EXECUTIVE SUMMARY OF THE RIA FINAL REPORT

VI1. Basic identification data	
Title of the proposal: Act amending certain acts in connection with the development of the capital market	
Processor / representative of the submitter: Ministry of Finance	The expected date of entry into effect, in the case of split efficiency expand *01.2022*
Implementation of EU law: No; (if you choose Yes): - indicate the deadline for implementation: - - indicate whether the proposal goes beyond the requirements set out in the EU regulation?: -	
2. The aim of the act	
The act aims to implement the legislative measures resulting from the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023 (hereinafter also referred to as the "Strategy"). The Strategy is a non-legislative document approved by the Government of the Czech Republic at its meeting on 4 March 2019 (Resolution No. 156). *The Strategy contains 27 areas that need to be revised and 34 measures of a legislative and non-legislative nature are proposed for their implementation. The act will focus on legislative measures that require amendment of the law. At the same time, the proposed amendment is in line with the Policy Statement of the Government of the Czech Republic, which states, inter alia: "We will support the development of the financial market and strengthen its resilience. We will also focus on protecting the rights of consumers of financial services and developing financial education.".*	
3. Aggregated impacts of the act	
3.1 Impacts on the state budget and other public budgets: Yes	
The introduction of tax support for the Long-Term Investment Account will have a negative impact on the national collection of personal income tax. *With regard to the extension of the Financial Arbitrator's material scope in relation to the Long-Term Investment Account, the proposal to introduce this institute into the legal order may entail negative costs for the Financial Arbitrator, or public budgets.* *In some cases, the proposed legislation may entail increased costs for the CNB.*	
3.2 Impacts on the Czech Republic's international competitiveness: Yes	
International competitiveness is expected to increase as the capital market is expected to evolve	

under this amendment through modernization and addressing the shortcomings of the existing legislation. In accordance with the Strategy, the proposed legislative solutions are intended to help develop and make the capital market environment more attractive in the Czech Republic. *For example, the new sub-funds for joint stock companies and KSIL have as their primary objective to increase the competitiveness of the Czech capital market.*
3.3 Impacts on the business environment: Yes
The proposed legislation should predominantly have a positive impact on the business environment, consisting in the development of the capital market.
3.4 Impacts on territorial self-governing units (municipalities, regions): Yes
The proposed legislation should have certain impacts in relation to the proposed supervisory responsibilities of regional business offices in connection with the change of the Advertising Act.
3.5 Social impacts: Yes
The proposed adjustments to the Long-Term Investment Account and the adjustment of the new alternative fund should have a positive impact on the savings of Czech households.
3.6 Impact on consumers: Yes
The proposed legislation should not have any negative impact on consumers. The protection of retail investors should not be reduced by this proposal. Also the regulation in the Bonds Act and the Advertising Act should lead to greater protection of investors in bonds. In relation to the introduction of the institute of investor declaration, it is about strengthening consumer protection.
3.7 Environmental impacts: No
-
3.8. Impacts with regard to non-discrimination and gender equality: No
-
3.9 Impacts on the performance of the State Statistical Service: No
-
3.10 Corruption risks: No
-
3.11. Impacts on national security or defence: No
-

ABBREVIATIONS

List of abbreviations of legislation

Execution Order	Act No. 120/2001 Coll., on Distrainers, as amended
Income Taxes Act	Act No. 586/1992 Coll., on Income Taxes, as amended
Supplementary Pension Savings Act	Act No. 427/2011 Coll., on Supplementary Pension Savings, as amended
Management Companies and Investment Funds Act	Act No. 240/2013 Coll., on Management Companies and Investment Funds, as amended
Bonds Act	Act No. 190/2004 Coll., on Bonds, as amended
Capital Market Business Act	Act No. 256/2004 Coll., on Capital Market Business, as amended

List of other abbreviations

BCPP	Burza cenných papírů Praha (Prague Stock Exchange)
CNB	Czech National Bank
CR	Czech Republic
EU	European Union
FA	Financial Arbitrator
CZK	Czech crown
KSIL	Limited Partnership with Investment Certificates
IF	Investment firm
pension fund	Participation fund or transformed fund
SICAV	Joint Stock Company with Variable Capital (société d'investissement à capital variable)

A. GENERAL PART

A. Final Regulatory Impact Analysis (RIA)

1. GROUNDS FOR SUBMISSION AND OBJECTIVES

1.1 Name

Act amending certain acts in connection with capital market development

1.2 Problem definition

The capital market in the Czech Republic is not sufficiently fulfilling its main function, i.e. to effectively redistribute free financial resources from savers and investors (households) to entrepreneurs who need to finance their development. Part of the role is played by the phase of the business cycle in which we find our place – most firms do not seem to be "pressured" by the need for external capital, or, at a time of high bank liquidity and continued low interest rates, obtain bank credit relatively easily. Moreover, the investment activity of enterprises is strongly supported by the European Union's grant titles. However, this positive climate for companies may change in the near future with higher interest rates and lower subsidies from the EU. The state must be prepared for these changes. Even for historical reasons, traditional banking financing (deposits and loans) prevails in the Czech Republic today and relying on subsidies from the European Union also plays an important role.

Due to the advantages that a well-functioning capital market in the Czech Republic could bring, it is necessary to focus on the current state of the capital market in the Czech Republic. The Government of the Czech Republic considers that the capital market in the Czech Republic is currently not sufficiently filling its main function, i.e. the effective allocation of free financial resources from investors towards companies requesting capital. Part of the role is played by the phase of the business cycle in which we find our place – most firms do not seem to be "pressured" by the need for external capital, or, at a time of high bank liquidity and continued low interest rates, obtain bank credit relatively easily. Moreover, the investment activity of enterprises is strongly supported by the European Union's grant titles. However, this positive climate for companies may change in the near future with higher interest rates and lower subsidies from the EU. The state must be prepared for these changes. For this reason too, it is necessary to adopt the concept of capital market development in the Czech Republic. Moreover, the World Bank report states that the capital market in the Czech Republic does not sufficiently support the ambition of the Czech economy to join the more developed half of the EU Member States. Therefore, in line with the government's ambition to transition to a high-income economy, greater attention must also be paid to the development of capital markets.

The current state of the Czech capital market appears to be driven by three main structural factors: (1) the conservative distribution of household assets and low savings in old age, (2) the lack of awareness of companies about the possibility of raising funds through the capital market, or interest in such a method of financing, and (3) a small offer of investment instruments traded on the BCPP, which is the first logical choice for direct investments on the capital market due to its local proximity, absence of exchange rate risk and information transmission in Czech for Czech investors.

The savings rate in the Czech economy is quite high, among European countries the Czech Republic is third with a savings share in gross national income (GNI) of 28.7 %. According to world bank calculations, the Czech economy will thus generate approximately CZK 1.236 trillion in gross savings per year. But only a tiny portion of these savings will reach the capital market. This is mainly due to the very conservative investment outlook of Czech households, which has not changed fundamentally

in the last 16 years. As can be seen from Chart 1, the assets of Czech households increased from CZK 2 trillion in 2000 to CZK 5.4 trillion in 2016. By far the largest proportion of funds are held by households in cash, bank accounts and deposits (51 % in 2016). Shares and other equity accounts for a significant proportion of household aggregate assets (up 18.3 % in 2016). However, Prague stock exchange -listed shares account for only 6.2 % of this item, or just 1.1 % of household assets. Debt securities are represented slightly more and account for 3.9 % of household assets. Czech households have 7.3 % of their assets deposited in investment funds. Thus, the total share of household assets invested in exchange-traded shares, debt securities and investment funds (i.e. traditional capital market products) was 12.3 %. As we say below, these figures are not very high compared to other EU countries. Moreover, similar assets are typically held by higher-income households nowadays, so we can conclude that these assets are not yet adequately represented among the assets of low- or middle-income households.

These savings and investment patterns (when investing on the capital market) have a direct impact on the ability to collect the assets of the average Czech citizen. This way of investing leads to the ability of nations to converge towards the economic level of Western states, especially the more developed Member States of the European Union, which is the government's stated objective[i]. At present, the average Czech owns a financial asset of approximately CZK 600,000, while the average European can boast assets of more than CZK 2 million.

As discussed above, chart 2 shows that the typical Czech has more than half of his assets deposited in cash and deposits, while the typical European from the EU-13 (the so-called “Eastern EU States” that expanded the European Union after 2004) has 44.9 % allocated in this way. By contrast, EU-15 Europeans (i.e. from Member States of the European Union that were members of the EU before enlargement in 2004) have only 30 % allocated in this way. In terms of European comparison, the Czech Republic is fifth in Europe in the share of savings invested in this way, while in terms of holding riskier assets it is rather at the end of the imaginary ranking. So there is a big gap in investing in fixed assets that can yield higher returns. For example, listed shares account for only 1.1 % of the assets of the average Czech (on average only CZK 7,000), while the average European from the EU-15 accumulates CZK 101,000. (4.1 % of their financial assets) and the average European from the EU-13 accumulates slightly more in them (1.8 % of their financial assets). In absolute terms, however, the average Czech and European are at about the same level. As regards the shares of funds in bonds and mutual funds, the average Czech is not doing badly compared to Europeans from the EU-13 and the EU-15. In bonds, the average Czech holds even 1.4 % more than the average European from the EU-15, who holds 2.3 % in bonds. The average European from the EU-13 holds 2.5 % of his financial assets in bonds. In investment funds, on the other hand, the average European from the EU-15 holds a slightly larger percentage, with a share of 7.6 %. By contrast, the average Czech holds 7 % of his financial assets in investment funds, which is also 1.6 % more than the average European from the EU-13[ii].

In pension products, the average Czech has savings of thirteen times less than the average European from the EU-15 – on average 43 thousand. (7 %) compared to 565,000 (22.7 %). Even if we added life insurance to this category, we would still be only 12 % of household assets, compared to the European average of 38 %. Compared to the average European from the EU-13 in the area of pension products, the average Czech has more savings in absolute terms (the average European from the EU-13 has a savings of CZK 33,000), but as a percentage they hold 1.2 % less in pension products. These figures only confirm the conclusions of a study by the Czech capital market of the World Bank, which notes that, on the basis of its model, current investment decisions of households can, on average, provide a pension equal to only 15.8 % of pre-retirement income for Czech citizens under the 3rd pillar of the pension system. This is one of the symptoms of a serious problem and at the same time an essential argument for the further development of the Czech capital market and the need for higher participation of Czech households in domestic and foreign investments. Although these problems are

of a longer-term nature and require attention, the development of the volume of assets under management in the intermediation services market can be seen as positive, confirming the growing interest in investment funds. The value of assets managed by AKAT[iii] members increased from $715.8 billion to 715.8 billion CZK in 2007 to 1.1496 billion CZK in 2015. In 2015, there was a total of CZK 203.5 billion in domestic mutual funds. Assets in qualified investor funds totalled EUR 68.5 billion at the end of September 2015, and in funds intended for the public a total of CZK 385.3 billion (of which about half of the resources are foreign). We would like to enable this concept to give the positive developments of recent years as much support as possible in the related legislation and thus contribute to the economic convergence of the Czech Republic to the average of EU countries.

