

# bnt journal

## CZECH REPUBLIC

### ■ DATABANK ON THE SOLVENCY AND CREDITWORTHINESS OF CONSUMERS

As of the end of last year, an amendment to the Consumer Protection Act has come into force. Aside from a mechanism for alternative dispute resolution, it introduces a "Register on the solvency and trustworthiness of consumers" - i.e., a database which allows businesses to exchange consumer identification data and information pertinent to the solvency, payment morale, and trustworthiness of consumers. The lawmaker apparently has abused the Consumer Protection Act for writing into law a database that serves exclusively the interests of business. Instead of curbing the frenzy for collecting consumer data, this databank allows businesses to exchange customer data among themselves, for a full three years. The lawmaker apparently has no clue what it is doing - and if it does, then its motives are highly debatable.

[More here](#)



### ■ TERMINATION OF THE 2ND PILLAR OF THE PENSION SAVINGS SCHEME

■ In recent years, employees could save towards their old-age pension in a special account held for them by a pension fund, and thus be eligible for a mandatory employer's contribution to this pension scheme (in return for lower pension insurance contributions). However, this particular form of pension savings was used only by 84,500 people, which is why it will be wound down and existing savings will be settled in 2016. As of 1 January 2016, employers no longer divert three per cent of their employees' pension insurance contributions (and two per cent of their gross salary) to the relevant pension fund accounts. However, the money saved up until now will be returned to participants in the scheme in the course of 2016, including money which they were allowed to divert out of their mandatory pension insurance contributions. [More here](#)

### ■ TYPES OF SHARES IN LIMITED LIABILITY COMPANIES

■ The Corporations Act has broken new ground by introducing the possibility to create various types of shares in limited liability companies. Such shares may newly be associated with special rights and obligations beyond those set out in the law, and the latter may be subjected to various modifications. Thanks to this, the partners (shareholders) of limited liability companies have now broad leeway to tailor corporate governance at their company exactly as they see fit. This may also be of interest to investors. The contents of the various types of share may not be redefined without any limitation whatsoever, though it is still a matter of debate in the legal community what exactly those limitations may be. Ultimately, one will have to wait for the Czech Supreme Court to determine, through its case law, where the border is to be drawn when it comes to the rights and obligations vested in company shares.

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### ■ TAX INFORMATION DUTY

■ The vast majority of tax subjects meets the definition of „obliged person“ contained in the General Fiscal Code, and is thus subject to the

duty to disclose information as needed and requested by the tax administration. According to the said definition, „obliged persons“ are all those persons who render taxable performances. Given that the information duty is in no way limited, the tax administration may require the taxpayer to provide basically any information whatsoever (to the extent deemed necessary by the General Fiscal Code), on pain of a monetary sanction (fine for non-compliance).

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### ■ CASE LAW DIGEST

■ According to the Upper Court, the pledge title to a share in a corporation which is not represented by (physical or book-entry) securities comes into existence as of the moment in which the pledge is entered into the same public record which also accounts for the corporation itself; the creation of such a pledge title cannot be validly agreed in any other way. The pledgee has the substantive-law authority to file the motion for entry of the pledge title to the share into the Commercial Register (14 Cmo 354/2014).

■ Having an authorized clerk (prokurista) act jointly with a member of the statutory body is not a permitted form of representation of corporations, and as such cannot be entered in the Commercial Register as the manner in which the members of the statutory body act on behalf of the corporation (Upper Court, Case No. 14 Cmo 184/2014).

■ According to the Upper Court, the obligation to compile financial statements (and, as the case may be, an annual report) and publish it in the Collection of Deeds kept by the Commercial Register extends to all business corporations without exception, i.e., even those which do not engage actively in any business activities or have no assets (7 Cmo 223/2015).

### ■ NEWS FROM BNT

■ The Prague Office of bnt is honored and pleased to act as legal advisors to chefs and owners of two restaurants (out of three) in the Czech Republic which secured a Michelin star, and one (out of six) holding a Bib Gourmand award.