# Marketing of an investment fund established in a Member State and managed by a manager established in a Member State

## **Legal framework:**

Act No. 240/2013 Coll., on Management Marketing of an investment fund means Companies Investment and Funds, particularly Articles 98, 99, 294 to 326, 461, 493, 511, 534, 549, 597, 614, 618, 636 and 656.

Act No. 256/2004 Coll., on Capital Undertakings, Market as amended, particularly Articles 34 to 36m.

Regulation (EU) No 345/2013 of the European Parliament and of the Council of on European Venture Capital Funds, particularly Articles 4, 6 and 14 to 21.

Regulation (EU) No 346/2013 of the European Parliament and of the Council on European Social Entrepreneurship Funds, particularly Articles 4, 6 and 15 to 22.

Regulation (EU) Commission No 584/2010 of 1 July 2010, particularly Articles 1 to 5 and Annexes I and II.

Decree of the Czech National Bank Coll., **Applications** No. 247/2013 on Pursuant to the Act on Management Companies and Investment Funds.

### **Introduction:**

a direct or an indirect offering of units or shares of an investment fund.

As a marketing of investment funds is not considered a situation, an investor invests to the investment fund on its own initiative.

A concept of marketing in the following includes diagram both private placement and public marketing. The concept of public marketing does not include private placement. Private placement of a UCITS fund is not regulated by the Act.

situations In some marketing of investment funds may be considered as a public offer of securities pursuant to the Prospectus Directive. In that case requirements laid down in the Capital Market Undertakings Act are required to fulfil, besides requirements pursuant to the Act.

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It requires to publish a prospectus, having that prospectus previously approved by the Czech National Bank or another competent authority.

The marketing of a European venture capital funds (EuVECA) and a European social entrepreneurship funds (EuSEF) is primarily regulated by the relevant EU regulations.

In case of marketing of a qualified investors fund, it is necessary expressly inform the investor that only a qualified investor may invest in this fund.

Public marketing of a foreign non-UCITS fund is possible only if the manager is authorized pursuant to AIFMD and the Czech National Bank decides about equivalency of that fund with the non-UCITS fund having the Czech Republic as its home Member State.

The Act shall not apply to the marketing of an investment fund in the Czech Republic that is subject to a current offer to the public under a prospectus, which has been drawn up and published with the approval of the Czech National Bank or the competent authority of another Member State before 22 July 2013.

The current legislation shall not apply until 22 July 2014 to the marketing of alternative investment fund that is subject to a current offer to the public in the Czech Republic from the date of the entry into force of the Act. That shall not prevent the marketing of these funds pursuant to the Act from the date of its entry into force.

#### **UCITS** EU AIF • EU AIFM; EuSEF, EuVECA public marketing in the CR CZ UCITS fund EU manager public marketing in another Member State possible after receiving public marketing EU manager in the CR foreign UCITS fund public marketing foreign EU in another Member manager State in the register of investment funds maintained by the CNB marketing in the CR CZ manager (Article 309 of the Act) authorized Marketing pursuant marketing to to AIFMD professional investors in another Member State marketing to professional investors by means foreign EU of private manager alternative placement in the CR authorized investment fund pursuant the fund must be registered to AIFMD public marketing in the CR (Article 315 (2) of the Act) manager authorized pursuant to AIFMD; if the fund invests at least 85 % of its assets into one or more non-EU AIF, it is considered as a non-EU AIF (Article 299 of the Act) manager not in the register of investment funds maintained by the CNB qualified public marketing authorized in the CR investors fund pursuant to AIFMD