The financial system of the Czech Republic is bank-centric; banks have a 74 % share of the assets of the financial system. Thus, the Czech Republic is clearly one of the bank-based economies with their disadvantages described in the previous chapter. The consequences can be seen mainly in the main sources of financing of Czech companies, which nowadays are heavily dependent on (1) bank financing, (2) own resources and (3) subsidies from the European Union. In the financing of Czech non-financial companies, loans account for 25.5 %, receivables of other firms 28 %, un listed shares 28 % and other equity holdings 11 %. It should also be noted that the shares of the founding members, i.e. financing obtained internally, constitute a substantial part of the last two categories mentioned. The Czech capital market plays a much smaller role here. As can be seen from Chart 4, debt securities are used to finance only 3.6 % of companies' operations. Listed shares represent only 4.2 % of the company's capital, a figure that has fallen significantly over the past 10 years (at a peak of 13.6 % in 2007).

The lack of diversification of sources of financing for Czech companies is more evident in international comparisons. Graph 5 shows a comparison of the Czech Republic with similar data from the EU 13, THE EU 15 and the United Kingdom. The results show a significant difference between the Czech Republic, the EU-15 and the United Kingdom, where the share of financing of companies in the Czech Republic through listed shares and bonds is more than half that of the EU-15, and even a third of the UK's. However, compared to EU-13 businesses, the Czech Republic is better off, although the difference is not as pronounced (3 %). Most of the capital deposits of Czech companies come from the owners' own resources and from reinvested profits, and most of the debt financing is obtained from banks. Together, this points to the lack of interest of Czech companies in issuing shares and bonds, possibly resulting from a lack of awareness of this type of financing.

SMEs have a particularly high dependency on bank loans and equity financing. Economic analysis of the European Commission and research of the Czech Republic have shown that there is little awareness among SMEs about alternative sources of financing and the use of external financing in general. Moreover, according to discussions between the World Bank and players on the Czech capital market, challenging and non-systemically changing regulatory requirements that make it more expensive to enter the market are a serious problem for companies considering issuing shares or bonds. Compared to the EU-13 exchanges, the BCPP ranks among the best. In Chart 6, it can be seen that, in terms of the volume of trades reaching EUR 5,377.1 million in 2017, it ranks third behind Poland (EUR 55,460 million) and the Hungarian Stock Exchange (EUR 17,256 million), but is still significantly lower by comparison. Other exchanges of EU 13 countries do not even reach the total volume of trades that are carried out on the Czech stock exchange.

Another factor that points to a certain quality of BCPP, for example, is the successful entry into the Moneta Money Bank exchange, which has been operating on it since 2016. Its shares then became the most profitable on the market and brought the necessary ups and downs to the stock market. BCPP management also tries to initiate an activity on the stock exchange e.g. with a new START project, which focuses on small and medium-sized enterprises. During May 2018, the number of titles traded on the BCPP increased from 25 to 57 and the market capitalisation increased from USD 62.7 billion to USD 939.2 billion.[iv] On the other hand, the conservative investment outlook of Czech households

and the low awareness of Czech companies about the benefits of capital market financing are also reflected in the current state of the BCPP. Compared to the world average, it is faced with low emissions, low market capitalisation, low trading volume and sector composition that does not reflect the structure of the Czech economy. The most obvious indicator of the above problems is the expression of the market capitalization of stock exchange titles to GDP. Compared to the world average and especially with countries with a developed capital market, it can be seen that the Czech Republic is lagging behind. It is interesting how vast the difference in market capitalization is between developed countries such as the USA, France, Germany, and emerging countries such as Poland and the Czech Republic. The low volume of emissions and the low market capitalization of BCPP compared to the world average may hinder the growth of interest in investing in the Czech economy by foreign investors. As a result, our market is too small, too low-liquidity, and difficult to classify in a diversified portfolio of assets. Another problem associated with small market capitalisation is the lack of liquidity, which has also been decreasing further in recent years.

Prague stock exchange´s problems are not negligible in the capital market of the Czech Republic. They can significantly discourage domestic and especially foreign investors from investing in the Czech economy. The development of BCPP, especially the stimulation of potential primary emissions, would lead to the inclusion of the Czech Republic on the list of developed countries of MSCI. This would undoubtedly lead to an increase in interest in the Czech economy from the point of view of foreign investors and inflows of foreign capital into Czech companies. There has been no such substantial decline in bonds, but trading volumes tend to stagnate[v]. The value of bonds issued by non-financial corporations, which increased from CZK 75.47 billion at the end of 2007 to CZK 340.37 billion at the end of 2014. The main issuer on the bond market is the state, whose bonds were worth CZK 1.612 trillion at the end of 2015.[vi]

1.3 Description of the existing legal situation in the area

When describing the situation before 1989 it is not possible to talk about the business environment in our country, because it did not exist because of the economy planned by the state. Since the fall of the Iron Curtain, nothing has been done for the capital market to support it. The bad experience with voucher privatization has also not contributed to its attractiveness but has largely stigmatized it.

In view of the above, the Government of the Czech Republic approved at its meeting on 4 March 2019 (Resolution No. 156) a non-legislative document entitled “National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023” (hereinafter referred to as the “Strategy”). This government document is an act signalling that the Czech Republic is interested in supporting the capital market.

The Strategy contains 27 areas that need to be revised and 34 measures of a legislative and non-legislative nature are proposed for their implementation. The act will focus on legislative measures that require amendment of the law. At the same time, the proposed amendment is in line with the Policy Statement of the Government of the Czech Republic, which provides inter alia: “We will support the development of the financial market and strengthen its resilience. We will also focus on protecting the rights of consumers of financial services and developing financial education.”.

The act, which is expected to focus on legislative measures of the Strategy, which require changes of diverse laws, can be used in connection with the description of the legal situation in the area to evaluate as follows.

At present, the state supports only pension funds and life insurance in the form of tax deductions, although old-age savings can also be generated using other financial products. The current legislation is in the Income Taxes Act.

Currently, there are internet advertising portals that allow issuers to offer their bonds without these portals being regulated or subject to CNB supervision, so it is advisable to regulate advertising for investment instruments with the new rules being complied with by all entities performing such advertising, and thus also entities regulated by the CNB (it is proposed take inspiration from the regulation of gambling advertising). The current legislation is in the Advertising Act.

Bailiffs are now obliged to use the XML format only when communicating with banks. This causes unjustified market inequality and higher costs for non-banking financial institutions in executing bailiffs' requests. The existing legislation is in the Execution Order.

At present, the terms of issue and the bonds do not, in principle, contain any information about the issuer, so that it is not possible to assess the issuer's ability to repay these bonds. Typically, the prospectus contains information on both the issue and the issuer, however, the prospectus is not prepared for bond issues up to EUR 1 million. In April 2019, the Ministry of Finance published a public consultation on Corporate Bond Scorecard, which allows investors to better assess the risk of corporate bonds, but there is often the problem that the bond issuer does not disclose its financial information (typically in the Commercial Register), or the information is dated and do not take into account the planned bond issue. Moreover, even if the information is part of the terms of issue (or is included in the prospectus today), it does not allow investors to make a simple comparison of individual issues for the scope of these documents, which in addition do not provide some indicators at all, so it is necessary to search in financial statements (which could not be up-to-date). The existing legislation is in the Bonds Act.

Nowadays, the state supports tax investments in life insurance or pension funds, which impedes usage of other products of old-age savings - this is primarily addressed by the amendment to the Income Taxes Act, but in order to meet it, it is necessary to introduce appropriate sectoral regulation to ensure compliance with at least minimum requirements and supervision of the CNB. Although some advertising portals today report that they are not subject to the CNB supervision, they do so voluntarily and unsystematically, moreover, they do not face penalties for not disclosing this data, and this *disclaimer* is often presented in a grey manner (smaller pale font at the bottom of the website), which should be corrected .

Pension funds have a very limited investment strategy that follows almost literally the regulation of UCITS funds harmonized by EU law, which is characterized, inter alia, by permanently offering redemption to its investors and therefore have to invest only in highly liquid assets (typically listed shares and bonds). In addition, limiting the maximum amount of the remuneration of a pension company, which is additionally designed as an *all-in-one* (i.e. no costs can be charged directly to the fund), and the obligation to reduce this remuneration by the remuneration paid to the fund manager leads to the fact that Czech pension funds do not invest in assets that are common for pension funds in advanced economies, especially in so-called *private equity* funds (funds investing in large unlisted companies with an investment horizon of 10 years) and infrastructure projects. Most of the participants remain in the transformed funds, which are closed to new entrants, but the existing participants continue to contribute regularly, while the transformed funds are due to the “black zero guarantee” (no year can end in loss, otherwise the pension company has to pay the loss from its assets) are investing very conservatively and in most cases are not able to cover inflation, which in the long term leads to devaluation of invested funds. In addition, due to a very conservative strategy (enforced by virtually a guarantee), they invest only in government bonds and bank deposits and thus do not contribute to the development of the capital market in the Czech Republic (and at the same time represent a significant and weighty share of Czech citizens' old-age savings). Although transformed funds are closed to new entrants, existing participants have no incentive to transfer their funds to participation funds which, while not offering a guarantee (and also being more risky), can offer potentially more attractive returns that easily cover inflation in the long run and they can also offer a return on inflation (according to the dynamics of the participant's chosen investment strategy). As a

reason why participants do not switch from transformed funds to participation funds, it is often stated that they do not want to lose their entitlements from the transformed fund (e.g. the so-called retirement pension) where the current law does not allow them to participate in the transformed fund, if the participant is at the same time the participant of participation fund.

So far, no investment fund has been established in the Czech Republic as a trust fund - the main reason is that wealthy investors would like to invest for the benefit of their children, but they cannot because their children are not qualified investors. Also, in the Czech Republic, no Limited Partnership with Investment Certificates has been established yet, although amendments have been made in the past to make it more attractive. According to the market proposals it could lead to the use of this legal form, for example, if it was possible to create sub-funds. Similarly, there is a demand for the possibility of sub-funds in a closed-ended joint stock company, which is an investment fund. Making the legal form of a Limited Partnership with Investment Certificates more attractive could also be made possible by the use of the international abbreviation SICAR in the name of the company, or by making the otherwise mandatory regulation of profit distribution in the Corporations Act non-prescriptive and thus more attractive. The current legislation is in the Management Companies and Investment Funds Act.

According to current legislation, a joint-stock company requires registered capital of CZK 2 million or EUR 80 thousand, which is a relatively high amount for start-ups and represents an obstacle to the use of this legal form by innovative *start-ups*. *Start-ups* (and other starting entrepreneurs) therefore prefer to choose a form of limited liability company, where the registered capital of 1 CZK or 1 EUR is sufficient. However, a limited liability company is not suitable for trading on the capital market where it may, for example, issue common certificates, but these cannot be publicly offered or traded on public markets. In addition, a limited liability company is not allowed to issue convertible bonds. Starting businesses have very limited options, how to raise funds on the capital markets and must use for its financing primarily bank loans. However, banks may be reluctant to grant them a loan because they have no history or assets to secure the loan. It is very difficult to finance bonds for the same reasons (they have no history or assets). Access to finance is thus considerably more difficult for starting businesses, which impedes the full development of the Czech national economy and its transformation into an economy with a high added value (mainly created by innovations). There is a special legal form for starting businesses abroad, a form of simpler joint-stock company, for example in France, Slovakia or newly in Poland. The obligation of a notarial deed is also a certain cost of setting up a company. The existing legislation is in the Corporations Act.

