

Charles University in Prague

Faculty of Social Sciences
Institute of Economic Studies



BACHELOR THESIS

**The Introduction of Trusts in the
Czech Republic**

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Academic Year: **2012/2013**

Declaration of Authorship

I hereby proclaim that I wrote my bachelor thesis on my own under the leadership of my supervisor and that the references include all the resources and literature I have used. I also proclaim that this thesis has not been used to obtain the same or any other degree.

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Prague, May 17, 2013

Tomáš Jelínek

Prohlášení

Prohlašuji, že jsem svoji práci napsal samostatně, pod vedením mého vedoucího práce, a to výhradně s použitím citovaných pramenů. Zároveň prohlašuji, že jsem tuto práci nevyužil k získání jiného nebo stejného titulu.

Souhlasím s tím, aby Univerzita Karlova zpřístupnila tuto práci pro studijní a výzkumné účely.

Acknowledgments

I hereby would like to express my special gratitude to the supervisor of my thesis PhDr. Petr Teplý, Ph.D. I managed to finish this bachelor thesis also due to his support and guidance.

I would like to express my gratitude also to Ing. Petr Hlínka and Prof. JUDr. Luboš Tichý, CSc. for their consultations and granted materials.

Poděkování

Na tomto místě bych rád poděkoval vedoucímu mé práce PhDr. Petru Teplému, Ph.D. Tuto práci jsem dokončil i díky jeho podpoře a vedení.

Rád bych také poděkoval Ing. Petru Hlínkovi a Prof. JUDr. Luboši Tichému, CSc. za jejich konzultace a materiály, které mi poskytli.

Bibliographic card

JELÍNEK, Tomáš. *The Introduction of Trusts in the Czech Republic*. Prague 2013. 107 p. Bachelor thesis, Charles University in Prague, Faculty of Social Sciences, Institute of Economic Studies. Supervisor PhDr. Petr Teplý, Ph.D.

Abstract

Complete recodification of the Czech Civil Code among other changes establishes trusts, a very flexible tool which can be used by both natural and legal persons. Countless possibilities for the utilisation of trusts range from charities through intergenerational transfers of property or pension securitisation to the managing of a corporation and investment activities. The core of this paper is an analysis of three basic elements of trusts: the description of trusts, monitoring and analysing of the contemporary development, and perception of trusts by Czechs. The thesis contains detailed description of rights and duties of the settlor, the trustee and the beneficiary, also compares the Czech and foreign processing and then points out some differences and offers various recommendations. A fully processed questionnaire survey and analysis of the collected data is an integral part of this work. Low literacy about trusts has been discovered and its impact has been assessed. The survey results demonstrate the necessity of establishment of competitive conditions together with fighting negative perceptions towards trusts. The investigation further revealed important as well as unimportant features of trusts to potential settlors. These findings could be significant for the future development in this area. Last, but not least, high potential of trusts in the Czech Republic was demonstrated.

JEL Classification	G23, G24, G28, H55, K11, K34
Keywords	Trust, trust fund, trusteeship, settlor, trustee, beneficiary, Czech Republic, New Civil Code
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Bibliografický záznam

JELÍNEK, Tomáš. *The Introduction of Trusts in the Czech Republic*. Praha 2013. 107 s. Bakalářská práce, Univerzita Karlova, Fakulta sociálních věd, Institut ekonomických studií. Vedoucí bakalářské práce PhDr. Petr Teplý, Ph.D.

Abstrakt

Kompletní rekodifikace českého občanského zákoníku, mimo jiné, zřizuje institut svěřenský fond, velice flexibilní nástroj, který mohou využít fyzické i právnické osoby. Nesčetné možnosti pro využití svěřenských fondů se pohybují od charitativních účelů, přes mezigenerační transfer majetku či důchodové zajištění, až po správu právnických osob a investičních záměrů. Analýza tří základních prvků svěřenských fondů je jádrem této práce. Jedná se o popis možností svěřenských fondů, sledování soudobého vývoje a analýzu vnímání svěřenských fondů obyvateli České republiky. Práce obsahuje detailní popis práv a povinností zakladatele svěřenského fondu, svěřenského správce a osoby obmyšlené, dále pak porovnává českou úpravu se zahraniční, poukazuje na některé nesrovnalosti a nabízí různá doporučení. Kompletně zpracované anketní šetření a analýza sesbíraných dat je nedílnou součástí práce. Bylo prokázáno nízké povědomí o svěřenských fondech a současně ohodnoceny jeho dopady. Výsledky šetření dokazují nezbytnost konkurenceschopného nastavení podmínek společně s bojem proti negativním pohledům na svěřenské fondy. Dále provedené šetření odhalilo důležité a naopak nepodstatné vlastnosti fondů. Tato zjištění by mohla být směrodatná pro budoucí vývoj v této oblasti. V neposlední řadě byl prokázán vysoký potenciál svěřenských fondů v České republice.

Klasifikace	G23, G24, G28, H55, K11, K34
Klíčová slova	Svěřenský fond, svěřenství, zakladatel, správce, obmyšlený, Česká republika, nový občanský zákoník
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Bachelor Thesis Proposal

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TEZE BAKALÁŘSKÉ PRÁCE

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Garant studijního programu Vám dle zákona č. 111/1998 Sb. o vysokých školách a Studijního a zkušebního řádu UK v Praze určuje následující bakalářskou práci

Předpokládaný název BP:

The Introduction of Trusts in the Czech Republic

Charakteristika tématu a současný stav poznání: anglicky

Historically the possibility to settle a trust did not exist in the Czech Republic but it is going to be changed at the beginning of 2014 when the New Civil Law enters in force. The New Civil Law have been already ratified, and therefore no doubts about establishment of trust does not exist. Due to the novelty of trusts in the Czech Republic complementary juristic regulations focused on a functioning of trusts does not exist yet. For example, tax regulations for trusts are missing for now. However trusts have long-time tradition abroad, therefore this thesis is going to mention many times foreign experience with trusts and illustrations of their functioning.

česky

V minulosti nebylo možné zřizovat svěřenské fondy na území České republiky. To se ovšem změnilo v roce 2014, kdy vejde v účinnost nový občanský zákoník. Nový občanský zákoník byl již schválen, a proto o zavedení svěřenských fondů není pochyb. Protože se v České republice jedná o zcela nový institut, tak zde zatím neexistují všechny právní předpisy, které by specifikovaly fungování těchto fondů. Například zatím chybí normy upravující zdanění tohoto vznikajícího institutu. Svěřenské fondy ovšem mají dlouholetou tradici v zahraničí. Tato práce se tedy bude často odvolávat na zahraniční zkušenosti se svěřenskými fondy a na příklady jejich fungování.

Metody zpracování tématu:

anglicky

Analysis of trusts abroad.
Monitoring of contemporary development in the Czech Republic.
Questionnaire survey.

česky

Analýza svěřenských fondů fungujících v zahraničí.
Sledování soudobého vývoje v České republice.
Anketní šetření.

Osnova BP:

anglicky

I. Introduction
II. Basic concepts and systems
- General framework of trusts and trusts functions
- Situations in which trusts are being used
- Trusts in the Czech Republic
III. Legal position of trusts in the Czech Republic
- New Civil Code
- Directives of European Union
- Other regulations and directives
IV. Perception of trusts in the Czech Republic
- Questionnaire survey
- Econometric analysis
- Discussion of results
V. Conclusion

česky

I. Úvod
II. Základní pojmy a rozdělení
- Přehled svěřenských fondů ve světě a jejich funkce
- K čemu se využívají svěřenské fondy
- Svěřenské fondy v České republice
III. Právní stránka svěřenských fondů v České republice
- Nový občanský zákoník
- Směrnice Evropské unie
- Další vyhlášky a směrnice
IV. Vnímání svěřenských fondů v České republice
- Anketní šetření
- Ekonometrická analýza
- Diskuse výsledků
V. Závěr

Struktura BP:

anglicky

This bachelor thesis is going to be focused on trusts which are newly established in the New Civil Law. The core of this thesis consists of three main parts. First, socio-educational function of trusts and stating of frequent situations in which trusts can be exploited. The first part is also including a summary of various motivation of settlors for using a trust. Second part is going to be focused on juristic side of trusts in the Czech Republic. The third, last but not least, part is going to describe a model of trusts which would be able to implement in the Czech Republic. This part is also going to summarise the result of a questionnaire survey asking for literacy about trusts and their attractiveness.

česky

Tato bakalářská práce se zaměří na svěřenské fondy, které jsou v České republice nově zřízeny novým občanským zákoníkem. Samotné jádro práce se skládá ze tří základních částí. První z nich se zaměří na sociálně-výchovnou funkci svěřenských fondů a na vytvoření přehledu toho, kde všude lze využít tento institut. V první části bude uveden také přehled nejrůznějších motivací k tomu, aby zakladatel využil právě svěřenského fondu. Druhá část bude věnována právní stránce svěřenských fondů v České republice. A třetí, poslední, část popíše model svěřenských fondů, který by bylo možné využít v České republice. Obsahem poslední části budou také výsledky anketního šetření, dotazujícího se na povědomí o svěřenských fondech a na jejich atraktivitu.

Seznam základních pramenů a odborné literatury:

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Datum zadání:	25.05.2012
Termín odevzdání:	17.05.2013

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Acronyms

AGBG	Allgemeines Bürgerliches Gesetzbuch
AIFMD	Alternative Investment Fund Manager's Directive
CND	Czech National Bank
CRFF	Czech Republic for Finance
CZSO	Czech Statistical Office
HCPIIL	Hague Conference on Private International Law
IDRE	Institute for Digital Research and Education
MFCR	Ministry of Finance of the Czech Republic
MIFID	Market in Financial Instruments Directive
MJCR	Ministry of Justice of the Czech Republic

1 Introduction

Trusts, sometimes also referred to as 'trust funds', are quite common abroad, particularly in countries such as England and the United States. It could be said that trust-like institutions can be found all over the world. However, in the case of the Czech Republic, trusts are codified in the New Civil Code as an absolute novelty. The New Civil Code enters in force at the beginning of 2014 and with this the possibility to settle a trust. Trust is also known as a property without legal personality created when the settlor separates part of its property, gives it its purpose, and states a beneficiary who will receive the benefits of the trust. Meanwhile, between the settling and transfer of the last benefit, there is a person, a trustee, who takes care of and manages the entrusted property so it can serve in the way that the settlor intended. Only a few limitations towards settlors ever occur which makes the trust a very flexible instrument that can be used for private, public, and investment purposes. Favoured trusts include that of securing heritage, intergeneration transfers, collective investments, charity, and education and maintenance of minor children.

The establishment of trusts in the Czech Republic is a particularly current topic which makes it very interesting although it seems to be in the shadow of many other changes occurring in the New Civil Law or changes caused by regulatory changes on the European level. With this in mind, this study is likely to be one of the first works on Czech trusts and probably the first publicly available partly focused on public perceptions and opinions about trusts. A composition of three main information streams is used to offer the reader a general view on the current situation of trusts in the Czech Republic. The first information stream consists of information from foreign states where trust-like institutions have relevant experience within this field and an ideal place wherefore inspiration could be drawn. Processing this, the second stream focuses on the actual development, opportunities and threats connected with the trust establishments stated. Finally, the third stream of information originates from a survey, focused on the perceptions and opinions of the Czech people and analysis of the collected data. The composition of this gathered information

presents the current situation, allows the hypotheses to be tested and lastly recommendations to be produced. The hypotheses that will be tested include: 'People in the Czech Republic know the bare minimum about trusts', 'The position of Czech trusts on the market will be tough' and 'Properties of trusts that people consider to be important will be their primary concern.'

The thesis is structured as follows. The theoretical framework is first presented, followed by the methodology, an empirical analysis and a conclusion. In the theoretical framework, current literature is discussed first, followed by the historical development of trust-like institutions, and lastly the description of trusts in the Czech Republic and abroad. On the empirical analysis, a survey is introduced first, followed by an econometric analysis of the collected dataset, and finally by the presentation of its findings.

2 Theoretical Framework

2.1 Current Situation

Existing literature can be divided into four groups. The first is a review of texts from countries where trusts are commonly known to be an integral part of their legal system. The second is focused on regulation of trusts, the Czech regulation and other international regulatory directives directly affecting Czech trusts. Consideration is also given to texts describing the origins as well as historical development of trusts. Finally, texts about the process of establishing trusts into the Czech legal system, yet unpublished literature, and some important events are taken into account.

2.1.1 Trusts in Different Legal Systems

Trusts, originally from common law system, can also be found in countries with mixed and civil law systems (Lupoi, 2000, p. 5).

The best example of a mixed legal system is the system used in Canadian Québec where originally French continental law began to interact with English common law after 1763 when Québec had been acquired by the British Empire (Marshall, 2001, pp. 18 - 20). Although the institute of trusts is usually connected mostly with Anglo-American law, in Québec and other countries with a similar institute, *fiducie*¹, is present. Québec's first law with respect to *fiducie* was enacted in 1879 in civil code of Québec (L. Smith, 2012, p. 7). Nowadays, people usually speak about Quebec's trust institution which attracted worldwide attention after the reform in 1994. Québec's civil code also served as an inspiration for the team of Mr Eliáš which was commissioned to develop Czech New Civil Code (MJCR, 2012b).

¹ *Fiducie* is a trust-like institute similar to a trust but originated in countries with civil law systems.

Trusts as a traditional part of common law have a long tradition in the United Kingdom and also in the United States. Trusts in these countries serve various private as well as public purposes and therefore significant time is already being invested into educating future lawyers and economists at universities on them. Consequently, several textbooks on trusts have been published. These textbooks describe the whole system of trust regulation, together with everything that surrounds the topic. Judith Bray (2012) has documented the current situation in the United Kingdom and other considerable insights have been produced by Moffat, Bean, and Probert (2009).

Many discussions are held according to the adoption of trusts or similar trust-like institutes into civil law systems. For example, James Koessler from the University of Warwick examined the situation in Italy and France (2012). In his paper, two potential ways for trusts to be adopted are described: an introduction of a trust institute into legal system, or “taking advantage of the Hague Convention to develop a thriving local practice of using foreign law” (Koessler, 2012). The second option was used in Italy whereas the first one, which was considered more popular, was used in France in 2007, in Luxembourg in 2003 (Zvánovec, 2013b), in the People’s Republic of China in 2001, or in Israel (L. Smith, 2012). In the Czech Republic, the first option was chosen to incorporate trusts into the New Civil Code.

Moreover, many interesting sources are easily reached on webpages of various providers of services for trusts. These sources are not scholarly but such sources provide an insight into real business situations. One example of these useful insights can be found in reports from The Trust Advisor organisation (2012).

2.1.2 Czech Legislation

After eleven years work the final version of the Czech New Civil Code was signed by the Czech President Václav Klaus on February 20th, 2012 (MJCR, 2012a). On this occasion the former Minister of Justice, Jiří Pospíšil, mentioned that the New Civil Code, constitutionally the second most important act, would influence the everyday life of all the inhabitants of the Czech Republic (Tiskový

odbor MJCR, 2012). The New Civil Code, which will take effect on January 1st, 2014, will introduce a countless number of changes and even several new institutes. Due to these changes, many other regulations will have to be changed and some new regulations will have to be written from scratch, for example, in regards to changes in tax law (MFCR, 2013). Unfortunately the New Civil Code is almost the only act already authorized and the rest of connected and supportive regulations are actually experiencing their authorisation procedures.

As previously mentioned, Québec's civil code served as an inspiration for the recodification of the previous Czech civil code but it was not the only considered regulation. There are at least three international regulations and guidelines that have to be taken into account. One of them is referred to as the 'Alternative Investment Fund Manager's Directive' (The European Parliament, 2011), better known under its shortcut AIFMD. The second important guideline is the 'Market in Financial Instruments Directive' (The European Parliament, 2007), known as MIFID, or a later version which has not yet been fully authorised. The last guideline is an academic source which was taken into account for recodification of the Czech civil code (Zvánovec, 2013b). This material is called 'Draft Common Frame of Reference Principles, Definitions and Model Rules of European Private Law' (Bar, et al., 2009).

2.1.3 Origins of Trusts

Fiduciary relationships², trusts, and other similar institutes have been used since ancient Roman times and the historical development is covered in detail by Barbora Bednaříková (2012). These relations were regulated in the Czech state until 1964 by the then civil code and therefore the re-establishing of trust can be deliberated in accordance with the New Civil Code. To know the origins and a historical development of every single trust-like institute is quite important

² Various relationships involving trust between at least two parties as is mentioned in the Oxford Dictionaries, for example, companies have fiduciary relationship with their shareholders (Oxford University Press, 2013).

because it determines its features and also its treatment by legal systems in different countries.

2.1.4 Establishment of Trusts in the Czech Republic

The adoption of trusts as a 'new' institute bringing new possibilities has started to become a popular notion. Several years ago, the adoption of trusts was a topic mostly for academic purposes and the dissertation of Jan Skuhravý (2010) and the master thesis of Martina Fialová (2008) are the most significant works in this field. Recently, the rising interest can be demonstrated on an increasing number of published articles, organised conferences and presentations focused on problems as well as opportunities related to trusts. The Centre for Comparative Law, Law Faculty at Charles University, organized an international conference in January 2013 and towards the end of 2013 there is going to be published a conference proceeding like a comparative study about trust-like institutes (Tichý, 2013). Not only academicians but also firms and public benefit corporations are interested in the possibilities brought by trusts. For example, PricewaterhouseCoopers Czech Republic organised a practical presentation³ and public benefit corporation Czech Republic for Finance (CRFF) is trying to influence a legislature process in response to the AIFMD directive so that the Czech Republic could become a fund centre in the future (CRFF, 2011).

³ 'How to manage private and corporate property? Czech trusts, foreign trusts, foundations, and others' held on March 28th, 2013, for more information visit www.pwc.com.

2.2 Trusts

“A trust is a legal relationship in which a trustee is obliged to administer or dispose of one or more assets (the trust fund) in accordance with the terms governing the relationship (trust terms) to benefit a beneficiary or advance” (Bar, et al., 2009, p. 501).

2.2.1 Historical Development

2.2.1.1 Development of Trust-like Institutions in the World

Following the summary of works of Barbora Bednaříková (2012, pp. 1-10, 101-116) and Tjeenk Willink (1999, pp. 3-9) the historical development of trusts seemed as follows. The very early origins of a trust instrument can be found in ancient Rome where in the 5th century BC it was made the oldest written code included in the *fideicommissum* institute. *Fideicommissum* allowed the testator to choose and instruct one of the inheritors to manage described property, part of the heritage, in a stated purpose and transfer it to another person when certain circumstances were fulfilled. This Roman instrument was spread all over the then Roman Empire which included also a part of the British islands, using common law jurisdiction nowadays, from the 1st through to the 5th century AC. *Fideicommissum* worked like an inspiration for upcoming institutions on the British islands, *use* and *trust*, with similar ideology. During the period that the Roman Empire ruled a large part of the then civilised Europe, the Roman law was spread all over the Empire including regions that use civil jurisdictions nowadays. In that times there were no differences between common law and civil law jurisdictions.

In the Middle Ages, after the Roman Empire had collapsed, separated development of future common and civil law began. Different institutions started to appear. However, at the beginning of the separated development of common and civil law, it seemed that all the institutes were inspired by Roman law which had been ingrained and organised in written codes. Over several centuries different trust-like institutes with partly different features were developed but basic motives for taking an advantage of these institutions

remained the same in terms of security, flexibility, and estate planning. During the time investment activities, some business transactions began to be managed via trusts and other trust-like institutions.

