V of Act No. 257/2004 Coll.
Transitional provisions

Until the date the Central Depository takes over the register of book-entry securities maintained by the Securities Centre pursuant to Act No. 591/1992 Coll., on Securities, as amended by Act No. 89/1993 Coll., Act No. 331/1993 Coll., Act No. 259/1994 Coll., Act No. 61/1996 Coll., Act No. 152/1996 Coll., Act No. 15/1998 Coll., Act No. 70/2000 Coll., Act No. 307/2000 Coll., Act No. 362/2000 Coll., Act No. 239/2001 Coll., Act No. 259/2001 Coll., Act No. 501/2001 Coll., Act No. 308/2002 Coll., Constitutional Court Ruling No. 476/2002 Coll. and Act No. 88/2003 Coll., the Commission shall maintain the list of persons authorised to maintain part of the Securities Centre's register and to carry on other of its activities pursuant to this Act.

Article III of Act No. 57/2006 Coll.
Transitional provisions

1. As of the date this Act takes effect the Securities Commission (hereinafter referred to as the "Commission") shall cease to exist and the terms of office of the Commission's President and Presidium Members shall end. The previous responsibilities of the Commission as set out in laws and other regulations will be transferred from the Commission to the Czech National Bank as of the date this Act takes effect.

2. Decisions in administrative proceedings issued by the Commission pursuant to Act No. 513/1991 Coll., the Commercial Code, Act No. 61/1996 Coll., on Some Measures Against Money Laundering and on the Amendment of Related Acts, Act No. 15/1998 Coll., on the Securities Commission and on the Amendment of Other Acts, Act No.189/2004 Coll., on Collective Investment, Act No. 190/2004 Coll., on Bonds, or Act No. 256/2004 Coll., on Capital Market Undertakings, in the wordings effective up to the date this Act takes effect, shall be considered decisions issued by the Czech National Bank. The rights and obligations arising from these decisions remain unaffected. Should a fine be imposed by such a decision, and this fine has not been repaid, its collection and enforcement shall follow the procedure pursuant to these acts in the wordings effective as from the date this Act takes effect. Where the Commission's decision was abolished before the date this Act takes effect and the matter returned for review hearing, such hearing shall be in the competence of the Czech National Bank, which shall proceed in compliance with the previous legislation.

3. Proceedings conducted by the Commission and opened before the date this Act takes effect pursuant to Act No. 513/1991 Coll., the Commercial Code, Act No. 61/1996 Coll., on Some Measures Against Money Laundering and on the Amendment of Related Acts, Act No. 15/1998 Coll., on the Securities Commission and on the Amendment of Other Acts, Act No.189/2004 Coll., on Collective Investment, Act No. 190/2004 Coll., on Bonds, or Act No. 256/2004 Coll., on Capital Market Undertakings, in the wordings effective up to the date this Act takes effect, shall be completed by the Czech National Bank in compliance with the previous legislation. Should a fine be imposed in such proceedings, the procedure of its collection and enforcement shall be governed by the above Acts in the wordings effective up to the date this Act takes effect.

4. If a decision was issued by the Commission before the date this Act takes effect pursuant to

Act No. 513/1991 Coll., the Commercial Code, Act No. 61/1996 Coll., on Some Measures Against Money Laundering and on the Amendment of Related Acts, Act No. 15/1998 Coll., on the Securities Commission and on the Amendment of Other Acts, Act No.189/2004 Coll., on Collective Investment, Act No. 190/2004 Coll., on Bonds, or Act No. 256/2004 Coll., on Capital Market Undertakings, in the wordings effective up to the date this Act takes effect, and if an appeal was filed against such decision, the Bank Board of the Czech National Bank shall decide on it in compliance with the previous legislation. If the Bank Board abolishes the decision and returns the matter for review hearing, such hearing shall be in the competence of the Czech National Bank, which shall decide in compliance with the previous legislation. The Czech National Bank shall decide on the renewal of the proceedings and in review proceedings regarding these decisions in compliance with the previous legislation.

5. The employees of the Commission shall become employees of the Czech National Bank as of the date this Act takes effect. The rights and duties arising from labour-law relations in respect of these employees shall be transferred to the Czech National Bank. The rights and duties arising from labour-law relations in respect of the employees whose employment was terminated before the date this Act takes effect shall be settled by the Ministry of Finance.