The description of the existing legal situation in the given area is described in detail in individual variants.

1.4 Identification of stakeholders

Among the so-called affected entities on which the options under consideration will have an impact include:

Subject	Reason
• **issuers of securities**	The issuer is a company or public corporation (e.g. municipality, state) that issues securities primarily for the purpose of raising funds for the development of its business. Various types of securities can be issued or rendered, of which the best known are shares, bonds and participation certificates.

• **investors**	An investor is a person who wants to valorise their available funds. The investor is primarily an investment fund, a bank, a pension fund, an insurance company or a natural person.
• **CNB**	The CNB is the financial market supervisory authority.
• **investment firm**	An investment firm is a legal entity that provides investment services and provides its customers with access to the capital market.
• **pension companies**	It is a joint-stock company with a CNB license for the implementation of pension savings and supplementary pension savings. This company will be able to create an alternative participation fund.
• **distrainers**	The distrainer is a free legal profession which, according to the Execution Order, ensures execution. It is concerned with the introduction of XML format.
• **Financial Arbitrator**	The Financial Arbitrator is the competent body for settling disputes out of court. It is proposed to extend its material scope with regard to disputes concerning the Long-Term Investment Account.

1.5 Description of the target state

The main objective of this proposal is to implement the target situation by sustainable economic growth and increasing the competitiveness of the Czech economy through a well-functioning capital market through legislative measures through legislative measures.

In general, the following target status indicators of achieving the target state:

- improving the quality and resilience of Czech household savings (including retirement savings),
- reducing "dependency" of small and medium enterprises on bank financing (and on subsidies from the European Union)
- increasing the number of jobs with high added value (strengthening the purchasing power of Czech citizens); and
- higher support for innovation (more investment in innovative economy)

The target situation should be realized through:

- **measures to support households (investors):** In view of the current rather short-term investment horizon of the portfolios of Czech households and the need to facilitate longer-term (more profitable) investment opportunities for Czech citizens, it is proposed to implement the measures described below. These measures are primarily aimed at promoting long-term investment by Czech households (investors), but may indirectly benefit other entities; cooperation of other entities, including some that are not directly subject to the Government of the Czech Republic, is necessary. In particular, these measures aim to provide more investment opportunities and remove barriers that do not allow the full potential of long-term investment (an investment horizon of more than 1 year) to be fully developed. The terms in the tables for each measure mean a planned

submission to the government, whether a legislative proposal or an informative document on the implementation of the measure.

- Promoting the creation of savings for old age by introducing a tax-supported long-term investment account, greater protection in investments in risky securities, providing more investment opportunities and removing barriers that do not allow the full potential of long-term investment to be fully developed (an investment horizon of more than 1 year.
- **measures to support companies (issuers):** Given that exchange-traded stocks and bonds do not yet play a sufficient role in financing companies and smaller and medium-sized enterprises in particular are highly dependent on financing through retained profits and bank loans, several measures are proposed to help make financing of Czech companies more attractive through the capital market (for example, by raising the awareness of Czech businesses about the possibilities and benefits of diversification of financial resources). This will increase efficiency not only in the area of corporate management, but also in the economic level of the state as a whole. Elimination of duplicates between emission conditions and prospectus. This liberalisation will have a positive impact on issuers' costs, as emission conditions will not be unnecessarily robust by cancelling duplicate information.
- **measures to promote professional market participants (market infrastructure):** The market infrastructure represented by professional capital market participants forms the skeleton of the entire capital market system, without which it could not function. Strong market infrastructure represents high-value-added jobs, helping the state's economic growth and transforming the national economy towards the structure of Western economies. The following measures should help to develop it.
- Enabling pension funds (i.e. transformed and participating funds) to invest in private equity funds, enabling the creation of sub-funds and legal forms other than SICAV, promoting the use of XML format when requesting information from financial institutions (especially in the context of executions), promoting trading in corporate bonds.

1.6 Risk assessment

The proposed legislation aims to contribute to the development of capital in the Czech Republic through legislative measures that result from the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023.

Failure to adopt the proposed legislation, the Czech Republic will not be exposed to the risk of breach of EU commitments. However, failure to adopt the proposed legislation exposes the Czech Republic to the risk of non-implementation of legislative measures resulting from a document to which the Government of the Czech Republic committed itself through Resolution No. 156 of 4 March 2019. Not removing some shortcomings in the existing regulation will impede the development of capital market in the Czech Republic, in particular it will not be possible to create old-age saving alternatively through a new type of account, it will not be possible for a new type of mutual fund to invest more dynamically, furthermore it will not be possible for investors to be more widely and transparently informed of issuers and the issue, duplication between the prospectus and the terms of issue will not be eliminated, the costs of execution on the financial market will not be reduced, the conditions between permanent arbitration courts will not be levelled, etc.

2. DRAFT OF VARIANT SOLUTIONS

In the following section, the evaluation of the impact of the regulation describes the individual evaluated questions, including the proposal of solutions and evaluation of options. The questions were consulted through consultation material published on the website of the Ministry of Finance.

The Ministry of Finance published a public consultation on the draft National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023 on 7 December 2018, with a deadline to comment by 9 January 2019. In this context, it called on capital market participants and the professional public to send any specific proposals with justification of the proposed change, which could be taken into account when preparing the amendment.

After incorporating the comments received and finalizing the text, the Ministry of Finance submitted the Strategy to the Government of the Czech Republic, which approved this document at its meeting on 4 March 2019 (Resolution No. 156).

Subsequently, on 8 August 2019, a document entitled "Consultation Paper on the Planned Legislative Measures Arising from the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023" was published for public consultation. In this context, the Ministry of Finance also invited capital market participants and the professional public to send any specific proposals justification of the proposed change that could be taken into account in the preparation of the amendment. One supervisory authority, one ministry, 6 market associations, one international market association, one trade union representative, one educational institution, 5 market operators and 5 private persons responded to the call.

Legend to evaluation and variant solutions

The analysis of solution variants aims to carry out a basic evaluation of whether it is desirable in individual cases to change the current situation and to create new legislation.

The submitter has carried out a cost-benefit assessment with regard to the identified stakeholders. During the evaluation of the impact submitter conducted consultations with the concerned parties. The aim was to obtain data that are otherwise unavailable and to reach relevant conclusions in the analysis. Impact of the variants is not stated on the aggregated basis, but in a structured way according to each specific area to which the stakeholders belong, and groups of entities concerned which are impacted. The so-called multicriterial analysis was used to evaluate and propose solutions.

Multicriterial analysis deals with the evaluation of possible alternatives according to several criteria, while the alternative evaluated according to one criterion is not usually best evaluated according to another criterion. Multicriterial decision-making methods then resolve conflicts between conflicting criteria. It is a method that aims to summarize and organize information about variant solutions. Multicriterial decision-making arises wherever the decision-maker evaluates the consequences of his choice according to several criteria, namely quantitative criteria, which are usually expressed in natural scales (also referred to as numerical criteria) or qualitative criteria where we introduce an appropriate scale, e.g. grading scale or scale "very high - high - average - low - very low" and at the same time we define the direction of better evaluation, i.e. whether the maximum or minimum value is better (decreasing or increasing values).

Step-by-step method

Alternatives are identified. It will decide the criteria (factors) that will determine the decision. Detailed assessment of the impact of each alternative on each criterion. Where possible, it expresses yourself in numbers (not necessarily money). Each criterions (factors) are assigned their relative weight (significance). So, there will be indicators of the significance of the main impacts.

Evaluation of design alternatives

In particular, the following criteria have been established in the evaluation of alternatives to proposals, with each criterion being assigned the same significance except for the first criterion, which is absolutely crucial to the objectives of this amendment.

1. Whether the proposed alternative sufficiently implements the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023
2. Is the current legislation insufficient or unsatisfactory? Why?
3. If this is not a regulation that could be addressed in other, non-legislative means.
4. What is the purpose pursued by the (considered) legislation.
5. Impact on individual entities.
6. Protection primarily of small but also qualified investors.
7. Capital market development.
8. Possible implementation risks.

With regard to the fact that the proposal is based on the Strategy that includes legislative and non-legislative measures and the non-legislative measures has the submitter obligation to perform under a work sheet resulting from government resolutions, assessment is focused mainly on legislative action, whereas before the Strategy was drafted it was considered whether the target state could also be achieved in a non-legislative way

For legislative measures resulting from the Strategy, the following legal solutions are considered:

- Option 0 - maintaining the current status

Maintaining the status quo would mean that no changes will be made to the acts in question.

- Option 1 - Legislative change through amendment of one of the affected acts

The amendment of the acts in question would take into account the shortcomings that are inconsistent with the development of the capital market and the shortcomings that have emerged during the application practice, and these shortcomings would be remedied,

- Option 2 or 3 - alternative legislative proposal by amending one of the relevant acts

The amendment of the acts in question by an alternative legislative proposal to Option 1 would take into account the shortcomings that are inconsistent with the development of the capital market and the shortcomings that have emerged during the application practice, and these shortcomings would be remedied.

CONTENT

2.1 Establishing a Long-Term Investment Account

Current status and current legislation

Design of solution variants

In the event that companies or start-ups wish to offer securities publicly, they must set up a public limited liability company from the capital companies, since ZOK prohibits the public offering of ordinary certificates or their trading on the European regulated or other public market (Section 137(4) ZOK) for a limited liability company. The public offer is, pursuant to Section 34 para. (1) ZPKT any communication to a wider range of persons containing information on the investment securities offered and the conditions for their acquisition which are sufficient for the investor to make a decision to buy or underwrite those investment securities. Publicly, shares or similar securities representing a share in a legal entity may be offered from investment instruments (Section 3 of the ZPKT). Pursuant to Article 34(1) of the Basic Regulation, it is necessary to provide for the grant 1 ZPKT is not considered to be a public offer of trading on a regulated market, but zok also explicitly prohibits public offering. For this reason, only a public limited liability company and not a limited liability company can benefit from the public offering institute in this respect. The impossibility of public offerings impedes companies and start-ups with investment offers from investors. The current legislation of a ordinary public limited liability company is regulated in Section 243 – Section 551 ZOK. Similarly, under the current legislation, a limited liability company cannot issue exchangeable bonds. However, a capital of CZK 2,000,000 or EUR 80,000 is required for the establishment of a public limited company (Section 246(2) ZOK). Furthermore, the statutes or social contract establishing a public company also require the form of a public document (Section 8 of the ZOK)

Design of solution variants

Two variants are considered:

- Option 0 - Maintain the current status
- Option 1 - Extend the offer of products intended for savings for old age by a personal savings account
- Option 2 - extend the range of old-age savings products with a product that would bring a tax advantage in the area of non-taxation of income

Option 0 - maintaining the current status

The current situation does not allow the public offering of securities other than through a public limited liability company, the establishment of which must have a capital of CZK 2,000,000, because the limited liability company prohibits public trading in ordinary certificates. Maintaining the status quo does not represent a change in costs or benefits.

