

## Information on Guarantee Fund

### 1. THE GUARANTEE FUND (HEREINAFTER REFERRED TO AS THE “FUND”) OF SECURITIES DEALERS – ITS POSITION AND BODIES

- The fund is a legal entity that secures a guarantee system from which compensation is paid to customers of a securities dealer that is not capable of performing its obligations toward its customers.
- The fund (i) receives contributions from securities dealers, (ii) informs Commission on the amount of contributions that individual securities dealers pay to the Fund for a relevant calendar year and releases this information by 30 April of the following year, (iii) provides for verification of claims for the payment of compensation from the Fund, (iv) ensures compensation payment from the Fund
- The Fund is a legal entity entered in the Commercial Register.
- This is not a state fund and regulations on insurance businesses do not relate to it.
- The Fund is ruled by a board of directors, consisting of five directors, which is its statutory body. The chairman, vice chairman and the other members of the board of directors of the Fund are appointed and recalled by the Minister of Finance. The term of office of the board members is five years. Re-appointment is possible. At least one of the members is appointed from among the employees of the Commission on the basis of a proposal from the presidium of the Commission. At least two board members are appointed from among the members of boards of directors or employees of stockbrokers.
- A member of the board of directors who terminates his membership before the expiration of his term of office shall be replaced by another member appointed to the board of directors, whose term of office shall terminate on the same date as that when the term of office of his predecessor should have terminated.
- The source of the Fund are contributions from securities traders, fines imposed on securities traders, fines imposed on investment companies and returns on invested funds. The Fund can also accept credit or returnable financial aid.
- The monies in the Fund may be used for: (i) compensation arising from the inability of a security trader to meet its obligations consisting of the issue of customer assets to customers, due to reasons directly connected with its financial institution, (ii) repayment of accepted loans, (iii) reimbursement of costs for Fund activities
- Details regarding the activities and powers of the Fund shall be regulated by its statute, which shall be issued by the board of directors upon prior approval by the Ministry.

### 2. PAYMENT OF CONTRIBUTIONS TO THE FUND

- A securities trader shall pay to the Fund an annual contribution in an amount equal to 2% of the value of the received fees and commissions for the rendered investment services for the last year. The annual contribution is at least CZK 10,000, regardless to the number of months within which a securities trader performed its activity. The annual contribution is payable on an annual basis, by the 31<sup>st</sup> March 31, for the preceding calendar year.

### 3. CONTROL OF PAYMENT OF CONTRIBUTIONS TO THE FUND

- Guarantee Fund shall immediately after the period mentioned in the previous paragraph, inform Security Commission about amount of the contributions paid by individual securities trader for the previous period. Security Commission compares amount of the really paid contributions with volume of the received fees and commissions for the rendered investment services for the last year, determined on the basis of data verified by auditor and received from a securities trader in accordance with the Act on Capital Market Undertakings multiplied by the percentage rate being 2 %. The Security Commission adopts suitable corrective measure in case of finding difference. The

Security Commission informs about finded differencies and adopted corrective measures; if a securities trader is a bank, the Security Commission shall also inform Czech National Bank.