During the Middle Ages, there were two groups mainly interested in possibilities offered by mentioned institutions: the aristocracy and the Church, groups which needed to secure its large estates and businesses. The Christian Church and The Anglican Church separated the development between common and civil law but on the other hand partly diminished differences that occurred within various monarchies. During this period, the development was highly divergent and therefore institutes of *use* and *trust* occurred and developed like a part of common law system, and institutes like *fiducie* and *treuhand*⁴ respectively as a part of civil law.

In the Modern Age, the colonisation spread common law as well as civil law in numerous different places all over the world and consequently various trust-like institutes also spread. Meanwhile, when these different systems interacted, mixed jurisdictions occurred. Even more importantly jurisdictions of countless countries developing and diversified in many ways.

While the British Empire was growing, the number of countries under common law was increasing too and consequently the Anglo-American trust spread in these countries. Later the combination of globalisation and economic power of the United States and countries of the Commonwealth led to the adoption of the Anglo-American trust by many countries with civil or mixed legal systems. For example, in Québec in 1879, Japan in 1922, Mexico in 1932, Ethiopia in 1962, China in 2001, or recently in France in 2001.

Trusts in different countries have differed a lot since they had to be implemented into different legal systems because of various intentions of lawmakers or because the precedents differed. The large number of diverse systems and regulations have made it so that no single pattern for trusts exists and without a good knowledge of legal background it is difficult, if not

⁴ Trust-like institutions, the *fiducie* has been utilised in the French regions and the *treuhad* in the German parts of the Europe.

impossible, to understand and differentiate between trusts in different countries. “However, the significant spread of trust ideas has occurred only in very recent years. This is largely as a result of contemporary global investment, but also because of increasing awareness by the public of the advantages of a globally diversified holding and management of family wealth.” (Tjeenk Willink, 1999, p. 5)

2.2.1.2 Development of Trust-like Institutions in the Czech lands

Like elsewhere in the world, needs for estate planning of the aristocracy led the creation of trust-like institutions also in the region of the Czech Republic as well as all previous state arrangements. The aristocrats wanted to secure the unity of their property and possibly its multiplication usually on the family basis.

The first regulations, when the Czech state was in its roots in around the 9th century, were inspired by Roman law and further developed to serve the needs of the aristocrats. Therefore, the most important institutes in a way were a family trust, *family fideikomiss*⁵, which is a trust of a patrimony that was being updated at the time. The development was influenced by the Habsburgs, Spanish influence in the 17th century and later codified in *Allgemeines Bürgerliches Gesetzbuch*⁶ (ABGB) in 1811. The ABGB was again inspired by the Roman law and whole part 10 was focused on the institute of *fideikomiss*.

The importance of the *family fideikomiss* increased in the 15th century when the concentration and value of estate in hands of aristocracy increased significantly. The functionality of *family fideikomisses* was verified through centuries as all aristocratic ancestries stabilised and managed their property under it. These *family fideikomisses* had to be transformed, after the aristocratic titles other privileges had been terminated, during times of the First Republic to become part of the emerging economy. However in these times

⁵ A trust-like institute which was created in Central Europe especially designed for family lines of dynasties, the inspiration by the Roman *fideicommissum* is obvious.

⁶ Austrian civil code.

fideikomiss, like a trust-like institute, was not terminated but only transformed to serve better use within the changing economy. Trust-like institutes were erased from the then Civil Code in 1964 because they were associated with the feudal law.

2.2.2 Settlor, Trustee, and Beneficiary

Three persons, either legal or natural, who feature in every single trust, are settlor, trustee, and beneficiary. These three persons do not have to be necessarily mutually exclusive. To add to this, a judge and third parties can feature in connection with trusts. However, these two are not always necessary and a judge only has to take action in some specific cases and third parties are involved only in specific types of trusts.

2.2.2.1 Settlor

“A person who creates a trust by giving real or personal property in trust to a trustee for the benefit of a beneficiary; a person who gives such property is said to settle it on the trustee.” (Dictionary.com, 2013)

The titling of this person can be confusing because a settlor is sometimes also called a ‘trustor’, ‘grantor’, or ‘trustmaker.’ However, all of these titles have the same meaning of a person who gives the impulse and creates a trust.

2.2.2.2 Trustee

“An individual person or member of a board given control or powers of administration of property in trust with a legal obligation to administer it solely for the purposes specified.” (Oxford University Press, 2013)

Trustees can be appointed in many different ways and the variety of possibilities is useful because from time to time the trustee has to be replaced. This can happen for numerous reasons, such as the initial appointment, death of the previous trustee, insufficient care of property of the trust, illegal behaviour and so on. “The initial appointment of trustees is usually reserved to the settlor himself” (Bray, 2012, p. 223) but then upcoming trustees can be appointed by

a settlor again, trust instrument, or another person with the authority to appoint a trustee in all these cases it is the settlor who actually decides but if he or she appoints only the original trustee then different principles have to be used. These principles can be a regulation like a special law, appointment by the court or an appointment by the beneficiaries can also be used (Bray, 2012, pp. 222-226).

Regulations can differ in various countries but generally trusts can have one trustee or a group of them, who have some duties and powers, and remedies can be used against them (Tjeenk Willink, 1999, pp. 17-18). There is no obligation to pay a trustee but in some trusts this is expected and regulated by law (Bray, 2012, pp. 234-237).

2.2.2.3 Beneficiary

“A beneficiary is a person who, according to the trust terms, has either a right to benefit or an eligibility for benefit from the trust fund.” (Bar, et al., 2009)

There can be a group of beneficiaries or a sole beneficiary appointed who will benefit from the trust. There are various ways of finding out if beneficiaries exist and the most common ways are appointment by a settlor, appointment by a trust instrument, which means that a trustee or a third party has a duty to appoint beneficiaries according to stated principle, or from a group of potential beneficiaries. Benefits are usually split into two groups: financial and non-financial, but even more important to beneficiaries is to know what shares of benefits belong to them. Determination of shares is analogically the duty of the settlor, or trustee (Bray, 2012, pp. 263-283).

2.2.3 Why and Where to Use a Trust

A number of institutes that could sufficiently substitute trusts under certain circumstances are gifts, debts, bailment, agency, or foundations. To have the opportunity to settle a trust is favourable because trusts are usually more flexible and complex, and therefore preferable. Nowadays trusts often find their application as a pension scheme, investment scheme, unincorporated associations, charitable trusts, protective trusts and others (Bray, 2012, pp. 40-

46). The flexibility of trusts allows for countless situations where trusts can be meaningfully used. For a better understanding of what trusts can be used for, a couple of examples are to be stated.

2.2.3.1 Pension Plan Including Insurance in Case of Injury

The settlor sets up a trust for better living in retirement and at the same time he or she also safeguards the family or the people close to them that if an injury were to happen to them or if they were to die. Beneficiaries of this trust would benefit from a certain annuity, usually a certain amount of money, during the healing period and upcoming inability to work.

For example, if the settlor becomes unable to work long term, his or her family would start to benefit from the trust and consequently would not have to struggle with the lack of money caused by a lower salary or the removal of a salary altogether during this period. Moreover, beneficiaries of the aforementioned trust can benefit from the trust property during their retirement, during which stage they would not need to secure a salary cut, and increase their living standards.

2.2.3.2 Inheritance

If a settlor is afraid of spendthrift, an inappropriate use of the heritage, by the inheritor who would not regard of easily acquired property, the settlor can then set up a trust where smart instruments, which protect the property from negative behaviour of the inheritors, will be stated in its statute. Such instrument can give the beneficiary an obligation to take care of the settlor until the end of his or her days, an obligation to reach a specific age, successfully finish studies at university and so on.

For example, it can be stated that the inheritor is going to receive a specific amount of money per month if he or she are willing to study, or otherwise nothing, then at the age of, let us say, 25, the beneficiary receives 50 % of the trust property and finally if 10 years later the beneficiary is found to be managing the previously received 50 % of the property then the rest of the

property will be transferred into the ownership of the beneficiary. At the moment of the final transfer the trust would be terminated.

Meanwhile a trustee has to care about the trust property in a way that enables them to fulfil the purpose of the trust stated by the settlor. This trust could also be settled on death when the trust itself and property transfer would be settled at the time of the death.

2.2.3.3 Charity

Trusts also offer a possibility to secure different kinds of charities due to their flexibility. The property of a settlor is set aside and managed by a trustee in order to reach a public benefit of the charity according to instructions of the settlor. Such trust can be found *inter vivo*⁷ as well as on death and it can support a specific organisation or specific activities. The public always has to benefit but in which way it is up to the settlor who has to decide on the conditions. Usually, in many countries, these charitable trusts enjoy several advantages, for example, a lower tax rate.

There may be a situation, for example, where a settlor wants to support a club where she was a member for many years. For this purpose, part of the property would be transferred into the trust and according to his or her willingness stated in the trust statute the club would benefit from the trust on a yearly basis by getting a specific amount of money.

2.2.3.4 Investment Activity

A settlor can decide to find a trust with profitable investing purpose and transfer part of his property under the trust. After that, the rest of the settlor's property is not endangered by liabilities of the third parties if the investments of the trust were to go wrong. On the other hand the trustee, not the settlor, is managing the property of the trust and if there were a group of trustees in this case, the

⁷ The settlor is alive at the moment of settling of the trust, the opposite is settlement *on death*.

settlor could be one of trustees one of them and acts also like a trustee. Similar trusts can also be used like an instrument of collective investing.

For example, thinking about investments in start-ups that are very risky without any certainty of getting the investment back, there is a possibility to settle a trust. This trust can be managed by professionals who know how to find projects with high potential and an accepted level of risk.

2.2.3.5 Administration and Managing of a Firm

An owner of a firm can decide to spend his or her time with another activity than managing this firm is then settlement of a trust is one possibility. In comparison with other possibilities like selling the firm or appointing someone else to manage the firm, trusts have several advantages in certain situations. For example, when the owner has young children not ready to take over the company, when the future expected cash flow is much more valuable than the current selling price, when hiding the name of the owner from official lists is desirable and so on. Equally like is written in a previous chapter that there can be one or more trustees and therefore the owner does not have to lose all of his control when the trusts are settled. Usually tax optimisation is a really important issue within the whole process.

Imagine this situation of an owner of a very successful established company who is a husband and father of one young child. He decided to leave the company and spend more time with his family. In this situation the establishment of a trust and the benefit of it on a monthly basis could be a perfect opportunity for the owner.

2.2.4 Trust-like Institutions

2.2.4.1 Trust, Fiducie, Treuhand, and Foundation

Treuhand, fiducie, foundation, and trust too are all institutions with similar functions but even the same institutions in different countries usually differ considerably (Lupoi, 2000, pp. 1-5).

Table 1: Comparison of trust-like institutions

Trust	Fiducie	Treuhand	Foundation
Settlor	Fiduciant	Treugeber	Founder/Donator
Trustee	Fiduciaire	Treuhänder	Boards
Beneficiary	Bénéficiaire	Begünstigter	Donee

Source: Author

There is significant diversity among these institutions in Europe. The trust institution can be found for example in Scotland, England and Wales, and the fiducie exists in France. Focused on the countries in the neighbourhood of the Czech Republic, the Treuhand institution is used in Germany and private foundations, which “is not a trust on a technical sense but it may serve as a functional equivalent of a trust” (Schauer, 2013). Pisuliński & Michalik (2013) note “there is no general regulation of fiducie similar to trust” in Poland but some similar contracts “were created by practice”. A similar situation is apparent in Slovakia, where there is also no specific trust institution but regulations about management of property exist (Husár & Csach, 2013).

2.2.4.2 The Hague Trust Convention

In the second half of the 20th century, trust-like institutions were being introduced in many countries with different legal systems and with this an effort to give it some kind of framework with an international scope occurred. At the ‘Hague Conference on Private International Law’ (HCPIL). 32 states prepared the text of the ‘Hague trust convention’ which came into force on the 1st July, 1985, (Graziadei, Mattei, & Smith, 2005, str. 57) and has been signed by 14 countries up until now (HCPL, 2013). Adoption of this convention allows one to settle a trust under foreign law so that in Italy, one of the signers of the convention, for example an Italian bank forms trusts under English law and “the legal consequences of a foreign trust must be recognised” (Tjeenk Willink, 1999, pp. 9-11). Although there exists the possibility to adopt a foreign law for domestic usage, “both for countries that recognise trusts, as well as those who do not” (N. Smith, 2013, p. 8), only 14 countries adopted the convention but many more countries decided to implement domestic trust-like institutions into their jurisdictions.

2.3 Trusts in the Czech Republic

Seven basic factors have to be taken into account to be able to successfully introduce trusts into the Czech Republic from a juristic point of view. These seven factors were picked up by Tjeenk Willink (1999, pp. 14-22) as fundamental factors common to all trust-like institutions in Europe. These institutions have clearly mentioned common signs but at the same time they differ in countless details which can be more important than the fundamentals. They are:

- Main characteristics of the trust-like institutions
- “Creation of the trust”
- Governance
- “Trustees’ Duties and powers”
- “Remedies against trustees for breach of trust”
- Liabilities of third parties
- ‘Termination of a trust”

The Czech trust legislation, Appendix I, does not lack of any of these fundamentals. Equally important are the doctrinal justification and related case law, tax law, objectives that a trust might be settled for, and the comparison with other competed institutions (Ronovská, 2013; Schurr, 2013).

2.3.1 Trusts in the New Civil Code

Czech trusts were inspired by the juristic treatment of trusts in the Civil Code of the Canadian province Québec, but still several differences can be found between Czech and Canadian treatments. The main difference is the requirement of the statute in the form of a public deed, see Appendix I Subsection 1 §1452. In comparison to Québec, the Czech treatment is quite strict but on the other hand comparing to the French treatment it is still quite generous (Pihera & Havel, 2013) and allows for the personification of trusts (Havel, 2013).

According to Pihera & Havel (2013) it is unclear what distance the treatment of trusts in the New Civil Code was invoked by practical need and for what

distance it is only a randomness connected with overall transformation of the Civil Code. What more it seems now that revolutionary implementation of trusts had a lack of external examination during the phase of proposal and this was probably caused by the flood of changes in the New Civil Code proposals which is actually causing confusions. For example, Vít Zvánovec (2013a) thinks that “Reception of a trust into the Czech New Civil Code has two great errors: a concept of property without proprietor and the excessive statute of frauds.” Moreover, certain uncertainty about the introduction of the New Civil Code in force has occurred recently. However according to Mr Hanák (2013) the actual Czech Prime Minister Petr Nečas wholly intends to uphold that the New Civil Code will come into force on time on 1st January, 2014.

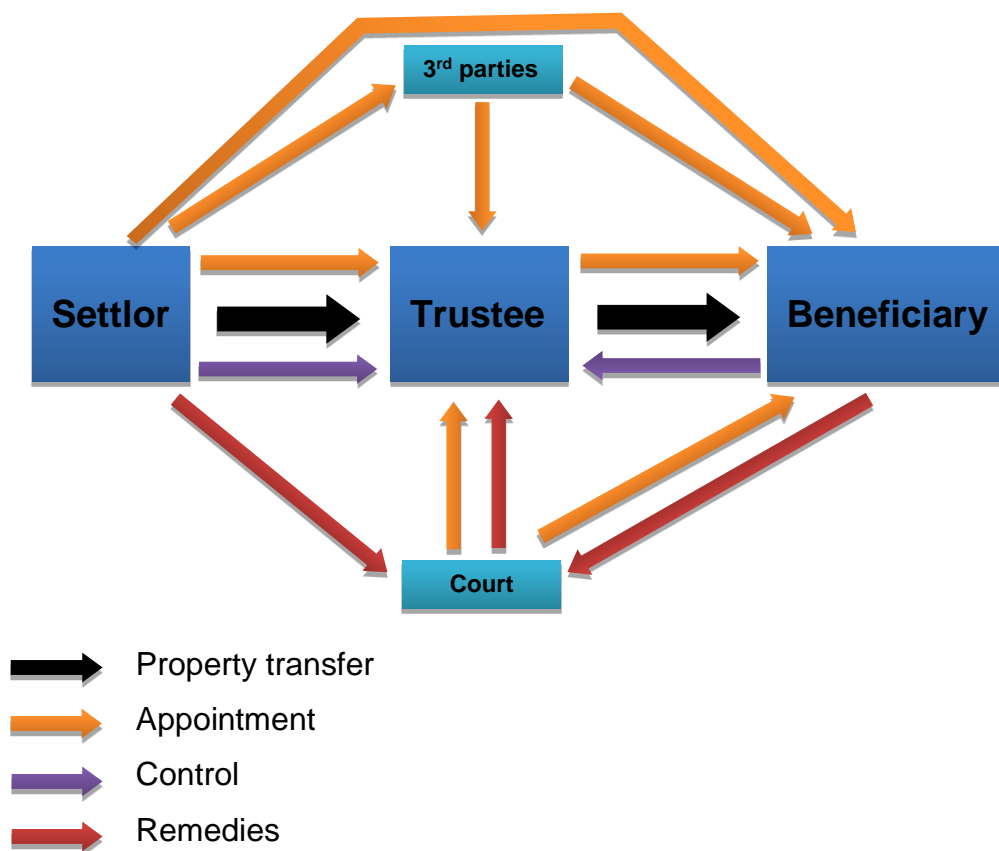
It is too early to evaluate Czech trusts because complete regulations have not yet been finished and there is no real experience with it. Yet, it is already sure that it will be interesting to see the future development of Czech trusts and its comparison with other foreign trust-like institutions. This future comparison should already be considered during the implementation process and the preparations on the entrance of trusts in force to acquire a competitive advantage.

2.3.2 Systematisation of Trusts

The flexibility of trusts is very high, as the Figure 1: Chart of the relationships within a trust shows, the most of stated principles can be combined together in various ways as you can see in the figure.

2.3.2.1 Property Transfers

At least two types of transfers can be found in trusts. The first is a transfer from a settlor to the trust when the settlor separates part of his or her property to lose all ownership rights. There can be as many transfers towards the trust as the settlor or another contributors as they want to make. The first transfer is important because it is the moment when the trust is settled, see § 1448 in Appendix I. All the other transfers can be done by different people on either an occasional or regular basis.

Figure 1: Chart of the relationships within a trust

Source: Author, inspired by the New Civil Code, see Appendix I.

The second type of transfers are from the trust, served by a trustee, towards beneficiaries. Usually the settlor decides about their frequency and about the size of benefits shares. But the settlor can also delegate these decisions to the trustee, or even to another person.

2.3.2.2 Selection of Beneficiaries

A beneficiary or a group of them can be appointed in many different ways. The easiest one is the appointment of a single beneficiary by the settlor but the settlor can also choose additional beneficiaries. Focusing only on the settlor and a number of beneficiaries and their qualities, upcoming possibilities can be formed and combined. The settlor decides if the trust has one beneficiary or a group of them and then he decides to point out the beneficiaries namely, or by their qualities. The settlor also has the possibility of appointing a group of potential beneficiaries and to transfer the final appointment to the trustee, or a

third party. The last possibility which the settlor has is to transfer the whole decision process towards the trustee, or a third party person. Beneficiaries are being appointed according to a mind of the settlor which is stated in the notary statute of every single trust.

The trustee, or appointed third party, cannot transfer the duty to appoint the beneficiary no matter the circumstances. If circumstances do not allow them to follow a will of the settlor, then the court has to decide and appoint the beneficiaries. For more information see Subsection 3 of Appendix I.