6. The right to manage assets in the ownership of the Czech Republic, except for real estate that the Commission was responsible for managing as of the date this Act took effect and that is necessary for the exercise of supervision by the Czech National Bank pursuant to Act No. 15/1998 Coll., on the Securities Commission and on the Amendment of Other Acts, in the wordings effective up to the date this Act takes effect, shall expire on the date this Act takes effect. These assets shall become the property of the Czech National Bank on the date this Act takes effect and liabilities relating to these assets shall become liabilities of the Czech National Bank on the date this Act takes effect. Other assets that the Commission was responsible for managing and other liabilities shall be settled by the Ministry of Finance. The details shall be laid down in an agreement between the Czech National Bank and the Ministry of Finance.

7. Funds equivalent to the balance of the reserve fund and the fund of cultural and social needs of the Commission and any receivables and payables associated with the fund of cultural and social needs of the Commission shall be transferred to the Czech National Bank as of the date this Act takes effect.

8. As of the date this Act takes effect, the Czech National Bank shall replace the Commission or the state as a party to proceedings where the Commission acts as a party or where the Commission acts on behalf of the state. Financial liabilities that the Czech National Bank incurs from such proceedings shall be covered by the state. The same shall apply to liabilities that the Czech National Bank incurs as a result of proceedings opened as of the date this Act takes effect and relating to the activities of the Commission under the previous legislation.

9. Powers of attorney issued by the Commission shall expire as of the date this Act takes effect.

10. The confidentiality duty pursuant to Article 26 of Act No. 15/1998, on the Czech Securities Commission and on the Amendment of Other Acts, in the wording effective up to the date this Act takes effect, shall be unaffected by this Act.

11. Time limits which started running pursuant to the previous legislation prior to the date this Act takes effect shall be unaffected by this Act.

12. The report on the situation on the Czech capital market submitted by the Commission for 2005 pursuant to Article 4 of Act No. 15/1998 Coll., on the Securities Commission and on the Amendment of Other Acts, in the wording effective up to the date this Act takes effect, shall be completed and submitted to the Government and the Chamber of Deputies by the Czech National Bank by 30 September 2006, unless it is submitted by the Commission by the date this Act takes effect.

- 1) Act No. 256/2004 Coll., on Capital Market Undertakings, as amended.
Act No. 189/2004 Coll., on Collective Investment, as amended by Act No. 377/2005 Coll.
Act No. 190/2004 Coll., on Bonds, as amended by Act No. 378/2005 Coll.
Act No. 513/1991 Coll., the Commercial Code, as amended.
Act No. 42/1994 Coll., on Private Pension Insurance and the Amendment of Certain Acts Related to its Introduction, as amended.
- 4a) Article 45a of Act No. 591/1992 Coll.
- 5) Act No. 256/2004 Coll., on Capital Market Undertakings.
- 7) Act No. 71/1967 Coll., on Administrative Proceedings (the Administrative Procedure Code).
- 7a) Article 152(5) of the Administrative Procedure Code.
- 8) Articles 183b and 183d of Act No. 513/1991 Coll., the Commercial Code, as amended.
- 9) Articles 156(4), 161a to 161d, 161f, 183c and 186a of Act No. 513/1991 Coll.
- 9a) Commission Regulation (EC) No 2273/2003 of 22 December 2003 implementing Directive 2003/6/EC of the European Parliament and of the Council as regards exemptions for buy-back programmes and stabilisation of financial instruments.
Commission Regulation (EC) No 809/2004 of 29 April 2004 implementing Directive 2003/71/EC of the European Parliament and of the Council as regards information contained in prospectuses as well as the format, incorporation by reference and publication of such prospectuses and dissemination of advertisements.
Commission Regulation (EC) No 1287/2006 of 10 August 2006 implementing Directive 2004/39/EC of the European Parliament and of the Council as regards record-keeping obligations for investment firms, transaction reporting, market transparency, admission of financial instruments to trading, and defined terms for the purposes of that Directive.
- 9b) Articles 90, 91 and 97(3) of Act No. 127/2005 Coll. on Electronic Communications and on the Amendment of Certain Related Acts (the Electronic Communications Act).
- 10) Article 2 (2) of the Commercial Code.
- 10a) Act No. 337/1992 Coll., on Administration of Taxes and Fees, as amended.
- 10b) Article 8b of Act No. 591/1992 Coll., as amended by Act No. 362/2000 Coll.
- 10c) Act No. 189/2004 Coll., on Collective Investment.
- 10d) Article 17b of Act No. 591/1992 Coll., as amended.
- 10e) Article 91 of Act No. 591/1992 Coll., as amended by Act No. 362/2000 Coll.