Option 1 - extend the offer of products intended for savings for old age by a personal savings account - Long-Term Investment Account

The lifting of the prohibition on the public offering and trading of master certificates would constitute liberalisation in relation to a limited liability company. This solution would be an option for persons intending to set up a capital trading company that allows public offering and public trading of securities without the need to set up a public company requiring a significant share capital. The choice of this option does not constitute compulsory cost incurred. The change will not require public costs. The choice of this option requires a change in the rules. In view of the fact that the shareholders of a limited liability company are members or investors in a closed type of private company, where they can regulate the transfers of their shares themselves in a social contract, it can be said that by public trading in ordinary certificates they will not be in control of who acquires these securities and this may have consequences with regard to their protection, which may be reduced

1. Payments by employers as employee income exempt from income tax

In this case, the negative impact would only be generated because of the extension of the titles to which the employer can contribute, with the exempted income for employees. For the existing titles already unified limit to 50 thousand CZK is and the proposed modification does not change anything for them. Thus, the impact could be generated in cases where it would apply at the same time: the employee will have a Long-Term Investment Account and the employer will be willing to make a new contribution, i.e. beyond the existing exempted contributions (subject to legal conditions). The negative impact of contributing titles cannot be estimated due to lack of data sources. In addition, other factors, such as the development of unemployment, wages or conjuncture or the recession of the Czech economy or real interest rates, may also have an impact on the amount of impact.

However, given the current level of employers 'contributions, the expected Long-Term Investment Account parameters, which are similar to the existing supported products, we do not expect a massive increase in employers' interest in contributing to this new product. Rather, we would expect a change in structure. Based on this assumption, the impact on public budgets of hundreds of millions of CZK per year can be considered.

In this case, a negative impact would have already occurred during 2022, however, given that the Long-Term Investment Account is currently a non-existent product, any year-round impact can only be expected in 2023.

2. Application of the deduction from the taxable amount in respect of contributions paid by the taxpayer

The total maximum amount by which the tax base can be reduced is proposed at CZK 48,000, i.e. it corresponds to the sum of the existing limits. With regard to the proposed effectiveness of the act as of 1 January 2022, it is possible to expect that the potential negative impact will occur in 2023 at the earliest (taxpayers will apply the non-taxable part under the new rules only in the tax return), however, given that Long-Term Investment Account is currently a non-existent product, any year-round impact can only be expected in 2024.

In the case of deductions from the tax base, a negative impact can be generated both by the unification of the deduction limits for existing products (taxpayers preferring one product to which they now apply the maximum deduction will now have the possibility to apply a higher deduction) and also by the expansion of the deduction limits for another product. At present, the estimated tax relief from tax base deductions is CZK 2.6 billion. Considering the total amount of the estimated tax relief, we estimate the negative impact of the unification of the deduction limits to be in lesser hundreds of millions of CZK.

The negative impact of extending the possibility of deduction cannot be estimated due to lack of data sources. In addition, other factors, such as the development of unemployment, wages or conjuncture or the recession of the Czech economy or real interest rates, may also have an impact on amount of the impact. For example, if new 100,000 taxpayers made an attempt to redeem from their tax base of 10,000 tax deductions from Long-Term Investment Account contributions, it would have a negative impact on tax on income of natural persons of CZK 150 million per annum at the level of public budgets.

This option also presents social impacts, in particular positive impacts on the savings of Czech households.

Option 2 — extend the range of old-age savings products with a product that would bring about

a tax advantage in the area of non-taxation of income

This option would offer investors the possibility of saving by not having to tax the proceeds of the assets included in that savings product, which, as abroad, would be investments in shares, deposit in a bank account, etc.

Proposal of the most suitable solution

As the most appropriate solution, it is proposed to extend the conservative list of products intended for savings to old age by a personal savings account, called the Long-Term Investment Account, so option 1 is the most appropriate solution. This account is associated with higher activity of its owner and the need to invest in investment instruments in order to increase their appreciation. Investments should be made in financial products - stocks, bonds or funds, but the account is intended also for saving money in a bank account with the intention to separate the assets and the special register using capital market instruments, if possible, reproduce the assets and use the account in a post-productive age as a retirement enhancement of assets.

Although this variant has a negative impact on the state budget, it has a positive impact on the savings of Czech households. Other positive aspects that have led to a decision under this legislative solution are the positive social impacts in relation to active and responsible investing and managing of savings through this type of account, and last but not least, an increase in financial literacy is also a clear positive.

Summary of impacts of the chosen Option 1

Benefits / positives	Costs / negatives
+ savings of Czech households + capital market development + variability in the selection of savings products for old age + the ability to manage your investments directly and responsibly + increase in financial literacy + possibility of alternative dispute resolution through the FA, relief of civil courts (decrease of their use) from a possible dispute	- the burden on public budgets - the need to adapt to the new legislation - FA use, higher risk of use - administrative costs

2.2 Simple joint stock company

Current status and current legislation

In the event that companies or start-ups wish to offer securities publicly, they must set up a public limited liability company from the capital companies, since the Corporations Act prohibits the public offering of ordinary certificates or their trading on the European regulated or other public market (Section 137(4) of the Corporations Act) for a limited liability company. The public offer is, pursuant to to Section 34 (1) of the Capital Market Business Act any communication to a wider range of persons containing information on the investment securities offered and the conditions for their acquisition which are sufficient for the investor to make a decision to buy or underwrite those investment securities. Publicly, shares or similar securities representing a share in a legal entity may be offered from investment instruments (Section 3 of the Capital Market Business Act). Pursuant to Article 34(1) of the Basic Regulation, it is necessary to provide for the grant 1 of the Capital Market Business Act is not considered to be a public offer of trading on a regulated market, but zok also explicitly prohibits public offering. For this reason, only a public limited liability company and not a limited liability company can benefit from the public offering institute in this respect. The impossibility of public offerings impedes companies and start-ups with investment offers from investors. The current legislation of a ordinary public limited liability company is regulated in Sections 243 - 551 of the Corporations Act.. Similarly, under the current legislation, a limited liability company cannot issue exchangeable bonds. However, a capital of CZK 2,000,000 or EUR 80,000 is required for the establishment of a public limited company (Section 246 (2) of the Corporations Act). Furthermore, the statutes or the social contract establishing a public company also requires the form of a public document (Section 8 of the Corporations Act).

Design of solution variants

Three variants are considered:

- option 0 - maintaining the current status
- option 1 - abolition of ban on public offering of common certificates
- option 2 - creation of a simple joint stock company

Option 0 - maintaining the current status

The current state does not allow a public offering of securities other than through the joint stock company, for its foundation it is necessary to have a registered capital of 2 000 000 CZK as a limited liability company prohibits public trading of common certificates. Maintaining the status quo is not a change in costs or benefits.

Option 1 - abolition of ban on public offering of common certificates

Abolishing the ban on public offering and trading in common certificates would constitute liberalization in relation to a limited liability company. This solution would be an option for persons wishing to set up a capital company that allows public offering and public trading of participation securities without the need to set up a joint stock company with high costs. Choosing this option does not mean a mandatory cost. The change will not require public costs. Choosing this option requires a change in legislation. With regard to that of a partners in a limited liability company are partners - investors in a closed-ended private company where they can regulate the transfer of their shares themselves in a memorandum of association, we could say that by publicly trading in the stock certificates, they will not have control over who will acquire these participating securities and may have repercussions with regard to their protection, which may be reduced.

Option 2 - creation of a simple joint stock company

Such liberalisation would lead to a reduction in costs and administration for entities forming this type

of company in relation to the establishment without the need for a notarial deed. The introduction of this institute will not constitute a compulsory cost incurred. Investor protection is maintained, the impact on the business environment is positive and the competitiveness of the Czech Republic is increased. The choice of this option requires a change in the legislative framework.

Proposal of the most suitable solution

Under the current situation the best option seems to be to maintain the existing situation and have the possibility of any legislative changes in the future to be more analysed in detail e.g. through *ad hoc* working group. Maintaining the status quo and choosing option 0 does not impose a burden on public budgets or administrative costs with a view to a change in the legal framework but the capital market, in particular *start - up* platforms will not develop.

Summary of impacts of the chosen Option 0

Benefits / positives	Costs / negatives
+ zero administrative costs due to the changeless legal framework	- no changes in capital market development (*start - up* platforms)

2.3 Self-certification of wealthy investors (potential business angels)

Current status and current legislation

Business angels are an important capital market financing option for start-ups, which often have financing problems and, given their high-risk profile, are not suitable for either bank loans or small-scale investor-oriented investment funds. Business angels are usually former entrepreneurs themselves, who provide start-ups with advice (so-called smart money) in addition to finance, and they also benefit from their advice, insights, knowledge and contacts. This non-financial assistance is particularly important at the earliest stages of development, when management is incomplete and usually inexperienced. The current legislation does not define business angel investors in any way and is silent about their existence, nor are the conditions for their investment regulated.

The issue of business angels in the Czech Republic is dealt with by the World Bank study "Stimulating Business Angels in the Czech Republic", which maps the local environment of business angels and formulates recommendations for its further development. From a regulatory perspective, the World Bank sees it as essential that current and future legislation does not constitute an obstacle to business angels' investments in start-ups, and that in cases where these barriers cannot be removed or their negative impact minimized, an exemption can be granted for business angels who meet certain minimum criteria. These individuals would then be referred to as certified business angels.

The World Bank specifically suggests so-called self-certification i.e. The accreditation consisting in obtaining a certain status that would testify that this investor has a certain wealth and experience and is thus a kind of qualified investor, while as indicated by marking self-certification in the recommendations of the World Bank, to obtain this designation the decision of any authority would not be required. The status of certified *business angel* would entail exemption from any restrictions on the acceptance of investment offers and consequently self-certification would de facto waive the protection of a small investor. In this context, analogy to the statement of risk acceptance pursuant to Section 272 (3)(h) or (i) of the Management Companies and Investment Funds Act and the potential extension of the application of this provision to *business angels*, whereby an investment of that amount would have to be made at least once, but not on a case-by-case basis.

A similar arrangement has been found in the UK since 2000 under the "*Financial Services and Markets Act 2000",* when, when proving certain conditions or declarations of compliance, a potential *business angel* gains the status of "*high net worth individual*" (signing declaration on minimum income / net assets) or "*sophisticated investor"* (signing a risk acceptance statement annually) and subsequently is not subject to any legal restrictions of a protective nature related to the acceptance of investment offers.

Furthermore, in the United Kingdom, if an individual does not fall into the above categories (high net worth individual or sophisticated investor), it is subject to a restricted investor scheme, which in practice means that an individual can invest a maximum of 10 % of his or her net worth (with the exception of his/her residence and the assets and income from insurance/pension there).

