

## Guarantee Fund of Securities Traders

In accordance with Act No. 256/2004 Coll., on business activities on the capital market, the Guarantee Fund is a legal entity that operates a guarantee scheme under which compensation is paid to the clients of a securities trader not able to meet its obligations to its clients.

### The Guarantee Fund

- accepts contributions from securities traders,
- notifies the Czech National Bank (CNB) of the amounts of contributions paid by individual securities traders to the Guarantee Fund for the relevant calendar year and publishes such information in a manner allowing remote access by 30th April of the following year,
- ensures verification of claims for the payment of compensations from the Guarantee Fund,
- ensures the payment of compensations from the Guarantee Fund.

The Guarantee Fund is a legal entity entered in the Commercial Registry. The Guarantee Fund is not a state fund; special regulations on insurance do not apply to it.

The statutory body of the Guarantee Fund is a five-member managing board appointed and dismissed by the Minister of Finance. Members of the managing board of the Guarantee Fund are appointed for a five-year period (also repeatedly); at least one member is appointed from among the employees of CNB following a suggestion of the CNB Board. At least two members are appointed from among the members of the statutory body or the securities traders. The member of the managing board is obligated to carry out its duties with due and professional care.

### Payment of Contribution to the Guarantee Fund

Being a securities trader, Citfin – FT is obliged to pay an annual contribution to the Guarantee Fund in the amount of 2% of the volume of profits from fees and commissions for services provided over the last calendar year. The annual contribution to the Guarantee Fund is at least CZK 10 000 regardless of the number of months in which the trader was doing business. This annual contribution for the preceding calendar year is always payable as of 31st March.

The Guarantee Fund informs the Czech National Bank without delay following the expiry of the time period mentioned above about the total contributions paid by each individual securities trader for the last period. The Czech National Bank compares the contributions actually paid with the volume of fees and commissions received for the investment services provided over the past year in accordance with

Act No. 256/2004 Coll. on business activities on the capital market, as amended. If any discrepancy is found, the Czech National Bank takes appropriate remedy. The Czech National Bank notifies the Guarantee Fund of any discrepancies found and of any remedial measures taken.

### **Provision of compensations from the Guarantee Fund**

The Czech National Bank notifies the Guarantee Fund without undue delay that:

- a securities trader is unable – due to its financial situation – to meet its obligations consisting in the release of assets to clients and is not likely to meet its obligations within one year, or
- a court has adjudicated bankruptcy of a securities trader or issued another decision as a result of which clients of the securities trader cannot effectively claim the release of their assets from the said trader.

Following an agreement with the Czech National Bank, the Guarantee Fund immediately publishes in a corresponding manner a notification containing:

- information that the securities trader is unable to repay its debt,
- the place, method and deadline for the registration of claims for compensation and commencement of the payment of compensation from the Guarantee Fund,
- any other facts connected with the registration of claims.

Compensation is provided from the Guarantee Fund for client's assets which could not be released to the client for reasons directly connected with the financial situation of the securities trader. To calculate compensation from the Guarantee Fund, the values of all components of client's assets that could not be released for reasons directly related to the financial situation of the securities trader are added, including its co-ownership share in jointly owned assets with other clients, except for the value of funds provided to a securities trader who is a bank or a branch of a foreign bank subsidiary and maintained by it on accounts insured under the Banking Act. The value of client's debts to the securities trader, due on the day when the Guarantee Fund received the written notification from the Czech National Bank, is deducted from the resulting amount. The fair values of investment instruments valid on as of day when the Guarantee Fund received the notification from the Czech National Bank are decisive for compensation calculation. The Guarantee Fund may also take into account in the calculation the contractual arrangements between the securities trader and the client, if they are usual arrangements, especially interest actually accrued or other income to which the client was entitled on the day on which the Guarantee Fund received the notification from the Czech National Bank.

For the purposes of calculating the amount of compensation from the Guarantee Fund, Client's assets shall mean the funds and investment instruments belonging to the client, over which the securities trader has control as part of its provision of the financial service to this client. In this respect, client's assets shall not mean any funds deposited, accounted by the securities trader who is a bank of a foreign bank subsidiary and that are subject to the Banking Act.

Compensation from the Guarantee Fund is paid out to the client in an amount equal to 90% of the sum calculated in this way, however maximum EUR 20 000 to one client of one securities trader.

The claim registration period must not be less than five months from the date of publication of the notification. The fact that this period has lapsed cannot be the reason for rejecting a claim.

Compensation from the Guarantee Fund must be paid out within three months since the verification of the registered claim and calculation of the amount of compensation. In exceptional cases, the Czech National Bank may, at the request of the Guarantee Fund, extend this period by maximum three months.

The securities trader provides to the Guarantee Fund at its request any documents necessary for calculating compensation in accordance with § 130, par. 7 and 8 of Act No. 256/2004 Coll. on business activities on the capital market.

Upon the payment of compensation from the Guarantee Fund, the Guarantee Fund becomes a creditor of the securities trader to the extent of such compensation payment. Client's right to receive compensation from the Guarantee Fund expires after five years from the maturity date of the client's claim for compensation payment from the Guarantee Fund.

#### **Not entitled to any payment from the Guarantee Fund is**

- the Czech Consolidation Agency,
- self-governing entities,
- any person who – during the last two years before the notification to the Guarantee Fund –
  1. performed an audit or participated in any audit with the securities trader whose clients were paid out compensation from the Guarantee Fund,
  2. was a member of the executive body of the securities trader whose clients were paid out compensation from the Guarantee Fund,
  3. was a person with qualified participation in the securities trader whose clients were paid out compensation from the Guarantee Fund,
  4. was a close person as provided in the Civil Code according to points 1 and 2,
  5. was a person belonging to the same business group as the securities trader whose clients were paid out compensation from the Guarantee Fund,
  6. performed an audit or participated in an audit of the person belonging to the same business group as the securities trader whose clients were paid out compensation from the Guarantee Fund,
  7. was a member of the executive body of the person belonging to the same business group as the securities trader whose clients were paid out compensation from the Guarantee Fund,
- is a person in which the securities trader whose clients were paid out compensation from the Guarantee Fund has or had any time during the last 12 months immediately before the day when the notification was done in accordance with par. 1, or a person with qualified participation in this securities trader higher than 50% in the share in registered capital or voting rights,
- a person who provided the securities trader whose clients were paid out compensation from the Guarantee Fund any funds obtained in criminal activity to legalise proceedings from criminal activity,
- is a person who caused that the securities trader whose clients were paid out compensation from the Guarantee fund was unable to meet its obligations to clients,

- a participant in an association pursuant to § 829 of act No. 40/1964 Coll., as amended by act No. 509/1991 Coll., or a partner in a company pursuant to § 2719 of the Civil Code where the securities trader was not clearly notified before the issue of the bankruptcy decision of securities trader's bankruptcy or notification pursuant to par. 1 letter a) that it is a member of an association or partner in a company.