- ^{10f)} Article 91a of Act No. 591/1992 Coll., as amended by Act No. 362/2000 Coll.
- ¹¹⁾ Article 6 of Act No. 256/2004 Coll., on Capital Market Undertakings.
- ¹²⁾ Article 14 of Act No. 256/2004 Coll., as amended.
- ¹³⁾ Article 74 of Act No. 256/2004 Coll., as amended.
- ¹⁴⁾ Article 83 of Act No. 256/2004 Coll., as amended.
- ¹⁵⁾ Article 45 of Act No. 256/2004 Coll., as amended.
- ¹⁶⁾ Act No. 189/2004 Coll.
- ¹⁷⁾ Articles 36a and 37m of Act No. 248/1992 Coll., as amended by Act No. 151/1996 Coll.
- ¹⁸⁾ Article 25 of Act No. 189/2004 Coll.
- ¹⁹⁾ Act No. 42/1994 Coll., as amended.
- ²⁰⁾ Act No. 363/1999 Coll., on insurance companies, as amended.
- ^{20a)} Article 26 (1)(g)(2) of Act No. 189/2004 Coll., on collective investment, as amended by Act No. 224/2006 Coll.
- ^{20b)} Article 17a of Act No. 256/2008 Coll., as amended by Act No. 230/2008 Coll.
- ^{20c)} Article 17b(7) of Act No. 256/2004 Coll., as amended by Act No. 230/2008 Coll.
- ^{20d)} Act No. 133/2000 Coll., on the Register of the Population and Birth Certificate Numbers and on the Amendment of Certain Acts (the Population Register Act), as amended.
- ^{20e)} Article 1 of Act No. 133/2000 Coll., as amended by Act No. 53/2004 Coll.
- ^{20f)} Act No. 40/1993 Coll., on Acquisition and Loss of Citizenship of the Czech Republic, as amended.
- ²¹⁾ Act No. 148/1998 Coll., on protection of confidential facts and on amendment to some laws, as amended.
- ²²⁾ Czech National Council Act No. 591/1992 Coll., as amended.
- ²³⁾ e.g. Article 38 of Act No. 21/1992 Coll., on Banks, as amended by Act No. 84/1995 Coll., Article 7 of Act No. 61/1996 Coll., on Certain Measures Against Money Laundering and on the Amendment of Related Acts.
- ^{24a)} e.g. Article 37d of Act No. 248/1992 Coll., as amended.
- ^{24b)} Article 91 of Act No. 591/1992 Coll., as amended.
- ^{24c)} e.g. Articles 45, 45a, 49, 50, 70a and 70b of Act No. 591/1992 Coll., as amended, Article 8 of Act No. 248/1992 Coll., as amended, Article 2 of Act No. 214/1992 Coll., on the Stock Exchange, as amended.
- ^{24d)} Article 22(2)(a) of Act No. 530/1990 Coll., on Bonds, as amended.
- ^{24e)} Articles 49(1) and 149 of Act No. 256/2004 Coll., as amended.
- ²⁵⁾ Act No. 236/1995 Coll., on Salaries and Other Requisites Connected with Performance of Duties by Representatives of the State and Some State Bodies, as amended.
Czech Government Order No. 253/1992 Coll., on Conditions for State Administration

Employees, Some Other Bodies and Municipalities, as amended.

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Article 27 of Act No. 101/2002 Coll., on personal data protection, as amended.

*) Pursuant to Article 1 of Act No. 268/1998 Coll., further remuneration for the second half of 1998 was withdrawn.