At the same time, the World Bank proposes that the definition of the concept of business angel should be more oriented and that the statute itself would therefore depend, in particular, on the will of the potential bearer whether it wants to be identified as a business angel. This recommendation is based on the premising that a business angel makes investments out of personal conviction and voluntarily and should therefore not be required to register formally with a state authority, as this could be dissuasive for him.

Design of solution variants

Three variants are considered:

- Option 0 - maintaining the current status
- Option 1 - to allow so-called self-certification, i.e. accreditation consisting in obtaining a certain status that would certify that a given investor has a certain wealth and experience, or divide investors into several categories according to the British model
- Option 2 - introduction of the institute of investor declaration

Option 0 - maintaining the current status

The law in the Czech Republic does not provide for the existence of *business angels* and offers only similar categories of qualified investor in Section 272 of the Management Companies and Investment Funds Act, or a professional customer upon request pursuant to Section 2b of the Capital Market Business Act. The current situation does not prevent individuals from becoming an angel investor, but the absence of specific legislation in practice carries, for example, restrictions on accepting investment offers or distributing investment proposals.

Option 1 - enable self-certification or divide investors into more categories according to the British model

As a result, *business angels'* certification can help to remove any regulatory barriers to easy distribution of initial investment proposals or to limit the number of investors participating in individual offers. Furthermore, categorizing investors in a system similar to that in the UK could help to protect investors and improve the financial literacy of the population, as investors would identify themselves more closely with their investor category and would have to make a statement in the case of riskier investments. Option 1 requires a change in the legal framework and represents the cost of adapting to this regulation. A negative may be the reluctance to be formally identified as a business angel investor.

Option 2 - introduction of the institute of investor declaration

Option 2 is considering introducing an institute of investor declaration aimed at retail investors and thereby protecting them, while the category of the so-called wealthy investor, which is essentially a *business angel,* is exempt from this obligation to make a statement. Such an investor does not need protection as an ordinary investor, and it is therefore considered to adjust the terms of his investment more freely. Therefore, an insurance policy is being considered for small investors, which should prevent these small investors from investing all of their savings by declaring their assets. According to the British model "restricted investor", it is considered to introduce an explicitly unnamed category of limited investor who, if the investment firm provides him with the main investment services referred to in Section 4 (2)(a) or (e) in respect of investment instruments which are not simple investment instruments, sign a written declaration on its request that it will not invest more than 10 % of the value of its assets consisting of cash and investment instruments in those investment instruments and of such investment instruments issued by one issuer more than 5 % of the value of its assets consisting of cash and investment instruments.

The semi-professional investor ("wealthy investor") (modelled on the British "high net worth individual"), which should be defined as a person whose cash and investment property amounts to at least CZK 2 500 000 and whose gross income and profit before tax in last year corresponds to at least CZK 1,000,000, and such a person is obliged to self-certify only if the investment firm provides him with the main investment services referred to in Section 4 (2) (a) or (e) in relation to investment instruments and should normally conduct a suitability and adequacy test - in which case the person shall certify as a ' wealthy investor' by a written declaration .

This option needs changes in the legal framework, for investment firms need to adapt to the new legislation, the negative aspect can be a risk circumvention of the law by simply meeting the formal requirement of a declaration that customer invests only a portion of their savings. A positive feature

is the increased protection of retail investors.

Proposal of the most suitable solution

The most appropriate solution is to choose option 0. In a deeper analysis, it was found that so-called *business angels* investors invest their funds without the need for the law to regulate their investment, albeit in a positively explicit form of self-certification or otherwise. It does not even prove necessary to protect ordinary retail investors by declaring in writing before an investment decision that they do not invest the majority of their savings, which would ultimately entail additional administrative requirements and costs for the securities trader at the same time as adapting to the new regulation and without verifying the veracity of that statement, there is a risk of circumvention of the law in terms of formal compliance with that requirement and ultimately failure to fulfil its intended purpose. Following the above mentioned statement, it was proposed to exclude from this obligation a person of the so-called wealthy investor who does not need increased protection. Another aspect for the choice of option 0 is the European Commission's intention to introduce a category of semi-professional customer, which should further expand customer categorisation. If this proposal is implemented, it seems more appropriate not to introduce a different category of investors and to adapt another category of investors in the light of European requirements for reasons of negative linked to excessive amendments and efforts to maintain legal certainty. This option therefore maintains the status quo, while not preventing individuals from becoming an angel investor, but the absence of specific legislation in practice entails, for example, restrictions on the acceptance of investment offers or the distribution of investment proposals.

Summary of the impact of the chosen Option 2

Benefits / Positives	Costs / Negatives
+ No additional administrative requirements and costs and adaptation of new regulation for securities traders	- Persistent risk for retail investors who invest all their savings without diversification
+ Non-loading of the supervisory authority in the context of new supervisory obligations	- Absence of direct and indirect support for business angels investors

2.4 Regulation of crowdfunding platforms marketing bonds

Current status and current legislation

For the capital market, priority is given to investment crowdfunding, the development of which is also discussed in the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023. However, it should be noted that the concept of investment crowdfunding has expanded to bond offering platforms since the adoption of the Strategy, taking into account the CNB's FAQ on marketing bond issues on internet platforms.

The above CNB document distinguishes three types of bond platforms, and in the case of the first two types of bond platforms, according to the CNB's interpretation, the features of providing the main investment services are fulfilled, whether accepting and transmitting orders, placing investment instruments or investment advice.

The largest scope for reflection on the potential regulatory adjustment is provided by the so-called pure advertising platforms, where the platform also acts as a service provider (but not an investment provider) and the issuer (natural person) and investors are consumers. The fact that the platform does not provide investment services means that it is not subject to CNB supervision and is not otherwise regulated (like the issuer) - as compared to regulated platforms, it is not obliged to fulfil e.g. obligations arising from EU directives.

The current legislation in force does not regulate crowdfunding or internet platforms marketing bonds.

For the above reasons, it should be considered whether it would be appropriate to introduce regulation of these platforms.

Design of solution variants

Three variants are considered:

- Option 0 - keep the current status
- Option 1 - it is proposed that the advertising platforms explicitly state on their website that they are not subject to CNB supervision, but to the extent of this declaratory obligation they will nevertheless be subject to CNB supervision and for this purpose will also be listed in the CNB's list
- Option 2 - regulation of advertising for investment instruments with the supervision of regional trade licensing offices

Option 0 - maintaining the current status

At present, there is a lack of legislation in the Czech Republic that would result in a “disclaimer” obligation for advertising platforms that would provide greater investor protection, while at the same time there is no regulation of advertising for investment instruments. This reduces the protection of investors in these bonds. Maintaining this situation is a risk for the growth of trading in fraudulent bonds promising unrealistic returns.

Option 1 - listing of advertising platforms in a list maintained and supervised by the CNB

In option 1, it was considered that the advertising platforms should explicitly state on their website that they are not subject to CNB supervision, but to the extent of this declaratory obligation they would be subject to CNB supervision and would also be listed for that purpose. This option increases investor protection and increases the costs for the supervisor by imposing a new obligation. The downside to this option may be whether the list of advertising platforms addresses the problem of fraudulent bonds.

Option 2 - regulation of advertising for investment instruments with the supervision of regional trade licensing offices

Option 2 considers regulating advertising for all investment instruments primarily in order to ensure

at least a minimum level of regulation of advertising portals that are not subject to CNB supervision but nevertheless offer investment instruments to retail clients on their sites. It is contemplated that advertising should warn that no investment is risk free. Supervision of advertising for investment instruments should be performed by regional trade licensing offices. This option represents an increase in the protection of investors in investment instruments, an increase in the costs of regional trade licensing offices with regard to the need for a new supervisory obligation.

Proposal of the most suitable solution

Given the negative of option 1, i.e. whether the list of advertising platforms addresses the problem of fraudulent bonds and the added value of CNB supervision, it seems more appropriate to regulate the advertising of advertising platforms of all investment instruments similar to regulation of gambling advertising and regional trade licensing offices. The positive aspect of this option is an increase in investor protection. A negative factor is the need to adapt to the new legislation and the negative costs of regional trade licensing offices, which will be accompanied by a new supervision obligation. However, their burden appears to be less than that of the CNB in option 1, because the regional trade licensing offices are already supervising advertising and there is no need for specialized supervision by the CNB. However, after carrying out a deeper analysis, option 0 appears to be the most appropriate solution, which maintains the status quo, i.e. the absence of legislation in relation to advertising platforms in relation to the regulation of advertising of investment instruments. The proposed restrictions on option 2 concern the content of the advertisement, the infringement in which the infringement in issue may be committed only by the advertisers or, where appropriate, by its processors, not by its spreaders. Another fact indicative of the choice of option 0 is that general provisions on misleading advertising may be applied to existing infringements with regard to advertising portals. In view of the above, maintaining the status quo appears to be the most appropriate.

Summary of impacts of the chosen Option 0

Benefits / positives	Costs / negatives
+ Absence of new supervisory obligations and costs of the CNB and regional trade offices	- the absence of explicit regulation of advertising of investment instruments, which may represent lower investor protection

2.5 Alternative participation fund

Current status and current legislation

In general, the capital market in the long run (which is typical for investments in pension products)

can offer investors a relatively high return. In the Czech Republic, participation funds act as ordinary investment funds and do not have to guarantee any appreciation. They usually offer a so-called dynamic fund (usually investing in shares) and a so-called balanced fund within other participation funds. In the long term, the value is achieved mainly by dynamic participation funds (see above)[vii].

Participation pension funds with a dynamic strategy, however, do not invest in *private equity* funds, as they are limited in investment by regulatory fee adjustment and investment in *private equity* funds is fee intensive.

The fee structure of pension funds is determined by law and an *all-in-one* model[viii] was chosen. Fees consist of two components - management fees and appreciation fees. The legislator proceeded to regulate fees in an effort to protect participants from too high fees in a situation where it is difficult to withdraw from pension funds without suffering a loss.

Pension companies may charge a management fee of 1 % of the assets under management and a fee on appreciation of 15 % of their return for the participation funds other than mandatory conservative (i.e. funds with a dynamic strategy).

Design of solution variants

Two variants are considered:

- Option 0 - maintaining the current status
- Option 1 - expand the possibilities of pension companies to offer a new type of alternative participation fund, respectively to provide similar type of state support as to transformed or participation funds to such type of fund

Option 0 - maintaining the current status

The fee regulation of pension funds affects the assets in which pension companies can invest so that they cannot invest in some financial products, as they would not financially cover such an investment. At the same time, the maximum amount of fees is determined by law, i.e. the client is protected by law from too high fees. Thus, the current offer is intended rather for conservative investors who prefer investment security. Option 0 means a zero capital market development, because it does not allow more dynamic, and thus more profitable investing.