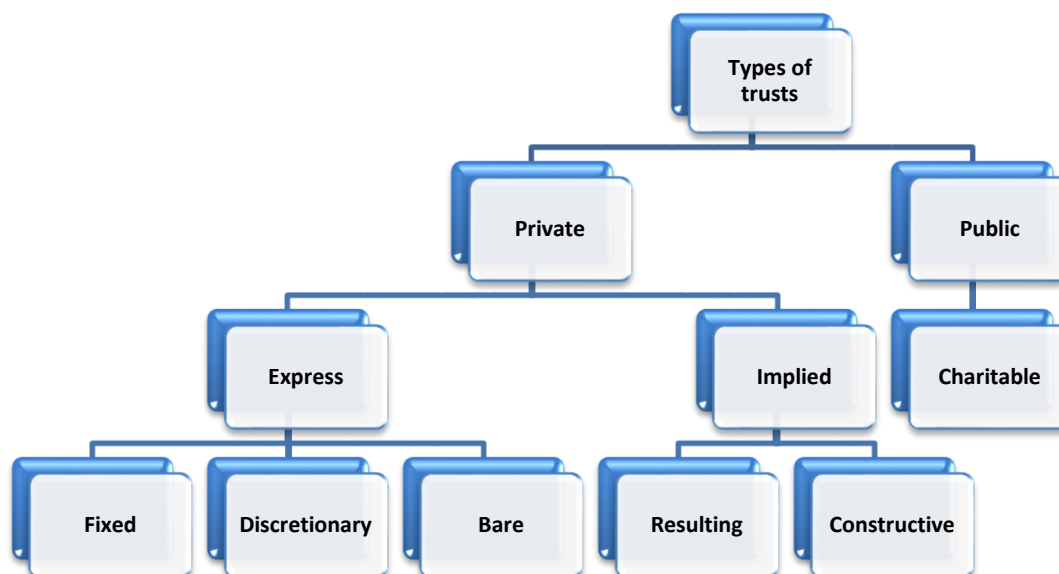
2.3.2.3 Controlling

Trustees can only be controlled by either the settlor or the beneficiaries and no one with exception of the court can command the trustee. If the settlor, or the beneficiaries find any misconducts of the trustee, they should ask the court to revise them. Only the court can give the trustee an obligation to take some action or on the other hand, forbid it. For more information see Appendix I Subsections 4 and 5.

2.3.3 Types of Trusts

Trusts as a very flexible institution should have a system which allows them to sort individual trusts according to their purpose and objective. This system enables a differentiated approach to individual groups from the side of public authorities. It is also useful for settlors, trustees, and other engaged people who would have structure clearing the way for evaluation of possibilities and consequently simplifying the decision process.

Inspiration could be drawn from England, where trusts act as legal entities and have a sophisticated system serving different needs. This system has been developing for centuries and is rather stable which should serve like a quality guarantee. "A trust is one of the five ways in which common law allows rights to be held" (Swadling, 2013). Keep in mind the differences between common and civil law still at least the basic structure can be adopted at all.

Figure 2: System of trusts

Source: Author, inspired by Judith Bray (A Student's Guide to Equity and Trusts, 2012)

Two types of trusts can always be distinguished according to characteristics of benefits. Private trust is a trust that benefits a group of people or a single person. It can be either a legal person, natural person, or a group of these persons that are specified to be beneficiaries. The second type consists of public trusts which serve the purpose of supporting some kind of publically useful activity. Using public trust does not implicitly determine beneficiaries to be some persons, neither legal nor natural, because the only determinant is that this trust has to secure a public benefit.

Private trusts are further divided into two other groups: express trusts and implied trusts. The characteristics of express trusts is that the purpose of such a trust is expressed directly by the settlor who deliberately “transfers the legal title to the property to a trustee to hold that property on trust for the benefit of a beneficiary or declares that he is now to hold property on behalf of another person” (Bray, 2012, p. 33). On the other hand, the purpose of implied trusts arises from certain circumstances so it could be also imposed by the courts.

Fixed, discretionary, and bare trusts are the three possible forms of express trusts that differ by their complexity and possibilities of use. A bare trust is considered to be the basic form due to the relatively low number of possibilities

in which you can use it and also due to the reduced demands on a trustee. The trustee has no other duties to perform apart from holding of the trust property for a single beneficiary. Fixed trusts are a slightly more demanding for a trustee, as the trustee has duties to perform but is still without the duty to select beneficiaries or decide what benefits they should receive. Under fixed trusts the beneficiaries have to be clearly identifiable with clearly stated benefit shares. Another option is a discretionary trust where a group of possible trustees are named by the settlor and the duty of a trustee is to choose a beneficiary or beneficiaries within the named group.

Last, but not least, implied trusts are subdivided into resulting and constructive trusts. These trusts are formed when circumstances change significantly after the trust has been settled. For example when the original objective is shown to be unreachable then the original trust is transformed into a resulting trust with the closest presumed purpose. Implied trusts can also be formed by imposing “in the interests of justice and conscience” (Bray, 2012, p. 35), this trust is called a constructive trust.

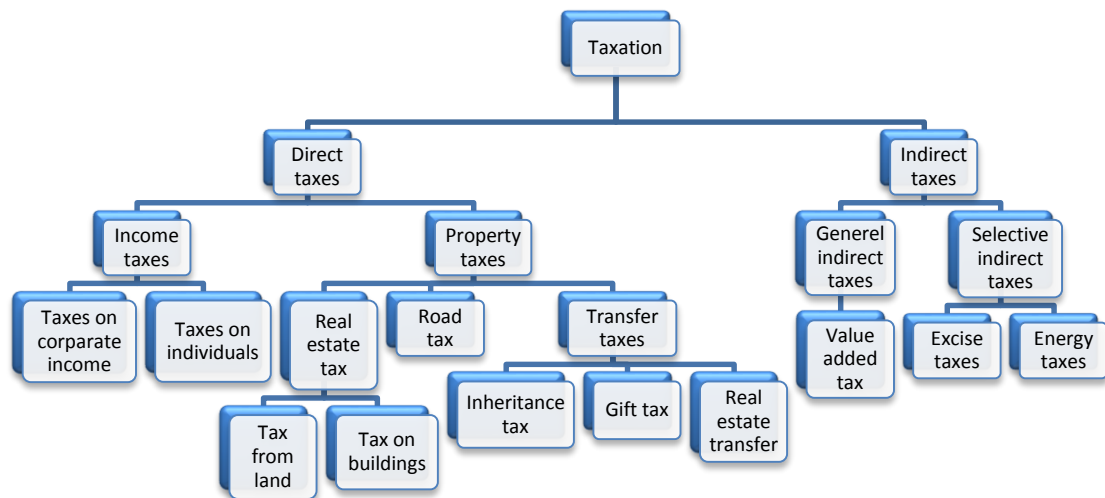
2.3.4 Taxation of Trusts

The taxation of trusts in the Czech Republic will play one of the most important roles during the establishment of the first trusts. It is usual that taxation on trusts is lower which works as an incentive for using them for estate planning. Currently, we cannot be sure what tax law for trusts will finally look like because only proposals of this regulation are available. Due to a variety of possible uses of trusts, all taxes from the Czech tax law, see Figure 3: System of taxes in the Czech Republic, can be applied on trusts. However, two groups seem to be more important than others, income tax and transfer taxes.

At the time when this work was written, the latest proposals suggested two different income tax rates on trusts. These suggestions state a tax rate of 5 % on trusts of the investment fund which is managing by an investment company and then the income tax rate should be 19 % otherwise. The author of this work thinks that the third group should be distinguished in the Czech taxation system which is the group of publically beneficial trusts whose tax rate should be lower

to support these activities. In the way that the English trusts are handled, they have several taxation advantages, for example: relief from corporation tax, capital gains tax or exemption from non-domestic rates on properties (Bray, 2012, p. 197).

Figure 3: System of taxes in the Czech Republic



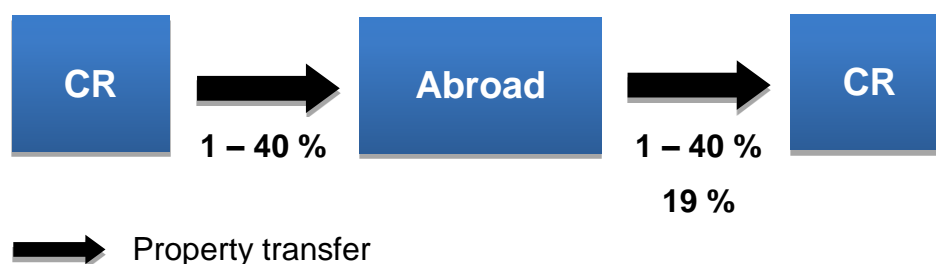
Source: Author, inspired by the explanatory report of change in the Tax law by Czech government (MFCR, 2013).

Keeping in mind that taxation might be the main aspect, as the survey confirmed, while considering settling a trust under Czech law, the tax regulations should be written in a way that will bring a competitive advantage to Czech trusts.

2.3.5 Reactions to Trusts

2.3.5.1 Recently utilised practices and future opportunities

Recently the only possibility how to use a trust in the Czech Republic (CR in the Figure 4: Taxation of usage of foreign trusts) was utilisation of a trust-like institution abroad but the conditions were quite unclear and mainly connected with unfriendly taxation. Tax on transfers in this case are up to 40 % plus the income tax 19 % (Folwarczny, 2013, str. 3).

Figure 4: Taxation of usage of foreign trusts

Source: Author, inspired by Zenon Folwarczny (2013, str. 3).

According to Natalie M. Smith (2013, pp. 10-11) the opportunity to recognise also a foreign trust law should be considered in the Czech Republic since the laws in England and Wales offer certainty and fairness. This could be done, for example, through The Hague Convention.

2.3.5.2 The Czech Republic as a Fund Centre

Like the consequence of changes in European regulations, stated in the AIFMD directive, a unique opportunity has occurred for the Czech Republic that could establish it as a new fund centre and put it side by side with the current centres in Luxembourg, Ireland, and London. The only thing that needs to be done is for a suitable setting of rules, a tax regime, and regulations together with appropriate promotion on governmental level to be agreed on. Luxembourg is suggested to be taken as inspiration as it is a well-established fund centre with appropriately set processes (CRFF, 2013). A wide range of flexible instruments and types of funds has to be available to make the Czech Republic attractive for alternative funds (Havlíček, 2013). This is also a possibility for trusts, which are a favoured type of funds abroad, used for countless purposes, to attract people as well as legal persons from around the world. This is just one more example why it is important to establish trusts well and set all rules and regulations appropriately so that the Czech trusts will be competitive on an international level.

The situation and problems that alternative funds are facing now is similar to that of the situation of trusts. As Luděk Niedermayer (2013) stated, there is a lack of organisational conceptual approach and rather low coordination and

centralisation of know-how from the state side. Focusing on trusts, no one is sure if implementation of trusts into the New Civil Code was forced by some kind of a vision, for example with connection to a fund centre, or if it had just happened accidentally (Pihera & Havel, 2013). As the position of the Czech Finance Ministry was stated by Milena Hrdinková (2013), the priorities of tax authorities are neutrality, horizontal equality, and integrity and consistency of the system. The opinion of the author of this work is that there is a complication with what the Ministry understands under the term ‘horizontal equity’⁸ and the problem is that the Ministry is only considering the situation of Czech institution within the Czech Republic and not the situation within the international context. Nowadays, assets can mostly be transferred from state to state almost immediately and the ministry should focus more on the horizontal equality within the international context, at least within the European Union, if not more.

2.3.6 How to Fight Negative Perception

As is described later in the section ‘The Position of Czech Trusts on the Market Will Be Tough’, some negative perceptions still exist among people and to fight it, two things have to be done. Firstly, clear rules and proper regulation have to be set, and secondly illegal behaviour has to be condemned swiftly by a court system and punished.

The regulation and rules have to be set in the way to be competitive on an international level and at the same time it has to prevent the misuse of trusts. For example, as Tjeenk Willink (1999, p. 35) writes “separate fund cannot be protected from the overriding domestic laws that protect creditors, spouses and heirs of the settlor.” Clear and transparent legislation might prevent accidental misuse of trusts and consequently avoid many problems as well as negative perception against trusts. If trusts were misused, the response of authorities would have to be swift and the punishment hard enough to discourage others from committing such illegal or immoral behaviour.

⁸ The concept of same tax rates, no matter the profitability or high of an income, for persons operating in same or close positions.

This is the way to fight prejudice about trusts and decrease the negative perception. On the other hand, some help for settlors, trustees, and beneficiaries should be offered to forgo possible future problems, or unconscious illegalities. The author recommends that a committee should be formed which should arbitrate and advise in cases of confusion. The judgement would serve as a kind of precedence which tune the Czech trusts system. As it would be a highly responsible and binding function, the members of the committee would have to be chosen carefully and it is likely that they would require initial specialised training. Diversification of the committee would also be very important since there always exist at least two points of view: the economic, and the juristic. Members from groups of judges, lawyers, economists and analysts should be part of the committee so that they would be able to make well suited decisions and evaluate these decisions. Even though the civil law which we use in the Czech Republic does not use the precedents in its pure version already, some of the precedents are exploited in the Czech Republic too (Tichý, 2013).

2.3.7 Licensing and Official Control

It is not yet decided if there is a need to register trustees or not in the same way it is not decided if a trustee needs any kind of licence. Is it necessary to own a licence in order to be a trustee? If there was a license, who would grant it? These are just two of many questions that should be answered. Not all trustees need to have a licence but on the other hand it should be voluntary to obtain it for all trustees. It is recommended by the author that the group of trustees that are professional trustees, who could be either natural persons or legal persons, should have an obligation to own the licence. The possibility to acquire a voluntary licence could have a positive effect on lowering negative perception towards trusts because it would give the settlor an opportunity to choose between trustees with or without the licence.

Investment companies, lawyers, or others who work as professional trustees should be registered according to the proposal. The grantor of the licences could ideally be the Czech National Bank (CNB) as the general authority in the Czech Republic. The management of the list of trustees would at the same

time allow the control of the trusts with licensed trustees settled in the Czech Republic which might prevent forgery and fraud. There is still a possibility to establish an obligation to save a copy of the notary statute of all trusts in CNB deposits. To establish this obligation is highly recommended by the author. If the CNB had a database of all statutes then it would be easier to control the trust if it served the original purpose. Such control could always be done when the settlor or the beneficiaries of the trust suspect that the trust does not follow its purpose, or on regular basis which would suit more trusts managed by investment companies.

3 Methodology

3.1 Hypotheses and Sub-hypotheses

This thesis is going to answer many questions surrounding Czech trusts. In addition to the already stated hypotheses, several of sub-hypotheses will also be tested. The main hypotheses are 'People in the Czech Republic know the bare minimum about trusts.', 'The position of Czech trusts on the market will be tough.', and 'Properties of trusts that people consider to be important will be their primary concern.'

Probably the most interesting question is if trusts have the potential to attract people to settle trusts and become settlors. The hypothesis is that there is a high potential. Expecting this potential to attract people, the next question could ask 'How can trusts attract people?'

As was previously mentioned, trusts have been re-established in Czech law system after almost 50 years and therefore the general literacy about this 'new' institute is expected to be very low. Nobody can be completely sure about it but there always has to be some room for improvement, consequently a part of this work will attend to finding effective ways to increase literacy about trusts.

Another important question that is going to be answered is 'What are the characteristics that will influence the probability of settling a trust?'. The First hypotheses regarding the subject are that 'Older people are more likely to settle a trust than younger ones'. The logic behind this is that older people are more likely to be wealthy enough and they could also solve any heritage issues utilising a trust. The second hypothesis is that people with higher income will be more likely to think about settling a trust. The third hypothesis states that the probability depends on the value of a property of the household. These two hypotheses are highly correlated but not the same, for example, if the settlor won a lottery or inherited a lot of wealth, the big difference could appear.

Is it necessary to have an opportunity to settle a trust in the Czech Republic when use of foreign legislation is so easy to do within the European Union?

A similar question is if people from the Czech Republic would prefer a Czech or foreign trustee. The hypothesis about it is that the Czechs would use the advantages of having a Czech trustee.

Finally, but in no way the least important, this work will explore the negative perception of trusts by the public. Do people in the Czech Republic support the existence of trusts? Expectation is that Czechs would see more benefits and therefore support the existence of trusts.

3.2 Methods

To find answers for these questions stated above, a suitable data set is needed. This data set will be further empirically analysed. But firstly the analysis of achievable sources has to be done. This analysis will lead to a better understanding of how trusts have been developing over time and what is the position of this institute in the system. Special focus will be given to systems where trusts are traditional. In the end, the findings of this analysis will be used for the determination of recommendations for Czech trusts.

The empirical analysis is a challenging topic because no one before has done study like this in the Czech Republic or at least no study like this is publicly available. It is possible that there are some companies which have already analysed some secondary data to have an opinion about preferences of people. One reason why there is no study like this, with primarily collected data for analysing trusts, was already mentioned above. The only possibility how Czechs could settle a trust used to be settling it abroad, and this has been the usual way since 1964 (Bednaříková, 2012, pp. 72-87). The second most likely reason is that no complete legislature regulating trusts in the Czech Republic is available nowadays and there are only some proposals of such a regulation. The only thing that is quite sure is that it will be possible to set up trusts from the beginning of the year 2014 when the New Civil Code comes into operation. These are exactly the reasons that make this study original and interesting.

As stated before, there are no public studies on the topic and in the same way there is not any useful data for the purpose of this analysis. Therefore a

desirable data set will have to be collected before the estimation of a model will be possible.

After the primary analysis of legal systems, where trusts are taken as traditional institutes, a special questionnaire suitable to gain all desired information about the respondents will be designed. A tailored design method for surveys is going to be used.

The data are going to be analysed and outliers removed from the final dataset. When the dataset will be ready its analysis can begin to verify truth of the hypotheses. Stata software is going to be used for estimation of and ordered logit model which will verify some of the hypotheses.

Finally, all conclusions, suggestions, and recommendations are going to be described and possibly evaluated.

4 Empirical Analysis

This study began with the analysing of publicly available information about trusts, its features and the possibilities that are offered by this institute. This part of the research was not only focused on the Czech Republic but mostly on countries where trusts are traditional, for example in the United Kingdom. At the same time, concern was given to the neighbouring countries of the Czech Republic, countries where Czech trusts could draw inspiration. This analysis was necessary for upcoming determination of the hypotheses and consequently for the determination of questions into the questionnaire. Before the collection of data began, the questionnaire had been tested and modified to see if changes were needed. The questionnaire was designed online in Google documents and was distributed via email, Facebook and Czech online financial news. The Collected data set was then used for the estimation of suggested model. The ordered logit model of cross-sectional data was used for the estimation of the model. Finally, the obtained estimators were interpreted and the hypotheses were tested.

4.1 Data Set

4.1.1 Empirical Background

The collecting and designing of a questionnaire needed to be done precisely to collect as good a data set as possible and therefore a tailored design method for surveys was used. This method is described by Fahy and Jobber (2012, pp. 98-102), and closer description with many useful tips how to design a questionnaire were taken from presentations of Don A. Dillman (2011). Inspiration was also taken from some outputs of surveys made by Ernst & Young (2011) and other consulting firms.

The used data set was primarily collected for estimation of the econometric model which is going to be described further and used for testing the hypotheses. The survey was done in a similar fashion to an online

questionnaire where respondents were contacted via email, Facebook, in articles in the Czech online news about finance and banking, Měšec.cz (Jelínek, 2013a) and Finančníweb.cz (Jelínek, 2013b). This approach was chosen because online questionnaires allow contacting a wide range of people from the whole of the Czech Republic in a short period of time. There are also advantages of the low costs of online surveys or automatic saving of all received responses into Excel file that allows easy handling of the data and its transformation into Stata and graphs. Another advantage of this kind of survey is that respondents are usually more likely to fill in correct responses because of anonymity and therefore the interviewer bias is much lower than it is in other types of survey methods, like the face to face method or the telephone method. Consequently, more sensitive questions can be used which is important especially in questions asking about welfare or salary. On the other hand, advantages of online survey have to be compared with low response rate and low possibility to experimental control (Fahy & Jobber, 2012, pp. 98-100).

