

# Qualified investors funds heading for the stock market!



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Although the structure itself will not bring any additional money to the real estate sector (it is kind of a shell in which it must be “wrapped”), qualified investors funds bear with them many interesting features which can spice up the investments a bit. Currently, major novelty is looming in this issue, it could make the functioning of qualified investors funds even more effective and bring investors several significant benefits.

Legal regulations of qualified investors is awaiting the biggest changes next year in July since the major amendment to the Act on Collective Investment which enabled de facto existence of special funds in 2006 and especially ensured their effective functioning. The planned amendment is directly related to the transposition of European Parliament and Council directive known as “UCITS IV”.

Currently, this amendment has dealt with all the comments and proposals suggestions in the interdepartmental comment procedure and is ready for submission to the government. Its approval by Parliament of the Czech Republic is highly probable because it is de facto transposition of the above European directive which the Czech Republic must adopt before 30th June 2011.

The main changes that may affect the functioning of the qualified investors funds focused primarily on real estate investments can be summarized as follows:

1. lifting the ban on offering and promotion of securities issued by qualified investors fund;

The amendments lifts the ban on public offering and promoting securities issued by qualified investors funds. Although this provision was in fact unnecessary because these funds are intended to a narrow group of “qualified investors“ specified by law, this changed can improve their access to capital.

- Accepting shares in an qualified investment fund for trading in public market;

Investment funds (ie. funds with legal personality, a joint stock company) can now bring their shares secondarily to the regulated public market which will enable existence of special structures of real estate legal entities, so called REITs (real estate investment trusts) or the possibility of securitization of receivables portfolios.

Qualified investor fund will continue to be founded as a "private placement" (ie. founded by 2 to 100 investors) but will then have the option of having their shares for public trading on a regulated market. This option is again subject to certain conditions (e.g. time). At the time of placing the shares on a regulated market, the fund would be exempt from the requirement for a minimum investment of CZK 1 million and maximum number of 100 shareholders.

The big question is, of course, how this mechanism will be used in practice. The current stagnation, or rather the decreased of assets in the „retail“ real estate funds still does not say too much about investor confidence in this form of investing in real estate. Looking, however, to our western neighbours, where real estate funds make up about 5 % of the total fund assets (it is not even 1 % in CR), it is more or less obvious that there is potential.

- The possibility of determining the remuneration for the qualified management fund management as set out in the statute;

The bill provides free method of construction to determine the remuneration for the fund management (e.g. in the form of lump payment).

Now it will be possible to take into account not only the fund's performance and the volume of the managed assets which reflects better the operating conditions of the qualified investors funds. The above is far from an exhaustive list of changes which the forthcoming amendment of the Act on Collective Investment is likely to bring. Other requirements include relaxation of the qualifications of the management of the so-called self-funding and investment companies, a possibility of converting the fund back to the standard joint-stock company and others.

It can certainly be said that the planned legislation has the potential to contribute to the development of collective investment as well as to channeling new money for example into real estate investments. But what the real situation is, will show us practice ...

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