Option 1 - to extend the offer by a new type of alternative participation fund, respectively to provide similar type of state support as to transformed or participation funds to such type of fund

The current offer of pension funds focus is significantly limited by the fee policy and does not allow investments in potentially very profitable assets, albeit at the cost of higher risk. A new type of participation fund would be an alternative to existing dynamic funds, with the fee policy being set freely for this type of fund, allowing pension companies to invest in, for example, *private equity* funds, and thus offering in the long term possible higher appreciation, albeit at the cost of higher risk of such investment. The negative aspect of option 1 is the riskiness of the investment and reduced investor protection. The benefit is the possibility of a higher return on investment, the possibility of investing in other types of funds, and thus the development of the capital market.

Proposal of the most suitable solution

Option 1 seems to be the most appropriate and, with regard to the choice and voluntary option in relation to reduced protection, to make a legislative change and to amend a new type of fund that would suit especially in the long-term investment horizon dynamically oriented clients willing to take a higher risk, and at the same time are willing to pay higher fees for charges in order to get a higher return on their investment.

It is proposed to introduce legislation for the new financial product designed for dynamic investments in order to generate savings for old age, the amount of charges in the case of this fund will be limited by law and the law shall specify the types of assets in which the fund may invest. Investor protection is therefore maintained in this respect.

Summary impact of selected Option 1

Benefits / positives	Costs / negatives
+ possibility to invest in more variable types of funds + capital market development + more dynamic investment appreciation in relation to savings on old age	- slightly reduced investor protection

2.6 Introduction of sub-funds to joint stock companies and KSIL

Current status and current legislation

The sub-fund is part of a fund whose investment strategy may differ from the fund. Thanks to the

sub-funds it is possible to have different portfolios for different investment projects, while the individual sub-funds are separated from each other by property and accounting. The sub-funds are managed independently in accordance with their own investment strategy. However, under the current legislation, sub-funds may only be set up in the case of a fund in the form of a joint stock company with variable capital (SICAV), which is a special legal form intended for investment funds. There seems to be no reason for the sub-funds to be created only by the SICAV. It is common in foreign law that other entities may create sub-funds.

It would be appropriate to allow investment funds other than joint stock companies with variable share capital to be subdivided, since such a breakdown creates variability in investment strategies and thus greater risk diversification for investors who could change the investment strategy by changing the sub-fund within a single fund. overhead costs, without charging the full amount of the entry and exit fees. Another advantage of the possibility of sub-fund's division of funds into one sub-fund is that the bankruptcy will not affect other sub-funds or the fund itself. In this context, it is necessary to consult whether other legal forms or types of funds could benefit from the sub-funds, whether on the part of investors or fund managers, thus contributing to the liberalization of the investment and investment business environment, which should also impacts on increasing the attractiveness of investment in the Czech Republic.

Design of solution variants

Four variants are considered:

- Option 0 - keep the current status
- Option 1 - allow the creation of sub-funds of limited partnership for investment certificates
- Option 2 - allow the creation of sub-funds of closed-end investment fund of a joint stock company
- Option 3 - to allow the creation of sub-funds of limited partnership for investment certificates and closed-end investment fund of the joint stock company

Option 0 - maintaining the current status

The preservation of the current situation puts the Czech Republic at a disadvantage compared to other Member States, such as Luxembourg, which allows the creation of sub-funds for investment funds other than the SICAV. At the same time, there is no need to change legislation or related legislation in tax legislation. Maintaining the status quo is contrary to the Strategy, which explicitly includes in Measure 16 - Further Attraction of Sub-Funds, the plan to allow the creation of sub-funds for legal forms other than the SICAV.

Option 1 - allow the creation of sub-funds of KSIL

Limited partnership for investment certificates is a special type of limited partnership that is specifically applicable to collective investment. Limited partnership for investment certificates can only act as a qualified investor fund, and it is also forbidden for an investment certificate to be traded on a regulated or public market, as uncontrolled trading could take place and limited partners certificates could acquire non-eligible persons. However, investment certificates are otherwise freely transferable. The shares of limited partners in limited partnership for investment certificates are embodied in investment certificates which limited partnership for investment certificates would issue separately for each sub-fund. The decision to create sub-funds would, as in the case of the SICAV, result from the statute. The investment assets would be separated into sub-funds from the fund's non-investment assets, etc. This option would help to develop the capital market. The choice of this option would fulfil the requirement of the Strategy to allow the creation of sub-funds for legal forms other than the SICAV. In addition to Management Companies and Investment Funds Act, it would be advisable to amend Section 17b of the Income Taxes Act to also apply the definition of a basic

investment fund to the sub-funds of limited partnership for investment certificates.

Option 2 - allow the creation of sub-funds of a closed-end investment fund of a joint stock company

The administrator of a closed-end investment fund issues securities that are not associated with the right of redemption by their issuer and are closed upon the acquisition of capital from investors. The purpose is also to enable common joint stock companies with normal fixed capital to create sub-funds. The fund's decision to create sub-funds would be based on the fund's statute. This option would help the development of the capital market. The choice of this option would fulfil the requirement of the Strategy to allow the creation of sub-funds for legal forms other than the SICAV. In addition to Management Companies and Investment Funds Act, it would be appropriate to amend Section 17b of the Income Taxes Act to also apply the definition of a basic investment fund to sub-funds of closed-end investment fund of a joint stock company.

Option 3 - to allow the creation of sub-funds of limited partnership for investment certificates and the closed-end investment fund of the joint stock company

This option is most beneficial for the development of the capital market. It will also lead to major legislative adjustments. The choice of this option would meet the requirements of the Strategy most in order to allow the creation of sub-funds for legal forms other than the SICAV. In addition to Management Companies and Investment Funds Act, it would be appropriate to amend Section 17b of the Income Taxes Act. However, the amendment to Section 17b should be minimalist, one sentence should be modified de facto.

Proposal of the most suitable solution

Option 3 seems to be the most appropriate solution. This option also seems to have significant support from stakeholders. It would also be beneficial for the development of the capital market. However, account must be taken of the tax implications as some respondents warned.

Summary of impacts of the chosen Option 3

Benefits / positives	Costs / negatives
+ Fulfilment of the measure and plan of the Strategy (Enable the creation of sub-funds for legal forms other than the SICAV) + Capital market development + Broader product offer for investors + Possible increase in the volume of investment in the Czech Republic and related benefits such as higher tax collection.	- The need to amend legislation, including tax legislation. - Discontinuity of legislation. - Analysis of the impact on accounting.

2.7 Introduction of mandatory XML format for other financial market institutions

Current status and current legislation

In the course of the execution proceedings, respectively at the moment when the court issues a ruling on the execution order, the distrainer starts to look for the debtor's assets that can be punished. For

this purpose, it determines the assets of the debtor (e.g. at insurance company, investment company, investment fund, central depository and other persons authorized to keep records of investment instruments, banks, etc.) and then decides how to execute the execution. The institutions concerned are obliged to disclose to the distrainer at his written request data on the debtor's assets that are known to them from their official activities and similar activities to these (see Section 33 et seq. of the Execution Order)

In practice, the provision of co-operation by financial market entities to distrainers causes unnecessary costs. The banking sector (a financial institution according to the Execution Order) has its special regulation in Section 34 (3) of the Execution Order, which is further specified in Annex 1 to Decree No. 418/2001 Coll. This regulation stipulates that cooperation must be compulsorily requested and consequently cooperation must be provided in an electronic data file in XML format with specific parameters contained in the decree. According to this decree, the automation of cooperation takes place through the exchange of structured data files in XML format delivered via the Data Mailbox Information System (ISDS), or in some other way based on an agreement between the distrainer and the bank. A data message requesting assistance from a distrainer has a specific subject ("XMLEXE SOUC") by which it can be recognized. The senders can only be bailiffs with their special type of data box. The basic identifier of the liable entity is personal identification number or employer identification number. Each data request requesting cooperation can contain multiple individual queries to liable entities.

Design of solution variants

Four variants are considered:

- Option 0 - maintaining the current status.
- Option 1 - apply the regulation in Section 34 (3) of the Execution Order to other financial market entities for which the Execution Order uses the abbreviation financial institutions (insurance companies, investment companies and investment funds, investment firms, pension companies, pension funds under a special legal regulation, the Financial Market Guarantee System). At the same time, such an amendment should be supplemented so that the relevant ministry stipulates in a decree a machine-readable format.
- Option 2 - a new amendment to Section 34 (2) of the Execution Order, which would establish the duty of a distrainer to request cooperation only in electronic form.
- Option 3 - mandatory use of the existing ISB system provided by the Central Securities Depository Prague, which is used in relation to securities kept in the Central Securities Depository Prague's records and in related registers.

Option 0 - maintaining the current status

In practice, the provision of co-operation by financial market entities to distrainers causes unnecessary costs. For example, some distrainers send inquiries about a single debtor to all financial institutions on the market without any prior pre-selection, for example, in accordance with Section 33d of the Execution Order. Financial institutions' claims have also been recorded[ix] that they have to handle over one million requests for interoperability per year, resulting in costs in millions of CZK. Furthermore, following a public consultation, this option appears to be the worst possible.

Option 1 - apply the regulation in Section 34 (3) of the Execution Order to other financial market entities for which the Execution Order uses the abbreviation financial institutions (insurance companies, investment companies and investment funds, investment firms, pension companies, pension funds under a special legal regulation, the Financial Market Guarantee System). At the same time, such an amendment should be supplemented so that the relevant

ministry stipulates in a decree a machine-readable format.

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The processing of requests for cooperation by the bank itself can be automated, semi-automated or manual. Processing requests for interoperability in an automated or semi-automated system consists mainly in downloading all data messages from the data box, recognizing data messages with requests for interoperability and filtering them, processing an XML data file, creating a preview of the data file in a user-friendly graphical form, finding answers to questions, preparing a response, sending a response with a data message to the sender's data box.

If non-banking financial market entities were to introduce an automated system for processing requests for cooperation similar to the automated system at banks, then the costs would be around one million CZK and if the entity already owns an automated system for the cooperation of banks, it will purchase an expansion module worth hundreds of thousands of crowns. According to Aura s.r.o, which operates the "Informační systém soudní exekutor" (Distrainer Information System), which uses more than half of all distrainers, the cost of extending the automated system for bank cooperation would be minimal, probably even zero.

The need to explicitly specify a machine-readable format has proved redundant since the XML format itself is machine-readable.

This option will also contribute to the protection of small investors by refining the treatment of their personal data and eliminating some of the possible ways of dealing so far.

Option 2 - a new amendment to Section 34 (2) of the Execution Order, which would establish the duty of the distrainer to request cooperation only in electronic form.

This option appears to be a compromise between option number 0 and variant number 1. Therefore, the XML format will not be exclusively specified. This option will also contribute to the protection of retail investors by clarifying the handling of their personal data and excluding some of the treatments that have been possible so far. At the same time, there is a great probability that there will still be chaos due to the possibility of sending information through multiple formats. Compared to option 1, there will be more ways of handling personal data. In any event, even under this option, the costs of capital market operators will be saved.

Option 3 - mandatory use of the existing ISB system provided by the Central Securities Depository Prague, which is used in relation to securities kept in the Central Securities Depository Prague's records and in related registers.