4.1.2 Questionnaire Creation

When all pros and cons of different methods of surveys were taken into account, the online survey was chosen as the most suitable. The questionnaire was developed in three stages: Planning, Design, and Pilot stage (Fahy & Jobber, 2012, pp. 98-102).

The planning stage was used to analyse the situation of trusts regulations in the Czech Republic and trusts as traditional institutes abroad. Both, academic sources as well as business sources were being explored. When all desirable information was gathered, the survey method was chosen and draft of the econometric model was prepared.

The second stage was concerned with the designing of a questionnaire draft. The main focus of this stage was given as the ordering of topics, choosing the right types of questions, precise descriptions of adequate questions and the completion of a draft. Special attention was given to the tailored design method for surveys and the practices which it used. The advice of Mr Don A. Dillman (2011) on how to prepare a successful survey was also taken into account.

When the second stage ended, the complete questionnaire draft was prepared for the third stage, the Pilot stage. Ten friends and family members with varying backgrounds, ages, and work experience tested the first version of the questionnaire. This testing showed a couple of misunderstandings that had to be adjusted to be fully understandable to all respondents. The biggest modification had to be done in the description of a basic concept of trusts because it was found that basic information which was part of the draft was not sufficient and at the same time it could influence the answers of respondents. A solution for this problem was a supporting text with more information and examples of the possible usage of trusts. This was added into the introduction of the questionnaire like a link and therefore it was only compulsory to read it. The form of the link was chosen because it did not prolong the questionnaire inadequately. As you can see in Appendix II this complementary text is about three A4 pages long. After implementing all of the modifications, the questionnaire was ready to be published.

One day after publishing, one small modification was made. It was clear that for some respondents it was necessary to know that this survey is a student's survey and consequently is linked to a university information system where my bachelor topic is listed. This was considered to be sufficient as proof that it is a student's work and the final version of the online questionnaire was completed. You can see the text of mail in Appendix III and the final version of the questionnaire in Appendix IV.

4.1.3 Data Collection

Finally, 280 responses were received which is equal to response rate of approximately 3 %. This confirms the theory of low response rates in online surveys (Fahy & Jobber, 2012, p. 100). The response rate was even lower because there were no rewards for filling out the questionnaire, as Dillman (2011) suggests. In Appendix VI: Other Statistics there are statistics about the article in Měšec.cz and Investičníweb.cz. Despite the use of different channels, there is still a limitation of online surveys that respondents have to have an internet connection for and have to be able to use a computer. This is predominantly a problem found with older people, people with lower level of

education and people that work manually. Selection bias in this data set is a more serious problem when it is caused by low computer literacy or a lack of an internet connection because these are usual problems of older people and only 18 % of Czech pensioners use a computer with internet and this is only 6 % in a category of people over 75 years old (CZSO, 2010). These pensioners could use trusts to tackle with heritage issues or as a support for any kind of charity. On the other hand, this bias is not such a big problem when we consider manual workers or unemployed people because these groups probably will not have enough money for setting up a trust.

4.1.4 Data Description

Since almost all questions were required to be answered in the questionnaire there is no problem with missing values. The only exception was a question asking the salary of a respondent. Due to the unwillingness of some respondents to answer this, standard problematic question (Dillman, 2011), 27 respondents had to be deleted from the final data set which is used for the estimation of the model.

4.1.4.1 Summary Statistics

From the final 253 observations, 39 % were females (Appendix V – Graph 1), respondents were from the whole Czech Republic (Appendix V – Graph 3), only two pensioners and one unemployed person responded (Appendix V – Graph 4), and no response was obtained from people with lower than high school education (Appendix V – Graph 5). Focusing on the welfare of respondents, it is seen in Graph 23 from Appendix V that respondents are from all categories concerning the value of assets. Graph 9 shows how respondents evaluate their knowledge regarding trusts. The minimum salary is 500 CZK, maximum is 1 000 000 CZK, median is 30 000 CZK and the average salary is 48 212 CZK. Many questions were asked of the strength of the respondent's opinion where the scale was transformed to numbers -2, -1, 0, 1, or 2.

4.1.4.2 Aspects of Primary Interest

Responses for a question ‘Which aspects would be of your primary interest while deciding to set up a trust?’ suggest the best combination of features of trusts which would increase first glance attractive of trusts to clients. Therefore these aspects should be communicated with potential settlors first due to this being the most efficient way to attract them. Following the summary of the Graph 12 from Appendix V:

The best combination of objectives for trusts which will attract a maximum of people are trusts securing relatives or close relations to a settlor, trusts securing a smooth processing of heritage and trusts securing investment activities. On the opposite side are objectives such as securing publically useful activity and the establishing of a trust for operating a legal person.

The most attractive features of trusts are tax optimisation and their security. Moderate attractiveness appeal features like a tact, possibility to modify the purpose of a trust, a variety of purpose determination of trusts and the willingness of trustees owning a license. The output of the questionnaire shows that the possibilities to hide the identity of either a settlor or a beneficiary are attractive only for 8 % and 3 % of respondents.

For many people costs are of primary interest. Therefore the communication of costs could be a very effective marketing instrument. Slightly more important are operating costs than establishing costs. 32 % of respondents would be focused on the operating cost during primal consideration of setting up a trust and 26 % would be focused on the cost of establishment.

Once again, keep in mind that these results may be interpreted only like factors affecting the primary interest of potential settlors.

4.1.4.3 Information Channels

The statistic from Appendix V – Graph 10, shows the best possibilities how to inform and approach people. The best information channels are websites aimed at financial topics, 74 % of respondents would look for information there. 41 % of respondents, which is still a significant group, would search through

law websites. In terms of searching for information some people would also like to compare different products using some kind of comparing engine. This research also shows that trusts will bring new possibilities to financial advisors and lawyers to approach clients.

But then information channels, such as friends, relatives, social networks, or notaries would not be selected like an information source by more than 8 % of respondents. Even less only 6 % of respondents would visit a bank affiliate to find out information about trusts.

4.2 Econometric Model

4.2.1 Empirical Background

An important source of information especially about econometric models, tests, and features of regression was found in Jeffrey Wooldridge's textbook 'Introductory Econometrics' (2009), and online materials called Stata Data Analysis Examples Ordered Logistic Regression (IDRE, n.d.).

Ordered logit model was used for purposes of this research. This model was chosen because the dependent variable *Interest* has five possible answers. The set of these answers consists of: 'definitely no', 'rather no', 'unsure', 'rather yes', and 'definitely yes' (or alternatively: 2, 1, 0, -1, or -2). These are answers to a question asking for future interest to set up a trust. The ordered logit model finds a probability that people will be interested in the settlement of trusts. At the same time this model allows factors which influence the probability positively and which influence it negatively to be displayed. Consequently the model should find areas for focusing on any type of campaign that would like to increase or reduce people's interest in settling their trust.

When an ordered logit model is used proportional odds assumption or as it is sometimes called 'the parallel regression assumption', should be tested. The Brant test or similar tests may be used to test this assumption. Unfortunately these tests are not a standard part of Stata software and therefore they were not used. An assumption for this paper is that the mentioned assumption holds (IDRE, n.d.).

4.2.2 Estimated Model

The model which is going to be estimated by a maximum likelihood estimation method is:

Equation 1: Econometric model

$$\begin{aligned}
 Interest = & \beta_1 female + \beta_2 childYES + \beta_3 competition + \beta_4 income + \beta_5 literacy \\
 & + \delta_1 A18..24 + \delta_2 A25..34 + \delta_3 A35..54 + \delta_4 A55..64 + \delta_5 A65..74 \\
 & + \delta_6 A75.. + \alpha_1 employer + \alpha_2 employeePu + \alpha_3 employeePr \\
 & + \alpha_4 selfemployed + \alpha_5 student + \alpha_6 pensioner \\
 & + \alpha_7 unemployed + \gamma_1 P10000 + \gamma_2 P7500 + \gamma_3 P3750 + \gamma_4 P1250 \\
 & + \gamma_5 P500
 \end{aligned}$$

Source: Author.

where *female* is a binary variable (1 for female and 0 for man), *childYES* is also a binary variable (1 if respondents have at least one child and 0 for no children), *competition* measures a respondent's preference to another financial product in comparison with trusts, *income* measures respondent's net income (salary, dividends, and other types of income) per month, *literacy* measures how much a respondent knows about trusts, according to his opinion, the scale here is from 1 till 10 (1 = 0 % and 10 = 100 %), and the rest of variables form three sets of binary variables. The first set with δ -coefficients where variables are marked as A(lower margin .. upper margin) and give us evidence about fitting into a specific age group and consequently the approximate age of a respondent. As will be described later there are no respondents younger than 18 and therefore this variable is not in the model, and there are also no respondents older than 74 in the data set and consequently variable A75.. will be omitted for collinearity but it is not a problem because there are no responses for this group in the dataset anyway. The second set of binary variables with α -coefficients gives evidence about the working group to which a respondent fits in. *employer* marks a person who owns a business with at least one employee, *employeePu* marks an employee in a public sector, *employeePr* marks an employee in a private sector, variables as *selfemployed*, *student*, *pensioner*, and *unemployed* are self-explanatory. Lastly mentioned variable, *unemployed*, is going to be omitted from the estimation because of

collinearity but again it is not problematic because there are only 2 respondents from this group in the data set. The last set measures the value of property that a respondent owns. This cannot be considered to be 100 % correct because this is measured only according to a respondent's opinion. Variable *P500* marks property less than 1 000 000 CZK, *P1250* marks respondents with property between 1 000 000 and 2 500 000 CZK, *P3750* marks group 2 500 000 – 5 000 000 CZK, *P7500* marks group 5 000 000 – 10 000 000 CZK, and *P10000* marks property over 10 000 000 CZK. Variable *P500* will be omitted because of collinearity. This variable was chosen because trusts are mostly for wealthy people.

Variable *female* is included into the model because males and females usually have different attitudes, for example, towards risk. Males are usually considered to be risk takers whereas females are more risk averse and since a trust can notably lower risks, it is expected that the variable *female* should have a positive effect.

Two main purposes of trusts are to secure family members or some close people to the settlor, and to transfer part of the property of the settlor. This transfer can be from settlor to its children, to grandsons, or granddaughters, or to other blood-unrelated people. Therefore the variable *childYES* gives important information. But it is rather difficult to guess what the effect will be because trusts can also be used for purposes of investments, administration of artificial person, tax optimisation, and so on.

There are many others institutes that can partly be used, for purposes that trusts are designed for. For example, the transfer of property can be done through heritage, and a foundation can be used for the securing of public activities. Also as a totally new institute in Czech legal system many people could possibly have issues with confidence towards trusts. For these reasons variable *competition* is expected to have a negative effect.

As is already written above that to set up and maintain a trust is quite expensive and therefore it is expected that it will be more interesting for people on a higher income. The effect of *income* is expected to be positive.

Brand new institute trusts are not well known in the Czech Republic and things that are unknown are connected with a level of uncertainty. This effect is even stronger if it is connected to money because people are more averse towards risk taking when faced with the question of money. Therefore it is expected that a higher knowledge of trusts and its possibilities will increase interest to a potential settlor.

Different age groups have generally different interests and therefore this set is also included in the model. It is expected that older people will be more interested in the trusts but again it is hard to anticipate the effects because of different possibilities in how a trust is used.

A set of binary variables that determine the employment relationship is included because it is believed that people from different positions have different levels of experience and attitudes. This set is probably highly correlated with variable *income*, set for age, and set for property but it is not a perfect linear combination.

To include a measure of property is important because again it is believed that people with a higher level of property should be more interested in the trusts and also the setting up of a trust is connected with the exclusion of part of a property owned by a settlor. After that, the settlor will lose his or her possibility to operate with the excluded part of property. Consequently the settlor needs some additional property that will 'nurture' him or her after the foundation of trust. In addition, a high level of property can also be gained by other factors not related to salary, for example by heritage, winning a lottery and so on. It is the reason why the variables *income* and *P...* do not have to be perfect linear combination. It is expected that a higher level of property will increase the probability of interest into trusts and its foundation. On the other hand, a low level of property is expected to have a negative effect.

4.2.3 Empirical Results

Using ordered logit model the estimated model is:

Table 2: Ordered logit model

interest	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
female	.2238633	.2639136	0.85	0.396	-.2933979	.7411245
childYES	-.3269156	.3895753	-0.84	0.401	-1.090469	.4366379
competition	-1.543294	.200813	-7.69	0.000	-1.936881	-1.149708
income	1.83e-06	1.39e-06	1.32	0.187	-8.87e-07	4.55e-06
literacy	.1503476	.0729681	2.06	0.039	-.0073328	.2933624
A18_24	.1726287	1.608382	0.11	0.915	-2.979743	3.325
A25_34	-.0496926	1.422366	-0.03	0.972	-2.837478	2.738093
A35_54	-.0694457	1.373571	-0.05	0.960	-2.761596	2.622704
A55_64	-.6899476	1.407513	-0.49	0.624	-3.448622	2.068726
A65_74	0	omitted because of collinearity				
employer	-.0907885	1.701903	-0.05	0.957	-3.426457	3.24488
employeePu	-1.151249	1.7455	-0.66	0.510	-4.572366	2.269867
employeePr	-.9601961	1.675252	-0.57	0.567	-4.243629	2.323237
selfemployed	-1.420581	1.702624	-0.83	0.404	-4.757664	1.916501
student	-1.579865	1.807991	-0.87	0.382	-5.123462	1.963731
pensioner	-.5779865	2.059937	-0.28	0.779	-4.615386	3.459419
P10000	-.3047259	.5877739	-0.52	0.604	-1.456752	.8472797
P7500	.2331762	.367468	0.63	0.526	-.4870478	.9534002
P3750	.5000953	.4548743	1.10	0.272	-.3914419	1.391632
P1250	-.2368625	.3594717	-0.66	0.510	-.9414141	.4676892
/cut1	-4.581183	2.24212			-8.975658	-.1867083
/cut2	-2.137559	2.211764			-6.472537	2.197419
/cut3	-.0453825	2.20881			-4.37457	4.283805
/cut4	2.615827	2.232597			-1.759983	6.991637

Source: Author's calculations in Stata software

All coefficients are different from zero because “Prob > Chi2 = 0.000” which means that the model is alright according to ‘Getting Started in Logit and Ordered Logit Regression’ (Torres-Reyna). Looking at “Pseudo R2” we see that this model should describe almost 13 % of reality which is not so much but for ordered logit model it is not bad, especially if the method of collecting data

(lower response rate...), and the minimal general knowledge (See Appendix V – Graph 9) are taken into account.

Unfortunately, it is also seen that by looking at " $P > |z|$ " almost no variable is significant. After testing the joint significance of all three sets of binary variables we can be sure that these sets are not jointly significant at any reasonable level too.

The only significant variables at 5 % level of significance are *competition*, and *literacy*. The effect of higher preferences of other types of institutes is negative, and the effect of a better knowledge about trusts is positive. Both these effects were expected and so the explanation can be found in chapter 'Estimated Model'. To describe the strength of these effects odds ratios are needed.

Table 3: Ordered logit model, odds ratios

interest	Coef.	Std. Err.	z	P> z	[95% Conf. Interval]	
female	1.2509	.3301295	0.85	0.396	-.2933979	.7411245
childYES	.7211446	.2809401	-0.84	0.401	-1.090469	.4366379
competition	.213676	.0429089	-7.69	0.000	-1.936881	-1.149708
income	1.000002	1.39e-06	1.32	0.187	-8.87e-07	4.55e-06
literacy	1.162238	.0848063	2.06	0.039	-.0073328	.2933624
A18_24	1.188425	1.911441	0.11	0.915	-2.979743	3.325
A25_34	.9515219	1.353412	-0.03	0.972	-2.837478	2.738093
A35_54	.9329108	1.281419	-0.05	0.960	-2.761596	2.622704
A55_64	.5016023	.7060116	-0.49	0.624	-3.448622	2.068726
A65_74	1 omitted because of collinearity					
employer	.9132108	1.554196	-0.05	0.957	-3.426457	3.24488
employeePu	.3162414	.5519993	-0.66	0.510	-4.572366	2.269867
employeePr	.3828178	.6413161	-0.57	0.567	-4.243629	2.323237
selfemployed	.2415736	.4113091	-0.83	0.404	-4.757664	1.916501
student	.2060029	.3724512	-0.87	0.382	-5.123462	1.963731
pensioner	.5610286	1.155684	-0.28	0.779	-4.615386	3.459419
P10000	.7373181	.4333763	-0.52	0.604	-1.456752	.8472797
P7500	1.262604	.4639665	0.63	0.526	-.4870478	.9534002
P3750	1.648878	.7500324	1.10	0.272	-.3914419	1.391632
P1250	.7890998	.2836591	-0.66	0.510	-.9414141	.4676892
/cut1	-4.581183	2.24212			-8.975658	-.1867083
/cut2	-2.137559	2.211764			-6.472537	2.197419
/cut3	-.0453825	2.20881			-4.37457	4.283805
/cut4	2.615827	2.232597			-1.759983	6.991637

Source: Author's calculations in Stata software

Holding other variables fixed an increase by one level (on the five levels scale: 'definitely no', 'rather no', 'unsure', 'rather yes', and 'definitely yes') of preferences towards other institutes would lower the probability of trust foundation by approximately 78 %. On the other hand, the increase in knowledge of how the trust works by one level (on the scale from 1 till 10) holding other variables fixed would increase the probability of trust foundation by slightly more than 16 %.

4.2.4 Conclusion of the Estimation

The estimated model about trust in the Czech Republic was highly affected by the fact that it is a totally new topic and the general knowledge surrounding it is minimal (Appendix V – Graph 9). This said, some really interesting findings were brought into being.

Unfortunately, since many estimations of independent variables were statistically insignificant at any reasonable level, there is no clear evidence that could verify the accuracy of the hypotheses ‘Older people are rather going to settle a trust than younger ones.’, ‘People with higher income will more likely think about settling a trust.’, and ‘The probability of settlement a trust depends on value of household’s property.’

However, as was expected, different products that compete on the same market as trusts will have a negative effect on trusts. This effect is really strong and the willingness to think about foundation of trust lowered by 78 % when the preference of concurrent products increased by 1 on 5-levels scale. That means that when concurrence increases attractiveness of its products in ‘customer’s eyes’ by two levels, then the probability of the foundation of a trust at the same time is going to be zero. Therefore it is now crucial to finish the Czech legal framework carefully to give a chance to the use of trusts in the Czech Republic. After the 1st of January, 2014, when the first Czech trusts can be found, people who will be interested in making business with trusts (trustees, lawyers, investment companies...) and they will have to be very careful about the concurrence.

The second finding is that people or companies that want to make successful business from trusts can significantly increase its chances to succeed by improving trust literacy. It is also not so surprising that it was considered the minimal level of general knowledge about trusts in the Czech Republic.

4.3 Hypotheses Testing

4.3.1 People in the Czech Republic Know the Bare Minimum about Trusts

The complexity of the questionnaire allows the making of more conclusions according to perception of respondents than the previous econometric analysis.⁹

Since the very beginning, when the questionnaire was being tested, it was almost sure that the literacy about trusts in the Czech Republic was very low and therefore supportive text, see Appendix II, was added. Then focused once more on the Appendix V – Graph 9, clear evidence that literacy about trusts was minimal was found because 60 % of respondents evaluated their knowledge of trusts to be 1 or 2. Altogether it is clear that the expectation about very low general literacy among Czechs was correct.