#### **4. PROVISION OF COMPENSATION FROM THE FUND**

- The Commission shall notify the Fund, without undue delay, that: (i) the securities trader due to its financial situation is not able to perform its obligations consisting of the issuance of assets to customers and it is unlikely that it performs such obligations within one year, or (ii) the court has adjudicated a bankruptcy order in respect of the assets of a securities trader or issued another decision as a result of which customers of the securities trader cannot effectively release of their aseets from the securities trader.
- If the stockbroker, which is unable to perform its obligations toward customers, is a bank the Commission shall notify the Fund of this matter upon agreement with the CNB.
- The Fund shall promptly publish, in concert with the Ministry and, if the stockbroker is a bank, also in concert with the Czech National Bank, a notice containing: (i) information that the securities trader is not capable of performing its obligations, (ii) the place, means and timeframe for declaring claims and beginning compensation payments from the Fund, (iii) possible other matters related to the declaration of claims.
- The time limit for the registration of claims may not be less than five months from the publication of the findings. Refusal of the payment of compensation from the Fund cannot be claimed based on elapsed time limit.
- The following are not entitled to Fund compensation: (i) Czech consolidation agency, (ii) a regional self-administrative entity, (iii) an individual who over the course of the 3 years prior to the notification
  - conducted an audit or took part in an audit of a stockbroker, whose customers are paid compensation from the Fund
  - held a position managing of a stockbroker, whose customers are paid compensation from the Fund
  - was an individual with qualified participation in a stockbroker, whose customers are paid compensation from the Fund
  - was a close individual according to the Commercial Code
  - was an individual was a member of the same business grouping as a stockbroker, whose customers are paid compensation from the Fund
  - conducted an audit or took part in an audit of an individual who was a member of the same business grouping as a stockbroker, whose customers are paid compensation from the Fund
  - held a position over an individual who was a member of the same business grouping as a stockbroker, whose customers are paid compensation from the Fund
  - persons in which the stockbroker, whose customers were paid compensation from the Fund or persons with qualified participation in this stockbroker with an interest exceeding 50% of their registered capital or voting rights, (v) persons who in connection with the legalisation of proceeds from criminal activities, have entrusted to the stockbroker, whose customers are paid compensation from the Fund, funds obtained through criminal activities, (vi) persons, who have, due to their criminal acitivities caused the inability of the stockbroker, whose customers are paid compensation from the fund, to meet its obligations.
- The Fund shall suspend the payment of compensation for client assets with respect to which it has become clear during criminal proceedings that they are or may be regarded as the assets obtained in connection with legalisation of revenues from criminal activities. The fund shall also suspend payment to persons under the suspicion of committing a criminal act, which may cause the inability of the stockbroker to meet its obligations toward customers for the duration of the criminal proceedings led against such persons.
- Compensation from the Fund is provided for property of the customer which could not be delivered to him from the reasons directly related to the financial situation of a securities trader.

For the purposes of calculation of compensation as at the date of receipt by the Fund of the Security Commission's notice pursuant to sub-section 1 hereabove, all items of the Customer's property (which could not be delivered to him from the reasons directly related to the financial situation of a securities trader) have to be counted up, including any co-ownership interest of the Customer in the assets of another Customer, excluding value of financial means entrusted to a securities trader who is the bank or foreign branch of a foreign bank and maintained by him on the accounts insured in accordance with special law regulated activities of the banks. From the final amount the value of the obligations of the Customer towards a securities trader, due as at the date of receipt by the Fund of the Security Commission's pursuant sub-section 1 hereabove, has to be deducted.

- For the sum and allowance are actual values of the investment instruments decisive as to the date when Funds receive notice. When making calculation it is important to pay attention to the contractual arrangement between securities trader and Customer – if they are common, particularly to the really interest entered to the account or other yields to which a Customer is entitled.
- The securities trader shall provide the Fund by the deadline stipulated by the Fund all materials necessary for the commencement of the payment of compensation from the Fund. If there is an official trusteeship with securities trader introduced, the official conservator has such a duty. If there is a bankruptcy declared, the bankruptcy trustee has such a duty. The same duty has also another person requested by the Fund, if he/she has such a documents in hands. Documents (per each Customer) contain following data: (i) currency and amount of financial means, (ii) kind, number and clear identification of the investment instruments which create property of Customer, and which could not be delivered to him pursuant provision 132 of the Act on Capital Market Undertakings, (iii) the amount of a Customer's claims towards securities trader born based on contractual arrangement between securities trader and Customer, particularly to the really interest entered to the account or other yields to which a Customer is entitled, (iv) the amount of mutual set-off claims of a securities trader towards a Customer.
- The compensation provided to the client shall be equal to 90% of the amount calculation, but shall not exceed an amount in Czech crowns equal to 20,000 euros per client of one stockbroker.
- The payment of compensation from the Fund shall be made no later than three months after the verification of the registered claims and the determination of the claim amount, but not later than 12 months after publication of the facts. Upon request, the Commission may extend in exceptional cases the deadline for compensation payment by up to 3 months after the verification of the registered claims.
- The entitlement of a client to the proceeds of the Fund shall become statute-barred five years after the day stipulated as the starting date for the payment of the compensation from the Fund.
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- If the monies in the Fund are insufficient to pay the compensation, the Fund will procure the necessary monies on the financial market, whereas it will ensure that the conditions for which the monies are provided are the best possible for it.
- Bankruptcy cannot be declared on the Fund's assets.

## **5. PAYMENT OF CONTRIBUTIONS TO THE FUND BY A FOREIGNER**

- A foreign entity that provides investment services in the Czech Republic and is a member of the guarantee system of individuals providing investment services in a country in which it has its actual registered office, is not obliged to participate in the guarantee system provided for by the Fund, if the standard of the provision of compensation from the guarantee system, of which it is a member, is at the same level or higher than the standard in the Czech Republic.
- A contribution is paid to the Fund and compensation is paid from the customer assets entrusted to the foreign entity for its provision of services in the Czech Republic.