Another possible solution proposed by the Czech Banking Association in the framework of comments in the preparation of the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023 would be the mandatory use of the existing ISB system provided by the Central Securities Depository Prague, which is used in relation to securities kept by the Central Securities

Depository Prague. and in subsequent records. This system uses an XML format but does not cover securities in the separate register of securities, and therefore would have to be adapted and extended for the purposes of judicial execution. At the same time, the mandatory use of one information system would probably be contrary to the protection of competition. Which the owner of the system, the Central Securities Depository Prague, did not dispute.

This option will also contribute to the protection of small investors by refining the treatment of their personal data and eliminating some of the possible ways of dealing so far.

This option saves the costs associated with option 0.

Proposal of the most suitable solution

On the basis of the consultation, the Ministry of Finance considers it most appropriate to adopt a legislative change and to amend the Act with the Option 1, which seems to be the most appropriate solution with regard to the cost and functionality of this system in banking. This solution fulfils the measures of Strategy No. 17 - Support for the use of XML format in requesting information from financial institutions in the execution. This option will result in a change of both the Execution Order and the related decrees. However, these legislative changes should not be significant. Option 0 would entail a large amount of costs, Option 2 would not specify a specific format, and therefore various electronic formats would be sent uneconomically. Option 3 would appear to be anti-competitive, and only one entity, a computer system provider who did not refute competition concerns, was in favour of it in a public consultation.

Summary of impacts of the chosen Option 1

Benefits / positives	Costs / negatives
+ Fulfilment of measures and plan of the Strategy (Support of the use of XML format in requesting information from financial institutions in particular in relation to distrainers). + Capital market development - computerisation. + Cost savings for financial institutions. + Investor Privacy. + Cost savings for distrainers.	- The need to amend legislation. - Discontinuity of legislation. - Initial costs for the non-banking financial institutions, the computerisation - optional possibility to fill in XML manually.

2.8 Support of trading with corporate bonds and increase of protection of investors in bonds

Current status and current legislation

The development of the market for corporate bonds has occurred since August 2012 due to the amendment of the Bonds Act when approval of terms of issue was cancelled, which made issues cheaper and more accessible to issuers. The search for alternative ways of valorising money over time, not too much interest on deposits, the above-mentioned facts and other factors have recently

taken corporate bonds to the forefront of both investors and issuers. However, this also entails a risk of default in the event of economic shocks or a higher incidence of issuers who do not plan to repay bonds from the outset. Retail investors who do not have experience with similar investments, are not able to evaluate such risks and in pursuit of a better return on investment may wrongly decide and lose their money.

At the same time, however, it should be noted that as of January 2018 investment intermediaries cannot offer bonds without a prospectus approved by the CNB. In addition, the topic of bonds without a prospectus (issues up to CZK 25 million) was part of the public consultation of the Ministry of Finance in the same month. As a result, the act that was prepared passed the third reading in the Chamber of Deputies on 27 November 2019 and is now heading to the Senate (Parliamentary Press 398). The proposal states that even documentary bonds must have assigned ISIN (because of easier traceability of issues) and terms of issue must contain a warning that even the approval of the prospectus by the CNB does not guarantee low risk because CNB does not assess the issuer's ability to repay the bonds nor the veracity of the information contained in the prospectus.

It is also necessary to take into account Supervision *Benchmark* No. 2/2019, published by the CNB on 14 March 2019 on its website. In principle, however, it prohibits offering small inexperienced investors corporate bonds that are not admitted to trading on a regulated market.

However, we still see room for optimizing the market situation by providing more information to retail investors and thereby extending their protection.

Design of solution variants

Three variants of the solution are considered:

- Option 0 - maintaining the current status
- Option 1 - extension of requirements for terms of issue
- Option 2 - anchoring the mini-prospectus

Option 0 - maintaining the current status

At present the requirements for emission conditions are defined in Section 9 of the Bonds Act. The current legal situation is limited to the particulars that must be included in the terms of issue, without the current legislation being detailed in that it also requires that the terms and conditions would guide investors information with regard to the appropriate choice of investment mandatorily. This option represents the *status quo* in terms of costs. Maintaining this option in terms of benefits represents a reduction, as the current situation in the bond market represents insufficient investor protection.

Option 1 - extending the requirements for terms of issue

In Option 1, it is proposed, in the absence of a prospectus, to extend the terms of issue with information that can help the investor to better assess the issue and the issuer. Such information is, for example, a description of the purpose of the issue, the planned ratio of external funds to equity, annual reports and financial statements of the issuer for the last 2 financial years, information on how the repayment is secured or information that the repayment is not secured etc. This variant idea is to increase costs for issuers while increasing benefits in relation to the protection of small investors and thus in relation to the development and capital market that can be developed with a view to improving the reputation of the market with lower tier bonds (i.e. issue of bonds to 1 mil EUR). On the other hand, this option also represents a reduction in administration in terms of eliminating duplication in the terms of issue and the prospectus.

Option 2 - anchoring the mini-prospectus

Introduction of so-called mini-prospectus would constitute a complement to the terms of issue within

the documentation, which it is required for the issuer to develop and provide investors in bond issue. The mini-prospectus should allow investors to easily compare issues by comparing key indicators. The mini-prospectus should contain a set of essential information in a clear form in the range of two A4 sheets. The standard of the mini-prospectus would be established by the government by decree. This option would be associated with an increase in costs associated with the need to issue a regulation. It would also entail some increase in costs for issuers, but at the cost of increasing the protection of bond investors.

Proposal of the most suitable solution

The most suitable solution seems to be an extension of the requirements of emission conditions, i.e. the choice of option 1. This variant is compared with option 2, more economical and less burdensome, because it does not introduce a new institute and the need to issue implementing legislation, but merely an extension of an existing institution issuing conditions in the current Bonds Act, the content will contain important information about the issuer and the issue that will be part of the terms of issue. Investor protection will be enhanced by extending the data necessary for an objective issue assessment. This option also increases the transparency of the issuer's activities and intentions.

Summary of impacts of the chosen Option 1

Benefits / positives	Costs / negatives
+ protection of investors in bonds + issue and issuer transparency + eliminating duplication between the prospectus and the terms of issue and, in this context, reducing the administrative burden + improving the reputation of the below-the-limit bond market (or state) through regulation	- the administrative costs of adapting to the new arrangements - robustness of terms of issue

2.9 Abolition of compulsory registration of funds pursuant to Section 325a of the Management Companies and Investment Funds Act in list of the CNB

Current status and current legislation

The public offering of funds of a manager established in a non-member state unauthorized to exceed the relevant limit or the relevant limit not exceeding, in the case of public offering in the Czech Republic, is subject to mandatory entry pursuant to Section 325a of the Management Companies and Investment Funds Act into the CNB list, which is further modified by Section 597 (a) of the

Management Companies and Investment Funds Act.

Design of solution variants

Three variants are considered:

- Option 0 - maintaining the current status
- Option 1 - abolition of compulsory registration of funds pursuant to Section 325a of the Management Companies and Investment Funds Act in the CNB list
- Option 2 - prohibiting of public offering of these funds pursuant to Section 325a of the Management Companies and Investment Funds Act in the Czech Republic

Option 0 - maintaining the current status

Maintaining the status quo is problematic. In addition, Section 325a of the Management Companies and Investment Funds Act does not stipulate specific conditions for entry in the list kept by the CNB, including, inter alia, the documents and information to be submitted by the CNB applicant, or the electronic form of submission of applications or the deadline for entry. However, given the nature of such funds and the conditions for their operation, it is very difficult to define what conditions should be met when it is difficult to prove the existence of such a fund (e.g. in a third country register) or its manager (not being authorised not being in register). This entails a great deal of cost, and even if such a delineation were made, it would be very difficult, even impossible, to impose sanctions on such funds (such as the Cayman Islands based fund).

Section 325a of the Management Companies and Investment Funds Act expressly refers to the terms of the public bidding, so it can be concluded, *a contrario*, that a bid that will not achieve the quality of the *private* bidding can be carried out without fulfilling the condition set out in this provision. However, the provision must be interpreted in conjunction with Section 296 and 297 (2) of the Management Companies and Investment Funds Act, which impose restrictions in relation to this category of funds - only a qualified investor can become an investor.

Option 1 - abolition of compulsory registration of funds pursuant to Section 325a of the Management Companies and Investment Funds Act in the CNB list

Such a solution would still allow the possibility of offering these funds, while at the same time relieving the CNB of the problems and costs described in Option 0.

Option 2 - prohibiting of public offering of these funds pursuant to Section 325a of the Management Companies and Investment Funds Act in the Czech Republic

Such a solution would deprive the CNB of the problems and costs described in Option 0. It would also harm the attractiveness of the Czech capital market. It is very real situation that the public offering of affected funds in the Czech Republic would be carried out illegally, which would make it difficult or impossible to impose sanctions.

Proposal of most suitable solution

Option 1 seems to be the most appropriate solution as it reduces the CNB's costs, clarifies and simplifies the existing legislation.

The CNB will no longer have to solve the problem of proving the existence of such funds (e.g. in a third country register) or their managers, or problematic imposing sanctions on such funds (for example, a Cayman Islands based fund).

This option will also reduce the costs of the previously enrolled financial institutions, as they will not

have to enrol. The amendment of the legislation will lead to the deletion of the provision, thus simplifying the legal order. This issue is not based on the Strategy.

Summary of impacts of the chosen Option 1

Benefits / positives	Costs / negatives
+ Capital market development by simplifying regulation. + Cost savings for financial institutions. + Save supervisory costs and other supervisory problems. + Eliminate over-regulation.	- The need to amend legislation. (the Management Companies and Investment Funds Act or related CNB regulations).

Consultation

This issue is based on the CNB's comments in the preparation of this legislation and has since been analysed and consulted with the entities concerned. The chosen option should reflect the achieved consensus.

2.10 Extension of the possibility to be a fiduciary to a management company that is not entitled to exceed the decisive limit and to a person pursuant to Section 15 of the Management Companies and Investment Funds Act

Current status and current legislation

The trust fund under the legislation in Management Companies and Investment Funds Act is based on the principle of joint investment of funds and participation in the development of the value of the trust fund for the purpose of investment evaluation. The trust fund provided for in the Management

Companies and Investment Funds Act differs from the trust fund provided for in the Civil Code in that it is an investment fund supervised by the CNB. The Investment Trust Fund is a qualified investor fund (Section 101 of the Management Companies and Investment Funds Act), it may not serve as a means of investment offered to the public and cannot be created by earmarking assets from a collective investment fund (Section 148 (1) of the Management Companies and Investment Funds Act).

According to the current wording in the Management Companies and Investment Funds Act, the legal regulation of trust funds as investment funds is conceived in such a way that the beneficiary is at the same time under Section 95 (1)(c)(1) of the Management Companies and Investment Funds Act an investor (qualified investor). Given the nature of the investment fund, the law is based on the logic that the investor and the person to be fulfilled must represent the same entity. In the case of a trust fund which is an investment fund, only the founder of the fund or one who has contractually increased its assets, the so-called contributor, can be considered. Investors of the qualified investor trust fund therefore invest resources for their own benefit. The question is, however, whether it is reasonable to require that the beneficiary must always be an investor and whether the investor could not invest in the benefit of a person who is not an investor who does not face investment risk and is only beneficiary (parent for his / her child, etc.).