Even more interesting is an intersection of this group together with the value of their property. Concerning only respondents with property valuing over 10 000 000 CZK 11 % of respondents had absolutely no prior knowledge of the existence of trusts. Particularly this group may be interested in establishing a trust due to the high probability of owning excess properties. There is also clear evidence that most of the respondents have not heard about trusts during the last 12 months as you can see Appendix V – Graph 11. This again supports the idea that there is low literacy regarding possibilities offered by trusts due to lack of information instead of refusing this institute and it also confirms previously stated hypothesis that 'People in the Czech Republic know the bare minimum about trusts.'

⁹ On a scale from 1 to 10, where 1 = 0 % and 10 = 100 % knowledge about trusts.

4.3.2 The Position of Czech Trusts on the Market Will Be Tough

The establishment of trusts within the Czech legal system will enable its possibilities to be utilised easily, some of which are entirely new in the Czech Republic, such as tackling a heritage, managing a legal person, estate planning and optimising a tax burden, and many others. Since considerable changes has to be made in this field in all countries of the European Union due to the AIFMD directive, the possibility in settling funds like trusts will clear the way to fulfil the vision of making a fund centre in the Czech Republic (CRFF, 2011). At this point, only 5 % of respondents do not see any possibility in settling a trust interesting enough a proposition to consider it later on. (Appendix V – Graph 24c) Altogether this demonstrates the sub-hypothesis that Czech trusts have a high potential for success.

The collected data set suggests a strong evidence of preferring Czech trustees over foreign ones. 87 % of all respondents would rather choose a Czech trustee as can be seen in the Appendix V – Graph 15. This evidence is in full conformity with the hypothesis ‘Czechs would use the advantages of having a Czech trustee.’

On the other hand many people perceive trusts negatively. 11 % of respondents do not agree with the existence of trusts in the Czech Republic due to worries about the abusing of this institute for illegal purposes (Appendix V – Graph 21) Then 47 %, respectively 36 %, of respondents do not agree with possibility to hide an identity of settlors and beneficiaries respectively (Appendix V – Graphs 24a & 24b). Also 45 % out of 46 readers of the article about trusts published by Měšec.cz (Jelínek, 2013a) think that trusts are good only for money laundering (Appendix VI – Statistics 1).

There are some negative perceptions about trusts but then again only 28 % will not be interested in trusts according to the questionnaire (Appendix V – Graph 24c). The interest of people can also be shown on the statistics of the articles that have been read by more than 1600 readers, 485 respectively. (Appendix VI – Graphs 1 & 2). So it is highly probable that the majority of Czech

people will see more trusts benefit and therefore support existence of trusts in conformity with one sub-hypothesis.

Moreover, as was estimated in the model, the concurrence of trusts plays a very significant role and even small increases of competitive pressure would decrease dramatically the willingness to settle a trust.

Even if Czech trustees are preferred in comparison with foreign ones, and trusts will bring new possibilities and benefits, there still remains some negative consideration about a number of factors around trusts and in addition one of the previous findings describes very strong negative correlation with competitive forces of trusts. Considering all these facts, the suggested hypothesis 'The position of Czech trusts on the market will be tough' has to be true.

4.3.3 Properties of Trusts That People Consider to Important and Primary

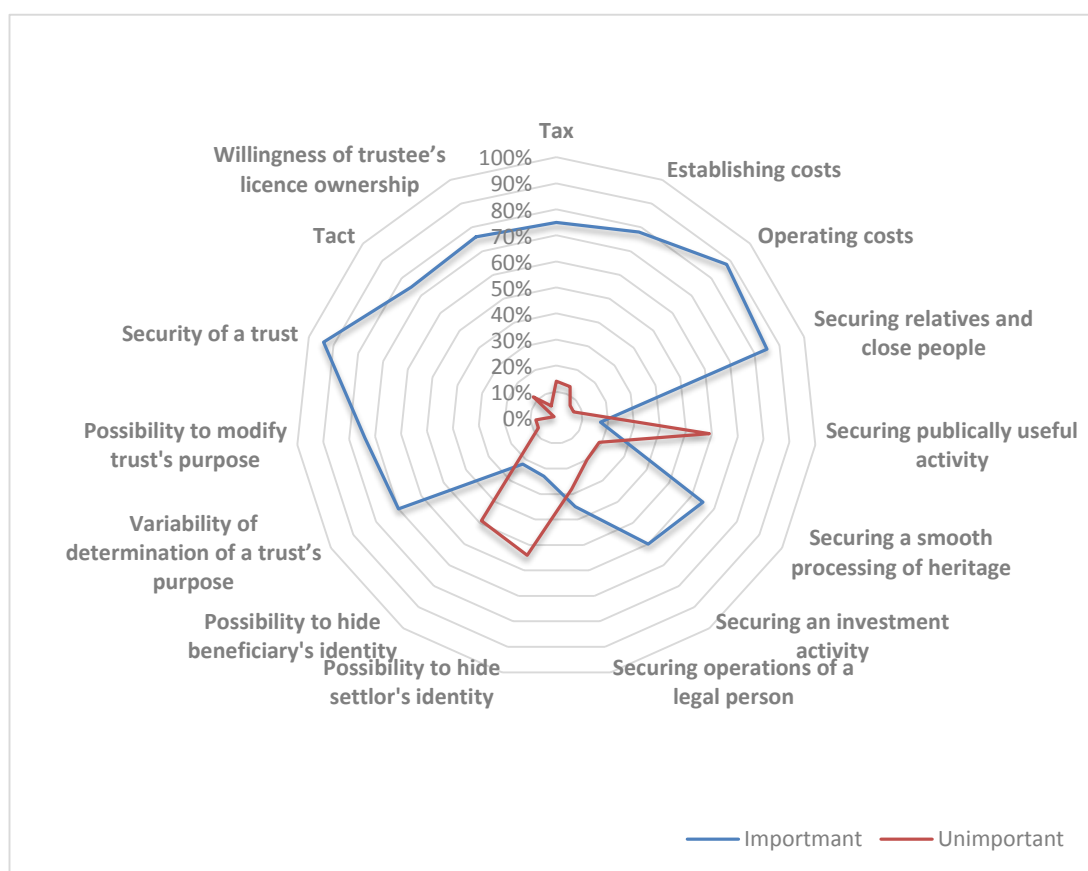
Normal trusts usually combine already mentioned aspects, in chapter 'Aspects of Primary Interest', therefore respondents were asked to evaluate every single aspect on the five levels scale. The form of these questions were 'How important would the upcoming feature and its regulation be for you?' and the possible answers were found to be 'essential', 'rather important', 'I don't know', 'rather unimportant', and 'absolutely unimportant'. Being focused on the importance of every single aspect the results look different compared with the aspects of primary interest, where the results have already been described. Following the summary of the Graphs 16a till 16p from Appendix V the upcoming findings were discovered.

A low tax rate is of high importance for the settlors because it was important for 75 % of the respondents. This result is in accordance with previous results where 34 % of respondents marked tax optimisation as a primal interest while considering the foundation of a trust.

78 % of the respondents consider the amount of establishing costs to be important; however, only 34 % of the total consider it essential. Even more,

88 %, of the respondents consider operating costs important and what is more, 48 % of all consider the operating costs to be essential.

Figure 5: Importance of aspects around trusts



Source: Author, according to results of the questionnaire.

The possibility to secure relatives or close people of a settlor seems to be the most essential features since 85 % of respondents consider it to be important. Similarly securing a smooth processing of heritage is important for 65 % of respondents but only 21 % of all respondents consider it to be essential. On the other hand, securing publically useful activity nearly attracted no response whatsoever and this feature is important only for 17 % of respondents compared with 59 % of whom considered these activities to be unimportant.

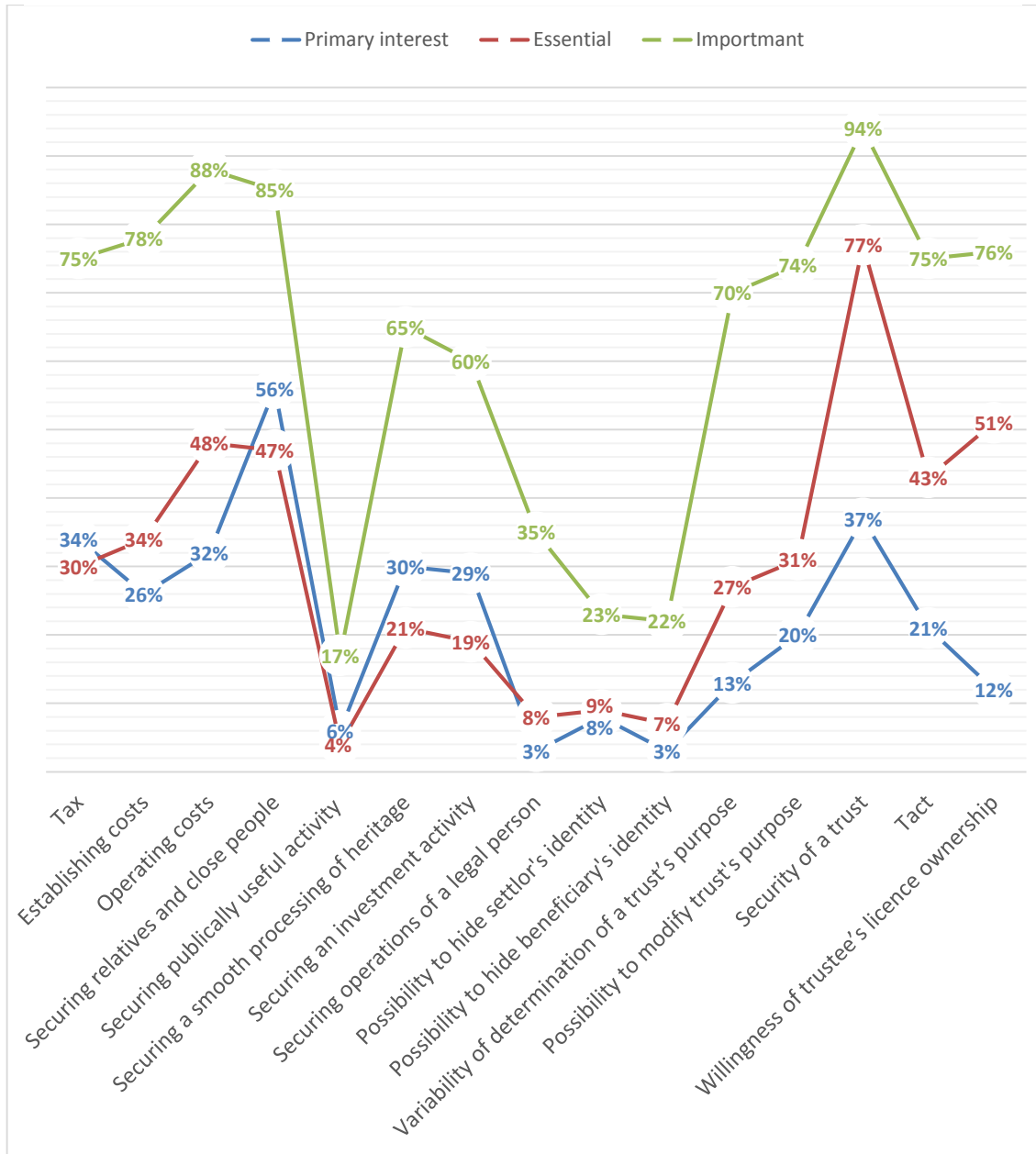
Quite surprising is the finding that the usage of trusts securing investment activities attracted 60 % of respondents. But then the general opinion on a possibility to establish a trust for operating a legal person seems to be split about half and half.

Another interesting findings was found when statistics about the possibilities to hide an identity of settlor and beneficiaries were analysed. Only 23 % of respondents answered that the possibility to hide their identity like a settlor of their trust would be an interesting prospect. 22 % of respondents were interested in hiding the identity of a beneficiary. These findings also mean that the majority of people would rather share or are indifferent in sharing more information than needed. But this can only be respondent bias due to the consideration of the amorality of exploiting these possibilities.

Evidence about the importance of width variety of adjustment a trust to needs of settlors was found. In the same way respondents would like to change the main purpose of the trust unfortunately this can be done only in a court. The conditions are terminated in § 1469 which can be seen in Appendix I.

According to the data set, people care a lot about the ensuring of their investments. Significant evidence about an importance of the security of trusts, a tact, and official licence of a trustee was found. Not surprisingly, there is also significant evidence that people would care a lot about a possibility to control all actions of the trustee.

Figure 6: Comparison of primary interest with importance



Source: Author, according to results of the questionnaire.

Comparing aspects that respondents have chosen to be their primary interest with statistics about considerations of importance of these aspects comes with an interesting conclusion. Huge differences were found between aspects of primary interest and considerations of essentiality of the same aspects correlation between these two measures is only 0.76. Moreover, when replacing the second measure, consideration of essentiality, by wider measure, the sum responses 'essential' and 'rather important', even lower coefficient of correlation, 0.64, is the result. Consequently, a couple of aspects that many

respondents consider to be important or even essential were not of their primary interest. For example, the willingness of a trustee's licence ownership is essential for 51 %, and important for 76 %, of respondents but only 12 % of respondents consider it to be of their primary interest. This contradicts the hypothesis 'Properties of trusts that people consider to be important will be their primary concern.'

4.4 Summary of Results

The hypothesis 'People in the Czech Republic know the bare minimum about trusts.' were found out to be true but it is not so surprising that trusts had not been part of Czech or Czechoslovak legislation for many years. Also, it must be taken into account the fact that the survey was done almost 12 months before the civil code will come to operation.

In addition to this, the hypothesis 'The position of Czech trusts on the market will be tough.' ascertained to be right as well as all three sub-hypotheses which are 'Czech trusts harbour high potential.', 'Czechs would use the advantages of having a Czech Trustee.', and 'Czechs see more benefits and therefore support existence of trusts.' These three sub-hypotheses reflect the high potential of trusts. Quite probably, the flexibility of trusts and revolutionary approach of giving property its purpose without owning it could stay, among others, behind assigning high potential to trusts. Statistics also clearly pointed out a higher interest in the idea of Czech trustees against foreign ones. This could be taken like an important signal for people considering entering this business because undoubtedly there will be many opportunities among trusts. The opportunity may arise on an international level too if supportive legislature is set suitably. Although some people doubt about and have negative perceptions about trusts, the general opinion of respondents supports the existence of trusts because it brings more benefits than negatives. The new institute Czech trust will have to find its position, confidence of settlors, and tackle with some negative perception but most signals suggest high probability of successful implementation of trusts in the Czech Republic.

Considerable differences were found in perception of respondents of what is important and what is attractive. Although many aspects were marked as

aspects of primary interest the perceived essentiality and importance of same aspects suggested different results. Therefore the hypothesis 'Properties of trusts that people consider to be important will be their primary interest.' had to be rejected.

The remaining sub-hypotheses 'Older people are rather going to settle a trust than younger ones.', 'People with higher income will more likely think about settling a trust', and 'Probability of willingness to settle a trust depends on the value of household's property' could not be proven nor rejected due to insignificant results of the estimated model.

4.5 Further Research Opportunities

This pioneering survey could be improved by collecting a better data set. The author recommends repeating this survey later when general literacy about trusts and its possibilities increases. A less complex questionnaire might be used and more responses collected. The upcoming analysis might be expanded also in neighbouring countries like Germany, Poland, Slovakia, and Austria or perhaps in the whole European Union. A different method might be used if there is a sufficient database of already settled trusts under Czech regulations.

5 Conclusion

To conclude, the aim of this work was to summarize the quickly emerging situation around the establishment of trusts into the Czech legal system. The novelty of trusts in the New Civil Code brings the importance to the topic. This thesis described the domestic as well as the international background of the trusts. It then defined the complete system of trusts for the Czech Republic including detailed descriptions of single powers and duties between settlors, trustees, beneficiaries, and authorities. The importance of suitable finalization of complementary regulations as the only way of utilisation possibilities of such a flexibility institution as trust has to be pointed out. The perception of the Czech people towards the new possibility to settle a trust was analysed through a survey and finally several findings were obtained by analysing the collected dataset.

Summarising the information from countries where trust-like institutions are well established, together with results of the survey, and the latest information about the process of establishment of trusts in the Czech Republic, recommendations for improvement were made. It was recommended to follow the English example because it is the oldest and most well-established system which faces the same directives of the European Union, just as the Czech system. Forming of a special diversified committee to arbitrate confusions in advance during the first couple of years is the next recommendation. In this way it should be possible to avoid future lawsuits and clear the way for trusts, since judgements of the committee would serve as precedents. Another recommendation is to establish an obligation to own a licence for professional trustees and with this a possibility to acquire it for the rest of them. The licences should be granted by the Czech National Bank which might also keep a list of notary statutes of all Czech trusts. The description of complete functional system was not possible yet because the complementary legislation is not complete. However, it is certain that setting of tax rates and regulations protecting the right of third parties will be of high importance and possibly determine if the Czech trusts have competitive advantage.

A tailored designed questionnaire was used to collect the primary dataset which was used for characterisation of attitudes and perception of trusts, and testing of hypotheses. Not surprisingly, the hypothesis 'People in the Czech Republic know the bare minimum about trusts.' showed to be right but at the same time the econometrical analysis, where ordered logit model was used, pointed out that the level of people's interest in settling of a trust could rise significantly by increasing the literacy about trusts. Secondly, the hypothesis 'The position of Czech trusts on the market will be tough' was also verified to be true mostly because the estimation of the model showed that competitive instruments have the power to eliminate trusts. Also, evidence on some negative perception, concerning trusts to be misused for illegal and immoral purposes was found. Surprisingly the last hypothesis 'Properties of trusts that people consider to be important will be their primary concern.' was not conformed due to significant differences between important factors and factors of the primary concern. These findings were significant but some others were insignificant which could be better if a better dataset is to be collected.

Thousands of people exhibited the interest to find out some information about trusts while this thesis was being developed and many of them expressed their interest to find out more. This is very strong evidence about how interesting this field is. Future research may lead to a repetition of the survey after the New Civil Code enters in force, or it might be focused on comparative study of trust-like institutions in different countries.

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Appendix

Appendix II, III, IV, V, and VI are in Czech because the survey was focused on the Czech Republic therefore the native language, Czech, was used.

Appendix I: Translation of Selected Parts of the New Civil Law

Chapter 4

The trust

Subsection 1

The term “trust” and its creation

§ 1448

(1) A trust is created when the trust creator, the settlor, transfers a part of his property from his ownership into the safekeeping of a trustee for a certain purpose defined by an agreement or for the event of the settlor’s death and when the trustee undertakes to hold and administer this property.

(2) With the creation of a trust separate and independent ownership of the transferred property is created and the trustee is obliged to hold this property and to administer it.

(3) In his own name, the trustee exercises the rights to this property for the account of the trust; the property in the trust does neither constitute the property of the trustee nor of the settlor, not of the person who is to be the beneficiary of the trust.

§ 1449

(1) The objective of the trust may be in the public interest or it may be private.

(2) A trust established for a private objective is to benefit a certain person or the memory of a person. Such a trust may also be established for the purpose of investing in order to earn profits to be divided among the settlors, employees, shareholders or other persons.

(3) The earning of profit or the operation of a business may not be the main objective of a trust established in the public interest.

§ 1450

(1) A trust must have its own designation.

(2) The designation of a trust has to express its objective and has to contain the word "trust".

§ 1451

(4) A trust comes into existence when the trustee accepts the entrustment with the administration of the trust; should there be more than one trustee, it is sufficient if at least one of them accepts this entrustment. Should the trust have been created for the event of the settlor's death, it comes into existence upon the death of the testator.

§1452

(1) A trust must have its own statute. The statute of the trust is issued by the settlor. Should the trust have been created for the event of the settlor's death, § 311 shall be used appropriately.

