

# 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 Companies and Investment 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 Market Undertakings, 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.

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

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

## Introduction:

Marketing of an investment fund means 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, when an investor invests to the investment fund on its own initiative.

A concept of marketing in the following diagram includes 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.

In some situations 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**  
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