Pursuant to Section 1453 of the Civil Code, the fiduciary may be any natural person or legal entity designated by law. At present, the authorization to perform the function of trustee is granted to management companies, which may be fiduciary of an investment fund created as a trust fund, as well as a trust fund that is not an investment fund.

This is further concretized by the fact that a company authorized to exceed the relevant limit, which is authorized to provide investment services to manage the assets of the customer, which includes the investment instrument, at the discretion of the contractual arrangement (hereinafter referred to as "portfolio management"), and with a license pursuant to Section 481 of a Management Companies and Investment Funds Act that is authorized to provide portfolio management investment services may also, as an entrepreneur, also be a fiduciary of a trust fund that is not an investment fund if it is a management company under AIFMD and not UCITS (Section 11 (4) and (6) of the Management Companies and Investment Funds Act).

It follows from the foregoing that an investment company which is not authorized to exceed the relevant limit and that a person registered in accordance with Section 15 of the Management Companies and Investment Funds Act cannot be a fiduciary of a trust fund which is not an investment fund. This situation seems to be unnecessarily restrictive to some financial market players, and at the same time there is a clear demand for such managers and customers themselves, as described below.

Design of solution variants

Two variants are considered:

- Option 0 - maintaining the current status
- Option 1 - extension of the possibility to be a fiduciary to a management company that is not entitled to exceed the decisive limit and to a person pursuant to Section 15 of the Management Companies and Investment Funds Act

Option 0 - maintaining the current status

There will be no positives or costs if the status quo is maintained.

Option 1 - extension of the possibility to be a fiduciary to a management company that is not entitled to exceed the decisive limit and to a person pursuant to Section 15 of the Management Companies and Investment Funds Act

If a management company that is not entitled to exceed the decisive limit and authorized to provide portfolio management investment service as an entrepreneur and a person registered pursuant to Section 15 of the Management Companies and Investment Funds Act could be a fiduciary of a non-investment trust, it would increase the attractiveness of the capital market, as many more investment companies could perform the function of fiduciary. Demand for such administrators and customers themselves is evident. According to its own statistics, XYZ established more than 1,300 trust funds at the end of November 2018, which makes it a clear market leader, as there were 2,062 trust funds operating in the Czech Republic at the end of October 2019. It should be noted that XYZ is arousing some controversy[x] in the context of regulatory compliance. Finally, the fact that there is a slight discontinuity of the legislation cannot be overlooked.

Proposal of the most suitable solution

Option 1 seems to be the most appropriate solution, which significantly increases the attractiveness of the capital market and develops it. This would remove the restrictive situation where only a small group of legal entities could manage trust funds. With the new legislation, two new subsections in Management Companies and Investment Funds Act would probably be added. The new legislation would probably result in administrative costs for the supervisory authority, as it would have to register a larger number of entities under Section 15 of the Management Companies and Investment Funds Act. Nevertheless, the benefits of the chosen option will significantly exceed its negatives.

Summary of impacts of the chosen Option 1

Benefits / positives	Costs / negatives
+ Significant development of the capital market or the whole national economy in the possibility of more efficient allocation of money mass. + Cost savings for financial institutions. + Eliminate over-regulation.	- Need to amend legislation (the Management Companies and Investment Funds Act). - Discontinuity of the legal order.

Consultation

This issue is based on the opinion of management companies in the preparation of this legislation and has since been analysed and consulted with stakeholders, including the CNB.

3. SELECTING THE MOST SUITABLE SOLUTION

Below is a summary of all the solutions that the Ministry of Finance proposes to apply in the present act.

Description of the issue	Selected variant

Long-Term Investment Account	Option 1 - extending the offer of products intended for savings for old age by a personal savings account - Long-Term Investment Account
Simple joint stock company	Option 0 - maintaining the current status
Self-certification of wealthy investors	Option 0 – maintaining the current status
Regulation of crowdfunding platforms offering bonds	Option 0 – maintaining the current status
Alternative Participation Fund	Option 1 - to extend the offer by a new type of alternative participation fund, respectively to provide similar type of state support to transformed or participation funds to such type of fund
Sub-funds for joint stock companies and limited partnership for investment certificates	Option 3 - allow the creation of sub-funds of limited partnership for investment certificates and closed-end investment fund of the joint stock company
Required XML format for other financial market entities	Option 1 - application of Section 34 (3) of the Execution Order to other financial market entities for which the Execution Order uses the abbreviation of a financial institution
Support for trading of corporate bonds	Option 1 - extending the requirements for terms of issue
Registration of funds in the CNB list	Option 1 - abolition of compulsory registration of funds pursuant to Section 325a of the Management Companies and Investment Funds Act in the CNB list
Extension of the possibility of being a fiduciary	Option 1 - Extending the possibility of being a trustee to an investment company that is not entitled to exceed the applicable limit

4. IMPLEMENTATION OF RECOMMENDED OPTIONS AND ENFORCEMENT

The incorporation of recommended variants into the Czech legal order will be done by amending the relevant provisions of the relevant laws. Supervision of fulfilment of obligations in the financial market performs CNB, which may punish offenses as misdemeanours and take action to remedy or other measures. Supervising the regulation of advertising, according to the proposal should perform

regional trade offices. If an offense (such as fraud or embezzlement) is committed, law enforcement authorities will be involved.

5. REGULATORY EFFECTIVITY REVIEW

The Ministry of Finance will carry out a review of the effectiveness of the newly introduced regulation after 3 years from the time the draft law takes effect (i.e. until 31 December 2024). The review indicators will be determined according to the 3 main target areas of intervention: households, businesses and professional capital market participants. Thus, the market capitalization of the Prague Stock Exchange and the volumes of trades on it, the way in which Czech businesses are financed (also with regard to the low awareness of the CFOs of SMEs about financing opportunities through the capital market) and the saving of savings of Czech households (also with regard to financial literacy. The MF will continue to consult regularly with market participants and the Supervisory Authority (CNB), or with other interested members of the professional public (e.g. academic representatives).

These consultations will also include an analysis of the impact of the new regulation and a discussion on its possible calibration with another amendment. It seems desirable to evaluate in particular changes in the number of persons in the sectors, the effectiveness of the extension of emission conditions, new results of controls and supervisory activities, a change in the scope of unfulfiled commitments, the costs and benefits of the proposed measures, etc.

6. CONSULTATION AND DATA SOURCES

The MF published a public consultation on the draft National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023 in the Czech Republic[xi] on 7 December 2018, with the term to express to 9 January 2019. In this context, it invited the capital market participants and the professional public to submit any concrete proposals, including the justification of the proposed change, which could be taken into account in the preparation of the amendment. After incorporating the comments received and finalizing the text, the Ministry of Finance submitted the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023, to the Government which approved this document at its meeting on 4 March 2019 (Resolution No. 156).

Subsequently, on 8 August 2019, a document entitled “Planned Legislative Measures Arising from the National Strategy for the Development of the Capital Market in the Czech Republic 2019 - 2023” was published for public consultation.[xii] In this context, the Ministry of Finance also invited capital market participants and the professional public to submit any specific proposals, including the justification of the proposed change, which could be taken into account in the preparation of the amendment. At the invitation responded one supervisory authority, one ministry, 6 market associations, one international market association, a trade union representative, one educational institution, 5 market operators and 5 private persons.

The analysis of the individual issues examined all available data sources, in particular data available via the Internet, such as lists kept by the CNB, foreign legislation, professional literature, including foreign data, and other data provided by participants in discussions and consultations.

For the sake of transparency, the submitter published the results of these consultations for some of the individual options to which he received feedback. The submitter also received many comments orally, resulting from numerous discussions. At least a summary of these consultations has been attempted by the submitter at the end of the remaining individual options. The submitter is aware of the need to react to the needs of practical functioning and the changes that are taking place in the capital market. When choosing the most appropriate solution, the submitter respected the private law area related to capital market issues, which should be regulated as freely as possible, but also not forgetting the need to protect especially retail investors and also inspired by the legislation of Western

European countries.

7. CONTACTS FOR RIA PROCESSOR

Mgr. Bc. **Aleš Králík**, LL.M.

Ministry of Finance / Financial Markets II / Capital Market Department

Tel: +420 257 04 24 35, e- mail: ales.kralik@mfcr.cz

[i] Measuring convergence is somewhat problematic, because the current portfolio structure of Czech families does not correspond with portfolios typical of the Western world. To provide a better comparison, we modelled the distribution of assets for the typical citizen of these states using averaging.
[ii] The distribution of money between funds itself is also relatively conservative – according to a World Bank report, only 19 % of funds are allocated to equity funds, while a significantly larger volume is in mixed (40 %) and bond funds (35 %).
[iii] AKAT is estimated to represent about 95 % of the capital market.
[iv] This was primarily due to unsolicited listing (i.e. listing without issuer's consent) of large companies such as Nestle, Shell, Deutsche Telekom, Unilever, Heineken, Volkswagen, Nokia, Volvo, Deutsche Bank, etc.
[v] Here we consider the total volume of bonds in the Czech Republic. Otherwise, in 2013, there was a fundamental change in which most bonds were moved from the stock exchange to the OTC market
[vi] Of these, financial institutions held 59.89 %, 18.3 % were held by non-residents and 13.99 % were foreign issuance. Other investors held much smaller volumes of government bonds - households held 3.91 % (CZK 63.1 billion), general government 2.69 %, non-financial corporations 1.05 % and non-profit institutions 0.16 %.
[vii] The average appreciation of dynamic participation funds in 2017 was 7.18 %, but in 2018 - 8.25 %.
[viii] The standard in the area of collective investment and foreign contribution defined voluntary systems is that in addition to the management fee, the fund pays other costs such as transaction costs, securities management fees (custody fees), depository fees, audit. These additional costs depend on the type of securities and investment strategy and are usually in the range of 0.1 - 0.5 % in relation to the assets under management.
[ix] Judgment of the Constitutional Court file no. II. ÚS 543/11.
[x] For example, the CNB suspects XYZ of violating several financial market laws. According to some, under the guise of a trust fund, XYZ offers classic collective investment. If that were the case, it would circumvent the dozens of regulatory and very costly obligations that licensed investment funds have to fulfil. A CNB spokeswoman confirmed that the CNB was intensively checking on XYZ for possible breaches of the Banking Act and Management Companies and Investment Funds Act and that the CNB was taking all legal remedial action.
[xi] https://www.mfcr.cz/cs/soukromy-sektor/kapitalovy-trh/podnikani-na-kapitalovem-trhu/2018/verejna-konzultace-koncepce-rozvoje-kapi-33657
[xii] https://www.mfcr.cz/cs/soukromy-sektor/kapitalovy-trh/podnikani-na-kapitalovem-trhu/2019/verejna-konzultace-planovana-legislativn-35843