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- (2) The statute of the trust shall at least contain
- a. the designation of the trust
 - b. the definition of the property which forms the trust on its inception
 - c. the delineation of the objectives of the trust
 - d. rules for any disbursement from the trust
 - e. specifications on the duration of the trust; if this is not provided, then it is assumed that the trust was established for an indefinite time
 - f. if a certain person is to be the beneficiary of the trust, the designation of that person or the definition of the method of determination of the beneficiary.
- (3) The statute of the trust shall be in the form of a public deed.

Subsection 2

Administration of the trust

§1453

- (1) Any legally competent person may be a trustee of the trust.
- (2) A legal entity may be a trustee if provided for by the law.

§ 1454

Under the conditions stipulated in § 1453, the settlor or the beneficiary of this trust may be the trustee of the trust. In such a case, however, the trust has to have another trustee who has to be a third person and the trustees have to act jointly.

§ 1455

(1) The settlor appoints and recalls the trustee. In the trust statute, the settlor may designate another method for the appointment or the recall of the trustees.

(2) Upon the proposal of persons with a legal interest the trustee may be appointed by a court, should the person authorized to name the trustee not do so in a timely manner or if an authorized person cannot be designated according to paragraph 1.

§ 1456

The trustee is entitled to the full administration of the property in the trust. The trustee is to be entered into the public record as the owner of the property in the trust with the note "trustee."

Subsection 3

The Beneficiary

(1) The settlor may name the beneficiary and designate his fulfillment from the trust, unless the statute provides otherwise.

(2) Should the settlor not exercise his rights according to paragraph 1 of this subsection, the trustee shall name the beneficiary and designate the beneficiary's fulfillment from the trust. If the trust has been established for private purposes, the trustee may exercise this right if the statute designates a group of persons from which the beneficiary is to be selected.

(3) The beneficiary may be given the right to the fruits or the benefits emanating from the trust or he may be given the ownership rights to the property which makes up the trust, or a share thereof.

§ 1458

(1) The person authorised to designate the beneficiary or to determine the fulfilment of the beneficiary from the trust acts according to the statute and at his own discretion. He may alter or rescind on his decision under the conditions stated in the statute of the trust.

(2) No person shall be entitled to name a beneficiary or to determine the beneficiary's fulfilment from the trust for his own personal gain.

§ 1459

The right of the beneficiary to fulfilment from the trust emanates under the conditions stipulated by the statute.

§ 1460

(1) If the trust was created for private objectives the right of the beneficiary to the fulfilment shall emanate 100 years after the creation of the trust at the latest, even if the statute designates a later date. Even after 100 years after the inception of the trust the rights to fulfilment from the trust may arise for the beneficiary who according to the statute is entitled to a share of the property at the latest at the extinction of the last right to the fruits or benefits from the trust as well as for the person who was a contemporary of the settlor or a child of the settlor or of his contemporary, if his rights are to come into effect at the latest at the death or extinction of the beneficiary who preceded him in line, as to be the recipient of the fruits or benefits as the next beneficiary in line. In the course of his life, other persons may together with him gain the fruits and benefits from the trust.

(2) If the trust was established for private objectives, the right of the beneficiary to the fruits or benefits will cease to exist at the latest 100 years after the inception of the trust; in the case of a private person, this right may exist only until his death.

§ 1461

(1) For the duration of the trust, the beneficiary may demand the appropriate fulfilment in accordance with the statute.

(2) The beneficiary of a trust founded for private objectives may renounce this right through a declaration made in the form of a public deed.

§ 1462

Concerning rights to fruits or benefits when no beneficiary exists onto whom such rights may be transferred; such rights pass to beneficiaries who are entitled to the rights to the property in the trust.

Subsection 4

Supervision of the administration of the trust

§1463

(1) The supervision of the administration of the trust is carried out by the settlor and the person designated as the beneficiary, as well as other persons if so designated in the statute.

(2) In cases prescribed by the law the supervision of the administration of the trust is carried out by other persons, a group of persons or a public authority.

§ 1464

If the trust is established for a beneficiary who has not yet been born or cannot be determined on the day of the inception of the trust, the settlor designates a person who will supervise the administration of the trust on behalf and in the benefit of the beneficiary. Should this not be possible or should the settlor not undertake this designation, the court will name such a supervisor based on a proposal of the trust trustee or other persons having interest in the trust.

§ 1465

(1) The trustee of the trust will without undue delay deliver to the person who has the legal right to supervision of the administration of the trust a notification which will contain at least the designation, the purpose and the duration of the trust as well as his name and his address. Such a notification is not necessary if the above facts are already known to the supervisory persons.

(2) Upon the request of a person authorized to supervise the administration of the trust, the trust trustee will make available all trust documentation as well as all accounting records, reports or other information.

§ 1466

(1) The settlor, the beneficiary or any other person with a rightful interest in the trust may propose to the court to order the trust trustee to either undertake or to cease an action, or to recall the existing or to appoint a new trust trustee. The above mentioned persons may also appeal to the court to invalidate any legal action with which the trust trustee may be damaging the trust or the rights of the beneficiary; if a third person acquired the right in good faith, however, this may not lead to his harm.

(2) The court will appoint the person mentioned in paragraph 1 upon his proposal to initiate or to carry out proceedings in the interest of the trust instead of the trust trustee and in his name if the trust trustee remains inactive for no sufficient reason.

§ 1467

Should the trust trustee, the settlor or the beneficiary participate in actions which intend to violate the rights of the creditors of the settlor or the trust, they will be held responsible jointly and severally.

Subsection 5

Changes in the trust

§ 1468

A person who increases the property of the trust by agreement or by bequeath is not the trusts settlor. Any property gained in such a manner is governed by the statute and any appropriate legal provisions.

§ 1469

(1) Upon the proposal of a legally interested person the court may decide to dissolve the trust if its objectives become unattainable or difficult to obtain, especially due to reasons beyond the settlors knowledge or control. If the trust has been established for public objectives, the court may decide to replace its initial objective with one that is similar to the original objective.

(2) Should in accordance with the initial objective of the trust this objective better be reached or served by a change in the statute of the trust, the court will adapt the statute.

§ 1470

Prior to deciding according to § 1469 the court will request a statement from the settlor or his legal representative, from the trust trustee, the trust beneficiary and the trust administration supervisor if they are not the persons submitting the proposal mentioned in § 1469.

Subsection 6

Dissolution of the trust

§ 1471

Upon the expiration of the stipulated duration of the trust and upon the achievement of the objective of the trust or upon the decision of the court the administration of the trust will cease. If the trust was established for private objectives, the trust's administration will also cease if all intended beneficiaries renounce their right to fulfilment from the trust.

§ 1472

After the administration of the trust has ceased, the trust trustee will hand over the property of the trust to the person who has the right to this property. Should the beneficiary not be entitled to the property of the trust, then this right goes to the settlor. If neither of them is entitled, the property of the trust passes into the property of the state.

§ 1473

(1) Should the trust established for a public objective cease its existence because his objectives cannot be achieved, the court will upon a proposal of the trust trustee decide that the property of the trust is to be transferred to another trust or into the property of a legal entity which is interested in achieving an objective which comes the closest to the initial objective of the trust. Prior to handing down its decision, the court will request statements from the supervisor of the trust administration.

(2) A decision according to paragraph 1 cannot be handed down should the statute of the trust prescribe the manner in which the property of the trust shall be disposed of in the case of the extension of the trust.

§ 1474

The trust dissolves when the trust trustee disposes of the property of the trust according to the statute or if he disburses the property according to § 1472 or transfers it according to § 1473.

Appendix II: Supplementary Text for the Questionnaire

No. 1

Příklady

Renta pro případ úrazu

Zakladatel fondu zajistí sebe nebo své blízké pro případ úrazu nebo dokonce smrti. Účelem takového fondu je vyplácet peníze v době úrazu a následné neschopnosti. *Například pokud se zakladatel ocitne v dlouhodobé pracovní neschopnosti, začne mu být vyplácena renta a nemusí tak řešit možný nedostatek peněz, který by hrozil následkem nižší či žádné mzdy.*

Dědictví

Pokud se zakladatel fondu obává, že by jeho dědicové, jak se říká, "rozfofrovali" snadno získané bohatství, založí proto svěřenský fond a stanoví podmínky, za kterých mohou dědicové peníze získat. Mezi takové podmínky může být zařazena povinnost dědiců starat se o klidné dožití zakladatele, dovršení jisté věkové hranice, dostudování... *Například může být stanoveno, že dědic obdrží každý měsíc 5 000 Kč dokud bude studovat (jinak nedostane nic), dále při dovršení 25 let získá kontrolu nad 30-ti % majetku fondu a konečně, pokud se osvědčí při správě již získaných 30-ti %, tak ve věku 30 let obdrží zbytek dědictví a fond zanikne.*

V mezidobí se o majetek fondu stará svěřenský správce, který jej musí spravovat tak, aby naplnil stanovený účel fondu. *Ve zmíněném příkladu se například musí starat o to, aby majetek fondu nedošel k újmě dokud jej nedostane do správy dědic.*

Tento druh fondů může vzniknout i pořizem pro případ smrti, takže samotný vznik fondu a vložení majetku proběhne až po smrti zakladatele.

Investování

Pokud se zakladatel rozhodne zřídit fond za účelem investování, pak se nemusí obávat, že v případě neúspěchu by si věřitelé dělali nárok na jeho zbyvajícím majetek nebo dokonce, že by našli jeho jméno. Vznikem fondu oddělí svůj majetek od majetku fondu. Musí se však smířit s tím, že místo něj o majetku fondu bude rozhodovat správce či skupina správců. Nedílnou součástí svěřenských fondů v zahraničí bývá také jejich daňové zvýhodnění.

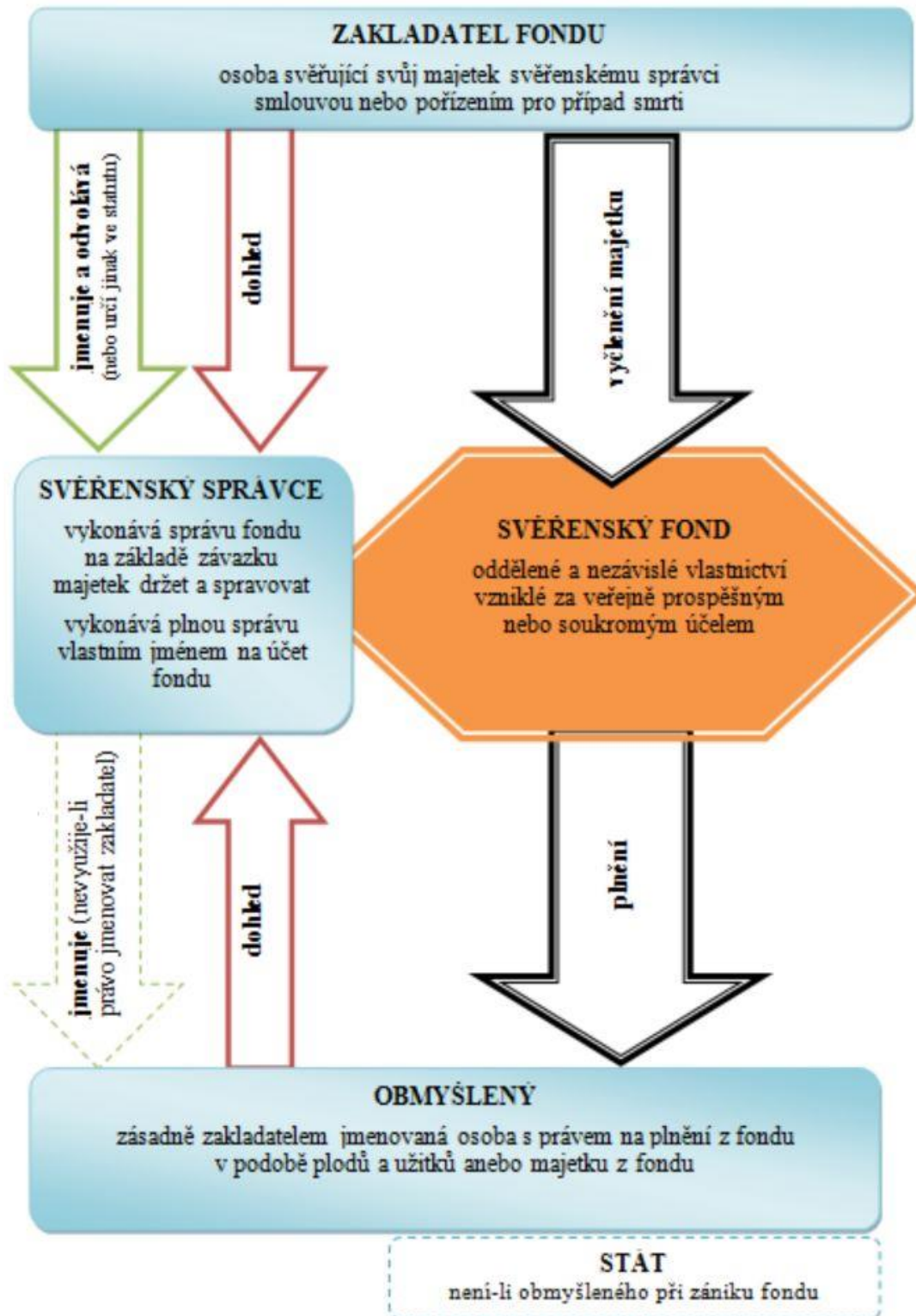
Správa společnosti

Majitel společnosti se může rozhodnout, že se chce věnovat něčemu novému, a proto vloží nebo prodá svoji společnost do svěřenského fondu, kde ji bude spravovat zvolený správce či skupina správců tak, aby naplnil účel vytyčený svěřenskému fondu. Přitom jeho jméno už není dále uváděno v katastru nemovitostí a podobných oficiálních seznamech. Toto platí u všech druhů svěřenských fondů. Daňové výhody mohou hrát opět velice důležitou roli u tohoto druhu fondů. Bohužel, u nás můžeme zatím o daňové zátěži uvalené na svěřenské fondy spíše jen spekulovat a čekat na rozhodnutí Ministerstva financí ČR.

Základní informace o SVĚŘENSKÝCH FONDECH

- Svěřenský fond v ČR bude možno založit teprve od 1. ledna 2014, kdy se budeme muset všichni začít řídit Novým občanským zákoníkem
- Nový občanský zákoník bude ovlivňovat náš každodenní život
- Svěřenské fondy jsou běžné v zahraničí
- Fond založí **zakladatel**
- O fond se stará (spravuje jej) svěřenský **správce**
- Plody (výnosy, příjmy, majetek...) obdrží tzv. **obmyšlený** nebo-li beneficiant
- Základem je oddělené a nezávislé vlastnictví majetku fondu, majetek se stává „anonymním“ (lze jej dohledat pouze pod jménem správce)
- Majetek vyčlení (vloží do fondu) **zakladatel** a současně **určí**:
 - **účel svěřenského fondu** (dále pouze SF)
 - osobu **obmyšlenou**
 - **správce**
- Vložením majetku do SF ztrácí zakladatel veškerá vlastnická práva
- Majetek drží a spravuje správce tak, aby naplnil účel fondu
- Obmyšlený má právo na plnění ze SF (plody SF, užitek ze SF či právo na majetek SF) v okamžiku, kdy naplní všechny podmínky stanovené zakladatelem při založení fondu (např. dovršení 18 let, zajišťování péče o zestárlé rodiče... fantazii se meze nekladou, pokud jsou reálné)
- Jediným vlastníkem majetku je sám SF
- SF může vzniknout také pro případ smrti (v případě smrti funguje SF jako „dědictví“ s podmínkou)
- Zakladatelem může být fyzická i právnická osoba
- **Účel** SF může být:
 - **SOUKROMÝ**
 - **VEŘEJNĚ PROSPĚŠNÝ**
 - **INVESTOVÁNÍ PRO DOSAŽENÍ ZISKU**
- Zakladatel musí vydat **STATUT** SF formou veřejné listiny obsahující:
 - Označení/jméno SF
 - Označení majetku, který tvoří SF při jeho vzniku
 - Vymezení účelu
 - Podmínky pro plnění ze SF
 - Údaj o době trvání SF, není-li uveden, pak platí, že fond byl zřízen na dobu neurčitou
 - Určení osoby, které má být ze SF plněno jako obmyšlenému nebo určení způsobu, jak bude obmyšlený určen
- Více informací o změně, dohledu nad správou, zániku... v tomto [článku](#).

[Zde vstoupíte do online dotazníku.](#)



Source: Mgr. Tomáš Liškutín.

Appendix III: Supplementary Text for the Questionnaire No. 2

Vážená paní, vážený pane,

jmenuji se Tomáš Jelínek, jsem studentem Univerzity Karlovy v Praze, a právě zpracovávám svoji bakalářskou práci na téma svěřenské fondy. Tuto skutečnost si můžete ověřit [zde](#). Součástí mé práce je mimo jiné také průzkum požadavků a mínění veřejnosti. Ne vše lze totiž okopírovat ze zahraničí.

Že jste o svěřenských fondech ještě nic neslyšeli? Není divu, v České republice totiž budou moci vznikat až od 1. ledna 2014, kdy nabude účinnosti Nový občanský zákoník. Ten nahradí stávající Občanský zákoník, který platí od roku 1964. Tato změna se bude týkat každého z nás, a proto je dobré o ní vědět co nejvíce.

Vyplněním anonymního formuláře poskytnete velice cenné informace pro mou bakalářskou práci.

Pokud jste o svěřeneckých fondech ještě neslyšeli, nic se neděje. Dotazník není testem znalostí, ale sleduje vaše názory. Jestliže jste o svěřenských fondech ještě vůbec neslyšeli, doporučuji vám podívat se na informace a příklady jejich použití, které naleznete [ZDE](#).

Dotazník je **anonymní**, obsahuje 24 otázky a jeho vyplnění Vám zabere přibližně 10 minut. Průzkum se zaměřuje na jednotlivce, nikoli na domácnosti, proto jej, prosím, vyplňujte samostatně, a co nejpřesněji. Každý člen domácnosti jej může vyplnit jedenkrát.

Kliknutím na následující link přejdete na online verzi dotazníku.

[DOTAZNÍK](#)

Velice si vážím každého vyplněného dotazníku a předem Vám děkuji za spolupráci.

Tomáš Jelínek
Student Institutu ekonomických studií na Karlově univerzitě
S připomínkami či dotazy se na mě můžete obrátit na jelinek.mb@gmail.com

Appendix IV: The Online Questionnaire

Dotazník k BP

Tento dotazník se zabývá problematikou svěřenských fondů. Pokud jste tento dotazník neobdrželi se zněním úvodního dopisu, můžete jej nalézt zde:

https://docs.google.com/document/d/16zjwni3U2WHY7GDCyyDP6kDOK5VOCCcqAf5_BG7_QfI/edit

Příklady použití a vlastnosti svěřenských fondů naleznete zde:

<https://docs.google.com/document/d/1oQ4KITX0TFFjfGXRBJO4H22ukEyXDtbcvXIIF5nZB80/edit>

Tomáš Jelínek Student Institutu ekonomických studií na Karlově univerzitě v Praze Pozor, většina polí je označena jako

*Povinné pole

Oddíl I - Demografické údaje

1. Jsem... *

- Žena
- Muž

2. Je mi ... let. *

- méně než 18
- 18-24
- 25-34
- 35-54
- 55-64
- 65-74
- 75 a více

3. Trvale žiji v kraji... *

- Jihočeském
- Jihomoravském
- Karlovarském
- Královéhradeckém
- Libereckém
- Moravskoslezském
- Olomouckém
- Pardubickém
- Plzeňském
- Praha
- Středočeském
- Ústeckém
- Vysočina
- Zlínském

4. Mou hlavní pracovní pozicí je... *Pokud jste na rodičovské dovolené, uveďte prosím Vaši pozici, na které jste působil/a před jejím počátkem

- Zaměstnavatel v soukromém sektoru
- Zaměstnanec v soukromém sektoru
- Zaměstnanec ve veřejném sektoru
- Živnostník
- Student
- Důchodce
- Nezaměstnaný

5. Mé nejvyšší dosažené vzdělání je... *

- Nedokončené základní
- Základní
- Střední
- Bakalářské
- Magisterské/inženýrské
- Vyšší

6. Jsem...*

- Zadaná/ý - manželský či registrovaný pár
- Zadaná/ý - nesezdaný pár
- Svobodná/ý

7. S partnerkou/partnerem spravujeme společnou domácnost... *

- Ano
- Ne
- V současné době nemám partnerku/partnera

8. Mám ... dětí. *

- 0
- 1
- 2
- 3
- 4
- 5 a více

Oddíl II - Základní část

V tomto a ve všech následujících oddílech budou svěřenské fondy označeny pouze jako SF. U otázek, které umožní zaškrtnoutí více možností, jich můžete zaškrtnout libovolný počet. Tyto otázky poznáte tak, že pole pro zaškrtnutí je ve tvaru čtverce.

9. Na této stupnici bych své současné vědomosti o SF hodnotil/a... *

	1	2	3	4	5	6	7	8	9	10	
Netuším, co jsou svěřenecké fondy	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	O svěřeneckých fondech vím maximum

10. Informace o SF bych hledal/a... *

- na sociálních sítích
- na internetových stránkách s finanční tematikou
- na internetových stránkách s právní tematikou
- na internetových stránkách porovnávajících finanční produkty
- u kamarádů a známých
- u rodinných příslušníků
- na pobočce banky
- u osobního finančního poradce
- u právníka
- u notáře
- jinde

Pokud jste zvolili možnost "jinde", kde tedy?

11. Během uplynulých 12-ti měsíců jsem o svěřenských fondech slyšel/a... *

- 0x
- 1x
- 2x
- 2-5x
- 6-10x
- 11 a vícekrát

12. Které aspekty by pro vás byly základní, při rozhodování o založení SF...*

- Daňová optimalizace
- Výše nákladů na založení SF
- Výše provozních nákladů
- Možnost zajistit své blízké osoby
- Možnost zajistit veřejně prospěšnou činnost
- Využití SF pro potřeby dědictví
- Využití SF jako investičního nástroje
- Možnost nechat spravovat právníckou osobu správcem/správci SF
- Možnost skrýt svoji identitu jako zakladatele
- Možnost skrýt identitu osoby obmyšlené
- Rozsah přizpůsobení SF vašim potřebám při jeho zakládání
- Možnost změnit účel SF v době jeho existence
- Bezpečnost SF
- Diskrétnost
- Nutnost správce vlastnit licenci pro správu SF

13. Preferoval bych tyto formy prvního kontaktu ze strany potencionálního zřizovatele mého fondu... *

- Jakýkoli kontakt, který bych neinicioval/a, by mi byl nepříjemný
- Telefonický hovor
- Elektronicky (email, SMS, MMS...)
- Podomní prodej
- Osobní kontakt (např. na pobočce banky vám asistent představí SF)
- Jiný:

Pokud jste zvolili možnost "Jiný", jaký tedy?

14. Pokud bych se rozhodl/a zřídit svůj SF, jako možného správce bych kontaktoval/a... *

- Právníckou kancelář
- Bankovní instituci
- Společnost specializovanou na zakládání a správu SF
- Kamaráda či známého
- Rodinného příslušníka
- Někoho jiného:

Pokud jste zvolili možnost "Někoho jiného", koho tedy?

15. Jako správce svého SF bych preferoval správce... *

- Tuzemského
- Zahraničního

Oddíl III - rozhodl/a jsem se založit SF

V následující části předpokládejte, že jste se již rozhodl/a založit svůj SF.

16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace?*

	úplně nepodstatné	spíše nepodstatné	nevím	spíše podstatné	zásadní
Nízká daňová zátěž	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Výše nákladů na založení SF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Výše provozních nákladů	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost zajistit své blízké osoby	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost zajistit veřejně prospěšnou činnost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Využití SF pro potřeby dědictví	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Využití SF jako investičního nástroje	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost nechat spravovat právníckou osobu správcem/správci SF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost skrýt svoji identitu jako zakladatele	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost skrýt identitu osoby obmyšlené	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Rozsah přizpůsobení SF vašim potřebám při jeho zakládání	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost změnit účel SF v době jeho existence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost kontroly jednání správce	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

	úplně nepodstatné	spíše nepodstatné	nevím	spíše podstatné	zásadní
Bezpečnost SF	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Diskrétnost	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Oficiální licence správce	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

17. Se správcem svého fondu bych komunikoval převážně... *

- Při osobních setkáních
- Telefonicky
- Elektronicky
- Pomocí aplikace v mobilním telefonu
- Jinak:

Pokud jste zvolili možnost "Jinak", jak tedy?

18. O činnosti prováděné správcem bych se zajímal/a... *

- Aktivně a pravidelně (snažil/a bych se ovlivnit rozhodování správce za všech okolností)
- Aktivně a nepravidelně (snažil/a bych se ovlivnit rozhodování správce, vždy když by to okolnosti dle mého názoru vyžadovaly)
- Pasivně a pravidelně (sledoval/a a kontroloval/a bych jednání správce za všech okolností)
- Pasivně a nepravidelně (sledoval/a a kontroloval/a bych jednání správce pouze příležitostně)
- Plně bych důvěřoval správci a jeho schopnostem, a proto bych neměl potřebu se o dění ve fondu zajímat

19. Kdyby při zakládání fondu bylo potřeba doložit původ vkládaných prostředků (následkem regulací proti praní peněz a regulím zaměřeným na potírání terorismu), považoval/a byste to za zbytečnou komplikaci? *

- Ano, je to zbytečné.
- Ne, je to nezbytné.
- Nevím, nemám na to názor.

20.*

	vůbec ne	spíše ne	nevím	spíše ano	určitě ano
Nutnost doložit původ peněz by ovlivnila mé rozhodování o založení SF.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

21. Domnívám se, že by kvůli hrozbě zneužívání svěrenských fondů ke krytí nelegální činnosti, neměl být jejich vznik v ČR vůbec povolen. *

- Ano.
- Ne.
- Nevím, nemám na to vyhraněný názor.

Oddíl IV - Závěrečná část

Znovu připomínám, že tento dotazník je zcela anonymní a uvedené údaje nemohou být spojeny s vaší osobou. Protože se jedná o stěžejní část, rád bych vás poprosil o co nejpresnější údaje.

22. Můj průměrný měsíční čistý příjem činí průměrně... Kč.*Příjmem rozumějte nejenom výši Vaší mzdy, ale také sociální dávky, renty, dividendy, úrok...

23. Hodnotu majetku (aktiv) mé/naší domácnosti odhaduji na... *Do této částky započítejte také odhad hodnoty vlastněných právnických osob, autorských práv...

- méně než 1 000 000 Kč
- 1 000 000 - 2 500 000 Kč
- 2 500 000 - 5 000 000 Kč
- 5 000 000 - 10 000 000 Kč
- více jak 10 000 000 Kč

24.*

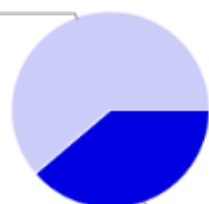
	rozhodně ano	spíše ano	nevím	spíše ne	rozhodně ne
Souhlasím s tím, že v oficiálních registrech nemusí být uvedena identita zakladatele...	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Souhlasím s tím, že v oficiálních registrech nemusí být uvedena identita obmyšleného...	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Možnost založit či vstoupit do SF mi přijde natolik zajímavá, že se o ni budu v budoucnu zajímat...	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Raději než SF zvolím jiný způsob správy svých prostředků ať jsou podmínky jakékoli...	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Appendix V: Visualisation of the Dataset

Oddíl I - Demografické údaje

1. Jsem...

Muž [155]



Žena [98]

Žena	98	39%
Muž	155	61%

2. Je mi ... let.

méně než 18

18-24

25-34

35-54

55-64

65-74

75 a více

0 26 52 78 104 130 156

méně než 18	0	0%
18-24	34	13%
25-34	53	21%
35-54	131	52%
55-64	33	13%
65-74	2	1%
75 a více	0	0%

3. Trvale žiji v kraji...

Jihočeském

Jihomoravském

Karlovarském

Královéhradeckém

Libereckém

Moravskoslezském

Olomouckém

Pardubickém

Plzeňském

Praha

Středočeském

Ústeckém

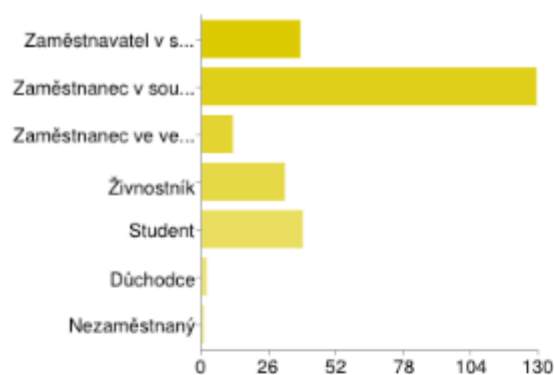
Vysočina

Zlínském

0 13 26 39 52 65 78

Jihočeském	6	2%
Jihomoravském	67	26%
Karlovarském	4	2%
Královéhradeckém	10	4%
Libereckém	6	2%
Moravskoslezském	24	9%
Olomouckém	9	4%
Pardubickém	8	3%
Plzeňském	6	2%
Praha	47	19%
Středočeském	19	8%
Ústeckém	4	2%
Vysočina	32	13%
Zlínském	11	4%

4. Mou hlavní pracovní pozicí je...



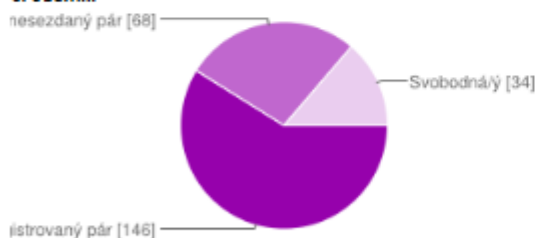
Zaměstnavatel v soukromém sektoru	38	15%
Zaměstnanec v soukromém sektoru	129	51%
Zaměstnanec ve veřejném sektoru	12	5%
Živnostník	32	13%
Student	39	15%
Důchodce	2	1%
Nezaměstnaný	1	0%

5. Mé nejvyšší dosažené vzdělání je...



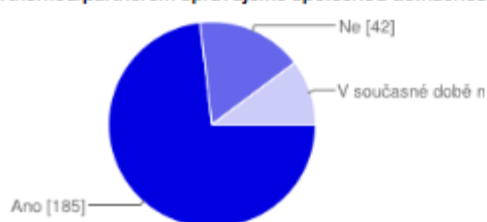
Nedokončené základní	0	0%
Základní	0	0%
Střední	94	37%
Bakalářské	30	12%
Magisterské/inženýrské	115	45%
Vyšší	14	6%

6. Jsem...



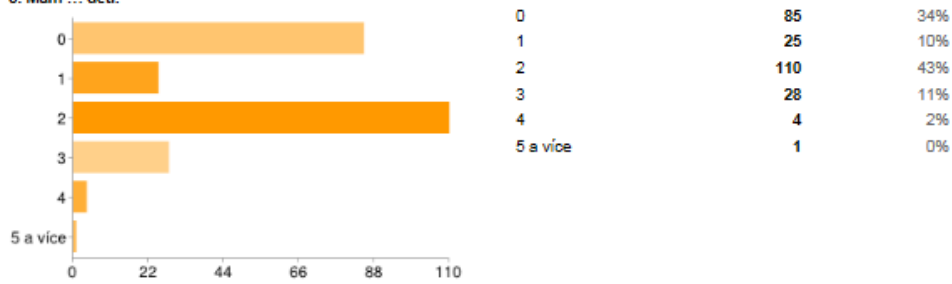
Zadaná/ý - manželský či registrovaný pár	146	58%
Zadaná/ý - nesezdaný pár	68	27%
Svobodná/ý	34	13%

7. S partnerkou/partnerem spravujeme společnou domácnost...



Ano	185	73%
Ne	42	17%
V současné době nemám partnerku/partnera	26	10%

8. Mám ... dětí.



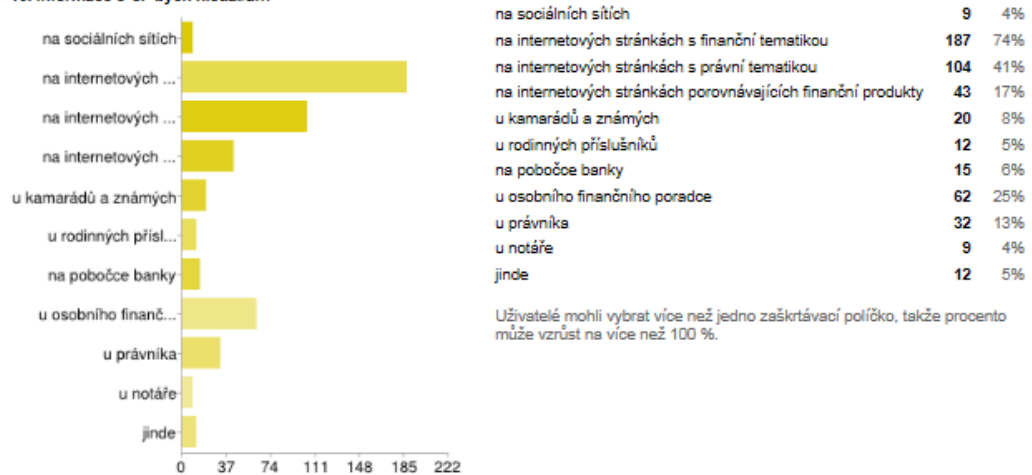
Oddíl II - Základní část

V tomto a ve všech následujících oddílech budou svěřenské fondy označeny pouze jako SF. U otázek, které umožní zaškrtnout více možností, jich můžete zaškrtnout libovolný počet. Tyto otázky poznáte tak, že pole pro zaškrtnutí je ve tvaru čtverce.

9. Na této stupnici bych své současné vědomosti o SF hodnotil/a...



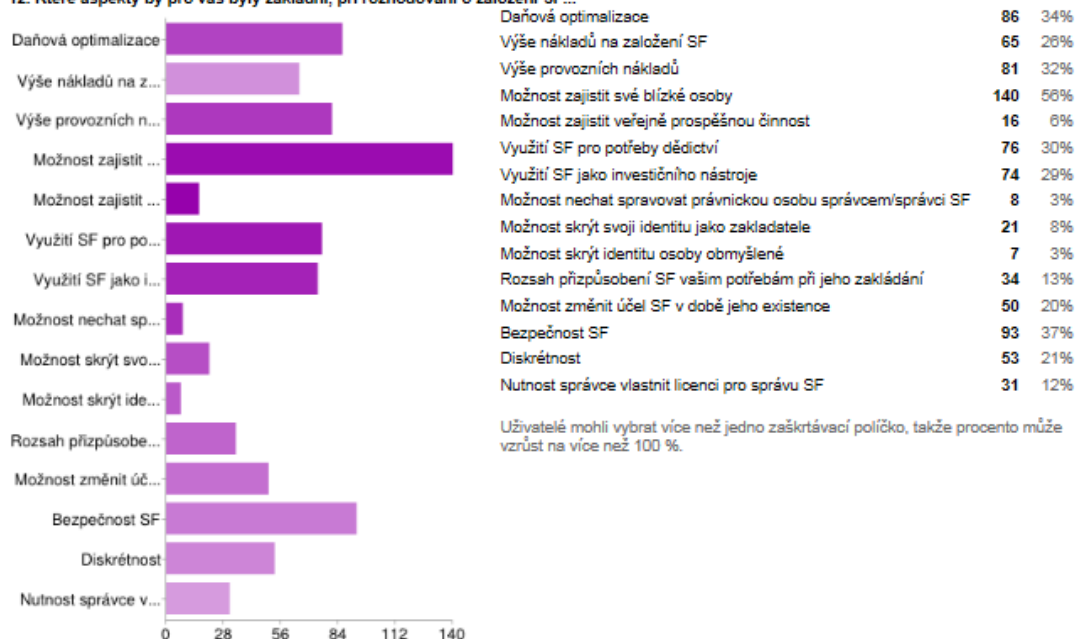
10. Informace o SF bych hledal/a...



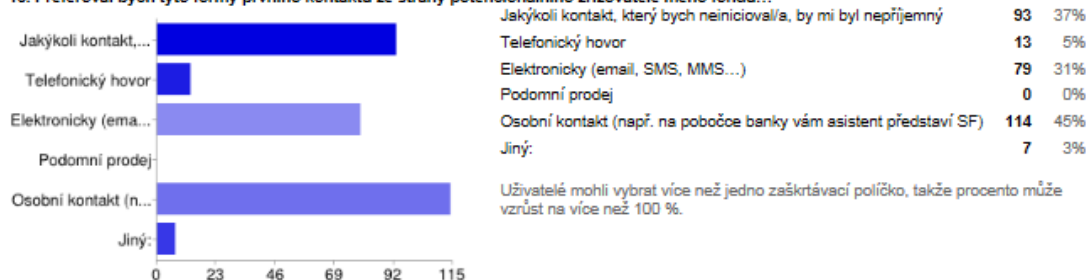
11. Během uplynulých 12-ti měsíců jsem o svěřenských fondech slyšel/a...



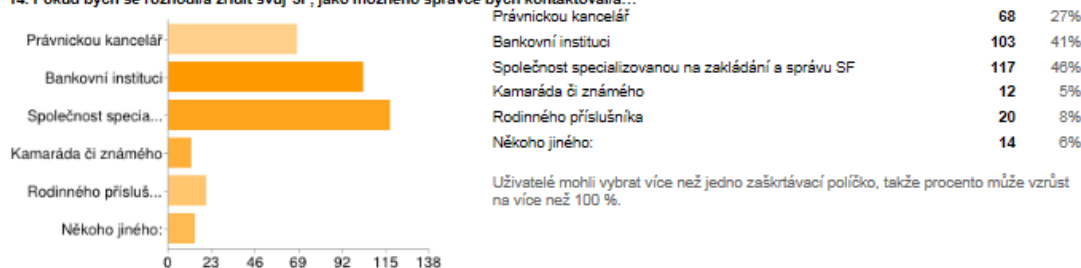
12. Které aspekty by pro vás byly základní, při rozhodování o založení SF...



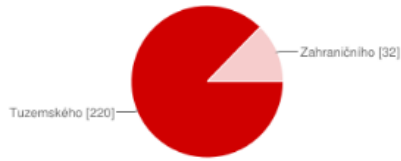
13. Preferoval bych tyto formy prvního kontaktu ze strany potenciálního zřizovatele mého fondu...



14. Pokud bych se rozhodl/a zřídit svůj SF, jako možného správce bych kontaktoval/a...



15. Jako správce svého SF bych preferoval správce...

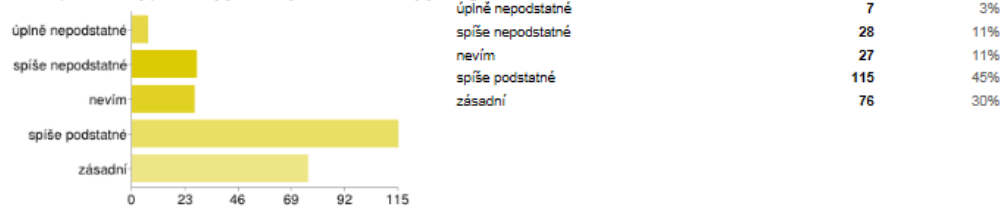


Tuzemského	220	87%
Zahraničního	32	13%

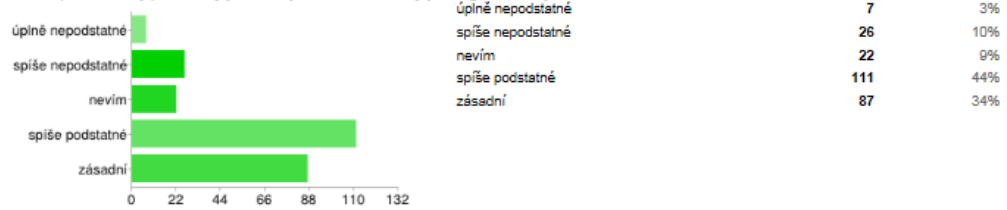
Oddíl III - rozhodl/a jsem se založit SF

V následující části předpokládejte, že jste se již rozhodl/a založit svůj SF.

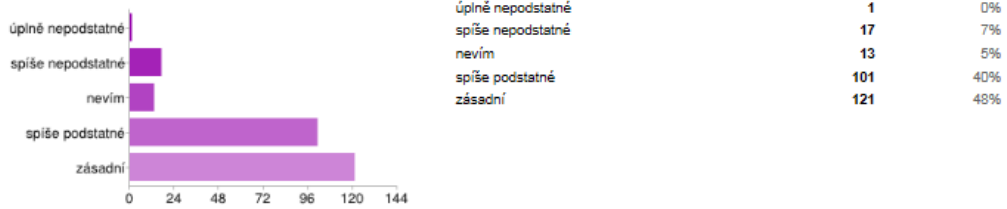
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Nízká daňová zátěž



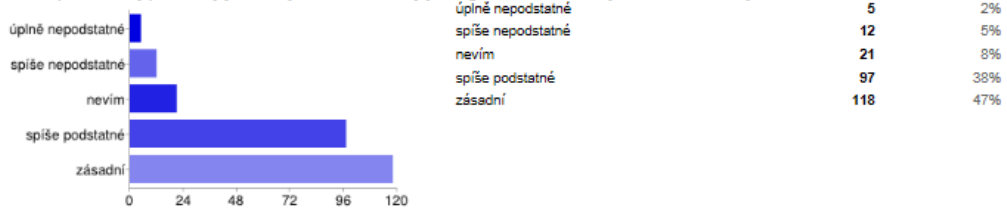
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Výše nákladů na založení SF



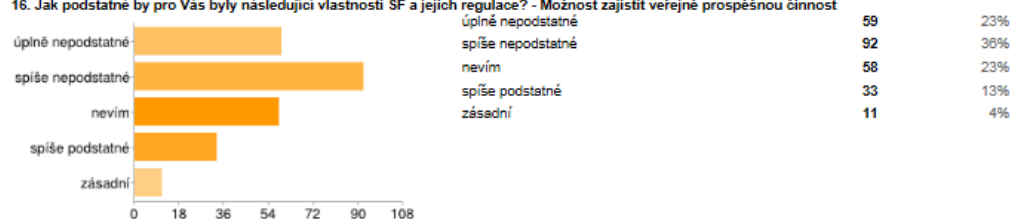
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Výše provozních nákladů



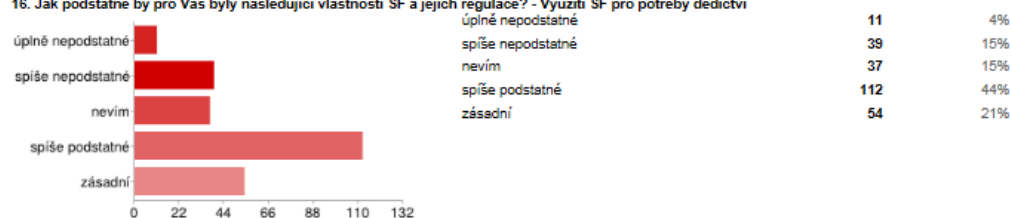
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Možnost zajistit své blízké osoby



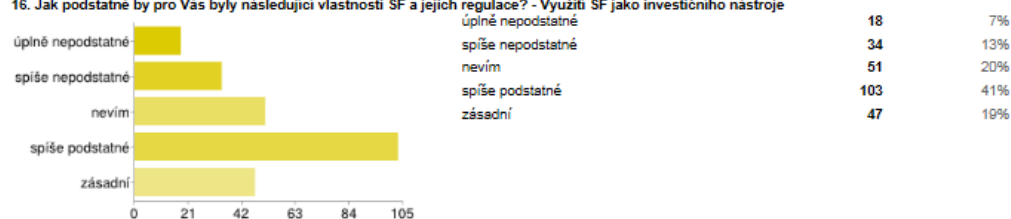
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Možnost zajistit veřejně prospěšnou činnost



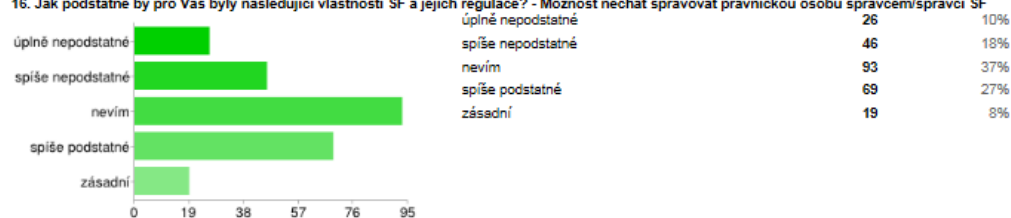
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Využití SF pro potřeby dědictví



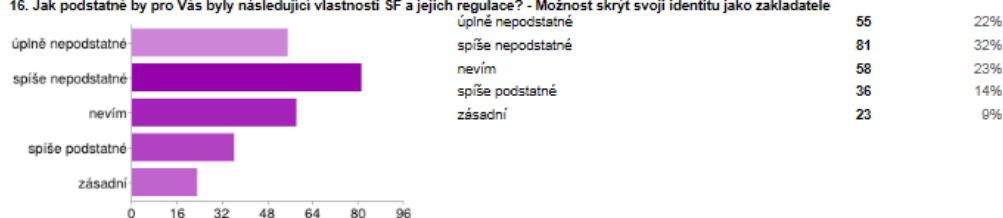
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Využití SF jako investičního nástroje

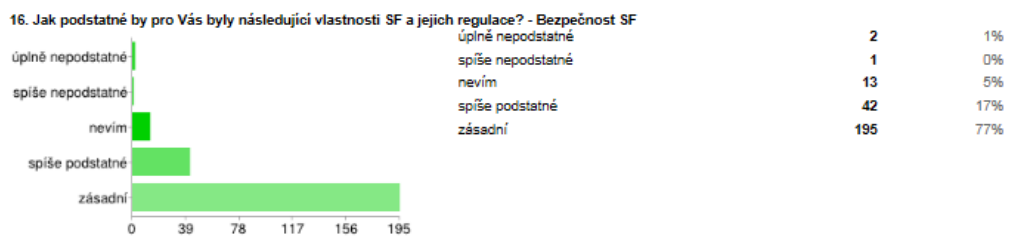
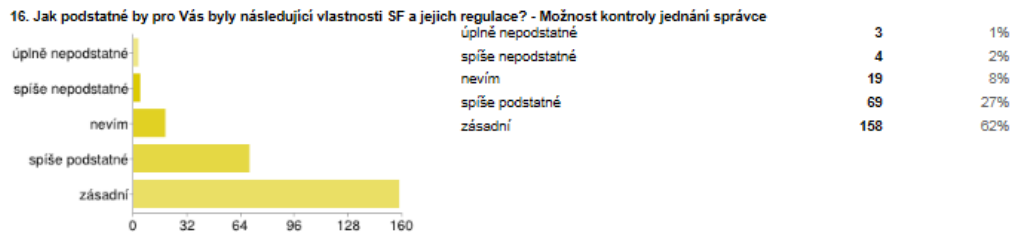
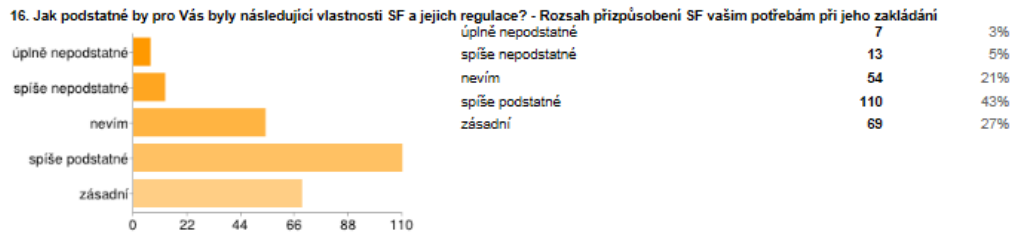


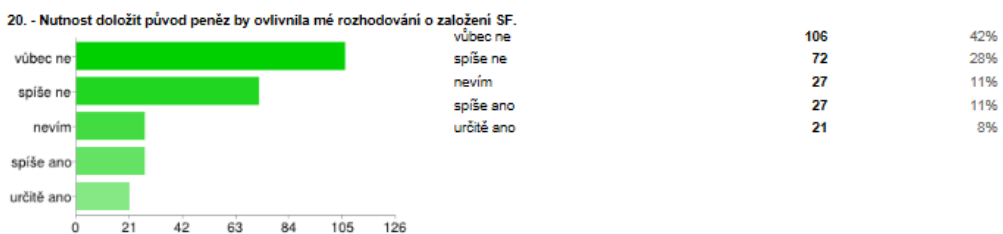
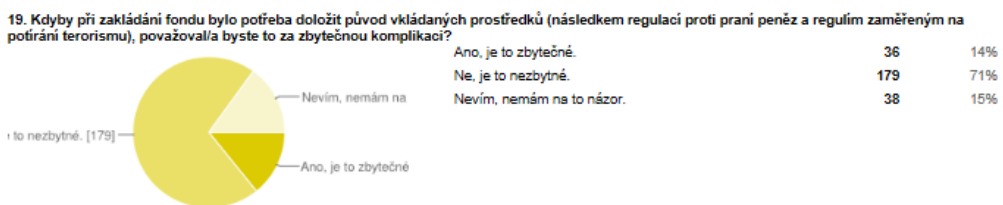
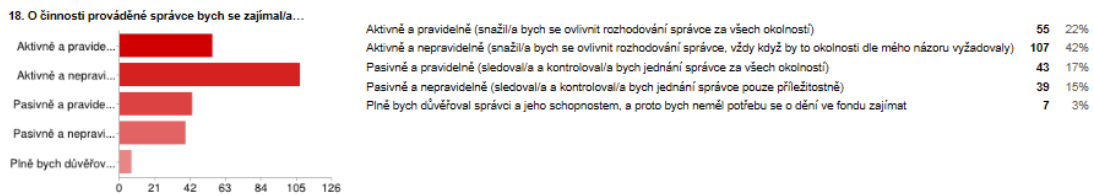
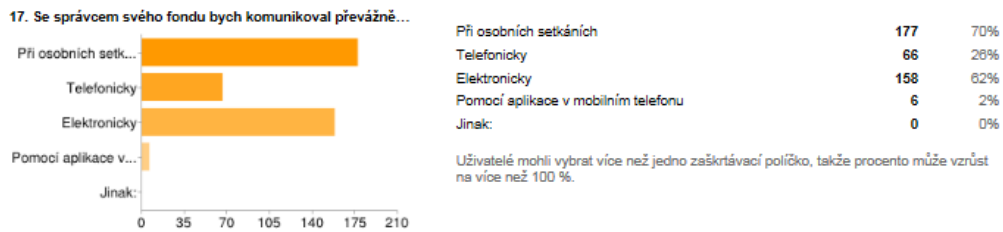
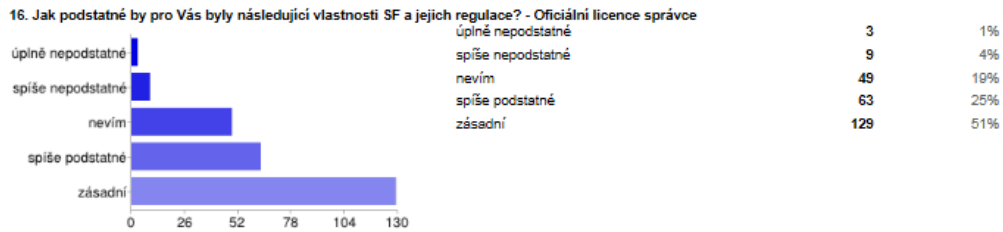
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Možnost nechat spravovat právnickou osobu správcem/správci SF



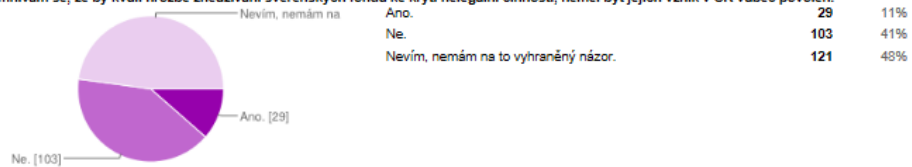
16. Jak podstatné by pro Vás byly následující vlastnosti SF a jejich regulace? - Možnost skrýt svoji identitu jako zakladatele







21. Domnívám se, že by kvůli hrozbě zneužívání svěřenských fondů ke krytí nelegální činnosti, neměl být jejich vznik v ČR vůbec povolen.



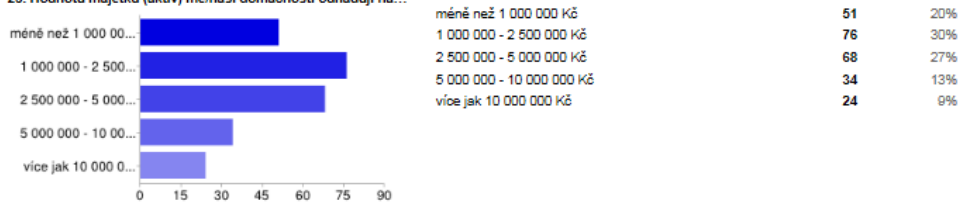
Oddíl IV - Závěrečná část

Znovu připomínám, že tento dotazník je zcela anonymní a uvedené údaje nemohou být spojeny s vaší osobou. Protože se jedná o stěžejní část, rád bych vás poprosil o co nej přesnější údaje.

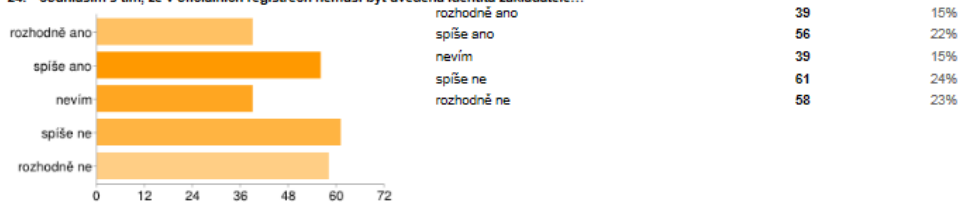
22. Můj průměrný měsíční čistý příjem činí průměrně... Kč.

3000 10000 8000 10000 30000 32000 35000 100000 28000 42000 40000 30000 35000 150000 50000 75000 100000 50000 50000 100000 ...

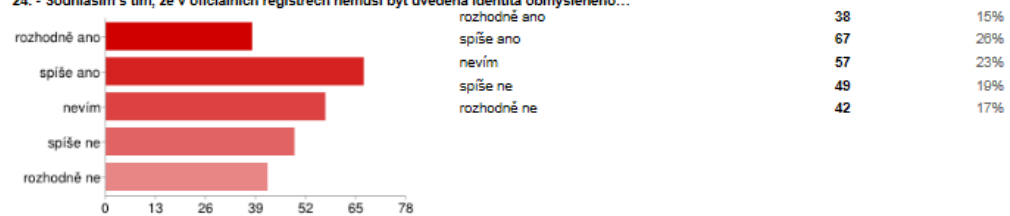
23. Hodnotu majetku (aktiv) mé/naší domácnosti odhaduji na...



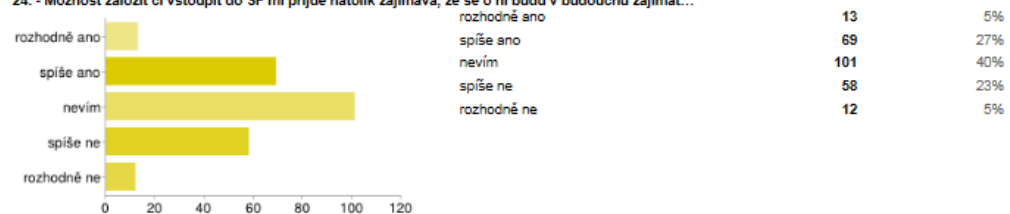
24. - Souhlasím s tím, že v oficiálních registrech nemusí být uvedena identita zakladatele...



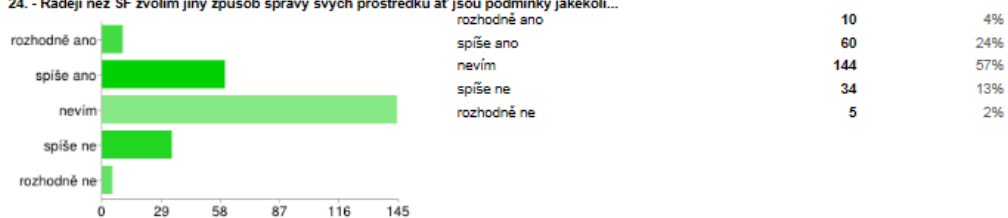
24. - Souhlasím s tím, že v oficiálních registrech nemusí být uvedena identita obmyšleného...



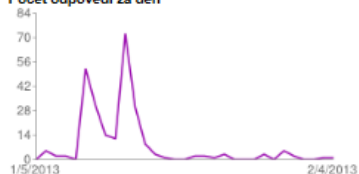
24. - Možnost založit či vstoupit do SF mi přijde natolik zajímavá, že se o ni budu v budoucnu zajímat...



24. - Raději než SF zvolím jiný způsob správy svých prostředků ať jsou podmínky jakékoli...



Počet odpovědí za den




Appendix VI: Other Statistics

Statistic 1

Short survey which was placed in the article Co jsou a jak fungují svěřenské fondy? (Jelínek, 2013a) This results were attached on 11 May 2013.

Anketa

Považujete svěřenské fondy za přínosné?

Ano, zvýší konkurenceschopnost ČR		35 %
Ne, bude to pračka peněz		45 %
Nevím, moc tomu nerozumím		20 %

Odpovědělo 46 čtenářů.

[Zobraz hlasování](#)

Statistic 2

Statistics of the publisher, Měšec.cz, about the article 'Co jsou a jak fungují svěřenské fondy?' (Jelínek, Co jsou a jak fungují svěřenské fondy?, 2013a), attached from 12 March 2013.

ID	Nadpis	Primární rubrika	Typ	Autor	Autor OK	Editor OK	Korektor OK	Datum vydání	Počet návštěv	Stav
26671	Co jsou a jak fungují svěřensk...	Podílové fondy	text pro trhy	Jelínek Tomáš	ano	ano	ano	30.1.2013 0:00:10	1634	online

Statistic 3

Till 12 March 2013 the article 'Jak nenechat spadnout peníze do klína rozmazleným dětem: Co je to svěřenský fond? A k čemu dalšímu je dobrý?' (Jelínek, Jak nenechat spadnout peníze do klína rozmazleným dětem: Co je to svěřenský fond? A k čemu dalšímu je dobrý?, 2013b) posted on Investičníweb.cz was read by 485 individual people.